

## UNOFFICIAL MINUTES FOR PUBLIC HEARING SEPTEMBER 27, 2012

The Public Hearing on behalf of the Sheridan Lake Water District Service Plan was called to order at 10:00 a.m. by BOCC Chairman Richard Scott on September 27, 2012. Those attending were:

Richard Scott, Commissioner  
William E. Koehler, Commissioner  
Donald Oswald, Commissioner  
Debra C. Lening, County Clerk  
Peggy Dunlap, Administrator  
Thomas McClernan, Consulting Engineer with GMS, Inc.  
James W. Culichia, Attorney at Law with Felt, Monson & Culichia, LLC  
Merle Shalberg  
Jerry Weber  
Robert Weber  
Van Brown Jr.  
Jeanne Sorensen

Engineer McClernan displayed a map of the Sheridan Lake Water Company and gave a brief history. The Sheridan Lake Water Company (Company) owns and operates a public water supply system providing potable water to the constituents of the Town of Sheridan Lake, as well as several customers outside of the incorporated limits of the town. In 2010, the Company served 57 water taps and approximately 98 customers. The Company is regulated by the Colorado Department of Public Health and Environment (CDPHE) under Public Water Supply Identification (PWSID) No. CO-0131800. The Company was established in 1962. The Company is the sole water supplier to the residents of the Town.

The Company's water system consists of three wells, one of which is the primary operational well. The wells are completed into the Ogallala Aquifer. The Company has 81,000 gallons of treated water storage and it distributes treated water to its customers through approximately 10 miles of transmission line, which was replaced in 1996, running 7 miles north and 3 miles west from Sheridan Lake to the active well site. In January, 2009, the Company was issued an enforcement order from CDPHE Water Quality Control Division (WQC D) for noncompliance with the Colorado Primary Drinking Water Regulations (CPDWR), specifically for exceeding the regulated limits of uranium in the ground water. It was about that time that the State took on several water supplies that have radio nuclides in their water and they decided to put them all in the same group and handle them all in one big group. They never factored in that it costs a lot of money to take radium or uranium or any of these other contaminants out of the water, but that's the way they approached it. To kick off that process, they called it their Colorado Radionuclide Abatement and Disposal Strategy (CORADS) program, which is to assist small public water systems in complying with the regulated drinking water standards for radionuclides. However, this program did not offer much in assisting the Company to resolve its issues. The regulated levels of uranium allowed are 30 micrograms per liter; Sheridan Lake's water averages around 41 micrograms per liter, therefore, they are out of compliance with the standards allowed. Alternatives were looked at for treating this. The recommended alternative was to drill a deeper well down into the Dakota Formation and blend that with their existing wells for get that uranium level down. This would be the simplest to operate, would be the lowest cost for initial construction as well as operations long term. The Company had concerns about the poor quality of that water, comparing it to the Brandon Water System, which is not very tasty, but it is compliant with uranium. The cost of the project would be around \$700,000, which include a section of transmission line from tanks down into town, which wasn't replace in 1996 to help with water pressure. Sheridan Lake is faced with complying with this uranium enforcement order. As a water company, they are not eligible for state funds. That's the whole purpose here to become a Water District so they would be eligible for state funding. If the Company went with USDA Rural Development, this is a difficult entity to work with and funds are very limited at this time, they would see water rates raise \$30 per customer per month, which would double the customers' rates. As a district, there are several state funding "buckets" available and one of them that they would qualify for would be under the Water/Power Development Authorities Funds. In the last year they have created what they call GAP funds, which fall under that program, so if you are a disadvantaged community like Sheridan Lake could easily qualify for, these GAP funds could be used to cover up to 100% of grant of a project. So the idea here is to get funded to take care of this solution without having to take on a substantial debt burden. The Company had Rural Development funds for the transmission lines that they are paying on right now, so there's lots of interest being paid out over a 30 year period and the loan rates are not very attractive. This is the first stage in establishing a water district and a service plan has been put together, which includes an addendum to the Preliminary Engineering Report.

Attorney James Culichia stated that there are two parts to the District: the District Boundary itself owned by Sheridan Lake Water Company, which is quite small and the District Service Area, which is approximately a 40 mile area. If someone is out of this area and wants to connect, they would not be excluded from the District. There are no other Water Districts that fall under this footprint.

Jerry Weber stated Burl Scherler was not located in the boundaries of the service area but might like to be included in the service area to receive water from the District. Attorney Culichia stated that they could amend the boundaries today and have it be part of the record here or the Company could have an individual agreement with someone located out of the boundaries. That individual would be responsible for the cost of getting a pipeline connected to the District's service lines; the District would not be liable for those costs. This would be cost prohibitive for the District and most funding agencies will not give you money to serve an individual. Van Brown stated that when they service someone outside the city limits, they put the meter close to the town's service area and the individual will bring their own water line to that meter. Culichia stated that most cities would usually have an outside area service cost that is maybe 1.5 times the inside service area

rate. Culichia stated that this was considered a postage stamp District, again pointing out the District Boundary and the District Service area. He stated that, usually, the District and the service area are the same, but not in this case. He stated that if it were a larger district, it might have to go the vote of the people and this was not going to be a taxing district. It will be solely a fee based district to the existing customers. You can't compel people to do things like pay taxes, so it made no sense legally to have a broader boundary. The next step, if this plan is approved, is to take it to the District Court, and petition the District Court Judge to ask for his blessing on what the Commissioners have done and then he will schedule an election, and in this case, it would be a one person election, because there is only one property owner inside the legal boundary. That can be done much more streamlined than trying to get on the November Election, which we couldn't do this year due to deadlines; we would have to do it next year. We'll go to the District Court and prove to him that all legal steps leading up to this have been met, including the approval by the Board of County Commissioners. Once he signs that order saying it is now a District, he'll appoint a Board of Directors for the District, five names of which will be submitted along with the other paperwork given to him before hand. They will serve four year terms, staggered so you don't have all of the Board being replaced the same year. There will be notices in the paper so people can ask to be on the Board, because it is a public board in a government body and the members are appointed. At the end of their term, they can re-apply if they so desire or new people can come on board. It is a pseudo-government agency or a quasi-government agency; it has perpetual existence, just like government does, and that's one of the benefits of it. A private water company can go away, and then you have to find someone to take over management of the company. There are obligations that go along with it being a government agency, such as budgets, regular meetings, reports, and all that type of stuff, but it's a necessary evil because that's what is going to allow us to get the financing to actually pull the project off. Merle Shalberg asked if the individual Board Members would be liable for any of the debt. Culichia said no, they would not be and what Shalberg would need to do would need to transfer the assets over to the Water Company and District and there's an existing loan that will have to be dealt with. He stated that they have looked at all of the other options out there and there is a big need for this. There was discussed regarding the area from which the board members would come, stating it would be reasonable that they should be within the service area. All of the rules for a Water District are found in Title 32 of the Colorado Statutes. This small District will be exempt from Audit because they will have regular revenues under \$500,000, but they will have to go through an exemption process with DOLA in order to get that exemption. Otherwise, they would have to go through the audit process. The revenue will be the water fees collected; no tax money will be involved.

Commissioner Scott asked what would happen if this doesn't work. Culichia said they had discussed that and that there are a lot of hoops to jump through to even drill a new well. There was discussion regarding supplying drinking water to the customer, but the object is to meet the standard by blending, not to make the water taste better. The individuals can always put in their own RO system for better tasting water if they so choose. However, if the blending doesn't work and the District needs to go another direction, there's always the possibility it could look in to some type of a water treatment program. Blending is still the best option.

After further discussion, Oswald made the motion, seconded by Koehler, to approve and sign Resolution No. 2012-3 regarding the Resolution of the Board of Commissioners of Kiowa County approving the Service Plan for the Sheridan Lake Water District as presented, to wit:

### **Resolution No. 2012-3**

#### **RESOLUTION OF THE BOARD OF COMMISSIONERS OF KIOWA COUNTY**

#### **APPROVING THE SERVICE PLAN FOR THE SHERIDAN LAKE WATER DISTRICT**

**WHEREAS**, C.R.S. §32-1-204(4) provides that no special district shall be organized except upon adoption of a resolution by the Board of County Commissioners (the BOCC) approving the Service Plan of the proposed special district;

**WHEREAS**, a Service Plan was submitted to the BOCC for the proposed Sheridan Lake Water District (the District);

**WHEREAS**, the boundaries and service area of the District and are located wholly within the boundaries of Kiowa County;

**WHEREAS**, on Thursday, September 27, 2012 the BOCC conducted a public hearing on the Service Plan for the proposed District;

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF KIOWA COUNTY, AS FOLLOWS:**

1. Notice of the public hearing conducted by the BOCC on the proposed Service Plan was properly given pursuant to C.R.S. §§ 32-1-202 and 204, and the BOCC has jurisdiction to hear this matter.

2. Based upon the evidence presented at the public hearing, the Service Plan submitted by the proponents of the District, and the record in this matter, the BOCC makes the following findings pursuant to C.R.S. §32-1-203:

- A. There is sufficient existing and projected need for water service in the area to be serviced by the proposed District and;
- B. The existing water service in the area presently served by the Sheridan Lake Water Company and to be serviced by the proposed District is inadequate for present needs due primarily due to water quality issues in the raw water supply;
- C. There is no reasonable alternative other than the District for providing water service to the area proposed to be serviced by the District and the formation of the District provides the best method available to resolve the water quality issues associated with the current water supply of the Sheridan Lake Water Company;
- D. The proposed District is capable of providing economical and sufficient service to the area within its proposed service area;
- E. The proposed District has or will have the financial ability to discharge its proposed obligations on a reasonable basis.
- F. The proposed District does not conflict with any duly adopted county or other plan for the area.
- G. The formation of the District is in the best interests of the area proposed to be served.

3. The Service Plan for the Sheridan Lake Water District is hereby approved by unanimous vote of the BOCC this 27<sup>th</sup> day of September, 2012.

**RESOLVED**, this 27<sup>th</sup> day of September, 2012.

Board of Commissioners of Kiowa County

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Richard Scott, Chairman

Attest:

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Debra C. Lening, Kiowa County Clerk

All Commissioners voted affirmative.

Oswald made the motion, seconded by Scott, to close the Public Hearing at 10:45 a.m. All Commissioners voted affirmative.