

ORDER NO. 02-194

ENTERED MAR 26 2002

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

WA 70

In the Matter of the Application by)
Illahe Estates Water System, Inc. for)
Allocation of Exclusive Territory to)
Provide Water Service, Pursuant to)
ORS 758.300 Through ORS 758.320.)

ORDER

DISPOSITION: APPLICATION GRANTED

On January 22, 2002, Illahe Estates Water System, Inc. (applicant) filed under Oregon Administrative Rule 860-036-0900 an application with the Public Utility Commission (Commission) for an allocation of exclusive territory for the provision of water service. Applicant is requesting allocation of the service territory it adequately and exclusively served on October 23, 1999. See ORS 758.300, and Section 2 to 4, Chapter 695, Oregon Laws 1999. The territory sought is described in Appendix A. The Commission gave notice of the application on August 3, 2001, as required by Chapter 695, Oregon Laws 1999, Section 2(2). No requests for hearing were filed.

Applicant is an investor owned utility that provides water service to approximately 189 customers in the area beginning at the northwest corner of the J. M. Townsend Donation Land Claim #74, in Township 7 South, Range 3 west of the Willamette Meridian; an area bounded by Illahe Hill Road, the Burlington Northern Railroad tracks, Brown Island Road, and the Willamette River; in Marion County, Oregon.

Based on its investigation, the Commission finds that the applicant was adequately and exclusively serving the territory described in Appendix A and covered by the current service territory application on October 23, 1999.

FINDING OF FACTS

Merits of the Application

Staff's analysis of the company's application indicates that the company has met the criteria required to demonstrate that the company adequately and exclusively provided water service to its current service territory as required in OAR 860-036-0900 through OAR 860-036-0930.

The criteria are:

- 1) Service Quality
The Commission Consumer Services Division had no record of complaints on Illahe.
- 2) Water Quality
The website for the Oregon Department of Human Services Drinking Water Program had eleven violations listed from January 1994 through January 2001 (two lead and copper sampling; three nitrate non-reporting; three coliform non-reporting; and three consumer confidence report). The single enforcement action taken in 1997 shows a return to compliance by the deadline issued. Given the lack of enforcement action in the other matters, this record does not prevent approval, in my opinion.
- 3) Water Capacity
Illahe has 188 residential and 1 commercial/industrial customers. Average demand was 124,262 gallons per day (gpd). Peak demand was 310,000 gpd. The pumping capacity is 320,000 gpd. The utility has permit number LL0535 conveying five years of temporary water rights (beginning August 2001) to the two wells serving the system. A permanent permit application is being processed. Also, there is a storage tank with a 150,000-gallon capacity in the system.
- 4) Technical Ability
Dave Hoiland, system manager, holds the following certifications: Water Treatment Level 1, Water Distribution Level 2, Cross Connection Inspector, and Back Flow Tester.
- 5) Exclusive Service
A statutory warranty deed with applicable easement references was submitted turning over all system real property to Illahe.
- 6) Reasonable Rates
Illahe's current rates were approved in Docket UW 78 under Order No. 02-124.

OPINION

Jurisdiction

ORS 757.005 defines a public utility as “ any corporation, company, individual, association of individuals, or its lessees, trustees or receivers, that owns, operates, manages or controls all or a part of any plant or equipment in this state for the production, transmission, delivery or furnishing of . . . water . . . directly or indirectly to or for the public.”

ORS 758.300 defines a water utility as " any corporation, company, individual or association of individuals, or its lessees, trustees, or receivers, that owns, operates, manages or controls all or a part of any plant or equipment in this state for the production, transmission, delivery or furnishing of water, directly or indirectly to or for the public, whether or not such plant or equipment or part thereof is wholly within any town or city. "Water utility" does not include a municipal corporation.”

Applicable Law

The 1999 Oregon Legislature enacted ORS 758.300 through 758.320, which provide that all public water utilities must file an application with the Commission seeking an order designating the service territory that the utility served adequately and exclusively on October 23, 1999, as exclusive service territory.

On April 11, 2000, the Commission adopted rules (AR 370) governing the allocation of exclusive service territory to water utilities. Oregon Administrative Rules 860-036-0900 through OAR 860-036-0930 specify the service territory application requirements and processes necessary to meet the requirements of ORS 758.300 through ORS 758.320.

Disposition

Applicant has met the service territory requirements and processes set out in OAR 860-038-0900 through OAR 860-036-0930 and is entitled to the exclusive territory described in Appendix A.

CONCLUSIONS

1. The Company is a public utility subject to the service territory jurisdiction of the Public Utility Commission.

2. The utility meets the requirements set out in OAR 860-036-0900 through OAR 860-036-0930.
3. The Company meets the requirements of ORS 758.300 through ORS 758.320.
4. The Application should be granted.

ORDER

IT IS ORDERED that the application of Illahe Estates Water System, Inc. for exclusive service territory as allocated to the applicant and set forth in Appendix A is granted.

Made, entered, and effective _____.

John Savage
Director
Utility Program

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements of OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party to a hearing may appeal this order to a court pursuant to applicable law.

APPENDIX A

Description of Illahe Estates Water System, Inc.'s exclusive service territory:

Beginning at the Northwest Corner of the J. M. Townsend Donation Land Claim #74, in Township 7 South, Range 3 West of the Willamette Meridian, Marion County, Oregon; said Northwest Corner being the **TRUE POINT OF BEGINNING**;
thence South 00°23' East, 280.45 feet to an iron pipe;
thence West, 218.46 feet to an iron pipe;
thence South 00° 23' East 833.77 feet;
thence North 89°59'44" East 836.34 feet;
thence North 70°23'50" East 216.02 feet;
thence North 41°41'32" East 430.04 feet;
thence North 36°19'36" East 186.88 feet;
thence North 89°56'24" East 749.17 feet;
thence South 00°21' East 913.35 feet;
thence South 44°00' East 123.13 feet;
thence West 709.06 feet to the centerline of Brown Island Road
thence South 00°04' East, along said centerline 2148.84 feet to the Northerly Right-of-Way of the BNSF Railroad;
thence South 45°58' West 104.23 feet, along the Northerly Right-of-Way of the BNSF Railroad;
thence North 44°02' West 50.00 feet, along the Northerly Right-of-Way of the BNSF Railroad;
thence South 45°58' West 1342.36 feet, along the Northerly Right-of-Way of the BNSF Railroad; to the beginning of a curve on the Northerly Right-of-Way of the BNSF Railroad, concave to the Northwest, having a radius of 5629.58 feet;
thence Southwesterly, along said curve and Northerly Right-of-Way of the BNSF Railroad, a distance of 531.45 feet;
thence South 38°37' East, along the Northerly Right-of-Way of the BNSF Railroad, 50.00 feet;
thence South 51°57' West, along the Northerly Right-of-Way of the BNSF Railroad, 122.00 feet, to a point on the South Line of the J. M. Townsend Donation Land Claim #47.
thence South 89°34' West, along the South Line of the J. M. Townsend Donation Land Claim #47, 1212.44 feet, to the Southwest Corner of the J. M. Townsend Donation Land Claim #47.
thence North, along the West Line of the J. M. Townsend Donation Land Claim #47, 60.00 feet to the South Line of Illahe Hills Estates No. 4, Phase 4;
thence South 89°53'42" West, along the South Line of Illahe Hills Estates No. 4, Phase 4, 728.11 feet to the Southwest Corner of Illahe Hills Estates No. 4, Phase 4;

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thence continuing South 89°53'42" West, along the South Line of Illahe Hills Estates No.4, Phase 3, 300.00 feet to the Southwest Corner of Illahe Hills Estates No. 4, Phase 3;
thence North 00°24'51" West, along the West Line of Illahe Hills Estates No. 4, Phase 3, 794.97 feet;
thence continuing North 00°24'51" West, 200 feet;
thence North 00°25' West, 330.90 feet;
thence North 00°25' West, 488.00 feet;
thence North 00°25' West, 373.99 feet to an iron pipe;
thence North 00°23' West, 2283.44 feet to an iron pipe set on the East Bank of the Willamette River;
thence North 46°46' East, along the East Bank of the Willamette River, 202.77 feet to an iron pipe;
thence North 36°59' East, along the East Bank of the Willamette River, 274.87 feet to an iron pipe;
thence North 47°09' East, along the East Bank of the Willamette River, 412.28 feet;
thence North 48°00' East, along the East Bank of the Willamette River, 263.89 feet;
thence South 00°13'42" West, 178.03 feet;
thence East, 218.46 feet to the **THE TRUE POINT OF BEGINNING.**