1	<b>BEFORE THE PUBLIC UTILITY COMMISSION</b>		
2	<b>OF OREGON</b>		
3	UM 1489, UM 1528, UCR 121, UCR 122, UCR 123, UCR 133, UCR 135		
4	In the Matters of		
5 6	JUDY BEDSOLE AND FISH MILL LODGES WATER SYSTEM,	STAFF'S RESPONSE TO MOTION TO STAY ORDER NO. 15-364.	
7 8	Application for Abandonment of Utility and Other Above-Referenced Dockets Relating to the Operation and Maintenance of the Fish Mill Lodges Water System.		
9 10	I. Introduction		
10	On Lange 11, 2016 Detting on file lange	the star "Order UN 1490 sta (UN 1529	
	On January 11, 2016, Petitioners filed a motion to stay "Order UM 1489 etc. (UM 1528,		
12	UCR 121, UCR 122, UCR 123, UCR 133, UCR 135) (Motion to Stay) pending a decision on		
13	Petitioners' [sic] Petition for Rehearing, Reconsideration, and Clarification (Petition)." <sup>1</sup> As an		
14	initial matter, the Petitioners do not request a stay of a Commission Order. Instead, they request		
15	a stay of dockets, many of which were held in abeyance and do not have final orders. Oregon		
16	Revised Statute (ORS) 756.561(1) and Oregon Administrative Rule (OAR) 860-001-0720 allow		
17	a party to file a petition for rehearing or reconsideration within 60 days from the date the order is		
18	served. The only order that has been issued within 60-days of the Petition is Order No. 15-364.		
19	Therefore, any motion to stay must relate to Order No. 15-364 and not all orders within the listed		
20	dockets. Petitioners' Motion to Stay Order No. 15-364 should be denied.		
21	II. Discussion		
22	Petitioners state that they "filed their Petition naively assumed [sic] that the		
23	seriousness of the issues raised therein would cause the Commission and its staff to delay		
24	enforcement of the Order " <sup>2</sup> Petitioners' assumption is odd considering that ORS 756.561(2)		
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26	<ul> <li><sup>1</sup> See Motion to Stay at 1, lines 13-18.</li> <li><sup>2</sup> See Id. at 1, lines 18-20.</li> </ul>		

Page 1 - STAFF'S RESPONSE TO PETITION FOR PREHEARING JWJ/pjr/#7096881 Department of Justice 1162 Court Street NE Salem, OR 97301-4096 (503) 947-4789 Fax: (503) 378-5300 provides that a petition for rehearing or reconsideration "shall not excuse any party against whom an order has been made by the commission for complying therewith, nor operate in any manner to stay or postpone the enforcement thereof without the special order of the commission." Similarly, OAR 860-001-0720(5) explicitly provides that "compliance with the original order is not stayed or postponed by an order granting an application for rehearing or reconsideration."

7 Petitioners' apparent claims of irreparable harm are that the actions "authorized by the Order will become an unconstitutional taking requiring compensation since the Order fails to 8 9 adequately protect Petitioners' interests and takes valuable property belonging to Petitioners and transferring it to others over Petitioners' objection<sup>3</sup> and that they "would face irreparable injury 10 11 as the Order compromises the water rights assigned to Petitioners from the Agency with 12 jurisdiction, would transfer the deeded easements that were designed to allowed [sic] the water 13 rights owned by Petitioners to be used to serve their noncontiguous property, and would prevent 14 Petitioners from a guaranteed water source since they have no guarantied [sic] right to take water from Summit Water Association or use the infrastructure taken by the PUC."<sup>4</sup> Petitioners do not 15 16 assert a colorable claim of relief and their assertions of the harm that could occur, already 17 occurred years ago because they are associated with other orders.

The Motion to Stay, for the first time in any of these related dockets, claims that Commission action would constitute an unconstitutional taking. Strangely, Petitioners make this conclusory statement, without additional support, in a Motion to Stay when they have not made such an argument in their Petition. In any event, the Motion to Stay does not even state what property has allegedly been taken, much less how it was taken. Presumably, Petitioners are for the first time claiming that their voluntary transfer of water rights and a defined water system as part of a Commission-approved stipulation constitute an unconstitutional taking. As discussed in

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<sup>3</sup> See Id. at 2, lines 5-10.
 <sup>4</sup> See Id. at lines 10-17.

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1	more detail in Staff's Response to the Petition, the applicable water rights and defined water	
2	system were voluntarily transferred years ago. In fact, Petitioners' former counsel submitted the	
3	relevant documents in compliance with the stipulation approved in Order No. 12-027 in early	
4	2012. <sup>5</sup> Petitioners' other allegations – which also regard actions taken years ago in Order No.	
5	12-027 – are without merit as discussed in Staff's Response to the Petition.	
6	III. Conclusion	
7	For the foregoing reasons, Staff respectfully requests that the Motion to Stay be denied.	
8	DATED this day of January, 2016.	
9	Respectfully submitted,	
0	ELLEN F. ROSENBLUM	
1	Attorney General	
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.3	Jason W. Jones, #000594 Assistant Attorney General	
.4	Of Attorneys for Staff of the Public Utility Commission of Oregon	
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.6	<sup>5</sup> See Petitioners' Submittal of Documents Pursuant to Order No. 12-027, filed February 29,	

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