

# HISTORY OF THE COUNTRY BEND WATER COMPANY CCN 11106

April, 2010

Country Bend resident Shelly Sproull gave the CB HOA her husband's files which provided all of the information from the 1990s.

1. 5-25-1990 Country Spring Water proposes the first water rate increase since the start of the Country Bend water system in 1979. Original rates were: base-\$12.00 including the first 6000 gallons and \$1.25 for each 1000(M) gallons. Proposed: \$18.00 for zero gal, \$1.50 per M gal up to 10,000, \$1.75 per M gal for the next 20,000, and \$2.25 per M gal over 30,000.

2. 5-31-1990 Residents protest to the Texas Water Commission not only about the amount of the increase, but also about instances when the "water was undrinkable due to a heavy quantity of silt (mud) and problems with "low water pressure" according to Country Bend HOA President Chris Buckingham. The residents also proposed an interim rate schedule.

3. 7-26-1990 After negotiations, new rates were agreed as follows: base- \$15.00 includes first 6000 gal, \$1.70 per M gal for the next 20,000, \$1.75 per M gal for the next 20,000, and \$1.85 per M gal over 46,000 gal. The cost for 15,000 gal in a month increased from \$23.25 to \$30.30. Statistics presented by Country Spring Water during negotiations from 1989 showed that 103 customers used a total of 28,000,000 gallons for the year which is an average individual monthly usage of 22,654 gallons.

Country Spring Water is now called either Apex Water or Water Services and proposed a water rate increase calling for a \$22.00 base for zero gal and a flat \$1.25 per M gal for all usage. The protests and negotiations involving the Texas TNRCC were very contentious and stretched out over five months. There were now 221 Country Bend customers and Apex valued the system at \$1,400,000. BUT, the TNRCC judges rates on what they call the Invested Capital Rate Base including depreciation which was set in a Finding of Fact by the TNRCC as of Dec 31, 1997 to be \$496,368 comprised of useful original cost of \$667,996 less accumulated depreciation

thereon of \$171,628. The TNRCC set the yearly depreciation at \$14,809.

After the negotiations were completed, Water Services Austin attorney, Mark Zeppa, presented to the Country Bend HOA on 1-6-1999, a TNRCC approved Water Services-Country Bend Depreciation Analysis (Docket Number 32142-R) that had been negotiated between TNRCC staff and Water Services that provides a “benchmark of the rate making value of the Country Bend system”. This document will be manually provided by me to the HOA.

Country Bend was represented at the 10-15-1998 TNRCC protest hearing in Austin in front of two administrative law judges by HOA President Glen Clark and five other residents. This hearing lasted four hours and is described as being very “spirited”. The residents showed the judges a plastic bag of silted brown water drawn from the Country Bend system. They also complained about frequent water line breaks. An attending TNRCC engineer commented that the silt in the Country Bend Water is too fine to filter and that the only way to eliminate the silt would be a prohibitively large, costly settling pond.

Water Services contended that they have a state law right to earn a 12.5% per year rate of return based on the Water System Value which is the Invested Capital Base. The two TNRCC judges nodded in agreement, but said that Water Services had to first reach an agreement with TNRCC as to the actual ICB which turned out to be \$496,368. The Water Services attorney objected to Glen Clark representing the residents because he did not have a piece of paper from the HOA giving him this authority. Fortunately, Glen had brought a protest letter he had issued that had been signed by 22 Country Bend residents and the judges accepted it.

The settlement was \$16.00 base for zero gal, \$1.25 per M gal up to 10,000 gallons, \$1.50 per M gal for the next 10,000 gallons, and \$2.00 per M gal for all over 20,000 gallons. Water Services also agreed to paint the water storage tanks green and to submit a plan to the TNRCC as to how it would provide additional service capacity.

5. On May 17, 2007, Country Bend residents were notified that the privately owned Water Services Company has been purchased by the public corporation, Southwest Water Company of Los Angeles.

6. On December 28, 2007, Southwest Water (Water Services) filed a petition with TCEQ for a very large water rate increase for Country Bend and four other systems including the city of Bulverde. The Country Bend HOA responded by circulating a protest petition that was signed by a sufficient number of residents that the TCEQ granted a hearing in Austin before Administrative Law Judge Tom Walston on July 1, 2008.

7. Representatives of all five systems were present for the hearing. Country Bend was represented by HOA President Reed Greene, Secretary Cecilia Greene, VP Art Smith, and HOA member Charles Costanza. On the evening prior to the hearing, Country Bend suffered another a total water outage due to a line break. When the system was restarted, the water was, as usual, contaminated with silt and mud. Charles Costanza filled a glass jar with the muddy water and brought it to the Austin hearing. ALJ Walston instructed the reps of the five systems to negotiate with Southwest Water during a pause in the hearing which he then declared, and he left the hearing room. Southwest Water's negotiating team was led by Executive Vice President Charles Proilet from Houston, a number of executives, consultants, and lawyers.

8. After consulting with the other systems, the Country Bend group agreed to lead the negotiations with Southwest Water who had left the hearing room. When they returned, Chuck Costanza presented a summary of the quality and reliability problems being endured by the residents of Country Bend, many of which had been requiring Boil Water Notices after repairs. He then displayed the muddy water sample obtained the night before to the Southwest Water group and asked two questions, how would boiling such contaminated water make it fit for human consumption and would they allow their families to consume such contaminated water? The Southwest Water team then asked for a recess during which the five parties agreed to ask for a 50% reduction in the requested rate increase. This compromise was made to Southwest Water when they returned to the hearing room along with a commitment for them to improve the reliability and quality of the Country Bend system. Southwest Water agreed, as did the other four systems. A final settlement agreement was then issued by the Judge. The water rates were the set at \$36.00 for zero gallons, and \$2.00 per 1000 gallons for all consumption.

9. As a result of the contacts made at the hearing, Southwest Water executives agreed to meet with Country Bend residents to discuss the many issues of their water system. On Sept 29, 2008, Charles Proffitt, Gary Rose, and Joe Torralva from Southwest Water had dinner with approximately 30 residents at the Scenic Loop Café. Due to prompting by the HOA between July 1 and Sept 29, Southwest Water undertook a number of engineering studies of the water system. At the dinner, they announced a number of capital improvements to reduce outages, improve reliability, and improve water quality. These included 25+ new isolation valves and upgrades to equipment, instrumentation, and the electrical system. They also made a commitment to improve communications with both residents and the HOA.

10. From September 29, 2008 through July 1, 2009, Southwest Water installed the following improvements to the Country Bend water system (not in chronological order):

- a. totally rebuilt well #1
- b. repaired many long term system leaks
- c. new electrical controls and instrumentation were installed throughout the system
- d. new Cycle Stop regulators were installed at the Boerne Haze booster station that significantly improved reliability and performance
- e. all the pumps and valves in the main pump house were replaced
- f. the Autumn Glen pressure regulator was rebuilt and placed back in service as suggested by a resident at the Sept 29, 2008 dinner
- g. 27 new system isolation valves were installed
- h. Southwest Water has become more conscientious about clean up after a repair
- i. a communication system has been established using the HOA and e-mail to notify residents of a problem
- j. a consultant has been retained to study the silt issue and recommend a

a solution, 90% of the silt is less than one micron in size

11. In early 2009, the San Antonio Water System announced that they were going to install a 24 inch water pipe on the Country Bend side of Boerne Stage Road, right next to the main water pump station. The HOA asked both Southwest Water and SAWS to negotiate an agreement for a hard pipe connection from this line into the Country Bend system that would provide residents with an emergency supply of water in the event of a power failure (Jan, 2007), a failure of the #1 well ( June, 2010), or any other significant outage. SAWS was not cooperative, so Dan Cifers, a Country Bend Resident, arraigned a meeting on May 6, 2010, in the office of Bexar County Commissioner Kevin Wolff between the HOA and SAWS. Commissioner Wolff attended the meeting. When the 24" line was installed in late 2009, SAWS installed a 12" tap, valve, and line next to the main pump station. SAWS and Southwest Water reached a final, signed agreement for this emergency supply in Jan, 2010. Saws intends to activate this line by July 1, 2010 and Gary Rose of Southwest Water has stated that capital has been approved to complete the tie-in.

12. On January 7, 2011, Southwest Water's contractor, J&R Utility Services from Austin, completed the 4" tie in from Southwest's Country Bend water system to a 12" line connected to the SAWS 24" line along Boerne Stage Road. This connection will provide "emergency" water to Country Bend whenever Southwest's system is unable to do so for significant period of time. This connection includes a meter, pressure regulator, and a back flow preventer.

13. Country Bend was experiencing a severe drought in June, 2011, that was to continue until October. During June, large amounts of silt were being produced from the #1 well causing water restrictions trying to reduce the silt. On June 16, the motor of #1 well pump failed. The pump had been at the bottom of the well. When it was pulled for repair, a camera was lowered to determine the problem. The well repair company observed a lot of shelf edge failure near the bottom causing the silt pollution and recommended that the pump be raised 60 feet ( three pipe lengths) when reinstalled. The water company followed this suggestion and the result was much less silt for the remainder of the summer. Further useage restrictions were not necessary.

14. On October 14, 2011, Southwest Water placed in service a new water filter. This is a conventional three layer filter. There is capability to add a coagulant, but that is not being used initially. There are two new 12,500 gallon tanks and a pump included, one tank holds water for back washing and the other stores back wash effluent. Southwest states that this system cost \$400,000. Initial test results show that well water going into this filter has a solids reading of 46 NTU. Initial effluent results were 0.04 NTU, a dramatic reduction. Subsequent effluent tests results showed readings below 0.40 NTU which is the goal for many water systems.

15. On April 22, 2011, Southwest Water filed an application with TCEQ to consolidate 8 separate owned utilities (including Water Services that serves Country Bend) into a single utility named Monarch, the STM(Sale, Transfer, & Merger). Assuming that this STM would be routinely approved, Southwest Water on May 27, 2011, filed an application with TCEQ to dramatically increase water rates for the 33,000 customers of Monarch. For residents of Country Bend, rates were increased by 150%. Under the Texas Water Code, Monarch was permitted to implement these new rates on August 1. Due to customer and legislator outrage and protests, Judges of the SOAH court held hearings in Austin on October 10 and November 8 to accept written and verbal customer and Legislator protests. At the conclusion of the November 8 hearing, the SOAH Judges abated the August 1 rate increase and beginning with the first meter reading after November 15, set interim rates equal to the rates in use prior to August 1. The SOAH judges also stopped the STM, accepted jurisdiction, and set a contested case hearing schedule for the STM that will last well into 2012. There will not be a rate increase until the STM issue is resolved.

16. On April 16, 2012, Southwest Water filed a motion with the SOAH Court to withdraw the STM case and terminate the August 1, 2011 rate increase request.

17. On June 29, 2012, Southwest Water, still Water Services, filed a rate increase request for Country Bend with TCEQ to take effect September 1, 2012. Refunds from the 2011 rate increase that lasted four months have not yet been received.

18. On June 29, 2012, Southwest Water installed emergency switches in the main water plant (P1) and at the Boerne Haze booster station (P2) that will allow them to connect an emergency generator in the event of a power failure. They also placed a mobile, diesel driven, emergency power generator at the P1 station and demonstrated its use to HOA members.

19. On Sunday, July 15, 2012, during a rain and lightening storm, Country Bend experienced several electrical outages that shut down the water plant and well (P1). At 7:35 pm, a Southwest Water technician switched from CPS power to the emergency generator until 5:00 am on July 16, when CPS was placed back on line. Thus, for the first time, most of Country Bend, except for the Boerne Haze Hill (P2), had uninterrupted water supply during a power outage. Southwest Water will try to find or purchase a similar emergency generator for the P2 station.

20. A rate increase was imposed by Southwest Water on September 1, 2012, without opposition.

21. On September 27, 2012, Southwest Water installed a bypass line and valve that allows them to bypass the Boerne Haze lift station in the event of a power failure or other pumping problem. A test conducted after the line was installed with the lift pumps off showed water pressure at the top of the Boerne Haze hill in the 25 to 30 psig range. This is high enough to provide for basic human needs, but not for landscape watering.

22. On May 25, 2013, the Texas Legislature unanimously approved HB 1600/SB 567 that transfers oversight of investor owned water systems from TCEQ to the PUC effective Sept 1, 2014. Governor Perry allowed this law to pass without his signature on June 16, 2013. This change also provides that rate payers will be assisted by the Office of Public Utility Counsel (OPUC) effective Sept 1, 2013.

23. On September 3, 2013, Southwest Water filed a request with the TCEQ for a rate increase effective January 1, 2014. The cost for 5000 gallons per month would increase 13% and the cost for 10,000 per month would increase 25%.

24. With the help of several other Water Services sub divisions, we were able to gather enough protest petition signatures to be awarded a protest hearing before SOAH Court Judge Hunter Burkhalter on June 23, 2014, in Austin. Settlement negotiations at this hearing were successful as Southwest Water made rate concessions effective July 1, 2014, with a small increase on Jan 1, 2015 (but still below the original rates filed), and agreed to not file for another rate increase before Sept 1, 2015. At that point, Southwest Water will follow PUC rules which require a hearing and proof of the need for a rate increase before the increase can be instituted. We received no help from the OPUC in this protest.

25. In September, 2015, Water Services replaced the 8" water line on Boerne Forest between Autumn Glen and Boerne Glen. They tunneled under Autumn Glen and laid the new line inside a sleeve. They tunneled under the driveways on the south side of Boerne Forest, but did not use a sleeve.

26. Between September 1, and November 12, 2015, Country Bend well #1 was out of service due to heavy silting. Water Services hired a contractor to rehabilitate this well using the "jetting" method. During this outage, the system relied solely on well #2 and truck deliveries.

27. After one year, it appears that "jetting" #1 well was successful. Silt excursions have stopped, and after 365 days for the system to clear of many years of excessive silt, water quality is improved.

28. SAWS 24" water line leaks next to Autumn Sound: December, 2015 and January 14, 2017.

29. On May 17, 2017, Water Services hired a contractor (JK Utility Services of Wimberly) to remove the three WELLXTROL bladder vessels (WX350), each with a capacity of 119 gallons, from the Boerne Haze pump station and install two new WELLXTROL bladder vessels (WX457c), each with a capacity of 526 gallons. Total expansion tank capacity was increased from 357 gallons to 1052 gallons, 295%. The roof of the pump house was removed for this work and replaced with a new roof.