

SCOTT Annette

From: SCOTT Annette
Sent: Thursday, April 28, 2016 11:27 AM
To: SCOTT Annette
Subject: RE: UW-166 ROATS WATER SYSTEM REQUEST FOR A GENERAL RATE REVISION
Attachments: Roats Docket UW 166 Testimony_Powell.pdf; Roats Phase 1.pdf; Roats Phase 2.pdf; 7e_-_Letter_from_OWRD.pdf

From: Jim Powell [mailto:jhp@bendbroadband.com]
Sent: Thursday, April 28, 2016 10:34 AM
To: YAMADA Stephanie
Subject: UW-166 ROATS WATER SYSTEM REQUEST FOR A GENERAL RATE REVISION

Ms. Yamada

My understanding is that you are the contact person for this docket, If that is not true, I hope you can get this information to the correct address,

I am unable to attend the Public Hearing on 5 May and have attached testimony for the OPUC consideration along with several documents. I have been a resident of Woodside Ranch subdivision since 1976, knew and had conversations with the founder of Roats Water Systems, which serves that area, about the history and operations of supplying water to that subdivision. Though not directly involved with the Bend-Roats-Avion agreements, I did serve as a commissioner on the Deschutes County Planning Commission during periods when some of the history and decisions in the narrative unfolded. I greatly appreciate the OPUC trying to find pathways that serve both customers and utility providers in dockets such as this one.

Thank you for your consideration. Please let me know if you need additional information

James Powell
20607 Coventry Cir
Bend, OR 97702

City of Bend Documentation of Juniper Utility Sale
: http://bend.granicus.com/GeneratedAgendaViewer.php?view_id=2&clip_id=374

- **Docket:** UW-166
ROATS WATER SYSTEM REQUEST FOR A GENERAL RATE REVISION
- **Situs Location:** Bend, Oregon
- **Subdivision Water Service Area of Comments:** Woodside Ranch Subdivision - Domestic (includes household and irrigation) water system purchased by Roats Water System in 1973 and 1979
- **Covenant Restrictions:** Owners in Woodside Ranch Phases are prohibited from seeking other domestic water sources unless approved by an Architectural Control Committee or a majority vote of owners in a given Phase amending the CC&Rs
- **History:** The original developer completed Phase 1 of the eventual six-phase subdivision in 1973. Phase 1 had two separate sets of water pipes, one for water from an Oregon Water Resources Department (OWRD) approved well and the other for an intended irrigation water supply from Arnold Irrigation District water rights. After the first year of development, the original developer sold both the completed phase, water rights and remaining property to Murray, Randal and Swarens (MRS), a real estate group, which completed the remainder of the subdivision over the ensuing decade. MRS abandoned the concept of a dual water supply and sold two wells, the well lots and the water system to Roats Water System for a total of \$20.00. The water, wells and piping were to be used for servicing Woodside Ranch; there is a specific restriction on the well lot deed in Phase 2 to that effect. MRS, at the time of the sale to Roats, promised an additional lot and storage site at the highest point in the subdivision but refused to honor that commitment when the time to transfer the property arrived. The entire six-phase subdivision has subsequently been served from the two original wells.

Initially, Roats Water System had problems with uneven pressures as additional phases came online, failing pumps from electrical outages by Central Electric Coop from overloads created by extensive development in SE Bend and from failure of pressure equalizing valves. With minimal purchase costs and no infrastructure costs as to piping or its installation in the initial or subsequent subdivision phases, the system did not unduly burden the company financially.

And, it is important to note, the company has been very responsive and responsible, providing a reliable water supply of excellent quality over the years.

In 2013, Roats Water System informed the Woodside Ranch Homeowners Association (WRHA) that it needed to replace an aging concrete 90,000 gallon in-ground reservoir on its Phase 2 lot (the highest well lot in the subdivision). Because the original system had been designed for fire protection of only a single residence fire at a time, the company wished to increase storage at the site with an above-ground tank holding roughly 360,000 gal. The initial discussion suggested that the tank would replace the existing reservoir, but in subsequent discussions it became clear that the existing reservoir would be retained and refurbished; and there was the probability of a second storage tank's being constructed on the site. The amount of water storage proposed (topping 500,000 gal) exceeded the reported Woodside usual usage by almost five-fold; all of this was allegedly predicated on the premise of improved fire protection. There was no discussion of the potential or magnitude of planned water rate increases to cover these projects. Roats was simultaneously involved in trying to expand its service base for residential and commercial uses into SW Bend through the Murphy Road project and others. The amount of storage being proposed and the concerns about the aesthetics of two above ground storage facilities prompted some subdivision residents to assume water was being amassed, not for Woodside, but rather to serve additional areas that Roats was attempting to include in its service area. Despite assurances from Roats to the contrary, that question is still in play. No final plan or permit has been filed with Deschutes County or with the WRHA.

increase stated for in the request. It is noted that part of the justification is to cover the risk associated with “small water companies”, a 22% wage hike for employees and officers (to match “industry” standards), as well additional percentages for the uncertainties of other variable costs.

- **Apportioned rate design:** Roats states in its application that it has proposed different rates for irrigation customers and for those residing in The Pines and Crown Villa to “ensure that these customers pay an appropriate rate for their water service”. So the company has established that it can, and plans to, apportion some aspects of its costs/profits based on factors other than a general rate increase.
- **Woodside Ranch Additional Considerations:** Woodside owners are bound by their deed restrictions to the current infrastructure and water service by Roats. It should also be noted that the Woodside subdivision carries an Extreme Risk classification in the Wildland-Urban Interface Program; water use for “irrigation” is critical in fire season months for “green-space” preservation. Roats has deed restrictions on at least one of its well lots relative to usage; such a restriction will not be part of OWRD’s purview but could be within the OPUC’s. Known interties and unknown agreements exist between the Roats’ Woodside system and other systems. The proposal for expansion of Woodside water storage is purportedly still on the table. No projected rate increase to cover its cost has been forthcoming, nor does any appear in this filing. The magnitude of that proposed expansion seems excessive for Woodside’s needs, especially with the developments occurring with the Avion system main line transiting the subdivision and purported agreements between the two water companies. The manner and time delays associated with mandatory water usage reporting leave unanswered questions about actual current usage from Woodside Ranch wells.
- **Opinion and Conclusion:** While Roats has claimed transparency in its proposals, there are conflicting opinions about its water sources and operational intentions. In keeping with the OPUC’s mission, *“To ensure Oregon utility customers have access to safe, reliable, and high-quality utility services at just and reasonable rates. We do so through robust and thorough analysis and independent decision-making conducted in an open and fair process.”*, it would be helpful for the OPUC to require disclosure of Roats’ water rights, issues before the OWRD and its operational plans for fulfilling the conditions of its agreement with the City of Bend and new subscribers while honoring the commitments and holding costs to established subscribers within the “reasonable and just” parameters of the OPUC mission. Woodside Ranch and other established service areas, especially those that are “built-out” and stable in their usage with self-contained infrastructure should not be encumbered by rate increases to subsidize company expansion or property/system acquisitions that do not directly benefit them. A rate increase commensurate with the CPI and operational costs relevant to that service area would seem reasonable, but not an underwriting for unknown “industry” standards or business expansion risks and costs.
- **Attachments:** Recorded well lot deeds, OWRD letter, links to City of Bend documents

Thank you for your efforts in reviewing this docket

James Powell
20607 Coventry Cir
Bend, Oregon 97702

7939

1973 503

KNOW ALL MEN BY THESE PRESENTS, That M. R. S. COMPANY, INC., successor to EASTERN CASCADE LAND CO., INC. a corporation duly organized and existing under the laws of the State of Oregon, hereinafter called grantor, for the consideration hereinafter stated, does hereby grant, bargain, sell and convey unto ROATS WATER SYSTEM, INC.

hereinafter called grantee and grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or appertaining, situated in the County of Deschutes, and State of Oregon, described as follows, to-wit:

A portion of Lot 4, Block 4, WOODSIDE RANCH PHASE 1, described as follows:

Beginning at the Northwest corner of said Lot 4, Block 4; Thence South 61° 28' 12" East, 167.02 feet; Thence South 28° 31' 48" West, 170.21 feet; Thence North 61° 28' 12" West, 171.05 feet; Thence around a 780 foot radius curve left, 170.59 feet; Long Chord bears North 29° 53' 11" East, 170.26 feet to the point of beginning.

IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever. And said grantor hereby covenants to and with said grantee and grantee's heirs, successors and assigns, that grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances

and that grantor will warrant and forever defend the above granted premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, except those claiming under the above described encumbrances.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 10.00

However, the actual consideration consists of or includes other property or value given or promised which is part of the consideration (indicate which):

In construing this deed and where the context so requires, the singular includes the plural.

Done by order of the grantor's board of directors, with its corporate seal affixed, on September 19, 1973

M. R. S. COMPANY, INC.

(SEAL)

By [Signature] President
By [Signature] Secretary

STATE OF OREGON, County of Deschutes ss: September 19, 1973
Personally appeared L. A. Swarzens and Gordon H. Randall

who, being duly sworn, each for himself and not one for the other, did say that the former is the president and that the latter is the secretary of H. R. S. Company, Inc.

and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

Before me: [Signature] Notary Public for Oregon
My commission expires: May 2, 1975

NOTE: If not applicable, should be deleted. See OES 93.030

WARRANTY DEED CORPORATION M. R. S. COMPANY, INC. TO Roats Water System, Inc. [Signature] AFTER RECORDING RETURN TO Bond. Co. 97701 No 40 E. Roate STATE OF OREGON County of Deschutes ss. I certify that the within instrument was received for record on the 25 day of Sept, 1973, at 9:36 o'clock A.M., and recorded in book 199 on page 503 or as file number Record of Deeds of said County. Witness my hand and seal of County affixed. [Signature] Title By [Signature] Deputy

1-1-74

WARRANTY DEED



KNOW ALL MEN BY THESE PRESENTS, That M. R. S. Company, Inc.

hereinafter called the grantor, for the consideration hereinafter stated, to grantor paid by Roats Water System, Inc. heroinafter called the grantee, does hereby grant, bargain, sell and convey unto the said grantee and grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or appertaining, situated in the County of Deschutes and State of Oregon, described as follows, to-wit:

Lot Twenty-five (25), Block Four (4) of Said Woodside Ranch Phase II

Use of this lot is to be confined to the operation and other uses compatible with Woodside Ranch Phase I and Woodside Ranch Phase II water systems.

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever. And said grantor hereby covenants to and with said grantee and grantee's heirs, successors and assigns, that grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances

and that grantor will warrant and forever defend the said premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, except those claiming under the above described encumbrances.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 10.00. However, the actual consideration consists of or includes other property or value given or promised which is part of the consideration (indicate which). In construing this deed and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, the grantor has executed this instrument this 8th day of December, 1977; if a corporate grantor, it has caused its name to be signed and seal affixed by its officers, duly authorized thereto by order of its board of directors.

M. R. S. COMPANY, INC.

Signature of Oscar J. Murray and Gordon H. Randall, Vice President and Secretary of M. R. S. Company, Inc.

(If executed by a corporation, affix corporate seal)

STATE OF OREGON, County of Deschutes

STATE OF OREGON, County of Deschutes, ss. December 8, 1977

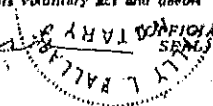
Personally appeared Oscar J. Murray and Gordon H. Randall who, being duly sworn, each for himself and not one for the other, did say that the former is the vice president and that the latter is the secretary of M. R. S. Company, Inc.

Personally appeared the above named and acknowledged the foregoing instrument to be voluntary act and deed.

M. R. S. Company, Inc. a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors, and each of them acknowledged said instrument to be its voluntary act and deed.

Before me: Notary Public for Oregon My commission expires:

Signature of Notary Public for Oregon My commission expires: 3/6/78



M. R. S. Company, Inc. P. O. BOX 587 Bend, Oregon 97701 Grantor's Name and Address. Roats Water System, Inc. 61147 Hamilton Lane Bend, Oregon 97701 Grantee's Name and Address. Also recording return to: NAME, ADDRESS, ZIP. Until a change is requested all tax statements shall be sent to the following address: Roats Water System, Inc. 61147 Hamilton Lane Bend, Oregon 97701 NAME, ADDRESS, ZIP

15547

SPACE RESERVED FOR RECORDER'S USE

STATE OF OREGON, County of Deschutes, ss. I certify that the within instrument was received for record on the 9th day of Dec., 1977, at 3:52 o'clock P.M., and recorded in book 263 on page 872 or as file/roll number. Record of Deeds of said county. Witness my hand and seal of County affixed. Rosemary Patterson Recording Officer By Deane Patterson Deputy



Oregon

Kate Brown, Governor

Water Resources Department

North Mall Office Building

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

March 22, 2016

CITY OF BEND
ATTN: MARY WINTERS
710 NW WALL ST
BEND, OR 97701



Reference: File G-13809

Dear Applicant:

On February 9, 2016, the Water Resources Department received correspondence from you requesting an additional 180-day administrative hold to allow you time to complete negotiations for assigning this application to a quasi-municipal entity.

On February 11, 2016, the Department sent a request for documentation from the water provider entities you are negotiating with describing the progress that has been made toward finalization. On March 10, 2016, the Department received the required documentation.

The Department has determined that a longer administrative hold is reasonable and necessary and has approved your request. The Department will not take any action on this application until August 9, 2016, unless you request we proceed sooner.

It is unlikely that any additional administrative holds will be approved.

If you have any questions, please contact Kim French at kim.r.french@wrdd.state.or.us or 503-986-0816.

Sincerely,

E. Timothy Wallin
Water Rights Program Manager

cc: WM #11
file