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6 BEFORE THE PUBLIC UTILITY COMMISSION
7 OF OREGON

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

9 IN MATTERS OF

10 JUDY BEDSOLE AND FISHMILL LODGES
11 WATER SYSTEM,

12 Application for abandonment of
13 utility and Other above referenced Dockets
14 relating to the Operation and Maintenance of the
15 Fish Mill Lodges Water System

16 PETITION FOR REHEARING,
17 RECONSIDERATION, AND
18 CLARIFICATION

19 Judy Bedsole and Fishmill Lodges Water System (Petitioners) appearing through
20 its attorney Ann Fisher hereby petitions the Commission to clarify Order 15-364 as described
21 below. Petitioners request the right to brief these issues more fully.

22 In support of its petition, Petitioners allege and state:

- 23 1. The challenged Order herein raises serious issues of law by adopting the
24 signed or partially signed stipulations referenced in the Order (hereafter the
25 “petitions”) without considering their legal ramifications.
2. In support of its petition, Petitioners state by adoption of the stipulations as
part of the Order, the Order is void abinitio in that the Commission does not
have subject matter jurisdiction over to cancel or create water rights or real

1 property deeded easements and property rights generally, and misapplied its
2 own rules in determining that Petitioners are or should have been regulated as
3 a “public utility.” ORS757.005 and 061. The Oregon State Water Resources
4 Board is the only authorized entity to determine, modify, transfer, curtail or
5 regulate water rights. *See e.g. OAR 690-017-0100 (Cancellation of Perfected*
6 *Water Rights)*. Real property law is determined by the state in its civil court
7 system pursuant to a well-developed body of law. Petitioners were not an
8 association, did not offer water service to the public directly or indirectly, and
9 were not formed as an utility, and had no intent by this arrangement to be
10 anything more than a private agreement. The private arrangement simply
11 benefitted certain identified real property *lots* to share in water taken from a
12 spring on the Bedsole property with such water use identified in a duly
13 authorized water right identifying which lots were allowed to share in the
14 water. Such water right belonged solely to Petitioners, as well as the lot upon
15 which the spring exists, and predated this circumstances described herein.

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- 19 3. By incorporating the stipulations without specific review, the Commission
20 incorporated conditions that result in leaving petitioners unable to provide
21 water to their own properties, no perpetual right to continue to have services
22 through the “Summit” water organization, no ability to use their own water
23 rights, and yet assigns a disproportionate share of costs going forward to them
24 that they should not be required to pay except as described below. The
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1 Commission is without authority or jurisdiction to cancel a water system and
2 replace it with another without due process and assuring that no one is left
3 unable to obtain necessary water.

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5 4. Petitioners request that the following be incorporated into the Order to clarify
6 that the Order is not intended as a taking, to be punitive in nature, to reduce
7 the value of the property owned by Petitioners, or to prevent Petitioners from
8 operating their business going forward.

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10 5. The specific areas for which clarification is sought are:

11 a.) That nothing in this docket or the related dockets is intended to remove,
12 limit, modify, impair or reduce Petitioners' ability to use and maintain the
13 water right granted by the Water Resources Board with respect to their
14 own properties.

15 b.) That the new "Summit Water Services" provider be required to allow
16 Petitioners to take services from Summit either for use of the delivery
17 system and infrastructure to deliver Petitioners own water to its *non-*
18 *contiguous* property or for delivery of water from Summit resources to
19 serve Petitioners" properties.

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21 c.) That Petitioners are not obligated to pay for the use of Summit services
22 any more than its equal share of the costs. If it ceases to use Summit, it
23 shall have no further economic obligations.
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1 d.) That the Commission shall retain sufficient jurisdiction over Summit
2 Water Association to assure that Petitioners can continue to use its
3 services. This is particularly important since, as stated on page 5 of 15 in
4 appendix A, there is a presumption that once the water system is
5 transferred to Summit, the Commission will no longer have jurisdiction.
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7 In describing what clarification is required, Petitioners hope to avoid having to
8 cause extensive hearings and other actions – by adopting the clarifications sought, Petitioners are
9 left with the original certificated water rights regarding water and would be “out of the picture”
10 for the provision of water to the members of the Summit Water Association -- except for
11 receiving water from Summit Water Association. Petitioners were not invited to be members of
12 the association and without an identified right to be served, cannot count on the ability to
13 continue being served in the future potentially leaving them entirely unable to have the majority
14 of their property unable to have water for their properties at all. If the clarifications are not
15 adopted, Petitioners ask that these matters be reopened so that any stipulation is actually
16 accepted by all, to reexamine the basis of the commission stripping Petitioners of deeded
17 property rights, personal property, and its water right in light of its lack of subject matter over the
18 same. Irreparable Injury will thus be avoided if Petitioners’ Requests are granted. Petitioners
19 reserve the right to brief these matters or request rehearing.
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23 Dated this 5th day of January, 2016.

24 /s/ Ann Fisher
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