

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

IN THE MATTER OF )  
TRANSFER APPLICATION T-8551 )  
Wayne M. & Donna M. Spicer, ) **FINAL ORDER**  
*Applicants* )  
)  
Robert S. Palke, ) T-8551  
*Protestant* ) Ref. No. 10160  
)

Protestant submitted a protest against the subject application on October 27, 2000 alleging the proposed transfer would injure existing water rights. Pursuant to Oregon Administrative Rules (OAR) 137-003-0580, the Department moved Hearing Officer Weisha Mize for a ruling on legal issues in this case, which, if granted, would result in denial of the protest and dismissal of the contested case proceeding. The parties presented argument on the motion at a pre-hearing conference held on March 1, 2001.

On March 7, 2001, the Hearing Officer Mize issued a Proposed Order, incorporated herein by reference, determining that there is no genuine issue as to any material fact relevant to resolution of the legal issue on which a decision is sought and that the Department is entitled to have its motion granted as a matter of law. OAR 137-003-0580(4). The Proposed Order proposed to grant the Department's motion, deny protestant's protest and dismiss the contested case proceeding. The Proposed Order provided until April 7, 2001, to file exceptions. No exceptions were filed.

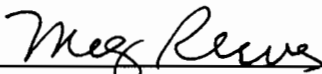
Protestants failed to raise any claim of injury as defined by OAR 690-15-005(15) and further failed to raise any issue or provide any basis for remedy within the Department's or the Hearing Officer's scope of authority. Consequently, I concur with the Hearing Officer's determinations.

**FINAL ORDER**

IT is ORDERED that the Department's motion is GRANTED.

It is FURTHER ORDERED that the protest against application T-8551 is DENIED, and the contested case proceeding in this matter is DISMISSED.

Issued this 15<sup>th</sup> day of May 2001.



Paul R. Cleary, Director  
Oregon Water Resources Department

**Appeal Rights**

Under the provisions of ORS 536.075(2), parties affected by this order may appeal by filing a petition for review in the Court of Appeals. The petition for review must be filed within 60 days after the date of this order.

CERTIFICATE OF SERVICE

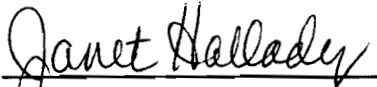
I certify that on May 1st, 2001, I mailed, by U.S. mail, postage prepaid a copy of this FINAL ORDER to:

Attorney for Applicant:

Ben Lombard, Jr.  
Lombard, Knudsen & Holtey. LLP  
622 Siskiyou Blvd.  
P.O. Box 1090  
Ashland, Oregon 97520

Attorney for Protestant:

Randy C. Rubin  
Walton, Nilsen, Johnson & Guerra, P.C.  
P.O. Box 1265  
Roseburg, Oregon 97470  
(541) 673-4451  
FAX (541) 673-1202



Janet Halladey  
Water Resources Department