

2019

SENATE BILL 855: REPORT ON WELL CONSTRUCTOR LICENSING STUDY



OREGON



WATER RESOURCES
DEPARTMENT

2019 STATUS REPORT

STATE OF OREGON

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Executive Summary

This status report reflects the Oregon Water Resources Department's (OWRD) progress in meeting the requirements of section 1 of [Senate Bill 855 \(Chapter 649, Oregon Laws 2019\)](#).

To comply with the requirements of Senate Bill 855 (Chapter 649, Oregon Laws 2019), the Department conducted a survey to identify and evaluate any barriers for immigrants and refugees in obtaining an Oregon Water Well Constructor License or a Monitoring Well Constructor License. To do so, the Department developed a survey and solicited participation and feedback from the well constructor community, stakeholders that expressed an interest in and support of Senate Bill 855 during the 2019 Regular Session, and individuals and organizations throughout the state of Oregon associated with the well constructor licensing process.

The survey response rate was low, and most survey respondents did not identify barriers to obtaining licensure or recommend any changes be made to the licensure process. Comments received focused mainly on the license examination and non-English speakers. The Department concluded that this was not a barrier because it has offered a translator for the exam. There was also a suggestion that the Department update its study materials and perhaps provide a practice test. The Department is already in the process of updating its study materials. In addition, the Department does offer to sit with individuals that have not passed the test to go through questions in person.

At this time, the Department has not identified additional barriers to immigrants and refugees. The Department's staff have and will continue to offer ways to accommodate individuals and their particular needs, including immigrants and refugees as they go through the licensing process. The Department anticipates continuing to make improvements to the well construction licensing program over time that will benefit all licensees, including immigrants and refugees while also safeguarding public safety. The Department will continue to assess its professional licensing processes and take steps to reduce any identified barriers to licensure for all applicants, including those who may be immigrants or refugees.

Licensing Study Required

[Senate Bill 855 \(Chapter 649, Oregon Laws 2019\)](#) requires each professional licensing board to study the manner in which persons who are immigrants or refugees become licensed, certified, or otherwise authorized in the occupational or professional service. Each professional licensing board shall develop and implement methods to reduce barriers to licensure, certification, or other authorization for applicants who may be immigrants or refugees and implement this requirement by July 2020. The legislation requires licensing boards to report by November 30, 2019, to the Legislative Assembly on progress in meeting these requirements.

The Oregon Water Resources Department licenses water well and monitoring well constructors; as such the law requires the Department to study the manner in which persons who are immigrants or refugees become licensed to construct water supply wells and monitoring wells in the state, and to implement methods to reduce barriers to licensure.

Oregon's Well Constructor Licensing Program

There are more than 230,000 wells in Oregon, with approximately 3,000 new wells drilled each year on average. These wells provide a variety of benefits, from domestic drinking water to water for irrigation, cities, nurseries, industry, and other uses. The Water Resources Department is responsible for helping protect these uses and the people, economies, and communities that rely on aquifers to meet their water needs.

STATE OF OREGON **MARI 9999** WELL I.D. LABEL # L 999999
WATER SUPPLY WELL REPORT START CARD # 999999
 (as required by ORS 537.765 & OAR 690-205-0210) ORIGINAL LOG #

(1) LAND OWNER: Owner Well I.D. JOHN Q. PUBLIC
 Company: 1234 MAIN ST, ANTOWN, OR 97000

(2) TYPE OF WORK: New Well Deepening Conversion Alteration (complete 2a & 10) Abandonment (complete 5a)

(3) DRILL METHOD: Rotary Air Rotary Mud Cable Auger Cable Mud Reverse Rotary Other

(4) PROPOSED USE: Domestic Irrigation Community Industrial/Commercial Livestock Dewatering Thermal Injection Other

(5) BORE HOLE CONSTRUCTION: Depth of Completed Well 100 ft. BORE HOLE: Dia 6" to 10", Seal 50 lbs sacks.

(6) CASING/LINER: Casing Liner Dia 6" to 4", Material 2" 50, 100, 250, 120.

(7) PERFORATIONS/SCREENS: Perf/S Casing/Screen Liner Dia 79" to 99", Slot width .12", # of slots 3, Tele-pipe size 120.

(8) WELL TESTS: Minimum testing time is 1 hour. Pump/Bailer/Air/Flowing Artesian. Yield 30 gal/min, Drawdown 98, Duration 1 hr.

(9) LOCATION OF WELL (legal description): County MARION, Twp 7 S, Range 3 W, E/W WM Sec 23 NW 1/4 of the SW 1/4 Tax Lot 999. Address: 1234 MAIN ST.

(10) STATIC WATER LEVEL: Existing Well / Pre-Alteration Date 02-12-2015, SWL(psi) 25. Completed Well Date 02-12-2015, SWL(psi) 25.

(11) WELL LOG: Ground Elevation From To. TOPSOIL 0 2, RED CLAY 2 34, BROWN BASALT 34 65, LIGHT GRAY BASALT 65 70, BROWN BASALT 70 72, BLACK BASALT 72 75, GRAY BASALT 75 100.

Date Started 02-12-2015, Completed 02-12-2015

(unbonded) Water Well Constructor Certification: I certify that the work I performed on the construction, deepening, alteration, or abandonment of this well is in compliance with Oregon water supply well construction standards. License Number 9999, Date 02-15-2015.

(bonded) Water Well Constructor Certification: I accept responsibility for the construction, deepening, alteration, or abandonment work performed on this well during the construction dates reported above. License Number 9999, Date 02-15-2015.

ORIGINAL - WATER RESOURCES DEPARTMENT
 THIS REPORT MUST BE SUBMITTED TO THE WATER RESOURCES DEPARTMENT WITHIN 30 DAYS OF COMPLETION OF WORK. Form Version: 0.95

Figure 1. Well Log Report Completed by Well Constructor Requires Technical Expertise

The Department functions as a Professional Licensing Board, administering the licensing of any person who constructs, alters, converts, or abandons water wells or monitoring wells.

Why is it important to license Well Constructors?

Water well constructors and monitoring well constructors are licensed in the State of Oregon to protect public health and safety from groundwater contamination due to improperly constructed or abandoned wells, and to preserve the resource for existing and future water users by preventing commingling and waste of groundwater. Impacts from improperly constructed wells can not only affect the owner of the well, but can also impact other wells and groundwater. A few real examples of the impacts of mis-constructed wells are included below.

Groundwater Contamination

Improperly constructed wells can contribute to groundwater contamination, impacting people and cities that rely on well-water for drinking. For example, if the casing seal is insufficient, or if setbacks are not followed, the well can serve as a conduit for contaminants. Common violations that can contribute to contamination include constructing a well too close to a septic system, hazardous waste, or drain field, which can allow contamination to occur and may cause illness.

In one recent example, a well was constructed on the property of a gas station and was not properly sealed. The well appeared to serve as a conduit for water contaminated with gasoline to leak into lower aquifers. The contamination spread and affected domestic wells in the community near the gas station.

Reduced Water Supply and Declining Aquifers

Improperly constructed wells can also lead to groundwater level declines, loss of pressure, and waste. Wells that are not constructed properly can allow the commingling, or mixing, of water from multiple aquifers, whether contaminated or not, as well as allow the cascading of water within a well bore. This cascading water can cause damage to aquifers by allowing waste to occur and thereby reduces the amount of water available to other users.

Large portions of the state are underlain by rocks called basalt, which can pose challenging conditions for drilling and properly constructing a well. For example, in the Mosier area, improperly constructed wells have interconnected separate aquifers and, along with pumping, have contributed to groundwater level declines of more than 150 feet. The area has experienced locally dry wells, jeopardizing water supplies for homes and the community. As a result, the Department has established special well construction standards for the area, and the Oregon Legislature has invested \$1 million into fixing or replacing some of the wells.

Licensing Qualifications

What is Required?

The qualifications to become a newly [licensed water well constructor](#) are established in state statute ([ORS 537.747](#)) and administrative rule (water well: [OAR 690, Division 205](#) and monitoring well: [OAR 690, Division 240](#)). More detailed information on the requirements can be found by clicking on the links. At a high-level, basic requirements include:

- Being at least 18 years of age;
- Passing a written examination conducted by the Department to assess the applicant's knowledge of Oregon laws related to groundwater and wells, hydrogeology, and well drilling practices and safety;
- Paying a license fee (\$150) and an examination fee (\$20); and
- Having one year or more experience in the operation of well drilling machinery on fifteen wells in the previous 36-month period.

Trainee Card: Pathway to Licensure

If an individual passes the exam, but does not meet the requisite experience, the Department may issue a Trainee Card as a means for professional development and to work towards building the experience to obtain a license. The Trainee Card is free.

What is *Not* Required?

To be licensed as a well constructor in Oregon, the Department does not require:

- A college degree or advanced education,
- Language proficiency,
- Information about protected classifications (e.g. national origin, citizenship, race, color, sex, etc.), or
- Social Security Number (as of January 1, 2020 pursuant to [Senate Bill 854 \(Chapter 468, Oregon Laws 2019\)](#)).

Study Method

Survey

In an effort to study this matter and report back to the State Legislature, the Department first reached out to the well constructor community, as well as stakeholders that expressed an interest in professional licensing during the 2019 Regular Session. More specifically, the Department sought input from over 240 individuals and organizations including: Oregon Groundwater Association, Oregon Advocacy Commission, Migration Policy Institute, Portland Business Alliance, Partners in Diversity, Oregon Business Industry, Immigrant and Refugee Community Organization, Oregon Water Resources Department's Groundwater Advisory Committee, the Oregon Commission on Asian and Pacific Islander Affairs, and well constructors. Department staff also provided input.

Additionally, the Department placed the survey on its website, advertised the survey in its Well Said Newsletter, made it available at the Oregon Groundwater Association (OGWA) Fall Conference, and shared it at the Well Constructor Licensing Exam. The comment period was open for the entire month of October. Please see Appendix A for a list of survey questions.

The survey asked about:

- Barriers for immigrants and refugees in obtaining an Oregon Water Well Constructor License or a Monitoring Well Constructor License;
- How the Department and Water Resources Commission may consider reducing those barriers; and
- How persons that are refugees or immigrants become licensed well constructors in Oregon.

Comments Received

By the end of the comment period the Department received 11 survey responses. Eight respondents stated they were not aware of any barriers to refugees or immigrants in obtaining a well constructor license, and no action is needed by the Department to make any changes to the licensure process. Of those, one respondent suggested updating the license requirements, as in their opinion the current standards are not stringent enough.

Several recommendations were provided regarding the exam. One respondent stated an interpreter would be required for anyone who does not speak English. Another respondent recommended making available a copy of the exam translated to Spanish. One respondent recommended the exam be updated to reflect the State of California's examination process by administering the exam on a computer and having it be graded immediately upon submission. Lastly, one individual recommended a more extensive and thorough study packet or practice test be provided.

Analysis

The Department has reviewed the comments received from the survey and evaluated the program requirements.

Licensing Requirement: Being at least 18 years of age

The age requirement of being at least 18 years of age to receive a license is a statutory requirement. As a licensed driller, individuals have the ability to become bonded so that they can contract for work. In addition, as a licensed driller, they are responsible for the work that they perform as an individual. If they are under 18 years of age, they are considered a minor unless they are legally emancipated; therefore, they may not be able to be held legally responsible for faulty or deficient work. The Department did not receive any comments from the survey related to this licensing requirement. The Department does not identify this requirement as a barrier and does not recommend a change in this requirement.

Licensing Requirement: Passing a written examination

A written examination is conducted by the Department to assess the applicant's knowledge of Oregon laws related to groundwater and wells, hydrogeology, and well drilling practices and safety. Most states require an applicant to pass an exam in order to receive a license. The exam is administered in a written format, and the applicant is provided a copy of relevant rules and statutes to reference during the exam.

The Department may administer the exam orally for applicants with learning disabilities or who identify as non-readers. Additionally, the exam is administered four times per year in January, April, July, and October; however, statute allows for the Department to provide the exam outside of these scheduled times to accommodate applicants as needed. In addition, in order to accommodate those non-English speakers, the Department has provided translators when requested as a way to eliminate this barrier. However, all well constructors will need to be able to write any information required on well logs in English as these records document the geologic properties and are used by many different audiences.

One survey comment suggested that a more extensive and thorough study packet or practice test be provided. The Department is currently updating the study packet and is open to providing other study tools as staff and agency resources allow. In addition, the Department does offer individuals that do not pass the test, the opportunity to meet with staff and review the test and go over any questions with staff.

Finally, in regard to offering the test electronically, the Department is interested in this approach and will explore that as resources allow in the context of other agency priorities.

Licensing Requirement: Fees

Applicants are required to pay a license fee of \$150 and an examination fee of \$20. The license fee was last raised in 2001, and the examination fee was last raised in 1981. Both fees fall within the range of other states. The Department did not receive any comments from the survey related to the fees requirement. Given existing resource challenges, the Department recommends no change to this requirement.

Licensing Requirement: Experience

Applicants are required to have one year or more experience in the operation of well drilling machinery on fifteen wells in the previous 36-month period.

The experience requirement is meant to provide evidence that the applicant can safely operate well drilling machinery and construct wells that are protective of the groundwater resource. Wells that are constructed improperly can allow leakage from one aquifer to another, allow waste, and can allow contaminants direct access to drinking water. In reviewing the experience of applicants, the Department analyzes the applicant's entire drilling record, whether it is from Oregon, other states, or other countries. Experience does not need to be from only Oregon sources, as long as the experience is relevant to the profession of well construction.

The Department did not receive any comments expressing barriers to the experience requirement. However, one comment was provided expressing concern that this requirement should be modified, as in the respondent's opinion, the current standards are not stringent enough. The Department plans to review the entire well construction program in the coming years and make modifications if deemed necessary.

Compliance with Other Related New Laws: Senate Bill 854

Senate Bill 854 (2019) resulted in additional new law related to professional licensing, which may connect to barriers for immigrants and refugees. As noted above, the Department will be accepting federally issued identification numbers, in addition to Social Security Numbers, on its well constructor application and licensing materials as authorized pursuant to [Senate Bill 854 \(Chapter 468, Oregon Laws 2019\)](#).

Next Steps

Professional well constructors are a diverse group of individuals, and in order to accommodate the needs of applicants, the Department is constantly on the lookout for ways to meet their needs. In the past, this has resulted in the Department providing reading services for individuals who are identified as non-readers, as well as for individuals who have learning disabilities. In addition, the Department has also provided translators for applicants who are not proficient at English and has allowed more exam time for applicants who are slow readers, but that do not request professional help. It has also meant that the Department considers experience obtained in other states and other countries.

The goal of the well construction program has always been, and continues to be, to allow as many qualified individuals into the profession as possible. Although the internal and external surveys did not identify barriers to licensure requiring additional action at this time, the Department will continue to look for ways to improve its program, and to provide the best service it can to the people it serves.

Appendix A: Survey Questions

1. Are you aware of any licensing requirements that are barriers to refugees or immigrants in obtaining an Oregon Water Well Constructor License or a Monitoring Well Constructor License?

a. I am aware of refugees or immigrants that have experienced barriers in obtaining a water well constructor license.

b. I am not aware of refugees or immigrants that have experienced challenges obtaining a well constructor license; however, I have reviewed the requirements and I believe there are barriers to refugees or immigrants in obtaining a well constructor license.

c. No, I am not aware of any barriers to refugees or immigrants in obtaining a well constructor license.

d. Not sure

e. Other, please explain:

If you checked a or b in question 1, please answer the following questions:

2. If you are aware of barriers for immigrants and refugees in obtaining an Oregon Water Well Constructor License or a Monitoring Well Constructor License, please identify those barriers below.
3. Please identify options the Department and Water Resources Commission might consider to reduce barriers for immigrants and refugees in obtaining an Oregon Water Well Constructor License or a Monitoring Well Constructor License?
4. If known, please identify how immigrants or refugees access information about the Department's Well Constructor Licensing Program? (e.g. Department's website, Well Said Newsletter, professional association, employment service provider, etc.)
5. If known, please identify if immigrants or refugees have experienced or may experience hardship filing licensing documentation with the Department? If so, why?
6. If known, please identify if immigrants or refugees have experienced or may experience hardship completing the required exam? If so, why?
7. Please provide any other information you have on how persons that are refugees or immigrants become licensed well constructors in Oregon and any other information on potential barriers.
8. Is there anything else related to this matter that you would like us to know or anyone that you think we should contact for this study?