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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

WA 34

In the Matter of the Application of)
CLOVERCREST COMMUNITY) ORDER
WATER SYSTEM LLC for Allocation)
of Current Service Territory.)

DISPOSITION: APPLICATION GRANTED WITH CONDITION

On February 14, 2000, Clovercrest Community Water System LLC (Clovercrest or the company) filed an application for an allocation of current service territory. 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 31, 2000, 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 May 18, 2000, in Grants Pass. A settlement conference was held on April 27, 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 Douglas Robertson, owner of the company. Ulys Stapleton, City Attorney, represented the City. Jason Jones, Assistant Attorney General, represented Commission Staff.

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

Findings of Fact

Clovercrest is a limited liability corporation. The system has a residential customer base. The average demand during the two year reporting period in the application was 20,746 gallons per day (gpd). Peak demand is unknown. The pumping capacity was 180,980 gpd under water right permit No. G-13203, from two wells. There is also a 43,200 gallon reservoir. The total number of homes receiving or to receive water service in the foreseeable future is 36. The water system is engineered for 90 homes and has water rights for up to 90 homes. Part of the proposed Clovercrest

service territory is outside the current urban growth boundary and part is inside the current urban growth boundary.

Clovercrest's managing member has 27 years experience as a water system operator. His experience includes billing and collection experience. His spouse, a joint owner and member, is also attending operator training classes with the managing member. The average monthly charges per customer during the two year period reported in the application were \$18.83 and \$21.21. These levels are below the Commission rate regulation standard. On April 28, 2003, Clovercrest notified the Commission and its customers of a request to increase the flat monthly rate to \$35 because of losing some homes to City water service and because of increasing liability insurance premiums.

Clovercrest serves properties both inside and outside the urban growth boundary. The City has no objection to Clovercrest being the exclusive provider for those properties it currently serves outside the urban growth boundary, and those properties are therefore not at issue here.

The Commission's Consumer Services Division has no complaint history for Clovercrest. Commission Staff conducted a customer service survey in October 2000. Staff sent out 48 questionnaires and received 25 responses and four undeliverables. Four customers made negative comments. Three complained that water pressure was unsatisfactory; three complained about poor communication between the utility and its customers; two complained that customer service was not courteous; two complained that the customers lacked confidence in the utility's management; and one complained about timely resolution of service complaints.

The website for the Oregon Department of Human Services Drinking Water Program (DWP) currently lists 12 violations from July 1993 through June 2000. The DWP issued seven citations pertaining to the reporting of lead and copper levels and three citations for insufficient reporting or nonreporting of coliform bacteria. The enforcement record shows a notice of violation and an administrative order on the lead and copper rule and three return to compliance entries (the last in July 2000). Clovercrest had no lead violations, but the copper levels exceeded the maximum contaminant level in the first round of sampling. Clovercrest water was found to be somewhat corrosive. Clovercrest worked with Oregon's Health Division and solved the copper leaching by adding chlorine to the water, changing the water's PH and making the water less corrosive. The water system is now in compliance with the lead and copper rule. With respect to the coliform reporting, Clovercrest forgot to take a water sample in three different months.

The DWP issued one citation, in September 1998, for exceeding the total coliform contamination level. In 1998 two new five horsepower submersible pumps were installed in the wells. The installer did not place the pumps and pipes on new black plastic and did not scrub down the new pumps, pipes, and electrical lines with chlorine

before installation. Instead, the installer laid the pumps, pipes, and wires on the ground. Consequently, the sample tested positive for coliform.

The last DWP citation was for nitrate nonreporting. Clovercrest omitted to take a nitrate sample in a recent year but has never exceeded the maximum contaminant level for nitrate.

Positions of the Parties

Clovercrest and the City agreed at hearing that the City's protest applied only to the Clovercrest service territory outside the city limits and within the urban growth boundary. These parties have agreed that Clovercrest will provide water to seven lots in the Panoramic View Estates Subdivision, Phase Two, where the City does not currently have a pressure zone adequate to provide water (the lots involved are all on Panoramic Loop: 1571, 1577, 1580, 1583, 1589, 1590, and 1595). When the City has a pressure zone adequate to serve these lots, the City will take over water service to the lots. However, if Lot 16, at 1595 Panoramic Loop, becomes the primary residence of the managing member and his spouse, the property shall be connected to City water for domestic water, but may use Clovercrest water for irrigation purposes and a water sample tap in the home. A backflow device on the City water service shall be required if Clovercrest water is used for irrigation. The right to retain Clovercrest water for irrigation shall not be transferable.

The parties further agreed that when Phase Three of Panoramic View Estates subdivision is developed, it shall be developed with City water except for the existing home located at 1600 Panoramic Loop, also located within Phase Three. This is the current primary residence of the managing member and spouse. The existing home at 1600 Panoramic Loop shall not be required to connect to City water and shall remain on the Clovercrest water system.

Commission Staff has no objections to the above agreement between the City and Clovercrest. The City has no objection to Clovercrest being awarded exclusive service territory for its current territory outside the urban growth boundary. The City does not object to a grant of exclusive service territory for Clovercrest's current service territory within the urban growth boundary, on the understanding that once the land is developed as described in the City development code, the City requires that City water mains be extended to City subdivisions.

Conclusions

Clovercrest's service quality, water quality, water capacity, the technical ability of the system's management, its exclusive land right, and its rates are adequate to award Clovercrest a grant of exclusive service territory for currently served territory. The agreement between the City and Clovercrest, described immediately above, is acceptable to the Commission.

ORDER

IT IS ORDERED that Clovercrest's application for allocation of currently served territory is approved, subject to the understanding that as soon as Clovercrest's currently served territory within the 2003 urban growth boundary is developed as specified in the City development code, the City will provide water service to that territory, with the conditional exception of the lot at 1595 Panoramic Loop for irrigation water and the exception of the house on 1600 Panoramic Loop.

Made, entered, and effective _____.

Roy Hemmingway
Chairman

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.