

**Final Order Incorporating Settlement Agreement
Extension of Time for Permit Number S-52972**

Appeal Rights

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.

Application History

The Oregon Water Resources Department (OWRD) issued Permit number S-52972 on November 27, 1996. The permit called for completion of construction of the water development project by October 1, 1998, and complete application of water to the full beneficial use by October 1, 1999. On July 22, 2002, Charles C. Short and Eunice J. Short (Applicants) submitted an application to OWRD for an extension of time for permit number S-52972. In accordance with OAR 690-315-0050(2), on November 15, 2005, OWRD issued a Proposed Final Order (PFO) proposing to deny extension of the permit time to complete construction of the water development project to October 1, 2004, and the permit time to fully apply water to beneficial use to October 1, 2004. The protest period closed December 30, 2005, in accordance with OAR 690-315-0060(1). No protest was filed. On May 4, 2006, OWRD issued a Final Order denying the requested extension of time for permit number S-52972.

On June 26, 2006, OWRD received a Petition for Reconsideration (Petition) from attorney Donald R. Crane on behalf of the Applicants. The Petition challenges the Final Order on extension of time for Permit S-52972, and requested that the extension of time expire two years from the date of any approval of the extension application. The Petition provided additional information regarding delay in completing water use under the terms and conditions of permit S-52972, including serious medical problems beginning prior to permit issuance and continuing thereafter, delay by the Oregon Department of Fish and Wildlife regarding fish passage and fish screening, and some progress towards obtaining an easement from the Scott Creek Homeowner's Association.

A Settlement Agreement was entered into between OWRD and the Applicants as of August 23, 2006. The Settlement Agreement is attached to, and incorporated by reference into this Final Order.

Based on the Petition, and in light of the provisions of the Settlement Agreement, the Applicants have demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0040(2).

Order

The extension of time for Application Number S-72878, Permit Number S-52972, therefore, is approved. The deadline for completing construction is extended to October 1, 2008. The deadline for applying water to full beneficial use is extended to October 1, 2008. Pursuant to the Settlement Agreement, no further extensions of time may be allowed for this permit. This Final Order supercedes the May 4, 2006 Final Order on extension of time for Permit Number S-52972.

DATED: 8-25-06, 2006



for Dwight French, Administrator
Water Rights and Adjudications
for
Phillip C. Ward, Director

If you have any questions about statements contained in this document, please contact Mike Reynolds at (503) 986-0820.

If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900.

NOTE: Include a copy of the "Important Notice" document along with the original copy of the Final Order being sent to the permit holder.

Mailing List for Extension FO Copies

Application S-72878

FO Date: August 25, 2006

Permit S-52972

Copy mailed to:

Charles C. and Eunice J. Short
77538 Molstrom Rd.
Adams, OR 97810-3040

Copies Mailed	
By:	<u>AS</u> (SUPPORT STAFF)
on:	<u>8/25/06</u> (DATE)

For Extension FO's - Copies sent to:

1. WRD - Appl. File R-71998/ Permit R-12093
2. WRD - Watermaster District: 17 - Vern Church
3. ODFW - Biologist District: 9 - Roger Smith, Klamath Falls
4. DEQ - Regional Office: Western Region, John Blanchard, Medford
5. WRD - John Falk
6. WRD - Support Staff, Salem...*Permit record update*

Original Mailed To:

7. Donald R. Crane, Attorney at Law, 37070 Highway 62, Chiloquin, OR 97624

CASEWORKER: LJJ, AR

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

In the Matter of Extension of Time for Permits) S-52972 and R-12093 in the name of Charles C.) and Eunice J. Short,) <i>Applicants and Petitioners</i>)	SETTLEMENT AGREEMENT
--	---------------------------------

The Oregon Water Resources Department (“OWRD”), and Charles C. Short and Eunice J. Short (“Applicants”), referred to collectively as “the Parties” and each individually a “Party,” do hereby stipulate and agree in this “Settlement Agreement” as follows:

Stipulations

- I. OWRD issued Permit number S-52972 on November 27, 1996. The permit called for completion of construction of the water development project by October 1, 1998, and complete application of water to the full beneficial use by October 1, 1999. On July 22, 2002, Applicants submitted an application to OWRD for an extension of time for permit number S-52972. In accordance with OAR 690-315-0050(2), on November 15, 2005, OWRD issued a Proposed Final Order (PFO) proposing to deny extension of the permit time to complete construction of the water development project to October 1, 2004, and the permit time to fully apply water to beneficial use to October 1, 2004. The protest period closed December 30, 2005, in accordance with OAR 690-315-0060(1). No protest was filed. On May 4, 2006, OWRD issued a Final Order denying the requested extension of time for permit number S-52972.

- II. OWRD issued Permit number R-12093 on November 27, 1996. The permit called for completion of construction of the water development project by October 1, 1998, and complete application of water to the full beneficial use by October 1, 1999. On July 22, 2002, Applicants submitted an application to OWRD for an extension of time for permit number R-12093. In accordance with OAR 690-315-0050(2), on November 15, 2005, OWRD issued a PFO proposing to deny extension of the permit time to complete construction of the water development project to October 1, 2004, and the permit time to fully apply water to beneficial use to October 1, 2004. The protest period closed December 30, 2005, in accordance with OAR 690-315-0060(1). No protest was filed. On May 4, 2006, OWRD issued a Final Order denying the requested extension of time for permit number R-12093.

- III. On June 26, 2006, OWRD received two Petitions for Reconsideration (Petitions) from attorney Donald R. Crane on behalf of the Applicants. The Petitions challenge the Final Orders on permits S-52972 and R-12093, and request that the extensions of time expire two years from the date of any approval of the extension applications. The Petitions provided additional information regarding delay in completing water use under Permits S-52972 and R-12093.

- IV. OWRD and Applicants agree that all issues raised in Applicant’s Petitions regarding extensions of time for permits S-52972 and R-12093 are resolved solely on the following terms.

Terms of Agreement

1. The Applicants expressly waive all right and opportunity to seek judicial review of the Final Orders dated May 4, 2006 on extension of time for permits S-52972 and R-12093.
2. The Applicants expressly waive all right and opportunity to file protests or requests for contested case hearing, petitions for reconsideration, exceptions, or to seek judicial review of Final Orders on extension of time for permits S-52972 and R-12093 that are consistent with the Draft Final Orders attached to this Settlement Agreement, in addition to waiving all right and opportunity to challenge this Settlement Agreement.
3. In the event that the Final Orders on extension of time for Permits S-52972 and R-12093 that are issued pursuant to this Settlement Agreement are successfully challenged by an individual or entity that is not a Party to this Settlement Agreement, and if new Final Orders are issued resulting in denial of the extensions of time, then Applicants are not bound by the provisions of this Settlement Agreement, except that Applicants will remain bound by Term of Agreement #1, above.
4. After the Applicants sign this Settlement Agreement, they will promptly mail the signed original Settlement Agreement back to the Oregon Water Resources Department, ATTN: Mike Reynolds, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.
5. Within 30 days after OWRD receives original Settlement Agreement(s) signed by OWRD and the Applicants, OWRD will issue Final Orders on extension of time for permits S-52972 and R-12093 that are consistent with the Draft Final Orders attached to this Settlement Agreement. The Final Orders will incorporate this Settlement Agreement by reference and as attachments.
6. The Applicants agree that the Final Orders on extension of time to October 1, 2008 that will be issued pursuant to this Settlement Agreement are the last and final extensions of time for Permits S-52972 and R-12093, and that no further applications for extension of time to a date beyond October 1, 2008 can be submitted to OWRD for these permits.
7. No later than October 1, 2009, the Applicants must submit Claims of Beneficial Use prepared by a certified water rights examiner requesting certification of permits S-52972 and R-12093. In response to the Claims of Beneficial Use, OWRD could approve, or propose to restrict or deny certification of permits S-52972 and R-12093. The Applicants acknowledge that this Settlement Agreement precludes the submission of any further applications for extension of time for permits S-52972 and R-12093 to complete construction, make full use of water, to achieve compliance with permit and extension conditions, or for any other purpose. Therefore, the Applicants acknowledge the importance of ensuring that they are in full compliance with the terms and conditions of permits S-52972 and R-12093, as well as extensions of time for those permits, have completed construction of the water project, and have made full beneficial use of water as of October 1, 2008.

8. On or before November 3, 2008, the Applicants shall submit written documentation addressed to the attention of the Water Rights Manager of the OWRD describing whether, as of October 1, 2008, (1) fish passage and fish screening were installed as required by permits S-52972 and R-12093, and (2) whether the Applicants have obtained all appropriate easement(s) for lands not owned by the Applicants that are inundated by water use under permits S-52972 and R-12093. Such written documentation must include copies of easement(s) and copies of letter(s) from the Oregon Department of Fish and Wildlife regarding the existence and sufficiency of fish passage and fish screening required under Permits S-52972 and R-12093. Such written documentation will be timely submitted if actually received by OWRD by November 3, 2008, or if post-marked by November 3, 2008.
9. By signing this Settlement Agreement, the Applicants expressly authorize voluntary cancellation of permits S-52972 and R-12093 if (1) based on written documentation provided by the Applicants under Term 8 of this Settlement Agreement, or other information, OWRD determines that, as of October 1, 2008, fish passage or fish screening were not installed as required by permits S-52972 and R-12093 or if the Applicants have not obtained all appropriate easement(s) for lands not owned by the Applicants that are inundated by water use under permits S-52972 and R-12093, or (2) if the Applicants fail to timely submit the written documentation described in Term 8 of this Settlement Agreement.
10. The Applicants understand and agree that permits S-52972 and R-12093, this Settlement Agreement, and Final Orders on extension of time for permits S-52972 and R-12093 do not authorize trespass on lands not owned by the Applicants.
11. Each Party to this Settlement Agreement represents, warrants, and agrees that the person who executes this Agreement on their 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. The Applicants agree that this Settlement Agreement is also binding upon any other individual or entity that obtains an ownership interest in water right permits S-52972 or R-12093. The Applicants agree to inform any individual or entity that gains an ownership interest in permits S-52972 and/or R-12093 of the existence and provisions of this Settlement Agreement and the associated permits and extension Final Orders.
12. Each Party to this Settlement Agreement certifies that they have had a reasonable opportunity to review the Settlement Agreement, and that they have signed this Settlement Agreement of their own free will and accord. Each Party to this Settlement Agreement also certifies that they have read the entire Settlement Agreement and Draft Final Orders, and understand and fully agree with the contents thereof.
13. This Settlement Agreement may be signed in counterparts, each of which will be deemed an original, and all of which together shall constitute one and the same Settlement Agreement.

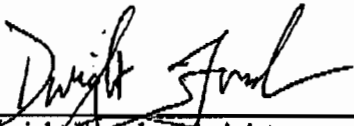
SIGNATURE PAGE FOR SETTLEMENT AGREEMENT

Charles C. Short, Applicant

Date

Eunice J. Short, Applicant

Date



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

8-23-2006
Date

Donald R. Crane, pursuant to the written authority given by applicants, hereby signs this settlement agreement on their behalf.

Dated this 23rd day of August, 2006.



DONALD R. CRANE, OSB No. 64020
Attorney for Applicants

**Final Order Incorporating Settlement Agreement
Extension of Time for Permit Number R-12093**

Appeal Rights

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.

Application History

The Oregon Water Resources Department (OWRD) issued Permit number R-12093 on November 27, 1996. The permit called for completion of construction of the water development project by October 1, 1998, and complete application of water to the full beneficial use by October 1, 1999. On July 22, 2002, Charles C. Short and Eunice J. Short (Applicants) submitted an application to OWRD for an extension of time for permit number R-12093. In accordance with OAR 690-315-0050(2), on November 15, 2005, OWRD issued a Proposed Final Order (PFO) proposing to deny extension of the permit time to complete construction of the water development project to October 1, 2004, and the permit time to fully apply water to beneficial use to October 1, 2004. The protest period closed December 30, 2005, in accordance with OAR 690-315-0060(1). No protest was filed. On May 4, 2006, OWRD issued a Final Order denying the requested extension of time for permit number R-12093.

On June 26, 2006, OWRD received a Petition for Reconsideration (Petition) from attorney Donald R. Crane on behalf of the Applicants. The Petition challenges the Final Order on extension of time for permit R-12093, and requested that the extension of time expire two years from the date of any approval of the extension application. The Petition provided additional information regarding delay in completing water use under the terms and conditions of permit R-12093, including serious medical problems beginning prior to permit issuance and continuing thereafter, delay by the Oregon Department of Fish and Wildlife regarding fish passage and fish screening, and some progress towards obtaining an easement from the Scott Creek Homeowner's Association.

A Settlement Agreement was entered into between OWRD and the Applicants as of [REDACTED], 2006. The Settlement Agreement is attached to, and incorporated by reference into this Final Order.

Based on the Petition, and in light of the provisions of the Settlement Agreement, the Applicants have demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0040(2).

Order

The extension of time for Application Number R-71998, Permit Number R-12093, therefore, is approved. The deadline for completing construction is extended to October 1, 2008. The deadline for applying water to full beneficial use is extended to October 1, 2008. Pursuant to the Settlement Agreement, no further extensions of time may be allowed for this permit. This Final Order supercedes the May 4, 2006 Final Order on extension of time for Permit R-12093.

DATE: 2006

DRAFT - DO NOT SIGN

Dwight French, Administrator
Water Rights and Adjudications
for
Phillip C. Ward, Director

If you have any questions about statements contained in this document, please contact Mike Reynolds at (503) 986-0820.

If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900.

NOTE: Include a copy of the "Important Notice" document along with the original copy of the Final Order being sent to the permit holder.

Mailing List for Extension FO Copies

Application R-71998
Permit R-12093

FO Date: 2/10/06

Original mailed to:

Charles C. and Eunice J. Short
77538 Molstrom Rd.
Adams, OR 97810-3040

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

For Extension FO's - Copies sent to:

1. WRD - Appl. File R-71998/ Permit R-12093
2. WRD - Watermaster District: 17 - Vern Church
3. ODFW - Biologist District: 9 - Roger Smith, Klamath Falls
4. DEQ - Regional Office: Western Region, John Blanchard, Medford
5. WRD - John Falk
6. WRD - Support Staff, Salem...*Permit record update*

Other interested parties:

7. Donald R. Crane, Attorney at Law, 37070 Highway 62, Chiloquin, OR 97624

CASEWORKER: LJJ, AR

**Final Order Incorporating Settlement Agreement
Extension of Time for Permit Number S-52972**

Appeal Rights

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.

Application History

The Oregon Water Resources Department (OWRD) issued Permit number S-52972 on November 27, 1996. The permit called for completion of construction of the water development project by October 1, 1998, and complete application of water to the full beneficial use by October 1, 1999. On July 22, 2002, Charles C. Short and Eunice J. Short (Applicants) submitted an application to OWRD for an extension of time for permit number S-52972. In accordance with OAR 690-315-0050(2), on November 15, 2005, OWRD issued a Proposed Final Order (PFO) proposing to deny extension of the permit time to complete construction of the water development project to October 1, 2004, and the permit time to fully apply water to beneficial use to October 1, 2004. The protest period closed December 30, 2005, in accordance with OAR 690-315-0060(1). No protest was filed. On May 4, 2006, OWRD issued a Final Order denying the requested extension of time for permit number S-52972.

On June 26, 2006, OWRD received a Petition for Reconsideration (Petition) from attorney Donald R. Crane on behalf of the Applicants. The Petition challenges the Final Order on extension of time for Permit S-52972, and requested that the extension of time expire two years from the date of any approval of the extension application. The Petition provided additional information regarding delay in completing water use under the terms and conditions of permit S-52972, including serious medical problems beginning prior to permit issuance and continuing thereafter, delay by the Oregon Department of Fish and Wildlife regarding fish passage and fish screening, and some progress towards obtaining an easement from the Scott Creek Homeowner's Association.

A Settlement Agreement was entered into between OWRD and the Applicants as of [REDACTED], 2006. The Settlement Agreement is attached to, and incorporated by reference into this Final Order.

Based on the Petition, and in light of the provisions of the Settlement Agreement, the Applicants have demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0040(2).

Order

The extension of time for Application Number S-72878, Permit Number S-52972, therefore, is approved. The deadline for completing construction is extended to October 1, 2008. The deadline for applying water to full beneficial use is extended to October 1, 2008. Pursuant to the Settlement Agreement, no further extensions of time may be allowed for this permit. This Final Order supercedes the May 4, 2006 Final Order on extension of time for Permit Number S-52972.

DATED, 2006

DRAFT - DO NOT SIGN

Dwight French, Administrator
Water Rights and Adjudications
for
Phillip C. Ward, Director

If you have any questions about statements contained in this document, please contact Mike Reynolds at (503) 986-0820.

If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900.

NOTE: Include a copy of the ***"Important Notice"*** document along with the original copy of the Final Order being sent to the permit holder.

Mailing List for Extension FO Copies

Application R-71998
Permit R-12093

FO Date: 2/10/06

Original mailed to:

Charles C. and Eunice J. Short
77538 Molstrom Rd.
Adams, OR 97810-3040

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

For Extension FO's - Copies sent to:

1. WRD - Appl. File R-71998/ Permit R-12093
2. WRD - Watermaster District: 17 - Vern Church
3. ODFW - Biologist District: 9 - Roger Smith, Klamath Falls
4. DEQ - Regional Office: Western Region, John Blanchard, Medford
5. WRD - John Falk
6. WRD - Support Staff, Salem...*Permit record update*

Other interested parties:

7. Donald R. Crane, Attorney at Law, 37070 Highway 62, Chiloquin, OR 97624

CASEWORKER: LJJ, AR