

Idaho Public Utilities Commission
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IDAHO PUBLIC
UTILITIES COMMISSION

RE: Request from Packsaddle Water Systems, Inc.
Packsaddle Creek Estates, Teton County, Idaho
Case No. PKS-W-15-01

This communication to the Idaho Public Utilities Commission (hereinafter "Commission") is in response to the recent press release of this Commission dated May 20, 2016. The information provided to the Commission and then disseminated by this press release is not accurate.

The undersigned requests:

1. The Commission's legal department review the recorded real property documents of Teton County, located at Teton County Courthouse, 150 Courthouse Drive, Driggs, Idaho, 83422, (208) 354-8780 and additionally review the Idaho Secretary of State's records as it relates to Packsaddle Water Systems, Incorporated;
2. Stay these proceedings until such time that all homeowners and landowners in Packsaddle Creek Estates have actual legal notice of the consequences of the request being made to this Commission;
3. and deny the request being made to the Commission as it refers to self regulation and/or "opting out" of the Commission's oversight.
The Commission should continue regulatory authority over the new entity water provider.

The following and the particulars described here are the basis for this request:

The title of the Commission's May 20, 2016, press release, indicates there is a homeowner's association at Packsaddle Creek Estates, Teton County, Idaho and by its' consensus it is seeking to operate a water company. When the Commission's legal department reviews the public records they will discover there is no homeowner's association. There is no organization "like" a homeowner's association existing in this section. A homeowner's association must be recorded in the public records to give legal "notice" to all potential and current landowners of its existence, operating protocol, financial consequences and procedures for noticing all landowners of the homeowner's association's activities and voting procedures. This does not exist in Packsaddle Creek Estates.

The second paragraph of said press release states:

"The 35 residential customers of Packsaddle Estates Water Corporation have formed Packsaddle Water Systems, Inc. and seek to operate the water company as a

publicly operated utility which would remove it from the Idaho PUC jurisdiction.”

A review of the Idaho Secretary of State’s official records reveals the names of the incorporators. The 35 residential customers of Packsaddle Creek Estates did not form the entity nor were they included or noticed of the formation of said entity. The majority of the residents were unaware of the actions of the incorporators until after this business entity was formed on May 29, 2015.

The Commission’s legal department will further discover the existence of the recorded Protective Covenants for Packsaddle Creek Estates. Said document makes no provisions for a homeowner’s association or “like” association.

On July 1, 2015 an informal gathering was held at the request of homeowners as rumors had started of the formation of an acquiring entity and/or acquisition of the current water company. There were 11 attending of which several were from the same household. During said gathering there was strong opposition to the manner in which the original incorporators were proceeding, including but not limited to, the removal of the Idaho PUC oversight of this communities water system. The Parties at said meeting agreed not to seek the removal of official oversight and leave it in the jurisdiction of the Idaho PUC.

This is in direct opposition to the second half of the second paragraph, reproduced above from the Commission’s press release.

The July 1, 2015 gathering had present a de minimis fraction of actual homeowners and there were no owners who have not developed their parcels present. The comments found online at the Commission’s website would indicate landowners also wish to be heard and want continued oversight. There have been numerous reasons provided for their concerns and their intent. It is reiterated that the press release dated May 20, 2016, Case No. PKS-W-15-01, Order No. 33525 attributes the application to the Commission to a vote of a homeowner’s association and that is patently incorrect. It has been the intent of the participants that oversight continue.

The original corporate documents filed with the Idaho Secretary of State were amended after the informal gathering. The “35 residential customers” were inserted in Article VII of the Amended & Restated Articles of Incorporation of Packsaddle Water Systems, Incorporated, filed and recorded on September 3, 2015, as a result of the discontent voiced at the July 1, 2015 gathering. There were never discussions of forming a homeowner’s association nor did the “35 residential customers” individually agree to be included in said corporation. No democratic vote of the 35 residential customers has ever occurred. The undersigned requests strict proof from anyone claiming that the 35 residents in fact voted to remove Idaho PUC from the oversight of Packsaddle Creek Estate’s water provider.

Article VII states in relevant part only, “Each customer of Packsaddle Water Systems, Incorporated shall be a member of the same.” The word “shall” clearly does not leave freedom of choice nor a democratic process.

In the press release, the second sentence of the third full paragraph is wholly inaccurate, as an individual homeowner solely communicated with the prior water company's administrator. At no time could a homeowner's association be attributed with existence, knowledge and/or membership by the actual homeowners, as erroneously stated.

This writer reviewed the public records of this Commission. The concerns of Tory Whitehead, 3283 Aspen Drive, Teton County, Idaho (Packsaddle Creek Estates) were discovered. He posted his written concerns to the Commission in two separate letters. His issues echo a portion of the concerns outlined hereinabove.

The undersigned homeowner purchased the real property in Packsaddle Creek Estates based on the recorded documents found in the proper and legally required location in the County Records Department. The expectations and understanding of such records were the basis of such purchase. All land and homeowners relied on the legally binding documents recorded with their properties at purchase. These documents gave them notice that they lawfully should be able to rely upon.

It is requested that this Commission review all aspects of the requested water company transfer through an independent review by the Commission's legal department; stay any further action by the Commission until all Parties affected by this transfer have had legal and actual notice of such request and its consequences; and deny the request being made to the Commission for self regulation and/or "opting out" of the Commission's oversight.

It is the wishes of this writer and those voicing their concerns that the Commission continue regulatory authority over any water provider in Packsaddle Creek Estates.

Should there be any questions or if you would like to discuss further, feel free to contact me.

Respectfully,

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