

OPEN MEETING AGENDA ITEM



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Arizona Corporation Commission

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April 20, 2011

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Docket Control-Arizona Corporation Commission
1200 W. Washington St.
Phoenix, Az 85007



re: Exception to the Recommendation of the Administrative Law Judge to the Commission for W-01782A-10-0224 / W-01782A-10-0465

Dear Commission,

ABRA WATER COMPANY, INC. (Company) is filing this exception to the Recommendation of the Administrative Law Judge to the Commission filed April 12, 2011 in the above referenced case. On page 17, line 13-17 of the order, it is ordered that the staff's recommended rates shall not become effective until the Arizona Department of Environmental Quality provides documentation showing that there are no compliance deficiencies and that the Company is delivering water that meets water quality standards required by the Arizona Administrative Code, Title 18, Chapter 4.

HISTORY

The Company owns two production wells, one referenced as the "Aspen" well and the other the "Big Chino" well. The Aspen well is the original well that the Company began using in 1960. In 1997, the Company drilled a new well, the Big Chino well, at a different location approximately 3/4 miles away from the Aspen well because of the availability of 3-phase electrical power at the new well site. The Big Chino well became the Company's primary well with the Aspen well used as a back-up well.

In 2006, with the arsenic standards being lowering by EPA, the Company chose to install an arsenic treatment plant at the Big Chino well site. This choice was made due to fact that land was available at that location, that this well had become the Company's primary production well, and that the arsenic level of this well was 14 ppb whereas the Aspen well's arsenic level was 34 ppb.

The Company acquired financing approval and constructed the arsenic treatment facility at the Big Chino well. The facility became operational in May of 2008. At that time, the Company stopped utilizing the Aspen well. The Company has tested its water each quarter and has provided the testing results to ADEQ.

On February 18, 2011, ADEQ notified the Company of violations in its water quality by not providing water sample results for the third quarter of 2009 and the second quarter 2010. The Company has provided water sample results to ADEQ for these quarters and will do so again. These results show that the Company did provide compliant water to its customers during these quarters as well as all other quarters since its treatment plant became operational.

ADEQ also reported that the Company exceeded the maximum contaminant level ("MCL") in the fourth quarter of 2010. This is a reporting error due to confusion between the two wells. The water provided to the customers did not exceed the MCL. The violation arose due to the fact that the Monitoring Assistance Program ("MAP"), a program provided by the State of Arizona to assist small water companies in their sampling requirements, sampled both wells, the Aspen and Big Chino wells, and submitted both results to the ADEQ for compliance monitoring. Due to the fact that the Aspen well does not have a treatment plant to remove arsenic, the average quarterly testing of both wells exceeded the reporting minimum to ADEQ. However, since the Aspen well is not utilized, the water provided to the customers did not exceed the minimum requirements.

Immediately upon receiving notification of the violations from ADEQ, the Company contacted ADEQ and explained the reason for the violation. The Company agreed to have the Aspen well removed from ADEQ's data base so that no further violations would be reported in the future. On March 2, 2011, I contacted Adam Klatsker, the assigned ADEQ inspector for our system, and explained the problem and requested that he remove the Aspen well from their data base. He responded that if I would send pictures showing the Aspen well physically disconnected from the distribution system, he would remove the well. The attached documents from ADEQ show that Mr. Klatsker did remove the well from their data base on March 3, 2011 after receiving the pictures. The Company assumed that the violation had been removed with this action.

CURRENT ACTIONS

On April 12, 2001, Administrative Law Judge Yvette B. Kinsey issued her recommendation to the Commission regarding the Company's rate increase application and ordered that Abra's new rates not become effective until the compliance violations from ADEQ be removed. I immediately attempted to contact Adam Klatsker to provide documentation showing compliance but was informed that Mr. Klatsker was no longer working in the area but transferred out of state and would not be available. I was informed that Jim Jones of ADEQ had been assigned as the inspector for our water company. I contacted Mr. Jones who verified the above actions of Mr. Klatsker, but explained that since the action was not done retroactively, the violation remains. He agreed that he would

contact his supervisor to determine the course of action we would need to follow to have the violation removed.

On April 18, 2011, I received a phone call from John Calkins, a manager at ADEQ. After explaining to him the situation, he agreed that this could be resolved quickly if I would send him copies of the missing and/or misidentified arsenic test results so that he could correct and update his data base. I did so immediately.

On April 20, 2011, at 10:45 a.m., I called Mr. Calkins who explained to me that all the documentation submitted by the Company to ADEQ was sufficient and that he was communicating with Steve Olea of the Commission to provide him a certificate of compliance. Hopefully, this will resolve the violation and it will be removed.

CONCLUSION

The Company's arsenic treatment plant utilizes a filtering media to extract the arsenic from the water. The effectiveness of the media decreases over time until it can no longer absorb the arsenic. This media is only effective for approximately three years before it must be replaced. The cost to the Company is approximately \$72,000.00 and the Company's current rates are insufficient to cover those costs. The filtering media of the Company's treatment plant is quickly approaching the end of its usefulness and will need to be replaced sometime this year. Due to this, the Company also included in its rate case financing approval to borrow the money to replace the media. This financing approval has been recommended by the Staff and also by the honorable Judge Yvette B. Kinsey to the Commission.

The Company is filing this exception to the recommendation for the following reasons:

The water that the Company has delivered to its customers has been in compliance since the treatment plant was installed and the violation is a reporting error, not a true violation as to the water quality delivered to the customers by the Company.

It appears that ADEQ is removing its violation against the Company, but at times a significant amount of time is required by ADEQ before the violation be lifted. Frequently, a system must show compliance for a period of months, or even years, before a violation is lifted. If this were to be the case, the Company's current revenues would not be sufficient in order to be granted financing approval. This would prevent the Company from borrowing the needed money to replace the media. Without media replacement, the Company would not be able to provide to the customers water that meets federal standards and the Company would be forced into

non-compliance by these unfortunate events with no available remedy. If the Company then receives violations from ADEQ or EPA, very large fines and penalties would be assessed against the Company which the Company would not be able to pay, creating significant hardships upon the owners and directors. Needless to say, the negative effect on the community would be significant.

RECOMMENDED SOLUTION

The Company recommends to the commission that it approve the rate case as submitted and remove the order concerning ADEQ compliance found on page 17, lines 13-17, of the Recommendation of Administrative Law. ADEQ has its own penalties for non-compliance that are severe and significant if the Company does not comply with their standards and procedures. Withholding from the Company the needed funds established in the rate increase which are recommended by Staff would impair the Company's ability to remain in compliance in the future severely impacting the small community it serves, a community that has no other water source available in the area. If it has not already been resolved, the Company pledges to work diligently with ADEQ to resolve this issue promptly and ADEQ has been assisting us in that endeavor.

Sincerely,



Rod Yarbrow-Manager

Arizona Department of Environmental Quality		Safe Drinking Water		Monitoring Assistance Program	
County Map of Arizona		Water System Search		Help	
Water System Facilities	Violations	TCR Sample Results		TTHM Summaries	
Sample Schedules / FANLs / Plans	Enforcement Actions	Recent Positive TCR Results		HAA5 Summaries	
Milestones	Compliance Schedules	Non-TCR Results		PBCU Summaries	
Site Visits	TOC/Alkalinity Results	Non-TCR Results by Analyte		Chlorine Summaries	
Water System Detail Information					
Water System No.:	AZ0413001	Federal Type:	C		
Water System Name:	ABRA WATER COMPANY INC	Federal Source:	GW		
Principal County Served:	YAVAPAI	System Status:	A - MAP		
Principal City Served:	PAULDEN	Activity Date:	03-01-1978		
Comments:	inactivated 55-619178,epds001 by ICF per A.Klatzker/NRO/3-3-2011		IMY:	1995	

Water System Contacts			
Type	Contact	Communication	
AC - Administrative Contact	ABRA WATER CO INC ATTN KEVAN LARSON PO BOX 515 PAULDEN, AZ 86334-0515	Electronic Type	Address
		Email	abrawater@yahoo.com
		Phone Type	Number
		Business	928-636-2557
DO - Designated Operator	FEDERWISCH, HERMAN O PO BOX 1205 CHINO VALLEY, AZ 86323	Electronic Type	Address
		Email	HFEDER2@MSN.COM
		Phone Type	Number
		Business	928-899-3626
OW - Owner	ABRA WATER CO INC ATTN KEVAN LARSON PO BOX 515 PAULDEN, AZ 86334-0515	Electronic Type	Address
		Email	abrawater@yahoo.com
		Phone Type	Number
		Business	928-636-2557
		Facsimile	928-636-2557

Sources of Water			
Name	Type	Activity	Availability
WL-55-561786 - BIG CHINO	WL	A	P
XWL-55-619178 - ASPEN	WL	I	O

Source Water Percentages			
Surface Water	0	Surface Water Purchased	0
Ground Water	0	Ground Water Purchased	0
Ground Water UDI	0	Ground Water UDI Purchased	0

Water Purchases			

Arizona Department of Environmental Quality	Safe Drinking Water	Monitoring Assistance Program	
County Map of Arizona	Water System Search	Help	
Water System Detail Information			
Water System No.:	AZ0413001	Federal Type:	C
Water System Name:	ABRA WATER COMPANY INC	Federal Source:	GW
Principal County Served:	YAVAPAI	System Status:	A - MAP
Principal City Served:	PAULDEN	Activity Date:	03-01-1978

Water System Facilities						
Facility ID No.	Facility Name	Type	Status	Date	Availability	Aerial View
DS001	DISTRIBUTION SYSTEM	DS	A	03-01-1978	P	
EPDS002	EPDS002	SS	A	01-01-1998	P	Click to view
ST001	STORAGE TANK 001 - 250,000	ST	A	06-26-2009	P	Click to view
ST002	STORAGE TANK 002 - 20,000	ST	A	06-26-2009	P	Click to view
TPGW001	TP001 - CL2	TP	A	03-01-1978	P	Click to view
TPGW002	TP002 - AS	TP	A	06-26-2009	P	Click to view
55-561786	WL-55-561786 - BIG CHINO	WL	A	01-19-1998	P	Click to view
EPDS001	XEPDS001	SS	I	03-03-2011	P	Click to view
EPHIS	XEPHIS	SS	I	01-01-2006	O	
55-619178	XWL-55-619178 - ASPEN	WL	I	03-03-2011	O	Click to view

Water System Facility Flows			
Supplying Facility ID No.	Supplying Facility Name	Receiving Facility ID No.	Receiving Facility Name
WL - 55-561786	WL-55-561786 - BIG CHINO	TP - TPGW001	TP001 - CL2
WL - 55-561786	WL-55-561786 - BIG CHINO	TP - TPGW002	TP002 - AS
SS - EPDS002	EPDS002	DS - DS001	DISTRIBUTION SYSTEM
SS - EPDS002	EPDS002	ST - ST001	STORAGE TANK 001 - 250,000
SS - EPDS002	EPDS002	ST - ST002	STORAGE TANK 002 - 20,000
ST - ST001	STORAGE TANK 001 - 250,000	DS - DS001	DISTRIBUTION SYSTEM
ST - ST002	STORAGE TANK 002 - 20,000	DS - DS001	DISTRIBUTION SYSTEM
TP - TPGW001	TP001 - CL2	SS - EPDS002	EPDS002
TP - TPGW002	TP002 - AS	SS - EPDS002	EPDS002