

DIVISION 10

APPROPRIATION AND USE
OF GROUND WATER

The Law

The Ground Water Act of 1955 (ORS 537.505 to 537.795) repealed the underground water laws which have been in effect in that part of Oregon east of the summit of the Cascade Mountains since 1927. The new ground water code applies to the entire state. It provided a means for registration of all claims of rights to appropriate ground water by reason of appropriations actually made before August 3, 1955; and provides for later adjudication of the rights claimed to determine the extent and priority of each right and for the filing of applications and issuance by the Water Resources Director of permits to make new appropriations. The law also provides for the licensing of water well contractors and drilling machine operators by the Water Resources Director.

Ground Water Appropriations
Exempt From Filing

The provisions of the law with respect to permits do not apply to appropriations of ground water for stock watering purposes, for watering any lawn or noncommercial garden not exceeding one-half acre in area, for single or group domestic purposes in an amount not exceeding 15,000 gallons per day or for any single industrial or commercial purpose in an amount not exceeding 5,000 gallons per day. The use of ground water for any such purpose, to the extent that it is beneficial, constitutes a right to appropriate ground water equal to that established by a ground water right certificate.

Some provisions of the law apply to all wells. For example, ORS 537.775 provides that the Water Resources Director may order discontinuance of, or impose conditions upon the use of, any well as may be necessary to prevent waste, undue interference with other wells, or pollution. Sections relative to well logs, licensing of water well contractors and drilling machine operators, agreements among users of ground water, and authority of the Water Resources Director, likewise apply to all wells.

General Instruction

690-10-005 (1) A completed application for a permit to appropriate ground water, when submitted to the Water Resources Director at Salem, Oregon, should be accompanied by the following items:

- (a) A map of the proposed water use project prepared in accordance with the instructions listed in rule 690-10-015;
- (b) A copy of the legal description of the property upon which the water is to be used. The description should be copied word for word from the deed, abstract, title insurance policy, or sales contract;
- (c) Payment of statutory fees.
- (2) No application will be approved and permit issued until expiration of at least 30 days from date of filing in

Water Resources Director's office except in cases when special circumstances justify earlier action.

(3) Upon the commencement of construction work, notice must be sent the Water Resources Director using the form attached to the permit. Similar notice must be sent the Water Resources Director when the construction work has been completed and also when the water has been applied to beneficial use.

Stat. Auth.: ORS Ch. 536 & 543
Hist.: WRD 3, f. & cf. 2-18-77

How to Fill Out an Application Form

690-10-010 All entries must be made with dark ink or be typewritten.

The applicant shall write into the blanks of the various items of the application for a permit to appropriate the public waters of the State of Oregon data as follows:

- (1) Name and mailing address.
- (2) The legal description of the property on which water is to be used must accompany the application. This may be copied from the deed, title insurance, or contract:
 - (a) Item 1. Applications covering appropriation from more than one ground water development will be accepted if the water will be used in the same general location and the use is to be on a single contiguous property;
 - (b) Item 2. Each well or ground water development to be made must be accurately located in reference to a public land survey corner in the same manner as shown on the map. If prints of a platted, recorded subdivision are submitted, the diversion point may be located in reference to a lot corner of the subdivision;
 - (c) Item 3. The place of use must be identified by its location within the public land survey. If within a platted, recorded subdivision, further identification by lot and block should be given;
 - (d) Item 6. If more than one well is proposed, the amount of water from each must be listed;
 - (e) Item 7. If more than one use is contemplated, the amount for each use must be listed. If there is both multiple uses and multiple wells, the amount of water for each use from each well must be shown to agree with Item 6;
 - (f) Items 4, 5, 8, 9, 10, 11, 12, 13, and 14, must be completed;
 - (g) The application must be signed by the applicant or applicants listed on the first page.

Stat. Auth.: ORS Ch. 536 & 543
Hist.: WRD 3, f. & cf. 2-18-77

Map to Accompany Application for Permit

690-10-015 ORS 537.140 requires that each application for a permit shall be accompanied by a map of the proposed development. A map is intended to show certain features of a development in greater detail than the application and becomes an important part of the permit. It should be prepared with care to insure reasonable accuracy. Each map is made part of the record and must be permanent quality and drawn with sufficient clarity so as to be easily reproduced.

If you are not experienced in the preparation of maps, it is advisable to obtain technical assistance.

Maps measuring 11" x 17" or less may be prepared on a good quality paper. Larger maps must be drawn on tracing

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linen, tracing vellum, or mylar. All maps must be drawn to a standard even scale of not less than 4" = 1 mile. Small area maps are more easily and clearly drawn to a larger scale such as 1" = 400 feet.

Four prints of a platted and recorded subdivision may be submitted as the application map if all of the required information is clearly shown on each print. The location of the diversion point may be given with reference to a lot or block corner of the subdivision.

Four permanent quality prints of other maps such as deed description survey maps and county assessor maps also may be used if all the required information is clearly shown on each print. A single print of these may be used only if it is reproduced as a transparency such as a sepia print or mylar film.

Each map must show clearly such of the following requirements as shall apply to the proposed appropriation:

(1) The location of each well in reference to a recognized public land survey corner. The locations may be shown by distance and bearing or by coordinates (distance north or south and distance east or west from the corner).

(2) The location of main canals, ditches, pipe lines, or flumes.

(3) The location of the place where water is to be used. If for irrigation, the area to be irrigated in each 1/4 - 1/4 of a section must be shaded and the number of acres in each 1/4 - 1/4 indicated.

(4) The scale to which the map is drawn, the section number, township and range, and a north directional symbol.

The application, map, legal description of the property, and fees should be mailed to Water Rights Division, Water Resources Department, Salem, Oregon 97310.

Stat. Auth.: ORS Ch. 536 & 543
Hist.: WRD 3, f. & ef. 2-18-77

690-10-020 [Renumbered to 690-205-020 by WRD 13-1986]

License

690-10-021 [WRD 7-1982(Temp), f. 6-17-82, ef. 7-1-82]

Experience

690-10-022 [WRD 7-1982(Temp), f. 6-17-82, ef. 7-1-82]

690-10-024 [Renumbered to 690-205-040 by WRD 13-1986]

Drilling Machine Operator's License

690-10-025 [WRD 3, f. & ef. 2-18-77; Repealed by WRD 3-1983, f. & ef. 4-28-83]

690-10-026 [Renumbered to 690-205-050 by WRD 13-1986]

Suspension

690-10-027 [WRD 3-1983, f. & ef. 4-28-83; Repealed by WRD 13-1986; f. 10-7-86, ef. 11-1-86]

690-10-030 [Renumbered to 690-205-060 by WRD 13-1986]

690-10-035 [Renumbered to 690-205-070 by WRD 13-1986]

690-10-040 [Renumbered to 690-205-080 by WRD 13-1986]

Hearings and Protests

690-10-045 Rules and regulations governing the filing of protests or petitions and procedures to be followed in hearings as required by ORS Chapter 183 and Division 1.

Stat. Auth.: ORS Ch. 536 & 543
Hist.: WRD 3, f. & ef. 2-18-77

Initiation of Proceeding for Determination of a Critical Ground Water Area

690-10-050 (1) A proceeding for the determination of a critical ground water area shall be initiated by a Notification from the Water Resources Director.

(2) The Notification shall include:

(a) A description of the proposed exterior boundaries of the area for which the proceeding is initiated, referenced to the U.S. Public Lands Survey.

(b) Citation to the specific statutory provision or provisions under which the proceeding is brought.

(c) The preliminary findings indicating why the area described may be a critical ground water area.

(d) A general description of the nature of the ground water reservoir which is the subject of the determination.

(e) The effective date and duration of the Notification. In no case shall the Notification have a duration greater than 270 days.

(f) A statement concerning applications in the area and reservoir in question which were filed in the Water Resources Department prior to the effective date of the Notification, but which had not received permits prior to that date. Such statement shall explain the applicants' options which include:

(A) Withdrawing the application with refund of any submitted recording fees; or

(B) Requesting deferral of action on the application until a determination of a critical ground water area; or

(C) Requesting a hearing on the application with the understanding that permit denial will result in rejection of the application. Failure to request a specific option will result in the department taking no action on the application until the Commission takes action on the area in question.

(g) A statement concerning applications in the area and reservoir in question which are submitted on or after the effective date of the Notification. The statement shall explain the applicants' options which include:

(A) Withdrawing the application with refund of all related fees; or

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(B) Requesting deferral of permit action until a determination of a critical ground water area; or

(C) Requesting a hearing on the application with the understanding that permit denial will result in rejection of the application. Failure to request a specific option will result in the department taking no action on the application until the Commission takes action on the area in question.

(h) Upon receipt of a request for hearing under subsection (2)(f) or (g) of this rule, the Director shall schedule and conduct the hearing.

(3) The Notification shall be distributed by:

(a) Publication at least once each week for two consecutive weeks in a newspaper having general circulation in the area in question.

(b) Mailing by regular mail to each applicant for a permit to appropriate water from the ground water reservoir and area in question.

(c) Mailing by regular mail to the governing body of the county or counties within which the area in question is located.

(d) Mailing by regular mail to the governing body of the incorporated city located within or adjacent to the area in question.

(e) Mailing by regular mail to each licensed water well constructor licensed to construct wells in the State of Oregon.

(f) Mailing by regular mail to the state legislative delegates representing the people of the area in question.

(4) The Notification initiating a proceeding for determination of a critical ground water area shall be recorded in the Special Order Record of the Water Resources Director.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the office of the Water Resources Department.]

Stat. Auth.: ORS Ch. 183 & 537

Hist.: WRD 2-1983, f. & ef. 3-25-83; WRD 10-1986, f. & ef. 9-3-86

Landowner

690-10-055 [WRD 7-1982(Temp), f. 6-17-82, ef. 7-1-82]