

Oregon Water Resources Department



Final Order Limited License Application LL-1433 Hudson Bay District Improvement Company

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

On August 31, 2012, the Water Resources Department received completed Limited License request **1433** from Hudson Bay District Improvement Company for the use of up to 45 cubic feet per second from the Walla Walla River, located in the SW $\frac{1}{4}$, NE $\frac{1}{4}$, Section 12, Township 5 North, Range 35 East, W.M., for the purpose of artificial groundwater recharge testing, for the period of November 1, 2012 through December 31, 2017.

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 other 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. The Department provided public notice of the application, on September 11, 2012 as required by OAR 690-340-0030(2).
3. This limited license request is limited to an area within a single drainage basin as required by OAR 690-340-0030(3).
4. The Department has determined that there is water available for the requested use.

5. The Department has determined that the proposed source has not been withdrawn from further appropriation.
6. 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.
7. Because the use requested is longer than 120 days and because the use is in an area that has sensitive, threatened or endangered fish species, the use is subject to the Department's rules under OAR 690-33. 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.
8. The Department has determined that the use is not subject to its rules under OAR 690-350. However, artificial groundwater recharge testing must be done in a manner that provides a test with results and supplemental information for the user's artificial groundwater recharge permit application. Consistent with this intent, the Department has added conditions pertaining to testing, monitoring, reporting and coordination with Oregon Department of Environmental Quality (ODEQ), Oregon Department of Fish and Wildlife (ODFW) and this Department.
9. The Department has received comments related to the possible issuance of the limited license from ODEQ requesting changes to the proposed monitoring plan. These changes pertained to sampling and reporting. The water quality monitoring plan was revised and approved by ODEQ on November 28, 2012. The Department has received comments from ODFW in support of this license and recommending conditions related to instream water rights and bypass flows. The Department's Groundwater Section determined the testing and water quantity monitoring plan submitted as an addendum to the application on January 3, 2013 is sufficient for artificial groundwater recharge testing. The authorization of Limited License **1433** is conditioned to satisfactorily address issues raised in those comments.
10. Pursuant to OAR 690-340-0030(4)(5), conditions have been added with regard to notice and water-use measurement.

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 for Limited License **1433** is approved as conditioned below.

1. The period and rate of use for Limited License **1433** shall be from March 7, 2013, through December 31, 2017 for the use of up to 45 cubic feet per second from the Walla Walla River, for the purpose of artificial groundwater recharge testing. The season of use is limited to November 1 through May 15. This limited License **1433** replaces and supersedes LL-1189 which is of no further force or effect.

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 this license. The notice shall include the location of the diversion, and the volume of water to be diverted and the intended use and place of use.
3. When water is diverted under this license, the use is limited to times when the following minimum streamflows are met in the Tum A Lum reach of the Walla Walla River, between the Little Walla Walla River diversion and Nursery Bridge Dam and flowing past Nursery Bridge Dam: November – 64 cfs, December and January – 95 cfs, February to May 15 – 150 cfs. Nursery Bridge Dam is located just downstream of Nursery Bridge and is downstream of the Little Walla Wall diversion. The District 5 Watermaster, based on gage and/or flow measurements, shall make the determination that the above described streamflows are flowing past Nursery Bridge Dam. Diversion under this license shall cease when said streamflows are unmet.
4. The Licensee shall follow the operation, water quality and water level monitoring plans described in the document entitled “Hydrogeologic Setting and Source Water and Groundwater Monitoring and Reporting Plan for the Hudson Bay District Improvement Company Multi-Site Alluvial Aquifer Limited License Application **LL-1433**, Umatilla County, Oregon” and dated January 3, 2013. This plan may be modified after review and approval of changes by the Department.
5. The licensee shall comply with all ODEQ water-quality requirements. If monitoring data or other information result in identification of potential water-quality concerns, ODEQ may seek modifications to the monitoring and test plan and/or require a permit of its own to address the water-quality concerns prior to resumption of artificial groundwater recharge testing.
6. Before water use may begin under this license, the licensee shall install a totalizing flow meter at each point of diversion and at the entry point to each recharge test site. The totalizing flow meters must be maintained in good working order. In addition the licensee shall maintain a record of all water use, including the total number of hours of diversion, the total volume diverted, 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 available for review by the Department upon request, and shall be submitted to the Department annually and to Watermaster upon request. This record shall include the amount of water diverted from the Walla Walla River, and the amount delivered to each recharge area.
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 reason.
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. The licensee shall install, maintain and operate 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.

10. In supporting this license, ODFW retains the prerogative to pursue a future instream water right for the Walla Walla River.
11. The licensee is required to provide a written annual report by February 15th of each year. This report will detail recharge testing. Reporting shall include, but is not limited to, the results of testing efforts that relate to water quality, water quantity, and operations. Water level data shall be submitted in a Department-specified digital format. The licensee shall consult with ODEQ and OWRD to identify additional specific reporting elements. The first report is due in February 2014. The annual report shall be sealed and signed by a professional(s) registered or allowed, under Oregon law, to practice geology.

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 March 11 2013



E. Timothy Wallin, Water Rights Program Manager, *for*
Phillip C. Ward, Director

Enclosures - limited license

cc: Tony Justus, District 5 Watermaster
Bill Duke, ODFW
Phil Richerson, ODEQ
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 better service.

Remember, the use of water under the terms of this limited license is not 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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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:

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