

LAW OFFICES

HUGHES, KELLNER, SULLIVAN & ALKE

40 W. LAWRENCE, SUITE A P.O. BOX 1166

HELENA, MONTANA 59624

STUART L. KELLNER
JOHN F. SULLIVAN
JOHN ALKE
STEPHEN M. FRANKINO
MICHAEL F. MCMAHON*
AMY D. CHRISTENSEN

MICHAEL J. HUGHES
(1922-1999)

TELEPHONE
(406) 442-3690

FAX
(406) 449-4849

*MEMBER OF NORTH DAKOTA BAR
*MEMBER OF SOUTH DAKOTA BAR

June 22, 2000

2000.6.91

SUBJECT: HKSA 28-16

MOUNTAIN WATER - SUPERIOR SALE

Denise Peterson
Montana Public Service Commission
1701 Prospect Avenue
P.O. Box 202601
Helena, MT 59620-2601

RECEIVED BY
2000 JUN 23 AM 10:13
PUBLIC SERVICE
COMMISSION

Dear Denise:

Thank you for your phone call the other day on the pending sale of Mountain Water Company's water system in Superior, Montana, to the Town of Superior. Both the Company and the Town have been working diligently on this transaction for the last couple of years as the best solution to meeting the rather unique needs of this small town. I have attached copies of the pertinent resolutions of the Town Council. The sale will have no direct rate impact on either the customers of the Town of Superior, or the remaining Mountain Water customers in Missoula. The system will be transferred to the Town at slightly less than book cost. There will be a small indirect effect on the remaining Mountain Water customers, as the sale of the Superior water system to the Town will change the factors used to allocate costs in the rate-making process.

You expressed surprise that neither the Company or the Town of Superior had made a filing with the Commission seeking authority for the transaction. As you know, Montana is a fairly unique jurisdiction in that it has no certificate system governing its utilities, and no asset transfer statute. Mountain Water Company has itself acquired two small water systems in the past, Clark Fork Water Company on October 1, 1991, and Linda Vista Water Company on July 31, 1998. In neither case was the Commission involved.

The Commission's authority in this area has been the subject of heated debate ever since The Montana Power Company announced its intention of divesting itself of all of its remaining electric and gas properties. As you can imagine, Mountain Water has no desire to be drawn into that debate. Although I do not speak for the Town of Superior, I am relatively certain that it desires to avoid any unnecessary confrontation with the Commission. Accordingly, if the Town of Superior has no objection, some sort of filing

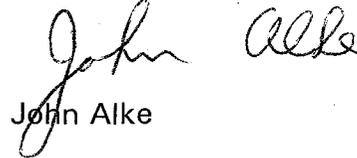
Denise Peterson
June 22, 2000

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could probably be made with the Commission. I suspect it would be a dual filing which would seek either a declaration of the Commission that it had no jurisdiction, or its approval if it asserts jurisdiction.

Timing is a very important issue for the Town of Superior. I am the regulatory attorney for the Mountain Water Company, and not the transaction attorney on the sale. However, I do know that a final purchase and sale agreement has not yet been executed, but the Town is contemplating a July 17 closing. Depending on how the Commission views its role in this particular transaction, and the needs and plans of the buyer, it may be very difficult to make a formal filing with the Commission which would lead to an expeditious decision by the Commission by the time the Town of Superior contemplates closing. Would it be possible for the Commission to conduct an informal investigation, based upon this letter, followed by some indication of formal approval? I would appreciate your thoughts.

Sincerely,


John Alke

wp1:Peterson.A

Enclosures

fc/enc: 444-7618

c/enc: Gary Rowe
Mae Nan Ellingson
Mayor Gordan Hendricks

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the Town of Superior, Montana (the "Town"), hereby certify that the attached resolution is a true copy of a Resolution entitled: "A RESOLUTION OF THE TOWN OF SUPERIOR, MONTANA, AUTHORIZING THE ENTERING INTO, EXECUTION AND DELIVERY OF A PURCHASE AGREEMENT WITH THE MOUNTAIN WATER COMPANY FOR THE PURCHASE OF THE WATER SYSTEM SERVING THE TOWN OF SUPERIOR AND SETTING FORTH THE INTENT OF THE TOWN TO FINANCE THE PURCHASE OF THE SYSTEM THROUGH THE ISSUANCE OF WATER SYSTEM REVENUE BONDS IN THE ESTIMATED PRINCIPAL AMOUNT OF \$1,900,000 AND AUTHORIZING THE TOWN STAFF AND AGENTS TO PROCEED WITH THE PREPARATION OF DOCUMENTS AND APPLICATIONS NECESSARY TO CLOSE THE PURCHASE OF THE SYSTEM" (the "Resolution"), on file in the original records of the Town in my legal custody; that the Resolution was duly adopted by the Town Council of the Town at a regular meeting on April 10, 2000, and that the meeting was duly held by the Town Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Council Members voted in favor thereof: Angelo Ververis, Michael Wood, Melanie Reiner, Paula Sahleen and Richard Feldbrugge ; voted against the same: none ; abstained from voting thereon: none ; or were absent: Robert Cathcart .

WITNESS my hand and seal officially this 10 day of April, 2000.


Town Clerk-Treasurer

RESOLUTION NO. 228

RESOLUTION OF THE TOWN OF SUPERIOR, MONTANA, AUTHORIZING THE ENTERING INTO, EXECUTION AND DELIVERY OF A PURCHASE AGREEMENT WITH THE MOUNTAIN WATER COMPANY FOR THE PURCHASE OF THE WATER SYSTEM SERVING THE TOWN OF SUPERIOR AND SETTING FORTH THE INTENT OF THE TOWN TO FINANCE THE PURCHASE OF THE SYSTEM THROUGH THE ISSUANCE OF WATER SYSTEM REVENUE BONDS IN THE ESTIMATED PRINCIPAL AMOUNT OF \$1,900,000 AND AUTHORIZING THE TOWN STAFF AND AGENTS TO PROCEED WITH THE PREPARATION OF DOCUMENTS AND APPLICATIONS NECESSARY TO CLOSE THE PURCHASE OF THE SYSTEM

RECITALS

WHEREAS, pursuant to Montana Code Annotated Title 7, Chapter 7, Part 44, the Town Council (the "Council") of the Town of Superior, Montana (the "Town") is authorized to purchase a municipal water system, to make improvements and betterments thereto to operate and maintain such system and furnish water services and facilities for its own use and the use of the public and private customers with the town, to finance the purchase of such system through the issuance of revenue bonds and to receive and collect rates, fees and charges for the services and facilities of the system; and

WHEREAS, pursuant to Council Resolution No. 215, approved by this Council on June 8, 1998, the Council determined it to be in the best interest of the community to pursue the acquisition of the water system from Mountain Water Company (the "System") by condemnation or by negotiated sale; and

WHEREAS, subsequent to the Resolution, MSE-HKM at the request of the Town has prepared a Facility Plan for the Town with respect to the System and has entered into negotiations on behalf of the Town with Mountain Water Company for the purchase of the System at the price of \$1,250,000; and

WHEREAS, the Town has determined that it can finance the acquisition of the System through the issuance of its Water System Revenue Bond and has received preliminary indication from Rural Development and the State of Montana State Revolving Fund Loan Program that they will make a loan to the Town in the amount necessary to acquire the System and to pay the related costs of the financing all to be evidenced by the Town's Water System Revenue Bond, (the "Bond"); and

WHEREAS, it is the judgment and determination of the Council that it is in the best interest of the Town to approve the purchase of the System at the agreed upon price and to authorize the steps necessary to obtain the financing to complete the acquisition of the System.

NOW, THEREFORE, BE IT RESOLVED By the Council of the Town as follows:

Section 1. Approval of Purchase. The Council of the Town hereby approves the acquisition of the municipal water system owned by Mountain Water System as hereinafter defined at a purchase price not to exceed the sum of \$1,250,000. The System shall constitute all of the real and personal property, appurtenances and property rights described and set forth on Exhibit A hereto. The Town staff, MSE-HKM and Dorsey & Whitney LLP are authorized to prepare on behalf of the Town an offer to purchase the System and deliver it to Mountain Water Company. The Mayor, Town Clerk-Treasurer and Town Attorney or Dorsey & Whitney as bond counsel to the Town are authorized to approve the final terms and conditions of the Purchase Agreement and upon such approval, the Mayor and Town Clerk-Treasurer of the Town are hereby authorized to execute and deliver the Purchase Agreement to Mountain Water.

Section 2. Intent to Issue Revenue Bonds. To provide the money to pay the purchase price of the System, the Town hereby declares its intention to issue Water System Revenue Bonds of the Town in an aggregate principal amount necessary to complete the acquisition of the System, to fund needed improvements to the System, to pay the costs associated with the acquisition of the System and to provide for the sale and security of the Bonds in the estimated principal amount of \$1,900,000. The Bonds shall be payable over a term not to exceed 40 years.

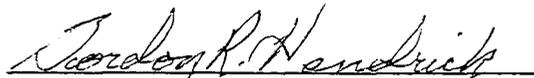
Section 3. Rates and Charges. The Town will establish a system of rates and charges to be imposed on the users of the System sufficient to provide funds to pay the costs of operating and maintaining the System, to pay the principal of and interest on the Bonds and to establish any necessary reserves therefor. The Clerk is authorized to work with Rural Water and/or MSE-HKM to develop final recommendations for rates and charges and make recommendations to the Council, which will proceed to implement such rates and charges in accordance with the provisions of the Title 69, Chapter 7, Part 1.

Section 4. Authority to Proceed. The Mayor and the Town Clerk-Treasurer of the Town are hereby authorized to take all actions necessary and desirable to proceed with the issuance of the Bonds and other applicable provisions of Montana law, subject to the final bond resolution being presented to the Council for approval before the Bond is issued.

Section 5. Payment of Purchase Price on Closing of the Bond. The Town will pay the purchase price of \$1,250,000 in cash to Mountain Water upon the sale of the Bond. The Town

anticipates that it will receive the proceeds of the Bonds no later than July 15, 2000. The Town will proceed with all reasonable speed to issue and sell the Bonds.

PASSED AND APPROVED this 10th day of April, 2000.



Mayor

ATTEST:



Town Clerk-Treasurer

EXHIBIT A

Real and Personal Property, Appurtenances and Property Rights

The purchase of the water system will include all land, equipment, leases, easements and any other assets or property comprising the water supply, treatment, storage and distribution system for the Town of Superior currently owned by the Mountain Water Company, including but not limited to all of the land and land Rights including the land and the land rights associated with wells referred to as wells 1, 2 and 3; all of the wells including those referred to as 1, 2 and 3; all of the supply mains; all of the structures and improvements including the chlorine facilities associated with well nos. 1, 2 and 3, and at the storage tank, the electric hookup at the no. 2 pumphouse, the new pump and controls at well no. 1, the wiring in the building to accommodate the generator, excluding the generator itself, and the shelves at well no. 1; all of the electric pumping equipment including those associated with wells 1, 2 and 3, the booster, the vacuum release valve, the iron mountain disconnect, the replacement for well no. 2 pump and the new pump and controls at well no. 1; the other pumping equipment associated with well no. 3; all of the structures and improvements including the 400,000 gallon reservoir, the eye wash stations at well nos. 1 and 2, the insulation for the chlorine building at well no. 3; all of the water treatment equipment including the flat creek chlorinator, the well nos. 2 and 3, the 400,000 gallon reservoir; all of the transmission and distribution structures and improvements including the booster and the storage building; all of the distribution mains and fire hydrants; all of the water services including the 19 taps on Greens and the water service meters and meter installations; all of the communication equipment including the radio telemetry, the 400,000 gallon reservoir telemetry, and the two transducers and any other assets which currently constitute the existing water system for the Town of Superior, Montana.