

ORIGINAL



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MEMORANDUM
RECEIVED

TO: Docket Control 2010 JUL 23 A 10:41

FROM: Steven M. Olea
Director
Utilities Division

Date: July 23, 2010

RE: **STAFF REPORT FOR TIERRA LINDA HOMEOWNERS ASSOCIATION, INC. AND GARY SMYTH – JOINT APPLICATION FOR APPROVAL OF THE SALE OF ASSETS AND TRANSFER OF CERTIFICATE OF CONVENIENCE AND NECESSITY FOR WATER SERVICE OF TIERRA LINDA HOMEOWNERS ASSOCIATION, INC. TO GARY SMYTH (DOCKET NOS. W-20689A-09-0327 AND W-04236A-09-0327)**

Attached is the Staff Report for Tierra Linda Homeowners Association, Inc. and Gary Smyth's Joint Application for approval of the sale of assets and transfer of Certificate of Convenience and Necessity for water service of Tierra Linda Homeowners Association, Inc. to Gary Smyth, in Pima County, Arizona. Staff is recommending approval with conditions.

SMO:BNC:red

Originator: Blessing Chukwu

Arizona Corporation Commission

DOCKETED

JUL 23 2010

DOCKETED BY 

Service List for: Tierra Linda Homeowners Association, Inc. and Gary Smyth
Docket Nos. W-20689A-09-0327 and W-04236A-09-0327

Mr. Lawrence V. Robertson, Jr.
PO Box 1448
Tubac, Arizona 85646

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

TIERRA LINDA HOMEOWNERS ASSOCIATION, INC. AND GARY SMYTH
DOCKET NOS. W-20689A-09-0327 AND W-04236A-09-0327

JOINT APPLICATION FOR APPROVAL OF THE SALE
OF ASSETS AND TRANSFER OF CERTIFICATE CONVENIENCE AND NECESSITY OF
TIERRA LINDA HOMEOWNERS ASSOCIATION, INC. TO GARY SMYTH

JULY 23, 2010

STAFF ACKNOWLEDGMENT

The Staff Report for Tierra Linda Homeowners Association, Inc. and Gary Smyth (Docket Nos. W-20689A-09-0327 and W-04236A-09-0327) was the responsibility of the Staff members signed below. Blessing Chukwu was responsible for the review and analysis of the Company's application. Del Smith was responsible for the engineering and technical analysis.

A handwritten signature in black ink, appearing to read 'B. Chukwu', with a long horizontal line extending to the right.

Blessing Chukwu
Executive Consultant

A handwritten signature in black ink, appearing to read 'Del Smith', written in a cursive style.

Del Smith
Engineering Supervisor

EXECUTIVE SUMMARY
TIERRA LINDA HOMEOWNERS ASSOCIATION, INC. AND GARY SMYTH
DOCKET NOS. W-20689A-09-0327 AND W-04236A-09-0327

On June 26, 2009, Tierra Linda Homeowners Association, Inc. ("Tierra Linda" or "Company" or "Transferor") and Gary Smyth ("Smyth" or "Transferee"), an individual, (collectively, "the Applicants") filed a Joint Application with the Arizona Corporation Commission ("ACC" or "Commission") for approval of the sale of assets and transfer of Certificate of Convenience and Necessity ("CC&N") for water service of Tierra Linda to Smyth, in Pima County, Arizona. On May 12, 2010, Staff filed a Sufficiency Letter indicating that the Application had met the sufficiency requirements of the Arizona Administrative Code.

Tierra Linda is an Arizona Corporation, in good standing with the Commission's Corporation Division. Tierra Linda serves approximately 50 residential customers in Tierra Linda Nueva Subdivision which is located southwest of Marana, in Pima County, Arizona, pursuant to Commission Decision No. 67104 (July 9, 2004). The Company's CC&N covers an area of roughly 200 acres (approximately three-tenths of one square mile). Smyth, an individual who resides in Tucson, Arizona, owns and operates Smyth Steel. Smyth Steel provides construction and installation services to water utility companies in Arizona. Smyth is familiar with the Tierra Linda water system, having constructed and installed it. Smyth owns Cayetano Inc. dba Lakewood Water Company ("Lakewood") and Smyth Utility Management, which provides utility operating and management service to small and medium sized water and wastewater utilities in southern Arizona. According to the Applicants, customer security deposits; refunds due on meter and service line installations; and all refunds due on Main Line Extension Agreements will be assumed by Smyth subject to the Commission granting the relief requested in the Application.

Based on Staff's review and analysis of the application, Staff believes the Company's existing system has adequate production and storage capacity to serve existing customers and reasonable growth.

Staff recommends the Commission approve Tierra Linda and Smyth's Joint Application for the sale of assets and transfer of the CC&N for water service of Tierra Linda to Smyth within portions of Pima County, Arizona, subject to compliance with the following conditions:

1. That Smyth be required to charge the authorized rates and charges in the transfer area.
2. That Smyth be required to file with Docket Control, as a compliance item in this docket no later than December 31, 2010, a copy of the letter or notice issued by Arizona Department of Water Resources ("ADWR") indicating that Lakewood Water Company is in full compliance with ADWR regulations.
3. That Tierra Linda be required to file with Docket Control, as a compliance item in this docket, copies of all documentation transferring ownership of its water

system and assets to Smyth, within 120 days of the effective date of a decision in this matter.

4. That Tierra Linda be required to file with Docket Control, as a compliance item in this docket, a copy of the transfer of the Pima County franchise agreement for the requested area, within two years of the effective date of a decision in this matter.
5. That Tierra Linda be required to file a curtailment tariff within 45 days of the effective date of the Commission's Decision in this matter. The tariff shall be docketed as a compliance item under this docket number for the review and certification of Staff. The tariff shall generally conform to the sample tariff found on the Commission's website at <http://www.azcc.gov/Divisions/Utilities/forms/Curtailment%20Standard%202009.doc>. The Company may need to make minor modifications to the sample tariff according to its specific management, operational, and design requirements as necessary and appropriate.
6. That Tierra Linda be required to coordinate the reading of its well meter and individual customer meters on a monthly basis and report this data in its Commission Annual Report for year ending 2010. If the reported water loss in the Annual Report is greater than 10 percent, the Company shall prepare a report containing a detailed analysis and plan to reduce water loss to less than 10 percent. If the Company believes it is not cost effective to reduce the water loss to less than 10 percent, it should submit a detailed cost benefit analysis to support its opinion. In no case shall the Company allow water loss to be greater than 15 percent. The water loss reduction report or the detailed analysis, whichever is submitted, shall be docketed as a compliance item no later than June 30, 2011.

Staff further recommends that the Commission's Decision granting the approval of the sale of assets and the transfer of the CC&N to Smyth be considered null and void, after due process, should Tierra Linda and Smyth fail to meet Condition Nos. 2, 3, 4, 5, and 6 listed above, within the specified time.

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INTRODUCTION

On June 26, 2009, Tierra Linda Homeowners Association, Inc. (“Tierra Linda” or “Company” or “Transferor”) and Gary Smyth (“Smyth” or “Transferee”), an individual, (collectively, “the Applicants”) filed a Joint Application with the Arizona Corporation Commission (“ACC” or “Commission”) for approval of the sale of assets and transfer of Certificate of Convenience and Necessity (“CC&N”) for water service of Tierra Linda to Smyth, in Pima County, Arizona.

On May 12, 2010, Staff filed a Sufficiency Letter indicating that the Application had met the sufficiency requirements of the Arizona Administrative Code (“A.A.C.”).

BACKGROUND

Tierra Linda is an Arizona Corporation, in good standing with the Commission’s Corporation Division.

Tierra Linda serves the Tierra Linda Nueva Subdivision which is located southwest of Marana and approximately eight and one-half miles west of Interstate 10 on Emigh Road. Tierra Linda reported 59 metered water connections in its 2008 Commission Annual Report. At the time the Joint Application was filed, Tierra Linda served approximately 50 residential customers.

The Company provides water service to its customers in Pima County, Arizona, pursuant to Commission Decision No. 67104 (July 9, 2004). The Company’s CC&N covers an area of roughly 200 acres (approximately three-tenths of one square mile).

Smyth, an individual who resides in Tucson, Arizona, owns and operates Smyth Steel. Smyth Steel provides construction and installation services to water utility companies in Arizona.¹ Smyth is familiar with the Tierra Linda water system, having constructed and installed it. According to the application, Smyth has the knowledge and financial means to operate and expand the system.²

In 2008, Smyth acquired Cayetano Inc. dba Lakewood Water Company (“Lakewood”). Lakewood is regulated by the Commission and serves approximately 300 customers in Pima County.³ In July 2009, Smyth formed Smyth Utility Management to provide utility operating and management service to small and medium sized water and wastewater utilities in southern Arizona.⁴

¹ Services provided include, among other things, the construction and installation of storage and pressure tanks, booster stations, arsenic treatment facilities and piping.

² See Joint Application at Page 3, Lines 15 – 18.

³ See Joint Application at Page 2, Lines 7 – 10.

⁴ See Applicant’s response to Staff’s Insufficiency Letter #2, Item No. 3, docketed March 3, 2010.

THE WATER SYSTEM

The Company's water system consists of one well (producing 200 gallons per minute), one 400,000 gallon storage tank, three booster pumps (one 50 horsepower ("HP") and two 10 HP), one 5,000 gallon pressure tank, and a distribution system serving 60 metered connections. Staff concludes that the system has adequate well production and storage capacity to serve existing customers and reasonable growth.

THE TRANSACTION

Tierra Linda serves the Tierra Linda Nueva Subdivision which is located approximately eight and one-half miles west of Interstate 10 on Emigh Road, southwest of Marana, in Pima County Arizona. The CC&N area is approximately 0.3 square miles in size. As currently platted, Tierra Linda's certificated service area has the potential for a total of 190 residential metered water connections.⁵

Tierra Linda does not desire to collect funds from its members for future capital expenditures, maintenance and repairs and prefers to transfer the existing water system to a qualified buyer.⁶ As stated above, Smyth is familiar with the Tierra Linda water system, having constructed and installed it.

By this Joint Application, Tierra Linda and Smyth are seeking Commission approval of the sale and transfer of the Tierra Linda water system assets and CC&N to Smyth⁷, in the location described above. The Company provided a listing of assets to be transferred to Smyth.

According to the Applicants, customer security deposits; refunds due on meter and service line installations; and all refunds due on Main Line Extension Agreements will be assumed by Smyth subject to the Commission granting the relief requested in the Application.

If the proposed transfer is approved, Christopher Hill, Arizona Department of Environmental Quality ("ADEQ") Certified Operator No. 8883, will be the certified operator of the Tierra Linda water system.⁸ Mr. Hill is a Grade 4 water distribution system and water treatment plant operator. Mr. Hill is currently the certified operator of the Lakewood water system.⁹

⁵ See Joint Application at Page 2, Lines 17 - 19.

⁶ See Joint Application at Page 3, Lines 9 - 11.

⁷ On June 16, 2009, Tierra Linda and Smyth entered into an Asset Purchase Agreement through which Smyth would acquire the Tierra Linda water system assets and CC&N subject to prior Commission approval (See Joint Application at Page 3, Lines 21 - 23).

⁸ See Applicant's response to Staff's Insufficiency Letter #1, Item No. 2, docketed October 9, 2009.

⁹ See Applicant's response to Staff's Insufficiency Letter #1, Item No. 3, docketed October 9, 2009.

NON-ACCOUNT WATER

Non-account water should be 10 percent or less. It is important to be able to reconcile the difference between water sold and the water produced by the source. A water balance will allow a company to identify water and revenue losses due to leakage, theft and flushing. Lost water for the Tierra Linda water system was calculated to be 10.5 percent in 2009 which exceeds acceptable limits.¹⁰ Lost water was calculated to be 7.1 percent in 2008 which is within acceptable limits. Water use data available to Staff for 2006 and 2007 was incomplete and/or its validity was questionable.

Staff recommends that Tierra Linda be required to coordinate the reading of its well meter and individual customer meters on a monthly basis and report this data in its Commission Annual Report for year ending 2010 ("Annual Report").¹¹ Staff further recommends if the reported water loss in the Annual Report is greater than 10 percent, the Company shall prepare a report containing a detailed analysis and plan to reduce water loss to less than 10 percent. If the Company believes it is not cost effective to reduce the water loss to less than 10 percent, it should submit a detailed cost benefit analysis to support its opinion. In no case shall the Company allow water loss to be greater than 15 percent. The water loss reduction report or the detailed analysis, whichever is submitted, shall be docketed as a compliance item no later than June 30, 2011.

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY COMPLIANCE

According to an ADEQ compliance status report, dated July 9, 2009, Tierra Linda's water system, Public Water System No. 10-411, has no major deficiencies and is delivering water that meets water quality standards required by 40 CFR 141/Arizona Administrative Code, Title 18, Chapter 4.

ADEQ regulates the Lakewood water system under ADEQ Public Water System I.D. No. 10-063. Based on a Compliance Status Report, dated July 9, 2009, the system has no major deficiencies and is delivering water that meets water quality standards required by 40 CFR 141/Arizona Administrative Code, Title 18, Chapter 4.

ARIZONA DEPARTMENT OF WATER RESOURCES ("ADWR") COMPLIANCE

Tierra Linda is located within the Tucson Active Management Area ("AMA"). ADWR has determined that the Company is currently in compliance with departmental requirements governing water providers and/or community water systems.¹²

¹⁰ Water loss based on the water use data contained in the Company's 2009 Commission Annual Report.

¹¹ Tierra Linda shall collect the data needed to accurately complete the water use data sheets contained in the Annual Report form.

¹² Per ADWR Water Provider Compliance Status Report dated July 9, 2009.

Lakewood is located within the Santa Cruz AMA. ADWR has determined that Lakewood is not in compliance with departmental requirements governing water providers and/or community water systems. As of April 19, 2010 Lakewood had not filed its 2009 Annual Water Withdrawal and Use Reports, which were due on March 31, 2010.¹³

Staff recommends that Smyth be required to file with Docket Control, as a compliance item in this docket no later than December 31, 2010, a copy of the letter or notice issued by ADWR indicating that Lakewood Water Company is in full compliance with ADWR regulations.

ACC COMPLIANCE

A check of the Utilities Division compliance database indicated that there are currently no delinquent compliance items for Tierra Linda or Lakewood.¹⁴

CURTAILMENT PLAN TARIFF

A curtailment tariff is an effective tool to allow a water company to manage its resources during periods of shortages due to pump breakdowns, droughts, or other unforeseeable events. Since Tierra Linda does not have a curtailment tariff, Staff recommends that a curtailment tariff be filed within 45 days of the effective date of the Commission's Decision in this matter. The tariff shall be docketed as a compliance item under this docket number for the review and certification of Staff. Staff further recommends that the tariff shall generally conform to the sample tariff found on the Commission's website at <http://www.azcc.gov/Divisions/Utilities/forms/Curtailment%20Standard%202009.doc>. Staff recognizes that the Company may need to make minor modifications to the sample tariff according to its specific management, operational, and design requirements as necessary and appropriate.

BACKFLOW PREVENTION TARIFF

The Company has an approved Backflow Prevention tariff on file with the Commission.

PROPOSED RATES

Upon the acquisition of the Company's assets, the customers in the affected CC&N area will be charged the Company's existing rates for water.

¹³ Per ADWR Water Provider Compliance Status Report dated April 19, 2010.

¹⁴ Per Compliance Section email dated July 7, 2009.

FRANCHISE

Every applicant for a CC&N and/or CC&N extension is required to submit to the Commission evidence showing that the applicant has received the required consent, franchise or permit from the proper authority, pursuant to Arizona Revised Statute § 40-282.B. If the applicant operates in an unincorporated area, the Applicant has to obtain the franchise from the County. If the applicant operates in an incorporated area of the County, the applicant has to obtain the franchise from the City/Town.

Staff recommends that the Company be required to file with Docket Control, as a compliance item in this docket, a copy of the transfer of the Pima County franchise agreement for the requested area, within two years of the effective date of a decision in this matter.

RECOMMENDATIONS

Staff recommends the Commission approve Tierra Linda and Smyth's Joint Application for the sale of assets and transfer of the CC&N for water service of Tierra Linda to Smyth within portions of Pima County, Arizona, subject to compliance with the following conditions:

1. That Smyth be required to charge the authorized rates and charges in the transfer area.
2. That Smyth be required to file with Docket Control, as a compliance item in this docket no later than December 31, 2010, a copy of the letter or notice issued by ADWR indicating that Lakewood Water Company is in full compliance with ADWR regulations.
3. That Tierra Linda be required to file with Docket Control, as a compliance item in this docket, copies of all documentation transferring ownership of its water system and assets to Smyth, within 120 days of the effective date of a decision in this matter.
4. That Tierra Linda be required to file with Docket Control, as a compliance item in this docket, a copy of the transfer of the Pima County franchise agreement for the requested area, within two years of the effective date of a decision in this matter.
5. That Tierra Linda be required to file a curtailment tariff within 45 days of the effective date of the Commission's Decision in this matter. The tariff shall be docketed as a compliance item under this docket number for the review and certification of Staff. The tariff shall generally conform to the sample tariff found on the Commission's website at <http://www.azcc.gov/Divisions/Utilities/forms/Curtailment%20Standard%202009.doc>. The Company may need to make minor modifications to the sample tariff

according to its specific management, operational, and design requirements as necessary and appropriate.

6. That Tierra Linda be required to coordinate the reading of its well meter and individual customer meters on a monthly basis and report this data in its Commission Annual Report for year ending 2010. If the reported water loss in the Annual Report is greater than 10 percent, the Company shall prepare a report containing a detailed analysis and plan to reduce water loss to less than 10 percent. If the Company believes it is not cost effective to reduce the water loss to less than 10 percent, it should submit a detailed cost benefit analysis to support its opinion. In no case shall the Company allow water loss to be greater than 15 percent. The water loss reduction report or the detailed analysis, whichever is submitted, shall be docketed as a compliance item no later than June 30, 2011.

Staff further recommends that the Commission's Decision granting the approval of the sale of assets and the transfer of the CC&N to Smyth be considered null and void, after due process, should Tierra Linda and Smyth fail to meet Condition Nos. 2, 3, 4, 5, and 6 listed above within the specified time.

MEMORANDUM

DATE: July 8, 2010

TO: Blessing Chukwu
Executive Consultant

FROM: *for* Del Smith 
Engineering Supervisor

RE: Tierra Linda Homeowners Association, Inc. and Gary Smyth - Joint Application for authorization to sell water system assets and transfer Certificate of Convenience and Necessity to Gary Smyth (Docket Nos. W- 04236A-09-0327 and W-20689A-09-0327)

Introduction

On June 26, 2009, Tierra Linda Homeowners Association, Inc. ("Tierra Linda" or "Company") and Gary Smyth ("Smyth"), an individual, (collectively, "the Applicants") filed a Joint Application with the Arizona Corporation Commission ("ACC" or "Commission") for approval of the sale of the Tierra Linda water system assets and transfer of its Certificate of Convenience and Necessity ("CC&N") to provide water service in Pima County, Arizona. The purpose of this Joint Application is to obtain Commission approval of the transfer of the Tierra Linda water system assets and CC&N to Smyth.¹ Tierra Linda serves the Tierra Linda Nueva Subdivision which is located southwest of Marana and approximately eight and one-half miles west of Interstate 10 on Emigh Road. Tierra Linda reported 59 metered water connections in its 2008 Commission Annual Report. At the time the Joint Application was filed, Tierra Linda served approximately 50 residential customers. The Commission granted Tierra Linda a CC&N in Decision No. 67104 dated July 9, 2004. The Company's CC&N covers an area of roughly 200 acres (approximately three-tenths of one square mile) in the northwest quarter of Section 29 in Township 12 South, Range 11 East. As currently platted, Tierra Linda's certificated service area has the potential for a total of 190 residential metered water connections.²

Buyer Background and Reasons Given in Support of the Proposed Transfer

Tierra Linda does not desire to collect funds from its members for future capital expenditures, maintenance and repairs and prefers to transfer the existing water system to

¹ On June 16, 2009, Tierra Linda and Smyth entered into an Asset Purchase Agreement through which Smyth would acquire the Tierra Linda water system assets and CC&N subject to prior Commission approval (See Joint Application at Page 3, Lines 21 – 23).

² See Joint Application at Page 2, Lines 17 – 19.

a qualified buyer.³ Smyth owns and operates Smyth Steel. Smyth Steel provides construction and installation services to water utility companies in Arizona.⁴ Smyth is familiar with the Tierra Linda water system, having constructed and installed it. According to the application Smyth has the knowledge and financial means to operate and expand the system.⁵

In 2008, Smyth acquired Cayetano Inc. dba Lakewood Water Company ("Lakewood"). Lakewood is regulated by the Commission and serves approximately 300 customers in Pima County.⁶ In July 2009, Smyth formed Smyth Utility Management to provide utility operating and management service to small and medium sized water and wastewater utilities in southern Arizona.⁷

Tierra Linda Water System

The system consists of one well (Pump Yield 200 gallons per minute), one 400,000 gallon storage tank, three booster pumps (one 50 horsepower ("HP") and two 10 HP), one 5,000 gallon pressure tank and a distribution system serving 60 metered connections. Staff concludes that the system has adequate production and storage capacity to serve existing customers and reasonable growth. If the proposed transfer is approved, Christopher Hill, Arizona Department of Environmental Quality ("ADEQ") Certified Operator No. 8883, will be the certified operator of the Tierra Linda water system.⁸ Mr. Hill is a Grade 4 water distribution system and water treatment plant operator. Mr. Hill is currently the certified operator of the Lakewood water system.⁹

Non-Account Water

Non-account water should be 10 percent or less. It is important to be able to reconcile the difference between water sold and the water produced by the source. A water balance will allow a company to identify water and revenue losses due to leakage, theft and flushing. Lost water for the Tierra Linda water system was calculated to be 10.5 percent in 2009 which exceeds acceptable limits.¹⁰ Lost water was calculated to be 7.1 percent in 2008 which is within acceptable limits. Water use data available to Staff for 2006 and 2007 was incomplete and/or its validity was questionable.

Staff recommends that Tierra Linda be required to coordinate the reading of its well meter and individual customer meters on a monthly basis and report this data in its

³ See Joint Application at Page 3, Lines 9 – 11.

⁴ Services provided include, among other things, the construction and installation of storage and pressure tanks, booster stations, arsenic treatment facilities and piping.

⁵ See Joint Application at Page 3, Lines 15 – 18.

⁶ See Joint Application at Page 2, Lines 7 – 10.

⁷ See Applicant's response to Staff's Insufficiency Letter #2, Item No. 3, docketed March 3, 2010.

⁸ See Applicant's response to Staff's Insufficiency Letter #1, Item No. 2, docketed October 9, 2009.

⁹ See Applicant's response to Staff's Insufficiency Letter #1, Item No. 3, docketed October 9, 2009.

¹⁰ Water loss based on the water use data contained in the Company's 2009 Commission Annual Report.

Commission Annual Report for year ending 2010 ("Annual Report").¹¹ Staff further recommends if the reported water loss in the Annual Report is greater than 10 percent, the Company shall prepare a report containing a detailed analysis and plan to reduce water loss to less than 10 percent. If the Company believes it is not cost effective to reduce the water loss to less than 10 percent, it should submit a detailed cost benefit analysis to support its opinion. In no case shall the Company allow water loss to be greater than 15 percent. The water loss reduction report or the detailed analysis, whichever is submitted, shall be docketed as a compliance item no later than June 30, 2011.

ADEQ Compliance

ADEQ regulates the Tierra Linda water system under ADEQ Public Water System I.D. No. 10-411. Based on a Compliance Status Report, dated July 9, 2009, the system has no major deficiencies and is delivering water that meets water quality standards required by 40 CFR 141/Arizona Administrative Code, Title 18, Chapter 4.

ADEQ regulates the Lakewood water system under ADEQ Public Water System I.D. No. 10-063. Based on a Compliance Status Report, dated July 9, 2009, the system has no major deficiencies and is delivering water that meets water quality standards required by 40 CFR 141/Arizona Administrative Code, Title 18, Chapter 4.

Arizona Department of Water Resources ("ADWR") Compliance

The Tierra Linda service area is located within the Tucson Active Management Area ("AMA"). ADWR has determined that Tierra Linda is currently in compliance with departmental requirements governing water providers and/or community water systems.¹²

The Lakewood service area is located within the Santa Cruz AMA. ADWR has determined that Lakewood is not in compliance with departmental requirements governing water providers and/or community water systems. As of April 19, 2010 Lakewood had not filed its 2009 Annual Water Withdrawal and Use Reports, which were due on March 31, 2010.¹³

Staff recommends that any transfer of the Tierra Linda water system assets and CC&N approved in this proceeding be conditional on Mr. Smyth filing by December 31, 2010, documentation from ADWR stating that Lakewood is in total compliance with ADWR regulations.

¹¹ Tierra Linda shall collect the data needed to accurately complete the water use data sheets contained in the Annual Report form.

¹² Per ADWR Water Provider Compliance Status Report dated July 9, 2009.

¹³ Per ADWR Water Provider Compliance Status Report dated April 19, 2010.

ACC Compliance

A check of the Utilities Division compliance database indicated that there are currently no delinquent compliance items for Tierra Linda or Lakewood.¹⁴

Curtailment Tariff

A curtailment tariff is an effective tool to allow a water company to manage its resources during periods of shortages due to pump breakdowns, droughts, or other unforeseeable events. Since Tierra Linda does not have a curtailment tariff, Staff recommends that a curtailment tariff be filed within 45 days of the effective date of the Commission's Decision in this matter. The tariff shall be docketed as a compliance item under this docket number for the review and certification of Staff. Staff further recommends that the tariff shall generally conform to the sample tariff found on the Commission's website at <http://www.azcc.gov/Divisions/Utilities/forms/Curtailment%20Standard%202009.doc>. Staff recognizes that the Company may need to make minor modifications to the sample tariff according to its specific management, operational, and design requirements as necessary and appropriate.

Backflow Prevention Tariff

Tierra Linda has an approved Backflow Prevention Tariff on file with the Commission.

Summary

Conclusions

1. If the proposed transfer is approved, Christopher Hill, ADEQ Certified Operator No. 8883, will be the certified operator of the Tierra Linda water system. Smyth is familiar with the Tierra Linda water system, having constructed and installed it. Staff concludes that Smyth has the knowledge and technical means to operate and expand the Tierra Linda water system.
2. Staff concludes that the Tierra Linda water system has adequate production and storage capacity to serve existing customers and reasonable growth.
3. ADEQ has reported that Tierra Linda and Lakewood water systems have no major deficiencies and are delivering water that meets water quality standards required by 40 CFR 141/Arizona Administrative Code, Title 18, Chapter 4.

¹⁴ Per Compliance Section email dated July 7, 2009.

4. ADWR has reported that Tierra Linda is currently in compliance with departmental requirements governing water providers and/or community water systems.
5. A check of the Utilities Division compliance database indicated that there are currently no delinquent Commission compliance items for Tierra Linda or Lakewood.

Recommendations

1. Staff recommends that Tierra Linda be required to coordinate the reading of its well meter and individual customer meters on a monthly basis and report this data in its Annual Report for year ending 2010. Staff further recommends if the reported water loss in the Annual Report is greater than 10 percent, the Company shall prepare a report containing a detailed analysis and plan to reduce water loss to less than 10 percent. If the Company believes it is not cost effective to reduce the water loss to less than 10 percent, it should submit a detailed cost benefit analysis to support its opinion. In no case shall the Company allow water loss to be greater than 15 percent. The water loss reduction report or the detailed analysis, whichever is submitted, shall be docketed as a compliance item no later than June 30, 2011.
2. Staff recommends that any transfer of the Tierra Linda water system assets and CC&N approved in this proceeding be conditional on Mr. Smyth providing documentation by December 31, 2010, from ADWR stating that the Lakewood is in total compliance with ADWR regulations.
3. Staff recommends that Tierra Linda file a curtailment tariff within 45 days of the effective date of the Commission's Decision in this matter. The tariff shall be docketed as a compliance item under this docket number for the review and certification of Staff. Staff further recommends that the tariff shall generally conform to the sample tariff found on the Commission's website at <http://www.azcc.gov/Divisions/Utilities/forms/Curtailment%20Standard%202009.doc>.

MEMORANDUM

TO: Blessing Chukwu
Executive Consultant III
Utilities Division

FROM: Barb Wells *bw*
Information Technology Specialist
Utilities Division

THRU: Del Smith *DS*
Engineering Supervisor
Utilities Division

DATE: September 2, 2009

RE: **TIERRA LINDA HOMEOWNERS ASSOCIATION, INC. (DOCKET NO. W-04236A-09-0327)**
GARY SMYTH (DOCKET NO. W-20689A-09-0327)

Tierra Linda has filed an application to sell its assets and transfer its CC&N to Gary Smyth.

Attached is a copy of the map for your files.

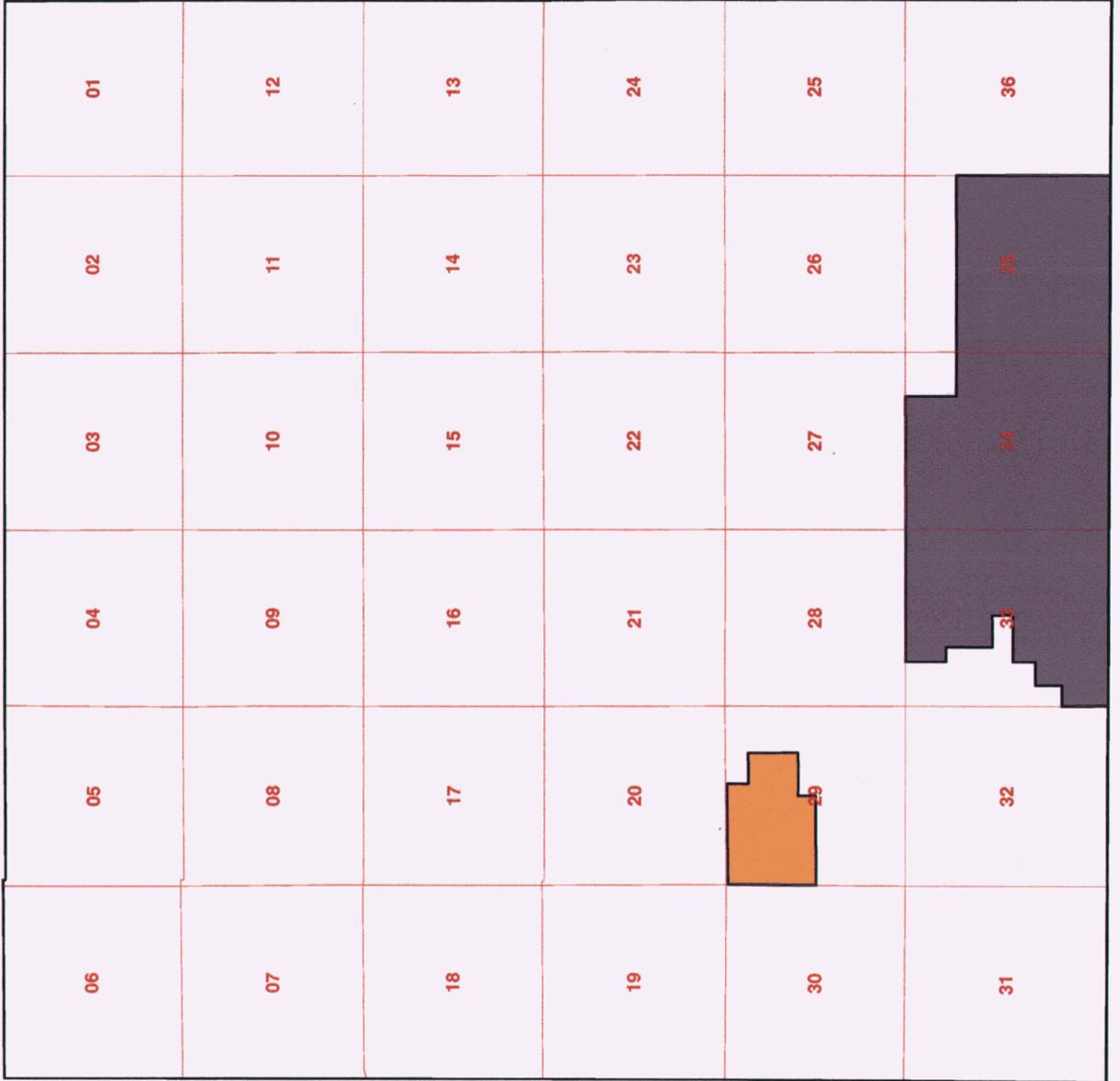
:bsw

Attachment

cc: Mr. Lawrence V. Robertson, Jr.
Ms. Deb Person (Hand Carried)
Mr. Del Smith

RANGE 11 East

TOWNSHIP 12 South



 W-02126A (2)
 Avra Water Cooperative, Inc.
 W-04236A (1)
 Tierra Linda Homeowners Association, Inc.

Tierra Linda Homeowners Association, Inc.
 Docket No. W-04236A-09-0327
 Application to Sell Assets & Transfer to
 Gary Smyth
 Docket No. W-20689A-09-0327