



State of Oregon  
**Water Resources Department**  
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# Water Use Authorizations

## Types of Water Authorization

### 1. WATER RIGHT PERMIT

Permission from the Department to begin using water beneficially.

### 2. WATER RIGHT CERTIFICATE

Evidence of a permanent water right issued by the Department after water has been fully developed under a permit and put to beneficial use.

Certificates are also issued by the Department to reflect decreed rights following an adjudication.

### 3. DECREED RIGHTS

Use of water pre-dates the 1909 water code and has continued uninterrupted. Recognized by a judge in an adjudication proceeding.

### 4. REGISTRATIONS

A claim of a water use that pre-dates the 1909 water code (prior to an adjudication).

### 5. LIMITED LICENSES

Short-term authorization to use water for certain beneficial uses.

### 6. EXEMPT USES

No authorization required.

Oregon's first water code was enacted in 1909. Since that time, our laws have declared that all water is publicly owned. With some exceptions, cities, farmers, factory owners, and other users must obtain some form of authorization from the Water Resources Department to use water from any ground water or surface water source.

## Water Right Permits

Following an application process and review, and once the Department has determined that a new water use can be allowed, a "permit" is issued. The permit will contain time limits to complete construction work and to make beneficial use of the water. Other conditions may also be placed on the permit, such as a requirement for measuring the water used or for installing fish screens.

The permit holder must use water within the time limits set in the permit—unless the permit holder applies for, and receives, an extension of time. The Department considers each request for an extension of time on a case-by-case basis. If there is good cause for not completing the construction in a timely manner and the permit holder has shown diligence in trying to meet the requirements of the permit, an extension may be granted.

## Water Right Certificates

Once a completed or "developed" water right permit has been surveyed, the applicant submits a map and water-use report. The Department will determine if the permit holder has met the conditions of the permit. If so, a water right certificate will be issued. The water right certificate will continue to be valid as long as the water is used according to the provisions of the water right at least once every five years.

A water right permit or certificate will not guarantee water for the appropriator. Under the prior-appropriation doctrine, the water right authorizes diversions of water only to the extent water is available. The amount of water available to a water right holder depends on the water supply and the needs of other senior water rights.

## Decreed Rights

If a water use was begun before the 1909 laws and has been used continuously since then, the property owner may have a "vested" water use. Since a water right is attached to the place of use, this is true even if the ownership of the property has changed.

A vested water use becomes a decreed water right through a legal process known as an "adjudication." The responsibility of the Department in an adjudication is to gather information about the use of water and present its findings to the circuit court in the county where the water is used. The court then issues a decree which states who has the right to use water, the amount and location of water use and the priority date for each right. The Water Resources Department then issues water right certificates for each decreed right. The priority date

for a decreed right is usually the date construction of the project began or the date when water was first used on the property.

## Registrations

Legislation passed in 1987 required persons claiming pre-1909 rights in areas not yet adjudicated to file a surface water registration statement before December 31, 1992. These statements do not automatically assure rights will be granted to those who have filed. Each vested right will be determined through the courts in the adjudication proceeding. In the meantime, continued use of water is authorized under the registration.

## Limited Licenses

Limited licenses provide permission to divert and use water for a short-term or fixed duration. Under current law, certain types of uses can be allowed if water is available and the proposed use will not injure other water rights. These authorizations allow landowners and developers to use water for purposes that do not require a permanent water right, for example, road construction.

Limited licenses are junior to all other uses and subject to revocation if the Department finds that the use injures other water right holders. There is no guarantee that water will be available. Uses under a limited license may include road construction, fire fighting, general construction, rangeland management, and emergency use authorization.

Generally, irrigation uses are not allowed under a limited license. In some cases, however, a limited license may be used to establish a crop that will not require further irrigation once established. In cases of severe drought, the Department may issue limited licenses so landowners can avoid irreparable crop damage by continuing the use of water after the close of the irrigation season.

## Exempt Uses

Some uses of water in Oregon do not require formal authorization from the Water Resources Department. These are called “exempt uses.” While these water uses are exempt from the requirement to obtain a water right, the use is only allowed if water is available and used for a *beneficial purpose without waste*.

### Exempt Uses of Surface Water

1. *Natural springs*: a landowner’s use of a spring which, under natural conditions, does not form a natural channel and flow off the property where it originates at any time of the year.
2. *Stock watering*: where stock drink directly from a surface source with no diversion or modification to the water source. Also, stock watering from a permitted reservoir to a tank or trough, and, under certain conditions, use of water piped from a surface source to an off-stream watering tank or trough.
3. *Fish protection*: water used for fish screens, fishways, and bypass structures. Also, egg incubation projects under the Salmon and Trout Enhancement Program.
4. *Fire control*: the withdrawal of water for use in emergency fire fighting or training activities.
5. *Forest management*: certain activities such as slash burning and mixing pesticides.
6. *Land management practices*: where water use is not the primary intended activity.
7. *Rainwater*: collection and use of rainwater from an impervious surface.

### Exempt Uses of Ground Water

1. *Stock watering*.
2. *Lawn or non-commercial garden watering*: of not more than one-half acre.
3. *Single or group domestic purposes*: not exceeding 15,000 gallons per day.
4. *Single industrial or commercial purposes*: not exceeding 5,000 gallons per day.
5. *Down-hole heat exchange uses*.
6. *Watering school grounds*: ten acres or less, of schools located within a critical ground water area.