

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

In the Matter of Water Rights Application)
R-86715, Coos County)

FINAL ORDER
APPROVING THE STORAGE OF
SURFACE WATER

Authority

Oregon Revised Statutes (ORS) 537.409 establishes the process by which an application to store waters of the public may be submitted.

Findings of Fact

1. On November 13, 2006, Gary Gant and Steve Gant submitted an application for a permit to store water pursuant to ORS 537.409. The Department provided public notice of the application in the Department's weekly public notice. A 60-day comment period followed.
2. On February 22, 2007, the Department issued a Final Order denying the application.
3. On March 21, 2007, the Department received a request for reconsideration of the Final Order.
4. On review of information received subsequent to the Final Order, the Department determined that the application could be approved and a permit issued.
5. The Department has received comments related to the possible issuance of the attached permit.
6. The Department has evaluated the application and any comments received, and finds that as conditioned, the proposed use will not impair or be detrimental to the public interest described in ORS 537.409(6).
7. The Department received information from Oregon Department of Fish and Wildlife related to the possible issuance of a permit. The attached permit is conditioned to address concerns raised in that review.
8. Water is available for the proposed use as described in the attached permit.

APPEAL RIGHTS

Appeal to a circuit court: This is a final order in other than a contested case. Any party affected by a final order in other than a contested case issued by the Water Resources Commission or Water Resources Department may appeal the order to the appropriate circuit court (ORS 536.075). A petition for judicial review must be filed within the 60-day time period specified by ORS 183.484 (2).

Petition to the Department for Reconsideration of the Final Order: A person entitled to judicial review of this order may also file a petition for the Department's reconsideration of the order. The petition for reconsideration must be filed with the Department within 60 calendar days after the date of the order. A copy of the petition must also be delivered or mailed to all other persons and agencies requiring notification under statute or rule (OAR 137-004-0080). The petition must set forth the specific grounds for reconsideration, and may be supported by a written argument. The petition may include a request for a stay of the order if the petition complies with the requirements of OAR 137-003-0090 (2). The Department may grant or deny the petition by summary order. If the Department takes no action, the petition is deemed denied as provided by ORS 183.484 (2). A final order remains in effect during reconsideration until stayed or changed. Following reconsideration, the agency must enter a new order, which may be an order affirming the existing order (OAR 137-004-0080). Reconsideration cannot be granted after the filing of a petition for judicial review, unless permitted by the court (OAR 137-004-0080 (6)).

ORS 537.409 does not provide an opportunity to request a contested-case hearing. Appeal rights on this final order approving the application are limited to the above procedures.

9. The use, as described in the attached permit, will not injure existing water rights and does not pose potential detrimental impacts to fishery resources.
10. The settlement agreement of May 14, 2008, signed and dated by all parties, is incorporated into this Final Order and is attached hereto.


Conclusions of Law

Application R-86715 is consistent with the requirements of ORS 537.409. Therefore, the proposed use will not impair or be detrimental to the public interest.

Now Therefore, it is Ordered:

Application R-86715 is approved pursuant to ORS 537.409, and Permit R-14633 is issued as limited by the conditions contained therein.

Dated at Salem, Oregon on August 25, 2008.



for Phillip C. Ward, Director
Water Resources Department

This order was produced by Dwight French. If you have any questions about any of the statements contained in this document, I am probably the best person to answer your questions. You may reach me at 503-986-0819.

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, Suite A, Salem OR 97301-1266, Fax: 503-986-0901.

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

RECEIVED

In the Matter of Water Right Application)
R-86715 in the name of Gary Gant and)
Steve Gant)
Applicants)

SETTLEMENT
AGREEMENT

MAY 12 2008

WATER RESOURCES DEPT
SALEM, OREGON

The Oregon Water Resources Department ("OWRD") and Gary Gant and Steve Gant ("Applicants") do hereby stipulate and agree in this "Settlement Agreement" as follows:

Background


- I. On November 13, 2006, Gary Gant and Steve Gant submitted an application for a permit to store water pursuant to ORS 537.409.
- II. On February 22, 2007 OWRD issued Final Orders denying each application.
- III. On review of information received subsequent to the Final Order, OWRD determined that the application could be approved and permits issued.
- IV. OWRD and Applicants agree that all issues related to applications R-86715 are resolved solely on the following terms.

Terms of the Agreement

1. The Applicants 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 if signed and returned to the Department by June 1, 2008.
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.

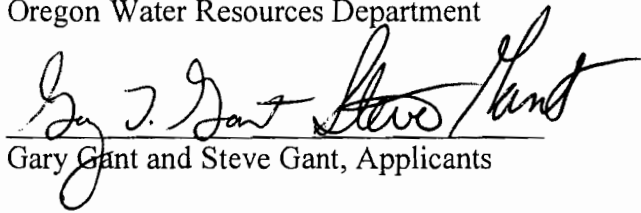
6. The Parties agree that nothing in this Settlement Agreement establishes factual, legal, or policy precedent.

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

5-14-08
Date



Gary Gant and Steve Gant, Applicants

5-07-08
Date

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WATER RESOURCES DEPT
SALEM, OREGON