

January 8, 2015

Town of Apple Valley
Attention: Town Council Members
14955 Dale Evans Parkway
Apple Valley, CA 92307

Dear Town Councilmember,

Last month I wrote to you to inform you that the statements regarding the 112% increase in Ranchos' rates made by Town officials, and appearing in Town-sponsored print advertisements, Town-commissioned community surveys, and the Town-operated web site were incorrect; and I respectfully requested that Town cease such claims. Since your receipt of that letter we have not heard that statement from Town officials or seen it in new advertisements, and we have noted that the fact sheets containing that statement have been removed from Town's website. We appreciate your response to our request.

Unfortunately there are other incorrect statements that have been included in Town's fact sheets and press releases which are still on the Town's website: Town's statements that Ranchos has a guaranteed return on investment, and that Ranchos is not eligible for grant-funding are both incorrect.

1) Town's statements that Ranchos has a guaranteed return on investment, or "profit" is incorrect and Town Staff and Attorneys know this.

In one of the H2Ours fact sheets, in the blue portion on the upper right of the first page, Town states that "public ownership will be less expensive because of the elimination of profit, a guarantee of 9.7 percent" (emphasis added).

In the Town's 8/14/14 Press Release on the State Audit, Town states:

"Private water companies that offer investors a guaranteed rate of return as high as 10% have what many would call a protected monopoly, according to Town Attorney John Brown." (emphasis added).

These statements are incorrect. This misconception that regulated utilities have a guaranteed return is often repeated by people who do not know the facts of CPUC

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regulation, but it is simply not true. The CPUC is required by law to set rates that provide an opportunity for utilities to earn the return that the CPUC finds reasonable, but the utility is NOT guaranteed that return. The CPUC provides regulatory mechanisms covering the impact of production costs and reduced sales due to conservation, but nothing that allows Ranchos to receive its authorized return if other expenses or capital costs are higher than estimated.

Town Staff and attorneys know this. I, on behalf of Ranchos, provided the above correction to this misconception in my comments at the second meeting of the Town's Blue Ribbon Water Committee (BRWC), on April 23, 2011. A representative of Bartle Wells, the outside consultant hired by Town to prepare the 2011 update its 2006 Feasibility Analysis of Acquisition of AVR & GSWC, was present at the meeting and, during his presentation to the BRWC, in response to a question from a BRWC member, specifically agreed with my statements and confirmed that an investor-owned utility's return is not guaranteed by the CPUC. Representatives of Town Staff and BB&K, Town attorneys were present at that meeting. The video of that meeting, available on Town's website, confirms these facts.

The Town's 8/14/14 Press Release also includes another incorrect statement: "Customers of Apple Valley Ranchos Water Company (AVRWC) are facing a requested 34% rate increase over the next three years, capping a ten year period where rates have nearly doubled..." (emphasis added). As I explained in my last letter, Ranchos rates have increased 68% over the last ten years so this statement that they have nearly doubled in ten years is incorrect.

2) Town's statements that grant-funding is not available to Ranchos is incorrect.

In the Town's 10/21/14 Press Release on the Town's release of its February 2014 financial feasibility study for water company acquisition, the Town states:

"In addition, the Town will be eligible for millions of dollars of state and federal grants to help with capital improvements, a funding source not available to private sector companies." (emphasis added).

This statement is incorrect. As Chris Schilling reported to the Town at the November 18, 2014 Town Council meeting, and as was explained in the press releases of Ranchos and the California Water Association (CWA) issued earlier in November, investor-owned water companies have the same eligibility to receive grant funding as government-owned utilities under Proposition 1, the \$7.5 billion statewide bond issue referred to as the "Water Quality, Supply and Infrastructure Improvement Act of 2014." (see Chapter 4, Section 79712 of Act). As CWA's press release noted, investor-owned utilities were include for eligibility under the proposed act in September of 2014.

Even prior to the passage of Proposition 1, investor-owned water companies were eligible for grant funding under Proposition 50, "The Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002", and other programs. In addition, investor-

owned water companies have had access to grant funding if a public agency, such as the Town, the Mojave Water Agency or the County of San Bernardino, agrees to partner with the investor-owned utility and serve as the sponsoring agency. Therefore, the statement that grant funds are not available to private sector, investor-owned, water companies was incorrect on October 21st, just as it is incorrect now.

Therefore, on behalf of Ranchos, I would once again respectfully request the Town to ask its officials, staff, and attorneys to cease making erroneous claims that Ranchos has a guaranteed return on investment or that Ranchos does not have access to grant funding; and would also request that documents containing these incorrect statements be removed from Town's website.

Sincerely,



Leigh K. Jordan
Executive Vice President
Apple Valley Ranchos Water Company

LKJ/emz

cc: Frank Robinson, Town Manager
Dennis Cron, Assistant Town Manager
John Brown, Town Attorney

