



1 provides that a petition for rehearing or reconsideration “shall not excuse any party against  
2 whom an order has been made by the commission for complying therewith, nor operate in any  
3 manner to stay or postpone the enforcement thereof without the special order of the  
4 commission.” Similarly, OAR 860-001-0720(5) explicitly provides that “compliance with the  
5 original order is not stayed or postponed by an order granting an application for rehearing or  
6 reconsideration.”

7         Petitioners’ apparent claims of irreparable harm are that the actions “authorized by the  
8 Order will become an unconstitutional taking requiring compensation since the Order fails to  
9 adequately protect Petitioners’ interests and takes valuable property belonging to Petitioners and  
10 transferring it to others over Petitioners’ objection<sup>3</sup> and that they “would face irreparable injury  
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 guaranteed [sic] right to take water  
15 from Summit Water Association or use the infrastructure taken by the PUC.”<sup>4</sup> Petitioners do not  
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.

18         The Motion to Stay, for the first time in any of these related dockets, claims that  
19 Commission action would constitute an unconstitutional taking. Strangely, Petitioners make this  
20 conclusory statement, without additional support, in a Motion to Stay when they have not made  
21 such an argument in their Petition. In any event, the Motion to Stay does not even state what  
22 property has allegedly been taken, much less how it was taken. Presumably, Petitioners are for  
23 the first time claiming that their voluntary transfer of water rights and a defined water system as  
24 part of a Commission-approved stipulation constitute an unconstitutional taking. As discussed in  
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26 <sup>3</sup> See Id. at 2, lines 5-10.

<sup>4</sup> See Id. at lines 10-17.

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.

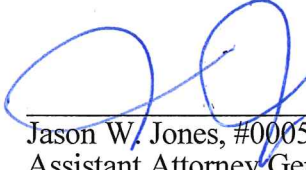
6 **III. Conclusion**

7 For the foregoing reasons, Staff respectfully requests that the Motion to Stay be denied.

8 DATED this 20th day of January, 2016.

9 Respectfully submitted,

10 ELLEN F. ROSENBLUM  
11 Attorney General

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17 Commission of Oregon  
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26 <sup>5</sup> See Petitioners' Submittal of Documents Pursuant to Order No. 12-027, filed February 29, 2012.