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CIRCUIT COURT
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MAR - 6 2012
AT _____ O' CLOCK _____ M
BY _____

STATE OF OREGON, by and through its
OREGON HEALTH AUTHORITY,

Plaintiff,

v.

BETTE CARTER, and ROSE LODGE
WATER CO., INC.,

Defendants.

Case No. 110025

FINDINGS
GENERAL JUDGMENT

DEPARTMENT OF JUSTICE
TRIAL DIVISION
MAR 08 2012
RECEIVED

This matter came before this Court on the Plaintiff's request for entry of general judgment. Plaintiff, State of Oregon, by and through the Oregon Health Authority, served the proposed Findings and General Judgment on Defendants, the recommended Responsible Party Hiland Water Corporation and the Special Master on February 17, 2012.

1.

On April 12, 2011, this Court previously ordered that the Boulder Creek and Bear Creek Hideout water systems, currently owned by Defendants Rose Lodge Water Co., Inc. and Bette Carter, be sold under a special master to a responsible party as provided by ORS 448.250(2)(b).

2.

On May 11, 2011, this Court previously issued an Order Appointing a Special Master to oversee the sale of the water systems. Since that date, the Special Master took steps to identify a responsible party. The Special Master notified the prospective purchaser, Hiland Water Corporation (Hiland), that it best met the qualifications of a responsible party. Hiland obtained

1 the approval of the sale of the water systems from the Public Utilities Commission (PUC) on
2 November 9, 2011. PUC Order No. 11-438.

3 3.

4 On January 3, 2012, this Court held a hearing. Plaintiff appeared by and through
5 Stephanie M. Parent, Assistant Attorney General; Defendants Bette Carter and Rose Lodge
6 Water Co., Inc. did not make an appearance; and Responsible Party Hiland Water Corporation
7 appeared, *pro se*. Special Master Robert E. Henry also participated in the hearing. At that
8 hearing, at the request of Hiland, the Court ordered that certain property owners be surveyed as
9 to whether utility easements exist on their properties.

10 4.

11 On February 7, 2012, the Special Master reported to the court that two property owners
12 identified recorded easements; eight property owners were willing to grant easements, five
13 property owners did not respond directly to the question of whether they would be willing to
14 grant an easement, and three property owners would grant an easement if they were
15 compensated. The Special Master recommended that the court order a title search on each
16 property. Pursuant to ORS 448.250(2)(b), this Court can order only the sale of the water systems
17 as currently held by Defendants, including any existing easements or claims to easements as set
18 forth in paragraph 1(j) of the General Judgment, to a responsible party. This Court has no
19 authority to resolve easement issues that exist as to these properties owned by third parties;
20 therefore no further action will be ordered.

21 GENERAL JUDGMENT

22 Now, therefore, IT IS HEREBY ORDERED AND ADJUDGED as follows:

23 1.

24 That the property hereinafter described is transferred to Responsible Party Hiland Water
25 Corporation; and title to said property, together with all rights and easements therein, is vested in
26 Responsible Party Hiland Water Corporation. Said property is described as follows:

1 The Boulder Creek and Bear Creek Hideout water systems, as are currently owned by
Defendants Rose Lodge Water Co., Inc. and Bette Carter, including:

- 2 a. all infrastructure used to pump, divert, transport, store, treat or deliver water,
3 including but not limited to pipes, valves, pumps, wells, storage tanks, treatment
4 facilities, headgates, infiltration galleries, wet wells and water level control
5 devices;
- 6 b. all water rights;
- 7 c. all lists of customers, addresses and phone numbers;
- 8 d. all maps showing the location of the water system infrastructure or customers'
9 water meters;
- 10 e. any engineering drawings of the infrastructure;
- 11 f. monitoring equipment and equipment manuals;
- 12 g. any other appurtenances or property attached to or used in the water systems;
- 13 h. any other asset that in any way is produced by or used in connection with the
14 water systems;
- 15 i. A permanent easement for access over and across the property of Defendants for
16 the purpose of operating, maintaining and improving Boulder Creek and Bear
17 Creek Hideout water systems, including improvements necessary for treatment or
18 to otherwise comply with Oregon Health Authority requirements for drinking
19 water. Since Responsible Party Hiland Water Corporation is not acquiring fee
20 simple title to Defendants' real property, any use may be made of the real
21 property provided that such use shall not interfere with the purpose of this
22 easement, endanger the safety of the water supply or violate State law; and
- 23 j. any existing easements (whether express, prescriptive or implied), any claims to
24 easements, any licenses, rights of entry, rights of way, or any other interests,
25 rights or titles possessed by Defendants, whether recorded or not, that are in any
26 way necessary to the operation and maintenance of the Boulder Creek and Bear
Creek Hideout water systems.

2. 23

24 Responsible Party Hiland Water Corporation shall enter into a Bilateral Compliance
25 Agreement with the Oregon Health Authority to bring the Boulder Creek and Rose Lodge water
26

1 systems into compliance with the Oregon Health Authority standards and requirements within 30
2 days of the entry of judgment.

3 3.

4 In consideration of the transfer of the Boulder Creek and Bear Creek Hideout water
5 systems to Responsible Party Hiland Water Corporation, Hiland will deposit with the clerk of
6 this court the balance due in the amount of \$50,000, plus interest at the rate of 9% per annum
7 within ten (10) days from the date of entry of this judgment.

8 4.

9 The court clerk and/or treasurer is ordered to pay the deposit of \$50,000.00 plus interest,
10 if any, to Bette Carter, as individually-named Defendant and in her capacity as Registered Agent
11 and President of Defendant Rose Lodge Water Co., Inc.

12 5.

13 None of the parties shall recover from another party the costs or attorney fees incurred
14 herein.

15 DATED this 6th day of March 2012.

16 Sneyl Bachert
17 Circuit Court Judge

