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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

UP 199

In the Matter of	)	
	)	ORDER
SHADOW WOOD WATER SERVICE	)	
	)	
Application for An Order Authorizing Sale of	)	
Utility Property.	)	

**DISPOSITION: APPLICATION APPROVED; WITH CONDITIONS**

On November 25, 2002, the Public Utility Commission of Oregon (Commission) received an application from Shadow Wood Water Service (Shadow Wood) requesting approval for a Commission order authorizing the sale of property located near West Linn, Oregon. The sale will be accomplished pursuant to an agreement of sale prepared by Hiland Water Corporation's attorney, and will be executed in mid-January of 2003. The sale price for Shadow Wood is \$4,541.62 and represents the amount owed by Shadow Wood for property taxes previously unpaid. Shadow Wood is currently under tax foreclosure procedures.

Shadow Wood still has a right to redeem the property from foreclosure by paying all of the taxes owed. This right is only available to Shadow Wood and will expire in October of 2003. Upon redemption, Shadow Wood reclaims all rights to the property and may then sell the rights to Hiland Water Corporation (Buyer). The Buyer will take possession of the property immediately upon receipt of Commission approval of the application.

Based upon a review of the application and the Commission's records, the Commission finds that the application satisfies applicable statutes and administrative rules. At its public meeting on January 21, 2003, the Commission adopted Staff's recommendation to approve the application, with conditions. Staff's recommendation is attached as Appendix A and is incorporated by reference.

**ORDER**

IT IS ORDERED that:

1. Shadow Wood Water Service's application for an order authorizing sale of utility property is approved.

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2. Unpaid property taxes are paid in full and in time to secure right of redemption prior to recording of the deed.
3. Easements are to be recorded in favor of Shadow Wood Water Service identifying all portions of the water system located on adjacent tax lots not owned by the water utility.
4. A report is to be submitted to the Commission verifying compliance with the water testing standards set forth by Oregon Department of Human Services Drinking Water Program prior to the recording of the deed and a water testing compliance report submitted on a quarterly basis thereafter for the first two years of operation.

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

BY THE COMMISSION:

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**Becky L. Beier**  
Commission Secretary

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A party may appeal this order to a court pursuant to ORS 756.580.

ITEM NO. CA7

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: January 21, 2003**

**REGULAR** \_\_\_\_\_ **CONSENT**  X  **EFFECTIVE DATE**  January 22, 2003

**DATE:** January 14, 2003

**TO:** John Savage through Marc Hellman and Rebecca Hathhorn

**FROM:** Carla Owings

**SUBJECT:** SHADOW WOOD WATER SERVICE (Docket No. UP-199) Application for an Order Authorizing Sale of Utility Property.

**STAFF RECOMMENDATION:**

Staff recommends approval for the Sale of Shadow Wood Water Service's (Shadow Wood or Company) Utility Property to Hiland Water Corporation (Buyer) with the following conditions:

1. Unpaid property taxes will be paid in full and in time to secure right of redemption prior to recording of the deed.
2. Easements must be recorded in favor of the Company identifying all portions of the water system located on adjacent tax lots not owned by the water utility.
3. A report will be submitted to the Commission verifying compliance with the water testing standards set forth by Oregon Department of Human Services Drinking Water Program (ODHS) prior to the recording of the deed and a water testing compliance report submitted on a quarterly basis thereafter for the first two years of operation.

**DISCUSSION:**

Shadow Wood Water Service filed this application on November 25, 2002, pursuant to OAR 860-037-0515. The Company seeks a Commission order authorizing the sale of property located near West Linn, Oregon. This system serves approximately 62 homes in the Shadow Wood and Mossy Brae subdivisions on both sides of Stafford Road between Johnson Road and the Tualatin River.

The sale will be accomplished pursuant to an agreement of sale prepared by Hiland Water Corporation's attorney, and will be executed in mid-January of 2003. The real

APPENDIX A  
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property associated with the proposed transaction consists of the two separate tax lots containing the reservoir, deep-well pump, lines and pump house.

The system has had approximately \$23,000 in upgrades since the last rate case in 1997 (UW55). Upgrades include improvements to the pressure system, a new pump-house, a new high-volume pump, a new roof for one of the reservoirs and a telemetry line between pump and reservoir.

### Issues

Staff investigated the following issues:

1. Scope and Terms of the Agreement for Sale and Purchase of Real Estate
2. Quality of Water
3. Public Interest Compliance

Scope and Terms of Agreements – The sale price for Shadow Wood is \$4,541.62 and represents the amount owed by Shadow Wood for property taxes previously unpaid. The property is currently under tax foreclosure procedures. Shadow Wood still has a right to redeem the property from foreclosure by paying all of the taxes owed. This right is only available to Shadow Wood and will expire in October of 2003.

Upon redemption, Shadow Wood reclaims all rights to the property and may then sell the rights to Hiland Water Corporation. The Buyer will take possession of the property immediately upon receipt of Commission approval of the application.

In addition, there are adjacent tax lots previously owned by Shadow Wood, which have been sold to private owners. Some of these lots have underground pipe and infrastructure essential to the operation of the Company. Staff recommends that easements be granted and recorded in favor of the Shadow Wood as a condition of the approval of this sale to avoid any future issues regarding ownership or rights of access.

Quality of Water – Shadow Wood received notification of intent to assess a civil penalty from ODHS for violation of lead and copper levels in June of 2002.

Further tests done in July of 2002 resulted in acceptable lead and copper levels. However, in order to be in compliance with ODHS standards, the Shadow Wood must complete a study and then file a plan with ODHS to show what steps the Company will take to improve the quality of the water.

Staff recommends that the Commission closely monitor the testing of the water by requiring the Company to submit verification of their compliance to ODHS standards

prior to the recording of the deed transferring the ownership of the property and on a quarterly basis thereafter for the first two years of operation.

Public Interest Compliance – Shadow Wood states that they desire to sell, transfer or otherwise dispose of the utility property due to the health and age of the owner, Doreen Course. The result of the sale will provide the customers of Shadow Wood a seamless transition of service avoiding disruption due to the foreclosure proceedings.

Hiland Water Corporation has acted in a consultant capacity for the past several years on behalf of Shadow Wood, therefore, it is Shadow Wood's belief that the transfer of the assets will not adversely affect the customers. Shadow Wood believes that the customers will benefit from this transaction due to the Buyer's historic ability to deliver water reliably demonstrated in the operation of other water companies. Improvements are being made to the system that could potentially provide a better quality of water to the consumer.

After a review of the filing, the sale of the Property appears to be fair, reasonable and not contrary to the public interest.

**PROPOSED COMMISSION MOTION:**

Staff recommends approval for the Sale of Shadow Wood Water Services to Hiland Water Corporation with the following conditions:

1. Unpaid property taxes are paid in full and in time to secure right of redemption prior to recording of the deed.
2. Easements must be recorded in favor of the Company identifying all portions of the water system located on adjacent tax lots not owned by the water utility.
3. A report will be submitted to the Commission verifying compliance with the water testing standards set forth by Oregon Department of Human Services Drinking Water Program (ODHS) prior to the recording of the deed and a water testing compliance report submitted on a quarterly basis thereafter for the first two years of operation.