

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

Water Rights Application  
Number S-87539

**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 October 15, 2009, Whitewater Ranch LLC and McKenzie River Ranch LLC submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on May 25, 2010, recommending the application be approved and a permit with conditions be issued.

On July 9, 2010, a timely protest was filed by Mr. Clark Balfour, attorney, on behalf of the Eugene Water & Electric Board.

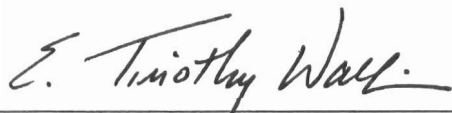
A Settlement Agreement was signed by all parties as of August 1, 2013. The terms of the Settlement Agreement are incorporated into this Final Order and a copy of the Settlement Agreement is included below.

The proposed use would not impair or be detrimental to the public interest. The Protestant, the Applicant, and the Department have agreed to permit conditions set forth in the draft permit.

**Order**

Application S-87539 is therefore approved with these modifications to the Proposed Final Order and pursuant to the Settlement Agreement, and Permit S-54826 is issued as limited by the conditions set forth therein.

**DATED August 22, 2013**



E. Timothy Wallin, Water Rights Program Manager  
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.*

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

In the Matter of Water Right Application	)	
S-87539 in the name of Whitewater Ranch	)	
LLC	)	SETTLEMENT
<i>Applicant</i>	)	AGREEMENT
and	)	
Eugene Water and Electric Board	)	
<i>Protestant</i>	)	

The Oregon Water Resources Department (OWRD), Whitewater Ranch LLC, McKenzie River Ranch LLC (Whitewater), and Eugene Water and Electric Board (EWEB) (collectively “the parties”) do hereby stipulate and agree in this “Settlement Agreement” (Agreement) as follows:

**A. Background**

1. On October 15, 2009, the Oregon Water Resources Department received Application S-87539 from Whitewater Ranch LLC, McKenzie River Ranch LLC for 1.48 CFS from Goose Creek for irrigation in Lane County.
2. On May 25, 2010, OWRD issued a Proposed Final Order (PFO) recommending a permit with conditions be issued.
3. On July 9, 2010 the Eugene Water and Electric Board filed a timely protest.
4. OWRD, applicant Whitewater and protestant EWEB agree that all issues related to Application S-87539 are resolved solely on the following terms.


**B. Consent**

1. Applicant Whitewater and Protestant EWEB acknowledge that it has read and understands the terms of this Agreement, and the terms of the draft Final Order Incorporating Settlement Agreement and Draft Permit for Application S-87539 which are hereby incorporated by reference as if set forth fully herein.
2. Applicant Whitewater and Protestant EWEB understand and agree that this Agreement and all documents incorporated by reference set forth the entire Agreement of the parties.
3. Applicant Whitewater and Protestant EWEB understand and agree that this Agreement and the Final Order Incorporating Settlement Agreement and Permit issued pursuant to this Agreement constitutes the complete and final resolution of the EWEB protest.
4. Applicant Whitewater and Protestant EWEB waive any and all right to request a contested case hearing, request reconsideration, petition for judicial review or appeal the

Final Order Incorporating Settlement Agreement for Application S-87539 issued by OWRD.

**C. Terms of the Agreement**

1. Within 30 days of the signing of this Agreement by all parties, the OWRD shall issue a Final Order Incorporating Settlement Agreement consistent with this Agreement and will issue a Permit consistent with the attached draft Permit.
2. 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.
3. 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.
4. 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.
5. The Parties agree that nothing in this Settlement Agreement establishes factual, legal, or policy precedent.
6. 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

8-1-13  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Whitewater Ranch LLC,  
McKenzie River Ranch LLC

\_\_\_\_\_  
Date

\_\_\_\_\_  
Eugene Water and Electric Board

\_\_\_\_\_  
Date

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

In the Matter of Water Right Application	)	
S-87539 in the name of Whitewater Ranch	)	
LLC	)	SETTLEMENT
<i>Applicant</i>	)	AGREEMENT
and	)	
Eugene Water and Electric Board	)	
<i>Protestant</i>	)	

The Oregon Water Resources Department (OWRD), Whitewater Ranch LLC, McKenzie River Ranch LLC (Whitewater), and Eugene Water and Electric Board (EWEB) (collectively “the parties”) do hereby stipulate and agree in this “Settlement Agreement” (Agreement) as follows:

**A. Background**

1. On October 15, 2009, the Oregon Water Resources Department received Application S-87539 from Whitewater Ranch LLC, McKenzie River Ranch LLC for 1.48 CFS from Goose Creek for irrigation in Lane County.
2. On May 25, 2010, OWRD issued a Proposed Final Order (PFO) recommending a permit with conditions be issued.
3. On July 9, 2010 the Eugene Water and Electric Board filed a timely protest.
4. OWRD, applicant Whitewater and protestant EWEB agree that all issues related to Application S-87539 are resolved solely on the following terms.

**B. Consent**

1. Applicant Whitewater and Protestant EWEB acknowledge that it has read and understands the terms of this Agreement, and the terms of the draft Final Order Incorporating Settlement Agreement and Draft Permit for Application S-87539 which are hereby incorporated by reference as if set forth fully herein.
2. Applicant Whitewater and Protestant EWEB understand and agree that this Agreement and all documents incorporated by reference set forth the entire Agreement of the parties.
3. Applicant Whitewater and Protestant EWEB understand and agree that this Agreement and the Final Order Incorporating Settlement Agreement and Permit issued pursuant to this Agreement constitutes the complete and final resolution of the EWEB protest.
4. Applicant Whitewater and Protestant EWEB waive any and all right to request a contested case hearing, request reconsideration, petition for judicial review or appeal the


Final Order Incorporating Settlement Agreement for Application S-87539 issued by OWRD.

**C. Terms of the Agreement**

1. Within 30 days of the signing of this Agreement by all parties, the OWRD shall issue a Final Order Incorporating Settlement Agreement consistent with this Agreement and will issue a Permit consistent with the attached draft Permit.
2. 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.
3. 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.
4. 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.
5. The Parties agree that nothing in this Settlement Agreement establishes factual, legal, or policy precedent.
6. 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

\_\_\_\_\_  
Whitewater Ranch LLC,  
McKenzie River Ranch LLC  
  
\_\_\_\_\_  
Eugene Water and Electric Board

\_\_\_\_\_  
Date  
7/22/13  
\_\_\_\_\_  
Date



the Final Order Incorporating Settlement Agreement for Application S-87538 issued by OWRD.

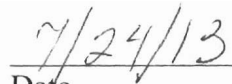
**C. Terms of the Agreement**

1. Within 30 days of the signing of this Agreement by all parties, the OWRD shall issue a Final Order Incorporating Settlement Agreement consistent with this Agreement and will issue a Permit consistent with the attached draft Permit.
2. 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.
3. 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.
4. 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.
5. The Parties agree that nothing in this Settlement Agreement establishes factual, legal, or policy precedent.
6. 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

  
\_\_\_\_\_  
Whitewater Ranch LLC  
McKenzie River Ranch LLC

  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Eugene Water and Electric Board

\_\_\_\_\_  
Date

**RECEIVED**

JUL 30 2013

**WATER RESOURCES DEPT  
SALEM, OREGON**