

W-03512A-06-0407

W-03512A-06-0613

ORIGINAL



0000067093

ARIZONA CORPORATION COMMISSION

UTILITY COMPLAINT FORM

Investigator: Richard Martinez

Phone: [REDACTED]

Fax: [REDACTED]

Priority: Respond Within Five Days

Opinion No. 2007 - 58505

Date: 2/15/2007

Complaint Description: 08A Rate Case Items - Opposed  
N/A Not Applicable

Complaint By: Tom

Last: Garrett

Account Name: Tom Garrett

Home: [REDACTED]

Street: [REDACTED]

Work: [REDACTED]

City: [REDACTED]

Arizona Corporation Commission

State: AZ

Zip: [REDACTED]

CBR: [REDACTED]

is: [REDACTED]

FEB 15 2007

Utility Company: Pine Water Co., Inc.

Division: [REDACTED]

DOCKETED BY

Contact Name: [REDACTED]

Contact Phone: [REDACTED]

Nature of Complaint:

(W-03512A-06-0407 & W03512A-06-0613)

I disagree and respectfully request the Commissioners examine five\_ substantive issues:

- a. Will approval of complainants' request have an such an egregious effect on the people of Pine and Strawberry that it must outweigh all other considerations?
- b. Are the terms "adequate" and "reasonable" being used in their usual sense? c. What is the history of complainants regarding development and water issues?
- d. Can complainants' claim that water from their well is "new water" withstand close scrutiny? e. Do complainants offer valid proof that an aquifer exists beneath Pine whose water does not originate as surface water?

Discussion:

a. Being a mountain community located on sloping land where the majority of precipitation runs off in surface streams, Pine has historically had a limited water supply. Prior to the development of tracts which are contiguous with but outside the Pine Water certificated area, the supply was adequate to meet needs; however, as matters now stand unlimited pumping occurring within those areas outside the Pine Water certificated area lowers the water table during hot summer months and creates the need for Pine Water to truck in water. In essence, private developments pump uncontrolled amounts of water and the people of Pine pay to replace it. By no stretch of the imagination can Pine Water be faulted for this; it has in fact a five stage water conservation program which it manages with great efficiency. Were other entities which pump water out of the same water table to manage this valuable resource as efficiently, the need for trucking might very well be eliminated. Obviously, any move to delete a portion of the area now in the Pine Water certificated area for the purpose of further development which would result in additional unregulated and uncontrolled pumping would be a major disaster for the people of this area. On this issue alone, the complainants must fail.

b.

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(1) Reference the definition of the term "adequate." I refer you to ACC Docket No. W-03512A-03-0279. Adequate, reasonably, should be defined as delivery of that amount of water which in the eyes of the residents appears sufficient. Clearly, it can be seen from paragraph 5 of page 4 of the Executive Summary submitted during the aforementioned docket that the people of Pine and Strawberry recognize that they live in an area in which natural conditions, beyond their control or that of Pine Water, have created a situation where there exists a fixed water supply, but from the comments made during the referenced survey it is obvious that under those conditions those same people find the amount of water available to them to be adequate. It would appear then, that complainants are using some definition of adequate other than the reasonable definition which derives from the natural conditions of the area. Apparently, their definition of adequate is to be permitted unlimited pumping of a precious resource to the detriment of all concerned. This is not adequacy; this is extravagance.

(2) Reference the definition of "reasonable," I think the Commission will agree that the proper definition of reasonable regarding the rate of delivery by a utility company is that rate which is acceptable to its customers. The current water supply in Pine and Strawberry is perceived by the majority of people to be more than reasonable. The pressure is excellent, there are no water outages, and the only restrictions which occur fall during summer months at a time when uncontrolled pumping of water outside the Pine Water certificated area causes restrictions to be applied. Obviously, should the complainants be allowed to pump even more water without restriction the result would be an even greater demand on a fixed water supply, aggravating the current situation. Their request is not a solution to the problem; it is a worsening of it. Is that their definition of "reasonable?"

c. I know of no history regarding complainants Randall and Randall.

Complainant Raymond Pugel has a history regarding attempts to get around the control of the Corporation Commission. One past move was the circulation of a petition to have the people of Pine and Strawberry buy the water company and place it under public ownership, thereby cutting ACC out of the loop. The petition, of course, failed because the people of the area are not so foolish as to voluntarily remove the only protection they have from overdevelopment and overpumping, namely the ACC.

A similar attempt to have the people of the area buy the water company has recently been noted. It has apparently died from lack of support.

Pugel has announced his intention to build condominiums in Pine, a move which would be water intensive because of high population density. Though little has been said of it recently, it is presumed that this matter is still on the table. The point, of course, is that the mere idea of building high population density condominiums is contrary to the best interests of an area with a fixed water supply.

Pugel has opposed the people of Pine and Strawberry in their attempt to find new water sources. The Pine Strawberry Water Improvement District, which acts in behalf of the people of this area and is supported by their taxes, has joined with Pine Water Company in a joint effort to drill a new well in an area where it will not draw down the Pine water table. The people of the area applaud this action, which is the very reason they created PSWID. For reasons of his own, Pugel opposes it.

These actions clearly indicate a wrongheaded attempt to somehow undo a situation created by nature itself. There is only so much water. No matter how desirable it might be as far as profit is concerned to clothe every hill and dale in Pine and Strawberry with housing, it simply cannot be done. There is not sufficient water available to allow it, and no number of petitions, or complaints, or committees, or action groups it is going to change that basic fact.

(d) Complainants have drilled a well down to roughly 1200 feet and claim that the water from it is "new water." This flies in the face of hydrology reports which clearly indicate that at that level, and deeper, the strata below Pine and Strawberry are composed of "fractured rock." The water in their well is, therefore, part of the water table even though their well is deeper than some others in the area. It doesn't matter whether you deal off the top or the bottom of the deck, the deck still holds fifty-two cards. Pumping water out of the base of the water table lowers that water table just as surely as pumping water higher up does. There is, therefore, no "new water."

(e) Let us once and for all lay to rest to the suggestion that there is an "aquifer" running beneath Pine and Strawberry, in other words a water bearing layer or stratum which holds water whose origin is not part of local area precipitation. There is no such aquifer! If there is, let the complainants offer proof of it.

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The evidence needed to prove the existence of such an aquifer is plain:

(1) It would have to be demonstrated that beneath Pine there exists an impermeable layer, or layers, of rock or clay located between the surface and the depth from which a well is drawing its water. Where is the evidence of such impermeable layers? There is no such evidence because there are no such layers. The hydrology reports all show fractured, hence permeable, rock.

(2) Pumping tests would have to be done to show that pumping from a well claiming to produce water which is not part of the water table has no effect on those wells at higher levels. For obvious reasons, no such tests have been done.

(3) Dye tests would have to be run to prove that the water contained in the stratum below the as-yet-unproven impermeable layers originated in some place distant enough from the local area to be considered unrelated to its water table. Or chemical analysis could be used to demonstrate that the water is fossil water, in which case proof of the long term viability of the well would require evidence that the pocket of trapped fossil water is sufficiently large to justify the construction and sale of new homes. None of these tests have been run.

On all five issues, the complainants fail. They must therefore fail in their effort.

\*End of Complaint\*

**Utilities' Response:**

**Investigator's Comments and Disposition:**

2/15- I called customer @ 0902 and told customer that I am in receipt of his correspondence (opinion against the proposed deleneation of Pine Water Company's CC&N. ACC staff told customer that his Opinion against the deletion will be docketed so that the Commissioners will have an opportunity to read his Opinion. FILE CLOSED.

\*End of Comments\*

**Date Completed: 2/15/2007**

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