



# Oregon

Theodore R. Kulongoski, Governor

## Public Utility Commission

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August 1st, 2006

OREGON PUBLIC UTILITY COMMISSION  
ATTENTION: FILING CENTER  
PO BOX 2148  
SALEM OR 97308-2148

RE: **Docket No. WJ 8** - In the Matter of CROOKED RIVER RANCH WATER  
COMPANY Investigation Pursuant to ORS 756.515 to Determine  
Jurisdiction.

Enclosed for electronic filing in the above-captioned docket is the Public Utility  
Commission Staff's DirectTestimony.

*/s/ Kay Barnes*

Kay Barnes

Regulatory Operations Division

Filing on Behalf of Public Utility Commission Staff

(503) 378-5763

Email: [kay.barnes@state.or.us](mailto:kay.barnes@state.or.us)

c: WJ 8 Service List - parties

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**PUBLIC UTILITY COMMISSION  
OF OREGON**

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**WJ 8**

**STAFF DIRECT TESTIMONY OF**

**Kathy Miller  
Michael Dougherty**

**In the Matter of  
CROOKED RIVER RANCH WATER COMPANY  
Investigation Pursuant to ORS 756.515 to Determine  
Jurisdiction.**

**August 1, 2006**

CASE: WJ 8  
WITNESS: KATHY MILLER

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 100**

**Direct Testimony**

**August 1, 2006**

1 **Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.**

2 A. My name is Kathy Miller. I am the Senior Water Utility Analyst for the Oregon  
3 Public Utility Commission (Commission). My business address is 550 Capitol  
4 Street NE, Suite 215, Salem, Oregon 97301-2551.

5 **Q. PLEASE DESCRIBE YOUR QUALIFICATIONS AND WORK EXPERIENCE.**

6 A. I have been with the Commission since 1987 and have participated in water utility  
7 dockets involving rate filings, finance applications, property dispositions, exclusive  
8 service territory, adequacy of service, water and wastewater rulemakings, and  
9 affiliated interest matters.

10 **Q. DID YOU PREPARE AN EXHIBIT FOR THIS DOCKET?**

11 A. Yes. I prepared Staff Exhibit 100 (Staff/100, Direct Testimony), and Staff  
12 Exhibit 101(Staff/101). Staff Exhibit 101 contains two attachments in support of  
13 the Direct Testimony. Attachment A is copies of the original petitions. Attachment  
14 B is Staff's worksheet in determining the number of valid petitions.

15 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

16 A. The purpose of my testimony is to provide information regarding Crooked River  
17 Ranch Water Company (CRRWC), the Commission petition process, and the  
18 steps Staff undertook to verify the validity of the petitions.

19 **Q. WHAT IS YOUR SUMMARY RECOMMENDATION?**

A. CRRWC is subject to the Commission's jurisdiction because the Commission has  
received and verified member petitions, requesting Commission regulation, in  
excess of the 20 percent threshold established in ORS 757.063.

**CROOKED RIVER RANCH WATER COMPANY AND THE COMMISSION HISTORY****1 Q. PLEASE PROVIDE BACKGROUND INFORMATION REGARDING CRRWC.**

2 A. CRRWC was formed as a nonprofit mutual benefit corporation in April 1977.

3 The Articles of Incorporation state that the purpose of the corporation is “providing  
4 domestic and irrigation water to portions of Crooked River Ranch . . . and other  
5 adjacent properties that may be developed by Crooked River Ranch, a limited  
6 partnership. This corporation is also organized for the purpose of obtaining a  
7 tax exemption.”

**8 Q. PLEASE BRIEFLY SUMMARIZE THE INTERACTIONS BETWEEN CRRWC  
9 AND THE COMMISSION.**

10 A. In 1999, after receiving customer claims that CRRWC was serving customers  
11 outside its membership (in particular water hauler customers); the Commission  
12 Staff began an informal investigation of CRRWC. The issue was whether  
13 CRRWC was operating as a members-only water association.

**14 Q. WHAT HAPPENS WHEN A WATER ASSOCIATION IS SERVING  
15 NONMEMBERS?**

16 A. Oregon statutes provide that an association serving nonmembers is subject to  
17 Commission jurisdiction.

**18 Q. DID THE COMMISSION MAKE A DECISION REGARDING JURISDICTION  
19 OF CRRWC?**

20 A. No. On January 12, 2000, Staff notified CRRWC by letter that Commission would  
21 defer a recommendation regarding assertion of authority, but would revisit the  
22 issue after the Board of Directors election in 2001. However, after January 12,

1 2000, Staff continued to receive complaints from members of CRRWC who stated  
2 they were not being accorded the full rights and privileges of membership. The  
3 complaints included such matters as illegally changing the bylaws, members not  
4 being allowed to attend meetings, and members not receiving ballots. The  
5 complaints again raised a substantial question of whether CRRWC was actually  
6 operating as a members-only water utility.

7 **Q. WHAT ACTION DID THE COMMISSION TAKE?**

8 A. On September 27, 2001, Commission opened a formal jurisdictional investigation  
9 of CRRWC, UM 1036.

10 **Q. WHAT WERE THE PARTIES POSITIONS?**

11 A. Staff contended that CRRWC was not acting as a member-only utility. CRRWC  
12 maintained that it was a members-only organization serving itself and not the  
13 general public. CRRWC stated that the member complaints regarding the manner  
14 in which CRRWC is operated can be addressed by the board of directors.

15 **Q. WHAT WAS THE RESULTS OF THE FORMAL INVESTIGATION?**

16 A. On February 13, 2003, the Commission issued a final Order, No. 03-116,  
17 (Docket UM 1036). The Commission found that CRRWC was not a public utility,  
18 and was not subject to Commission regulation.

19 **THE COMMISSION PETITION PROCESS**

20  
21 **Q. WHY IS THE COMMISSION READDRESSING CRRWC'S JURISDICTIONAL  
22 STATUS AT THIS TIME?**

23 A. On February 23, 2006, the Commission began receiving petitions from CRRWC  
24 members requesting the Commission to regulate CRRWC.

1 **Q. DO MEMBERS OF WATER ASSOCIATIONS HAVE THE RIGHT TO PETITION**  
2 **THE COMMISSION FOR UTILITY REGULATION?**

3 A. Yes, the 2003 Legislature enacted ORS 757.063, which states:

4 (1) Any association of individuals that furnishes water to members of  
5 the association is subject to regulation in the same manner as provided  
6 by this chapter for public utilities, and must pay the fee provided for in  
7 ORS 756.310, if 20 percent or more of the members of the association  
8 file a petition with the Public Utility Commission requesting that the  
9 association be subject to such regulation.

10 (2) The provisions of this section apply to an association of individuals  
11 even if the association does not furnish water directly to or for the  
12 public. The provisions of this section do not apply to any cooperative  
13 formed under ORS Chapter 62 or to any public body as defined by  
14 ORS 174.109

15  
16 **Q. HOW MANY PETITIONS HAS STAFF RECEIVED REQUESTING THE**  
17 **COMMISSION REGULATE CRRWC?**

18 A. To date Staff has received 603 petitions.

19 **Q. IS THE COMMISSION STILL ACCEPTING PETITIONS FROM CRRWC**  
20 **ASSOCIATION MEMBERS REQUESTING UTILITY REGULATION OF CRRWC?**

21 A. Yes. Association members may submit petitions for Commission regulation at  
22 any time. However, petitions are effective for six months from the date the  
23 Commission receives the petition.

24 **Q. WAS THE PURPOSE OF THE PETITIONS STATED ON THE PETITIONS?**

25 A. Yes. All the petitions received by the Commission had one of the following three  
26 headings:

27 (1) The undersigned members and customers of the Crooked River  
28 Ranch Water Company request that the Public Utility Commission take  
29 jurisdiction over the Crooked River Ranch Water Company and require  
30 that its management and operations comply with the laws and

1 regulations applicable to public utilities providing water service in the  
2 state of Oregon.

3  
4 In making this Petition, the undersigned affirm:

5  
6 The Company's Bylaws effectively prevent the members from having  
7 any meaningful participation in the Company's affairs.

8  
9 That the Company's Bylaws permit directors and employees to perform  
10 contract work for the Company without the necessity of competitive  
11 bids.

12  
13 That the Company's Directors have been unresponsive and  
14 uncooperative in responding to member complaints or requests for  
15 information concerning Company operations, finances and policy.

16  
17 That it would be burdensome and ineffective for individual members to  
18 instigate litigation concerning their individual grievances concerning  
19 misuse of Company resources, differences in terms of utility services,  
20 and other matters that are the fundamental purpose of laws and  
21 regulations of this state governing the provision of utility service.

22  
23 (2) We the undersigned request that the Oregon Commission take  
24 under its regulation the Crooked River Ranch Water Company as  
25 provided in HB 2226, Section 3, signed into law in 2003 (ORS  
26 757.061), which specifies that an association that provides water  
27 to members of the association and that is not a public utility may  
28 be regulated as a public utility upon petition of 20 percent of the  
29 membership of the association.

30  
31 (3) Reason for this Petition: Request Commission to Regulate  
32 CRRWC.

33  
34 **Q. IN STAFF'S OPINION, WAS THE PURPOSE OF THE PETITIONS CLEARLY**  
35 **STATED?**

36 A. Yes.

37 **Q. DO THE PETITIONS COMPLY WITH THE REQUIREMENTS FOR**  
38 **ASSOCIATION MEMBER PETITION REQUIREMENTS?**



- 1 A. Yes. The petition requirements for ORS 757.063 are found in OAR 860-036-0412.  
2 A petition must be writing, state the purpose of the petition, and include the  
3 member's name, signature, address, and telephone number. However, Staff  
4 will include a petition when it does not list a telephone number.

5 **STAFF VERIFICATION OF PETITIONS**

6 **Q. WHAT PROCESS DID STAFF UNDERTAKE TO VERIFY THE VALIDITY OF**  
7 **THE PETITIONS?**

- 8 A. In order to verify the petitions, Staff requested CRRWC's March 2006 billing  
9 records (including each members' name, account number, mailing address,  
10 service address, and monthly billing). Upon receipt of CRRWC's March billing  
11 information, Staff compared its spreadsheet of the original petitions to the  
12 Company's current information. Staff compared the petition names and addresses  
13 with the Company's named accounts, billing addresses, and service addresses.

14 Staff's research was originally hampered by an address change previously  
15 completed by Jefferson County that affected many CRRWC members. The  
16 majority of the address information on the petitioners provided by CRRWC's in  
17 its March billings displayed the old addresses prior to the address change. Staff  
18 contacted Jefferson County, Crooked River Ranch Club and Maintenance  
19 Association, Crooked River Ranch Realty, and over 100 CRRWC  
20 members verifying addresses.

21 **Q. WHAT KIND OF COMMENTS DID STAFF RECEIVE IN RESPONSE TO ITS**  
22 **CALLS TO CRRWC MEMBERS?**

- 23 A. In Staff's discussions with the members:

- 1 1. Some members contacted expressed relief that Commission was involved.
- 2 2. Some members relayed complaints regarding the management and operation
- 3 of CRRWC.
- 4 3. One member wished to rescind the petition. However, withdrawal or
- 5 rescinding petitions is not permissible in order to protect members from
- 6 harassment or intimidation to change their minds.
- 7 4. One member didn't remember signing the petition, but the name matched an
- 8 account number and the member confirmed the address.

9 **Q. WHEN DID STAFF CONCLUDE THAT IT HAD RECEIVED ENOUGH PETITIONS**  
10 **TO MEET THE CRITERIA OF 20 PERCENT?**

- 11 A. On April 6, 2006, Staff's verification of the petitions reached 312 valid petitions,
- 12 meeting the criteria of 20 percent of the association membership. Based on
- 13 CRRWC's March billing records, CRRWC had 1552 accounts or members. Twenty
- 14 percent of 1552 equals 310.4 or 311 members. On that date (April 6, 2006), Staff
- 15 had not reviewed the entire quantity of petitions received. Staff currently continues
- 16 to review petitions as they are received.

17 **Q. WHEN WAS CROOKED RIVER NOTIFIED THAT THE 20 PERCENT PETITION**  
18 **REQUIREMENT HAD BEEN MET?**

- 19 A. On April 28, 2006, Staff informed CRRWC in writing that the Commission had
- 20 received and validated petitions from more than 20 percent of CRRWC members
- 21 requesting Commission regulation. The letter also informed CRRWC that it had 30
- 22 days to request a hearing to challenge Staff's finding.

1 **Q WHAT IS THE RESULTS OF STAFF'S VERIFICATION PROCESS AS OF**  
2 **AUGUST 1, 2006?**

3 A. Following is Staff's Findings:

4 Petitions Received: 603

5 No. of Petitions Required to Meet 20 Percent: 312

6 Valid Petitions: 397

7 Questionable Petitions (not counted): 14

8 Rejected Petitions (not counted): 22

9 **Q. DID STAFF DO ANY RESEARCH TO VERIFY IF THE PERSON SIGNING**  
10 **THE PETITION HAD AUTHORITY TO DO SO?**

11 A. Yes. According the information provided to Staff by the Company, all water  
12 users are members of the Crooked River Ranch Water Company. By comparing  
13 the petition names and address with the names and addresses on CRRWC  
14 current billing information, Staff was able to locate the CRRWC's current account  
15 and the name attached to that account.

16 **Q. DID STAFF COUNT DUPLICATE PETITIONS FROM THE SAME PERSON?**

17 A. No. Staff did not count duplicate petitions from the same person for the same  
18 account. Staff did not count multiple petitions signed by other qualified individuals  
19 at the same service address. Petitions were limited to one petition per account  
20 per service address. Member petitions with multiple accounts/service addresses  
21 were counted as multiple petitions.

22 **Q. WHAT OTHER ADJUSTMENTS DID STAFF MAKE TO THE PETITIONS?**

23 A. Staff made the following adjustments to the petitions:

- 1 1. Staff did not accept petitions where an address was not given or available.
- 2 2. Staff did not accept petitions from people who did not receive water (have
- 3 an account) from CRRWC based on the Company's own billing records.
- 4 3. Staff did not accept petitions from tenants whose names were not on the
- 5 account unless there was no stated objection from the landowner/member.

6 **Q. DID STAFF CONCLUDE THAT 20 PERCENT OR MORE OF CRRWC MEMBERS**  
7 **PETITIONED THE COMMISSION FOR REGULATION OF CRRWC?**

8 A. Yes.

9 **Q. HOW MANY WATER SYSTEMS HAVE BEEN BROUGHT UNDER COMMISSION**  
10 **REGULATION BY THE PETITION PROCESS?**

11 A. Of the current 29 rate-regulated water utilities, approximately 21 of those utilities  
12 came under the Commission's utility regulation by a petition process. The other  
13 utilities came under regulation when they exceeded 500 customers.

14 **Q. HOW MANY WATER ASSOCIATIONS HAVE BEEN BROUGHT UNDER**  
15 **COMMISSION REGULATION BY THE PETITION PROCESS?**

16 A. CRRWC is the second association where the members have petitioned the  
17 Commission for water utility regulation. The first association was Metolius  
18 Meadows Property Owners Association, now a regulated water utility.

19 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

20 A. Yes.

CASE: WJ 8  
WITNESS: Michael Dougherty

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 200**

**Direct Testimony**

**August 1, 2006**

1 **Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS**  
2 **ADDRESS.**

3 A. My name is Michael Dougherty. I am employed by the Public Utility  
4 Commission of Oregon as Program Manager, Corporate Analysis and Water  
5 Regulation in the Economic Research and Financial Analysis section of the  
6 Utility Program. My business address is 550 Capitol Street NE, Salem, Oregon  
7 97301-2551.

8 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND WORK**  
9 **EXPERIENCE.**

10 A. My Witness Qualification Statement is found in Exhibit Staff/201.

11 **Q. DID YOU PREPARE AN EXHIBIT FOR THIS DOCKET?**

12 A. Yes. I prepared Exhibit Staff/202, consisting of 4 pages.

13 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

14 A. The purpose of my testimony is to discuss recent efforts by Crooked River  
15 Ranch Water Company's (CRRWC) to become a cooperative.

16 **SUMMARY RECOMMENDATION**

17 **Q. WHAT IS YOUR SUMMARY RECOMMENDATION?**

18 A. CRRWC is subject to regulation once 20 percent of CRRWC customers submit  
19 valid petitions. As such, CRRWC can not transfer the utility assets to form a  
20 cooperative absent Commission's approval pursuant to ORS 757.480.



1 sent a Notice of Intent to Assert Financial and Service Regulatory Authority to  
2 CRRWC on April 28, 2006. See Staff/202, Dougherty/1 and 2.

3 **Q. DID CRRWC FILE A CHANGE OF STATUS WITH THE SECRETARY OF**  
4 **STATE'S OFFICE?**

5 A. Yes. On July, 5, 2006, CRRWC filed documents with the Secretary of State's  
6 Office allegedly changing the filing status of the Crooked River Ranch Water  
7 Company from a Nonprofit Corporation, Mutual Benefit with Members to a  
8 cooperative.<sup>2</sup>

9 **Q. DOES THE COMMISSION HAVE JURISDICTION OVER**  
10 **COOPERATIVES?**

11 A. No, unless the cooperative serves outside its membership. One could suspect  
12 that the efforts to form a cooperative may be to avoid the Commission  
13 regulation petitioned by CRRWC's customers.

14 **Q. WHAT IS STAFF'S VIEW OF CRRWC ATTEMPT TO FORM A**  
15 **COOPERATIVE?**

16 A. Staff has no opinion on efforts by CRRWC to form a cooperative. However,  
17 once sufficient petitions have been filed by customers requesting Commission  
18 regulation, CRRWC became a regulated utility. CRRWC regulatory status  
19 would change if CRRWC is able to demonstrate to the Commission's  
20 satisfaction that the results of the petition process are in error.

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<sup>2</sup> Crooked River Ranch Water Cooperative Pre-Hearing Brief, WJ 8, page 2.



1     **Q. WHAT DOES THE PETITION PROCESS IMPLY WITH REGARDS TO**  
2     **CRRWC'S EFFORTS TO FORM A COOPERATIVE?**

3     A. Since 20 percent or more of the members filed petitions with the Commission  
4     requesting that CRRWC be regulated, CRRWC is currently under regulation of  
5     the Commission and must comply with Chapter 757 of the Oregon Revised  
6     Statutes, including ORS 757.480, *Approval needed prior to disposal, mortgage,*  
7     *or encumbrance of certain operative utility property or consolidation with*  
8     *another public utility; exceptions.*

9             Staff's April 28, 2006, letter to CRRWC asserting jurisdiction stated that  
10     CRRWC has the right to dispute whether the 20 percent threshold has been  
11     met, including challenging the validity of the filed petitions, and formally request  
12     a hearing within 30 days from the date of the letter. See Staff/202, Dougherty/1  
13     and 2. Unless the filed petitions are invalidated by the Commission, CRRWC  
14     can not dispose of assets without approval from the Commission.

15             In addition, Staff has previously (during investigation of First Hill Water  
16     Company, UW54/UM 887, Commission Order No. 97-432) taken the position  
17     that a company cannot avoid its legal obligation under the Commission's  
18     statutes by declaring itself to be a cooperative. See Staff/202, Dougherty/3.

19     **Q. EVEN BEFORE THE JULY 5, 2006, FILING WITH THE SECRETARY OF**  
20     **STATE'S OFFICE TO ORGANIZE AS A COOPERATIVE, WASN'T**  
21     **CRRWC A COOPERATIVE BECAUSE OF ITS TAX FILINGS UNDER**  
22     **IRC 501(C)(12)?**

1 A. No. Although the Company is able to file taxes under IRC 501(c)(12), the  
2 Internal Revenue Service (IRS) has never distinguished the terms “mutual” or  
3 “cooperative” for purposes of IRC 501(c)(12).<sup>3</sup> Additionally, the IRS does not  
4 require a cooperative to organize under a state cooperative statute to file under  
5 I.R.C. 501(c)(12).<sup>4</sup> As a result, the Company was able to file its taxes under  
6 IRC 501(c)(12) because it is a Nonprofit Corporation, Mutual Benefit with  
7 Members and not because it is a cooperative.

8 **Q. WHAT IS STAFF’S CONCLUSION CONCERNING THE ABILITY OF**  
9 **CRRWC TO DISPOSE OF ASSETS AND FORM A COOPERATIVE**  
10 **WITHOUT THE COMMISSION’S APPROVAL?**

11 A. CRRWC member customers petitioned the Commission for regulation in  
12 accordance with ORS 757.063. Subject to Commission hearings and a finding  
13 otherwise, the Commission has received more than the required petition  
14 amount of 20 percent; therefore, CRRWC can not dispose of assets and  
15 transfer these assets to a cooperative without the Commission’s approval  
16 pursuant to ORS 757.480. As previously mentioned, CRRWC was a Nonprofit  
17 Corporation, Mutual Benefit with Members when member customers petitioned  
18 for regulation under ORS 757.063, and a Nonprofit Corporation, Mutual Benefit  
19 with Members when Staff sent its Notice of Intent to Assert Financial and  
20 Service Regulatory Authority to CRRWC on April 28, 2006. As a result,

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<sup>3</sup> GENERAL SURVEY OF I.R.C. 501(c)(12) COOPERATIVES AND EXAMINATION OF CURRENT ISSUES, Michael Seto and Cheryl Chasin, 2002 EO CPE Text, page 175.

<sup>4</sup> *Ibid*, page 183.

1 CRRWC's transfer of assets to a cooperative is void without the Commission's  
2 approval.

3 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

4 A. Yes.

CASE: WJ 8  
WITNESS: Michael Dougherty

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 201**

**Witness Qualification Statement**

**August 1, 2006**

**WITNESS QUALIFICATION STATEMENT**

NAME: MICHAEL DOUGHERTY

EMPLOYER: PUBLIC UTILITY COMMISSION OF OREGON

TITLE: PROGRAM MANAGER, CORPORATE ANALYSIS AND WATER REGULATION

ADDRESS: 550 CAPITOL ST. NE, SALEM, OR 97310-1380

EDUCATION: Master of Science, Transportation Management, Naval Postgraduate School, Monterey CA (1987)

Bachelor of Science, Biology and Physical Anthropology, City College of New York (1980)

EXPERIENCE: Employed with the Oregon Public Utility Commission as the Program Manager, Corporate Analysis and Water Regulation. Also serve as Lead Auditor for the Commission's Audit Program.

Performed a five-month job rotation as Deputy Director, Department of Geology and Mineral Industries, March through August 2004.

Employed by the Oregon Employment Department as Manager - Budget, Communications, and Public Affairs from September 2000 to June 2002.

Employed by Sony Disc Manufacturing, Springfield, Oregon, as Manager – Manufacturing; Manager - Quality Assurance; and Supervisor - Mastering and Manufacturing from April 1995 to September 2000.

Retired as a Lieutenant Commander, United States Navy. Qualified naval engineer.

CASE: WJ 8  
WITNESS: Michael Dougherty

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**STAFF EXHIBIT 202**

**Exhibit in Support of Testimony**

**August 1, 2006**



# Oregon

Theodore R. Kulongoski, Governor

Staff / 202  
Dougherty / 1

## Public Utility Commission

550 Capitol Street NE, Suite 215

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Salem, OR 97308-2148

Consumer Services

1-800-522-2404

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503-373-7394

April 28, 2005

RICK KEEN, PRESIDENT  
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BRIAN ELLIOTT, DIRECTOR  
PMB 313, 1604 S HWY 97 #2  
REDMOND OR 97756

### CERTIFIED MAIL

TO THE BOARD OF DIRECTORS OF CROOKED RIVER RANCH WATER  
COMPANY

### NOTICE OF INTENT TO ASSERT FINANCIAL AND SERVICE REGULATORY AUTHORITY

Member customers of the Crooked River Ranch Water Company (CRRWC) have filed petitions with the Public Utility Commission of Oregon (Commission) requesting regulation of CRRWC. According to Oregon Revised Statute ORS 757.063 and Oregon Administrative Rule OAR 860-036-0412, if 20 percent or more of an association's members petition PUC for regulation; the Commission must issue an order declaring the association a financially regulated public utility.

The Commission has received petitions from more than 20 percent of the association members that request regulation of CRRWC. This letter is notification of the Commission's intent to assert its authority and regulate CRRWC for rates and service.

CRRWC has the right to dispute whether the 20 percent threshold has been met, including challenging the validity of the filed petitions, and formally request a hearing within 30 days from the date of this letter. The request for hearing must



be in writing and provide an explanation of CRRWC's reasons for requesting a hearing and list the grounds for challenging the validity of the petitions.

To request a hearing on this matter, the written request must be mailed (within 30 days of the date of this letter) to:

PUBLIC UTILITY COMMISSION  
ADMINISTRATIVE HEARINGS DIVISION  
PO BOX 2148  
SALEM, OR 97308-2148

Commission Staff has arranged a Town Hall-style Public Information Meeting in your area to provide factual information and answer questions regarding Commission regulation. All members, homeowners, and the public are invited to attend. A Notice of Public Information Meeting is attached.

If CRRWC does not respond in writing to the Commission within the 30-day period, the Commission will issue an order asserting jurisdiction.

If you have any questions, please contact Michael Dougherty at 503-378-3623 or [michael.dougherty@state.or.us](mailto:michael.dougherty@state.or.us).



Marc Hellman  
Administrator  
Economic Research and Financial Analysis Division  
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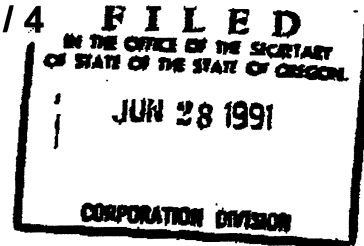
cc: Michael Dougherty  
Kathy Miller  
Renee Sloan  
Jason Jones  
Rick Willis  
Crooked River Ranch Water Company  
Property Owners and CRRWC Members  
Richard L. Larson  
David C. Glenn



	authorized PacifiCorp to bill interim operator for power costs, effective 8/5/97.
July 8, 1997	Letter w/attachments from Darrell Lee to FHW water users in response to Order No. 97-240. Lee acknowledges he refused to participate in rate case, converted system to cooperative, and all property owners who have paid for the right to water is now an owner of the system. As acting president of both First Hill Water, Inc. and First Hill Water Cooperative Darrell Lee appoints Tom Oblizalo to chair the election committee for Board of Directors.
July 14, 1997	Staff memo to ALJ Ruth Crowley, Mike Myers, Phil Nyegaard, and Paul Graham. Memo enclosed documents from Darrell Lee that were faxed to staff on July 14, 1997. Documents include Darrell Lee's July 8, 1997 letter to customers, Darrell Lee's July 9, 1997 letter to Tom Oblizalo, in part, suggesting how to nominate and vote for Board of Directors, and Amended Article of Incorporation to cooperative, quit claim deed, and contract for recovery of capital expenditures.
July 23, 1997	Staff letter to FHW customers & all parties, in response to Darrell Lee's July 8, 1997 letter. Staff states in part that Paul Graham (DOJ) advises staff that First Hill cannot avoid its legal obligation to provide water service simply by declaring the utility to be a cooperative. If Mr. Lee's view of the law were correct, than a major electric utility like PGE or PacifiCorp could walk away from its service obligations in a given area by simply declaring customers in those areas to be members of a cooperative form by the electric utility. Customers may form a cooperative if they choose; however Lee may not unilaterally form a cooperative on your behalf, compel you to become members, and thereby avoid the obligation of the utility to serve. FHW's obligation remains in place until the customers agree to form a cooperative or water district, another utility or the City of Bend decides to take over FHW's service obligation. Discusses Lee's proposed capital recovery fee. FHW has not applied for property disposition to PUC as required by law. Explains staff recommendation to appoint agents to operate the system.
August 5, 1997	Commission special public meeting staff recommends agents to run system for period of one year. Commission adopts staff's recommendation.
August 13, 1997	Staff letter to FHW water users and lot owners of First Hill subdivision, interested parties. Staff sends first billing for

120921-10

**CROOKED RIVER RANCH WATER COMPANY  
ARTICLES OF AMENDMENT**



**I.**

Names of the Corporation prior to Amendment: **CROOKED RIVER RANCH WATER COMPANY.**

**II.**

The following Articles are added as additional Articles and included as Articles of Incorporation:

A. Any member who withdraws or is terminated shall be entitled to received he equitable interest in the Corporation and said interest shall not be forfeited.

B. All funds accumulated in the Corporation that are not necessary to meet current losses and operating expenses, shall be retained only to the extent of this Corporation's reasonable needs for normal business purposes, which shall include but not be limited to, retiring indebtedness, expansion of the water delivery system, improvement of the water delivery system, maintaining reserves for construction and replacement of existing service lines, pumps, water storage facilities, or other anticipated capital improvements. Funds in excess of reasonable need, shall be distributed to the members in proportion to the amount of business provided the members with the Corporation.

C. The Corporation shall maintain records that show the amount of business done by each member on the basis of its annual accounting period and of each member's rights and interest in the assets of the Corporation.

D. Upon the dissolution of the Corporation, if the Corporation has gains from the sale of an appreciated asset, it shall distribute to the extent practical, the gains as well as other funds, to all persons who were members during the period and time which the asset was purchased and owned by the Corporation in proportion to the amount of business done by such members during that period.

**III.**

In no event shall the By-Laws or Articles of this Corporation allow one person to act as a majority and under no circumstances shall one person constitute a majority for the purposes of the By-Laws of this Corporation.

These Articles of Amendment were adopted by the majority of directors in office at a meeting held on the 18 day of JUNE, 1991.

Dick Braund  
Title: President

Person to contact about this filing:

**DAVID C. GLENN**  
Attorney for this Corporation  
406 Fifth Street

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-1- **CROOKED RIVER RANCH WATER COMPANY  
ARTICLES OF AMENDMENT**

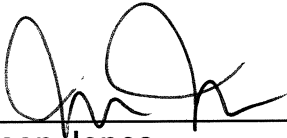
**GLENN, SITES & REEDER**  
ATTORNEYS AT LAW  
406 Fifth Street, Medford, OR 97741 Ph. (503) 475-2272  
Fax: (503) 475-3944

# CERTIFICATE OF SERVICE

**WJ 8**

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-13-0070, to the following parties or attorneys of parties.

Dated at Salem, Oregon, this 1st day of August, 2006.



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Jason Jones  
Assistant Attorney General  
Of Attorneys for Public Utility Commission's Staff  
1162 Court Street NE  
Salem, Oregon 97301-4096  
Telephone: (503) 378-6322

**WJ 8**  
**Service List (Parties)**

<b>DEPARTMENT OF JUSTICE</b>  JASON W JONES ASSISTANT ATTORNEY GENERAL	REGULATED UTILITY & BUSINESS SECTION 1162 COURT ST NE SALEM OR 97301-4096 jason.w.jones@state.or.us
<b>GLENN SITES &amp; REEDER LLP</b>  DAVID C GLENN ATTORNEY	205 SE 5TH ST MADRAS OR 97741-1632 gsr-dcg@crestviewcable.com
<b>OREGON PUBLIC UTILITY COMMISSION</b>  MARC HELLMAN ADMINISTRATOR	PO BOX 2148 SALEM OR 97308-2148 marc.hellman@state.or.us
<b>PUBLIC UTILITY COMMISSION OF OREGON</b>  MICHAEL DOUGHERTY	550 CAPITOL ST NE - STE 215 SALEM OR 97301 michael.dougherty@state.or.us