



0000107436

51

ORIGINAL

Oak Creek Utility Corporation
771 Skipjack Drive
Henderson, NV 89015
702-568-1321

RECEIVED
2009 DEC 28 A 9:22

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

December 21, 2009

Congressman J.D. Hayworth
1300 S. Milton Road
Flagstaff, AZ 86001

Mr. Brian Bozzo,
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

WS-02061A-04-0835
WS-02061A-04-0836

Arizona Corporation Commission
DOCKETED

DEC 28 2009

Mr. Jon Bernreuter, Engineer
Environmental Program Supervisor
Water Infrastructure Finance Authority of Arizona
1110 W. Washington St.
Phoenix, AZ 85007

DOCKETED BY

RE: Construction of a 10,000 tank for potable water located at 1090 Julie Lane, Twin Springs Terrace (Tract C) in Oak Creek Canyon, Sedona, Arizona.

Dear Sirs,

I am the President of Oak Creek Utility Corporation, (OCUC) as of October 26, 2006 when my partner Carla Hastings and I purchased this utility from Mr. Dean Orem.

At the time of purchase of this utility, both potable and wastewater, Mr. Orem explained that he was under order from Arizona Department of Environmental Quality to construct a 10,000 storage tank to comply with State regulations. Mr. Orem explained that everything was set to go, he had an approved \$40,000 loan from Water Infrastructure Finance Authority of Arizona, (WIFA), and an extension for construction approved from Arizona Corporation Commission, (ACC) until May 31, 2007.

I am a certified Water Treatment, Water Distribution, Wastewater, and Water Collection operator in Arizona, and my partner Carla Hastings is a Hydro-electric Mechanic at Hoover Dam. We purchased OCUC in hopes of moving to that area and retire, and our objective was to improve a truly neglected water/wastewater system that was serving the Twin Springs Terrace area in Oak Creek Canyon. The previous owner was giving up and wanting to abandon the system. Not only were we concerned about the future water quality as well as the health and welfare of the customers that this utility is serving, but we were very concerned about the environment which included Oak Creek Canyon, and

felt this was a perfect way to learn as well as correct a lot of compliance problems that we could see in this area. I have since medically retired from the U.S. Bureau of Reclamation, Hoover Dam and my partner hopes to retire also and continue to try and improve what seems to be an almost impossible task at this point. Both my partner and I are women, own a small business, single parents, and are very interested in improving and protecting this community in Julie Lane as well as not to put ourselves in total financial poverty.

To date we have repaired and replaced many water/wastewater main lines, cleaned and assisted many customers with their systems and lateral lines, and replaced all the water meters at location which were 20+ years old. The quality of the water produced to our customers is outstanding.

After purchasing OCUC, and contacting WIFA in regards to the \$40,000 loan for construction of this 10,000 gallon tank, we were told that we had to apply again for the loan to transfer in our names. Both my partner and I have great credit and WIFA did not have a problem transferring the \$40,000 loan for construction. There was a problem with ACC with approving the transfer of the loan because of a problem with the lot that was set aside for the construction of this tank was not the appropriate size and could not support a 10,000 gallon tank.

After quite a bit a research ACC took the owner that had sold this utility to Dean Orem who name is Scott Gray to court because in 1984 Mr. Gray divided Lot 73a which is where the utility is located, and sold the majority of the lot to his wife in hopes to build a residence on what once was the utility's property. When Mr. Gray's plan for a residence on the property that was once OCUC's was denied, he had cell towers put on the lot and is receiving a monthly income from the towers. The utility was left with Lot 73b for the construction of this 10,000 tank and measures only 16 ft. x 30 ft. Not enough for the set backs mandated by Coconino County or the tank itself. The lot size was confirmed by a sight visit from engineer Jon Bernreuter (WIFA), Brian Davis (WIFA Loan Officer), Craig Tinney (WIFA Technical Assistance), Mike Howeth, and Steve Camp (ADEQ-NRO). The conclusion of the visit was; because of the storage parcel distance and very severe civil site conditions, the original proposed loan amount would not be sufficient, and the cell phone repeater towers would have to be removed. The conclusion was that the site for the 10,000 tank would have to be relocated. A preliminary engineering report would be needed to ensure complete project viability. WIFA provided OCUC with a list of pre-qualified engineers. OCUC selected Karl Tobin from Arizona Engineering Company. The \$40,000 loan from WIFA was finally transferred in June 2007 causing OCUC to apply for an extension for construction from ACC that was supposed to be completed by May 2007. This was the date that was given the previous owner, Dean Orem for completion of construction.

Realizing that this project was in need of professional advice and more money, OCUC applied for a Technical Assistance Grant from WIFA for \$35,000. OCUC received a letter from WIFA dated June 26, 2007 that this project was not in a fundable range and money may be available later in the year. Mr. Karl Tobin from Arizona Engineering

Company was contacted by WIFA and the situation was discussed on how to address the needs for OCUC to proceed with this project. This amount was granted and Mr. Tobin started working on our project. On May 16, 2008 OCUC was notified by WIFA that our technical assistance grant was awarded and received a "Notice to Proceed". OCUC once again applied to ACC for another extension for construction.

Because Mr. Scott Gray is still the owner of the property with the well/utility on it, that originally owned by OCUC, there has to be approval from Mr. Gray for all applications and improvements to Lot 73a, which is now the lot intended for construction of the 10,000 tank. In the past these signatures from Mr. Gray have taken as much as four months to return the documents back for submission to Coconino County. OCUC had brought this problem forward to ACC, and Mr. Gray, a lawyer convinced ACC that he had sent the County applications in a timely manner.

In July 2009 OCUC submitted a Design Plan and Set-Back request for the construction of the 10k tank, because the tank did not meet the 75 feet set-back requirements for Coconino County. Both requests were approved and the Design Plan was sent to Arizona Department of Environmental Quality for additional approval. The Design Plan would now be approximately \$94,000 to complete the project and OCUC could now apply to ACC for permission for an addendum to OCUC's original loan from WIFA that was \$40,000 applied for by the previous owner, Dean Orem.

OCUC tried to contact ACC on what procedure was needed to apply for an increase of money, pulled the forms from the computer and sent as much information as we could understand on August 17, 2009. We had made at least four attempts to talk to someone about the loan and if there would be any other information needed, but did not receive any information back from ACC.

Finally on November 4, 2009 our engineer, Karl Tobin was contacted by Katrin Stukov from ACC, asking for a cost estimate and wanting to know if OCUC has applied for a loan modification from WIFA. I contacted Ms. Katrin Stukov the next day November 5, 2009. In my conversation with Ms. Stukov I tried to explain to her that WIFA would not accept any paperwork until OCUC received the approval from ACC and that I would send her the paperwork requested. I also was very upset and asked why there had not been any response to my request for additional funds and why it has taken so long? I could not understand Ms. Stukov very well at all because she did not speak good English. That seemed to upset her when I would ask her numerous times to repeat herself. All the material requested was sent out on November 9, 2009 just before I was admitted to the hospital for cancer surgery. OCUC did not hear anything back from ACC until December 16, 2009 in the afternoon, when we were emailed a request for a lot of information and documents to be due within ten calendar days and to be mailed to numerous offices in ACC by email or electronic media and overnight delivery services as well.

I emailed Ms. Stukov's office in ACC on December 21, 2009 requesting more time for the information because after talking with OCUC's accountant/CPA, and our finance

company where we all agreed that asking for all this information within ten calendar days over the Christmas' holidays was not reasonable.

We feel that we are a Small, Woman Owned Business, we have been prudent, and not negligent in trying to comply with all the agencies involved: Arizona Corporation Commission, Arizona Department of Environmental Quality, Coconino County, City of Sedona, and U.S. Environmental Quality and we have not been treated fairly, and not almost been treated like criminal by ACC. We have been told that we need to get a lawyer to deal with ACC. We are a small business without any income in our pockets. We have an excellent running system, a great certified operator, we have made a lot of great expensive improvements to the water/wastewater system in Oak Creek Canyon, have never been out of compliance, have always served an outstanding product, and have great customer relations.

Because of the delays from ACC, we would have had to turn in our additional funding request to WIFA no later than two weeks in advance for their Loan Review Board which meets every two months. Our dead line was the middle of December 2009, and WIFA will not meet again until the middle of February 2010. If additional funding was approved by WIFA, we would not be able to meet the April 2010 deadline for construction that was given by ACC. It has been made very clear by ACC that there wasn't any way that another extension would be granted.

OCUC has tried to comply with all regulations, we have lost a lot of money because of these delays, mostly delays from ACC. WIFA has been wonderful in providing information and trying to be helpful in every way. Because of this OCUC is going to have to turn the system back over the Mr. Scott Gray, the original owner. He has cell towers on the same Lot 73a that was originally the utility's lot, that bring in a substantial income for this project. My partner and I feel that women owned businesses should be encouraged not treated like criminals!

I am sending a copy of the calendar of events over the years that has been sent to us from ACC to give you an idea of what has happened in regards to construction of this project. The former owner Dean Orem applied for a rate increase to try and get this tank constructed, but even with the increase, it would not pay for the construction of this tank. As I mentioned in the beginning of this letter, both my partner and I are single mothers and cannot absorb all these costs and refuse any further criminal like treatment.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Dixie R. Potter". The signature is written in black ink and is positioned above the printed name.

Dixie R. Potter, President