

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**
UW 120

RECEIVED

2008 MAY -2 A 8:40

In the Matter of
CROOKED RIVER RANCH WATER
COMPANY
Request for Rate increase resulting in total
annual revenues of \$868,453.

INTERVENORS
CRAIG SOULE
&
CHARLES NICHOLS

RESPONSE TO CROOKED RIVER RANCH
WATER COMPANY'S RESPONSE TO PUC
ORDER NO. 08-177

RECEIVED

MAY 02 2008

Public Utility Commission of Oregon
Administrative Hearing Division

INTRODUCTION

Public Utility Commission (PUC) Order No. 08-177, dated March 24, 2008, ordered the following:

1. *Crooked River Ranch Water Company shall file its response to this Order within 15 days of the date of this order.*
2. *Crooked River Ranch Water Company shall distribute \$118,028 to its current shareholders in a lump-sum amount on an equal share basis, not later than its next billing dates for its customers.*
3. *Within two working days of the date of this Order, Crooked River Ranch Water Company shall report to the Commission the amount of funds remaining from its special assessment surcharge.*

DISCUSSION

Order 08-177 - Order Paragraph Number 1

Special Assessment Surcharge Accounting

PUC Order No. 08-177, VI Resolution, dated March 24, 2008, in part stated the following:

We further order Crooked River to file, within fifteen days of this order, a full and complete accounting of all funds collected from the special assessment surcharge and the disposition of such funds, from the inception of the fund to the present.

On April 8, 2008 Crooked River Ranch Water Company (CRRWC) filed a "Response To Order No. 08-177". The "Response To Order No. 08-177" states in part:

Additionally, enclosed, please find a full and complete accounting of all funds collected from the Special Assessment Surcharge and the disposition of such funds from the inception of the fund to the present.

All money collected and distributed from the Special Assessment fund is shown in the attached accounting.

The spreadsheet attached to CRRWC's "Response To Order No. 08-177" filed with the PUC April 8, 2008 is not a full and complete accounting of all funds collected from the special assessment surcharge and the disposition of such funds, from the inception of the fund to the present. The spreadsheet does not include supporting documentation to substantiate the information contained in the spreadsheet. The individual spreadsheet entries are vague (ie: pipe for projects – what project in the "Special Assessment" resolution, March 29, 2004 is the pipe expenditure for?) (ie: engineering fees – what project in the "Special Assessment" resolution, March 29, 2004 are the engineering fees tied to?) (ie: easement rights – what project in the "Special Assessment" resolution, March 29, 2004 are the easement rights tied to?) (ie: Vendor/United – United who? & what is the vendor's location. It is hard to fathom why CRRWC would purchase pipe for projects from United Airlines). The spreadsheet does not provide adequate depth or breakdown (ie: 2004 - \$17460.28 – Building. Is this an annual lump sum payment on office building loan?)

PUC Order No. 08-177, VI Resolution, dated March 24, 2008, in part stated the following:

The filing must account for, explain and defend the \$227,574 of surcharge account funds that have been spent by the Company.

On April 8, 2008 CRRWC filed a "Response To Order No. 08-177". The "Response To Order No. 08-177" states in part:

CRRWC's position is that all money spent from the proceeds of the Special Assessment was within the scope of the Board Resolution for the Special Assessment. Each charge on the attached accounting is associated with CRRWC's pursuit of the capital improvements set out in the Board Resolution for the Special Assessment.

For the reasons noted above, CRRWC's filing attachment spreadsheet does not account for or explain all of the expenditures of the special assessment surcharge. Further, CRRWC's position, "that all money spent from the proceeds of the Special Assessment was within the scope of the Board Resolution for the Special Assessment" is hollow in that, the individual line items in the spread sheet do not tie to specific projects in the enabling resolution. (Example: All of the projects in the enabling resolution that may have required expenditures for pipe, where years

away from fruition, so why a expend \$35,500 on pipe in 2004 and 2005. The assumption is that the pipe is stored and still available since none of the projects requiring pipe have been started nor completed).

Intervenor Nichols & Intervenor Soule (Nichols & Soule) requests a ruling or order by the PUC that CRRWC failed to provide a full and complete accounting of all funds collected from the special assessment surcharge and the disposition of such funds, from the inception of the fund to the present as directed by PUC Order No. 08-177.

Employment Relationship/Contracts

PUC Order No. 08-177, VI Resolution, dated March 24, 2008, in part stated the following:

*We order Crooked River to file, within fifteen days of this order, a full and complete explanation of its relationship with Rooks and other members of the Rooks family, from November 29, 2007, to the date of the filing. *** If any employment relationship exists between Crooked River and Rooks or any family member, the Company must also submit declarations specifying the terms of any such relationship for Commission approval, as required by ORS 757.495.*

In PUC Order 08-181, dated March 28, 2008 the portion of PUC Order 08-177 concerning the distribution of the "Special Assessment" fund balance to its current shareholders, in part states:

Rooks' status as "General Manager" is put in question by the Company's posture with respect to Rooks' status as an employee of the Company. According to documents filed earlier by the Company, there is no contractual relationship between itself and Rooks, suggesting that he has no authority to act on the Company's behalf. Thus, his pledge that the Company will not draw on the surcharge funds is not sufficient absent the necessary filings establishing that a contractual relationship exists between Mr. Rooks and the Company. Accordingly, this order staying the Commission's order will be vacated unless the Company supplies a Board resolution to the same effect not later than April 8, 2008.

On April 8, 2008 CRRWC filed a "Response To Order No. 08-177". The "Response To Order No. 08-177" did not initially include the referenced "Resolution of CRRWC's Board of Directors dated March 31, 2008". Subsequently, after the filing deadline of April 8, 2008 a hard copy of the "Resolution of CRRWC's Board of Directors dated March 31, 2008" was received by Soule & Nichols. On its face, the "Resolution of CRRWC's Board of Directors dated March 31, 2008" appears to be an attempt by CRRWC to address the issue of an employment relationship between CRRWC and James Rooks. However, the document is ambiguous. On one hand it indicates that the employment contract between CRRWC and James Rooks, as far as salary or monetary amount was concerned, was nullified when the PUC reduced rates. On the other hand, the "Resolution of CRRWC's Board of Directors dated March 31, 2008" indicates that neither James Rooks nor CRRWC Board of Directors have voided or cancelled the employment contract. Then again it states, "The contract became a nullity when the PUC severely reduced the revenue ***".

Due to its ambiguity, the filing of the "Resolution of CRRWC's Board of Directors dated March 31, 2008" does not specifically state that a contractual agreement exists between James Rooks and CRRWC, a condition of PUC Order 08-181, staying the portion of PUC Order No. 08-177 concerning the disbursement of the balance of the special assessment surcharge.

Also, the "Resolution of CRRWC's Board of Directors dated March 31, 2008" is invalid based on evidence demonstrating that a legal quorum of directors did not sign the Resolution.

Nichols & Soule requests a ruling or order that CRRWC failed to provide a resolution of the CRRWC Board of Directors as directed by PUC Order No. 08-181.

Therefore, Nichols & Soule requests an order from the PUC that PUC Order No. 08-181 is vacated and PUC Order No. 08-177 is in full force and effect.

Order 08-177 - Order Paragraph Number 2

Distribution of Balance of Special Assessment Surcharge-Late Filing of Resolution

PUC Order No. 08-177, dated March 24, 2008, Order Paragraph Number 2, stated the following:

Crooked River Ranch Water Company shall distribute \$118,028 to its current shareholders in a lump-sum amount on an equal share basis, not later than its next billing dates for its customers.

By "Application for Reconsideration of PUC Order No. 08-177", filed March 26, 2008, CRRWC asks the PUC to extend its time to comply with the order to distribute the fund balance and requests a hearing in regard to this matter.

By PUC Order 08-181, dated March 28, 2008 the portion of PUC Order 08-177 concerning the distribution of the "Special Assessment" fund balance to its current shareholders was stayed. PUC Order 08-181 in part states,

Accordingly, this order staying the Commission's order will be vacated unless the Company supplies a Board resolution to the same effect not later than April 8, 2008.

On April 8, 2008 CRRWC filed a "Response To Order No. 08-177". The "Response To Order No. 08-177" states in part,

James Rooks' position as General Manager and Operations Manager is covered in part by the attached Resolution of CRRWC's Board of Directors dated March 31, 2008.

The electronic version of the "Response To Order No. 08-177" appearing on the PUC's eDocket website on did not include the referenced "Resolution of CRRWC's Board of Directors dated March 31, 2008".

The electronic version of the "Response To Order No. 08-177" received by Nichols & Soule via email on April 8, 2008 did not include the referenced "Resolution of CRRWC's Board of Directors dated March 31, 2008".

The hard copy version of the "Response To Order No. 08-177" sent via 1st Class US Mail to Nichols & Soule by CRRWC's attorney did not include the referenced "Resolution of CRRWC's Board of Directors dated March 31, 2008".

Subsequently, a hard copy of the "Resolution of CRRWC's Board of Directors dated March 31, 2008" was received by Nichols & Soule on April 12, 2008. The cover letter enclosed with the "Resolution of CRRWC's Board of Directors dated March 31, 2008" indicated it had not been filed with the PUC by the due date of April 8, 2008.

Therefore, CRRWC failed to provide a complete copy of the filing to the PUC by the due date of April 8, 2008.

OAR 860-013-0036(3) - Acceptable Filings of Pleadings and Other Documents, states,

Filings received by the Commission that are incomplete or not in substantial compliance with these rules, the Commission's orders, rulings or memoranda of an ALJ, or statutes will not be accepted for official filing.

Nichols & Soule requests that CRRWC's Response To Order No. 08-177 not be accepted by the PUC for official filing due to not being complete on the due date of April 8, 2008.

Nichols & Soule requests a ruling or order that CRRWC failed to provide a resolution of CRRWC's Board of Directors as directed by PUC Order No. 08-181.

Therefore, Soule requests an order from the PUC that PUC Order No. 08-181 is vacated and PUC Order No. 08-177 is in full force and effect.

Distribution of Balance of Special Assessment Surcharge-Legal Quorum Signing Resolution

The "Resolution of CRRWC's Board of Directors dated March 31, 2008" is invalid based on evidence demonstrating that a legal quorum of directors did not sign the Resolution.

Due to the failure of CRRWC to provide a resolution signed by a legal quorum of the board of directors, Nichols & Soule requests a ruling or order that CRRWC failed to provide a resolution of CRRWC's Board of Directors as directed by PUC Order No. 08-181.

Therefore, Soule requests an order from the PUC that PUC Order No. 08-181 is vacated and PUC Order No. 08-177 is in full force and effect.

Distribution of Balance of Special Assessment Surcharge-Inconsistency in Balance Remaining

On April 8, 2008 CRRWC filed a "Response To Order No. 08-177". The "Response To Order No. 08-177" states in part,

Please note that the balance of funds disclosed in CRRWC's Response to Order 08-177, regarding balance of funds remaining from Special Assessment Surcharge dated March 26, 2008, and the balance of funds reflected in the attached accounting are not the same. Using PUC Staff's classification of funds spent for the "Intended Purposes of the Special Assessment the balance would be \$233,889. The actual balance of the account as reflected on the attached accounting is \$130,656.26.

Subsequently, a hard copy of the "Resolution of CRRWC's Board of Directors dated March 31, 2008" was received by Nichols & Soule on April 12, 2008. The "Resolution of CRRWC's Board of Directors dated March 31, 2008" was referenced as an attachment to CRRWC's "Response To Order No. 08-177" filed with the PUC April 8, 2008. The "Resolution of CRRWC's Board of Directors dated March 31, 2008" in part states the following:

The PUC has identified CD's that have been scheduled to meet company's needs, as part of this fund, bringing the total balance to \$233,889.

*The elected Board of Directors of the Crooked River Ranch Water Company, do hereby state in this resolution that the sum of \$233,889 ****

As noted, there is a direct conflict between the stated amount remaining in the special assessment as stated in the "Response To Order No. 08-177" (\$130,656.26) and the "Resolution of CRRWC's Board of Directors dated March 31, 2008" (\$233,889.00).

Due to the conflicting balance amount between the "Response To Order No. 08-177" and the "Resolution of CRRWC's Board of Directors dated March 31, 2008", Nichols & Soule requests a ruling or order that CRRWC failed to provide a resolution of CRRWC's Board of Directors as directed by PUC Order No. 08-181.

Therefore, Soule requests an order from the PUC that PUC Order No. 08-181 is vacated and PUC Order No. 08-177 is in full force and effect.

Order 08-177 Paragraph Number 3

PUC Order No. 08-177, dated March 24, 2008, in part stated the following:

Crooked River Ranch Water Company shall distribute \$118,028 to its current shareholders in a lump-sum amount on an equal share basis, not later than its next billing dates for its customers.

On March 26, 2008 CRRWC filed a "Response to Order No. 08-177 Regarding Balance of Funds Remaining from Special Assessment Surcharge". The response regarding the special assessment balance states in part,

Crooked River Ranch Water Company ("CRRWC") responds to item 3 of PUC's Order No.08-177 as follows:

The amount of funds remaining from CRRWC's special assessment surcharge fund is \$233,889.00.

In late March and early April 2008, James Rooks indicated in several interviews conducted and aired by the local media that the balance of the special assessment surcharge was \$233,889.

On April 8, 2008 CRRWC filed a "Response To Order No. 08-177". The "Response To Order No. 08-177" states in part,

Please note that the balance of funds disclosed in CRRWC's Response to Order 08-177, regarding balance of funds remaining from Special Assessment Surcharge dated March 26, 2008, and the balance of funds reflected in the attached accounting are not the same. Using PUC Staff's classification of funds spent for the "Intended Purposes of the Special Assessment the balance would be \$233,889. The actual balance of the account as reflected on the attached accounting is \$130,656.26.

On April 8, 2008 CRRWC filed a "Response To Order No. 08-177". The "Response To Order No. 08-177" did not initially include the referenced "Resolution of CRRWC's Board of Directors dated March 31, 2008" Subsequently, on April 12, 2008 a hard copy of the "Resolution of CRRWC's Board of Directors dated March 31, 2008" was received by Nichols & Soule. The "Resolution of CRRWC's Board of Directors dated March 31, 2008" in part states the following:

The PUC has identified CD's that have been scheduled to meet company's needs, as part of this fund, bringing the total balance to \$233,889.

*The elected Board of Directors of the Crooked River Ranch Water Company, do hereby state in this resolution that the sum of \$233,889 ****

The context of the entire discussion concerning the balance of the special assessment surcharge was for purposes of disbursement of the remaining balance to the members. It is not a reasonable conclusion on CRRWC's part that the balance remaining in the special assessment surcharge reported to the PUC on March 26, 2008 of \$233,889 met the criteria for the amount required to be reported to the PUC by March 26, 2008 as evidenced by the amount of \$130,656.26 stated in CRRWC's "Response To Order No. 08-177" filed with the PUC on April 8, 2008.

Therefore, Nichols & Soule requests a ruling or order that CRRWC failed to provide the balance of the special assessment surcharge as directed by PUC Order No. 08-177.

CONCLUSION

Nichols & Soule requests a ruling or order that CRRWC failed to comply with Ordering Paragraphs 1, 2 and 3 of PUC Order No. 08-177.

CRRWC should immediately refund the balance of the "Special Assessment" fund to the current shareholders of CRRWC in lump-sum amount on an equal share basis.

The PUC should immediately initiate enforcement actions against the CRRWC Board of Directors pursuant to ORS 757.994.

PUC Order No. 08-177, dated March 24, 2008, in part stated the following:

Crooked River's response to this Order will be decisive in terms of whether the Commission determines that a regent should be appointed.

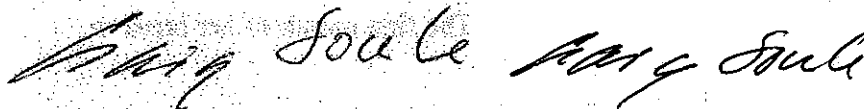
The failure of the current management and Board of Directors of CRRWC to comply with PUC Order No. 08-177 decisively demonstrates that they have no intention of complying with the orders of the PUC. Further, the failure of the current management and Board of Directors of CRRWC to comply with PUC Order No. 08-177 demonstrates that they have no intention of meeting the needs and desires of the members and customers of CRRWC. In contrast and in fact throughout UW120, the record demonstrates that the current management and Board of Directors of CRRWC has obfuscated, confused and delayed the proceeding before the PUC and that it has no intention of resolving the issues in the best interest of its members/customers. The current management and Board of Directors of CRRWC continues to willfully refuse to comply with the directives and Orders of the Commission.

Information contained in the record has adequately demonstrated that the current management and Board of Directors are not capable of effectively operating and managing the water system to provide safe and adequate service to its customers in compliance with Oregon statutes.

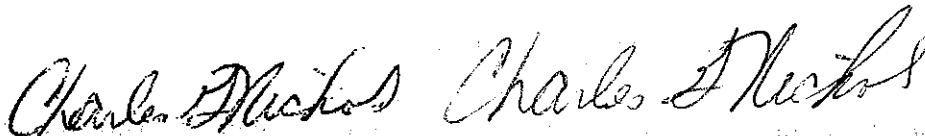
Due to CRRWC's failure to comply with the directives and Orders of the PUC and a demonstrated inability to effectively operate and manage the water system to provide safe and adequate service to its customers in compliance with Oregon statutes. Intervenor's Soule and Nichols request the appointment of a regent by the PUC to operate and manage the water system pursuant to OAR 860-036-0365.

DATED this 28th day of April 2008.

Respectfully submitted,



Craig Soule – Intervenor UW 120



Charles Nichols – Intervenor UW 120

CERTIFICATE OF SERVICE UW 120

I certify that on April 28, 2008, I served a true and correct copy of the foregoing "Response To Crooked River Ranch Water Company's Response To PUC Order No. 08-177" on all parties of record in this proceeding by placing in the US Mail with postage prepaid and by delivering a copy by electronic mail to:

STEVEN COOK

POB 1111, Terrebonne, Oregon 97760
sewfab4u@hotmail.com

CROOKED RIVER RANCH WATER COMPANY

JAMES ROOKS - GENERAL MANAGER

POB 2319, Terrebonne, Oregon 97760
jr@crrwc.com

PUBLIC UTILITY COMMISSION OF OREGON

MICHAEL DOUGHERTY

550 Capitol Street NE Suite 215, Salem Oregon 97301
michael.dougherty@state.or.us

OREGON DEPARTMENT OF JUSTICE

JASON W. JONES - ASSISTANT ATTORNEY GENERAL

1162 Court Street NE, Salem Oregon 97301-4096
jason.w.jones@state.or.us

GLENN, SITES, REEDER & GASSNER, LLP

TIMOTHY GASSNER

205 SE 5th Street, Madras, Oregon, 97741
timgassner@hotmail.com

&

I certify that on April 28, 2008, I served the following entity, by placing in the US Mail with postage prepaid, a true and correct copy of the foregoing "Response To Crooked River Ranch Water Company's Response To PUC Order No. 08-177":

CROOKED RIVER RANCH WATER COMPANY

BRIAN ELLIOT - PRESIDENT BOARD OF DIRECTORS

PMP 313 - 1604 S Hwy 97 # 2
Redmond, Oregon 97756



CRAIG SOULE

THE UNIVERSITY OF CHICAGO

PHILOSOPHY DEPARTMENT

PHILOSOPHY 101

PHILOSOPHY 102

PHILOSOPHY 103

PHILOSOPHY 104

PHILOSOPHY 105

PHILOSOPHY 106

PHILOSOPHY 107

PHILOSOPHY 108