

Oregon Water Resources Department
Water Right Services Division

Water Right Application
Number S-88285

Final Order Incorporating Settlement Agreement

Appeal Rights

The applicant, David Rogers, 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 Linn 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 Oregon Revised Statute (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.

The findings of fact in the Proposed Final Order are incorporated into this Final Order.

Additional Findings of Fact

1. On February 21, 2017, the Department issued a Proposed Final Order recommending denial of the application.
2. A timely protest was filed by the applicant on April 7, 2017.
3. A Settlement Agreement was signed by David Rogers and the Department as of January 8, 2018. The terms of the Settlement Agreement are incorporated into this Final Order and permit, and a copy of the Settlement Agreement is attached.
4. David Rogers and the Department have agreed to the permit conditions set forth in the permit.

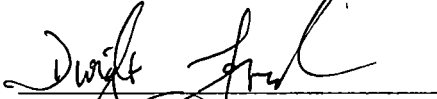
Conclusions of Law

1. The proposed use as conditioned will not impair or be detrimental to the public interest pursuant to ORS 537.170.

Order

Application S-88285 is therefore approved as modified herein and pursuant to the Settlement Agreement, and Permit S-55110 is issued as limited by the conditions set forth therein.

DATED January 24, 2018



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

This document was prepared by Barbara Park Poage. If you have any questions about any of the statements contained in this document, I can be reached at Barbara.J.Poage@oregon.gov or 503-986-0859.

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-88285 in)
the name of David Rogers)
Applicant, Protestant) **SETTLEMENT AGREEMENT**

The Oregon Water Resources Department (“Department”) and David Rogers do hereby stipulate and agree in this Settlement Agreement as follows:

A. Background

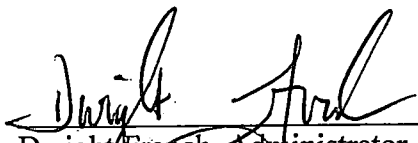
1. On September 9, 2016, David Rogers filed Water Right Application S-88285.
2. On February 21, 2017, the Department issued a Proposed Final Order recommending denial of the application.
3. On April 7, 2017, David Rogers filed a timely protest to the Proposed Final Order.
4. The Department and David Rogers agree that the protest is resolved solely on the terms set forth in this Agreement.

B. Consent

1. Each Party to this 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.
2. Each Party to this Agreement 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 Agreement understands and agrees 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 protest.
4. Effective upon the signing of this Agreement by the Parties, David Rogers waives any and all right to petition for judicial review of this Agreement, and waives any and all right to request reconsideration, petition for judicial review, or appeal the Final Order Incorporating Settlement Agreement.


C. Terms of the Agreement

1. Once each Party has signed this Agreement, 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.
2. Each Party to this 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 Agreement.
3. Each Party to this Agreement certifies that it has had a reasonable opportunity to review and request changes to the Agreement, and that it has signed this Agreement of its own free will and accord.
4. The Parties agree that nothing in this Agreement or the Final Order Incorporating Settlement Agreement establishes factual, legal, or policy precedent.
5. This Agreement may be signed in counterparts.



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

1-8-2018
Date



David Rogers

1/5/18
Date