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MEMORANDUM
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2012 MAY 22 A 8:57

TO: Docket Control
FROM: Steven M. Olea
Director
Utilities Division

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

DATE: May 22, 2012

RE: **SUPPLEMENTAL STAFF REPORT - FOR THE APPLICATION FOR APPROVAL OF SALE OF ASSETS AND TRANSFER OF CERTIFICATE OF CONVENIENCE AND NECESSITY OF WILHOIT WATER COMPANY AND DELLS WATER COMPANY TO ACME WATER COMPANY DOCKET NOS. W-02065A-11-0246 AND W-20809A-11-0246** W-01384A-11-0243
W-20809A-11-0243

Attached is the Supplemental Staff Report for approval of sale of assets and transfer of Certificate of Convenience and Necessity of Wilhoit Water Company and Dells Water Company to Acme Water Company.

SMO:KMS:kdh

Originator: Kiana M. Sears

Arizona Corporation Commission
DOCKETED
MAY 22 2012
DOCKETED BY

Service List for: Wilhoit Water Company and Dells Water Company
Docket Nos.: W-02065A-11-0246 and W-20809A-11-0246

Mr. Douglas Martin
365 East Coronado Road, Suite 200
Phoenix, Arizona 85004

Mr. Jim West
Post Office Box 879
Clarkdale, Arizona 86324

**SUPPLEMENTAL STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION**

WILHOIT WATER COMPANY AND DELLS WATER COMPANY

DOCKET NOS. W-02065A-11-0246 AND W-20809A-11-0246

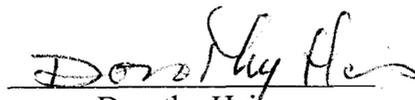
**APPLICATION FOR APPROVAL OF SALE OF ASSETS AND TRANSFER OF
CERTIFICATE OF CONVENIENCE AND NECESSITY**

MAY 22, 2012

STAFF ACKNOWLEDGMENT

The Supplemental Staff Report for Wilhoit Water Company and Dells Water Company, Docket Nos. W-02065A-11-0246 and W-20809A-11-0246 was the responsibility of the Staff members listed below. Kiana Sears and Dorothy Hains were responsible for the review and analysis of the material requested in the Supplemental Staff Report for the sale of assets and transfer.


Kiana M. Sears
(Executive Consultant I)


Dorothy Hains
Utilities Engineer

Background

On April 9, 2012, a hearing was held at the Arizona Corporation Commission (“Commission”) on the “Application for Approval of Sale of Assets and Transfer of Certificate of Convenience and Necessity of Wilhoit Water Company (“Wilhoit”) and Dells Water Company (“Dells”) to Acme Water Company; Docket Nos. W-02065A-11-0246 and W-20809A-11-0246. During the Hearing, Administrative Law Judge Yvette Kinsey (“ALJ”) requested Staff to file a Supplemental Report addressing the following matters:

- Determine if Walden Meadows Community Co-op.(“Walden”) is regulated by the Commission (Tr. at 38-39);
- Docket and review the terms and conditions of the Water Purchase Agreement between Walden and Wilhoit (Tr. at 38-39);
- Address whether Wilhoit and Dells have backflow and curtailment tariffs (Tr. at 21-22; 36)
- Docket and a review the Consent Orders issued by Arizona Department of Environmental Quality (“ADEQ”) to Wilhoit (Tr. at 18:20-23; 35:1-20).

Commission regulation of Walden

Staff’s review of docket control confirmed that Walden, an Arizona non-profit corporation, was issued a Certificate of Convenience and Necessity pursuant to Decision No. 51174 (July 23, 1980). Walden is in compliance with the Commission as it relates to tariffs and its Annual Reports.

Water Purchase Agreement

On May 9, 2012, the Water Purchase Agreement between Walden and Wilhoit was docketed. Walden and Wilhoit entered into an agreement in 1984 which provided for, among other things, the sale of water by Walden to Wilhoit of up to 200,000 gallons of water per month. In 1986, the Agreement was modified. Staff has reviewed the updated 1986 Water Purchasing Agreement between Walden Meadows and Wilhoit. Under the modified Agreement, Walden has agreed to provide Wilhoit up to 400,000 gallons of water per month. Walden Meadows further agreed that when an emergency water shortage on the Wilhoit system exists, Walden will consider additional deliveries to Wilhoit, as long as its ability to meet its own customer demands first is not jeopardized.

Backflow and Curtailment Tariffs

Staff also confirms that both Wilhoit and Dells have filed the necessary backflow and curtailment tariffs as initially indicated in the Engineering section of the original Staff Report. Staff has also reviewed Decision No. 71234 dated August 6, 2009, and found that Wilhoit is in compliance with all items requested by the Commission.

ADEQ Consent Orders

On April 9, 2012, Mr. Jim West, on behalf Wilhoit and Dells docketed 3 Consent Orders issued to Wilhoit by ADEQ. The three Consent Orders are: (1) ADEQ Consent Order DW-26-10 related to Wilhoit – Blue Hills Public Water System (“PWS”) #13-055 issued on April 26, 2010, (2) ADEQ Compliance Order DW-128-06 related to Wilhoit – Yavapai Estates PWS #13-077 issued on December 20, 2006 and (3) ADEQ Consent Order DW-55-08 related to Wilhoit – Thunderbird Meadows PWS #13-056 issued on July 1, 2008. Attachment A, prepared by Dorothy Hains, within this Supplemental Report addresses the ADEQ Consent Orders.

For Consent Order DW-26-10, in an April 10, 2012 memorandum to Staff, ADEQ stated that Wilhoit has to complete four quarters of arsenic monitoring with an average below the arsenic MCL in its Blue Hills water system before ADEQ will close CO DW-26-10. The anticipated closure date is January 1, 2013.

For Consent Order DW-128-06, in an April 10, 2012 memorandum to Staff, ADEQ stated that Wilhoit has completed its four quarters of monitoring of the new Yavapai Estates arsenic treatment system with an average below the arsenic MCL. Therefore ADEQ is in the process of closing Compliance Order DW-128-06.

For Consent Order DW-55-08, this Consent Order requires Wilhoit to construct a new storage tank and drill a new well, as well as submit a contingency plan of action. ADEQ issued an Approval to Construct a new well on August 24, 2011, but ADEQ has not received final paperwork to generate an AOC. Wilhoit has not yet submitted a contingency plan.

Additional Recommendation

Staff proposes one additional recommendation that is a conforming change. In the Staff Report filed December 16, 2011, Staff recommended that Wilhoit file with Docket Control, as a compliance item in this docket, by December 31, 2012, an ADEQ Water Quality Compliance Status Report showing that the Blue Hills PWS No. 13-055 is in compliance with ADEQ requirements and that the system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4. As previously discussed the Blue Hills arsenic treatment system is not scheduled to complete its four quarters of arsenic monitoring until late this year thus the recommended December 31, 2012 compliance due date may be too soon, which would probably necessitate an extension. Therefore, Staff recommends that the December 31, 2012 compliance due date be changed to June 30, 2013.

MEMORANDUM

DATE: April 18, 2012

TO: Kiana Sears
Executive Consultant

FROM: Dorothy Hains, P. E. DH
Utility Engineering

RE: Wilhoit Water Company application for approval of the sale of assets and transfer of Certificate of Convenience and Necessity to ACME Water LLC
(Docket Nos. W- 02065A-11-0246 and W-20809A-11-0246)

Background

On April 9, 2012, at the hearing in this matter the Administrative Law Judge ("ALJ") ordered Wilhoit Water Company ("Wilhoit", "Company" or "Applicant") to file in this Docket any Consent Orders the Company entered into with the Arizona Department of Environmental Quality ("ADEQ"). The ALJ also ordered Staff to provide comments.

On April 9, 2012 the Company docketed three orders, they are (1) ADEQ Consent Order DW-26-10 related to Wilhoit – Blue Hills Public Water System ("PWS") #13-055 issued on April 26, 2010, (2) ADEQ Compliance Order DW-128-06 related to Wilhoit – Yavapai Estates PWS #13-077 issued on December 20, 2006 and (3) ADEQ Consent Order DW-55-08 related to Wilhoit – Thunderbird Meadows PWS #13-056 issued on July 1, 2008.

Staff's Review and Comments*1. Consent Order # DW-26-10*

The Consent Order requires Wilhoit to install a treatment system in its Blue Hills water system using best available technology to achieve compliance with the arsenic maximum contaminant level ("MCL") of 10 ppb. ADEQ issued an Approval of Construction ("AOC") for the Wilhoit – Blue Hills arsenic treatment system on October 4, 2011.

In an April 10, 2012 memorandum to Staff, ADEQ stated that Wilhoit has to complete four quarters of arsenic monitoring with an average below the arsenic MCL in its Blue Hills water system before ADEQ will close CO DW-26-10. The anticipated closure date is January 1, 2013.

2. Compliance Order # DW-128-06

The Compliance Order requires Wilhoit to install a treatment system in its Yavapai Estates water system to achieve compliance with the arsenic MCL of 10 ppb. ADEQ issued an AOC for a new Wilhoit – Yavapai Estates arsenic treatment system on April 12, 2011.¹

In an April 10, 2012 memorandum to Staff, ADEQ stated that Wilhoit has completed its four quarters of monitoring of the new Yavapai Estates arsenic treatment system with an average below the arsenic MCL. Therefore ADEQ is in the process of closing Compliance Order DW-128-06.

3. Consent Order # DW-55-08

The Consent Order requires Wilhoit to install a new storage tank (or tanks) to meet minimum storage requirements and drill a new well in its Thunderbird Meadows² water system. The Consent Order also requires Wilhoit to submit a Contingency Plan of Action describing measures Wilhoit will implement in the event the water pressure in its Thunderbird Meadows water system falls below 20 psi. ADEQ issued an AOC for a Wilhoit – Thunderbird Meadows 65,000 gallon storage tank on July 12, 2011. ADEQ issued an Approval to Construct a new well on August 24, 2011, but ADEQ has not received final paperwork to generate an AOC.

Staff concludes that Wilhoit has made substantial progress in complying with Consent Order #DW-55-08 but that full compliance has not been met. The Company has not submitted a Contingency Plan. The Company has submitted paperwork to ADEQ for the new well AOC. ADEQ is in the process of reviewing this paperwork for completeness.

Recommendation

In its Staff Report filed December 16, 2011, Staff recommended that Wilhoit file with Docket Control, as a compliance item in this docket, by December 31, 2012, an ADEQ Water Quality Compliance Status Report showing that the Blue Hills PWS No. 13-055 is in compliance with ADEQ requirements and that the system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4. As previously discussed the Blue Hills arsenic treatment system is not scheduled to complete its four quarters of arsenic monitoring until late this year thus the recommended December 31, 2012 compliance due date may be too soon, which would probably necessitate an extension. Therefore, Staff recommends that the December 31, 2012 compliance due date be changed to June 30, 2013.

¹ Wilhoit replaced an existing Absorptive Media Treatment System that didn't work.

² Consent Order # DW-55-08 refers to this water system as Thunderbird Estates in error.