

ORDER NO. 02-647

ENTERED SEP 16 2002

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**BEFORE THE PUBLIC UTILITY COMMISSION**  
**OF OREGON**

WA 62

In the Matter of the GH20 )  
Incorporated Application for )  
Allocation of Exclusive Territory )  
Provide Water Service, Pursuant to )  
ORS 758.300 Through ORS 758.320. )

ORDER

**DISPOSITION: APPLICATION GRANTED**

On September 15, 2000, GH20 Incorporated (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 March 6, 2001, as required by Chapter 695, Oregon Laws 1999, Section 2(2). No requests for hearing were filed.

Applicant is an investor owned that provides water service to approximately 28 customers in the Garland Acres Subdivision, Burns, 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 GH20. A Commission survey was sent to the twenty-eight customers listed as current customers by the utility to determine the level of service quality being provided. Twenty-two responses were received. There were two below average responses on communication between utility and customers, and timely resolution of service complaints. Explanatory letters on the required procedure for consumer complaints were sent.

2) Water Quality

The Department of Human Services Drinking Water Program website showed fourteen violations from June 1991 through June 2001. All pertain to routine or repeat reporting insufficiency. This record does not preclude approval, in my opinion.

3) Water Capacity

GH20 is a metered system. Average daily demand is shown as 31,472 gallons. Peak annual demand is 58,869 gallons per day. Daily pumping capacity is 83,520 gallons. GH20 owns two water wells (well numbers 23/30 -14G, 23/30-14G TL800), each with a maximum capacity of 30 gallons per minute. A 30,000-gallon reservoir provides backup storage. The system appears adequate.

4) Technical Ability

Floyd Garland, the GH20 owner/operator, has managed the system since inception. He contracts for various specialized needs and does billing and collections in-house.

5) Exclusive Service

Mr. Garland owned the original tract that was subdivided for development. He retained over five acres for his residence and the system wells/wells house.

6) Reasonable Rates

The rates averaged approximately \$16.00 per customer per month over the two years reported on in the application.

**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 GH20 Incorporated for exclusive service territory as allocated to the applicant and set forth in Appendix A is granted.

Made, entered, and effective \_\_\_\_\_.

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**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 GH20 Incorporated's exclusive service territory:

The SW  $\frac{1}{4}$ , and the W  $\frac{1}{2}$  of SE  $\frac{1}{4}$  Section 14, Township 23S, Range 30E, W.M. in Harney County, Oregon.