

**Oregon Water Resources Department
Water Right Services Division**

Water Right Application
Number S-86636

Order Modifying Existing Order

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.

Application History

On July 10, 2006, Roger and Carol Unser submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on April 24, 2007. The protest period closed June 8, 2007.

On June 8, 2007, a timely protest was received from Peter Mohr on behalf of MJK, LLC.

On December 16, 2010 the Department issued a Final Order modifying the Proposed Final Order, and Permit 54689.

On February 14, 2011 the Department received a Petition for Reconsideration of the Final Order on S-86636 from Peter Mohr on behalf of Jerry Debraie.

On April 11, 2011 the Department issued a Summary Order granting the Petition for Reconsideration.

Findings of Fact

The Final Order of December 16, 2011 did not incorporate the Proposed Final Order on S-86636. To correct that error, the Proposed Final Order on S-86636 and the findings of fact therein are adopted and incorporated in this order, modifying the existing Final Order on S-86636.

Conclusions of Law


The Final Order of December 16, 2011 did not incorporate the Proposed Final Order on S-86636. To correct that error, the Proposed Final Order on S-86636 and the conclusions of law therein are adopted and incorporated in this order modifying the existing Final Order on S-86636.

Additional conclusions of law are also necessary to clarify the authority relied upon in the Final Order of December 16, 2011. The Final Order was issued pursuant to ORS 537.153(8)(b)(A). The director did not find that there are significant disputes related to the proposed use of water. The Final Order was issued as provided under ORS 537.170(6).

Order

The existing Final Order on S-86636 is modified with the above additions, and issued pursuant to OAR 137-004-0080(4).

DATED May 17, 2011


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 questions about how to appeal, please refer to the section in this Order Affirming Existing Order entitled "Hearing and Appeal Rights".

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.