

**This is an electronic copy. Attachments may not appear.**  
**BEFORE THE PUBLIC UTILITY COMMISSION**  
**OF OREGON**

WA 9

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

ORDER

**DISPOSITION: APPLICATION GRANTED**

On December 28, 1999, Smallwood Estates (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 February 11, 2000, as required by Chapter 695, Oregon Laws 1999, Section 2(2). No requests for hearing were filed.

Applicant is a sole proprietorship that provides water service to ten customers in the Albany, Oregon area.

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

A Commission survey was sent to the ten customers listed in the application. Seven responses were received. One rating was sub-par in water quality, water pressure, timely and accurate billings, and timely resolution of service complaints. An explanatory letter on the required procedure for consumer complaints was sent. All other customer ratings indicated above average service. There does not appear to be a system-wide service problem.

2) Water Quality

The Oregon Health Division found minor bacteriological problems during the fourth quarter of 2000. Follow-up testing is being conducted. However, the general rating is acceptable.

3) Water Capacity

The source well has a maximum pumping rate of nineteen gallons per minute. The storage tank holds 12,000 gallons. The customer survey results did not indicate system-wide capacity problems. The average water use for a standard 2.3 person household is approximately 276 gallons per day (gpd). Average daily usage for all nine residential customers would be approximately 2,484 gpd. The storage tank holds 12,000 gallons. This gives the residential customers over 4 days of water storage. Although the system is unmetered and no consumption, demand, or pumping data is available, it appears that even with one commercial customer Smallwood has enough capacity to provide adequate service to its customers.

4) Technical Ability

The Oregon Health Department does not require a certified operator for this size of utility. The owner has operated the system since 1985.

5) Exclusive Service

A photocopy of the easement covering the well, tank, well site, and main water line was submitted. It confers perpetual rights.

6) Reasonable Rates

Residential customers pay \$15.00 per month. This charge is below the residential rate threshold established by the Commission. The commercial customer pays \$11.25 per month.

**OPINION**

**Jurisdiction**

ORS 757.005 defines a public utility as “ any corporation, company, individual, association of individuals, or its lessees, trustees, or receivers that own, 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.”

**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 Smallwood Estates for exclusive service territory as set forth in Appendix A is granted.

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

---

**Phil Nyegaard**  
Acting 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. A party to a hearing may appeal this order to a court pursuant to 756.580.

## APPENDIX A

Description of Smallwood Estates' exclusive service territory:

From the initial point 2757.43 feet S. 86° 40' 4TE. along the east-west centerline of section 27 and 730.02 feet S. 2°14'40" E. of the west one quarter section corner of said Section 27, T.13 S., R. 10W., of the Will. Mer., Lincoln County, Oregon; thence S.2°14'40" E. 301.52 feet to the northerly right of way line of the Alsea State Highway; thence along said northerly line 39.31 feet along a spiral curve left, the chord of which bears S. 63° 30' 10" W. 39.31 feet, S. 63° 04' W. 452.19 feet, S. 26° 56' E. 20.00 feet, S. 63° 04' W. 208.88 feet and along a spiral curve right the chord of which bears S. 64° 05' 54" W. 107.53 feet to the east line of the tract conveyed by deed recorded in Book 177, page 438, Lincoln County deed records; thence N. 12° 48' 41" W. 147.92 feet to the northeast corner of said tract; thence S. 70° 39' 42" W. 261.45 feet to the northwest corner of the tract conveyed by deed recorded in Book 180, page 626 of said deed records; thence S. 13° 11' 38" E. along the west line of the last mentioned tract 141.09 feet to the northerly line of said Highway; thence along said northerly line along a spiral curve right the chord of which bears S. 81° 08' 12" W. 122.26 feet and S. 82° 10' W. 88.36 feet; thence N. 20° 39' 24" W. 289.36 feet; thence S. 88° 30' 52" W. 209.59 feet; thence 327.27 feet along a 2668.93 foot radius curve left, the chord of which bears S. 37° 49' 13" W. 327.08 feet; thence 192.62 feet along a 145.00 foot radius curve left, the chord of which bears S. 3° 44' 56" E. 178.77 feet; thence S. 41° 48' 18" E. 21.53 feet to the northerly line of said Highway; thence along said northerly line 50.00 feet along a 766.20 foot radius curve left, the chord of which bears S. 48° 11' 39" W. 50.00 feet; thence N. 41° 48' 18" W. 21.53 feet; thence 259.04 feet along a 195.00 foot radius curve right, the chord of which bears N. 3° 44' 56" E. 240.41 feet; thence 442.92 feet along a 2718.93 foot radius curve right, the chord of which bears N. 38° 58' 27" E. 442.44 feet; thence 127.35 feet along a 251.94 foot radius curve right, the chord of which bears N. 58° 07' 18" E. 126.00 feet; thence N. 72° 36' 09" E. 116.80 feet; thence 134.28 feet along a 125.00 foot radius curve right, the chord of which bears S. 76° 37' 21" E. 127.92 feet; thence N. 26° 39' 07" W. 467.40 feet; thence S. 86° 40' 4TE. 1297.78 feet to the point of beginning.