

Oregon Water Resources Department

**Order on Reconsideration  
Limited License Application LL-1826**



***Appeal Rights***

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date, the petition was filed, the petition shall be deemed denied.

***Requested Water Use***

**Applicant:** University of Portland

**Date Submitted:** April 15, 2020

**Amount & Source:** 150 gallons per minute from a Well (MULT 128541)

**Use:** Construction activities, including irrigation for landscape establishment of riparian plantings

**Period of Use:** August 29, 2020 through October 31, 2024 for construction activities, and October 15, 2021 through October 31, 2024 for irrigation of landscape establishment of riparian plantings

**County:** Multnomah County

**POA Location:** A Well (MULT 128541) - NW ¼, NE ¼, Section 18, Township 1 North, Range 1 East, W.M.

***Authorities***

The Department may approve a limited license pursuant to its authority under ORS 537.143, 537.144 and OAR 690-340-0030.

ORS 537.143(2) authorizes the Director to revoke the right to use water under a limited license if it causes injury to any water right or a minimum perennial streamflow.

A limited license will not be issued for more than five consecutive years for the same use, as directed by ORS 537.143(8).

***Findings of Fact***

1. The forms, fees, and map have been submitted, as required by OAR 690-340-0030(1).
2. On April 28, 2020, the Department provided public notice of the application, as required by OAR 690-340-0030(2).
3. The Department has not received comments related to the possible issuance of the limited license.

4. This limited license request is limited to an area within a single drainage basin, as required by OAR 690-340-0030(3).
5. The Department has determined that groundwater is not over appropriated, and is available for the requested use. The proposed use will, if properly conditioned, avoid injury to existing groundwater rights or to the groundwater resource.
6. The Department has stipulated conditions pertaining to water-use, static water level measurements, and limiting groundwater production only from the Troutdale Gravel Aquifer.
7. On June 10, 2020, the applicant submitted evidence demonstrating that the well complies with minimum well construction standards. The Department evaluated this information, and determined that the well appears to protect the groundwater resource. A copy of this review is in the file.
8. Pursuant to OAR 690-340-0030(4)(5), conditions have been added with regard to notice and water-use measurement.
9. The Department may not issue a limited license for the same use for more than five consecutive years. (ORS 537.143)(8).
10. The City of Portland has indicated that the proposed use is compatible with the applicable acknowledged comprehensive land-use plan. A copy of the land use compatibility statement is in the file.
11. On July 20, 2020, the Department made a determination to reconsider its order issued on July 13, 2020 to address an error made regarding the proposed use of water and period of use. The application included the use of water for landscape establishment of riparian plantings, in addition to general construction activities. The applicant clarified the period of use for landscape establishment as October 15, 2021 through October 31, 2024.
12. In this location, riparian plantings does not necessarily require continuing irrigation after establishment. This limited license is issued to establish riparian plantings, among other construction activities. The director may issue a limited license for irrigation if the sole purpose of the use is to provide water necessary to establish riparian plantings for which no further irrigation will be required after the riparian plantings are established. ORS 537.143 (6)(a).

### ***Conclusions of Law***

The proposed water use will not impair or be detrimental to the public interest pursuant to OAR 690-340-0030(2), as limited in the order below.

## **Order**

Therefore, pursuant to ORS 537.143, ORS 537.144, and OAR 690-340-0030, Application LL-1826 is approved as conditioned below.

1. The authorized use of water under this limited licenses is as follows:

**Amount:** 150 gallons per minute

**Source:** A Well (MULT 128541)

**Use:** Construction Activities, including irrigation for landscape establishment of riparian plantings

**Period of Use:** August 29, 2020 through October 31, 2024 for construction activities, and October 15, 2021 through October 31, 2024 for irrigation of landscape establishment of riparian plantings

2. The licensee shall give notice to the Watermaster in the district where use is to occur not less than 15 days or more than 60 days in advance of using the water under the limited license. The notice shall include the location of the diversion, the quantity of water to be diverted, and the intended use and place of use.
3. With regard to irrigation use, water may be used under this limited license only to establish riparian plantings for which no future irrigation will be required after the riparian plantings are established (ORS 537.143(6)(a)).
4. Before water use may begin under this limited license, the licensee shall install a totalizing flow meter at each point of appropriation. The totalizing flow meter must be installed and maintained in good working order. In addition the licensee shall maintain a record of all water use, including the total number of hours of pumping, the total quantity pumped, and the categories of beneficial use to which the water is applied. During the period of the limited license, the record of use shall be submitted to the Department upon request.
5. Static Water Level Condition

The Department requires the water user to obtain, from a qualified individual (see below), and report annual static water levels for each well on the limited license. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The licensee shall report an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data. The Director may require the user to obtain and report additional water levels each year if more data are needed to evaluate the aquifer system.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at

least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations reported to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the licensee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this limited license. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

6. Groundwater production shall be allowed only from the **Troutdale Gravel Aquifer Groundwater Reservoir between approximately 90 feet and 235 feet below land surface.**
7. The Director may revoke the right to use water for any reason described in ORS 537.143(2), and OAR 690-340-0030(6). Such revocation may be prompted by field regulatory activities or by any other information.
8. Use of water under a limited license shall not have priority over any water right exercised according to a permit or certificate, and shall be subordinate to all other authorized uses that rely upon the same source.
9. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.
10. A copy of this limited license shall be kept at the place of use, and be made available for inspection by the Watermaster or other state authority.

NOTE: This water-use authorization is temporary. Applicants are advised that issuance of this final order does not guarantee that any permit for the authorized use will be issued in the future; any investments should be made with that in mind.

Issued

Aug. 26, 2020



Dwight French, Water Right  
Services Division Administrator, *for*  
Thomas M. Byler, Director  
Oregon Water Resources Department

cc: Amy J. Landvoigt, District 20 Watermaster  
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Steven Bruce, Skookum Water Associates Inc.  
Hydrographics  
File

If you need further assistance, please contact the Water Rights Section at the address, phone number, or fax number below. When contacting the Department, be sure to reference your limited license number for fastest service.

Remember, this limited license does not provide a secure source of water. Water use can be revoked at any time. Such revocation may be prompted by field regulatory activities or many other reasons.

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