

Final Order Incorporating Settlement Agreement  
Extension of Time for Permit Number G-13876 (Modified by Permit Amendment T-9098)

**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 Department issued permit number G-13876 on February 22, 2001. The permit called for completion of construction of the water development project by October 1, 2004, and complete application of water to the full beneficial use by October 1, 2005. On December 30, 2005, the City of Newberg submitted an application to the Department for an extension of time for permit number G-13876. In accordance with OAR 690-315-0050(2), on September 19, 2006, the Department issued a Proposed Final Order proposing to extend the time in which to complete construction of the water system to October 1, 2054, and/or to fully apply water to beneficial use to October 1, 2055. The protest period closed on November 3, 2006, in accordance with OAR 690-315-0060(1). On November 3, 2006, OWRD received a written protest from Dan Danicic, P.E., Public Works Director for the City of Newberg, on behalf of the City of Newberg.

At the time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, the permit may be extended subject to certain conditions.

However, based upon a review of the issues and information contained in the protest, and related considerations, the Department's continuing evaluation indicates that the extension of time should be approved subject to the following modified condition.

1. **Development Limitations**

Diversion of water beyond 6.22 cfs under Permit G-13876 (modified by Permit Amendment T-9098) shall only be authorized upon issuance of a final order approving a Water Management and Conservation Plan under OAR Chapter 690, Division 86. The required Water Management and Conservation Plan shall be submitted to the Department within 3 years from the date this extension becomes final.

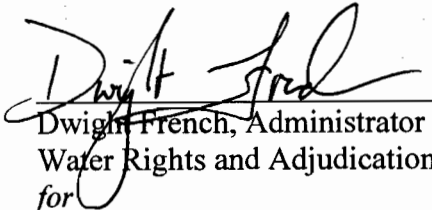
The deadline established in this order for submittal of a Water Management and Conservation Plan shall not relieve a permittee of any existing or future requirements for submittal of a Plan at an earlier date as established through other orders of the Department. A Plan submitted to meet the requirements of this order may also meet the Plan submittal requirements of other Department orders.

The factors shown by the applicant, together with the conditions imposed by the Department and the modifications made herein, establish good cause for the permit extension pursuant to ORS 537.630, 539.010(5) and OAR 690-315-0080(2).

### Order

The extension of time for Application Number G-12515, Permit Number G-13876 (modified by Permit Amendment T-9098), therefore, is approved with the above modifications to the Proposed Final Order. The deadline for completing construction of the water system is extended to October 1, 2054. The deadline for applying water to full beneficial use is extended to October 1, 2055.

DATED: Dec. 8, 2006, 2006



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

**BEFORE THE OREGON WATER RESOURCES DEPARTMENT**

In the Matter of Water Right Application G-12515, )  
Permit G-13876, modified by Permit Amendment )  
T-9098, in the name of the City of Newberg, )     **SETTLEMENT**  
                  *Applicant and Protestant*                     )     **AGREEMENT**  
\_\_\_\_\_ )

The Oregon Water Resources Department (“OWRD”) and Daniel Danicic, P.E., on behalf of the City of Newberg (“Applicant”), referred to collectively as “the Parties” and each individually a “Party,” do hereby stipulate and agree in this “Settlement Agreement” as follows:

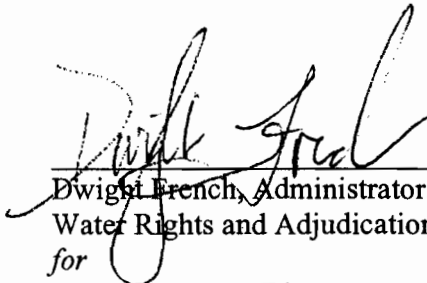
**Stipulations**

- I. On September 19, 2006, OWRD issued a Proposed Final Order (PFO) regarding an application for extension of time for water right application G-12515, Permit G-13876, in the name of the City of Newberg. The PFO proposed to approve the extension of time with certain conditions.
- II. On November 3, 2006, OWRD received a protest to the PFO from Dan Danicic, P.E., Public Works Director for the City of Newberg, on behalf of the City of Newberg.
- III. OWRD and Applicant agree that all issues raised in Applicant’s protest to the PFO on extension of time for Application G-12515, Permit G-13876 are resolved solely on the following terms.

**Terms of Agreement**

- 1. In signing this Settlement Agreement, Applicant withdraws its protest and any request for hearing to the PFO for Application G-12515, Permit G-13876 (modified by Permit Amendment T-9098) with prejudice.
- 2. Regarding extension of time for water right Application G-12515, Permit G-13876 (modified by Permit Amendment T-9098), Applicant hereby expressly waives all right and opportunity to file a protest or request for contested case hearing, request for reconsideration, exceptions, or to seek judicial review of the Final Order, in addition to waiving any right and opportunity to challenge this Settlement Agreement.
- 3. After Applicants sign this Settlement Agreement, they will mail the signed original back to Oregon Water Resources Department, ATTN: Mike Reynolds, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.
- 4. Within 30 days after OWRD receives the original Settlement Agreement signed by OWRD and Applicant, OWRD will issue a Final Order that is consistent with the Draft Final Order attached to this Settlement Agreement. The Final Order will incorporate this Settlement Agreement by reference and as an attachment.

5. Each Party to this Settlement Agreement represents, warrants, and agrees that the person who executes 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.
6. Each Party to this Settlement Agreement certifies that they have had a reasonable opportunity to review and request changes to 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, Draft Final Order, and Draft Permit, and understand and fully agree with the contents thereof.
7. 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.

  
\_\_\_\_\_  
Dwight French, Administrator,  
Water Rights and Adjudications Division  
*for*  
Phillip C. Ward, Director  
Oregon Water Resources Department  
725 Summer St. NE, Suite A  
Salem, OR 97301

11-20-2006  
Date

\_\_\_\_\_  
Dan Danicic, P.E., on Behalf of the City of Newberg

\_\_\_\_\_  
Date

Approved as to form:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

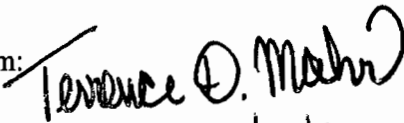
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\_\_\_\_\_  
Dwight French, Administrator,  
Water Rights and Adjudications Division  
for  
Phillip C. Ward, Director  
Oregon Water Resources Department  
725 Summer St. NE, Suite A  
Salem, OR 97301

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Dan Danicic, P.E., on Behalf of the City of Newberg

11/21/06  
Date

Approved as to form:   
By: DMW 12/01/06  
\_\_\_\_\_  
City Attorney

12/01/06  
Date

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DATED: \_\_\_\_\_, 2006

**DRAFT – DO NOT SIGN**

\_\_\_\_\_  
Dwight French, Administrator  
Water Rights and Adjudications Division  
*for*  
Phillip C. Ward, Director

**Mailing List for Extension FO Copies**

Application #G-12515  
Permit #G-13876

FO Date: \_\_\_\_\_, 2006

Original mailed to:

1. City of Newberg  
Attn: Bob Knorr  
PO Box 970  
Newberg, OR 97132

For Extension FO's - Copies sent to:

2. WRD - Appl. File #G-12515 / Permit #G-13876 (modified by Permit Amendment T-9098)
3. WRD - Watermaster District 16, Mike McCord
4. Jeff Barry, RG, CWRE, Groundwater Solutions, Inc., 55 SW Yamhill St., Suite 400, Portland, OR 97204
5. WRD - Support Staff, Salem... Permit record update

Other interested parties:

CASEWORKER: AR