

ORIGINAL

N. STEWART ROGERS
PO 3215
Carefree, AZ 85377
480 488 9226



0000104953

RECEIVED

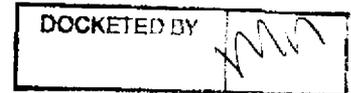
NOV 12 P 4 58

November 4, 2009

Arizona Corporation Commission
DOCKETED

NOV 12 2009

The Commissioners
Arizona Corporation Commission
Docket Control
1200 West Washington
Phoenix, AZ 85007



Re: Black Mountain Sewer
Docket Control #SW 02361A-08-0609
Subject: Support for the decommissioning of
the Black Mountain Sewer processing plant
in The Boulders

Dear Commissioners,

As I understand it, the Commission is basically a consumer protection agency of government, charged with (among other things) ensuring that utilities that have been granted legal monopolies serve the public interest – combining satisfactory price/service to the public while also allowing sufficient financial return to the utilities to cover maintenance, necessary upgrades and expansion of their operations, as well as a fair rate of return that will allow the company adequate access to the capital markets.

In short, your job, as I see it, is to balance the interests of the citizens, who must use the service, with the company's need for access to funds from investors and retained earnings. My comments are based on the assumption that this is a reasonably accurate view of your obligations.

I have owned my home at 1717 Staghorn Lane in Carefree since 1980 or '81, and have watched the tremendous change in the area that explosive growth has brought with it, which has generally been addressed on a short range "fix" basis. The result of "those fixes" put us where we are today, and is the reason for your involvement in this docket.

Much of your activity is related to the evaluation of requests for rate increases, and the Commission and its staff are the auditors of these requests. Often the atmosphere surrounding Commission hearings is to "prove you need the additional rate request". In this atmosphere, the obligation to keep the service provider capable of responding to changes and demand and in capital markets may not be given adequate emphasis to assure that over the long term, proper funding of the service provider is available.

In this case, the number of parties in interest, combined with the necessity of developing a long range plan, make it particularly necessary to pay special attention to development of a plan that will produce a balance of service and future flexibility. This process has been largely absent in the past, and will lead to major future problems and costs unless there is an overall agreement on where we are going.

The town of Carefree, the City of Scottsdale, the Black Mountain Sewer Co., the homeowners of the North and South Boulders Associations, and other interested parties have all agreed in principle on a plan for future development of sewer services in their areas.

We have petitioned the Commission to allow the costs of decommissioning the Boulders sewer treatment plant – a first step in a long range program - as includable items in the rate base of Black Mountain Sewer.

The Commission staff has stated that they will oppose our petition, because it does not fit their “preferred procedure” of having the operator make the investment first, after which the staff reviews the expenditures and recommends what portion of those expenditures is properly included in the rate base.

Black Mountain Sewer is understandably unwilling to commit to the costs of closing the plant without reasonable assurance that they will be appropriately reimbursed through the rate structure. I submit that one cannot make that evaluation properly unless he or she knows what the plan for the future is. The staff refused the petition on procedural grounds and I doubt that they have taken an overall long-term view that balances all elements, including the results of not moving ahead. It appears to me that continuing to struggle with the existing plant is an exercise in throwing good money after bad. The plant cannot be made an effective part of an overall sewage treatment system.

If you're planning on building a 5-story building that will be expanded to 20 stories in 5 years, you're going to need 20-story foundations for the first phase.

We are preparing, in effect, to build those foundations now as the first step in a long range proposal. All the parties, including the rate payers, are aware of the projected costs and recommend the plan.

Given the history of the Boulders treatment plant, it looks to me like this “subsequent review system of each step – without full discussion of the long term plan” policy has been a failure. We need the Commission to be aware of and in agreement with our plan, and invite your review and input.

We are currently in the position outlined below:

- 1) The plant that we are proposing to close was built as an interim solution to service about 100 residences in the North Boulders area about 1970.
- 2) It was planned to be expandable to service an anticipated total of 200 residences.

3) As a temporary solution, the plant was not "state of the art" in either process design or construction. It is now approximately 40 years old, and while sewage treatment processes have improved dramatically, this plant is not adaptable to the improved systems.

4) Efficiency in a sewage treatment plant is largely a function of scale, and this plant is very small. It cannot be expanded or effectively modified.

5) Through piecemeal additions to the service area (the Boulders, part of Carefree, some county areas, North Scottsdale, etc.) the plant is now receiving sewage from approximately 2200 residences, with potential further service expansion in Carefree (including commercial installations) and in the county. The capacity needed for its present load is provided by the City of Scottsdale, which receives and treats the excess over the Boulders capacity under a processing contract. Scottsdale has excess capacity and is willing to continue to commit to serve the needs of the Boulders, including currently projected growth.

6) The plant is on a small site in what has become a highly developed first class neighborhood. It would never be allowed to be built in its present location.. It cannot be expanded to meet current set-back requirements without the costs of condemnation, demolition, redevelopment and associated legal costs. All this is estimated to be in the millions of dollars.

7) Based on the problems with the plant over the last few years, the Commission must be well aware that there is great dissatisfaction among the residents served by the plant - many of whom classify it as a "public nuisance", and are fearful that disclosure rules in the real estate industry may require identification of the sewer plant as a problem on property deeds, which would be a "do not consider purchase" flag to many potential buyers.

This is not a story of great consumer protection or enlightened planning. Whatever processes have been used in the past have not fostered forward thinking. We need a new approach to guarantee that our "20-story building" has adequate foundations.

Notwithstanding your staff's recommendation against our petition, we ask you to take a larger, longer view of future requirements, and consider the phase-out of the Boulders plant as one step in a plan recommended by all affected parties to serve the area in the most effective manner over the long term. To do otherwise does not seem consistent with your obligation for the balancing of interests described at the beginning of this letter.

Sincerely,


N. Stewart Rogers

cc: Mr. Les Peterson, President, Boulders Homeowners Association