

To: May 10, 2023, TWWA Annual Membership Meeting Agenda Item

Purpose: Response to questions by a community member

Date: May 10, 2023

Dear Maryanne,

Thank you for your letter and the questions contained therein. We have copied your questions/comments, as shown in italics, into this response and we have attempted to respond to the best of our knowledge as set out below.

Excerpt from email sent to guardianberg@gmail.com from NMED

I am seeking information which would satisfy the members of the Tyrone Water and Wastewater Association (TWWA), regarding this first year "in business." Although I am the one to author this request, I assure you that others in the community have the same questions.

The monthly meetings do not allow time for in depth answers to questions. In my experience, questions are limited to three minutes, but answers are unavailable or extremely brief. The problems, concerns, and spending related to this mutual domestic water consumers association are by no means simple. So I believe a detailed written answer would be a good way to communicate the current status and pending actions.

I appreciate that this request is complex, but I am requesting a complete response in thirty days. This is a request for:

1. A detailed list of the benefits to the homeowners and association members, of the repeated delay to bifurcate /divest/separate the monthly fee collection. At the last monthly meeting, I heard you say that the bifurcation action would be delayed "Indefinitely".

Response: TWWA, as successor in title and interest took over the financial operation of the water and wastewater systems and the assets from the Tyrone Property Owners Association (TPOA) with effect January 17, 2022. The Tyrone Community Association (TCA) was formed in May of 2022. Currently, the TCA fees are collected by TWWA and the sharing of these fees on a 65/35% basis started with the TCA on July 1, 2022 and continues. The further "financial bifurcation" is planned for July 1, 2023, which is the beginning of the 2023-2024 fiscal year. By financial bifurcation, we mean the responsibility for the collection of HOA Association fees as of July 1, 2023 will be done by the TCA. TWWA assume and work to collect any arrears which exist as of that date. As of July 1, 2023, we are proposing that property owners in Tyrone will pay a total of \$100 per month, \$35 of which will be paid directly to the TCA and not go through the TWWA books, and \$65 will be paid directly to the TWWA. THIS IS SUBJECT TO THE APPROVAL OF THE USDA AND THE COLONIAS BECAUSE THOSE LOANS

ASSUMED THAT TWWA WOULD RECEIVE \$93.17 MONTHLY. This change in revenue has to be approved by the TWWA membership at the annual meeting May 10, 2023.

2. *An explanation of why on March 7, 2023, TWWA under your leadership seized all properties formally owned by the HOA Tyrone Property Owners Association, when in fact the newly formed HOA (Tyrone Community Association) had paid taxes on more than half those properties. Your explanation at the last Association meeting indicated that TWWA needed to own all the property in order to show significant assets when applying for grants and loans. That seems to be an attempted fraud.*

Response: TWWA DID NOT SEIZE ANY PROPERTIES on March 7, 2023. TWWA is the successor in title and interest to the Tyrone Property Owners Association (TPOA). The \$32.61 which represents the 35% of the \$93.17 fees included funds for a payment of the property taxes on 9 parcels. The TWWA received a grant of \$382,320 dollars for water system design services from the Colonias Infrastructure Fund. As part of the approval process, the TWWA had to document that it owned all the TPOA properties. During the due diligence for the grant, it was discovered that the TPOA had not transferred the townsite’s assets including the properties or the liabilities to the TWWA. The belated action of transferring the assets and the properties was taken by three members of the Board of the TPOA at a special meeting on March 7, 2023 which was facilitated by Priscilla Lucero with the Southwest New Mexico Council of Governments. Alan Berg, the Vice-president of the TPOA when the incorporation of the TWWA occurred in January 2022, did not participate in the meeting of TPOA on March 7, 2023 which was facilitated by Priscilla Lucero with the SWNMCOG.

You have made an allegation of “an attempted fraud” against me (Alan Berg) which is a very serious allegation, in fact defamatory, for which you have not provided a scintilla of evidence.

3. *A list of contractors and professional firms that TWWA is /has done business /paid fees to/ sought advice from within the last 12 months; this should include a summary of the terms and rates agreed to in the contracts. This request includes information about lawyers, accountants, engineers, plumbers, landscapers, water operators, and any employee or company, whether hourly or full-time.*

Response:

Company	Task or Scope of Work	Rates
J&S Plumbing	Weekly lift station maintenance in the basin (confined space) Emergency response to lift station leaks or spills	\$130/hour for journeymen plumbers.
Eddie Mendoza	Water and Wastewater operator	\$600/month for water and wastewater operator duties \$25/hour for regular work

Kenny and Chantel Salazar	Cleaning basin 1 at lift station and application of degreaser	\$25/hour for Kenny and \$20,00/hour for Chantel
DeMent Alarm	Establish communication between dispatch and lift station alarm	\$113.40/quarter for alarm monitoring oversight at the lift station
DeMent Electric	Work at the lift station	\$125/hour
Cathryn Wallace	Former attorney	\$1,326.00
Jonathan Diener	Current attorney for delinquent accounts	\$2,000 retainer paid
Freeport McMoRan	Provides crane services at the lift station	No fees
Town of Silver City	Technical contact for water and wastewater issues	No fees
Keenan Plumbing Supply	Provides degreaser for lift station basin 1.	\$2,000 for one fifty five gallon drum of degreaser for lift station
Souder Miller and Associates	Bidder for new water line design project	n/a
Bohannon Huston	Bidder for new waterline design project.	Fixed price contract
Stantec Engineering	Bidder for new waterline design project	Rates vary for class of engineer or draftsman
Edwards & Feanny, P.A.	Documents prepared for the State of New Mexico for the CIF grant/loan. Agreement between the TOSC and TWWA for water system supply and metering.	\$300/hour

4. *A list of elected officials, government employees and political appointees that TWWA is /has done business /paid fees to/ sought advice from within the last 12 months; this should include a summary of the purpose of the contacts, frequency of contact, and outcome/ benefit of those contacts.*

Contact Persons	Fees or Charges And Frequency	Purpose	Outcome
Priscilla Lucero, Southwest New Mexico Council of Governments	No fees Weekly contact with SWNMCOG	Introduced the TWWA to funding opportunities through the Colonias Infrastructure Fund, Governor's office, USDA, and NMED	The SWNMCOG has extensive experience in navigating the processes and procedures which result in a greater

			chance of success for the applicant
Alex Brown Town of Silver City	No fees Weekly until agreement signed in January 2023	Water agreement between TWWA and the TOSC	New agreement with TWWA as the entity and \$5/month/property water system repair funds
Ron Bellinger, President Arenas Valley Water Company	No fees Monthly at water provider events	Provided documentation regarding their initial setup as a mutual domestic	Gained insight on the operation of a local mutual domestic that is provided water by the TOSC at a master meter
Rick Chavez Auditor New Mexico Department of Finance	No fees Every other month during budget preparation, weekly	Establish budget for fiscal year 2022-2023	Complied with State laws and received a letter acceptance of budget by DFA
Roger Groves former Fire Chief of the Tyrone Fire Department	No fees Three or four times throughout the year	Approve fire hydrant inspection activities by TFD contractor	Received a certificate of insurance from the contractor. Received testing report and supporting data

5. *Actual expenses for legal fees paid to named law firms for the last 12 months.*

Response: Law Office of Cathryn Wallace, LLC was paid \$1,326.00.

Edwards & Feanny, P.A. **invoices submitted but not paid:** Water agreement between TOSC and TWWA; \$702.49; Colonias Infrastructure Fund CIF-5799, \$12,852.33 the Grant/Loan documents, resolutions, due diligence, Legal Opinion; and \$15,965.63 for TPOA/TWWA transfer agreements, deeds, resolutions, and other documents to support the transfer of assets including the properties and the liabilities from TPOA to the TWWA.

6. *Actual expenses paid to named accounting firm(s) for the last 12 months.*

Response: Mike Morones & Associates, LLC was paid \$14,278.11

7. *Any and all information regarding the contract and/or verbal agreements with Stantec and Richard Maynes, related to the design and bid on the new sewer system.*

This request includes correspondence both paper and electronic, as well as financial records. It is unclear whether Stantec has actually been working for TWWA, or is simply preparing a response to a bid. Since Maynes designed and built our existing, and totally failed of our system barely ten years ago, there is widespread concern about repeated use of his services.

Response: The final selection of the engineers for the design and construction of the new lift station was conducted through the SWNMCOG and it is this entity that reviews and approves invoices and administers the funds of this grant. The TWWA is excluded from managing the \$1,915,022.00 grant because TWWA as a new entity did not have the financial track record that the State of New Mexico Financial Authority required for the management of these grant funds. TWWA's involvement as requested by the SWNMCOG has been for the TWWA Lift Station Sub-subcommittee to review the initial engineering submittals from Stantec and Bohannon Huston. Stantec was selected by the SWNMCOG as the engineer for the lift station redesign project. The TWWA committee was asked to review engineering drawings, make recommendations for modifications or ask for clarification on technical issues. All construction fund disbursements will be reviewed by the SWNMCOG and paid by the SWNMCOG. The TWWA subcommittee may be requested to review the contractor's invoices. That activity has not been determined as of this date.

8. *Detailed information about what grants and loans have been finalized, plus the source of the grants and loans.*

Grant or Loan Title	Scope of Work	Value/Grant/Loan	Status
State Board of Finance Grant #209-198	New Lift Station design and construction project, includes funds for Rain for Rent emergency pump for lift station	\$1,915,022.00	Work in progress by Stantec. Stantec is scheduled to submit the project for bid in May 2023
Colonias Infrastructure Fund CIF-5799	Design water system	\$382,320	Initial surveying work started in April 2023 by Bohannon Huston
Colonias Infrastructure Board Request	200,000 gallon water tower inspection and upgrade	\$115,000	Presentation made on April 26, 2023, to the Colonias Infrastructure Board. Anticipated that awards will be in May 2023
Capital Improvement Funds	Video and physical assessment of	\$50,000	Awarded in April 2023. Bohannon Huston notified of award.

	existing wastewater lines in townsite.		Submitted Capital Appropriations Questionnaire to NMED
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9. *Detailed information about what grants and loans have been applied for, plus the source of the grants and loans, and information regarding the application deadlines.*

Response: See response for question 8. No additional loans or grants have been applied for at this time.

10. *A detailed list of classes taken by Board members this last year, which would fulfill the obligations set forth in NM State Regulations. See attached.*

Response: At this point in time, none of the current board members have completed the training. Alan Berg is in the process of completing the Basic Board Council Training offered by the New Mexico Rural Water Association. The current members will endeavor to get the 6 hours completed by May 26, 2023.

20.12.2.10 APPLICATION OF TRAINING REQUIREMENTS:

A. Board members shall complete a minimum of twelve hours of initial training:

(1) Within two years of election or appointment to a board of directors and shall complete a minimum of six (6) hours of training within the first year; and

(2) Within two years of re-election, or appointment to a board of directors after interruption in service on a board greater than four years and shall complete a minimum of six (6) hours completed the first year

B. To maintain certification after completion of the initial training, board members must complete a total number of credits equivalent to two hours of continuing training during each year of their elected or appointed term. Any board member may carry up to six (6) hours of excess credits earned over to the next compliance year(s) within the board member's term of office. Excess credits may not be carried over to a board member's subsequent term of office.

Hopefully, this response has addressed the questions and comments in your letter. We have attempted to answer in as much detail as we can.

Regards,

Alan Berg, President TWWA Angie Roach Secretary TWWA Doug Gorthy Member TWWA