



Oregon

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Water Resources Department

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MEMORANDUM

TO: Water Resources Commission

FROM: Phillip C. Ward, Director

SUBJECT: Agenda Item B, May 29, 2014
Water Resources Commission Meeting

Consideration of the Exceptions and Issuance of Final Order In the Matter of Water Right Application G-17165 in the Name of the Town of Lakeview

I. Introduction

A contested case hearing was held in Lakeview, on June 11, 2013 to resolve a protest filed by Oregon Desert Farms against the Town of Lakeview's groundwater application G-17165. The Commission will be asked to issue a final order in the contested case to resolve the protest against application G-17165.

II. Background

On March 7, 2014, the Department issued its Final Order on Reconsideration approving Application G-17165, denying the protest filed by Oregon Desert Farms, and issued a permit to the Town of Lakeview for 1.11 cubic feet per second (cfs) of water from a geothermal well to be used for heating, cooling, and power development.

Oregon Desert Farms asserted that the Town of Lakeview's application was not consistent with the rules of the Commission that requires an applicant to declare the existence of written authorization or an easement permitting access to land crossed by the proposed ditch, canal or other work. The applicant stated that it had an easement. Oregon Desert Farms protested the legal validity of that easement. The Administrative Law Judge (ALJ) found that the application was complete and that the legal validity of the easement was a matter for circuit court. The ALJ recommended the protest be denied and the permit be issued to the Town of Lakeview. Oregon Desert Farms filed exceptions to the ALJ's Proposed Order. The Department reviewed and denied the exceptions, and adopted the ALJ's proposed order in its Final Order on Reconsideration.

III. Discussion

At the March 2014 Commission meeting, the full Commission formed a subcommittee to consider the exceptions to Director's final order in this case. The subcommittee members appointed were Carol Whipple, Jeanne LeJeune and Robert Baumgartner.

After deliberating with the subcommittee in an executive session on May 29, 2014, the Commission will vote in open meeting to issue a final order resolving the exceptions and making a final determination on application G-17165.

IV. Alternatives

The Commission may consider the following alternatives:

1. Deny the exceptions and affirm the Director's Final Order.
2. Accept some of the exceptions and deny some of the exceptions and issue a modified final order.

V. Recommendation

The Director recommends alternative 1.

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