

**This is an electronic copy. Format and font may vary from the official version. Attachments may not appear.**

**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

WA 31

In the Matter of the Sun Mountain )  
Water System Inc.'s Application for )  
Allocation of Exclusive Territory to )  
Provide Water Service, Pursuant to )  
ORS 758.300 Through ORS 758.320. )

ORDER

**DISPOSITION: APPLICATION GRANTED**

On February 22, 2000, Sun Mountain 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 March 15, 2000, 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 307 customers in the area of the Plainview Estates subdivision, Bend, 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 complaints record for Sun Mountain. Using the standard sampling technique, a Commission survey was sent to 171 of the 307 customers listed as current customers by the utility to determine the level of service quality being provided. 106 responses were received. 16 customer responses rated various categories as below average or unacceptable. No system-wide problems were noted. Explanatory letters on the required procedure for consumer complaints were sent to the negative respondents.

2) Water Quality

The Oregon Health Division's records listed five violations from January 1996 through January 2001 (four for chemical non-reporting and one for failure to report routine coliform sampling). No enforcement action was necessary.

3) Water Capacity

Sun Mountain has a growing residential customer base (1998 – 256; 1999 – 261; early 2002 – 307). The company estimates its average daily demand is 14,733 gallons per day (gpd). Peak demand is approximately 73,667 gpd. The company has an estimated pumping capacity of 720,000 gpd with storage reservoir capacity of 130,000 gallons. The water is supplied by three wells, under permit G-11328. The system has more than adequate capacity to serve the territory.

4) Technical Ability

The owners of Sun Mountain conduct the billing and collection functions. All other system duties are purchased from qualified contractors.

5) Exclusive Service

Sun Mountain submitted copies of warranty deeds that provide easements for all utility property.

6) Reasonable Rates

During the two years reported on in the application, the average charges per customer per month were \$22.25 and \$23.89.

**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 Sun Mountain 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 Sun Mountain Water System Inc.'s exclusive service territory:

SE 1/4 SE 1/4, Section 36, Township 15 South, Range 10 East, W.M.

SW 1/4 NE 1/4, SE 1/4 NW 1/4, NE 1/4 SW 1/4, S 1/2 SW 1/4, SE 1/4, Section 31

SW 1/4, SW 1/4 SE 1/4, Section 32

W 1/2, Section 33, Township 15 South, Range 11 East, W.M.

All Section 1

Lots 1 and 2, SE 1/4, Section 2

NE 1/4 NE 1/4, NW 1/4 NE 1/4, SE 1/4 SE 1/4, Section 11

NW 1/4 NW 1/4, SW 1/4 SW 1/4, SE 1/4 SW 1/4, SW 1/4 SE 1/4, Section 12

NW 1/4 NW 1/4, SW 1/4 NW 1/4, NW 1/4 SW 1/4, Section 13

NE 1/4 NE 1/4, Section 14, Township 16 South, Range 10 East, W.M.

All Section 6

NE 1/4, NE 1/4 SE 1/4, Section 7

SW 1/4 NW 1/4, NW 1/4 SW 1/4, Section 8, Township 16 South, Range 11 East, W.M.