

ORIGINAL



Betty Camargo

W-02824A-07-0388

From: Larry & Tina BLIGH [lbligh@msn.com]
Sent: Sunday, June 01, 2008 6:12 PM
To: Mayes-WebEmail; Mundell-Web; Hatch-WebEmail; Pierce-Web; Gleason-WebEmail
Subject: ICR Water Users Association - W-02824A-07-0388
Attachments: ICR 5-27-08.pdf

RECEIVED

Arizona Corporation Commission DOCKETED

AZ CORP COMMISSION DOCKET CONTROL

JUN 03 2008

DOCKETED BY NR

Commissioners Mayes, Mundell, Hatch-Miller, Pierce and Chairman Gleason,

The reason for writing to you today, is that we are distressed by recent communications we have received authored by the Board of Directors of ICR Water Users Association (ICRWUA) to the members of the Association. The most recent communication of 5/30/08 was sent just days before the scheduled meeting of the association for which Judge Stern gave the direction for the review of the proposed agreement between Talking Rock Golf Club (TRGC) and ICRWUA. This communication is the latest in a string of written communications from the Board at ICRWUA since the hearing on 4/16/08.

As the Commission is aware, there has been a great deal of anxiety for many of the owners of the Association caused by many Board actions. Judge Stern made mention of this issue during the hearing on 4/16/08. Personally, we felt that Judge Stern's decision for the Board to hold the membership meeting was well thought out. His comments to council representing ICRWUA on this issue were clear. He went so far as to say he wanted to ensure that everyone involved understood that any agreements or decisions would involve everyone. He also said, "so you just can't say, we are the water company and we are the golf club and we are going to make an agreement."

The Board appears to be set on the idea that their previously negotiated agreements with Talking Rock Ranch (TRR), Harvard and TRGC will be the foundation and framework for all agreements going forward. This is in spite of what others and I understood Judge Stern to require when he stressed that compliance with all aspects of the previous Commission Order, Decision 64360 for ICRWUA would be met.

Instead of presenting the details of the proposed newly negotiated agreement and allowing members to ask questions and make a decision, the Board has taken it upon themselves to put these communications out to the membership, in our minds attempting to set the stage and "scare" members into accepting the proposal. Their communications reference lawsuits, possible protracted litigation, possible necessary water treatment for contamination and the idea that water adequacy is an issue. These communications have also gone as far as providing, in writing, what they believe to be are some of the reasons that we must approve the proposal. They use references to their previously negotiated agreements with Harvard as if these documents are the framework for the new proposal and not the Commission's authority or Decision 64360. The following quotes are some examples from their 5/28/08 communication:

"...it has always been the Board's position that based upon the Well Agreement, TRGC is not a customer of the Association. The Well Agreement specifies the costs that TRGC is to pay for operation, maintenance and repair of the TRR water system and a wheeling charge for all the water delivered to the golf course..."

"... the Well Agreement did not define or contemplate that TRGC was to be treated as a customer..."

"...The Board continues to believe that the payment of tariff rates by TRGC is not required by Decision 64360, and any attempt to charge TRGC tariff rates would, at a minimum, cause TRGC to pump water exclusively from its own well (Well No. 1) resulting in an extreme revenue shortfall for the Association. Worst case scenario is that Harvard Investments and TRGC will assert a breach of contract claim under the Well Agreement thereby resulting in protracted litigation. Given these alternatives, it is the Board's view that the Special Contract is in the best interest of its members and will clarify for all parties the relationship of ICRWUA and TRGC..."

6/2/2008

"... TRGC has recently transferred Well No. 2 to ICRWUA. The Association believes that, without question, the transfer of the second well responds to the compliance issue that was docketed in accordance with ACC Compliance Manager Mr. Brian K. Bozzo's memorandum of January 15, 2008..."

As you can see, the Board is working to convince or scare Association members into showing support for the proposal using reference to the Well Agreement (WA) and Main Extension Agreement First Amendment (MXA), which were negotiated and agreed to between ICRWUA and Harvard/TRR/TRGC over one year after Decision 64360 had been put in place. It is obvious by the last quote, that the Board is convinced that with the transfer of Well #2 they have responded to the issues detailed in the non-compliance memorandum issued to them on 1/15/08. Those following the Rate Case closely know that Order 64360 is clear and concise. The conditions for approval included "that the Applicant continue to **charge its existing rates and charges in the extension area**" and "... that as an additional condition for the extension of the Certificate herein, as part of the Agreement, Harvard should include in its advance, **the wells which it has drilled for the purpose of providing water to the extension area...**"

In another mailing from the ICRWUA Board dated 5/19/08, they also worked to give some background on their previously negotiated documents (WA and MXA) on why they are the basis for decisions and agreements going forward. Personally, we feel that many of the statements are misleading and confusing for anyone that has not read through Decision 64360 and related documents. We feel that the following quote from the 5/19/08 communication is a perfect example. The quote is a reference to an explanation by the Board for required Well transfers. The quote is as follows: "... The ACC specifically wanted ICR to **have some control over the water supply...**" Now, anyone who reads Decision 64360 knows that Judge Stern and the Commission went much further in their opinion on this issue. In fact, as you know, the quote from 64360 on this issue is as follows: "...to ensure that the utility has adequate water for its customers and to ensure that they are not subject to relying for their water on a third party over which the Commission lacks jurisdiction..." Clearly, in my mind, has a very different emphasis.

These quotes, and others, along with a "doomsday" letter mailed to all Association members by the ICRWUA Board dated 5/27/08 (attached) are clearly attempting to paint a picture that "scares" members into support. It is unconscionable to me, how the ICRWUA Board can use potential water adequacy as an issue here to support the approval of a "Special Contract" with TRGC to discount our precious groundwater for the irrigation of a golf course in an amount in excess of 130 million gallons annually. Not to mention an additional 40 million plus discounted gallons annually to the developer themselves for other non-residential purposes. However, they also want us to believe that TRGC is working to assist with the water adequacy issues by installing a 25 million gallon pond at the golf course for the storage of groundwater. We do know that the Commission already has published concerns with the use of groundwater on golf courses and the use of ornamental lakes. We applaud the Commission and its concerns in these areas. While not an engineer, one has to assume that at least one of the Commission's concerns center around evaporation rates for stored water using these methods when it is not absolutely necessary for storage of water for human consumption.

With all of this said, I have to believe that the Commission is not going to allow ICRWUA to attempt to circumvent the Commission's authority again. The idea of charging "existing rates" in the extension area seems simple enough. The Commission is the authority to set the rates, and when set, anyone receiving service from ICRWUA pays those rates. Secondly, attempting to have the non-compliance issues removed through the transfer of Well #2 to ICRWUA from TRGC, instead of the **ONLY** Well that even existed at the time the Decision 64360, Well #1, is outrageous. ICRWUA continues to rely on its agreements with Harvard that were put in place well after Decision 64360 to set the rules, instead of the authority of the Commission. They have gone so far as to quote the MXA as being the authority for the Well transfers, not Decision 64360. That came to us in a communication dated 5/26/08. A quote from that communication is as follows:

"...per the First Amendment to the Main Extension Agreement, ownership of only one well (TRR well #3) has been transferred to the Company to the present time whereas Decision 64360 required immediate transfer of two wells. In order to return to compliance the ACC has required the Association to obtain immediate ownership of the second well identified in the First Amendment, i.e. TRR well #2. The Association has recently done so and expects to be found in complete compliance in the very near

future..."

As you can clearly see, ICRWUA is relying on the WA and MXA to set the Well transfer requirements. Again, we believe that Order 64360 is clear. The Wells to be transferred were "...the wells which it has drilled for the purpose of providing water to the extension area..." We believe that common sense and logic tells anyone that Well #1 should have been transferred first, followed by Well #2. The problem is that everyone knows that Well #1 is the only Well that appears to provide enough capacity to allow TRGC to irrigate their golf course using what they believe as "their water" and use this as leverage with ICRWUA to negotiate Special Contract concessions. We also believe that the agreements (WA & MXA) clearly put ICRWUA in violation of public policy, as they clearly attempt to work outside the Commission's authority.

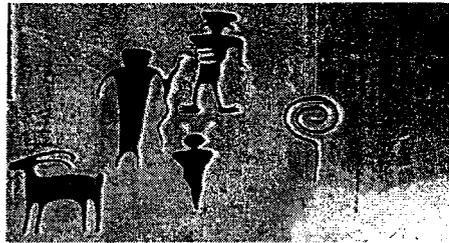
This issue for us is not as much about a proposed rate increase for us as residential users, as much as it is about principle. I am a very principled person and when I believe that something simply is wrong, I have to stand up for what I believe in. Personally, I believe that the use of in excess of 130 million gallons of our precious groundwater on a golf course is wrong. Then to discount that precious commodity to a foreign owned, for-profit developer, makes it even worse.

We would like to thank the Commission for the process you have given us as rate payers to communicate our thoughts and concerns with you. Additionally, we are thankful for the Commission's active involvement and interest in the circumstances ongoing in the rate case with the ICRWUA currently before the Arizona Corporation Commission (ACC). As we have said before, we believe that without the ACC having taken the position they have on the issues in this case, we, the shareholder/owners, would have been without representation, the ability to share our concerns or receive information. It is obvious to many here that there is little, if any, open communication from the existing Board of Directors and it appears questionable what interests they serve.

Again, thank you for your time and for your continuing efforts with this issue and for the service you provide to our State.

Larry & Tina Bligh
13265 N Iron Hawk Dr.
Prescott, AZ 86305
928.776.1937

ICR Water Users Association



May 27, 2008

Dear Members:

Two weeks ago, we mailed you the Letter of Understanding ("LOU"), which was negotiated between ICR Water Users Association ("ICR" or "Company") and Talking Rock Golf Club L.L.C. ("TRGC"), and the proposed water rates as contemplated by the LOU. We also mailed you the Notice of a Special Meeting of Members to be held on June 3, 2008.

Last week, we mailed you a letter that provided some background on ICR, a short chronology of events since the filing of the rate case, a summary of the well field issues the Board became aware of in mid 2007, and a summary of the benefits of the LOU and the remaining actions to be taken to implement the LOU.

This week we are providing our Board's assessment of the potential consequences the Company may face if the LOU is not implemented and rate case settlement negotiations with the Arizona Corporation Commission ("ACC") Staff and Interveners are not successfully concluded. What follows is a list of a few of these possibilities. It is by no means exhaustive, but merely used to highlight the fact that a settlement is very important for the continued financial and operational success of ICR.

1. The most obvious impact is that the LOU would not be implemented, which would result in TRGC not paying \$340,000 in System Reservations Charges over the next 10 years, \$80,000 for legal fees in the rate case, a replacement of the Well No. 2 pump, and the correction of aeration problems with Well No. 2. Furthermore, TRGC would not transfer Well No. 1 to ICR if the LOU is not implemented. TRGC has already transferred Well Nos. 2 and 3 to ICR, but Well No. 1 is the best producer of the three wells and, in the event of the failure of Wells Nos. 2 and 3, would provide a backup to these wells.
2. TRGC could secure an additional water source and connect it directly to the planned TRGC storage pond. This could allow TRGC to disconnect from the ICR system altogether, which would significantly reduce ICR revenues and could increase customer rates by almost 70 percent. This would place a significant burden on ICR customers in order to pay for water system costs that are presently being paid by TRGC.
3. The relationship between ICR and TRGC would continue to be defined by the Well Agreement if the LOU is not implemented. Under the Well Agreement, TRGC is not a customer. In this rate case, the ACC could order ICR to charge tariff rates in addition to reimbursement of expenses to ICR, which would directly violate the Well Agreement. Accordingly, TRGC may seek legal remedies to maintain its status of not being a customer. This course of action would put additional financial strain on ICR in the form of additional legal fees which to date have been substantial.

4. TRGC still owns the best producing well, Well #1. The Company believes that Well #1 is capable of producing nearly all the water needed to irrigate the golf course. Only during the pre-monsoon months and sometimes post-monsoon (April-July, and perhaps October) would TRGC need to obtain water from ICR. TRGC is planning constructing a 25 million gallon storage pond that can be filled during the winter months from Well #1, further reducing the need for water from ICR wells. If TRGC is successful in this effort to reduce water needed from ICR, the Company will receive little of the revenue projected by the ACC. For example, the Company estimates that it is possible for well #1 to produce all but about 10 million gallons of the approximate 120 million gallons of potable water used by the golf course. Even if TRGC paid BOTH the tariff rate AND the expense reimbursement called for in the Well Agreement, it would pay only an estimated \$81,000. This is far less than the \$141,000 it paid in 2007 when power costs are included. This is a significant reduction to ICR, and with the reduction in revenue from residential customers recommended by the ACC, ICR could again be in financial jeopardy. Note that this scenario could not be accomplished under the LOU as TRGC would pay for all water pumped through the ICR system to the golf course, even if it were from a new TRGC owned well.

5. Some members have suggested that Talking Rock Ranch should be separated from ICR and be served by a newly created water company, leaving ICR to only serve Inscription Canyon Ranch, Whispering Canyon and The Preserve. The Board has analyzed this scenario and found that customer rates would actually increase since TRGC is already subsidizing ICR's current residential customers. Additionally, the Board has been advised by its legal counsel and regulatory accountant that the ACC generally opposes splitting small water systems and creating more small water companies in Arizona.

From a financial viability standpoint, none of these scenarios is beneficial to either ICR or its members from a revenue or rate standpoint.

Your Board strongly believes that the LOU represents a good opportunity to resolve the issues at hand and do so in a way that requires only a small rate increase to average customers. We have worked very hard on obtaining the terms and conditions in the LOU and believe it is in the best interests of ICR members.

No matter how you feel on this issue, we urge you to make time in your schedule to attend the Special Meeting of Members on June 3, 2008 at 7:00 pm at Abia Judd Elementary School.

Sincerely,

ICR Water Users Association