

Hingtgen, Robert J

From: Donna Tisdale <tisdale.donna@gmail.com>
Sent: Tuesday, April 29, 2014 4:06 PM
To: Fogg, Mindy
Cc: Hingtgen, Robert J; Gungle, Ashley; Bennett, Jim; Wardlaw, Mark; Jacob, Dianne; Wilson, Adam; Real, Sami; Jones, Megan; Witt, William
Subject: Re: corrected Soitec Rugged Solar & Rough Acres Water Co
Attachments: Rough Acres Water Co infrastructure grant deed 8-31-12.pdf

Mindy,

Thanks for the call. As discussed, please further research the fact that the Rough Acres Foundation transferred all the wells, tanks, and pipes (water infrastructure) to the Rough Acres Water Company through a grand deed recorded with the County Records Office on August 8, 2012. That Grant Document # 2012-0526783 was referenced in and attached to my previous message. For your convenience, I have attached the grant document to this message, as well.

The question remains:

- How can Soitec, Tule Wind, or the Rough Acres Ranch projects use water from the wells, tanks, and pipes (infrastructure) that has already been transferred, via a recorded grant deed, to Rough Acres Water Company, Inc, *without buying it from Rough Acres Water Company, Inc?*

I am requesting to be kept informed on how the County decides to resolve this issue that has the potential to impact off-site well owners, seeps and springs and other groundwater dependent resources and habitat.

There are also unresolved issues related to the proposed water sales to Soitec and others from Pine Valley Mutual Water Company and the Jacumba Community Services District and the related inadequate groundwater investigations that contain misleading, incomplete and/or incorrect information. Additional information will be provided as my limited time allows.

The Tule Wind MUP also uses Live Oak Springs Water as a backup water supply source even though the CPUC suspended bulk water sales as unauthorized, and in CPUC investigation #12-08-004 (closed in 2013) recommended a \$1 million fine along with appointment of a receiver to protect the health and safety of Live Oak customers due to Live Oak's unresponsiveness to Commission rules and order, inability to timely comply with DEH requirements, and falsification of lab report. The CPUC investigation documents and approved CPUC decision are posted here:
<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M079/K514/79514965.PDF>

Regards,

Donna Tisdale
619-766-4170

On Tue, Apr 29, 2014 at 3:13 PM, Fogg, Mindy <Mindy.Fogg@sdcounty.ca.gov> wrote:

Hi Donna,

Thank you for discussing this further with me over the phone today. I would like to clearly state up front that we agree that Rough Acres Water Company, Inc. does not qualify as a Water Service Agency.

The definition of a Water Service Agency is used in the Groundwater Ordinance to determine whether or not the requirements of Section 67.722 of the Groundwater Ordinance are applicable to a project.

Section 67.722 states the following:

Any application listed at Section 67.711 for a project not subject to Section 67.720 or Section 67.721, which proposed the use of groundwater **not provided by a Water Service Agency**, for all or any portion of the project, shall comply with the following regulations:

- A. Residential Density Controls (*Not applicable to this project since it is a MUP*)
- B. Groundwater Investigations (*Applicable to this project*)
- C. Well Tests (*Not applicable to this project since it is a MUP*)

The project proposes to obtain its groundwater from on-site wells that are part of the Rough Acres Water Company. We determined that the Rough Acres Ranch Water Company is not a Water Service Agency as defined within the Groundwater Ordinance. Therefore, for the on-site wells, we required a groundwater investigation that must meet the requirements contained within Section 67.722.B. Groundwater Investigations. The groundwater investigation for the site was completed and a draft was circulated for public review. Please note that this is consistent with how we processed the Tule Wind MUP and how we are processing the Rough Acres Ranch Campground MUP.

In addition, the Rugged Solar project proposes to obtain additional water from the Pine Valley Mutual Water Company and possibly from the Jacumba Community Services District. Both of these sources are Water Service Agencies, and the requirements of the County Groundwater Ordinance do not apply to water obtained from these sources. However, groundwater investigations were completed to evaluate potential impacts to groundwater resources from obtaining water from both these sites pursuant to the California Environmental Quality Act. The groundwater investigations for these sites were completed and the draft documents circulated for public review.

Per our phone conversation today, I will do a little more research on why the grant deed that you cited below recognizes Rough Acres Water Company as a California Mutual Water Company, and what was intended by that. I will get back to you on the status of my research by Thursday of next week (May 8th).

Thanks again,

Mindy Fogg | Planning Manager | Project Planning

COUNTY OF SAN DIEGO | Planning & Development Services

5510 Overland Avenue | Suite 310 | San Diego | CA | 92123

T. [858.694.3831](tel:858.694.3831) | MS: 0650

PDS Website <http://www.sdcountry.ca.gov/pds>

From: Donna Tisdale [mailto:tisdale.donna@gmail.com]

Sent: Friday, April 18, 2014 11:09 PM

To: Hingtgen, Robert J; Fogg, Mindy; Gungle, Ashley; Bennett, Jim; Wardlaw, Mark; Jacob, Dianne; Wilson, Adam

Subject: corrected Soitec Rugged Solar & Rough Acres Water Co

I am resending my previous message with the correction highlighted in the first sentence

Hello Robert,

For the record, Soitec's Rugged Solar project **does not** appear to comply with the County's Groundwater Ordinance, as amended in 2013, particularly, the section from Page 2 that has been pasted below and highlighted:

- **Water Service Agency:** Any city, mutual or municipal water district, or any other private or public agency which provides water at retail from either: (1) groundwater resources, to two or more users; or (2) imported water resources. Such water service agency must be in existence prior to the date of submittal of any project relying on service from that agency

Non-compliance is based on the following:

1. Soitec's Rugged Solar MUP application was filed with the County on or before May 5, 2012, based on the Project Description document revised on May 10, 2012.
2. Rough Acres Water Company, Inc's Articles of Incorporation were not filed with the Office of the Secretary of the State of California until a month later on June 4, 2012
3. The Grant Deed (Doc# 2012-0526783) transferring the rights, titles, and interest of all water system improvements and facilities (...), from Rough Acres Foundation to Rough Acres Water Company, Inc, was not recorded until almost four months later on August 31, 2012

According to Peter Neubauer, DEH, whose department regulates Rough Acres Water Company, Inc, it is a privately owned public water system--not a mutual water company

However, the Grant Deed for the infrastructure transfer misrepresents it as a "California mutual water company" . This may explain the incorrect understanding repeatedly stated by the Pine Valley Mutual Water Company and others.

This is one of many questionable and controversial issues related to Rough Acres Ranch and Soitec's Rugged Solar.

Please confirm receipt of this information.

Regards,

Donna Tisdale

619-766-4170

bcc: interested parties

Attachments:

1. Groundwater Ordinance Amended 2013
2. Certified copy of Rough Acres Water Company's Articles of Incorporation
3. Rough Acres Water Company's grant deed transferring water system infrastructure

DOC # 2012-0526783



AUG 31, 2012 3:51 PM

OFFICIAL RECORDS

SAN DIEGO COUNTY RECORDER'S OFFICE
Ernest J. Dronenburg, Jr., COUNTY RECORDER

FEES: 35.00
OC: OC

26320

PAGES: 4



RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

John W. Gibson, President
Rough Acres Water Company, Inc.
1000 Pioneer Way
El Cajon, California, 92020

FL
4P
10M
WF

Space above this line for Recorder's Use

GRANT DEED
(Water System Infrastructure)

THE UNDERSIGNED GRANTOR DECLARES:

- Documentary Transfer Tax is: \$ 0- (same proportionate interest)
- San Diego County unincorporated area or _____
- computed on full value of interest or property conveyed, or
- computed on full value of liens or encumbrances remaining at time of sale.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Rough Acres Foundation, hereby GRANTS to Rough Acres Water Company, Inc., a California mutual water company, the following described property in the County of San Diego, State of California:

All right, title and interest to all water system improvements and facilities, including but not limited to any existing wells, pipelines, water tanks, pumps, power lines, treatment facilities, and related machinery and equipment necessary for the efficient operation of the water systems as set forth in Exhibit A attached hereto, and underlying the real property described in the attached Exhibit B.

APN: 611-070-03

Dated: August 24, 2012

Rough Acres Foundation

By: Valerie Cornelius
Valerie Cornelius, Treasurer

MAIL TAX STATEMENTS TO:

John W. Gibson, President
Rough Acres Water Company, Inc.
1000 Pioneer Way, El Cajon, California, 92020

26321

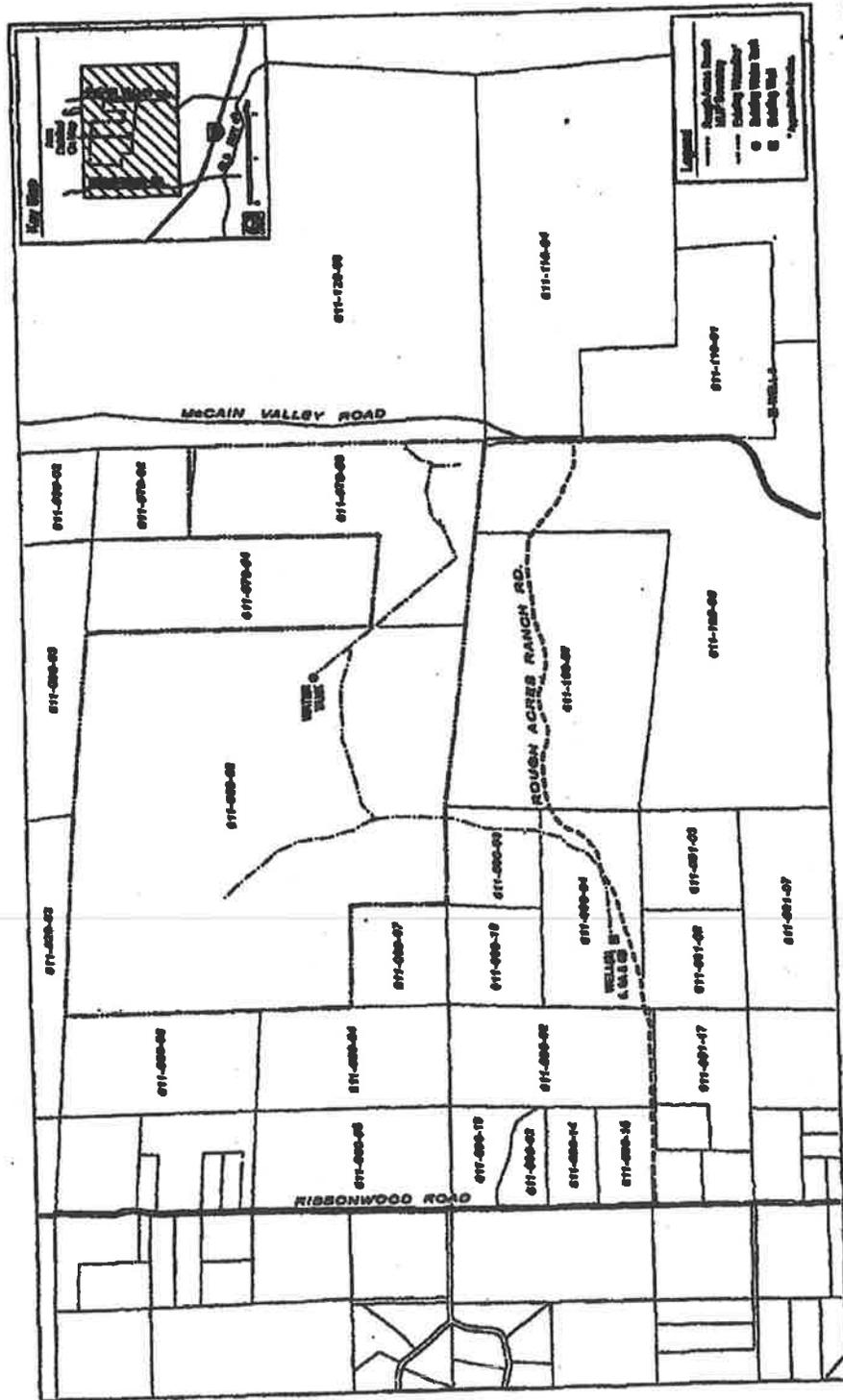
EXHIBIT "A"
DESCRIPTION OF WATER SYSTEM ASSETS

Water Tanks;

Water Lines; and

Water Wells

EXHIBIT B1



9077.

RIE Existing Waterlines
Landscape, Inc. 10000 North 10th Street, Suite 100, Scottsdale, AZ 85258

