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✓ To A.V.

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Before the Idaho Public Utilities Commission

May 25th, 2008

RECEIVED

2008 MAY 28 AM 8:08

MSW-W-08-01- MAYFIELD SPRINGS WATER COMPANY, INC. CPNC

IDAHO PUBLIC
UTILITIES COMMISSION

In the Matter of Application of Mayfield Springs Water Company for a Certificate of Public Necessity and Convenience.

Comments of a customer:

As a customer of Mayfield Springs Water Company, I have several concerns regarding the behavior and requests to the PUC by the owner operator of this company, Mr. Greg Johnson.

1) The company has asked for a base rate of \$81.60 for the first 10,000 gallons and a variable charge over 10,000. I find that this rate is excessive on its face and that the minimum base rate of 10,000 is far too high. I have taken meter readings in the months before irrigation season and have found that my family of four uses far less than 10,000 in a month and my family averages approximately 8000 gallons a month. Thus I would not be getting the benefit of paying that price and would be forced to pay for something that I do not use.

2) I find it odd and disturbing that Mayfield Springs is asking for permission to charge \$2500 for a hook up fee when they have been doing that since October of 2005. I was forced to pay this fee to the owner or I would not be allowed to purchase the lot and I was forbidden by covenants to provide my own well. I think that the PUC should not allow this as the developer who is the owner of the company should bear these costs as he recoups them in the sale price of the lot. The developer is by law and case law to bear these costs of infrastructure himself in the price of the lot and cannot pass them along to the purchaser. The fact that Mayfield Springs has been doing this for several years outside the purview of the PUC is also disturbing.

3) The owner of the company, Mr. Greg Johnson is currently in litigation with several homeowners in the subdivision over water issues. Mr. Johnson should not be allowed in any way shape of form to pass any of the costs of this litigation onto the homeowners for his illegally operated company. A judgment has been returned in court determining that the company has been operated illegally for the past three years due to the fact that Mr. Johnson never bothered to apply for a CPNC. The judge determined that it was necessary to have this certificate prior to beginning construction. Ignorance of the law is not a defense and homeowners should not have to pay for this.

4) Punitive actions. Mayfield Springs presented to its customers that it was in contact with the PUC and working actively with them for a CPNC for a long period of time when this was in fact not true at all. The PUC is in a position to punish Mayfield Springs

through a system of fines. I propose that the PUC do exactly this. I have been living under the constant threat by this company that my water will be shut off as well as other fabrications presented by the company. I have long awaited to involvement of the PUC and hope they will address these issues as only they can.

5) HOA water fees. I do not see the point in billing the HOA for water as the cost is only passed onto the homeowner anyway. The owner operator of Mayfield Springs is also the President of the Homeowners association. As information shows there are seven separate meters for the common area, each to be treated as a single customer so the base rate model is ineffective as we would be paying more for less. Please address this and come up with a different model at the least.

6) Sinking Fund. Do not allow this cost. As the company has operated illegally for the past three years and amassed a substantial amount of capital directly or indirectly by charging illegal \$2500 hook up fees, there is no need for another avenue for the company to collect more money.

7) It was also made known to us that the well was recently sold to Mayfield Springs by Intermountain sewer and Water. The owner of both companies is one and the same, Mr. Greg Johnson. Mr. Johnson is attempting to pass on the loan interest to the customers when in fact he made the loan to himself. It is highly unethical and questionable at best that he be allowed to do this. The PUC should be able to see through this thinly veiled attempt to extort more money from customers.

The reality was that this company and its owner should have known better and records indicate that they knew that they had to come before the PUC for approval to operate this company. But they knew that if they did, they would not be able to charge whatever they wanted and would have to answer to the PUC. So for three years they continued to operate illegally and threaten and intimidate customers with water shutoff and many other avenues outside of the PUC purview. For over a year now I have been living waiting for the PUC to get involved and meanwhile the constant threat of this company putting me into collections or shutting off my water has been a constant concern. Not to mention the instant where the water was contaminated with coli form bacteria and the company failed to notify anyone until it was too late which resulted in my newborn infant getting sick and going to the doctors office. There are serious concerns about the ethics and practices of this company and I sincerely hope the PUC will address the concerns of the customers at Arrowrock Ranch in their review of rates.

Thanks you for your time and consideration.

Guy and Lori Bourgeau
Guyandlori@cableone.net
12094 W. Tustin Ln.
Kuna ID 83634

✓ Gen. Ack
sent 5/28/08

✓ To AV.

✓ To Commms

Jean Jewell

From: abercrombiefamily@gmail.com
Sent: Tuesday, May 27, 2008 4:50 PM
To: Tonya Clark; Jean Jewell; Beverly Barker; Gene Fadness; Ed Howell
Subject: PUC Comment Form

A Comment from Mark Abercrombie follows:

Case Number: MSW-W-08-01 - MAYFIELD SPRINGS WATER COMPANY, INC. -- CPCN
Name: Mark Abercrombie
Address: 11980 W Dynamite Ln
City: Kuna
State: ID
Zip: 83634
Daytime Telephone: 208-362-3232
Contact E-Mail: abercrombiefamily@gmail.com Name of Utility Company: Mayfield Springs Add to Mailing List: yes

Please describe your comment briefly:

When my wife and I signed our Purchase Agreement to begin building our home in Arrowrock Ranch, we did so after being given false information by the developer's realtor, Doug Ferguson, that water, sewer and HOA fees combined would total \$100 a month. We moved into our home in March 2006. In October of that same year we had a knock on our door from a potential buyer of a home down the street from us. They were curious to know if the rumor they heard about water, sewer and HOA being \$300 a month was true. We assured them that we had lived there over 7 months and had only been paying the \$100 we were told it would cost.

Uneasy about that conversation, my wife contacted Greg Johnson. He told her that the rates would in fact be \$300 a month. She freaked out and told him that he would see for sale signs go up so fast it would make his head spin. He assured her that before a bill was ever sent out, there would be a meeting with all of the homeowners to go over the cost breakdown. It was an EXTREMELY expensive well, he said, to the tune of nearly \$800,000.

That promised meeting never occurred and after occupying our home for almost 10 months, we were shocked to receive our first separate bill for water of \$100.

Curious to see how the \$100 monthly fee (which was absurdly high to us) compared to other similar subdivisions, my wife began making phone calls. She contacted property management companies or homeowners in 6 subdivisions of similar size that had a community well. All of their rates came no where close to \$100 a month, even in the dead heat of summer (the average base rate of the subs she spoke to was \$25, with an additional charge for exceeded gallons).

Next she contacted 20 companies that either service or drill wells locally. Many of them went over the cost breakdown to run a well the size of Arrowrock's and even gave breakdowns of the maintenance and service costs involved. Of the 20 companies she contacted 13 said they had never seen rates that high for a well that size, 5 flat out said we were getting ripped off and 2 said they were unfamiliar with well costs for a well that size.

She hung up the phone armed with the knowledge that the 'cost breakdown' Johnson had included with his bill was fact-less. She again tried to contact Johnson several times to no avail. Feeling there was no other option, we called a meeting of the homeowners and hired a lawyer.

Although we were lied to in regards to the amount water would cost us, we have paid the bills sent to us and our account with Mayfield Springs is current. However, we feel the amount

requested by Johnson, aka Mayfield Springs, is not only ridiculous and unfounded, but would also cause a financial hardship to us and to many other families in Arrowrock who moved in under the assumption that the cost would be much less.

We also feel that the cost of the meter installation should be looked at as a capital expense. In the original permits, the agreement was that Johnson and his water company would apply for a CPCN. If that was his intent, the meters would have been an integral part of that application. We believe Johnson never intended to file a CPCN and therefore never installed meters. Because the initial plat was approved with the condition that he would apply with the PUC, the meters should be looked at as a capital expense even though they were purchased a few months after the well was completed. The customers should not be responsible for paying for Johnson's attempt to cut corners and avoid regulation.

Finally, we ask that the requested "sinking fund" be denied. Many of the well companies my wife spoke to also explained that most wells and well parts for a well of our subdivision's size come with warranties, but that even if they didn't, foreseen maintenance would be years away.

The form submitted on <http://www.puc.idaho.gov/forms/ipuc1/ipuc.html>
IP address is 71.215.27.124

✓ Gen Ack
sent 5/28/08

✓ To AV.

✓ To Comm
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Jean Jewell

From: slenderoak@verizon.net
Sent: Wednesday, May 28, 2008 12:17 AM
To: Tonya Clark; Jean Jewell; Beverly Barker; Gene Fadness; Ed Howell
Subject: PUC Comment Form

A Comment from Larry R. Corson follows:

Case Number: CASE NO. MSW-W-08-1
Name: Larry R. Corson
Address: 11614 West Dynamite Ln
City: Kuna
State: ID
Zip: 83634
Daytime Telephone: (570) 435-3638
Contact E-Mail: slenderoak@verizon.net
Name of Utility Company: Idaho Springs and others Add to Mailing List: yes

Please describe your comment briefly:

All shares and membership interest in Arbor Ridge, LLC, Intermountain Sewer and Water, Inc., Idaho Springs Water, Inc. and Mayfield Springs Water Company are owned by Greg Johnson. That company proposes that it provide water service to the Arrowrock Subdivision exclusively. That limits the customers of the water service to lots and homes within the subdivision, the Arrowrock Ranch Home Owners Association ("HOA") and Intermountain Sewer and Water ("Intermountain"), collectively the "rate payers". The HOA maintains the common area, and under the Company's proposal, would pay for water service. Intermountain provides sewer service exclusively within the subdivision and is also identified as a rate payer by the company based on water meter reading provided in discovery. Since the HOA and Intermountain derive revenue only from the homeowners and lot owners within the subdivision, there is no added value in passing the water expense through the HOA and Intermountain. In fact, that "pass through" would increase the cost to both the HOA and Intermountain which, being unregulated, would add administrative costs and then pass those increased costs on to the rate payers. Therefore, I recommend that the HOA and Intermountain be excluded from charges for water service. The Company has requested and previously collected a "hook up" fee of \$2,500. I believe this fee is an attempt by the Company to circumvent Rule 103 of the Commission's Policies and Presumptions for Small Water Companies, IDAPA, 31.36.31.103 with respect to the presumption of contributed capital. This "hook up" fee is an attempt to recover the capital costs of building the system which should be excluded from the rate base. I recommend the Commission disallow this fee totally. In terms of the actual rates, I recommend that the Commission adopt a rate structure based on two types of residential customers, active and inactive. Inactive customers are defined as the owners of lots within the subdivision not currently connected to the water system and not currently receiving water from the Company. Active customers are those lots connected to the system with water available regardless of the status of home construction on the lot. There are fifty-four (54) active and forty-six (46) inactive lots within the subdivision. The active count includes all lots with houses including two of which are under construction. Eight of the houses appear to be complete including, for the most part, landscaping and have never been occupied. Inactive customers should be required to pay for the system since they directly benefit from the availability of the water system. None of the lots have water rights and are precluded by the HOA Covenants, Conditions and Restrictions (CC&Rs) Section 9.1 from providing their own water. This subdivision is essentially a desert and lots without access to water are valueless. In addition, inactive customers benefit in the water provided to the HOA for use in irrigating the common area as the value of the property is enhanced by maintenance of the

common area. Therefore, I recommend the Commission direct its staff to construct a rate based on these two customer classes.

I recommend that the Commission deny any Company expenses in the following areas:

- Any and all expenses related to the lawsuit brought by fourteen rate payers against Arbor Ridge, LLC (District Court of the 4th Judicial District Case No. CVOC0708918, Guy and Lori Bourgeau et al, Plaintiffs versus Greg Johnson et al, Defendants). (See discussion below.)
- Any and all expenses related to the sale of assets from Arbor Ridge, LLC to Mayfield Springs Water Company as this transaction was essentially a "transfer" from one company owned one hundred percent (100%) by Greg Johnson to another.
- Any and all expense related to a sinking fund. The entire water system is less than three years old and the owner of the system and the subdivision (being one and the same) has sufficient assets to deal with any maintenance related issues for the foreseeable future.

I recommend the Commission reject the Company's request to recover some of the contributed capital and the entire initial cost of the system be excluded from the rate base. The Company's argument is, essentially, they spent the money, recovered some of it in the hook up fee and therefore should get the remainder. I believe the Commission should enforce the Commission's Policies and Presumptions for Small Water Companies, IDAPA, 31.36.31.103 as written.

The Commission staff recommended and the Commission decided to incorporate complaints filed with Commission against Arbor Ridge, LLC acting as an unregulated water company. That Company operated illegally as a for profit water company from at least September 29, 2005 through February 3, 2008. The Company built a water system, established and modified water rates and charges, billed and collected connection and service fees without Idaho Public Utility Commission (PUC) approval as required by Title 61 and IPUC Rules (IDAPA 31.21.01.000 et seq.) The Company is not exempt from this requirement, as they are not a homeowner's association, formal water district, municipality or other mutual non-profit organization.

During the time the Company operated illegally, it represented that it was working with the PUC on an application for completion in summer 2007. The Company also asserted through affidavits filed in the court case described below that PUC officials knew and approved their operation without a CPCN. PUC staff knew no later than February 27, 2007 that the Company was operating illegally. In May, 2007, fourteen customers filed suit against the company in part because the Company had not filed for a CPCN and there was no indication at that time that the Commission would force the Company to apply or, based the Company's actions to date that it would ever apply.

On July 14, 2005, the Company certified in a letter to Ada County Development Services that Intermountain Sewer and Water, Inc would operate the water system.

On September 13th, 2005, the Ada County Board of Supervisors approved the plat for the Arrowrock Ranch Subdivision Number 1. A required condition of that approval was approval by the "Public Utilities Commission regarding the establishment of a non-contiguous service area." Clearly, this condition was never met and Ada County Development Services have been unable to find any document in their files used to certify the completion of this requirement.

On September 29, 2005, the Developer, entered into an agreement with Mark and Amber Abercrombie which required the Abercrombie's to pay a \$2,500 "water hook up fee." This is likely the earliest date the Company operated as an unregulated water company.

In June of 2006, the Abercrombie family occupied the first home in the subdivision. I occupied my home in early November, 2006 ONLY AFTER the company assured my Realtor Mike Mogensen of Peterson and Associates Realtors that the \$1200,/year homeowners association

covered Sewer and water. On or about January 30th 2007, the Company operating as Arbor Ridge Water Account began billing residents of the subdivision at \$100 per month for sewer and \$100 per month water! This certainly constitutes fraud.

On February 27, 2007, a meeting was held between the Company and members of the PUC Staff. Michael Darrington, then a utility analyst with the PUC, told the Company they were required to file a CPCN.

On March 8th, 2007, Greg Johnson stated in a letter to water service customers that "We, Arbor Ridge Water Account, LLC, have met the PUC, Public Utility Commission, and will be working with them over the next 120 days on setting prices on the water service at Arrowrock Ranch Subdivision."

On March 26th, 2007, Chris Hecht, Utility Compliance Investigator, Idaho Public Utilities Commission stated in an email to Gerald J. Corvino [homeowner, Arrowrock Ranch Subdivision.] "Arbor Ridge has not applied to IPUC even though we have requested that they do so."

On May 2, 2007, Greg Johnson sent another letter to customers stating: "Water will be reduced to \$50 per month (Retroactive from January 2007) and continue at the \$50 per month rate until such time that we become certified with the PUC. At that time, it will become a metered service."

On June 14, 2007, Chris Hecht stated in an email to Gerald J. Corvino [homeowner, Arrowrock Ranch Subdivision.] "I checked with the other staff members and the IPUC has been in contact with the accountant who is working on the financial part of the application. Progress is being made toward completing the application."

In July 2007, Mr. Corvino made a public records request of the PUC with respect to all records related to the application of the Company as a water company. The Commission Secretary, Jean D. Jewel responded on July 19, 2007: "A search of our records has not revealed any records relating to an application by Arbor Ridge or Intermountain Sewer and Water to operate as a water company."

On January 31, 2008, Mr. Corvino filed a formal complaint with the PUC as defined in Rule 54 of the PUC Rules of Procedure.

On the morning of February 5, 2008, the Company, doing business as Idaho Springs Water Company filed for a CPCN.

On the afternoon of February 5, the Company's attorney (Spink Butler, LLP) in Case No CVOC0708918, Guy and Lori Bourgeau et al, Plaintiffs versus Greg Johnson et al, Defendants argued before the 4th Judicial Court "that the PUC is aware of the Defendants' water service charges and that the PUC has condoned such charges during times when certificate applications are in the process of being completed and approved."

On March 10th 2008, the District Court in the case described above ruled in a summary judgment related to the claim that the company operated illegally: "From the statute and regulations, a certificate of necessity and convenience was required before the construction of the water system at all. The Defendants have gone further than merely commencing construction-construction has been completed. The Defendants have gone even further and have begun to charge customers for its services."

Clearly from the above events, the Company:

- Built and operated a for profit water company in violation of Title 61 and PUC rules.
- Misrepresented its progress in the CPCN application process to Ada County Development Services.
- Misrepresented its timeframe to file for a CPCN to its customers.

- Argued in 4th District Judicial Court that the Commission staff was complicit in its actions as described above.
- Violated Title 61 and IPUC Rules (IDAPA 31.21.01.000 et seq.)
- Is subject to Title 61-706 and Title 61-707 for the violations described above.

I believe the Legislature intended to prevent this kind of behavior by establishing the Commission and setting penalties for violation of Commission rules. I respectfully request the Commission order the Company to repay to all parties served any and all monies collected including connection and service fees, late charges and any other charges illegally collected during the period of operation prior to the application for the CPCN (February 4th, 2008.). In addition, I request the Commission impose a penalty of \$1,716,000 on the Company which represents \$2,000 per day from September 29, 2005 through February 3, 2008 (a period of 858 days) as allowed per Idaho Title 61-706 and Title 61-707. The Commission should note that the water service provider and the development company are essentially one and the same. As described above, Greg Johnson is the only beneficial owner of the development companies and the various water companies based on the Company response to discovery request. I further believe the company expects to collect revenues in excess of seven million dollars from the sale of lots in the two phases of the Arrowrock Ranch subdivision. Clearly the "reward" for acting illegally justifies a significant penalty as allowed by Idaho statute.

The Company may also argue that Commission staff was "aware" of their operation. However, the Company has presented no evidence that the Commission staff was aware when the system was built or when the Company told Ada County Development Services that Intermountain Water and Sewer would operate the system or when the Company charged the first customer a hook up fee in September 2005 or when the Company first delivered water for domestic consumption in June of 2006 or when the Company delivered the first bills for service in January 2007.

The Company may further claim that the Commission staff "accepted" their unregulated operation as a small water company. This claim is irrelevant as the Legislature never authorized or intended to authorize the Commission staff to waive regulation of any public utility as defined in Title 61.

Respectfully submitted,

Larry R. Corson, Homeowner, 11614 W. Dynamite Lane, Kuna, ID 83634

[Temporarily residing at ⁷⁹⁷~~789~~ Yeagle Road, Montoursville PA 17754.]

The form submitted on <http://www.puc.idaho.gov/forms/ipuc1/ipuc.html>
IP address is 71.245.55.202

✓ Gen Ack sent 5/10/08

✓ To AV.

✓ To Commis. 5/11

Jean Jewell

From: kunawards@gmail.com
Sent: Tuesday, May 27, 2008 5:00 PM
To: Tonya Clark; Jean Jewell; Beverly Barker; Gene Fadness; Ed Howell
Subject: PUC Comment Form

A Comment from Christopher and Natasha Ward follows:

Case Number: MSW-W-08-01
Name: Christopher and Natasha Ward
Address: 11550 W. Dynamite Ln
City: Kuna
State: Idaho
Zip: 83634
Daytime Telephone: 208-340-3070
Contact E-Mail: kunawards@gmail.com
Name of Utility Company: MAYFIELD SPRINGS WATER COMPANY, INC. -- CPCN Add to Mailing List:
yes

Please describe your comment briefly:

At the meeting with the PUC it was stated that once the rate was determined there could be the possibility that Mayfield Water Company could bill the homeowners the base rate plus usage charges for usage in the past. Mayfield Water Company, while it was still Intermountain Water/Idaho Springs, sent customers an update stating that the rate would be \$50 per month until the time that the PUC had set rates. We believe we should not pay for a service that occurred in the past without first being told the rate at which we would be charged. Therefore, I urge the commission to set the rates from the determination date forward and not allow Mayfield Water Company to collect the new rate retroactively.

We also feel that all 100 residential lots in the subdivision should be paying the base rate based on the benefits of watering common areas for all lot owners. All lots, even the ones without homes, are benefiting from the water system through the watering of the common areas. By having a lush green landscape and common areas to welcome potential buyers into the subdivision, those lots which are undeveloped gain more from the water system. Mayfield water company's request to have a lower rate for homes under construction is flawed, homes that are under construction are putting in their landscape which requires an enormous amount of water to establish, whereas homes that are already completed require considerably less water to maintain their landscape. We believe all 100 residential lots should pay the same base rate and usage rates, regardless of who owns them and their current construction status.

We feel that the amount Mayfield Water Company is requesting for a sinking fund be denied. The amount requested is for new meters, even though when we requested water service a meter was installed. Since we requested water service, the developer/Mayfield Water Company has changed out the original meter with a new meter that is electronic, even though the original meter worked fine. We believe this change was made so the developer could change the intent of the water system from a Homeowner Association owned system to a system run as a public utility. Furthermore, we believe that until such time that the PUC grants the CPCN to Mayfield Water Company, any money the developer and/or Mayfield Water Company has or will put into the system should be considered as part of the initial cost of the system, therefore the developer/ Mayfield Water Company should not be granted such money.

We would like to see the base rate be as low as possible, but also include the amount to water the common areas, which is the monthly amount divided amongst the 100 residential lots.

For example:

Base Rate for residential lots (includes 10,000 gallons) ~ \$25.00/month + monthly common area water charge from below

Monthly common area water charge

~ \$900 (based on information stated by developer, at 2007 annual HOA meeting) divided by 100 residential lots = \$9.00 * 7 months => \$63.00; \$63/12months = \$5.25/month averaged over a year

Additional Gallons of residential usage

~ billed in 5,000 gallons increments

The form submitted on <http://www.puc.idaho.gov/forms/ipuc1/ipuc.html>

IP address is 71.221.129.141
