



CITY OF EUGENE, a municipal corporation, by and through Eugene Water & Electric Board,  
Petitioner-Respondent,  
v.  
STATE OF OREGON, PUBLIC EMPLOYEES RETIREMENT BOARD,  
Respondent-Respondent,  
and  
KAREN JENKINS, DIANE DAVIDSON, ARLYN STEPPER, GARY GILLESPIE, ANN MONTAGUE, JUDITH ANN SUGNET, GARY NAUTA, and ROGER GARVER,  
Intervenors-Appellants.

Marion County Circuit  
Court No. 99C-20235

ROGUE RIVER VALLEY IRRIGATION DISTRICT, a municipal corporation,  
Petitioner-Respondent,  
v.  
STATE OF OREGON, PUBLIC EMPLOYEES RETIREMENT BOARD,  
Respondent-Respondent.

Marion County Circuit  
Court No. 00C-16173

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**JOINDER IN PETITIONER-RESPONDENT'S MOTION TO DISMISS**

Pursuant to ORAP 7.05(1)(a) and ORS 19.410(3), the State of Oregon, by and through the Public Employees Retirement Board ("PERB") hereby joins in Petitioner-Respondents Motion To Dismiss Appeal. On February 18, 2004, the Petitioners-Respondents<sup>1</sup> and PERB entered into a settlement agreement. Based upon the terms of this settlement agreement, PERB moved to dismiss its Cross-Appeal. This motion was granted on April 7, 2004. The PERB now seeks dismissal of Intervenor-Appellants Appeal as moot and hereby adopts the arguments and facts submitted by Petitioners-Respondents' in "Petitioners-Respondents' Motion to Dismiss Appeal" as its response to Intervenor-Appellants Appeal.

Dismissal of this Appeal is appropriate as there is no longer a justiciable case or controversy before the Court in light of the PERB's withdrawal of its Cross-Appeal and settlement with Petitioners-Respondents. The Oregon Supreme Court has consistently held that settlement agreements are enforceable and are favored by law. *See Davis v. Brown*, 280 Or. 561 (1977); *Gordon H. Ball v. Oregon Erect. Co.*, 273 Or. 179, 189 (1975); *Hartford Accident & Indemnity Co. v. Payne*, 242 F.Supp. 888 (D.Or. 1965). "The law favors voluntary settlements of controversies between parties if such settlements are characterized by good faith and full disclosure of all the facts, and such settlements will be upheld and enforced even though disposition made by parties in their agreement may not be what court would have adjudged."

<sup>1</sup> Petitioners are the City of Eugene, City of Portland, City of Roseburg, City of Huntington, Multnomah County, Lane County, Canby Utility Board and Rogue River Valley Irrigation District.

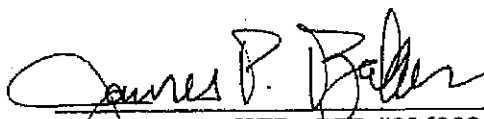
*G.F. Hodges Agency, Inc. v. Rees et al.*, 202 Or. 139, 157 (1954). The Ninth Circuit similarly is firmly "committed to the rule that the law favors and encourages compromise settlements."

*Ahern v. Central Pacific Freight Lines*, 846 F.2d 47, 48 (9th Cir. 1988), citing *United States v. McInnes*, 556 F.2d 436, 441 (9th Cir. 1977). "There is an overriding public interest in settling and quieting litigation." *Id.* (citations omitted). "It is well recognized that settlement agreements are judicially favored as a matter of sound public policy. Settlement agreements conserve judicial time and limit expensive litigation." *Speed Shore Corp. v. Denda*, 605 F.2d 469, 473 (9th Cir. 1979).

For all of the foregoing reasons and those reasons contained in Petitioners-Respondents' Motion To Dismiss Appeal, the PERB respectfully requests this Court dismiss this Appeal.

Dated: May 27, 2004

ORRICK, HERRINGTON & SUTCLIFFE LLP



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**NOTICE OF FILING and CERTIFICATE OF SERVICE**

I certify that on **May 27, 2004**, I filed the original of **JOINDER IN PETITIONER-RESPONDENT'S MOTION TO DISMISS** by causing the same to be deposited in the U.S. Mail at Portland, Oregon, enclosed in a sealed envelope, postage prepaid, and addressed to:

State Court Administrator  
Records Section  
Supreme Court Building  
1163 State Street  
Salem, OR 97301-2563

I further certify that on **May 27, 2004**, I served a true and exact copy of the foregoing **JOINDER IN PETITIONER-RESPONDENT'S MOTION TO DISMISS** on the parties at the addresses listed below, by causing the same to be deposited in the United States Mail at Portland, Oregon, enclosed in a sealed envelope with postage prepaid, and addressed to:

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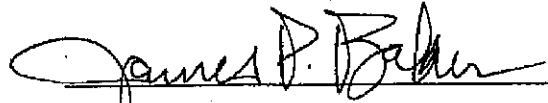
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