

FILE IN W-03512A-07-0362

ORIGINAL



ARIZONA CORPORATION COMMISS  
UTILITY COMPLAINT FORM

4700

Investigator: Carmen Madrid

Phone: [REDACTED]

Fax: [REDACTED]

Priority: Respond Within Five Days

Opinion No. 2007 61194

Date: 6/22/2007 Arizona Corporation Commission

Complaint Description: 19E Other - Non-Jurisdictional  
N/A Not Applicable

DOCKETED

AUG -1 2007

Complaint By: First: Lisa Last: Orthmann

Account Name: Lisa Orthmann

Home: [REDACTED] DOCKETED BY NR

Street: [REDACTED]

Work: [REDACTED]

City: Pine

CBR:

State: AZ Zip: 85544

is:

Utility Company: Pine Water Co., Inc.

Division: [REDACTED]

Contact Name: [REDACTED]

Contact Phone: [REDACTED]

Nature of Complaint:

From: Lisa Orthmann [mailto:lorthmann@yahoo.com]  
Sent: Thursday, June 21, 2007 5:02 PM  
To: Utilities Div - Mailbox  
Subject: Water Utility Question regarding Potential ACC Intervention

RECEIVED  
2007 AUG -1 P 12: 09  
AZ CORP COMMISSION  
DOCKET CONTROL

Name: Christopher & Lisa Orthmann  
Utility: Strawberry Water Company/Brooke Utilities  
Name on Bill: [REDACTED]  
Account Number: [REDACTED]  
Service Address: [REDACTED]  
Permanent Address: [REDACTED]  
Email: [REDACTED]  
Phone: [REDACTED]  
Utility Contacted: Yes

I have a general question for the Commission. An agreement was recently signed between Brooke Utilities' Pine Water Co. division and the Pine/Strawberry Water Improvement District for the development of a deep well project within Strawberry. This agreement benefits ONLY the residents of Pine with only residual (if any) benefit to the community of Strawberry (even though the water will be taken out of Strawberry). The agreement involves the reconveyance of a well site owned by Strawberry Water Company to Pine Water Company, but the agreement does not outline any terms of the "sale". It appears that the asset is being transferred between the affiliate companies at SWCo's book value. This is only one of numerous concerns I have surrounding this agreement.

Since this agreement has been signed by both parties, does the ACC have any ability/power to review or intervene with regard to this agreement? Do we as consumers have any recourse with the ACC? If so, what

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would that recourse be?

Thanks in advance for your response,  
Lisa Orthmann

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6/26/07 Additional comments received from consumer:

Dear Commissioners,

I understand the Commission has an application currently pending from Pine Water Company regarding a proposed deep well project. As a property owner in Strawberry, AZ and a customer of Brooke Utility's Strawberry Water division, I oppose the K2 deep well project for the following reasons and I urge you to reject it:

The agreement is essentially a below-market loan of taxpayer dollars to Brooke Utilities Pine Water Company. This loan potentially violates Arizona law. The Arizona Constitution states "No tax shall be laid or appropriation of public money made in aid of any church, or private or sectarian school, or any public service corporation."

The terms of this loan agreement call for a 6% interest rate over a 36 month period (assuming the well is successful). This rate is significantly below the market rate and is essentially a taxpayer-funded subsidy. According to the annual reports filed on the ACC website, Brooke Utility issued an intercompany loan to Strawberry Water at a rate of 10%. Why should the taxpayer receive a lower return on the investment than Brooke itself requires from its own subsidiaries?

The contract calls for a \$300K investment of tax dollars. If the well is unsuccessful or if the project goes over budget, the District loses its investment (i.e. Brooke does not have to repay the loan). This not only fails to provide Brooke an incentive to manage the costs on the project, it gives them an INCENTIVE to exceed the established budget. This places our tax dollars at unnecessary and unacceptable risk.

The agreement benefits only the residents of Pine, AZ when the funding for the project came from taxes collected from the communities of both Pine and Strawberry.

The choice of site within the Town of Strawberry is suspect for numerous reasons:

The chief negotiator for the PSWID and PSWID board member was involved in a land transaction with Brooke Utilities and purchased the property adjacent to the K2 site WHILE NEGOTIATING ON BEHALF OF THE DISTRICT. This is a clear conflict of interest.

The K2 site was described by a certified geologist contracted by the PSWID as NOT the "optimum drilling site" (see the attached document).

The well represents a potential risk to Fossil Springs (see attachment).

Wells could be drilled in Pine at "significantly lower cost and risk than in Strawberry" according to the certified geologist (see attachment).

The agreement is silent with regard to the terms of the sale of the K2 site from Strawberry Water Co (also a Brooke subsidiary) to Pine Water Co. This "sale" is not being treated as an arms-length transaction -- and Brooke has repeatedly been scrutinized by the ACC and the Gila County Board of Supervisors for commingling the interests of their various subsidiaries. In one instance, Brooke was required to reverse more than \$500,000 in erroneous charges as a result of their accounting antics related to the Magnolia pipeline.

The Board failed to fully investigate existing water sources including water sharing agreements with willing private well owners.

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The contract does not contain a right to independent audit clause.

This agreement is violates the overall public good and should be rejected. If you have any questions, please do not hesitate to contact me.

Thanks in advance for your assistance.

Lisa Orthmann, CPA  
[REDACTED]

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Geological report:

HIGHLAND WATER  
RESOURCES CONSULTING Inc.  
- Water Resources Solutions

May 30, 2006

PSWID  
Attn. Wes Surh  
[REDACTED]

Pine, AZ 85544

RE: K2 Well Site Evaluation Groundwater Resources Potential

Dear Mr. Surh.

Upon the May 18th, 2006 approval and direction of the PSWID board, Highland Water Resources Consulting Inc. (HWRC) has completed its evaluation of the groundwater resources potential at the "K2" well site. The K2 location was considered in light of the local structural geology and both the deep regional and shallower perched groundwater systems. The evaluation focused on the structural geology in the vicinity of the site via a photo lineament analysis. Additionally, data presented in recent publicly available reports of the SHDWID, PSWID, USGS, and ADWR were considered as well. The ongoing Mogollon Study "MRWRMS" has produced a few draft documents of late and is currently wrapping up. However, preliminary data of the MRWRMS available to the public is also considered. The findings of the K2 investigation are presented in this five page letter report.

**K2 WELL SITE LOCATION**

The K2 well site is located in eastern Strawberry at an old water distribution site currently owned by Brooke Utilities. The site is located at approximately N34 '24.388 W111 '29.712 at a surface elevation of approximately 5,868ft. An existing old shallow production well at the site (55-616681) is reportedly a "dry hole".

**K2 WELL SITE EVALUATION - GROUNDWATER RESOURCES POTENTIAL**

Upon review of existing data and the completion of a lineament analysis of the site HWRC is confident that the location is quite adequate for the drilling of a deep test and or production well. Figure 1 below, displays the results of the lineament analyses numerous structural features exist in the vicinity of the K2 site and at other sites to the north and northeast herein referred to as optional sites "K1" and "K3" for consistency. The existence of such structural features indicate a higher probability for the presence of secondary permeability (fractures) in the geology below. This situation mild enhance the groundwater production potential within the deep regional aquifer

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### FIGURE I – K2 Area Lineament Analysis

It is anticipated that the groundwater elevation of the deep regional system will be found between 4,000ft and 4,800ft. ( 1,260ff. -1,100ft depth to water) in the vicinity. If a well is drilled in this area it is anticipated that the Redwall Fm would be entirely to partially saturated. However, the primary producing geology may be within the Martin Fm. thru the Tapeats sandstone and into the Precambrian basement rocks at depths below approximately 1,460ft. These strata should be saturated in this area, in this respect, drilling to a depth of approximately 2,000ft ought to be sufficient to determine the level encountered and penetrate a significant section of the deep regional aquifer. It should be noted that the deeper the well is installed the higher the groundwater elevation may rise due to the potentially semi-confined nature of the Precambrian system in this region. Also notable is that the Redwall (where productive) is producing an extremely fine red sediment and that the Tapeats and Martin may be producing sand. This situation can require more costly well construction via necessity for filter pack and well screen or surface filtration in combination with a down-hole sand separator. This issue also will add to the life cycle costs of the well and equipment. It is currently unclear if the sediment concern is a localized issue or a regional characteristic of the deep regional aquifer.

The upper 1,000ft of strata encountered in the subject area is anticipated to consist of the Schnebly Hill and Supai formations and into the upper Naco Formation. Of consideration is the groundwater that will be encountered in this sequence as "fringe" C-Aquifer groundwater. Perched producing zones within this system occur within thin saturated sandy lime layers and fracture systems. These small systems may be interconnected w/o proper well construction resulting in vertical gradients in the well. In consequence, it is recommended that any wells installed in the Strawberry area deeper than 400ft. be constructed to utilize these aquifers discretely. HWRC believes that there is a lowermost unit of this upper system not currently utilized in the Strawberry area, as it would likely be encountered between 700ft. and 1,000ft. The potential yield of this lower perched aquifer unit is unknown.

Therefore, upon encountering this zone it is recommended that the yield of this unit be quantified and isotope and chemistry samples be collected prior to casing and grouting it off from the deep regional aquifer and perched units above. The potential exists that sufficient groundwater production could be encountered from this lower unit such that drilling need not necessarily continue. If this situation were to occur, proper well construction and provisions for the potential future deepening of the well could be made.

### RELATIONSHIP TO FOSSIL SPRINGS and THE DEEP REGIONAL AQUIFER

Fossil Springs exist approximately five miles to the west-northwest of the K2 area This fact should be considered in light of the reality of water rights and environmental concerns relating to any significant (200gpm plus) wells constructed in the deep regional aquifer in the Strawberry area. This too should be considered as part of the risk of investing public funds into such a project. HWRC currently believes that the subject K2 area may not be within that portion of the deep regional groundwater flow system supporting Fossil Springs. However, the exact location of the springs "capture" area is not clearly defined and the complexities of fractured groundwater flow occurring in the deep regional system may never be completely understood. Other than for monitoring purposes, the installation of deep regional groundwater wells much further to the west of the K2 area is not recommended. HWRC believes that sufficient data current exists indicating that deep regional groundwater wells installed to the east, in Pine, would not produce groundwater that otherwise would have discharged an Fossil Springs. As such, deep regional groundwater wells installed in Pine are less likely to be the subject of potential future litigation regarding water rights or environmental issues surrounding Fossil Springs. Another benefit to the drilling of deep regional groundwater wells in Pine rather than in Strawberry is the cost savings that would surely be observed due to shallower well construction requirements in the Pine area.

### SUMMARY AND RECOMENDATIONS

HWRC recommends site K1 as the optimum drilling site in the K2 area. However, HWRC is confident that each of the sites in the K2 area provides adequate opportunity for deep and perched groundwater production. Additionally, opportunity for new groundwater production from a currently unutilized lower perched aquifer is a potential at each site. This affords an option in the completion of the potentially shallower well if sufficient

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production is encountered within or above the Naco Fm (above approximately 1,000ft. in depth)

A caution should be taken when considering the drilling of deep regional aquifer wells in the Strawberry area as water rights and environmental concerns may arise if significant production capacity is committed. With this in mind, many opportunities currently exist in the Pine area for development of the deep regional aquifer at a significantly lower cost and risk than in Strawberry. This is due to the fact that wells in Pine need be installed to depths typically less than 1,500ft. to fully penetrate the deep regional system vs. greater than 2000ft. in Strawberry. So too, deep wells in Pine are further from Fossil Springs and existing data clearly indicate such wells would not capture groundwater that would otherwise have discharged at the springs. The K2 area may not capture groundwater that would otherwise discharge at Fossil Springs, but this cannot currently be confirmed. Additionally, current events in the Pine area surrounding the development of the deep regional aquifer point to opportunities for partnerships with other water improvement districts and private entities that currently have wells in place and/or have tentative plans to drill.

In light of all the findings above, HWRC recommends that the K2 site be drilled once the following lower risk opportunities are explored where the water is needed:

\*Conduct a hydrogeological investigation to identify at least three optimum deep regional aquifer drilling sites in the Pine area. Such an investigation should include recommendations as to the most efficient and cost saving well drilling methods as well as site specific yet practical well design criteria. Ideally, at least one of the sites may be drilled and tested in 2006.

\*Explore and define the opportunities for partnerships with other local Domestic Water Improvement Districts and/or private entities which may currently be in possession of deep regional groundwater supplies or that may be considering the drilling of a deep regional groundwater well in Pine.

\*Explore and define the opportunities for partnerships with Federal and/or County governments.

\*Explore and define the opportunities for any combination of the partnerships above.

\*Prioritize the resulting opportunities.

\*Investigate the legality of any such potential arrangements and define a legal path to successful delivery of the new long-term water source to the community of Pine in the most feasible manner possible

HWRC does not wish to diminish the opportunities presented by the K2 area as it appears to be a good location. Rather, HWRC wishes to recommend consideration of the K2 site alongside other existing opportunities. The K2 area may best serve as an augmentation supply for the Strawberry area as apposed to a new source for Pine. In this way, the costs born by Pine's water customers for the distribution of the water from great depths and over the distance from Strawberry to Pine may be avoided. In addition, such a scenario would ensure that existing resources available to the Strawberry area are preserved. Ideally groundwater from the lowermost perched aquifer may be identified at the K2 site in sufficient quantities. If this zone were slated for future reserve development in Strawberry as apposed to the deeper system in Strawberry, potential water rights and environmental questions may be averted while providing for the utilization of the K2 area at some time in the near future.

Respectfully Submitted,

Michael Ploughe, PG.  
HWRC  
\*End of Complaint\*

**Utilities' Response:**

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**Investigator's Comments and Disposition:**

6/22/07 I contacted customer and informed her that I could take her opinion.

FYI- Legal Division has determined that the agreement application is non jurisdictional.

This opinion is closed.

\*End of Comments\*

**Date Completed: 6/26/2007**

**Opinion No. 2007 - 61194**

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