

**BEFORE THE OREGON WATER RESOURCES DEPARTMENT**

In the Matter of Water Right Application G-15904 )  
in the name of Allen Methven, ) **SETTLEMENT**  
*Applicant and Protestant* ) **AGREEMENT**  
\_\_\_\_\_ )

The Oregon Water Resources Department (“OWRD”) and Allen Methven (“Applicant”), referred to collectively as “the Parties” and each individually a “Party,” do hereby stipulate and agree in this “Settlement Agreement” as follows:

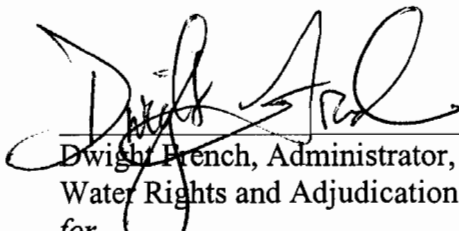
**Stipulations**

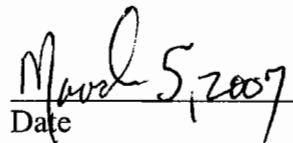
- I. On January 7, 2003, the Applicant submitted water right application G-15904.
- II. On January 10, 2006, OWRD issued a “Proposed Final Order” (PFO) for application G-15904, proposing to deny the application.
- III. On January 24, 2006, OWRD received a protest from Allen Methven regarding OWRD’s PFO on application G-15904.
- IV. OWRD and Applicant agree that all issues raised in Applicant’s protest to the PFO on application G-15904 are resolved solely on the following terms.

**Terms of Agreement**

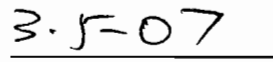
- 1. In signing this Settlement Agreement, Applicant withdraws the protest and any associated request for contested case hearing regarding the PFO for water right Application G-15904 with prejudice.
- 2. Regarding water right Application G-15904, Applicant hereby expressly waives all right and opportunity to file a protest or request for contested case hearing, request for reconsideration, exceptions, or to seek judicial review of the Final Order or Permit, in addition to waiving any right and opportunity to challenge this Settlement Agreement or the Draft Final Order and Draft Permit which are part of the Settlement Agreement.
- 3. After Applicant signs this Settlement Agreement, he will promptly (within 7 days) mail or hand deliver the signed original back to Oregon Water Resources Department, ATTN: Mike Reynolds, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.
- 4. Within 15 days after OWRD receives the original Settlement Agreement signed by OWRD and Applicant, along with the required \$250.00 permit recording fee, OWRD will issue a Final Order and Permit that are consistent with the Draft Final Order and Draft Permit that are attached to, and part of, 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 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. Each Party to this Settlement Agreement also certifies that it has read the entire Settlement Agreement, Draft Final Order, and Draft Permit, and understands and fully agrees with the contents thereof.
7. As mentioned above, permit recording fees in the amount of \$250.00 must be paid prior to issuance of a Permit. If Final Order and/or Permit issuance are delayed due to failure of the Applicant to pay any required fees, this will not constitute breach of the Settlement Agreement by OWRD.
8. 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

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Dr. Allen Methven, Applicant

  
\_\_\_\_\_  
Date

Oregon Water Resources Department  
Water Rights Division

Water Rights Application  
Number G-15904

*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 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 or by a Settlement Agreement. 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.

**DRAFT FINAL ORDER INCORPORATING SETTLEMENT AGREEMENT**

**Application History**

On January 7, 2003, the Applicant submitted water right application G-15904. On January 10, 2006, OWRD issued a Proposed Final Order (PFO) for application G-15904, proposing to deny the application. On January 24, 2006, OWRD received a protest from Allen Methven regarding OWRD's PFO on application G-15904. Settlement negotiations occurred between OWRD, Applicant, and Applicant's attorney. On March 5, 2007, a Settlement Agreement was entered into between OWRD and Applicant that resolved all issues raised in Applicant's protest to the PFO on application G-15904. The Settlement Agreement is incorporated into this Final Order and is attached hereto.

As conditioned in the Permit G-16162, the proposed use will not impair or be detrimental to the public interest.

**Order**

Application G-15904 therefore is approved and Permit G-16162 is issued as provided in the Settlement Agreement.

**DRAFT – DO NOT SIGN**

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Dwight French  
Administrator of Water Rights  
and Adjudications  
*for*  
Phillip C. Ward, Director  
Oregon Water Resources Department

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Date

DRAFT

This is not a permit.

DRAFT

STATE OF OREGON

COUNTY OF YAMHILL

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO:

DR. ALLEN METHVEN  
120 SW 7TH ST  
DUNDEE, OR 97115

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

APPLICATION FILE NUMBER: G-15904

SOURCE OF WATER: WELLS 1 (YAMH52623) AND 2 (PROPOSED) IN HOLDRIDGE CREEK BASIN

PURPOSE OR USE: AGRICULTURE USES; IRRIGATION USE ON 80.0 ACRES

MAXIMUM RATE: 0.357 CUBIC FEET PER SECOND UNTIL OCTOBER 1, 2011, AND THEN 0.067 CUBIC FOOT PER SECOND BEGINNING MARCH 1, 2012

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: JANUARY 7, 2003

WELL LOCATIONS:

WELL 1: SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  SECTION 13, T5S, R4W, W.M.; 2500 FEET SOUTH & 3250 FEET WEST FROM THE NE CORNER OF SECTION 13

WELL 2: NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  SECTION 13, T5S, R4W, W.M.; 3030 FEET SOUTH & 1900 FEET WEST FROM THE NE CORNER OF SECTION 13

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 1.0 acre-feet for each acre irrigated during the irrigation season of each year.

## THE PLACE OF USE IS LOCATED AS FOLLOWS:

SW ¼ NE ¼ 8.9 ACRES IRRIGATION AND AGRICULTURE USES  
 SE ¼ NE ¼ 12.6 ACRES IRRIGATION AND AGRICULTURE USES  
 SE ¼ NW ¼ 4.2 ACRES IRRIGATION AND AGRICULTURE USES  
 NE ¼ SW ¼ 8.2 ACRES IRRIGATION AND AGRICULTURE USES  
 NE ¼ SE ¼ 24.4 ACRES IRRIGATION AND AGRICULTURE USES  
 NW ¼ SE ¼ 21.7 ACRES IRRIGATION AND AGRICULTURE USES

## SECTION 13

TOWNSHIP 5 SOUTH, RANGE 4 WEST, W.M.

## Measurement, recording and reporting conditions:

1. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. 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.
2. 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.
3. Use of water from the well, as allowed herein, shall be controlled or shut off if the well displays:
  - (a) An average water level decline of three or more feet per year for five consecutive years as shown by annual water level measurements; or
  - (b) A total water level decline of fifteen or more feet as shown by annual water level measurements; or
  - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.
4. For the purpose of determining declines, a reference water level of 145 feet below land surface datum shall be used at the pre-existing well (Well #1). For the purpose of determining declines, a reference level for the new well (Well #2) shall be determined by the first March measurement.

5. The permittee's water use under this Permit may be controlled or shut off based on conditions 3(a), 3(b), or 3(c), above, as long as conditions 3(a), 3(b), or 3(c), above, persist, as may be determined by the Department. Any such determination by the Department will be made using the same data, and at the same time interval, as described in conditions 3(a), 3(b), or 3(c), above.
6. The water user shall install a meter or other measuring device suitable to the Director, and shall submit an annual report of water used to the Department by December 1 of each year.
7. The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the well.
  - A. A water level measurement shall be made each year during the period March 1 through March 31.
  - B. Static water level measurements shall be taken in January, March, July, and October of each year from permit issuance through year 2011.
  - C. All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructor, licensed pump installer, or the permittee/appropriator.
  - D. Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department.
  - E. The permittee/appropriator shall submit a record of the measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements, and shall be submitted to the Department within 90 days from the date of measurement.

**OTHER CONDITIONS**

Failure to provide March static water level measurements will likely result in suspension of water use from the well(s) authorized under this permit, until compliance with the annual measurement is met.

The amount of water used for irrigation shall be limited to one acre-foot per acre per year.

The irrigation use under this permit is for drip or equally efficient irrigation provided the Director finds the proposed use and amount do not pose a threat to the groundwater resource or existing permit holders. Any use of water under this permit for agricultural use shall be conducted in the most efficient manner practicable, so as to prevent waste of water.

**STANDARD CONDITIONS**

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 wells 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 for each well meeting the Department's standards, to the Department. The Director may require water level or pump test results every ten years thereafter.



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.

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.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

Completion of construction and complete application of the water to the use shall be made on or before October 1, 2011. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued  , 2007

**DRAFT - THIS IS NOT A PERMIT**

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

# Mailing List for Final Order Copies

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Application #G-15904

FO Date [REDACTED], 2007

**Original mailed to:**

Applicant: ALLEN METHVEN, 120 SW 7TH ST, DUNDEE, OR 97115

Copies sent to:

1. WRD - File # G-15904
2. Water Availability: Ken Stahr

PFO and Map Copies sent to:

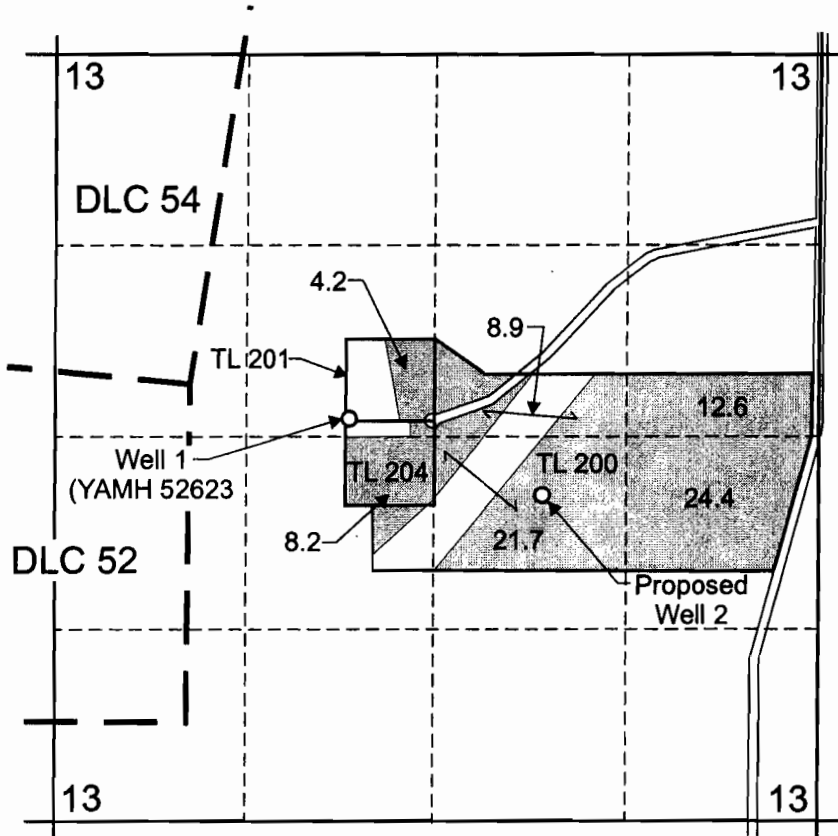
3. WRD - Watermaster # 16
4. Regional Manager: NWR

<p><b>Copies Mailed</b> By: _____ (SUPPORT STAFF) on: _____ (DATE)</p>
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Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

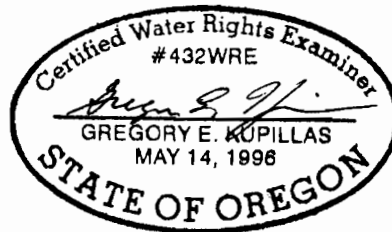
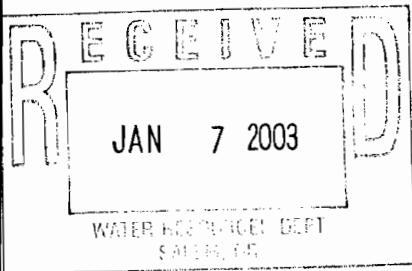
5. CWRE 432: Greg Kupillas
6. Stoel Rives, LLP, Attn: David Filippi, Suite 2600, 900 SW Fifth Avenue, Portland, Oregon  
97204-1268

# T.5S. R.4W. Section 13



Well 1 is located 2,500 feet south and 3,250 feet west from the northeast corner of Section 13.  
 Proposed Well 2 is located 3,030 feet south and 1,900 feet west from the northeast corner of Section 13.

 Area (80.0 Acres) to be irrigated.



EXPIRATION DATE: 6/30/07

*App# G-15964*

Scale: 1" = 1,320'



This map was prepared for the purpose of identifying the location of a water right only and is not intended to provide legal dimensions or location of property ownership lines.



## Water Right Application Map

Allen Methven  
 T.5S. R.4W. Sec. 13, TL 200, 201, & 204

Pacific Hydro-Geology Inc.