

Hello Neighbor,

A few interesting items have occurred.

1. Brooke Files for Permission to Borrow Money to Complete K2

- Brooke filed a request, on 3/12/2009, with the ACC for approval to borrow \$2,690,000 in order to fund two projects. One is the acquisition and connection of an existing water source (which is not identified) and the other is the completion of the K2 well. A copy of the request can be found here:
<http://www.waterforpinestrawberry.com/data%20pages/K2PSWIDDocs.htm>
- Brooke has applied to the Arizona Water Infrastructure Finance Authority (WIFA) for the funding.
- Comment: I see two possible strategies here. The first is to make the water companies much more costly to purchase. When the Town of Carefree went about condemning their water company, the water company did a bunch of improvements before the condemnation was completed which greatly increased the price. The other strategy could be to stampede the board into taking immediate possession to prevent the projects from being done. This would lock the community into paying whatever price is eventually determined at a jury trial.
- Comment: It should be remembered that the value that the jury determines is the value at the time of the trial, not the value when the condemnation is initially filed. It may be several years before that trial occurs and Brooke should have time to complete these projects prior to then.
- Comment: The PSWID board and those directing the board will have a harder time opposing this effort by Brooke. Since they are no longer a party to the development of K2 and no taxpayer money is involved, there should be very limited grounds for them to object on. However, they are very good at delaying actions in the ACC, so it will be an interesting contest.

2. PSWID Board Pushes for PWCo Rate Increase

- PWCo is under an ACC order to present a rate case to the ACC by June 1, 2009, based on 2008. PWCo requested that the rate case be postponed because it doesn't make sense to have that expense if the water company is going to be condemned.
- The ACC staff agreed and recommended postponing the rate case for a year. Brooke accepted that recommendation and Judge Nodes issued a preliminary order for consideration by the ACC commissioners. The ACC staff made the following points in their recommendation:
 - Additional expense of the rate case on top of the condemnation and arbitration litigation costs could result in a worsening of PWCo's current financial circumstances.
 - Could affect the condemnation by making PWCo more or less valuable
 - If K2 well is installed in the future it would be large enough to require its own rate case, so there would be overlapping rate cases
 - If condemnation is successful, then the rate case is moot as the district would set its own rates
- PSWID filed an objection to deferring the rate case. PSWID makes the following points in their objection:

- That if the rate increase is deferred to 2010, that Brooke will be able to include the costs of the condemnation and arbitration in the rates.
- With the costs of the condemnation, PWCo will have to divert resources from maintaining the water system. This would cause injury to the public because quality of service won't be maintained.
- Comment: Why would PSWID advocate that we get a rate increase sooner rather than later? One reason is that it reduces the amount of money that Brooke has to deal with the condemnation. Another reason is that any rate increase the ACC orders reduces the size of the rate increase that the PSWID board will impose after the purchase.
- Comment: It should be noted that the community is paying for both sides of this legal battle. We pay for the PSWID side through our property taxes. We pay for the Brooke side through our water rates. Legal expenses are a cost of doing business that is passed through to the rate payers.
- At their March 3, 2009 meeting the ACC commissioners agreed to defer the rate case. All of the documentation for the filings discussed above can be found here: <http://www.waterforpinestrawberry.com/data%20pages/RateCaseDocs.htm>

3. ACC Annual Reports Posted on Website

- I posted all of the ACC annual reports for Pine Water Company and Strawberry Water Company for 2002 through 2007. They can be found here: <http://www.waterforpinestrawberry.com/data%20pages/ACCReports.htm>
- Comment: The financial number in the 2007 PWCo report look like what one would expect, with the exception of the purchased power which tripled over the 2006 value. Not sure why this is. I asked Brooke about why that happened, but haven't received a reply.

4. Comment on Purchase Negotiation

- In the last email I talked about the apparent lack of a scheduled follow-on meeting for negotiating the sale of the water companies. I speculated that this may be a sign of bad faith on the board's part. While that is one explanation for what might be going on, there are other possibilities as to why. In thinking about it further, I think it would have been better to address the other possibilities as well. They may include:
 - They are so far apart that it seems hopeless to the board that there will ever be agreement
 - The amount of money that Compass Bank has agreed to lend them is secret. It may be that there is not enough of a financing commitment to cover a negotiated price. The board may be counting on a sympathetic jury to keep the price within what they have.

This email is from the group Water For Pine Strawberry. We will be sending out an email after each of the PSWID meetings with a summary of what the board did, additional facts that are relevant to what went on, and some commentary. Please forward this email to friends and neighbors that are interested in the local water issues. If you would like to be added to or removed from the list for these emails, please reply to WaterForPineStrawberry@hotmail.com. Emails on earlier meetings are available on our website: www.WaterForPineStrawberry.com .

Water For Pine Strawberry is a group of residents who are concerned about the communities water issues and how they can best be resolved. Visit our web site, www.WaterForPineStrawberry.com, for more information. The website for PSWID is www.pswid.org .

Clarifications can be submitted by anyone who is explicitly named, implicitly identifiable, or a board member to items in this email. Clarifications will be posted on our website. We reserve the right to post a response. Clarifications must deal with the topics discussed in the email that relate to the individual or the board. They must be in family friendly language and be non-abusive. When the clarification is accepted, it will be posted to the website and notice of that posting will be added to the next email.