

Oregon Water Resources Department

Order on Reconsideration Limited License Application LL-1860



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: STELLMACHER FAMILY PROPERTIES LLC

Date Submitted: FEBRUARY 10, 2021

Amount: 0.7 CUBIC FOOT PER SECOND (CFS)

Source: CALAPOOIA RIVER, A TRIBUTARY OF THE WILLAMETTE RIVER

Use: IRRIGATION TO ESTABLISH A HAZELNUT CROP

Duration: MAY 1 - SEPTEMBER 30 OF EACH YEAR; FROM MAY 1, 2021 – SEPTEMBER 30, 2025

County: LINN COUNTY

POD Locations: NORTH POD: 12.00S-4.00W-3 NE NE
SOUTH POD: 12.00S-4.00W-3 NE SE

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 February 23, 2021, 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 The Department has determined that the proposed source has not been withdrawn from further appropriation per ORS 538.200.
6. Due to regulation history and limited water availability, the local Watermaster has **limited the season to May through July.**
7. On April 20, 2021, the Department made a determination to reconsider its order issued on March 19, 2021 to address an error made regarding the period of use. The Department has determined that the period of use shall be from May 1 through July 31 of each year, from May 1, 2021 through July 31, 2025.
8. Because this use is from surface water and has the potential to impact fish, the Department finds that fish screening is required to protect the public interest.
9. Because the Department is limiting the requested use to less than 120 days, the use is not subject to the Department's statewide rules under OAR 690-033-0310. These rules aid the Department in determining whether a proposed use will impair or be detrimental to the public interest with regard to sensitive, threatened, or endangered fish species.
10. In this location, hazelnut establishment does not necessarily require continuing irrigation after establishment. This limited license is issued to establish hazelnuts. The director may issue a limited license for irrigation if the sole purpose of the use is to provide water necessary to establish a crop for which no further irrigation will be required after the crop is established. ORS 537.143 (6)(a).
11. Pursuant to OAR 690-340-0030(4)(5), conditions have been added with regard to notice and water-use measurement.
12. Linn County 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.

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-1860 is approved as conditioned below.

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

Amount: 0.7 CFS

Source: CALAPOOIA RIVER, A TRIBUTARY OF THE WILLAMETTE RIVER

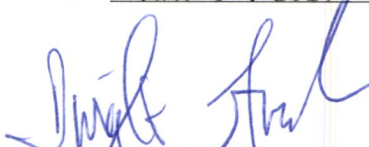
Use: IRRIGATION TO ESTABLISH A HAZELNUT CROP

Duration: MAY 1 – JULY 31 OF EACH YEAR; FROM MAY 1, 2021 – JULY 31, 2025

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. 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.
4. Water may be used under this limited license only to establish a crop for which no future irrigation will be required after the crop is established (ORS 537.143(6)(a)).
5. 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.
6. 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.
7. The licensee shall install, use, and maintain fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. See copy of enclosed fish screening criteria for information.
8. 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.
9. 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 MAY 04 2021


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

Enclosures - fish screen criteria

cc: Lanaya F. Blakely, District 2 Watermaster
Jason Brandt, ODFW

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.

Water Rights Section
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem OR 97301-1271
Phone: (503) 986-0817 Fax: (503) 986-0901

FISH SCREENING CRITERIA FOR WATER DIVERSIONS

This summary describes ODFW fish screening criteria for all fish species.

Screen material openings for ditch (gravity) and pump screens must provide a minimum of 27% open area:

Perforated plate: Openings shall not exceed 3/32 or 0.0938 inches (2.38 mm).

Mesh/Woven wire screen: Square openings shall not exceed 3/32 or 0.0938 inches (2.38 mm) in the narrow direction, e.g., 3/32 inch x 3/32 inch open mesh.

Profile bar screen/Wedge wire: Openings shall not exceed 0.0689 inches (1.75 mm) in the narrow direction.

Screen area must be large enough to prevent fish impact. Wetted screen area depends on the water flow rate and the approach velocity.

Approach velocity: The water velocity perpendicular to and approximately three inches in front of the screen face.

Sweeping velocity: The water velocity parallel to the screen face.

Bypass system: Any pipe, flume, open channel or other means of conveyance that transports fish back to the body of water from which the fish were diverted.

Active pump screen: Self cleaning screen that has a proven cleaning system.

Passive pump screen: Screen that has no cleaning system other than periodic manual cleaning.

Screen approach velocity for ditch and active pump screens shall not exceed 0.4 fps (feet per second) or 0.12 mps (meters per second). The wetted screen area in square feet is calculated by dividing the maximum water flow rate in cubic feet per second (1 cfs = 449 gpm) by 0.4 fps.

Screen sweeping velocity for ditch screens shall exceed the approach velocity. Screens greater than 4 feet in length must be angled at 45 degrees or less relative to flow. An adequate bypass system must be provided for ditch screens to safely and rapidly collect and transport fish back to the stream.

Screen approach velocity for passive pump screens shall not exceed 0.2 fps or 0.06 mps. The wetted screen area in square feet is calculated by dividing the maximum water flow rate by 0.2 fps. Pump rate should be less than 1 cfs.

For further information please contact:

Statewide Fish Screening Coordinator
Oregon Dept. Fish and Wildlife
4034 Fairview Industrial Drive SE
Salem, OR 97302
(503) 947-6229