

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

In the Matter of Water Rights Application        )  
G-16250, Marion County                            )

FINAL ORDER INCORPORATING  
SETTLEMENT AGREEMENT

**Authority**

ORS 537.615 establishes the process by which an application to appropriate ground water may be submitted. ORS 537.620 through ORS 537.628 provide the Department's procedures and criteria for evaluating applications to appropriate ground water. In addition, OAR Chapter 690, Division 310 implement the statutes and provide additional guidance in the processing of applications proposing to appropriate ground water.

**Findings of Fact**

1. On March 17, 2004, Angelo Spada submitted an application on behalf of A and R Spada Farms for a water-use permit pursuant to ORS 537.615.
2. On February 15, 2005, the Oregon Water Resources Department (Department) issued a Proposed Final Order (PFO) recommending a permit with conditions be issued.
3. On March 31, 2005, the applicant filed a timely protest to the PFO.
4. A Settlement Agreement was signed by all parties in November of 2008. The Settlement Agreement is incorporated into this Final Order and a copy of the Settlement Agreement is included below. The Department supports the settlement agreement because it allows wintertime use, when water is generally more available than in summer, but limits the water user to no more than was allowed under Certificate 54709.
5. The proposed use would not impair or be detrimental to the public interest.
6. The Protestant and the Department have agreed to the permit conditions set forth in the permit.

**Conclusions of Law**

Application G-16250 is consistent with the requirements of ORS 537.615, ORS 537.620 through ORS 537.628 and OAR Chapter 690, Division 310.

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a 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 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.

**Now Therefore, it is Ordered:**

Application G-16250 is approved pursuant as proposed by the Proposed Final Order further modified by the Settlement Agreement, and Permit G-16469 is issued as limited by the conditions proposed by the Proposed Final Order and Settlement Agreement.

Dated at Salem, Oregon on

*JUNE 8*, 2009.

*E. Timothy Wall.*

for Phillip C. Ward, Director

This order was produced by Kerry Kavanagh. 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 503-986-0816.

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**

In the Matter of Water Right Application    )  
G-16250 in the name of A & R Spada        )  
Farms, LLC                                        )        SETTLEMENT  
                  *Applicant/*                        )        AGREEMENT  
                  *Protestant*

The Oregon Water Resources Department (OWRD) and Angelo Spada (Applicant) do hereby stipulate and agree in this "Settlement Agreement" as follows:

**Background**


- I. On May 17, 2004, Angelo Spada submitted an application on behalf of A & R Spada Farms, LLC for a ground water permit for 2.34 cubic feet per second (cfs) for nursery use on 139.1 acres in Marion County.
- II. On February 15, 2005, OWRD issued a Proposed Final Order (PFO) recommending a permit with conditions be issued.
- III. Applicant filed a protest on March 31, 2005.
- IV. OWRD and Applicant agree that all issues related to application G-16250 are resolved solely on the following terms.

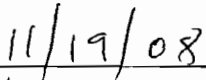
**Terms of the Agreement**

- 1. By signing this Settlement Agreement, Applicant/Protestant withdraws the protest to the PFO for Application G-16250 with prejudice.
- 2. Applicant reduces application to request no more than 347.75 acre feet during the irrigation season, March 1 through October 31, in conjunction with Certificate 54709.
- 3. 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.
- 4. The Department shall issue a Final Order Incorporating Settlement Agreement and Permit consistent with the attached draft Permit.
- 5. 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.


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6. 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.
7. 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.
8. The Parties agree that nothing in this Settlement Agreement establishes factual, legal, or policy precedent.
8. 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

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Angelo Spada, A & R Spada Farms, LLC

  
\_\_\_\_\_  
Date