

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number G-15857

Final Order Incorporating Settlement Agreement

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the modifications to the proposed final order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a final order in other than 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.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the final order is not subject to judicial review.

Application History

On December 20, 2002, Eugene Water and Electric Board submitted an application to the Department for a water use permit.

The Department issued a Proposed Final Order (PFO) on March 18, 2008.

The Department received a timely protest from the applicant on May 2, 2008, which requested the following conditions be removed:

Use of water under this permit may occur only when the Hayden Bridge Filtration Plant production is limited, or whenever necessary to maintain the readiness of the wellfield for emergency backup or to maintain water quality in the wells and pipelines.

No well under this permit may be used for more than 8 hours in any 90-day period.

During discussions between the Department and the applicant, the applicant agreed the following condition will be included in any permit issued:

The use of water under this permit or subsequent certificate, in combination with the water rights originating under Applications S-10168, S-22037, and S-35037 shall not exceed a total of 300.08 cubic feet per second.

A settlement agreement was signed by all parties as of 7/31/08, 2008. The Settlement Agreement is incorporated into this Final Order and is attached hereto.

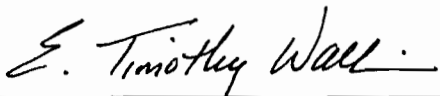
The Proposed Final Order erroneously indicated that land use approval had not yet been obtained for Well 1 and Well 3 (LANE 61477) and did not include those wells in the draft permit. Upon further review, the Department determined that land use approval has been obtained for Well 1 and Well 3 (LANE 61477); therefore the use of Well 1 and Well 3 (LANE 61477) may be allowed, as described on the attached permit.

The proposed use would not impair or be detrimental to the public interest. The Protestants and the Department have agreed to permit conditions set forth in the permit.

Order

Application G-15857 is therefore approved with these modifications to the Proposed Final Order, and Permit G-16371 is issued as limited therein.

DATED August 13, 2008



for Phillip C. Ward, Director
Water Resources Department

This document was prepared by Jeana Eastman. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0859.

If you have questions about how to file a protest or a request for standing, please refer to the section in this Final Order entitled "Hearing and Appeal Rights". If you have previously filed a protest and want to know its status, please contact Patricia McCarty at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE STATE OF OREGON**

In the Matter of Water Right Application)
G-15857 in the name of Eugene Water and)
Electric Board) SETTLEMENT
 Applicant) AGREEMENT

The Oregon Water Resources Department (“OWRD”) and Eugene Water and Electric Board (“Applicant”) do hereby stipulate and agree in this “Settlement Agreement” as follows:

Background

- I. On December 20, 2002, Eugene Water and Electric Board submitted an application for a ground water permit for 46.4 cfs for municipal use. On August 4, 2003 the applicant amended the rate to 18.49 cfs.
- II. On March 18, 2008 OWRD issued a Proposed Final Order recommending a permit with conditions be issued.
- III. Applicant filed a protest May 2, 2008.
- IV. OWRD and Applicant agree that all issues related to application G-15857 are resolved solely on the following terms.

Terms of the Agreement

1. The Applicant waives all right and opportunity to request reconsideration or exception and to seek judicial review of this Settlement Agreement, the Final Order and Permit.
2. The Department shall issue a Final Order Incorporating Settlement Agreement and Permit consistent with the attached draft permit.
3. Each Party to this Settlement Agreement represents, warrants, and agrees that the person who executed this Agreement on its behalf has the full right and authority to enter into this Agreement on behalf of that Party and bind that Party to the terms of this Settlement Agreement.
4. Each Party to this Settlement Agreement certifies that it has had a reasonable opportunity to review and request changes to the Settlement Agreement, and that it has signed this Settlement Agreement of its own free will and accord.
5. Each Party to this Settlement Agreement certifies that it has read the entire Settlement Agreement, including the draft Final Order Incorporating Settlement Agreement and draft Permit, and understands and agrees with the contents thereof.

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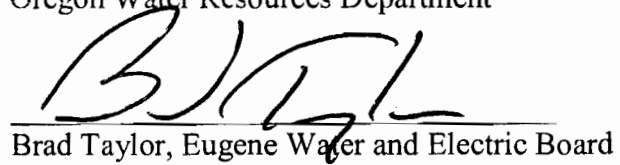
**WATER RESOURCES DEPT
SALEM, OREGON**

6. The Parties agree that nothing in this Settlement Agreement establishes factual, legal, or policy precedent.
7. This Settlement Agreement may be signed in counterparts.



Dwight French, Administrator,
Water Rights and Adjudications Division
for
Phillip C. Ward, Director
Oregon Water Resources Department

7/31/08
Date



Brad Taylor, Eugene Water and Electric Board

7/23/08
Date