

ORIGINAL



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RE: APPLICATION BY DOYLE THOMPSON ("COMPANY") FOR CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE SEWER SERVICE TO THE EMERALD SPRINGS SUBDIVISION HOA – DOCKET NO. SW-20851A-12-0226 AND CONSOLIDATED DOCKETS WS-20794A-11-0140 AND WS-20794A-0279

QUESTIONS NOS. 11 AND 22

Arizona Corporation Commission  
**DOCKETED**

JAN 15 2013

DOCKETED BY *DM*

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AZ CORP COM  
DOCKET OFFICE

# 11

04/03/12

**ALFRED SCHMIT: 1<sup>st</sup> OWNER OF EMERALD SPRINGS SUBDIVISION**

Alfred Schmidt signed agreement on April 30, 1997 to begin service to Doyle Thompson's Waste Water Treatment Plant on July 1<sup>st</sup> 1997. Within the next year Alfred Schmidt was no longer the owner of Emerald Springs Subdivision. By April 1<sup>st</sup> 1999 the balance owed to Doyle Thompson was approximately \$30,000 for sewer treatment services and \$22,000 for construction services.

SEE ATTACHMENT "A"

**GEORGE LAMBERT-STONECREEK PROPERTIES: 2<sup>nd</sup> OWNER OF EMERALD SPRINGS SUBDIVISION**

George Lambert signed agreement for Waste Water Service to Doyle Thompson on March 29, 2000. By Sept. 2003 he owed a balance of approx. \$36,000 for sewer fees and \$44,000 for construction and then he was no longer owner of Emerald Springs Subdivision.

On Sept. 20, 2003 I received \$3,500 for hook-up fees (that were due when George Lambert held the subdivision) from the Emerald Springs HOA plus \$2,000 deposit with a letter stating this would allow for time for me and the new owners of the development to negotiate the on going fees from Jan. 1<sup>st</sup>, 2004.

SEE ATTACHMENT "B"

**HENRY MELENDEZ: 3<sup>rd</sup> OWNER**

I don't remember exactly when, but I think it was the summer of 2003; Henry Melendez showed up at my door with two other gentlemen and wanted my help with information to obtain the Emerald Springs Subdivision and my help with the project. He would not only pay me monthly for the wastewater treatment services, but he also promised that I would get paid the \$80,000 that George Lambert owed me.

Jan. 2004, Henry contacted me about getting an agreement together and my response was that I would do nothing this time without an attorney. He suggested Lerch and Deprima since they had worked with George Lambert and the HOA before on their matters. Henry Melendez, the lawyer from Lerch and Deprima and myself met on Feb. 7, 2004 and came up with an agreement. Mr. Melendez never signed the final documents, never discussed another offer or agreement. He never signed the agreement to pay the attorney after only paying \$2,000 of the \$16,000 balance. I ended up getting the balance discounted and paying it myself.

SEE ATTACHMENT "C"

On Oct. 9, 2004 I received notification that my sewer services was no longer needed, that the HOA converted the sewer system to Henry Melendez.

# **ALFRED SCHMIDT/EMERALD SPRINGS SUBDIVISION CO-OPERATIVE WASTE TREATMENT AGREEMENT**

## **FACTS OF AGREEMENT**

1. Co-operative agreement guaranteeing sewage treatment for Phase I (53 lots).
2. Agreement is between: Alfred Schmidt/Emerald Springs H.O.A. and Doyle Thompson.
3. Length of agreement: Permanent without recall or until second phase completion of Emerald Springs Subdivision, Tract 123, LaPaz County. (Units II, III, and IV)
4. Right to abandon agreement before with alternative approved system by A.D.E.Q. or governing agency. Abandonment of all facilities and appurtenances used in connection with Doyle Thompson's sewage treatment facility and Alfred Schmidt/Emerald Springs H.O.A. sewage collection system at Alfred Schmidt/Emerald Springs H.O.A.'s sole expense.
5. If use continues beyond second phase completion of Emerald Springs or maximum treatment capacity of Doyle Thompson's sewage treatment facility is reached prior to the completion of second phase, Alfred Schmidt/Emerald Springs H.O.A. agrees to increase (at their sole expense) the capacity of the existing sewage treatment facility to a size equivalent to Alfred Schmidt/Emerald Springs H.O.A.'s usage (flow) or more.
6. Compensation: Alfred Schmidt/Emerald Springs H.O.A. to share maintenance, operating, and operator's cost. To begin 6-1-97 and continuing until abandonment clause takes effect. Shared cost will be paid by Alfred Schmidt/Emerald Springs H.O.A. and Doyle Thompson.

4-1-99

## MEMORANDUM

**TO:** Doyle Thompson Fax # 520-923-9602  
**FROM:** J.B.Wyss  
**RE:** Amounts due from Alfred Schmidt / Emerald Springs Subdivision

Doyle,

I have reviewed the materials that you sent via fax re. the amounts due to you by Schmidt / Emerald Springs under the terms of the Agreement and Addendum regarding the joint sewer plant use. If I understand the question, you want to know how to get paid. The obvious course of action here is to bring suit against Schmidt / Emerald Springs for the amount due, plus interest, court costs and attorney's fees. Assuming that you win the suit, then the trick is collecting on any judgment that you may get.

Upon reviewing the agreements, I calculated the amount due to be \$34,000 through the end of April, 1999. This is based on \$1500 per month for the first six months, and \$2000 per month after that; all for a total of 22 months. If you deduct the \$4000 payment from that figure, that brings you to \$30,000, not counting interest on each payment from the date that it should have been paid until actually paid. I am not clear on what the \$2782 share of the "operational costs" are.

It is usually my practice to make a written demand for payment of a debt before bringing suit. However, this is not required by the law unless the agreement says so; and yours does not. Such a demand might bring the other party to the table for purposes of making some sort of a "work out" deal. It may also prove to be a waste of time. However, since the figure that you say is due is different than what I have calculated, that suggests that there may be some argument about the actual balance when the time comes. This may be the time to try to meet that issue head on to try to avoid wasting time later arguing over this point.

It seems to me that Emerald Springs needs you a lot more than you need them. This will be equally true in the case that they file bankruptcy, or if some lender takes the property by foreclosure. No matter what happens, the subdivision is going to need waste treatment services, and there is obviously no way that they can be obtained by spending less than what it will take to bring your account current. Not being a sewer expert, I don't know if there is

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any way that you can be forced to continue to help these people--- but even if you can be forced to do so, the law would not permit that without compensation to you.

Since the contract runs out in July of this year, and since you are not getting paid as agreed, I think it is perfectly justifiable for you to "cut them off" then, if not now.

A reasonable approach may be to write them making demand for the amount due; with an explanation of how such figure has been arrived at. In this demand, you could establish a deadline for payment, under threat of cutting off their access to the plant if it is not paid. You could also tell them, in no uncertain terms, that the contact will not be renewed after July under any circumstances. If this is illegal or contrary to some environmental law or regulation, I am certain that they will point that out in their response.

Unfortunately, the threat of bankruptcy changes all of the rules. You would then probably have to get the permission of the Bankruptcy Court to do anything aggressive. However, even the Bankruptcy Court will not require you to provide service without getting paid for it. You may have to wait to get paid for amounts past due, but they will have to pay for current services. The best course of action is usually to press on as if there has been no suggestion of bankruptcy, because to do otherwise is often a waste of time--and this is a very common "stall" tactic. If you find yourself dealing with a bankruptcy, we would refer you to a specialist in that field.

I hope the foregoing ideas are useful. You should develop an accounting of the amounts due in the case that you are requested to provide it; along with a breakdown of what the "operational costs" claim is about. I am also a bit unclear on exactly who it is you are dealing with here. Is it Schmidt individually, or some corporation or partnership. The name "Emerald Springs Sub-division" does not provide the answer. And who is Arthur Ray Cartel, and in what capacity does/did he represent you?

If I can be of further help with this, will you please let me know.

**JBW**

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**SEWER SERVICE AGREEMENT  
BETWEEN GEORGE LAMBERT, EMERALD  
SPRINGS SUBDIVISION AND DOYLE THOMPSON,  
COPPPERSTATE MOBILE HOME PARK**

1. Copperstate agrees to provide sewage treatment for Unit 1, lots 1-53 Tentative Tract 123, Emerald Springs Subdivision La Paz County, through its existing waste treatment facility located at Copperstate Mobile Home Park, Ehrenberg Arizona.
2. This agreement is to provide sewer for Unit 1, for a period of 16 months with two (2) one year extensions, or as such time that the sewer plant needs to be expanded to accommodate more sewage treatment. At which time both parties agree to enter into a joint venture to expand the existing plant to accommodate required sewage treatment. Stonecreek Properties West, LLC., will be responsible to provide the money to increase the treatment capacity of the present plant. Both parties agree to enter into a separate agreement that will spell out the interest of both parties. All work on the sewer plant will be in accordance with ADEQ regulations and standards.
3. Stonecreek Properties West, LLC., agrees to pay Copperstate Mobile Home Park \$1,500.00 per month plus five hundred dollars (\$500.00) hook-up fees per home. Increases in additional sewer cost will be based on use and cost increases and may be applicable on a annual basis.
4. This agreement may be changed or modified from time to time in order to accommodate the need for more treatment capacity whereby Stonecreek and Copperstate, will enter into a joint agreement to development required capacity for present and future capacity.
5. Copperstate will be responsible for all management of the treatment and daily operations in accordance with all rules and regulations required by Arizona Department of Environmental Quality. In the event of rules and regulations changes by ADEQ, that increase the operational cost of sewage treatment, both parties agree to share the cost to accommodate the new requirements. In the event that the sewage treatment plant becomes inoperable because of outside interference or mother nature and no fault of both parties, each party will equally share in the remediation cost.

6. Stonecreek Properties, shall be responsible to construct the proper sewer lines to the treatment plant and maintain the lift station.

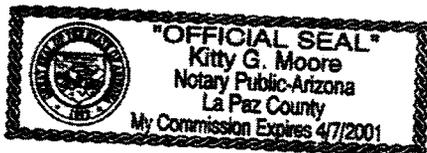
7. In the event of default of monthly sewer payments over thirty days and after such notice for payment, Copperstate/Doyle Thompson, can place a lien for the amount due on the subject property except improved lots with houses in place.

Agreement entered into this date March 29, 2000

*George E. Lambert*, Managing Member,  
Stonecreek Properties West, LLC.

*Doyle Thompson*, Doyle Thompson,  
dba, Copperstate Mobile Home Park.

*signed in my presence  
this March 29-2000  
Kitty G. Moore*



Mr. Doyle Thompson  
C/O Copper State Mobile Home Park

October 9, 2004

Please accept this notification from Emerald Springs Homeowners Association that your service for Sewer Removal for this development is no longer required.

Enclosed you will find our check for \$45.00 which represents the final service in October from your facility, October 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup>. On October 4<sup>th</sup>, the service from the pump in the Emerald Springs Development was converted to Henry Melendez, c/o Dynamic Development Corporation.

Thank you for your service. Please return the enclosed copy of this letter, signed and dated, in the self-addressed, stamped, envelope provided. Our confirmation will be our cancelled check, but your confirmation is also requested.

Sincerely,



Judy McMullen  
Treasurer - ES HOA

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DOYLE THOMPSON

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DATE

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#22. Doyle Thompson is owner, operator and overseer of purchases, repairs and maintenance of the Copper State Sewer Plant which Emerald Springs - HOA is connected to.

Lisa Bunch does billings and office management.

Tom Crawford is field operator which includes help with maintenance, air flow pumps, compressors and fluent treatment lines.

Jim Grimes is our certified plant operator.

**SW-20851A-12-0226**

Search

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Service List     PDF     Web     Word     Excel

**Service List:**

Company	Contact	Address	Date Added
	Steve Wene	1850 N. Cental Ave, 1100 Phoenix, Arizona 85004	7/31/2012
	Julie LaBenz	1300 Joshua Ave., Suite B Parker, Arizona 85344	7/31/2012
	Henry Melendez	212 E. Rowland St. #423 Covina, California 91723	7/31/2012
	Steve Olea	1200 W. Washington St. Phoenix, Arizona 85007	6/8/2012
	Janice Alward	1200 W. Washington Phoenix, Arizona 85007	6/8/2012
Arizona Corporation Commission	Lyn Farmer	1200 W. Washington Phoenix, Arizona 85007-2927	6/8/2012
	Doyle Thompson	P.O. Box 287 Ehrenberg, Arizona 85334	6/8/2012