



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

November 22, 2011

PUC Filing Center
Attention: ALJ Power
Public Utility Commission of Oregon
550 Capitol St NE – Suite 215
Salem OR 97301

Re: UM 1489, UM 1528, UCR 121, UCR 122, UCR 123, UCR 133, UCR 135

Dear ALJ Power,

Please find enclosed a stipulation between Fish Mill Lodges Water System, Commission Staff and Ms. Lucas.

Mr. and Mrs. Varenas are out of the area and unavailable until the end of December and also want to have their attorney review the stipulation. Staff thought because of the time this settlement process has taken, it would be beneficial to file the stipulation today. This would allow Mr. and Mrs. Varenas time to decide whether or not to sign the stipulation and would in turn allow the parties to supplement this filing with an explanatory brief or testimony.

Staff respectfully requests that the stipulation be accepted for filing, but that your Honor allow additional time to get the explanatory brief or joint testimony filed and allow Mr. and Mrs. Varenas time to decide their position on the settlement.

Based upon the filing of this stipulation, Staff also respectfully requests that the prehearing conference be cancelled as it is no longer necessary.

Sincerely,

Jason W. Jones
Assistant Attorney General
Business Activities Section

JWJ:nal/3102857-v1
cc: Service lists

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FOR SETTLEMENT PURPOSES ONLY
BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UM 1489, UM 1528, UCR 121, UCR 122, UCR 123, UCR 133, UCR 135

In the Matter of JUDY BEDSOLE AND)
FISH MILL LODGES WATER)
SYSTEM)
Application for Abandonment of) **STIPULATED AGREEMENT**
Utility and Other Above-Captioned)
Dockets Related to the Operation and)
Maintenance of the Fish Mill Lodges)
Water System)

Judy Bedsole and Fish Mill Lodges Water System, appearing by and through their attorney, Peter Mohr ("Fish Mill"); intervenors Judy Bedsole, Trustee of the Bedsole Family Trust (the "Trust"), Shawn Bedsole, and Cris (Charles) Bedsole (the "Intervenors"); the Public Utility Commission of Oregon Staff, appearing by and through its attorney, Jason W. Jones, Assistant Attorney General ("Staff"); and customer intervenors Dennis and Barbara Varenas, Don and Suzanne Durland, and Bonnie Lucas, ("Customer Intervenors"), all of whom shall be collectively referred to herein as the "Parties," enter into this Stipulated Agreement ("Stipulation") as further detailed below, to settle and resolve all issues between them in the above-captioned proceedings.

1.

STIPULATION APPROVAL AND APPOINTMENT OF A REGENT

The Parties request that the Commission enter an order approving this Stipulation and expedite the appointment of a Regent to operate, manage,

1 evaluate, and repair the Fish Mill Lodges Water System in the manner and for
2 the time period determined by the Commission.

3 If the Stipulation is approved, the Regent, as contracted by the
4 Commission, will operate, manage, repair, improve, maintain, and administer the
5 Water System (as this term is defined in Paragraph 5). A Memorandum of the
6 Stipulated Agreement, approved and signed by the Parties who possess a title
7 interest in the "Parties' Properties" identified in Paragraph 4, shall be recorded in
8 the Official Records of Lane County, Oregon. The Commission's jurisdiction will
9 continue during the Regent's appointment until the Commission issues a Final
10 Order pursuant to Paragraph 18 of this Stipulation.

11
12 Upon completion of the Regent's appointment, the Customer Intervenors
13 shall ensure that a third party independent contractor with experience and
14 qualifications as required by law shall be responsible for the Entity's continued
15 operation, management, maintenance, and repair of the Water System (the term
16 "Entity" is defined in Paragraph 3).

18 2.

19 EMERGENCY FUNDS

20
21 If this Stipulation is approved and upon the appointment of the Regent,
22 the Parties request the Commission use its emergency funds, pursuant to
23 ORS 757.068 and OAR 860-036-0370, to repair the Water System as necessary
24 and requested by the Regent and verified by Staff.

25 The Customer Intervenors have been on a boil-water notice for over one
26 year. The Parties request that the Commission direct the Regent to do whatever

1 is reasonably necessary to bring the Water System into compliance with the
2 laws, rules, and regulations of the Commission, the Oregon Health Authority's
3 Drinking Water Program, and the Lane County Environmental Health Department
4 and ensure the integrity of the Water System.

5 The Parties agree that a proportional surcharge be levied by the Regent,
6 or thereafter the Entity, on all customers and Water Users receiving water from
7 the Spring, Water System, or both to recover any Commission emergency funds
8 utilized by the Regent to affect repairs on the Water System.

9 The term "Water User" in this Agreement shall refer to any non-customer
10 person or entity, such as the Trust, that in any manner receives or uses water
11 from the Spring or the Water System. A person or entity shall be a Water User
12 even if the person or entity does not actually directly use the water themselves,
13 but rents or enters into any kind of arrangement to allow a third party to obtain
14 water from the Spring or the Water System. In that case, the person or entity
15 providing the water is the Water User and the person or entity receiving the water
16 is not.

17 The Regent, or thereafter the Entity, shall also collect from all future
18 customers or Water Users, who become customers or Water Users within ten
19 (10) years of the date of the Commission's Order approving transfer of the Water
20 System, their proportionate share of the cost of repairs. Unless otherwise
21 provided in this Stipulation, payment is due prior to such customers and/or Water
22 Users receiving water. The Regent, or thereafter the Entity, will then refund the
23 share differential amount to those customers or Water Users who previously
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25
26

1 shared the cost of said repairs. Refunds shall not exceed the amount originally
2 advanced.

3 3.

4 THE ENTITY

5 If this Stipulation is approved by the Commission, within fifteen (15) days
6 of such approval, Customer Intervenors shall form an association, corporation, or
7 other entity of their choosing (the "Entity") for the purpose of receiving ownership
8 of the Water System.
9

10 4.

11 PARTY PROPERTIES

12 For purposes of this Stipulation, the Parties' Properties shall collectively
13 consist of, and be referred to, individually as follows:
14

- | | | |
|----|----------------------------|---|
| 15 | Dennis and Barbara Varenas | Lots 11, 12, and 13, Block 28, West Lake Subdivision Plat, Lane County (the "Varenas Property") |
| 16 | | |
| 17 | Don and Suzanne Durland | Lots 13, 14, and 15, Block 29, West Lake Subdivision Plat, Lane County (the "Durland Property") |
| 18 | | |
| 19 | Bonnie Lucas | Lots 5, 6, and 7, Block 29, West Lake Subdivision Plat, Lane County (the "Lucas Property") |
| 20 | | |
| 21 | | |
| 22 | Bedsole Family Trust | Lots 5, 6, 7, 8, and 9, Block 28, West Lake Subdivision Plat, and Tax Lot 701, Government Lot 2, SE ¼ of the NW ¼, Sec. 34, T. 19S, R. 12W, W.M., all within Lane County (the "Trust Property") |
| 23 | | |
| 24 | | |
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| 26 | | |

THE WATER SYSTEM

Fish Mill is a rate-regulated water utility currently delivering water service to customers Lucas, Varenas, and Durland from a spring located on the Trust's Tax Lot 701 (the "Spring").

For purposes of this Stipulation, the "Water System" includes, but is not necessarily limited to: diversion structures, the collection basin at the Spring before the holding tank, the holding tank, pump house, pumps, the power supply line and electric meter, the pressure tank, pipelines, related facilities; any other equipment used in providing water service to the Customer Intevenors; any facilities or equipment that currently make up the Water System; and all necessary and existing easements and rights-of-way to operate and distribute water from the Spring located on Tax Lot 701 to the Customer Intervenors' premises.

The operation, management, improvement, repair, and maintenance of the Water System shall only be carried out by the Regent, or thereafter by the Entity, according to applicable laws and the terms of this Stipulation. The Regent, or thereafter the Entity, shall make improvements and repairs to the Water System as reasonably necessary, including repairing, constructing, or installing equipment or utility plant to that portion of the Water System located on Tax Lot 701.

The Regent and the Bedsole Family Trust will allow access to the Spring and the Water System to Customer Bonnie Lucas and will provide additional information to the extent required by the Oregon Water Resources Department

1 as a prerequisite to her application for a limited license and water right permit as
2 provided in Paragraph 12 below and to confirm that she can obtain delivery of
3 water from the Spring to her property. Under no circumstances, however, shall
4 this paragraph be construed to displace the Regent's, or thereafter the Entity's,
5 exclusive authority to operate, manage, improve, repair, or maintain the Water
6 System.
7

8 6.

9 THE TRUST WATER RIGHT

10 The Trust currently claims the entire interest in the water right currently
11 sourced from the Spring and identified in the records of Oregon's Water
12 Resources Department as Certificate No. 85238 (the "Water Right").
13

14 7.

15 CONVEYANCE AND ASSIGNMENT OF WATER SYSTEM

16 Within thirty (30) days of an Order issued by the Commission approving
17 this Stipulation, Fish Mill, Judy Bedsole, the Intervenors, and/or the Trust, as
18 applicable, shall execute and deliver to the Commission all documents sufficient
19 to convey, transfer, release, quit claim, and assign "as-is" to Customer
20 Intervenors or the Entity the following interests:

- 21 a. To Customer Intervenors Dennis and Barbara Varenas, that
22 proportionate interest in the Water Right that is associated with or
23 appurtenant to the Varenas Property.
- 24 b. To Customer Intervenors Don and Suzanne Durland, that
25 proportionate interest in the Water Right that is associated with or
26 appurtenant to the Durland Property.

- 1 c. To the Entity, all rights, titles, and interests possessed in and to the
2 Water System provided; however, that such conveyance and
3 assignment shall reserve in the Trust the right to obtain its remaining
4 interest in the Water Right appurtenant to its property, which use shall
5 be made subject to the terms and conditions provided under this
6 Stipulation.
7
- 8 d. To the Entity, a non-exclusive easement for the limited purpose of
9 providing reasonable access on and across Tax Lot 701 for the
10 withdrawal, collection, treatment, and distribution of water from the
11 Spring; for its use of the power supply line and any other Water
12 System facilities; and for any improvement, repair, operation, and
13 maintenance of any portion of the Water System located on Tax Lot
14 701, provided that such easement shall consist of an area five feet
15 from the centerline of any section of the existing water line and ten (10)
16 feet in all directions from the outside dimension of all other existing
17 components of the Water System located on Tax Lot 701. At the
18 junction of the existing waterline and any other existing component, the
19 greater easement area shall control.
20
- 21 e. To the Entity, all interests possessed in easements and rights-of-way
22 in or over the properties that provide access for the operation and
23 maintenance of the Water System necessary to transmit the water
24 from the Spring to the Customer Intervenor's properties.
25
- 26 f. To Customer Intervenor Bonnie Lucas:

- 1 1. A deed sufficient to convey a portion of its remaining interest in
2 the Water Right. The amount of the Water Right conveyed will
3 be equal to the amount of the proportional interest in the Water
4 Right conveyed to the other Customer Intervenors under
5 preceding sub-Paragraph 7(a) or (b); and
6
- 7 2. Any other documents required by the Oregon Water Resources
8 Department to be signed or submitted by the owner of the land
9 the Spring is located on, or to which the water rights interest
10 previously conveyed to Customer Intervenor Bonnie Lucas will
11 still then be considered appurtenant, including an affidavit
12 confirming evidence of use of the portion conveyed and a
13 Consent to Transfer or other required document that allows for
14 the place of use of such interest to be changed.
15

16 The Parties request that the Commission deliver the documents
17 identified above under sub-paragraphs (a) through (e) to the specified grantees
18 simultaneously with the Commission's Final Order issued pursuant to
19 Paragraph 18.
20

21 The Parties request that the Commission deliver any documents identified
22 under sub-paragraph (f) that are required by the Oregon Water Resources
23 Department for Customer Intervenor Bonnie Lucas to obtain her own limited
24 license or water permit pursuant to Paragraph 12(a) or (b), to Customer
25 Intervenor Bonnie Lucas. This requirement shall not be interpreted to include
26 any title documents conveying part of the Water Right to Customer Intervenor

1 Bonnie Lucas. If, at the time, the Commission enters its Final Order pursuant to
2 Paragraph 18, Customer Intervenor Bonnie Lucas has received notice from the
3 Oregon Water Resources Department that it has denied or intends to deny either
4 of her applications filed pursuant to Paragraph 12 (a) or (b), the Commission will
5 deliver the remaining documents identified above in subparagraph (f) to
6 Customer Intervenor Bonnie Lucas; otherwise, the Commission will deliver these
7 documents to Cascade Title Co., 811 Willamette Street, PO Box 1476, Eugene,
8 Oregon, 97440, Attention: Gwen Bowen, to be placed in an escrow account
9 there. This escrow account will be established and paid for by Bonnie Lucas.
10 The escrow instructions shall be approved and signed by Judy Bedsole in her
11 capacity as sole proprietor of Fish Mill and as Trustee of the Trust and Customer
12 Intervenor Bonnie Lucas, so long as these instructions provide that following the
13 entry of the Commission's Final Order pursuant to Paragraph 18, the documents
14 are to be released to:
15
16

- 17 a. Customer Intervenor Bonnie Lucas upon meeting the requirements in
18 Paragraph 12; or
- 19 b. Judy Bedsole upon presentation of a copy of a water right permit filed
20 pursuant to Paragraph 12(b) for the benefit of Customer Intervenor
21 Bonnie Lucas's property.
22

23 The escrow instructions will further provide that if the Commission does
24 not enter a Final Order pursuant to Paragraph 18 that the documents shall be
25 returned to Judy Bedsole.
26

8.

REQUEST FOR WATER THROUGH VALVE NO. 1

Judy Bedsole, the Intervenors, and/or the Trust, as applicable, own Tax Lot 701 where the Spring is located. The Water System currently only delivers water from the Spring. If in the future, a Water User desires to obtain water from the Spring or any portion of the Water System, delivery of such water shall be restricted to the use of Valve No. 1 (or Valve No. 2 as provided in Paragraph 9 below).

Upon appointment, the Regent will determine where Valve No. 1 will be located on Tax Lot 701 in the event it is required. The Regent will mark such location clearly and will also notify the PUC and the Parties of the location. This location shall be, to the extent reasonably possible, after the collection basin and before the existing storage tank, unless determined by the Regent to be detrimental to the Entity or the Water User(s). Such location shall be permanent unless changed by the Entity in good faith in order to maintain water delivery to Valve No. 1 with advance written notice to Water Users. The following conditions will apply to the use of water through Valve No. 1:

- a. Prior to water use by any means, the Water User shall provide a dated, written notice to the Regent, or thereafter the Entity, confirming the Water User's desire for delivery of the water by means of Valve No. 1.
- b. The Water User shall also provide to the Regent, or thereafter the Entity, proof of a valid Oregon Water Resources Department issued limited license, water right permit, or vested water right certificate

1 authorizing the use of water from the Spring for the property to be
2 served by Valve No. 1.

3 c. Upon completion of such written notice and verification of the water
4 use right (as described above), the Regent, or thereafter the Entity,
5 shall install Valve No.1 and a flow meter at the point previously
6 determined.
7

8 d. The cost, installation, construction, operation and maintenance of any
9 facilities, lines, treatment, etc. connected to and therefore below Valve
10 No. 1 and the accompanying flow meter shall be the responsibility of
11 the Water User.

12 e. The Entity shall retain ownership and responsibility of Valve No. 1 and
13 the meter. The Entity has no responsibility for anything connected to
14 and therefore below Valve No. 1 and the accompanying flow meter.
15

16 9.

17 REQUEST FOR WATER THROUGH VALVE NO. 2

18 Judy Bedsole, the Intervenors, and/or the Trust, as applicable, own
19 property which is located below the existing service connections to the Customer
20 Intervenors' properties. Since they are currently not obtaining delivery of water
21 from the Water System, upon Commission appointment of the Regent, the
22 Regent will disconnect water service below the service connections of Customer
23 Intervenors' properties by capping the distribution line at a point to be determined
24 by the Regent. Upon appointment, the Regent will determine where Valve No. 2
25 will be located below the existing service connections to the Customer
26

1 Intervenor's properties in the event such valve is ever required. The Regent will
2 mark such location clearly and will also notify the PUC and the Parties of the
3 location. This location shall be permanent unless changed by the Entity in good
4 faith in order to maintain water delivery to Valve No. 2 with advance written
5 notice to Water Users. The delivery of water from Valve No. 2 shall be subject to
6 the following conditions:
7

- 8 a. Prior to water use by any means, the Water User shall provide a dated,
9 written notice to the Regent, or thereafter the Entity, confirming the
10 Water User's desire for delivery of water by means of Valve No. 2.
- 11 b. The Water User shall also provide to the Regent, and thereafter the
12 Entity, proof of a valid Oregon Water Resources Department issued
13 limited license, water right permit, or vested water right certificate
14 authorizing use of the water from the Spring for the property to be
15 served by Valve No. 2.
- 16 c. Upon completion of such written request and verification of proof of the
17 water use right (as described above), the Regent, or thereafter the
18 Entity, shall install Valve No. 2 and a flow meter at the point previously
19 determined.
- 20 d. The cost, installation, construction, operation, and maintenance of any
21 facilities, lines, treatment, etc. connected to and therefore below Valve
22 No. 2 and the accompanying flow meter shall be the responsibility of
23 the Water User.
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1 e. The Entity shall retain ownership and responsibility of Valve No. 2 and
2 the accompanying flow meter. The Entity has no responsibility for
3 anything connected to and therefore below Valve No. 2 and the
4 accompanying flow meter.

5
6 10.

7 TERMS OF WATER USE THROUGH VALVES NO. 1 AND NO. 2

8 The receipt of water as a Water User through Valve No. 1, Valve No. 2, or
9 otherwise is conditioned as follows:

10 a. Monthly Operation Costs

- 11 1. From the date of installation of Valve No. 1, Valve No. 2
12 (collectively the "Valves"), or use of water by any means, the Water
13 User shall be responsible for paying its proportional share of the
14 monthly costs associated with the operation, management,
15 maintenance, and repair of that portion of the Water System used
16 in providing water, including any power used by any separate
17 distribution systems installed by Water User and billed to the
18 Regent or the Entity. These monthly operation and maintenance
19 costs may include, but shall not be limited to, water treatment,
20 excavation, the acquisition of permits, the completion of required
21 environmental studies, and periodic maintenance and repair of the
22 access routes to the Water System via applicable easements
23 and/or right of ways on and across Tax Lots 700 and 701. (All such
24 costs in this paragraph shall be referred to as "Monthly Operation
25
26

Costs.”)

2. The proportionate water usage (stated as a percentage) shall be calculated by taking the Water User's monthly usage divided by the total Water System monthly usage. The Water System's total costs for that portion of the Water System used in providing the water for the month will be multiplied by the Water User's proportionate water usage for that month to determine the monthly amount due. If power is used, the same cost calculation will be used to determine the power charge.
3. If both Valves Nos. 1 and 2 have been installed, monthly costs shall be billed separately to the appropriate Water User. Use of Valve No. 1 by the same or separate Water Users does not preclude Monthly Operation Cost payments for use of Valve No. 2, and vice versa.
4. The Regent, Entity, or successor operator shall ensure that all monthly billing statements to be submitted to the Water Users under this Stipulation shall include, as applicable, a list of repairs and expenses incurred during the month and the monthly metered usage sufficient to confirm the Water User's proportionate payment obligations under this Stipulation.

b. Capital Improvement Costs

1. From the date of installation of Valve No. 1, Valve No. 2, or use of water by any means, the Water User shall be responsible for

1 paying its proportional share of the costs (see sub-paragraph 3
2 below) associated with any Capital Improvements made to the
3 Water System above the appropriate Valve, after the date of the
4 Commission's Order approving this Stipulation.

5
6 2. Capital Improvement Costs shall initially consist of all repairs and
7 improvements made by the Regent. From the date the Entity takes
8 over the operation and maintenance of the Water System, Capital
9 Improvement Costs shall be defined as all of the initial costs and
10 repairs made by the Regent plus all individual equipment
11 purchased, facilities constructed, and monthly operation and
12 maintenance costs as defined under Paragraph 10(a) above when
13 the cost of the item as purchased and installed exceeds \$1,000.
14 The cost of the item for purposes of this paragraph shall include the
15 cost of shipping, and any additional costs necessary to bring the
16 item into service, including the cost of materials and labor to install,
17 build, repair, or improve it. (The costs in this paragraph shall be
18 referred to as "Capital Improvement Costs"). All other equipment
19 purchased and installed or facilities constructed will be reimbursed
20 as Monthly Operation Costs.
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22

23 3. Reimbursement of the Capital Improvement Costs shall be charged
24 as follows:

25 A. Water User of Valve No. 1 shall pay 30 percent of the
26 Capital Improvement Costs associated with that portion of

1 the Water System used in providing water to the Water User.

2 B. Water User of Valve No. 2 shall pay 40 percent of the
3 Capital Improvement Costs associated with that portion of
4 the Water System used in providing water to the Water User.

5 C. If the same Water User requests water through both Valves,
6 the percentage of costs to be reimbursed shall be capped at
7 50 percent (20% for Valve No. 1 and 30% for Valve No. 2).

8 D. Capital Improvement Costs incurred prior to or after the
9 installation dates of Valve No. 1 and/or Valve No. 2 will be
10 charged at the same percentage rates as above, provided
11 that any conveyance of a portion of the Trust's water right to
12 an Entity customer tax lot (other than those conveyances
13 provided for in Paragraphs 7 and 12) shall reduce the
14 percentages referenced by a percentage equal to the
15 proportionate part of the Trust's water right being conveyed.

16 E. The Capital Improvement Costs due from a Water User shall
17 be paid in equal monthly installments of \$416.66 until paid in
18 full, with the first installment being paid prior to receiving
19 water from the related valve. Any new Capital
20 Improvements undertaken by the Regent or Entity after the
21 Water User has started receiving water from the related
22 valve, shall be billed to the Water User in the same manner
23 as they are billed to Entity customers, except that the
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1 monthly payment due for prior and new Capital Improvement
2 Costs will not exceed \$416.66 per month for each Water
3 User.

4
5 4. The Regent, or thereafter the Entity, will then refund the share
6 differential amount to those customers and/or Water Users who
7 previously shared the cost of said Capital Improvement Costs.
8 Refunds shall not exceed the amount originally advanced.

9
10 5. Use of Valve No. 1 by the same or separate Water Users does not
11 preclude payment of Capital Improvement Costs from the Water
12 User(s) of Valve No. 2, and vice versa.

13
14 6. The Regent, Entity, or successor operator shall ensure that the
15 billing statement to be submitted to the Water Users under this
16 Stipulation shall include, as applicable, the list of improvements
17 made sufficient to confirm the Water User's proportionate payment
18 obligation under this Stipulation.

19 c. Payments

20 1. Monthly invoices to Water Users will be delivered by First Class
21 U.S. Mail. All appropriate payments required of any Water User
22 under this section shall be made within 30 days of the invoice date
23 (the "Due Date"). Payments shall be made directly to the Regent,
24 or thereafter to the Entity.

25 2. Failure on the part of the Water User to fulfill its financial obligations
26 within such Due Date will result in an additional assessment of

1 interest on the balance due. The interest will be calculated at the
2 rate and in the manner set by the Commission at the time the
3 interest is to be assessed whether or not the Commission has
4 jurisdiction, and will be specified in the monthly invoice. Interest will
5 continue to accrue monthly until the balance due is paid in full.
6
7 Should the Water User fail to pay the entire balance due, plus any
8 accrued interest within 30 days of the initial Due Date, the Entity
9 may choose to (a) disconnect the delivery of water to the Water
10 User and/or (b) record a lien against the property receiving the
11 water for the amount due with interest, plus any fees assessed by
12 the Entity, according to its established Statement of Rates and
13 Charges, which may include costs to obtain the lien, reasonable
14 attorneys fees, recording costs, and a disconnection charge.¹ The
15 Entity agrees to abide by the Commission's rules regarding service
16 disconnects whether or not the Commission has jurisdiction.
17

- 18 3. If the Entity has disconnected a Water User, the Entity shall not
19 restore delivery of water until the amount secured under the lien,
20 plus any additional outstanding interest, balances, or fees are paid
21 in full.
22

23 11.

24 TERMS AND CONDITIONS OF CONVEYANCE

25 The conveyance and assignment of interests in the Water System under
26

¹ If necessary, this Stipulation requests the waiver of the requirements under OAR 860-036-0125 Due and Payable Period; Time-Payment Agreements for Residential Service where the billing rules and regulations do not agree with Section 10, Subsection C, of this Stipulation.

1 Paragraph 7 of this Stipulation shall be subject to the following terms and
2 conditions:

- 3 a. The Regent shall determine (with consideration to the preference of
4 the Parties), the locations of Valve No. 1 and Valve No. 2, prior to the
5 receipt of any notices requesting installation of the Valve(s). These
6 locations shall be clearly identified and reported to the Parties. Valve
7 No. 1 shall, if possible, be located just inside the Water System
8 Easement on Tax Lot 701. Valve No. 2 shall be located below the
9 service connections to the Customer Intervenors' properties. Such
10 locations will be chosen by the Regent and will not be changed without
11 the express written permission of the Regent, or thereafter by the
12 Entity.
13
14 b. In the event that any distribution system or part thereof necessary to
15 deliver water to a Water User must be located within the easement(s)
16 conveyed to the Entity, the Regent shall determine the location of such
17 distribution facilities taking into consideration:
18
19 1. The preference of the Parties that the components of their water
20 systems be placed so that the least amount of interaction
21 between the Parties is required;
22
23 2. That each water system be economically feasible; and
24
25 3. No part of the Water User's distribution system may utilize any
26 Water System components located below the Valve(s) to be
used. For instance, no Water System pipelines located below

1 Valve No. 1 may be utilized as part of the distribution system for
2 Valve No. 1.

3 12.

4 LUCAS' WATER RIGHT

5 Within ninety (90) days of the Commission's approval of this Stipulation,
6 Customer Intervenor Bonnie Lucas or the Entity shall file with Oregon's Water
7 Resources Department:
8

- 9 a. An application for a limited license to obtain an adequate temporary
10 water supply from the Spring for domestic use for one house on the
11 Lucas Property; and
12 b. An application for a permit to obtain an adequate water supply from the
13 Spring for domestic use for one house on the Lucas Property.
14

15 Should Customer Intervenor Bonnie Lucas successfully obtain either or
16 both of the applications in subparagraphs (a) and (b) above, the limited license,
17 the water permit, or certified water right shall be administered equally by the
18 Entity and the Water Users as if it held a priority date equal to that of the Water
19 Right.
20

21 However, if Customer Intervenor Bonnie Lucas is unable to obtain an
22 adequate limited license or water permit in response to her applications, then the
23 documents identified under Paragraph 7(f) shall be delivered to Customer
24 Intervenor Bonnie Lucas upon presentation of 1) a copy of a notice or order
25 issued by Oregon's Water Resources Department ("Notice") that the Department
26 either intends to deny or has denied such Water permit or license application and

- 1 a. The applications are only for domestic use or non-commercial irrigation
2 of lawn and garden; and
3 b. Additional water rights to the Spring will be administered subject to the
4 priority dates, with the exception of any water right issued to Customer
5 Intervenor Bonnie Lucas under Paragraphs 12(a) or (b), which shall be
6 administered as provided in Paragraph 12.
7

8 14.

9 NO INTERFERENCE WITH REGENT OR ENTITY DUTIES

10 Upon the Commission's appointment of a Regent, Judy Bedsole, Fish Mill, the
11 Intervenors, the Customer Intervenors, their agents, successors, representatives,
12 or assigns shall:
13

- 14 a. Not interfere with the operation, maintenance, and administration of the
15 Water System;
16 b. Not operate, maintain, work on, tamper with, or otherwise take any
17 action that may affect any portion of the Water System unless
18 authorized by the Regent, or thereafter by the Entity;
19 c. Not harass or cause harassment to the other Parties, the Regent,
20 laborers, operators, or Entity's customers, members, agents, or
21 representatives; and
22 d. Not use or withdraw water directly or indirectly from the Spring or any
23 portion of the Water System except as provided in this Stipulation.
24
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1 15.

2 FISH MILL OBLIGATION TO PROVIDE SERVICE

3 The Parties agree that Fish Mill will continue to provide water service to
4 Customer Intervenors and maintain the Water System until a Regent is appointed
5 by the Commission.
6

7 16.

8 ACCESS TO WATER SYSTEM

9 During the appointment of the Regent, only the Regent, the Commission,
10 or persons authorized by the Regent or the Commission will have the authority to
11 enter onto any real or personal property encumbered by the Water System for
12 the purpose of operating, repairing, improving, monitoring, inspecting, or
13 maintaining the Water System until such time as the Regent turns over the
14 operation and maintenance of the Water System to the Entity.
15

16 17.

17 CIVIL PENALTIES

18 Provided this Stipulation is approved by the Commission, the Parties
19 request the Commission:

- 20 a. Not pursue civil penalties for any current violations as may be alleged
21 against Judy Bedsole or Fish Mill; and
22
23 b. Withdraw its complaint in pending Case No. 121008922 in Lane
24 County Circuit Court, with or without prejudice.

25 18.

26 COMMISSION FINAL ORDER

The Parties agree and support this Stipulation serving as a request to the

1 Commission that, upon its confirmation that the Parties' have materially satisfied
2 their obligations under this Stipulation up to the date of the Commission's finding
3 to that effect, it enter a Final Order:

- 4 a. Approving the transfer of the Water System to the Entity, and
5 withdrawing regulatory jurisdiction from Fish Mill and owner, Judy
6 Bedsole, pursuant to ORS 757.480, OAR 860-036-0365, and OAR
7 860-036-710 and 715.
- 8 b. Ordering the release and delivery to the Entity and Customer
9 Intervenor Varenas and Durland, and to Lucas or Cascade Title Co.
10 (as applicable), the documents previously executed under Paragraph 7
11 and filed with the Commission;
- 12 c. Describing and confirming the dismissal of all pending actions between
13 the Parties;
- 14 d. Releasing the Regent from its appointment; and
- 15 e. Confirming that the terms and conditions of the Stipulation as approved
16 by the Commission and as noticed under the Memorandum of
17 Stipulated Agreement previously recorded remain binding, with specific
18 reference to the Memorandum's recording number and/or book and
19 page in the Official Records of Lane County, Oregon.

20 The Parties request the Commission record the Final Order in the Official
21 Records of Lane County, Oregon.
22

1 19.

2 STIPULATION BINDING UPON SUCCESSORS

3 The rights, benefits, and obligations under this Stipulation shall inure to the
4 benefit of and be binding on all Parties, hereto and their respective successors,
5 legal representatives, assigns, representatives, or any other person claiming a
6 right or interest through the Parties, whether or not it is specifically stated in this
7 Stipulation. The Parties further agree that such documentation shall be executed
8 to ensure this Stipulation is binding upon the Entity.
9

10 20.

11 DO NOT APPROVE OR CONSENT TO FACTS

12 By entering into this Stipulation, no Party shall be deemed to have
13 approved, accepted, or consented to the facts, claims, principles, methods, or
14 theories employed by any other Party in arriving to this Stipulation. Each Party
15 represents to the other that any statement of fact in this Stipulation made by the
16 Party is true and correct to the best of that Party's knowledge and belief, as of the
17 date this Stipulation is signed by the Party. If a Party later discovers information
18 that is inconsistent with its prior representation(s), or the representations of
19 another Party, they must provide written notice to all of the other Parties of the
20 accurate facts within thirty (30) days of discovery. All the Parties may then agree
21 on the best way to handle the disclosed information, which may include amending
22 this Stipulation. If the Parties cannot all agree, any Party or Parties determined to
23 be adversely affected as a result of the disclosed information, as confirmed by the
24
25
26

1 Commission while it has jurisdiction or by the Circuit Court if it does not, may seek
2 to:

- 3 a. Withdraw from this stipulation (only if the Commission still has
4 jurisdiction); or
- 5 b. Recover damages from the representing Party (only in the event the
6 representing Party is found to have knowingly misrepresented the
7 facts).
8

9 21.

10 IF COMMISSION REJECTS STIPULATION

11 The Parties recommend the Commission approve this Stipulation in its
12 entirety. The Parties have negotiated this Stipulation as an integrated document.
13 Accordingly, if the Commission rejects all or any material portion of this
14 Stipulation, each Party reserves the right, upon written notice to the Commission
15 and all Parties to this proceeding within 15 days of the date of the Commission's
16 Order, to withdraw from this Stipulation and request an opportunity for the
17 presentation of additional evidence and argument.
18

19 22.

20 COMMISSION'S APPROVAL REQUIRED

21 The Parties understand that absent the Commission's approval of this
22 Stipulation, it is not binding on the Commission.
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1 23.

2 STAY AND RELEASE

3 Upon approval of this Stipulation by the Commission, and excepting the
4 performance of any obligations provided in this Stipulation, Judy Bedsole, the
5 Trust, Fish Mill, the Intervenors, and Customer Intervenors agree that all past
6 and current claims, causes of action, or demands subject to the Commission's
7 jurisdiction involving the Water System against each other, their respective
8 officers, directors, employees, advisors, agents, representatives, or attorneys will
9 be stayed pending the Commission's entry of a Final Order pursuant to
10 Paragraph 18. Upon the entry of the Commission's Final Order, the Parties agree
11 that all such stayed actions, demands or claims as well as any alleged violations
12 of the Stipulation or any other claims, causes of action, or demands involving the
13 Water System that arose between the date of the Commission's order approving
14 the Stipulation and the date of its Final Order shall be mutually released,
15 dismissed, discharged, and waived. This paragraph shall not be interpreted,
16 however, to deny any Party any relief it may have been awarded before the
17 Commission's entry of its Final Order.
18
19
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21 24.

22 COUNTERPARTS

23 This Stipulation may be executed in multiple counterparts, each of which
24 shall be deemed an original and all of which shall constitute one agreement.
25 Facsimile or emailed signatures shall be considered the same as an original for
26 purposes of this Stipulation.

1 25.

2 ATTORNEY FEES

3 Each Party agrees to bear its own attorneys' fees and costs in relation to
4 the preparation and execution of this Stipulation. In any action or dispute
5 between the Parties that may arise out of the interpretation or performance of this
6 Stipulation, the prevailing Party in any such action or dispute, on trial before the
7 circuit court, or on appeal, shall be entitled to its attorneys' fees, costs and
8 expenses incurred in connection with such action or dispute including, without
9 limitation, all reasonable litigation costs and attorneys' fees, to be paid by the
10 losing Party as fixed by the court. However, this Paragraph 25 shall only apply to
11 the PUC to the extent such fees and costs may be available under Oregon law.
12
13

14 26.

15 PERFORMANCE OF PROVISIONS

16 The Parties agree that the Trust, acting by and through its Trustee, and
17 individuals Shawn Bedsole and Cris (Charles) Bedsole are only bound to perform
18 obligations in this Stipulation that specifically refer to their performance of the
19 same. This paragraph shall not be interpreted to require a specific reference to
20 these Parties by name, but a reference to them as the "Intervenors" or as a
21 "Party" or as "Parties" will be deemed sufficient to require their performance.
22

23 27.

24 GOVERNING LAW AND DISPUTE RESOLUTION

25 This Stipulation shall be construed and interpreted in accordance with the
26 laws of the state of Oregon. Any claims, issues, or disputes that may arise out of

1 the interpretation or performance of this Stipulation as adopted by the
2 Commission shall be resolved by the Commission so long as it retains jurisdiction
3 under applicable law. Any claims, issue, or disputes that may arise out of the
4 interpretation or performance of this Stipulation if the Commission lacks
5 jurisdiction under applicable law will be resolved in Lane County Circuit Court.
6

7 28.

8 AMENDMENTS

9 Any amendments to this Stipulation must be in writing, signed by all
10 Parties, and approved by Order of the Commission.

11 29.

12 NOTICES

13 Notice to any Party to this Stipulation shall be in writing and either
14 personally delivered or sent by certified mail, return receipt requested, postage
15 prepaid, addressed to the Party or Parties to be notified at the addresses
16 specified below unless any Party notifies the other Parties as to a change of its
17 address.
18

19 Judy Bedsole
20 P.O. Box 95
21 Westlake, Oregon 97493

Judy Bedsole, Trustee
Bedsole Family Trust
P.O. Box 95
Westlake, Oregon 97493

22 Shawn Bedsole
23 P.O. Box 95
24 Westlake, Oregon 97493

Cris Bedsole
P.O. Box 95
Westlake, Oregon 97493

25 Bonnie Lucas
26 PO Box 87
Westlake, OR 97493

Dennis & Barbara Varenas
721 Old Garden Valley Rd.
Roseburg, OR 97470

1 Don and Suzanne Durland
2 123 Oasis Drive
3 Denison, TX 75020-8857

Jason Jones
Assistant Attorney General
1162 Court Street NE
Salem, OR 97301-4096

4
5 30.

6 ENTIRE AGREEMENT

7 This Stipulation is the entire understanding of the Parties with respect to
8 its subject matter and supersedes all prior understandings, whether written or
9 oral. The Parties affirm that the information provided in this Stipulation is
10 accurate.

11 31.

12 SEVERABILITY

13
14 The validity of this Stipulation will not be affected if a particular provision is
15 determined to be unenforceable. The Parties agree to do such things as may be
16 necessary to carry out the purposes of this Stipulation including, but not limited
17 to, executing documents necessary to ensure this Stipulation as approved by the
18 Commission shall be binding on the Entity and its successors and assigns.

19 32.

20 REVIEW WITH COUNSEL

21
22 All Parties have had the opportunity to seek the assistance of legal
23 counsel in their review of this Stipulation and by their signatures below confirm
24 that they understand the legal significance of the terms and conditions contained
25 herein.
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33.

EFFECTIVE DATE

This Stipulation shall be effective as of the date of the Commission's Order approving this Stipulation.

Judy Bedsole Nov 23 20 11
Date
Judy Bedsole, as an individual and
as sole proprietor of Fish Mill Lodges Water System

BEDSOLE FAMILY TRUST

By: Judy Bedsole Trustee Nov 23 20 11
Date
Judy Bedsole, Trustee
Shawn Bedsole Nov 23, 2011
Date
Shawn Bedsole

Cris Bedsole NOV, 23, 2011
Date
Cris (Charles) Bedsole

Date
Dennis Varenas

Date
Barbara Varenas

Date
Don Durland

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STATE OF OREGON)
) ss.
County of Lane)



The foregoing instrument was acknowledged before me this 23 day of November 2011, by Judy Bedsole as an individual and as the sole proprietor of Fish Mill Lodges Water System.

Laurel Latham
NOTARY PUBLIC FOR OREGON
My Commission Expires: 6-9-2015

STATE OF OREGON)
) ss.
County of Lane)



The foregoing instrument was acknowledged before me this 23 day of November 2011, by Judy Bedsole in her capacity as the Trustee of the BEDSOLE FAMILY TRUST.

Laurel Latham
NOTARY PUBLIC FOR OREGON
My Commission Expires: 6-9-15

STATE OF OREGON)
) ss.
County of Lane)



The foregoing instrument was acknowledged before me this 23 day of November 2011, by Shawn Bedsole.

Laurel Latham
NOTARY PUBLIC FOR OREGON

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33.

EFFECTIVE DATE

This Stipulation shall be effective as of the date of the Commission's Order approving this Stipulation.

Judy Bedsole, as an individual and as sole proprietor of Fish Mill Lodges Water System _____ Date _____

BEDSOLE FAMILY TRUST

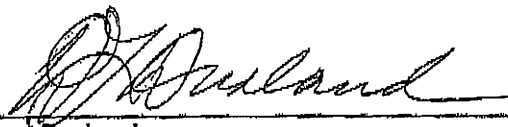
By: Judy Bedsole, Trustee _____ Date _____

Shawn Bedsole _____ Date _____

Cris (Charles) Bedsole _____ Date _____

Dennis Varenas _____ Date _____

Barbara Varenas _____ Date _____

 _____ Date 11-23-11

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Suzanne Durland _____ 11/23/2011
 Suzanne Durland _____ Date

 Bonnie Lucas _____ Date

State of Oregon, Public Utility Commission

By: _____
 Jason Jones _____ Date
 Assistant Attorney General

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STATE OF Texas)
County of Grayson) ss.

The foregoing instrument was acknowledged before me this 23rd day of November 2011, by Don Durland.



Mariela Garcia
NOTARY PUBLIC FOR OREGON Texas
My Commission Expires: 10/15/12

STATE OF Texas)
County of Grayson) ss.

The foregoing instrument was acknowledged before me this 23rd day of November 2011, by Suzanne Durland.



Mariela Garcia
NOTARY PUBLIC FOR OREGON Texas
My Commission Expires: 10/15/12

STATE OF OREGON)
County of Lane) ss.

The foregoing instrument was acknowledged before me this _____ day of November 2011, by Bonnie Lucas.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

NOV-23-2011 11:13 AM BONNIELUCAS 541 997 3664 P.02

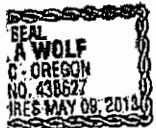
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Suzanne Durland _____ Date _____

Bonnie Lucas
Bonnie Lucas _____ 11-23-11
Date

State of Oregon, Public Utility Commission

By: _____
Jason Jones
Assistant Attorney General _____
Date



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STATE OF _____)
County of _____) ss.

The foregoing instrument was acknowledged before me this _____ day of November 2011, by Don Durland.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

STATE OF _____)
County of _____) ss.

The foregoing instrument was acknowledged before me this _____ day of November 2011, by Suzanne Durland.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

STATE OF OREGON)
County of Lane) ss.

The foregoing instrument was acknowledged before me this 23 day of November 2011, by Bonnie Lucas.

Christine A Wolf



NOTARY PUBLIC FOR OREGON
My Commission Expires: May 9, 2013



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Suzanne Durland

Date

Bonnie Lucas

Date

State of Oregon, Public Utility Commission

By: 

Jason Jones
Assistant Attorney General

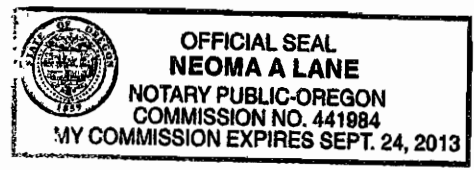
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STATE OF OREGON)
) ss.
County of Marion)

The foregoing instrument was acknowledged before me this 23rd day of November 2011, by Jason Jones, Assistant Attorney General.

Neoma A Lane
NOTARY PUBLIC FOR OREGON
My Commission Expires: Sept. 24, 2013



1 **CERTIFICATE OF SERVICE**

2 I certify that on November 23, 2011, I served the foregoing upon the parties in this
3 proceeding by electronic mail only as all the parties waived paper service.

4 **W**
5 DON DURLAND
6 123 OASIS DR
7 DENISON TX 75020-8857
8 durlandarts@texoma.net; piet@texoma.net

W
DENNIS AND BARBARA VARENAS
721 OLD GARDEN VALLEY RD
ROSEBURG OR 97470
varenas4@msn.com

7 **W**
8 BONNIE LUCAS
9 PO BOX 87
10 WESTLAKE OR 97493
11 bonnie337@oregonfast.net

W
TONKON TORP LLP
PETER D MOHR
ATTORNEY AT LAW
1600 PIONEER TOWER
888 SW FIFTH AVE
PORTLAND OR 97204
peter.mohr@tonkon.com

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15 Neoma Lane
16 Legal Secretary
17 Department of Justice
18 Business Activities Section
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