

**Oregon Water Resources Department
Water Rights Division**

Water Rights Application
Number S-87141

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.

Final Order Incorporating Settlement Agreement

Application History

On April 14, 2008, Duane Ditchen and Ditchen Land CO. LLP submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on February 24, 2009. The protest period closed April 10, 2009.

On April 7, 2009, a timely protest was filed by Bill Bingle, with Pioneer Park Co-Op, Inc. On April 10, 2009, a timely protest was filed by Robert E. Noteboom and Shirley J. Noteboom.

A settlement agreement was signed by all parties as of August 20, 2010. The terms of the Settlement Agreement have been incorporated into this Final Order and a copy of the Settlement Agreement is included below.

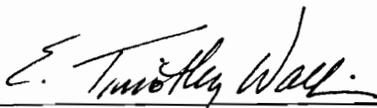
The proposed use would not impair or be detrimental to the public interest, but the Department's continuing evaluation reveals that the Proposed Final Order requires modification to correctly describe the character of use. The correct character of use is reflected in the attached Permit. In addition, the Draft Permit attached to the Proposed Final Order included the following condition which will not be included in the attached Permit:

At the time of perfection, the permittee may request that the use be certificated as primary irrigation, if water has been used beneficially according to the terms and conditions of this permit, and if underlying primary water rights are simultaneously diminished or canceled.

Order

Application S-87141 is therefore approved pursuant as proposed by the Proposed Final Order further modified by the Settlement Agreement, and Permit S-54564 is issued as limited by the conditions proposed by the Proposed Final Order and Settlement Agreement.

DATED December 6, 2010



for Phillip C. Ward, Director
Water Resources Department

This document was prepared by Kerry Kavanagh. 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 503-986-0816.

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.

RECEIVED

JUL 09 2010

WATER RESOURCES DEPT
SALEM, OREGON

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE STATE OF OREGON

In the Matter of Water Right Application)	
No. S-87141 in the name of Ditchen Land Co., LLP)	
<i>Applicant</i>)	
)	
and)	SETTLEMENT AGREEMENT
Robert E. and Shirley J. Noteboom)	RESOLVING PROTESTS
<i>Protestants</i>)	TO APPLICATION S-87141
)	
and)	
Pioneer Park Co-Op, Inc.)	
<i>Protestant</i>)	

Duane Ditchen, representing Ditchen Land Co., LLP, Bill Bingle, representing Pioneer Park Co-Op, Inc., Robert E. and Shirley J. Noteboom, and the Oregon Water Resources Department (collectively "the parties") do hereby stipulate and agree in this "Settlement Agreement" (Agreement) as follows:

Background

AUG 27 2010

Application S-87141

1. On April 14, 2008, Ditchen Land Co., LLP submitted an application for a surface water permit for .6 cubic feet per second (cfs) from Walker Creek for irrigation use on 209.53 acres in Polk County.
2. On February 24, 2009, the Department issued a Proposed Final Order proposing to approve the application.
3. On April 7, 2009, Pioneer Park Co-Op, Inc. filed a timely protest to the Proposed Final Order. On April 10, 2009, Robert E. and Shirley J. Noteboom filed a timely protest to the Proposed Final Order.

Application S-87142

4. On April 14, 2008, Ditchen Land Co., LLP submitted an application for a water use permit pursuant to ORS 537.147.

Consent

1. OWRD, Ditchen Land Co., LLP, Pioneer Park Co-Op, Inc., and Robert E. and Shirley J. Noteboom agree that all issues related to Application S-87141 are resolved solely on the following terms.
2. The parties hereby acknowledge that they have read and understand the terms of this Agreement.

3. The parties understand and agree that this Agreement and all documents incorporated by reference set forth the entire Agreement of the parties.
4. OWRD and Ditchen Land Co., LLP, Pioneer Park Co-Op, Inc., and Robert E. and Shirley J. Noteboom understand and agree that this Agreement and the Final Order Incorporating Settlement Agreement issued on Application S-87141 pursuant to this Agreement constitute the complete and final resolution of the protests by Pioneer Park Co-Op, Inc. and Robert E. and Shirley J. Noteboom to the Proposed Final Order on Application S-87141.
5. Effective upon the issuance by OWRD of the Final Order Incorporating Settlement Agreement consistent with the attached draft Final Order Incorporating Settlement Agreement and draft Permit, the signatories to this agreement waive any and all rights to petition for judicial review of this Agreement, waive any and all rights to request reconsideration, petition for judicial review or appeal the Final Order Incorporating Settlement Agreement for Application S-87141.

Terms of the Agreement

1. By signing this Settlement Agreement, Pioneer Park Co-Op, Inc., and Robert E. and Shirley J. Noteboom each withdraw their protests to the Proposed Final Order on Application S-87141.
2. The Department shall issue a Final Order Incorporating Settlement Agreement and Permit on Application S-87141 consistent with the attached draft Final Order Incorporating Settlement Agreement and draft Permit. Simultaneously with the issuance of the Permit for Application S-87141 and Application S-87142, the department shall issue an Order canceling Permit G-10502 pursuant to a voluntary authorization to cancel the permit by Ditchen Land Co., LLP.

This Settlement Agreement may be signed in counterparts, which shall have the same effect as though all signatures appeared on the same page.

We have read and understand all of the above consent agreements and fully agree to all of the terms.

E. Timothy Wall for
 Philip C. Ward
 Director, Oregon Water Resources Department

6/23/2010
 Date

AUG 27 2010

Duane Ditchen
 Duane Ditchen
 Ditchen Land Co., LLP

8-20-2010
 Date

RECEIVED

JUL 09 2010

WATER RESOURCES DEPT
 SALEM, OREGON

Bill Bingle
Pioneer Park Co-Op, Inc.

Robert E Noteboom

Shirley J Noteboom
Robert E. and Shirley J. Noteboom

Date

July 8, 2010
Date

RECEIVED

JUL 09 2010

WATER RESOURCES DEPT
SALEM, OREGON

AUG 27 2010

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

In the Matter of Water Right Application)	
No. S-87141 in the name of Ditchen Land Co., LLP)	
<i>Applicant</i>)	
)	
and)	SETTLEMENT AGREEMENT
Robert E. and Shirley J. Noteboom)	RESOLVING PROTESTS
<i>Protestants</i>)	TO APPLICATION S-87141
)	
and)	
Pioneer Park Co-Op, Inc.)	
<i>Protestant</i>)	

Duane Ditchen, representing Ditchen Land Co., LLP, Bill Bingle, representing Pioneer Park Co-Op, Inc., Robert E. and Shirley J. Noteboom, and the Oregon Water Resources Department (collectively "the parties") do hereby stipulate and agree in this "Settlement Agreement" (Agreement) as follows:

Background

Application S-87141

1. On April 14, 2008, Ditchen Land Co., LLP submitted an application for a surface water permit for .6 cubic feet per second (cfs) from Walker Creek for irrigation use on 209.53 acres in Polk County.
2. On February 24, 2009, the Department issued a Proposed Final Order proposing to approve the application.
3. On April 7, 2009, Pioneer Park Co-Op, Inc. filed a timely protest to the Proposed Final Order. On April 10, 2009, Robert E. and Shirley J. Noteboom filed a timely protest to the Proposed Final Order.

Application S-87142

4. On April 14, 2008, Ditchen Land Co., LLP submitted an application for a water use permit pursuant to ORS 537.147.

AUG 27 2010

Consent

1. OWRD, Ditchen Land Co., LLP, Pioneer Park Co-Op, Inc., and Robert E. and Shirley J. Noteboom agree that all issues related to Application S-87141 are resolved solely on the following terms.
2. The parties hereby acknowledge that they have read and understand the terms of this Agreement.

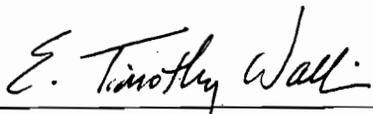
3. The parties understand and agree that this Agreement and all documents incorporated by reference set forth the entire Agreement of the parties.
4. OWRD and Ditchen Land Co., LLP, Pioneer Park Co-Op, Inc., and Robert E. and Shirley J. Noteboom understand and agree that this Agreement and the Final Order Incorporating Settlement Agreement issued on Application S-87141 pursuant to this Agreement constitute the complete and final resolution of the protests by Pioneer Park Co-Op, Inc. and Robert E. and Shirley J. Noteboom to the Proposed Final Order on Application S-87141.
5. Effective upon the issuance by OWRD of the Final Order Incorporating Settlement Agreement consistent with the attached draft Final Order Incorporating Settlement Agreement and draft Permit, the signatories to this agreement waive any and all rights to petition for judicial review of this Agreement, waive any and all rights to request reconsideration, petition for judicial review or appeal the Final Order Incorporating Settlement Agreement for Application S-87141.

Terms of the Agreement

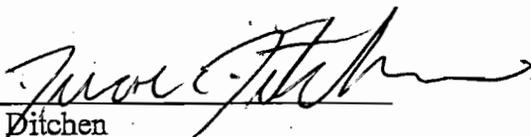
1. By signing this Settlement Agreement, Pioneer Park Co-Op, Inc., and Robert E. and Shirley J. Noteboom each withdraw their protests to the Proposed Final Order on Application S-87141.
2. The Department shall issue a Final Order Incorporating Settlement Agreement and Permit on Application S-87141 consistent with the attached draft Final Order Incorporating Settlement Agreement and draft Permit. Simultaneously with the issuance of the Permit for Application S-87141 and Application S-87142, the department shall issue an Order canceling Permit G-10502 pursuant to a voluntary authorization to cancel the permit by Ditchen Land Co., LLP.

This Settlement Agreement may be signed in counterparts, which shall have the same effect as though all signatures appeared on the same page.

We have read and understand all of the above consent agreements and fully agree to all of the terms.


 Philip C. Ward
 Director, Oregon Water Resources Department

6/23/2010
 Date


 Duane Ditchen
 Ditchen Land Co., LLP

8-20-2010
 Date

AUG 27 2010

Bingle

Bill Bingle
Pioneer Park Co-Op, Inc.

07/07/2010

Date

Robert E. and Shirley J. Noteboom

Date

RECEIVED

JUL 08 2010

WATER RESOURCES DEPT
SALEM, OREGON

AUG 27 2010

pg. 3