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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

WA 69

In the Matter of the Application of MEDART )  
WATER COMPANY for allocation of current ) ORDER  
service territory. )

**DISPOSITION: APPLICATION APPROVED WITH CONDITION**

On February 28, 2000, Medart Water Company (Medart or the company) applied for allocation of current service territory with the Public Utility Commission of Oregon (Commission). The application was revised and was considered complete on October 26, 2000. Notice of the application was mailed to the Commission’s service list for such matters and was published in the *Grants Pass Daily Courier*. On March 2, 2001, the City of Grants Pass (City) requested a hearing in this matter.

A public comment hearing and prehearing conference in this matter were conducted on April 26, 2001, in Grants Pass. A settlement conference was held on July 2, 2001, but parties were unable to reach settlement. An evidentiary hearing was held in Grants Pass on May 19, 2003. The company was represented by Leon Medart, son of the owner, Rose Medart. Ulys Stapleton, City Attorney, represented the City. Jason Jones, Assistant Attorney General, represented Commission Staff. Alan Cook, Regional Manager, appeared on behalf of the Oregon Department of Water Resources (Water Resources or Department).

At the hearing, the City made it clear that the City does not oppose a grant of exclusive service territory for territory Medart currently serves, until such time as a city water line runs in front of any residence currently served by Medart.

Mr. Cook, Water Resources representative, testified to a concern about a probable violation of the statutes governing water use in Oregon. Medart has no water right. ORS 537.545(1) provides that no water right is necessary for watering any lawn or noncommercial garden not exceeding one half acre in area or for single or group domestic purposes in an amount not exceeding 15,000 gallons a day. Mr. Cook believes that Medart is within the 15,000 gallons a day for domestic use but believes the company is exceeding its exempt use for watering lawns, because there appears to be more than a half acre of lawn being watered from the system. Some lots have their own well and would therefore have their own half acre exemption under ORS 537.545(1), and some of the lots on Medart Lane are served by

irrigation district water. Water Resources is concerned that for the remainder of the lots, Medart is exceeding its half acre watering exemption and is in violation of the Oregon water statutes.

Mr. Cook stated that Water Resources currently has no plans to begin an investigation of the company. However, Water Resources would work with Medart to help bring the system into compliance with the Oregon water statutes. The Department has no objection to granting Medart exclusive service territory contingent on the company's demonstrated compliance with ORS 537.545(1).

Based on the preponderance of evidence in the record, we make the following:

### **Findings of Fact**

Rose Medart has owned the water system since 1965. She currently charges a flat fee of \$21 a month to all users. There are no meters on the system. The system has 11 hookups along Medart Lane. Ms. Medart would like to sell or have the City take over the system, but her customers oppose switching over because their rates would increase. Ms. Medart bills by word of mouth. She has no operator certifications.

The Medart system is not standard in terms of the size of pipe it uses. No information is available on exactly what is in the system. The owner does not have the financial capacity to improve the system if it fails. No information is available on average or peak demand or pumping capacity.

Service quality and water quality are satisfactory for this system. The Commission's Consumer Services Division has received no complaints about the system. Of the 11 service quality questionnaires Commission Staff sent to customers, 10 customers responded. One customer found service quality below average or unacceptable; the others found it satisfactory. The Oregon Department of Human Services Drinking Water Program currently lists two violations for the company from June 1996 through December 1998. One citation was for coliform nonreporting and one was for nitrate nonreporting. Neither violation called for enforcement action.

### **Conclusions**

We conclude that Medart's application for a grant of exclusive service territory for currently served territory should be approved subject to Medart's compliance with ORS 537.545(1). The territory is granted with the understanding that as soon as a municipal water line runs in front of any residence currently served by Medart, the City will take over the system.

**ORDER**

IT IS ORDERED that:

1. Medart Water Company's application for allocation of currently served territory is approved subject to the company's compliance with ORS 537.545(1).
2. The application is approved subject to the understanding that as soon as a municipal water line runs in front of any residence currently served by Medart, the City will take over the system.

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

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**Roy Hemmingway**  
Chairman

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**Lee Beyer**  
Commissioner

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 in 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 may appeal this order to a court pursuant to applicable law.