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Before the  
**Arizona Corporation Commission**  
AZ CORP COM  
DOCKET CONTROL

2013 FEB 11 AM 10 25

In The Rate Case of

**Far West Water & Sewer, Inc.**

**Docket # WS-03478A-12-0307**

**Direct Testimony of**

**Robert Gilkey, Intervenor**

**and**

**Barbara Gilkey, Intervenor**

February 8, 2013

Arizona Corporation Commission

**DOCKETED**

FEB 11 2013

DOCKETED BY *LSM*

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## EXPERIENCE & QUALIFICATIONS

1  
2  
3 **Q. Please state your experience and qualifications which would give you the ability to**  
4 **testify in this Rate Case.**

5 **Robert Gilkey**

6 A. Current property owner in the Far West Water & Sewer, Inc. district directly affected by  
7 any rate increase

8 B. Licensed, National Association of Securities Dealers, License #W747, 1969-1972

9 C Budget Committee Member, Rogue River, Oregon School District, 1977-1978

10 D. Planning Commissioner in Central Point, Oregon, from 1996-1998

11 E. City Councilor in Central Point, Oregon, from 1998 through 2000

12  
13 **Barbara Gilkey**

14 A. Current property owner in the Far West Water & Sewer, Inc. district directly affected by  
15 any rate increase

16 B. California licensed Real Estate Salesperson and Broker – actively worked from 1972 to  
17 1982 in San Diego County; have maintained license and kept up with continuing education  
18 requirements

19 C Licensed Income Tax Practitioner in California

20 D. Small business owner of Transportation Brokerage in Medford, Oregon, from 1982 to 1996  
21 when business was sold

## SEWER PLANT TOUR

1  
2 Q. You went on a sewer plant tour January 11, 2013. Who was in attendance? What did you  
3 learn during the tour?

4 A. Far West was represented by Paula Capestro, Isaac Yocupicio, the Treatment/Collections  
5 Supervisor responsible for overseeing the operation of all wastewater treatment plants and Mike (didn't get  
6 his last name) who said he was in charge of maintenance. Intervenors in attendance were Bob and  
7 Barbara Gilkey, Bob Rist and Rod Taylor

8 During the tour of the Section 14 plant, we were told that the effluent discharge from that plant  
9 meets Type A+ standards. There were no detectable odors. Del Oro also meets A+ standards. We  
10 would assume that when Seasons is fully converted to a Zenon plant, it will also meet A+ standards,  
11 however at this time, it is not completed. We were unable to visit Villa Del Rey and Villa Royale as  
12 we were told it was unsafe because of the location so close to the golf course and the threat of golf  
13 balls hitting us on the head. We were, however, informed that there was no work done to meet the  
14 requirements of the Consent Order. The reason these two plants have not been completed is that the  
15 issue of the easements had not been resolved. We also went to Palm Shadows. The in ground  
16 facilities there have not been removed; the decommissioning has not been completed. Two 100 HP  
17 pumps have been added to pressurize the force main. We were told that with the pumps off, there is  
18 86 psi static pressure in the force main at Palm Shadows.

## PALM SHADOWS

19  
20 Q. Mr. Gilkey, what was the major issue at the Palm Shadows plant?

21 A. The Palm Shadows plant failed due to clay beds under the percolation ponds. The plant  
22 was certified by an engineering firm even though that firm had direct financial interest in what is now  
23 known as Far West Water & Sewer, Inc. and/or H&S Developers.

### ***Viable Options***

24  
25 Q. Mr. Gilkey, in your opinion other than decommissioning, were viable options considered  
26 when Palm Shadows failed?

27 A. It appears that viable options were not considered. First of all, when I asked if Far West

1 Water & Sewer, Inc. or any of its representatives had formal or informal contact with the City of  
2 Yuma regarding that portion of the Far West Sewer service area located within the city of Yuma, the  
3 answer from the Office of the City Clerk in Yuma was:

4  
5 Mr. Gilkey,  
6 Regarding your attached Request for Public Records, there are no public documents to fill this request. At this  
7 time I will consider your request closed.  
8 Please don't hesitate to contact me should you have any additional questions or concerns.  
9 Thank you, Jasmine Small

10  
11 Had there been contact with the city of Yuma, there should have been a record.

12 The City of Yuma has a sewer main at approximately 30 feet lower ground elevation than the  
13 ground elevation at the Palm Shadows plant and is less than a mile away. It would require a  
14 minimum of pumping to transfer the sewage from the Palm Shadows plant to the City of Yuma's main  
15 sewer line. With proper engineering, it may even be done by gravity flow. The Palm Shadows plant  
16 serves an area which is largely in the city of Yuma. Diverting flows from Palm Shadows to the city of  
17 Yuma was not explored.

18 Another option could have been upgrading Palm Shadows to a Zenon Plant. Zenon plants  
19 produce A+ grade effluent which can be used for many purposes. Within the same Vista del Sol  
20 development which Palm Shadows was created to serve, there are a series of large runoff detention  
21 ponds, two of which have proven to percolate rapidly after storm events. These are an example that  
22 other locations existed and were not explored for the percolation ponds associated with Palm  
23 Shadows. Irrigation on adjoining property also could have been considered. Any of these options  
24 would have allowed discharge of the effluent from Palm Shadows.

## 25 **FORCE MAIN**

26 Q. Was the Force Main/Section 14 upgrade a reasonable solution to the Palm Shadows failure?

27 A. No. The Section 14 Zenon upgrade should have been applied at Palm Shadows. Force  
28 Main pumps effluent uphill to the Section 14 Plant from Palm Shadows, a difference in elevation of  
29 nearly 200 feet requiring two 100 HP pumps. Each pump, if running at capacity, would consume in  
30 excess of \$50,000. per year in electricity not to mention maintenance and repair to the Force Main.  
31 By contrast, had Far West management explored and utilized connection to the city of Yuma, the flow

1 would be downhill requiring little, if any, pumping.

## 2 **CAPACITY FEES**

3 Q. Does Far West Water & Sewer, Inc. charge Capacity Fees? Are these fees adequate to  
4 cover the cost of plant-in-service?

5 A. No, Far West does not have a set fee schedule for Capacity Fees. The question to them  
6 was: Does Far West charge for sewer capacity fees? Explain methodology. If no formula, why not?  
7 In their Response to Gilkey's Third Set of Data Requests, 3.5, they state:

8 Since 2006, Far West has required all developments to enter into agreements for the payment  
9 of their proportionate share of the cost of off-site wastewater infrastructure. Each agreement is  
10 **individually negotiated** based on the capacity requirements of the development.

11 One example would be: In response to Yuma Venture R.V. Park's request for sewer connection  
12 because their septic system is failing, on March 18, 2011, Far West offered to allow them to connect  
13 for a capacity fee of \$484,661.44, which is approximately \$1,954.28 per space. This was at a time  
14 when there was no capacity to serve the additional 248 spaces. According to the Yuma Venture  
15 manager, Todd Jensen, they were also quoted \$21.75 per month per space for sewer service fees,  
16 which is the current standard residential rate – not the current R.V. park rate.

17 According to the number of lots shown on the Assessor's map the capacity fee for Rancho  
18 Encantado Phase I was \$1,998.20 per lot, not making any allowance for commercial lots. The  
19 capacity fees for Las Barancas 1, were \$1685.61, and for Arroyo De Fortuna were \$1540.00 per  
20 residential lot.

21 In the Direct Testimony of Ray L. Jones on behalf of Far West Water & Sewer, Inc., July 6,  
22 2012, he stated (at line 2, page 7):

23 Far West's plant-in-service balance has increased from from \$13,420,251 (2004 test year) to  
24 \$37,751,132 in this filing.

25 Based on the 8,262 total connections at the December, 2011 test year, it would have required  
26 \$4,569.25 in capacity fees per connection to have covered the plant-in-service balance.

27

1 Based on the numbers given us, the capacity fees which have been charged in the past and are  
2 continuing to be negotiated, are inadequate. We should not be paying exorbitant attorney's fees to  
3 negotiate something that should be set on a standard fee schedule. By the consistent pattern of  
4 negotiating capacity fees of less than \$2000.00 per connection, since the company constructed the  
5 plants, they know the capacity of the plants, they know the cost of the plants, they know the cost per  
6 connection to provide the capacity, their negotiations tell us that at a maximum of \$2,000.00 per  
7 connection times the 8,262 connections, the total plant facilities are worth no more than  
8 \$16,524,000.00, not the \$37,751,132.00 that came from Ray Jones' testimony.

9 The city of Yuma has a set sewer capacity fee of which the lowest amount listed is \$6,577.00  
10 per connection and does not include the direct sewer connection fee. There is no expensive and  
11 unnecessary negotiation.

## 12 **R.V. PARKS**

13 Q. Is Far West billing all of the R.V. parks/spaces within the sewer district?

14 A. We have verified the spaces in the four R.V. parks listed in response to our data request  
15 2.7, and they total 713, however there are other R.V. parks within the sewer service district which may  
16 or may not be connected.

## 18 **COMMERCIAL**

19 Q. Do you feel that all commercial customers are being billed equitably for sewer services?

20 A. No. One example, Texas Tango AZ, LLC, an undisclosed affiliate (not included in the  
21 answer to Staff's Second Set of Data Requests GB 2-1), owned by Sandra Braden, CEO of Far West  
22 Water & Sewer, Inc., owns land known as Assessor Parcels # 70136194 (11286 S. Foothills Blvd.),  
23 70136195, (11264 S. Foothills Blvd.), and 70136196, (11242 S. Foothills Blvd.). There is a strip mall  
24 on these parcels containing 20 separate businesses having one commercial connection billed at \$43.50  
25 per month for the entire strip mall (as is listed in Gilkey's 4<sup>th</sup> set of Data Requests, 4.4) . All of these  
26 businesses are significant contributors to the sewer system and if each business was on it's own piece  
27 of property, there would be a charge of \$43.50 for each business.

1 Another example would be Parcel #70153090, (11611 S. Foothills Blvd.) also owned by Texas  
2 Tango AZ, LLC, shown as having one commercial sewer connection, and the building contains a  
3 medical clinic, an insurance office and a title company.  
4

## 5 **RATE INEQUITY**

6 Q. Do you feel that charging 25% of the residential sewer rate for RV parks and double the  
7 rate of the residential sewer rate for commercial hookups is equitable?

8 A. No. Two people living in an RV and two people living in a single family residence will  
9 normally generate the same amount of wastewater and the rate for an RV space should be equal to the  
10 rate for a residential lot.

11 Two examples of commercial usage is described above; however the fees for different types of  
12 commercial businesses should be assigned different sewer rates, as different types of business  
13 generate vastly different quantities and strengths of sewage. Having one sewer connection for a  
14 building with many units is also inequitable.

## 15 **REAL ESTATE VALUES**

16 Q. Mrs. Gilkey, what is a probable effect of an increase of 188.05% in the sewer rates ?

17 A. If this rate increase is approved, it will result in more people not being able to afford to  
18 come to Yuma, more properties will be on the market and market values will be further depressed.  
19 As a further result, businesses in the Foothills relying on winter visitors will suffer as well harming  
20 the overall economy of Yuma. This opinion is also reflected in the numerous rate payer comments  
21 posted on the Commission's docket for this rate case.

## 22 **LEGAL FEES**

23 Q. What were the legal fees and/or management fees charged by Andrew Capestro in the year  
24 2011?

25 A. According to the answer to Staff's Data Request GB 2-1.3, Mr. Capestro was paid by Far  
26 West Water & Sewer, Inc., \$120,000.00 in legal and management fees included in the rate base and

1 \$47,000.00 in legal fees included in the test year case, totaling \$167,000. According to the 1099  
2 which was issued in response to Gilkey's Data Request 3.9, Mr. Capestro received \$154,500.00 in  
3 column 14 labeled "Gross proceeds paid to an attorney". The 1099 was issued by Far West Water &  
4 Sewer, Inc., but the entire expense was charged exclusively to the sewer division.

## 6 CONCLUSION

8 Q. What do you have to say in conclusion?.

9 A. First of all, we find it difficult to understand how an annual tax bill of \$723.40 for a lot  
10 (with an outbuilding valued at \$3700.) in the Foothills Mobile Estates, developed by H&S Developers  
11 and sold originally in 2003, can possibly be less than what a sewer bill of \$751.80 per annum would  
12 be if this rate increase is approved. The tax bill includes fees for schools, library, flood control and  
13 county services.

14 Not having considered and utilizing alternatives to the Force Main/Section 14 solution to the  
15 Palm Shadows failure is just another example of poor choice and management failure.

16 Capacity fees, not rate increases, should have covered and should continue to cover,  
17 infrastructure costs. This is another example of poor management decision making.

18 Inconsistency prevails with Far West Water & Sewer, Inc. On the one hand, four R.V. parks  
19 are currently being charged a per space rate of 25% of the residential rate, and not paying their fair  
20 share of the monthly sewer fees. On the other hand, Far West is trying to assess a residential rate to a  
21 distressed R.V. park

22 Far West shouldn't be able to make income adjustments for the amounts paid for attorney fees,  
23 rents, and the unverifiable and "no bid" charges from their affiliates. The cost to construct, maintain  
24 and operate the Force Main from Palm Shadows should not be allowed to be included in the rate base.

25 The Far West Water & Sewer, Inc. district needs to be a public, not a private utility company.  
26 There should be a Board of Directors which oversees the hiring of a qualified manager, proper  
27 budgeting, and plans for growth and preventative maintenance. Regular board meetings, open to the

1 public with complete transparency, would be a requirement.

2 Q. Does this conclude your testimony?

3 A. Yes it does, however, we reserve the right to add, amend, or delete testimony based on  
4 further discovery.

5 An original and 13 copies foregoing mailed this 8<sup>th</sup> day of February, 2013 to:

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