



BEFORE THE ARIZONA CORPORATION COMMISSION

BOB STUMP
Chairman
GARY PIERCE
Commissioner
BRENDA BURNS
Commissioner
BOB BURNS
Commissioner
SUSAN BITTER SMITH
Commissioner

Arizona Corporation Commission
DOCKETED

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DOCKETED BY
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IN THE MATTER OF THE SABROSA
WATER COMPANY FOR APPROVAL OF
A RATE INCREASE.

DOCKET NO. W-02111A-11-0272

IN THE MATTER OF THE APPLICATION
OF SABROSA WATER COMPANY FOR
APPROVAL OF FINANCING.

DOCKET NO. W-02111A-11-0340

IN THE MATTER OF THE APPLICATION
OF SABROSA WATER COMPANY FOR
APPROVAL OF FINANCING FOR
DEEPENING ZORRILLO WELL.

DOCKET NO. W-02111A-11-0435

DECISION NO. 73661

ORDER

Open Meeting
January 30, 2013
Phoenix, Arizona

BY THE COMMISSION:

* * * * *

FINDINGS OF FACT

1. On July 7, 2011, Sabrosa Water Company ("SWC" or "Company") filed an Application for General Rate Increase docketed as Docket No. W-02111A-11-0272. On September 9, 2011, SWC filed an Application for approval of financing for the purpose of constructing arsenic treatment facilities.

2. On December 6, 2011, SWC filed an Application for approval of financing for the purpose of deepening the Company's well, which had gone dry. The Company continued to provide water service to its customers utilizing hauled water.

1 3. All of the customers of the Company have now obtained alternate water service and
2 no customers remain. The Company's well has been capped.

3 4. The Interim Manager has filed a request that seeks Commission approval to sell
4 SWC's remaining assets in order to pay SWC's outstanding debts.

5 5. SWC has a significant history of violations and non-compliance before the
6 Commission and has demonstrated an inability to provide a consistent source and quality of water
7 at a reasonable price.

8 6. In Docket Nos. U-2111-91-044 and U-2111-91-097, the Company filed for a rate
9 increase and for approval of financing. In that proceeding, both Staff and the Hearing Division
10 experienced difficulty obtaining information from the Company, despite numerous efforts to
11 contact the Company. The Company sought a continuance of the hearing, which was denied, and
12 the hearing was held on November 20 and December 4, 1992. The Company failed to appear.

13 7. In that Docket the Commission granted Staff's recommended rate decrease and
14 further found that the Company was not in compliance with the regulations of the Maricopa
15 County Health Department, had delinquent property taxes of \$137,594 and had a tax lien for
16 property taxes owed since 1976 which had resulted in a tax lien sale.

17 8. The Commission further ordered the Company to meet its property tax expenses,
18 make improvements of \$1,380 to bring it into compliance with County Health regulations, and
19 begin keeping its books in accordance with the National Association of Regulatory Utility
20 Commissioners (NARUC) System of Accounts.

21 9. The Commission denied the Company's financing application, noting that the
22 Company had already obtained financing and encumbered Company assets without Commission
23 approval. In its order dated December 19, 1991, the Commission stated: "The Staff Report, the
24 testimony presented at the hearing and the Procedural History outlined above indicate a total lack
25 of commitment by the Company to operate in a manner consistent with the best interests of itself
26 and its customers. The Company has further demonstrated this by its conduct in ignoring the
27 Commission's requests for information, orders and attempts to contact it regarding its own
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1 applications and requirements under the law. During the application process, the Company
2 consistently provided inaccurate and incomplete information....”

3 10. Due to the Company’s failure to comply with that order, the Commission issued a
4 Complaint and Order to Show Cause in Docket No. U-2111-92-080.

5 11. The Company failed to appear for the hearing in Docket No. U-2111-92-080.
6 Based upon the evidence presented, the Commission determined that the Company had violated
7 Arizona laws, Commission rules and Commission orders, including: threatening to disconnect
8 customers unless they paid additional unauthorized monthly charges, failure to provide water
9 service to some property owners in its certificated area, encumbering utility assets without
10 Commission approval, failure to pay property taxes, failure to provide water which met water
11 quality standards, failure to properly read meters, improper billing practices, failure to maintain a
12 known place of business, failure to refund deposits, failure to make plant improvements as
13 ordered, and failure to provide required notice to customers.

14 12. The Commission ordered remedial action and imposed administrative penalties and
15 fines in the amount of \$58,000. The matter was then referred to the Arizona Attorney General’s
16 Office, which filed a Maricopa County Superior Court action to enforce that order in Case No.
17 CV1997-022196. Judgment of \$58,000 was entered on August 12, 1998, according to the Court’s
18 website.

19 13. In April 2000, Commission Staff learned from the Maricopa County Department of
20 Energy Management (“MCDEM”) that most of the Company’s customers were without water.
21 This led to the filing of a Complaint and Order to Show Cause in, seeking appointment of an
22 interim manager.

23 14. In that Docket the Commission determined that numerous violations continued to
24 occur and that water quality and shortages resulted.

25 15. The Commission authorized the employment of an interim manager to operate and
26 manage the Company and bring it into compliance.

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1 16. The Commission further imposed a penalty on both the Company and Mr. Keith
2 Morris, owner, in the amount of \$5000, plus \$1,000 per day until the Company was brought into
3 compliance or the utility and/or its assets were sold to a Commission approved third party.

4 17. This order in Docket No. W-02111A-00-0286 was referred to the Arizona Attorney
5 General's Office and a second Superior Court lawsuit was brought against the Company and Mr.
6 Morris and his wife in Case No. CV2008-005016. That case resulted in the entry of a judgment in
7 the amount of \$246,973.89.

8 18. On April 24, 2002, the Complaint seeking cancellation of the Company's CC&N
9 was filed in Docket No. W-02111A02-0301. Citing numerous violations and the preceding events,
10 the Commission did cancel the CC&N, while affirming the continuation of the penalties ordered in
11 Decision No. 63163, Docket No. W-02111A-00-0286, until the transfer of the Company's assets to
12 a Commission acceptable entity.

13 19. SWC was formerly an Arizona Corporation owned and operated by Keith J. Morris.
14 However, the Corporation was dissolved by the Commission's Corporations Division in 2002, for
15 failure to file its annual report.

16 20. As part of a personal bankruptcy case before the U.S. Bankruptcy Court in the
17 District of Arizona, Mr. Morris entered into an agreement to transfer to Gale Long, all of his
18 interest in the Company, subject to the approval of the Commission. There is no evidence that this
19 transaction actually took place, nor has the Commission ever approved such a transfer.

20 21. Since that time, Mr. Morris has not participated in the operation of the Company. In
21 fact, Commission Staff has been unable to located Mr. Morris for several years, despite efforts to
22 do so. Since 2000, the Company has been operated by an interim manager.

23 22. For more than a decade, SWC has struggled to provide water to its customers.

24 23. The Commission recognized the difficulties faced by the Company in a 2002
25 decision, Decision No. 65041. There the Commission found that the SWC system was "plagued by
26 undersized piping, line breaks, and equipment failures."

27 24. The Commission also determined that the Company would be unlikely to develop
28 another well due to the high levels of arsenic in the groundwater where the Company is located,

1 further noting that the Company had already abandoned five wells. The only new source of water
2 would be through an interconnection with another source.

3 25. These difficulties have persisted throughout the decade following Decision No.
4 65061.

5 26. Staff Reported in its Memoranda filed in Docket Nos. W-02111A-11-0272, W-
6 02111A-11-0340 and W-02111A-11-0435 that there are major deficiencies in Operation and
7 Maintenance and in water quality.

8 27. Water production remains an issue and the Company has been required to rely on
9 water hauling to meet its demand.

10 28. The Company sought to address water production and quality issues by filing the
11 above-stated rate and financing applications in an effort to continue to provide water service to
12 customers.

13 29. As the cases progressed several obstacles arose which reduced, if not eliminated,
14 the Company's viability. In the fall of 2011, the Company's remaining well stopped producing
15 water and the Company began to rely on hauling water almost exclusively, which was extremely
16 costly. Initially, the Company sought to increase its rates and finance the deepening of its only
17 potentially viable well and to construct an arsenic treatment plant to meet new arsenic standards.

18 30. Nearly from the outset of these pending cases, there was concern that these efforts
19 might be futile. A moratorium limiting the customers to 72 had been issued in July 2002 and
20 remains in place. Since that time the number of customers served by the Company has declined,
21 from 72 connections in 2002, to 64 in 2005, to 51 in 2006, and to 32 by the filing of the rate
22 application in 2012.

23 31. This decline was not the result of a decrease in population, but was due to the
24 unreliability of the water supply: those customers who terminated service did so due to having
25 obtained an alternative source of water, usually having dug their own wells.

26 32. During the pendency of this case, customer numbers fell to 28, and, ultimately to
27 zero. With the cost of deepening the well at \$13,000 and constructing the arsenic treatment plant
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1 at \$136,252, there was concern that, if customer numbers continued to decline, revenues would be
2 insufficient to meet the debt incurred.

3 33. Moreover, there was concern that deepening the well would not increase water
4 production and that the costs of the improvements or the alternative of continuing to rely on hauled
5 water would be so costly that the remaining 32 customers would discontinue service and locate
6 other sources of water.

7 34. When the Company learned that it would be unable to obtain a Water Infrastructure
8 Finance Authority (WIFA) loan, it appeared that the only means of continuing to provide water
9 would be through water hauling. Even that solution was problematic, as Staff had determined
10 during its site visit in the rate case that SWC was experiencing water loss of 46%.

11 35. Staff and the Interim Manger concluded that, given this water loss, SWC would
12 cease distribution of water to the residences of the customers. Instead, the Company would haul
13 water to be stored in its tank and provide that water to its customers at that location. The 28
14 remaining customers then terminated service.

15 36. With the disconnection of all customers, SWC is not currently operating or
16 providing water. The wells have been capped by pouring cement down them. However, the
17 equipment of the Company, including two fifty gallon pressure tanks, a 5,000 gallon storage tank,
18 a booster pump and some piping remain in place.

19 37. There will no longer be any maintenance or repair to these items. Without that, the
20 property will deteriorate and will create not merely an eyesore but a real risk to the health and
21 safety of Arizona citizens.

22 38. Abandoned storage tanks may continue to contain contaminated water, a breeding
23 ground for bacteria. Pumps and tanks are also an attractive nuisance, creating a danger for
24 children, in particular, as they are likely to be drawn to play on the deteriorating and dangerous
25 equipment.

26 39. The original owner of SWC abandoned the Company after a Complaint and Order
27 to Show cause was filed in 2000.

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1 40. An interim manager was appointed in 2000, and in 2002 the Company's CC&N
2 was cancelled and its corporate status revoked.

3 41. The current interim manager, Granite Springs Water Company, operated by Don
4 Bohlier, was appointed in 2009.

5 42. As it had since the appointment of the first interim manager, SWC continued to
6 operate at a loss. In order to continue to provide water to customers, Mr. Bohlier contracted with
7 Mega Water and incurred other debt, related primarily to the cost of hauling water. The
8 outstanding balance for water (hailed in order to provide water service to SWC's customers) is
9 \$6,600.00.

10 43. In addition, the interim manager was to be compensated for his services. Due to the
11 Company's financial condition, the required payments were not made and the interim manager is
12 owed a total of \$58,640.02.

13 44. On December 21, 2012, Mr. Bohlier requested permission to remove certain
14 Company equipment, sell it as scrap, and use the proceeds to pay outstanding amounts due to the
15 interim manager.

16 45. Pursuant to the Interim Management Agreement with Granite Springs Water
17 Company and Mr. Bohlier, Granite Springs was authorized to utilize funds and payments received
18 from customers of SWC to pay management fees and the operating debts of SWC, but was not
19 liable for such debts if revenues were insufficient to pay the same.

20 46. The interim manager was also authorized to perform all duties normally attendant
21 with the operation and maintenance of a water Company, including, but not limited to, paying and
22 prioritizing bills in the manner on which a reasonably prudent water Company would do. This
23 includes disposal of assets of the Company.

24 47. SWC is now a defunct water company: it has no customers. It has no owner. It
25 has no source of water. Its system is deteriorated. The remaining equipment of the Company is
26 not only no longer used or useful, it actually creates a risk to the public health and safety of
27 Arizonans. Its removal would benefit the public interest.

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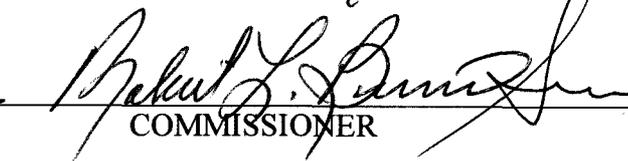
1 7. The recommendations of Staff and the Interim Manager set forth in Findings of
2 Fact No. 16 are reasonable and should be adopted.

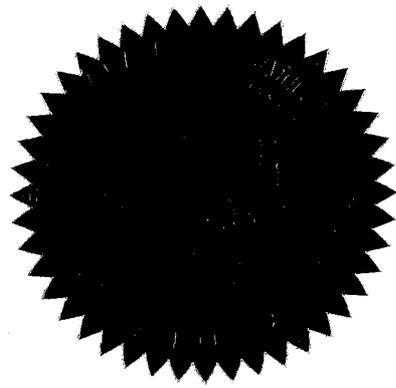
3 **ORDER**

4 **IT IS THEREFORE ORDERED** that the Interim Manager may sell or otherwise dispose
5 of any remaining assets of Sabrosa Water Company and that the proceeds thereof be utilized to pay
6 the obligations of SWC. Any proceeds of said sale or transfer shall be used to pay the debts and
7 obligations of SWC, including those to the interim manager.

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9 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

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11  CHAIRMAN  COMMISSIONER

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13  COMMISSIONER  COMMISSIONER  COMMISSIONER



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16 IN WITNESS WHEREOF, I, JODI JERICH, Executive
17 Director of the Arizona Corporation Commission, have
18 hereunto, set my hand and caused the official seal of this
19 Commission to be affixed at the Capitol, in the City of
20 Phoenix, this 6th day of February, 2013.

21 
22 JODI JERICH
23 EXECUTIVE DIRECTOR

24 DISSENT: _____

25 DISSENT: _____

26 SMO:BAH:alh/mam

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SABROSA WATER COMPANY, INC.
W-02111A-11-0272, 1-02111A-11-0340 AND
W-02111A-11-0435