

ORIGINAL



0000050954

RECEIVED

1 FENNEMORE CRAIG, P.C. JUN -21 P 4: 38
 Jay L. Shapiro
 2 Patrick J. Black
 3003 N. Central Ave. AZ CORP COMMISSION
 Suite 2600 DOCUMENT CONTROL
 Phoenix, Arizona 85012
 4 Attorneys for Black Mountain Sewer Corporation

BEFORE THE ARIZONA CORPORATION COMMISSION

7 IN THE MATTER OF THE
 APPLICATION OF BLACK
 8 MOUNTAIN SEWER
 CORPORATION, AN ARIZONA
 CORPORATION, FOR A
 9 DETERMINATION OF THE FAIR
 10 VALUE OF ITS UTILITY PLANT
 AND PROPERTY AND FOR
 11 INCREASES IN ITS RATES AND
 CHARGES FOR UTILITY SERVICE
 12 BASED THEREON.

DOCKET NO: SW-02361A-05-0657

NOTICE OF SUBSTITUTION OF WITNESS FOR MICHAEL D. WEBER AND JOEL L. WADE

13 Black Mountain Sewer Corporation ("BMSC"), an Arizona corporation, hereby
 14 submits this Notice of Substitution of Witness in the above-captioned matter.

15 BMSC prefiled the direct and rebuttal testimony of Michael D. Weber in this rate
 16 proceeding. At the time, Mr. Weber was the Vice President and General Manager of
 17 Algonquin Water Services ("AWS"), an affiliate of BMSC that provides operations,
 18 maintenance, administrative and general services to BMSC. Mr. Weber is no longer
 19 employed by AWS. As a consequence, BMSC will call Bob Dodds, President of AWS, in
 20 place of Mr. Weber during the hearings in this docket and Mr. Dodds will adopt the whole
 21 of Mr. Weber's direct and rebuttal testimonies. Mr. Dodds' business address is 12725
 22 W. Indian School Road, Suite D-101, Avondale, Arizona 85323.

23 Mr. Dodds will also adopt portions of Joel L. Wade's testimony as shown in the
 24 redacted versions of Mr. Wade's rebuttal and rejoinder testimony attached hereto as
 25 Exhibits 1 and 2. Mr. Wade was also employed by AWS until recently and served as
 26

1 Manager of Engineering and Construction. BMSC had understood that Mr. Wade would
2 testify in this proceeding even though he was no longer employed by AWS. However,
3 BMSC was unable to obtain authorization from Mr. Wade's current employer to call him
4 as a witness in this matter.

5 DATED this 2nd day of June, 2006.

6 FENNEMORE CRAIG, P.C.

7
8 By _____

9 Jay L. Shapiro
10 Patrick J. Black
11 3003 North Central Avenue
12 Suite 2600
13 Phoenix, Arizona 85012
14 Attorneys for Black Mountain
15 Sewer Company

16 ORIGINAL and thirteen (13) copies of the
17 foregoing were delivered
18 this 2nd day of June, 2006, to:

19 Docket Control
20 Arizona Corporation Commission
21 1200 W. Washington St.
22 Phoenix, AZ 85007

23 COPIES hand delivered this 2nd
24 day of June, 2006 to:

25 Teena Wolfe
26 Administrative Law Judge
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

Keith Layton
Staff Counsel
Legal Division
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

1 Daniel Pozefsky, Attorney
2 Residential Utility Consumer Office
3 1110 W. Washington, Suite 220
4 Phoenix, AZ 85007

5 And COPIES mailed/e-mailed*
6 this 2nd day of June, 2006 to:

7 Boulders Homeowners Association
8 Mr. Robert E. Williams
9 P. O. Box 2037
10 Carefree, AZ 85377

11 M. M. Shirtzinger
12 34773 N. Indian Camp Trail
13 Scottsdale, AZ 85262

14 Thomas K. Chenal, Esq.
15 David Garbarino, Esq*.
16 Mohr, Hackett, Pederson, Blakley & Randolph
17 7047 E. Greenway Parkway, Suite 155
18 Scottsdale, AZ 85254

19 By: Maria San Jose
20 1800849

21

22

23

24

25

26

Exhibit 1

1 FENNEMORE CRAIG, P.C.
Jay L. Shapiro
2 Patrick J. Black
3003 N. Central Ave.
3 Suite 2600
Phoenix, Arizona 85012
4 Attorneys for Black Mountain Sewer Corporation

5 **BEFORE THE ARIZONA CORPORATION COMMISSION**

6
7 IN THE MATTER OF THE
APPLICATION OF BLACK
8 MOUNTAIN SEWER
CORPORATION, AN ARIZONA
9 CORPORATION, FOR A
DETERMINATION OF THE FAIR
10 VALUE OF ITS UTILITY PLANT
AND PROPERTY AND FOR
11 INCREASES IN ITS RATES AND
CHARGES FOR UTILITY SERVICE
12 BASED THEREON.

DOCKET NO: SW-02361A-05-0657

13
14
15
16
17
18 **REBUTTAL TESTIMONY OF**
19 **JOEL L. WADE**
20
21
22
23
24
25
26

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Page

I. INTRODUCTION, PURPOSE OF TESTIMONY AND SUMMARY 1
II. RESPONSE TO TOWN OF CAREFREE..... 3

1800194.2/16040.031

1 **I. INTRODUCTION, PURPOSE OF TESTIMONY AND SUMMARY.**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. Joel L. Wade, 21410 N. 19th Ave. Suite 201, Phoenix AZ. 85027.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am currently employed by Global Water Resources as Manager of Process
6 Engineering. I have held that position since April 3, 2006. Until recently,
7 however, I was employed by Algonquin Water Services ("AWS") as manager of
8 Engineering and Construction, a position I held from December 2003 until I
9 recently joined Global's Management team.

10 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?**

11 A. On behalf of the Applicant, Black Mountain Sewer Corporation ("BMSC").

12 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS
13 PROCEEDING?**

14 A. During my tenure with AWS, I was responsible for maintenance of and
15 improvements to the collection system and the wastewater treatment facility and
16 have personal knowledge concerning claims of undue odor problems by the Town
17 of Carefree ("Town") and some of the residents. The purpose of my testimony is
18 to address and respond to the Town's claims of odor problems originating in the
19 BMSC wastewater collection and treatment system. Based on my substantial
20 experience and personal knowledge of BMSC's sewer system, the Town has both
21 exaggerated the alleged odor problem and ignored substantial investment in
22 improvements designed specifically to minimize odors.

23 **Q. WHAT IS YOUR EXPERIENCE IN THE WASTEWATER UTILITY
24 INDUSTRY, MR. WADE?**

25 A. I have 25 years of experience working with water and wastewater utility systems. I
26

1 also have a degree in Civil Engineering and a Master Degree in Business
2 Administration. My employment history is summarized below:

3
4 3/81 to 3/90 Staff Operations Testing Analysis & Control Belleville Ill.
5 3/90 to 6/92 Staff Engineer HDR Engineering
6 6/92 to 3/94 Treatment Facilities Supervisor City of Phoenix AZ
7 03/94 to 03/01 Manager of Production and Distribution Citizens Utilities/
8 Arizona American Water Company
9 3/01 to 12/03 Superintendent of Utilities City of Goodyear AZ
10 12/03 to 3/06 Algonquin Water Services
11 4/06 to present Global Water Resources

12
13
14 **Q. WOULD YOU CONSIDER YOURSELF AN EXPERT ON WATER AND
15 WASTEWATER UTILITY ENGINEERING ISSUES?**

16 A. By some measure, based on my education, training and experience over 25 years, I
17 guess I am. Certainly, I should be considered an expert witness on the BMSC
18 wastewater collection system and treatment plant, the claims of odor problems and
19 the efforts that have been taken to address those complaints. Again, that is why I
20 am testifying in this proceeding.

21 **Q. WOULD YOU PLEASE SUMMARIZE YOUR RESPONSE TO THE
22 TOWN'S DIRECT FILING?**

23 A. The Town wants the Commission to deny the Company rate increases until
24 allegations regarding odors are resolved to the Town's satisfaction. Pearson
25 Affidavit at 2. BMSC has spent a substantial amount of money addressing the
26 complaints over odors and those efforts have been very successful. BMSC's sewer
collection and treatment system operates in compliance with all legal requirements.
The Town's claims are based on outdated information and it has not presented a
fair and complete picture to this Commission. If odor "problems" do exist, I do not
believe they originate from BMSC's operations, nor would it be prudent to
undertake an odor reduction plan of the magnitude being pushed by the Town.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

II. RESPONSE TO TOWN OF CAREFREE.

Q. HAVE YOU REVIEWED THE DIRECT FILING MADE BY THE TOWN?

A. Yes. In particular, I reviewed the Affidavit of Stan Francom and the documents attached. The first document is the Carter-Burgess report from October 2004. The second is a report prepared for BMSC by LTS, Inc. in July 2004. Both of these reports address claims of odor problems associated with the BMSC collection and treatment system.

I also reviewed the affidavit by the author of the Carter Burgess report, Mr. Jason C. Bethke. Mr. Bethke merely states that he authored the report. Bethke Affidavit at 1. He provides no technical or other information beyond the fact of the report.

Q. YOU TESTIFIED THAT THE TOWN’S CLAIMS ARE BASED ON OUTDATED INFORMATION AND THAT IT HAS NOT PRESENTED A FAIR AND COMPLETE PICTURE TO THIS COMMISSION. WOULD YOU PLEASE EXPLAIN WHAT YOU MEAN?

A. Certainly. The Town’s claims regarding problems within the BMSC sewer system are based primarily on the October 2004 Carter Burgess report attached to Mr. Francom’s affidavit. The Carter Burgess Report was prepared because the Town felt that the LTS Report from July 2004 did not represent a definite solution to the “Town’s odor problems.” Francom Affidavit, Exhibit A at 1. The LTS Report referred to, and the one attached to Mr. Francom’s affidavit, was the Phase II report, which tells only part of the story. There have been four subsequent phases and four subsequent reports, all since the Carter Burgess report was prepared in

1 response to Phase II of the LTS study. For reasons I am not privy to, the Town has
2 chosen not to provide information regarding later phases of the LTS study.

3 **Q. WAS THE TOWN PROVIDED WITH MORE CURRENT INFORMATION**
4 **ON THE RESULTS OF THE LTS STUDY?**

5 A. Yes. ~~On April 19, 2005, I met with the Mayor and Town Council to discuss the~~
6 ~~study and the results of BMSC's efforts to address odor and noise complaints.~~
7 ~~After that meeting, I wrote Mayor Morgan on May 27, 2005 and provided the~~
8 ~~Town copies of the reports from the first five phases of the LTS study.~~ A copy of
9 my letter and all of the original attachments, including reports for Phases I-V of the
10 LTS Study, are attached hereto as Wade Rebuttal Exhibit 1. The report on the
11 sixth and final phase was issued March 31, 2006, and is attached hereto as Wade
12 Rebuttal Exhibit 2. The Town could not have produced a copy of that report, but
13 they were given the other reports and without this additional information, the
14 Commission would be left with an incomplete picture of the situation.

15 **Q. PLEASE EXPLAIN THE PURPOSE OF THE STUDY LTS PREPARED**
16 **FOR BMSC?**

17 A. LTS was hired to locate, identify, quantify and document not only the source of
18 odor generation, but also to document the effectiveness of improvements
19 incorporated to resolve source odors. The study was always intended to be
20 reported in phases consistent with the Company's progress in addressing odor and
21 noise complaints. After the initial report, BMSC began an aggressive aesthetic
22 improvement program that led to numerous odor and sound improvements. In
23 total, since December 2003, BMSC has spent more than \$600,000 improving its
24 system. See Schedule of Improvements, Wade Rebuttal Exhibit 3, attached hereto.

25 **Q. WHAT ARE THE RESULTS OF THESE IMPROVEMENTS?**
26

1 A. BMSC has achieved substantial improvement. As I reported to Mayor Morgan in
2 May 2005, BMSC's efforts have:

- 3 • Reduced hydrogen sulfide concentrations in the plant from 700 parts
4 per million (ppm) to an average of just 2 ppm, a reduction of 99.7%;
- 5 • Reduced emissions based on WWTP fence line readings by an
6 average of 80%, leaving BMSC at an emissions level exceeding
7 Maricopa County standards by more than 80%;
- 8 • Reduced odor levels at the CIE pump station to an undetectable level,
9 exceeding Maricopa County standards on average by 90%;
- 10 • Reduced exhaust emissions from the scrubber stack to an average of
11 zero (0) parts per million;
- 12 • Reduced noise levels at the WWTP fence line to 10 decibels below
13 current ADEQ standards.

14 Wade Rebuttal Exhibit 1

15 **Q. WHAT DOES THE REPORT FROM PHASE VI SHOW?**

16 A. In the latest phase of the study, LTS re-evaluated the current condition of the
17 collection system and sought to determine whether odors could be detected at the
18 pump station, the treatment plant or from anywhere else in the collection system.
19 The Phase VI sampling effort mirrored the testing and sampling protocol of the
20 Phase II report in an attempt to make a direct comparison of the effectiveness of
21 the odor improvement. Wade Rebuttal Exhibit 2 at 1, Executive Summary. The
22 goal of this phase was "to determine how effective the hydrogen sulfide and odor
23 control measures had been." Id.

24 **Q. WHAT RESULTS DID LTS REPORT FROM THE PHASE VI STUDY?**

25 A. LTS found virtually no odor emissions that were sulfur-based at the fence line
26 around the lift station or the treatment plant. Id. LTS concluded that this data

1 showed considerable improvement from the same sorts of test performed during
2 Phase II of the LTS Study, with some sulfide concentrations being reduced by as
3 much as 90%. Id.

4 **Q. DID LTS REPORT ANY PROBLEMS IN THE PHASE VI REPORT?**

5 A. Yes, there were some chemical feed problems during the testing period which
6 appear to have correlated to higher than normal sulfide levels, although it appears
7 that levels returned to normal after the problem with the feed was resolved. Id.
8 Later in the test period, higher than normal levels of sulfide were reported as likely
9 due to increased activity, including increased disposal of grease and solids, from
10 the restaurant upstream from BMSC's commercial lift station. In response, LTS
11 recommends increasing the chemical feed rate and conducting additional re-
12 evaluations. Id.

13 **Q. DO ANY OF THE PROBLEMS NOTED IN THE PHASE VI REPORT**
14 **WARRANT THE RELIEF SOUGHT BY THE TOWN?**

15 A. Absolutely not. These are isolated incidents, typical in operating a sewer system
16 and subject to measures already in place to address them. Some problems could
17 also be addressed by the Town, which could adopt ordinances regarding waste
18 disposal in the Town's limits. Meanwhile, the overall success of BMSC's efforts
19 to remediate odor complaints remains unchanged from earlier reports by LTS.

20 **Q. IS BMSC OPERATING IN COMPLIANCE WITH ALL APPLICABLE**
21 **ODOR AND NOISE RELATED REGULATIONS?**

22 A. Yes, BMSC's facilities operate in total compliance with all applicable law and
23 regulation. See Marlin Scott Jr. Direct, Exhibit MSJ at 4. Mr. Scott, the Staff
24 Engineer who testified he has participated in more than 400 Commission
25 proceedings, inspected the system and noted no problems with odors. In many
26 cases, the LTS reports show that BMSC dramatically exceeds the applicable

1 standards. See LTS Phase III through VI Reports attached hereto as Wade Rebuttal
2 Exhibits 1 and 2.

3 **Q. HAS THE TOWN PRESENTED EVIDENCE OF ANY NON-COMPLIANCE**
4 **OR OTHER VIOLATIONS BY BMSC?**

5 A. None whatsoever. Mr. Francom actually testifies that he does “not have
6 independent evidence to verify BMSC’s assertion” that it is operating in
7 compliance. Francom Affidavit at 3. I have to admit to being somewhat surprised
8 that the Town did not make more of an effort to determine whether BMSC’s
9 system meets or exceeds applicable legal requirements and other standards.

10 ~~Q. DOES MR. FRANCOM HAVE INDEPENDENT KNOWLEDGE OF~~
11 ~~BMSC’S PLANT AND OPERATIONS SINCE HE IS THE TOWN’S~~
12 ~~PUBLIC WORKS SUPERINTENDENT?~~

13 ~~A. No. Although Mr. Francom was with Western Environmental Technologies, which~~
14 ~~once operated the BMSC system, Mr. Francom’s current job does not include~~
15 ~~regulatory oversight of BMSC’s systems and operations. In his capacity as~~
16 ~~superintendent though, Mr. Francom has been privy to all of the community~~
17 ~~outreach programs and all of the meetings with the Town to discuss BMSC plans~~
18 ~~for addressing odor problems. I also assume he has reviewed the subsequent~~
19 ~~reports by LTS discussing the improvements that have been made to address odor~~
20 ~~and noise complaints.~~

21 ~~Q. DO THE LTS REPORTS RESPOND TO CONCERNS RAISED BY MR.~~
22 ~~FRANCOM IN HIS AFFIDAVIT?~~

23 ~~A. Yes. For example, Mr. Francom claims that there are odor problems in Carefree~~
24 ~~Inn Estates, where BMSC’s CIE lift station is located. This portion of the system~~
25 ~~collects less than one third of the sewage transported through the BMSC collection~~
26 ~~system, the LTS Phase III report documents no ambient odor detection and~~

1 recommends no further action required at this site. Concerning the Boulders/Quartz
2 Drive sewer pressure and off gassing, at the time of the Phase II study, specific
3 pressure data was collected throughout the BMSC collection system. Of the 24
4 data points collected, the average sewer pressure was 0.01125 inch of water
5 column (in./WC) or 0.00041 pounds per square inch (psi). The highest recorded
6 pressure reading in the LTS Phase II study was recorded at the intersection of
7 Boulder and Quartz Drive, which was 0.05 in./WC or 0.0018 psi. Wade Rebuttal
8 Exhibit 2, Phase II Study.

9 To address Mr. Francem and the Town's concern over pressurized off-
10 gassing of odors, mechanically sealed manholes were placed at the Boulders
11 Quartz drive intersection, which is the location of the highest pressure reading. In
12 addition, a hydrogen sulfide detection instrument was placed on the vent stack of a
13 house in close proximity of the point of highest recorded sewer pressure. After
14 200 hours of continuous data logging there were no conclusive data recorded to
15 support the theory of off gassing through roof vent emission. Wade Rebuttal
16 Exhibit 2, LTS Phase II Graph (final page) The Boulders Resident Vent Stack
17 Hydrogen Sulfide Monitoring July 28, 2004.

18 Q. PLEASE CONTINUE.

19 A. Mr. Francem states that the LTS Phase II report did show hydrogen sulfide
20 formations. They were abnormally high at the Boulders Quartz drive manhole. Id.
21 at LTS Phase II Graph Session 1 July 28, 2004. As later reported by LTS, "with
22 the current chemical feed location and previous improvements made at the
23 Commercial lift station, hydrogen sulfide concentrations have been reduced at the
24 main downstream discharge location at Boulders and Quartz Drive over 99%. At
25 this point, there are no recordable ambient levels that warrant any type of odor

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

issue at this location.” Wade Rebuttal Exhibit 1, LTS Phase III report Page 2 fourth paragraph dated November 01, 2004.

Q. WHAT ABOUT MR. FRANCOM’S CLAIMS THAT ODORS ARISE FROM LONG RETENTION TIMES IN THE COLLECTION SYSTEM?

A. Again, Mr. Francom refers to the LTS report stating “even LTS recognizes that the sewage is quite septic due to the retention time in the force mains and high wastewater temperature.” Francom Affidavit at 2. However, there just does not appear to be any scientific data to support the contention that “septic” conditions exist.

Q. ARE THERE OTHER APSECTS OF MR. FRANCOM’S AFFIDAVIT WITH WHICH YOU DISAGREE?

A. Yes, Mr. Francom states that “the Carter Burgess Report observed that the length and design of the Black Mountain Sewer collection system make it particularly susceptible to these anaerobic conditions.” Id. Again, while that may be the opinion of the report’s authors, the report fails to identify any calculations performed or any in-field data collected to support the claim.

Mr. Francom’s also states “... if the effects of the chemicals diminish below a certain level during the retention and transit period, increased odors will occur.” Although, I do not agree that diminishing levels of chemical are in direct correlation to detectable odors, I do agree that with any sewer collection system, if conditions are allowed to exist that promote the formation of hydrogen sulfide compounds, there may be an increased potential of detectable odors. This is why regulated utility companies are held responsible for the operation and maintenance of sewer collection and treatment facilities in a manner that meets regulatory guidelines.

1 Q. WHAT DOES THE TOWN WANT BMSC TO DO TO ADDRESS ODOR
2 COMPLAINTS?

3 A. The Town wants BMSC to devise a plan to eliminate odor problems and
4 implements the most critical measures. Affidavit of Jon Pearson at 2. Until it
5 does, the Town wants the Commission to withhold all rate increases. I disagree
6 that such a plan is warranted.

7 Q. WHY IS THAT MR. WADE?

8 A. Because BMSC has taken every reasonable step to eliminate odors from the
9 operation of its sewer system. Any further improvements would be unnecessary
10 and impose an undue burden on the Company and ratepayers.

11 Q. HASN'T THE TOWN OFFERED TO FUND AND INSTALL ADDITIONAL
12 FACILITIES INTENDED TO ADDRESS ODORS?

13 A. Yes, and Mr. Pearson correctly notes that BMSC rejected those offers. Pearson
14 Affidavit at 1.

15 Q. WHY WOULD BMSC REJECT AN OFFER TO FUND ADDITIONAL
16 CAPITAL IMPROVMENTS?

17 A. ~~For a number of reasons. Mr. Francom's testimony states that "this air flow~~
18 ~~mechanism would create a negative pressure in the sewer system thereby,~~
19 ~~hopefully, keeping sewer odors from escaping from residential vent stacks."~~
20 ~~Francom Affidavit at 4. Although vent stacks are not part of the BMSC sewer~~
21 ~~systems, the LTS Phase II report and over 200 hours of vent stack air sampling~~
22 ~~data, do not support the conditions that would allow vent gas to escape a residential~~
23 ~~vent, therefore this application as described, is unnecessary. See generally, Wade~~
24 ~~Rebuttal Exhibit 1~~

25 The Town's offer is also incredibly vague. Which improvements from the
26 Carter Burgess report do they want implemented? What are they offering to pay

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

for—does it include increased operating expenses? The Carter Burgess report recommends almost \$2 million dollars in capital improvement projects. Francom Affidavit, Exhibit A at 13-19. If implemented, those capital improvement have an annual operations costs in excess of \$300,000. *Id.*

The Town may be ready to assess its citizens to pay a \$2 million dollar bill for further odor control on a system that meets all applicable standards. BMSC is not. Nor is it ready to saddle those ratepayers with an additional \$300,000 of operating expenses. Based on my experience, such a program would fail any rational cost/benefit analysis.

Q. IN YOUR OPINION, HAS BMSC ACTED REASONABLY IN RESPONDING TO ODOR COMPLAINTS?

A. In my opinion, yes it has. The bottom line is that after numerous studies, supportive evidence and the numerous inspections from regulating agencies including Maricopa County Department of Environmental Services and ADEQ, BMSC is confident that there are no odor problems arising from the BMSC assets or infrastructure.

Q. DOES THAT CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes.

Exhibit 2

1 FENNEMORE CRAIG, P.C.
Jay L. Shapiro
2 Patrick J. Black
3003 N. Central Ave.
3 Suite 2600
Phoenix, Arizona 85012
4 Attorneys for Black Mountain Sewer Corporation

5 **BEFORE THE ARIZONA CORPORATION COMMISSION**

6
7 IN THE MATTER OF THE
APPLICATION OF BLACK
8 MOUNTAIN SEWER
CORPORATION, AN ARIZONA
9 CORPORATION, FOR A
10 DETERMINATION OF THE FAIR
VALUE OF ITS UTILITY PLANT
AND PROPERTY AND FOR
11 INCREASES IN ITS RATES AND
CHARGES FOR UTILITY SERVICE
12 BASED THEREON.

DOCKET NO: SW-02361A-05-0657

13
14
15
16
17
18 **REJOINDER TESTIMONY OF**
19 **JOEL L. WADE**
20
21
22
23
24
25
26

TABLE OF CONTENTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Page

I. INTRODUCTION, PURPOSE AND SUMMARY 1
II. ODOR COMPLAINTS..... 1

1800212.2/16040.031

1 **I. INTRODUCTION, PURPOSE AND SUMMARY.**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS?**

3 A. ~~Joel L. Wade, 21410 N. 19th Ave, Suite 201, Phoenix, Arizona 85027~~

4 **Q. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY IN THIS**
5 **PROCEEDING?**

6 A. Yes, my rebuttal testimony was submitted in support of Black Mountain Sewer
7 Corporation's ("BMSC" or "Company") application for rate increases.

8 **Q. WHAT IS THE PURPOSE OF THIS REJOINDER TESTIMONY?**

9 A. My rejoinder testimony relates to the Town of Carefree's ("Town") continuing
10 claims of odor problems originating from the BMSC wastewater collection and
11 treatment system.

12 **II. ODOR COMPLAINTS.**

13 **Q. DOES BMSC HAVE AN ODOR PROBLEM, MR. WADE?**

14 A. No, it has an odor complaint problem.

15 **Q. WHAT IS THE DIFFERENCE?**

16 A. BMSC has control over its facilities, its operations and any odors that are emitted
17 from the operation of its facilities. The Company has taken steps and eliminated
18 any odors that can be characterized as problematic, and it appears that many of the
19 complaints the Town points to pre-date the Company's efforts to address odor
20 complaints. Pearson SB at 3-5. In fact, Mr. Pearson's surrebuttal testimony
21 discussing odor complaints shows that customer complaints have steadily declined
22 since BMSC began and then completed plant improvements to address odor
23 complaints. *Id.* ~~What BMSC cannot control is the customers and Town officials,~~
24 ~~some of whom have chosen to continue to complain about a problem that has been~~
25 ~~remedied.~~

26

1 Q. THERE DOES APPEAR TO BE AN INCREASE IN COMPLAINTS IN THE
2 TIME FRAME OF DECEMBER 2005 THROUGH MAY 2006. WHAT DO
3 YOU MAKE OF THAT?

4 A. I am not surprised to find odor complaints in the time frame of December 2005
5 through May of 2006. It was during this time that the Boulders HOA performed a
6 pavement replacement project throughout the Boulders community. Included as
7 part of the contracted work was the repair and adjustment of all utility facilities
8 that were disturbed during the replacement of pavement. During this time, BMSC
9 noted numerous instances of damage and/or sub-standard repair of sewer mains in
10 the sewer system. See Correspondence dated January 5, 2006, copy attached
11 hereto as Wade Rejoinder Exhibit 1. It is my recollection that it took nearly three
12 months after this letter was sent for the Boulders HOA to respond and remedy
13 these damages.

14 Q. WHAT ABOUT THE TESTIMONY OF THE TOWN MANAGER THAT
15 THE TOWN IS AWARE OF CURRENT ODOR PROBLEMS?

16 A. Mr. Francom supports this claim by making two points, the second of which is that
17 BMSC has an odor problem because it is continuing to receive customer
18 complaints. Francom SB at 3. Mr. Pearson makes the same point in his testimony.
19 Pearson SB at 3-5. Mr. Francom also testifies that not all of the Company's
20 customers agree that there is no odor problem. Francom SB at 5. This is exactly
21 my point—BMSC has a problem with customer complaints about odors.

22 Q. FAIR ENOUGH, BUT MR. FRANCOM ALSO CLAIMS HE PERSONALLY
23 SMELLED RAW SEWAGE AT ONE OF THE COMPANY'S LIFT
24 STATIONS, ISN'T THAT EVIDENCE OF AN ODOR PROBLEM?

25 A. It may be considered evidence of an odor problem by Mr. Francom, however, there
26 are a number of reasons odors may be misconstrued as sewer gases. For example,

1 BMSC has identified a number of fugitive odor emitters unrelated to the
2 Company's infrastructure or operation. These include illicit discharges of grease
3 from commercial customers, stagnant water in low lying stormwater tributaries
4 and uncovered residential and commercial waste receptacles. Evidence of these
5 examples were presented to the Town Council some time ago. Remediation of
6 these sources is largely outside the Company's control.

7 **Q. IS IT POSSIBLE THAT MR. FRANCOM IS RIGHT AND ODORS ARE**
8 **JUST NOT BEING DETECTED AT ALL TIMES?**

9 A. It is possible because the Company cannot be everywhere all the time. However,
10 BMSC took this possibility into account in its odor assessment efforts. As
11 identified in the LTS studies, over 200 consecutive hours of data was collected,
12 and repeated during the same days of the week for two consecutive weeks.
13 Wade RB at 3-9 and Wade RB Exhibits 1 and 2. As Mr. Francom admits, the
14 Town has no scientific data to support its claims. Francom SB at 4. But BMSC
15 does. Wade RB Exhibits 1 and 2.

16 **Q. MR. FRANCOM ALSO TESTIFIES THAT YOU CANNOT DISPUTE**
17 **THAT LONG RAW SEWAGE RETENTION TIMES RESULT IN SEPTIC**
18 **SEWAGE. HOW DO YOU RESPOND?**

19 A. Mr. Francom is wrong in fact, I could not disagree more. If not properly
20 controlled, sewer detention can become a catalyst in support of septic conditions,
21 however, it does not cause these conditions. Septic conditions are a result of
22 depleted oxygen levels, improper pH and alkalinity conditions as well as
23 supportive levels of the required bacteria. Sewage may remain in a sewer system
24 indefinitely without becoming septic if the proper conditions are maintained.
25 Cities like Phoenix, Scottsdale and Glendale maintain sewer systems with many
26 times longer detention than the BMSC system. These large sewer conveyance

1 systems are able to accomplish this by controlling the conditions of the sewer, in
2 many instances utilizing the same methodology as BMSC.

3 **Q. MR. FRANCOM TESTIFIES THAT THE TOWN'S OFFER TO PAY FOR**
4 **TEST EQUIPMENT IS CONSISTENT WITH BMSC'S OWN EXPERTS**
5 **RECOMMENDATIONS. WHY NOT JUST LET THE TOWN PAY FOR**
6 **THIS TEST EQUIPMENT?**

7 A. Ultimately, that is a decision for the Company, and I made my recommendation
8 based from the completed LTS report conclusions. The recommendation for the
9 improvements Mr. Francom is referring to was reported in the LTS Phase III
10 report. These recommendations were premature and ultimately recanted in the
11 Phase VI report. See Wade RB Exhibit 1. The reason for this is that further
12 research and odor control development under the Phase VI report showed that
13 under controlled sewer conditions, this type of odor control was not warranted, and
14 I agree with LTS Phase VI conclusions.

15 **Q. DO YOU WISH TO MAKE ANY OTHER COMMENTS AT THIS TIME?**

16 A. Yes, I would like to respond to Mr. Francom's comment about his having personal
17 knowledge of BMSC's system because he operated it for five years. Francom SB
18 at 2-3. First, that was several years ago before Algonquin acquired the Company
19 and, as made abundantly clear in my rebuttal testimony, there have been major
20 improvements to the system since Mr. Francom was involved in the operations.
21 See, generally, Wade RB. Second, while I do not intend to disparage
22 Mr. Francom, he was operating a system that had an odor problem. I have no
23 personal knowledge of the issues that led to those odorous conditions, however, it
24 is very clear by the numerous odor control reports, regulatory inspections and
25 supportive regulatory correspondence that those same conditions simply do not
26 exist today. Why these conditions existed doesn't really matter because the system

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

does not have an odor problem today and for all its complaining, the Town has not shown or even alleged that BMSC is operating out of compliance with any law, regulation or applicable industry standard.

Q. DOES THAT CONCLUDE YOUR REJOINDER TESTIMONY?

A. Yes.