



# Oregon

Theodore R. Kulongoski, Governor

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March 15, 2006

Maurice L. Russell, II  
Presiding Administrative Law Judge  
Office of Administrative Hearings  
PO Box 14020  
Salem, OR 97303-4924

**RE: Contested cases on water right applications R-73408 and S-73406 (Rock Creek), R-73970 and S-73971 (Side Creek), R-73407 and S-73409 (Treat River) in the name of the City of Lincoln City**

Dear Judge Russell:

We have identified a document dated December 27, 2000, which is an order continuing a contested case on application R-73407 and S-73409 (Treat River) from Administrative Law Judge Weisha Mize of the "Hearing Officer Panel". Nonetheless, it appears that the six pending protested applications cited above have not been formally referred to the Office of Administrative Hearings (OAH).

On September 8, 2005, a "Supplemental Settlement Agreement" (SSA) was entered into between the Oregon Water Resources Department, Oregon Department of Fish and Wildlife, City of Lincoln City, Kernville Gleneden Beach - Lincoln Beach Water District, WaterWatch of Oregon, MidCoast Watersheds Council, Salmon Drift Creek Watershed Council, Confederated Tribes of Siletz Indians of Oregon, Northwest Environmental Defense Center, Oregon Council of Trout Unlimited, Paul Katen, Diane Henkels, and Wayne Hoffman.

One element of the SSA is a proposed rulemaking to establish reservations of unappropriated water on Side Creek, Rock Creek, and Treat River, for multi-purpose storage for future economic development. If the Water Resources Commission (WRC) authorizes initiation of a rulemaking at the May 4-5, 2006 WRC meeting, OWRD anticipates that the rulemaking process will be concluded by approximately mid-August, 2006.

While the SSA directly resolved a significant number of protests to other water right applications, it did not directly resolve protests to the six pending applications cited above. However, pursuant to the SSA, if the reservations are established by administrative rule and published by the Secretary of State with the terms and conditions sought in the request, Lincoln City will, within 10 days of that publication, withdraw the six pending protested applications cited above, thereby resolving all associated protests thereto and eliminating the need for contested case hearings.

In the event that the OAH's records show that the six pending protested applications cited above have been formally referred to the OAH, OWRD respectfully requests that the OAH take no action on those matters until such time as it is known if the applications will be withdrawn by Lincoln City. This will conserve the resources of all parties, and the OAH, as the pending protested applications may simply cease to exist by approximately mid-August, 2006.

OWRD has consulted with the City of Lincoln City, who joins in and supports this letter.

Respectfully submitted,

Mike Reynolds  
Protest Program Coordinator

EXHIBIT F  
PAGE 1 OF 3

Received  
Stool Rivers LLP  
By 3-17-06 RH

**SERVICE LIST**

This service list is based on OWRD's review of all six water right files cited above. OWRD has attempted to include all individuals and entities that may be involved in some manner. I certify that I caused copies of this letter to be mailed by first-class U.S. Mail to all individuals and entities listed below on March 16, 2006.



Mike Reynolds  
Protest Program Coordinator

March 15, 2006

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