

Oregon Water Resources Department

Final Order Limited License Application LL-1876



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: KNIFE RIVER CORPORATION - NORTHWEST
Date Submitted: JUNE 1, 2021
Amount: 1.114 CUBIC FEET PER SECOND (CFS)
Source: WELL 1 (CROO 50140) AND PROPOSED WELL 2, WELL 3 AND WELL 4
Use: INDUSTRIAL AND COMMERCIAL USE
Period of Use: ISSUANCE THROUGH JUNE 15, 2026
County: CROOK COUNTY
Well Locations: 14.00S-15.00E-14 SE SW

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 June 8, 2021 the Department provided public notice of the application, as required by OAR 690-340-0030(2).
3. The Department has not received public comment 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. As part of its review to determine groundwater availability, the Department has determined that groundwater cannot be determined to be over appropriated. 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 and static water level measurements, and mitigation for impacts to surface water.
7. The Department has determined that the proposed source has not been withdrawn from further appropriation per ORS 538.200.
8. The Department has determined that the use is subject to its rules under OAR 690-33-0310. 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.
9. Because the proposed use is located in the Deschutes Groundwater Study Area, it has the potential for substantial interference with surface water. The Department has determined that mitigation shall be provided by the applicant in the amount of **59.8** acre-feet annually for the life of the limited license. Without the required mitigation, there is a preponderance of evidence that the proposed use will measurably reduce surface water flows necessary for the Deschutes River Scenic Waterway. The mitigation must be produced in the Crooked River Zone of Impact as defined in OAR 690-505-0605.
10. The Department has determined that, with mitigation, water is available for the requested use.
11. Pursuant to OAR 690-340-0030(4)(5), conditions have been added with regard to notice and water-use measurement.
12. Crook 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-1876 is approved as conditioned below.

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

Amount: 1.114 CFS

Source: WELL 1 (CROO 50140) AND PROPOSED WELL 2, WELL 3 AND WELL 4

Use: INDUSTRIAL AND COMMERCIAL USE

Duration: ISSUANCE THROUGH JUNE 15, 2026

2. Use of water under this limited license is not authorized until proof of acceptable mitigation¹ in the amount of **59.8** acre-feet in the Crooked River Zone of Impact as defined in OAR 690-505-0605, has been submitted to the Department, and accepted in writing by the Department.
3. 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. In the case of this application, this order serves as the notice described above.
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 meters must be installed and maintained in good working order.
5. 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.
6. Use of water under authority of this license may be regulated if analysis of data available after the license is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.
7. To monitor the effect of water use from the well(s) authorized under this license, the Department requires the water user to obtain, from a qualified individual (see below), and report annual static water-level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

Before Use of Water Takes Place

Initial and Annual Static Water Level Measurements

The Department requires the licensee to report an initial water-level measurement in the month specified above once well construction is complete, and annually thereafter until use of water begins; and

After Use of Water has Begun

Seven Consecutive Annual Static Water Level Measurements

Following the first year of water use, the user shall report seven consecutive annual static water-level measurements. The first of these seven annual measurements will establish the reference level against which future annual measurements will be compared. Based on an analysis of the data collected, the Director may require the user to obtain and report additional annual static water-level measurements beyond the seven year minimum reporting period. The additional measurements may

¹ Mitigation opportunities may include, but are not limited to, new instream leases and new instream transfers (Contact Sarah Henderson at 503-979-9872) or purchasing water already protected instream (Contact Gen Hubert at gen@deschutesriver.org or 541-382-4077 ext 116) for more information.

be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

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 and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- A. Identify each well with its associated measurement;
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface;
- C. Specify the method used to obtain each well 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.

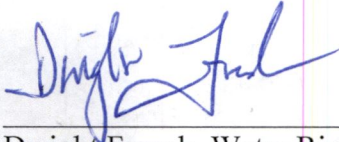
The period of non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until the Department determines, based on the licensee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this 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.

8. 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.
9. 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.
10. 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.
11. 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.

12. 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 OCT 06 2021



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

cc: Jeremy T. Giffin, District 11 Watermaster
Danette Faucera, ODFW
Deschutes, DEQ
Steve Bruce, Skookum Water Associates Inc. – 1626 Victorian Way, Eugene, OR 97401
Surface Water Section
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.

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

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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