

Oregon Water Resources Department
Water Right Services Division

Water Right Application
Number G-17990

Final Order Incorporating Settlement Agreement

Hearing and Appeal Rights

The applicant, Philip Hammack, by the terms of the Settlement Agreement, waives the right to reconsideration and appeal of this final order and the settlement agreement.

ORS 536.075 allows any party affected by a final order in other than contested case to appeal the order in Marion County Circuit or the circuit court of the county in which all or part of the property affected by the order is situated. This is a final order in other than contested case and 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 Oregon Administrative Rule (OAR) 137-004-0080 you may also 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.

Findings of Fact

1. The findings of fact in the Proposed Final Order are incorporated into this Final Order.
2. On January 30, 2015, Philip Hammack and Hamak Corporation submitted an application to appropriate 6.75 cubic feet per second (CFS) of water from Well 1, Well 2, Well 3, and Well 4 located near Stauffer in Overall Flat within Lost Creek Valley in the northeast portion of the Goose and Summer Lakes Administrative Basin for irrigation of 539.96 acres, March 1 through October 31 of each year.
3. On October 6, 2015, the Department issued a Proposed Final Order recommending the application be denied because groundwater was over-appropriated and will not likely be available within the capacity of the resource and/or without injury to existing groundwater rights.
4. On November 20, 2015, a timely protest was filed by the applicant.
5. The Department determined that groundwater may be available for the proposed use if the applicant meets additional conditions as set forth in the permit.
6. A Settlement Agreement was signed by the applicant and the Department as of January 29, 2016. The terms of the Settlement Agreement are incorporated into this Final Order and a copy of the Settlement Agreement is attached.

7. The applicant and the Department have agreed to the permit conditions set forth in the permit.

Conclusions of Law

1. The conclusions of law in the Proposed Final Order are incorporated into this Final Order and modified as set forth below:
 - A. The conclusion of law stating that water is not available is stricken, based on Finding of Fact #5, above.
 - B. The conclusions of law stating that the required presumption has not been established and that the proposed use would not ensure the preservation of the public welfare, safety and health are substituted in their entirety with the following:
2. The proposed use as conditioned will ensure the preservation of the public welfare, safety and health pursuant to ORS 537.621(2).

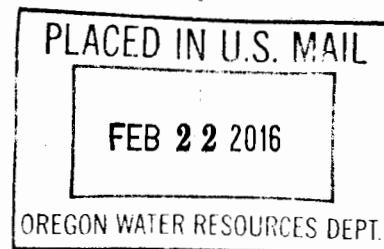
Order

Application G-17990 is therefore approved as described in the Proposed Final Order and as modified herein and pursuant to the Settlement Agreement, and Permit G-17547 is issued as limited by the conditions set forth therein.

DATED *FEBRUARY 19 2016*

E. Timothy Wallin

E. Timothy Wallin, Water Rights Program Manager
for Thomas M. Byler, Director



This document was prepared by Kim French. If you have any questions about any of the statements contained in this document, I can be reached at Kim.R.French@wrds.state.or.us or 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	)	SETTLEMENT
G-17990 in the name of Philip Hammack &	)	AGREEMENT
HAMAK Corporation	)	
<i>Applicant/ Protestant</i>	)	

The Oregon Water Resources Department and Philip Hammack do hereby stipulate and agree in this Settlement Agreement as follows:

A. Background

1. On January 30, 2015, the Oregon Water Resources Department received an Application from Philip Hammack and HAMAK Corporation; it was assigned the number G-17990.
2. On October 6, 2015, OWRD issued a Proposed Final Order recommending the application be denied.
3. On November 20, 2015, a timely protest was filed by the applicant.
4. The Department and Philip Hammack and HAMAK Corporation agree that the protest on G-17990 is resolved solely on the following terms.

B. Consent

1. Each Party to this Settlement 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.
2. Each Party to this Settlement understands and agrees that this Agreement and all documents incorporated by reference set forth the entire Agreement of the parties.
3. Each Party to this Settlement understands and agrees that this Agreement and Final Order Incorporating Settlement Agreement for Application G-17990 issued pursuant to this Agreement constitutes the complete and final resolution of the protest.
4. Effective upon the complete signing of this Agreement Philip Hammack and HAMAK Corporation 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 G-17990 issued by the Department.

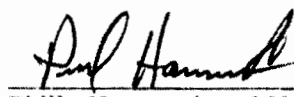
C. Terms of the Agreement

1. The Department and Philip Hammack and HAMAK Corporation agree that the application has been voluntarily conditioned by Philip Hammack and HAMAK Corporation as reflected in the attached draft permit.
2. The Department will issue a Final Order Incorporating Settlement Agreement and Permit consistent with the attached draft Final Order Incorporating Settlement Agreement and draft Permit.
3. Each Party to this Settlement 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.
4. Each Party to this Settlement 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.
5. The Parties agree that nothing in this Settlement Agreement or the Final Order establishes factual, legal, or policy precedent.
6. This Settlement Agreement may be signed in counterparts.



Dwight French, Administrator, Water Right Services Division
for Thomas M. Byler, Director
Oregon Water Resources Department

1.29.16
Date

 - PRESIDENT HAMAK CORPORATION
Philip Hammack and HAMAK Corporation

JAN 26 2016
Date