

**Oregon Water Resources Department
Water Rights Services Division**

Water Rights Application
Number G-16804

Final Order Incorporating Settlement Agreement

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 February 23, 2007, Loren Walch and Melinda Cauvin submitted an application to the Department for a water use permit.

The Department issued a Proposed Final Order on October 2, 2007, recommending approval of the application with conditions, which specified November 16, 2007, as the protest deadline.

On November 16, 2007, a timely protest was filed by WaterWatch of Oregon, Inc.

A Settlement Agreement was signed by all parties as of March 20, 2012. The terms of the Settlement Agreement are hereby incorporated into this Final Order and a copy of the Settlement Agreement is included below. In addition, the Applicant, the Protestant, and the Department have agreed to permit conditions set forth in the attached draft permit. The Applicant, the Protestant, and the

Department agree that the Settlement Agreement resolves the need for a hearing in this matter.

On April 2, 2012, the applicant amended the acreage to 395.2 acres.

The proposed use would not impair or be detrimental to the public interest.

Order

Application G-16804 is therefore approved as described in the Settlement Agreement and as conditioned by the attached draft permit. **Upon payment of outstanding fees in the amount of \$400, a permit shall be issued authorizing the proposed water use.**

Failure to meet this requirement within 60 days from the date of this Final Order may result in the proposed rejection of the application.

If you need to request additional time, your written request should be received in the Salem office of the Department within 60 days of this Final Order. The Department will evaluate the request and determine whether or not the request may be approved.

DATED April 6, 2012



E. Timothy Wallin, Water Rights Program Manager
for Phillip C. Ward, Director
Water Resources Department

This document was prepared by Jeana Eastman. 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 503-986-0859.

If you have questions about how to file a protest or a request for standing, please refer to the section in this Final Order entitled "Hearing and Appeal Rights". 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.

DRAFT

This is not a permit.

DRAFT

STATE OF OREGON

COUNTY OF KLAMATH

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

LOREN WALCH AND MELINDA CAUVIN
PO BOX 519
CHILOQUIN, OR 97624

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-16804

SOURCE OF WATER: ALTERNATE WELL SITE IN UPPER KLAMATH LAKE BASIN

PURPOSE OR USE: SUPPLEMENTAL IRRIGATION OF 395.2 ACRES

MAXIMUM RATE: 4.9 CUBIC FEET PER SECOND

PERIOD OF USE: APRIL 1 THROUGH OCTOBER 31

DATE OF PRIORITY: FEBRUARY 23, 2007

WELL LOCATION: NE ¼ NW ¼, SECTION 5, T36S, R7E, W.M.; 80 FEET SOUTH AND
100 FEET WEST FROM N1/4 CORNER, SECTION 5

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE ¼ NW ¼ 37.6 ACRES
NW ¼ NW ¼ 35.1 ACRES
SW ¼ NW ¼ 11.9 ACRES
SE ¼ NW ¼ 39.9 ACRES
NE ¼ SW ¼ 23.4 ACRES
NE ¼ SE ¼ 40.0 ACRES
NW ¼ SE ¼ 40.0 ACRES
SW ¼ SE ¼ 39.4 ACRES
SE ¼ SE ¼ 13.2 ACRES
SECTION 5

NE ¼ NE ¼ 2.2 ACRES
SECTION 6

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 15.0 ACRES
 NW $\frac{1}{4}$ NE $\frac{1}{4}$ 35.8 ACRES
 SW $\frac{1}{4}$ NE $\frac{1}{4}$ 3.0 ACRES
 SE $\frac{1}{4}$ NE $\frac{1}{4}$ 2.0 ACRES

SECTION 8

NW $\frac{1}{4}$ NW $\frac{1}{4}$ 21.1 ACRES
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ 34.6 ACRES
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ 1.0 ACRES

SECTION 9

TOWNSHIP 36 SOUTH, RANGE 7 EAST, W.M.

Condition pertaining to the 80 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ AND NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 36 South, Range 7 East, W.M. ("Conditional Acres"):

The Conditional Acres are subject to Claim 700 in the Klamath Basin Adjudication. Once a final order is issued for Claim 700, and if no exceptions are filed to the final order for Claim 700, the place of use, rate and duty recognized in the final order for Claim 700 shall be applied to the Conditional Acres; however, the rate and duty applied to the Conditional Acres may in no event exceed 1/80th cfs and 3 acre-feet per acre. If exceptions are filed to the final order for Claim 700, the place of use, rate and duty recognized in the decree for Claim 700, after any challenges to the decree are resolved, shall be applied to the Conditional Acres; however, the rate and duty applied to the Conditional Acres may in no event exceed 1/80th cfs and 3 acre-feet per acre.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of appropriation. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.

The Department requires the water user to measure and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall submit an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data. The Director may require the user to measure and report additional water levels each year if more data are needed to evaluate the aquifer system.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations submitted to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or

- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

STANDARD CONDITIONS

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The well(s) shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party

to such rotation plan, the watermaster shall distribute the water according to such agreement.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

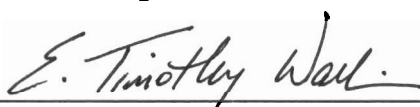
This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

Completion of construction and application of the water shall be made within five years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after making beneficial use of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued April 6, 2012



for Phillip C. Ward, Director
Water Resources Department

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
OREGON WATER RESOURCES DEPARTMENT**

| | | |
|--|---|-----------------------------|
| In the Matter of Water Right Application G-16804 in the Name of Melinda Cauvin and Loren Walch, <i>Applicant,</i> |) | SETTLEMENT AGREEMENT |
| |) | |
| |) | OAH Ref. No.: WR-11-008 |
| WaterWatch of Oregon, Inc., <i>Protestant.</i> |) | OWRD Case No.: G-16804 |
| |) | |
| |) | |
| |) | |

Applicants Melinda Cauvin and Loren Walch (“Applicants”) and Protestant WaterWatch of Oregon, Inc., (“WaterWatch”) collectively referred to herein as “Parties,” and the Oregon Water Resources Department (“OWRD”), stipulate and agree as follows:

A. STIPULATED FACTS

1. On February 23, 2007, Applicants filed an application for the supplemental use of groundwater. OWRD assigned the application number G-16804.
2. On July 19, 2007, Applicants amended G-16804 to provide for a preferred well site and an alternate well site, and to reduce the maximum diversion rate to 4.9 cubic feet per second (“cfs”).
3. On October 2, 2007, OWRD issued its proposed final order (“PFO”) and accompanying draft permit on Application G-16804.
4. On November 16, 2007, WaterWatch timely filed a protest.
5. On July 6, 2011, OWRD referred the protest on Application G-16804 to the Office of Administrative Hearings for a contested case proceeding.

B. STIPULATED FINAL ORDER AND PERMIT TERMS

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1. The Parties and OWRD stipulate and agree that OWRD will issue a Final Order Incorporating Settlement Agreement for Application G-16804 that incorporates and is consistent with the following terms.

Well Location: NE ¼ NW ¼, Section 5, T36S, R7E, W.M.; 80 feet south and 100 feet west from N ¼ Corner, Section 5

Source of Water: Alternate well site in Upper Klamath Lake Basin

Purpose or Use: Supplemental Irrigation Use on 390.2 acres, plus up to 5 acres total in the SE ¼ and SW ¼ of the NE ¼ of Section 8, Township 36 South, Range 12 East, W.M. This permit is supplemental to Certificates 65196 and 67518 and to Claim 700 in the Klamath Basin Adjudication.

Period of Use: April 1 through October 31

Date of Priority: February 23, 2007

Diversion Rate: 1/80th cubic feet per second (cfs) per acre. The maximum diversion rate is 4.9 cfs.

Duty: 3 acre feet per acre per year.

Place of Use: Where there are government lots within a quarter/quarter, the acreage figures for each lot within the quarter/quarter are shown in parentheses.

Township 36 South, Range 12 East, W.M.

Section 5

35.1 acres in the NW ¼ NW ¼ (Lot 4: 19.2; Lot 5: 15.9)
37.6 acres in the NE ¼ NW ¼ (Lot 3: 17.9; Lot 6: 19.7)
11.9 acres in the SW ¼ NW ¼ (Lot 12: 9.2; Lot 13: 2.7)
39.9 acres in the SE ¼ NW ¼ (Lot 11: 20; Lot 14: 19.9)

23.4 acres in the NE ¼ SW ¼ (Lot 19: 16; Lot 22: 7.4)

40 acres in the NW ¼ SE ¼ (Lot 18: 20; Lot 23: 20) (Conditional Acres – see note below)
40 acres in the NE ¼ SE ¼ (Lot 17: 20; Lot 24: 20) (Conditional Acres – see note below)
39.4 acres in the SW ¼ SE ¼, (Lot 26: 19.7; Lot 31: 19.7)
13.2 acres in the SE ¼ SE ¼, (Lot 25: 6.4; Lot 32: 6.8)

Section 6

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2.2 acres in the NE ¼ NE ¼

Section 8

35.8 acres in the NW ¼ NE ¼

15.0 acres in the NE ¼ NE ¼

Up to 5 total acres in the SW ¼ and SE ¼ of the NE ¼

Section 9

21.1 acres in the NW ¼ NW ¼ (Lot 4: 6.7; Lot 5: 14.4)

34.6 acres in the SW ¼ NW ¼ (Lot 12: 15.4; Lot 13: 19.2)

1 acre in the SE ¼ NW ¼ (Lot 14: 1)

2. In addition to the terms set forth above, the Permit accompanying the Final Order Incorporating Settlement Agreement shall contain a condition pertaining to the 80 acres in the NW ¼ SE ¼ and NE ¼ SE ¼ of Section 5, T 36 S, R 12 E, W.M. ("Conditional Acres"). The Conditional Acres are subject to Claim 700 in the Klamath Basin Adjudication. The condition shall provide that, once a final order is issued for Claim 700, and if no exceptions are filed to the final order for Claim 700, the place of use, rate and duty recognized in the final order for Claim 700 shall be applied to the Conditional Acres; however, the rate and duty applied to the Conditional Acres may in no event exceed 1/80th cfs and 3 acre-feet per acre. If exceptions are filed to the final order for Claim 700, the condition shall provide that the place of use, rate and duty recognized in the decree for Claim 700, after any challenges to the decree are resolved, shall be applied to the Conditional Acres; however, the rate and duty applied to the Conditional Acres may in no event exceed 1/80th cfs and 3 acre-feet per acre.

3. The Parties and OWRD acknowledge that a map depicting the Place of Use has not been completed. The Parties and OWRD understand and agree that OWRD will not issue a Final Order Incorporating Settlement Agreement ("Final Order") or Permit based on this Settlement Agreement until OWRD has received a map that accurately depicts the Place of Use conforming to the Place of Use described above (including the up-to-five total acres in the SE ¼

and SW ¼ of the NE ¼ of Section 8, Township 36 South, Range 12 East, W.M.) and that meets OWRD's mapping standards.

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C. RESOLUTION BASED ON STIPULATED TERMS

1. The Parties and OWRD agree that under the terms and provisions of this Settlement Agreement, the protest to Application G-16804 has been satisfactorily resolved and there is no need for further proceedings before the Office of Administrative Hearing on the protest.

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2. OWRD agrees to timely withdraw WR-11-008 from the Office of Administrative Hearings after the Settlement Agreement becomes effective.

3. OWRD will issue a Final Order for Application G-16804 consistent with the Draft Final Order for Application G-16804 attached to this Settlement Agreement.

4. Applicants and WaterWatch understand and agree that this Settlement Agreement and the Final Order constitute the complete and final resolution of the WaterWatch protest to the PFO on Application G-16804. Effective upon the issuance of the Final Order, WaterWatch agrees not to further protest or challenge Application G-16804. Applicants and WaterWatch waive any and all rights to petition for judicial review of this Settlement Agreement, and waive any and all rights to request reconsideration, petition for judicial review or appeal the Final Order. Notwithstanding the waiver agreed to in this paragraph, Applicants and WaterWatch retain the right to petition the Department to correct any scrivener's error in the Final Order. If OWRD's Final Order is inconsistent with this Settlement Agreement, any waiver of rights as described in this paragraph is null and void and the Parties reserve any right they may have to contest the Final Order, and otherwise reserve any rights they may have to participate in any further proceedings authorized by law concerning Application G-16804.

5. The Parties and OWRD agree that this Settlement Agreement has been reached through good faith negotiations for the purpose of resolving legal disputes, including pending

administrative action. The Parties and OWRD agree that no offers and/or compromises made in the course of negotiations shall be construed as admissions against interest. The Parties and OWRD further agree this Settlement Agreement shall not be offered as evidence or treated as an admission regarding any matter herein and may not be used in proceedings on any other claim or contest whatsoever, except that the Settlement Agreement may be used in any future proceeding to interpret and/or enforce the terms of this Settlement Agreement.

6. OWRD and 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. In addition, OWRD and each Party to this Settlement Agreement certifies that it has read the entire Settlement Agreement, including the Draft Final Order Incorporating Settlement Agreement for Application G-16804, and understands and agrees with the contents thereof.

7. This Settlement Agreement shall be binding upon and shall inure to the benefit of the Parties and OWRD and their respective heirs, executors, administrators, trustors, trustees, beneficiaries, predecessors, successors, affiliated and related entities, officers, directors, principals, agents, employees, assigns, representatives and all persons, firms, associations, and/or corporations connected with them.

8. OWRD and each Party to this Settlement Agreement represent, warrant, and agree that the person who executed this Settlement Agreement on its behalf has the full right and authority to enter into this Settlement Agreement on its behalf and bind it to the terms of the Settlement Agreement.

9. The terms, provisions, conditions, and covenants of this Settlement Agreement are not severable, except, if any term, provision, condition, or covenant of this Settlement Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the

remainder of the terms, provisions, conditions, and covenants shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

10. This Settlement Agreement may be executed in several counterparts. All documents so executed shall constitute one Settlement Agreement, binding on the parties, notwithstanding that the parties did not sign the same original or the same counterparts. Delivery of an executed signature page to this Settlement Agreement by facsimile or digital transmission shall be as effective as delivery of an original signed counterpart of this Settlement Agreement.

11. This Settlement Agreement comprises the entire agreement and no promise, inducement, or representation other than herein set forth has been made, offered, and/or agreed upon, and the terms of this Settlement Agreement are contractual and not merely a recital.

12. The Parties and OWRD each agree to bear their own costs and fees in these proceedings.

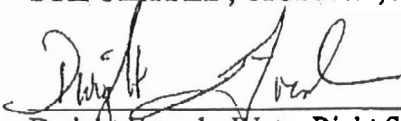
13. This Settlement Agreement shall be effective as of the date of the last signature hereto.

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SALEM, OREGON

STIPULATED, AGREED, AND APPROVED BY:



Dwight French, Water Right Services Administrator, for
Phillip C. Ward, Director, OWRD

3-19-2012
Date

Melinda Cauvin

Date

Loren Walch

Date

L.A.B.

Lisa Brown, for
WaterWatch of Oregon, Inc.

3-19-2012
Date

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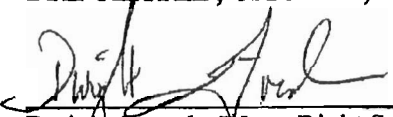
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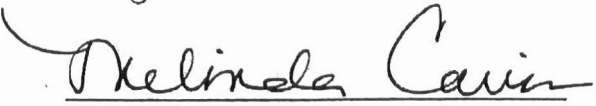
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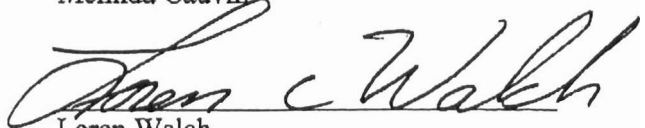
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Phillip C. Ward, Director, OWRD

3-19-2012
Date


Melinda Cauvin

3/20/2012
Date


Loren Walch

3/20/2012
Date

Lisa Brown, for
WaterWatch of Oregon, Inc.

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Water Rights Application
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On _____, the applicant amended the rate to 4.9 cubic feet per second and the acreage to _____ acres.

A Settlement Agreement was signed by all parties as of _____. The terms of the Settlement Agreement are hereby incorporated into this Final Order and a copy of the Settlement Agreement is included below. In addition, the Applicant, the Protestant, and the Department have agreed to permit conditions set forth in the attached [Draft] Permit. The Applicant, Protestant, and the Department agree that Settlement Agreement resolves the need for a hearing in this matter.

Order

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DATED

-- DRAFT --

E. Timothy Wallin, Water Rights Program Manager
for Phillip C. Ward, Director
Water Resources Department

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MAR 21 2012

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DRAFT

This is not a permit.
STATE OF OREGON

DRAFT

COUNTY OF KLAMATH

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

LOREN WALCH AND MELINDA CAUVIN
PO BOX 519
CHILOQUIN, OR 97624

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-16804

SOURCE OF WATER: ALTERNATE WELL SITE IN UPPER KLAMATH LAKE BASIN

PURPOSE OR USE: SUPPLEMENTAL IRRIGATION USE ON 390.2 ACRES, PLUS UP TO 5 TOTAL ACRES IN THE SE ¼ AND SW ¼ OF THE NE ¼ OF SECTION 8, TOWNSHIP 36 SOUTH, RANGE 12 EAST, W.M.

MAXIMUM RATE: 4.9 CUBIC FEET PER SECOND

PERIOD OF USE: APRIL 1 THROUGH OCTOBER 31

DATE OF PRIORITY: FEBRUARY 23, 2007

WELL LOCATION: NE ¼ NW ¼, SECTION 5, T36S, R7E, W.M.; 80 FEET SOUTH AND 100 FEET WEST FROM N1/4 CORNER, SECTION 5

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE ¼ NW ¼ 37.6 ACRES
NW ¼ NW ¼ 35.1 ACRES
SW ¼ NW ¼ 11.9 ACRES
SE ¼ NW ¼ 39.9 ACRES
NE ¼ SW ¼ 23.4 ACRES
NE ¼ SE ¼ 40.0 ACRES
NW ¼ SE ¼ 40.0 ACRES
SW ¼ SE ¼ 39.4 ACRES

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SE ¼ SE ¼ 13.2 ACRES
SECTION 5

NE ¼ NE ¼ 2.2 ACRES
SECTION 6

NE ¼ NE ¼ 15.0 ACRES
NW ¼ NE ¼ 35.8 ACRES

UP TO 5 TOTAL ACRES IN THE SW ¼ AND SE ¼ OF THE NE ¼
SECTION 8

NW ¼ NW ¼ 21.1 ACRES
SW ¼ NW ¼ 34.6 ACRES
SE ¼ NW ¼ 1.0 ACRES

SECTION 9
TOWNSHIP 36 SOUTH, RANGE 7 EAST, W.M.

Condition pertaining to the 80 acres in the NW ¼ SE ¼ and NE ¼ SE ¼ of Section 5, T 36 S, R 12 E, W.M. ("Conditional Acres"):

The Conditional Acres are subject to Claim 700 in the Klamath Basin Adjudication. Once a final order is issued for Claim 700, and if no exceptions are filed to the final order for Claim 700, the place of use, rate and duty recognized in the final order for Claim 700 shall be applied to the Conditional Acres; however, the rate and duty applied to the Conditional Acres may in no event exceed 1/80th cfs and 3 acre-feet per acre. If exceptions are filed to the final order for Claim 700, the place of use, rate and duty recognized in the decree for Claim 700, after any challenges to the decree are resolved, shall be applied to the Conditional Acres; however, the rate and duty applied to the Conditional Acres may in no event exceed 1/80th cfs and 3 acre-feet per acre.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of appropriation. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

Use of water under authority of this permit may be regulated if analysis of data available after the

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permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.

The Department requires the water user to measure and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall submit an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data. The Director may require the user to measure and report additional water levels each year if more data are needed to evaluate the aquifer system.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations submitted to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can



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sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

STANDARD CONDITIONS

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The well(s) shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

Completion of construction and application of the water shall be made within five years of the date

of permit issuance. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after making beneficial use of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued

DRAFT - THIS IS NOT A PERMIT

for Phillip C. Ward, Director
Water Resources Department

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CERTIFICATE OF FILING/SERVICE

I hereby certify that on March 20, 2012, I filed the original SETTLEMENT AGREEMENT with Joe L. Allen, Administrative Law Judge, Office of Administrative Hearings, P.O. Box 14020, Salem, Oregon 97309-4020, by first-class mail, and by e-mail at joe.l.allen@state.or.us and misty.d.fragua@state.or.us.

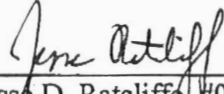
I further certify that on March 20, 2012, I served the within SETTLEMENT AGREEMENT on the parties hereto by e-mail, and by regular first-class mail, a true, exact and full copy thereof to:

Melinda Cauvin and Loren Walch
P.O. Box 519
Chiloquin, OR 97624
mcw5143@gmail.com

Lisa Brown
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Patricia McCarty
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DATED this 20th ^{March} day of 2012.



Jesse D. Ratcliffe, #04394
Assistant Attorney General

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