



COUNTY ADMINISTRATOR'S OFFICE

PIMA COUNTY GOVERNMENTAL CENTER
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C.H. HUCKELBERRY
County Administrator

May 28, 2013

Peter Yucupicio, Chairman
Pascua Yaqui Tribe
7474 S. Camino De Oeste
Tucson, Arizona 85757

Re: Development of an Intergovernmental Agreement Regarding for Sewer Service on Tribal Lands

Dear Chairman Yucupicio:

Thank you for your letter of May 15, 2013. I am encouraged by the Tribe's willingness to work with the County to resolve the longstanding issues related to sewer service on Tribal lands.

Per your request, I have attached a summary of key concepts for the new draft intergovernmental agreement. At such time as we jointly develop additional details, Pima County will furnish a complete draft document for your review.

I am pleased the Tribe is willing to conduct a joint review of connected facilities within the Pascua Pueblo. As you stated in your letter, establishment of a baseline should eliminate the source of many disagreements between the County and the Tribe related to service. County staff will be contacting Tribal staff to implement the review.

In your letter, you also expressed concern about the use of information gathered during the joint connection review. Please be assured that the County will not use the gathered information as a basis for refusing future connections to the County's sewer system. The current intergovernmental agreement between the Tribe and the County (at Sections 3.2 and 11) requires the County to provide sewer service to the Tribe through the Interim Connection Period. The County will continue to honor this commitment with the hope of reaching a long-term service agreement with the Tribe prior to the end of the Interim Connection Period.

Chairman Peter Yucupicio

Re: Development of an Intergovernmental Agreement Regarding for Sewer Service on Tribal Lands

May 28, 2013

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We look forward to cooperatively working with the Pascua Yaqui Tribe in the development of a mutually satisfactory arrangement for establishing and maintaining sewer services.

Sincerely,



C.H. Huckelberry
County Administrator

CHH/mjk

Attachments

- c: The Honorable Chairman and Members, Pima County Board of Supervisors
John Bernal, Deputy County Administrator for Public Works
Jackson Jenkins, Director, Regional Wastewater Reclamation
Charles Wesselhoft, Deputy County Attorney

**FRAMEWORK FOR THE PROPOSED
INTERGOVERNMENTAL AGREEMENT BETWEEN PIMA COUNTY
AND THE PASCUA YAQUI TRIBE REGARDING SEWER SERVICE**

1. The new Intergovernmental Agreement (IGA) will supersede all past agreements.
2. The County agrees to provide service to the Pascua Pueblo for a term of 50 years under the same terms and conditions as are applicable to all County sewer service customers.
3. During the term of the Agreement, either party may terminate with notice. In the event either party terminates within four years of the effective date, the Pascua Yaqui Tribe (Tribe) is entitled to a refund of certain connection fees on a declining percentage basis.
4. The IGA requires the parties to agree on establishing a baseline of current connections and on the amount of connection fees due or overpaid for those connections.
5. Once the baseline is set and the appropriate fees have been paid, all existing connections, whether identified or unknown, are "grandfathered" provided, however, that future changes in service, etc. may trigger additional connection fees at the time of change.
6. The Tribe is guaranteed flow capacity equivalent to the estimated flow from the remainder of the "1,000 house" allocation in the 1990 Memorandum of Understanding. The Tribe may use this flow allocation as it wishes.
7. Augmentation of the sewer is deferred until flow in the existing line warrants construction. The County will share augmentation design and construction costs with the Tribe.
8. The parties are to develop and implement a Best Management Practices program for tracking future connections, controlling industrial/commercial discharge impacts on the system, and properly maintaining the conveyance system.

PASCUA YAQUI TRIBE

OFFICE OF THE CHAIRMAN



May 15, 2013

Via Certified Mail, Return Receipt Requested

Tracking No: 7005 1820 0006 5855 4792

C.H. Huckelberry
County Administrator
Pima County
130 W. Congress, Floor 10
Tucson, Arizona 85701

***Re: Your March 25, 2013 Letter Regarding Our Discussions with Regional
Wastewater Reclamation Department***

Dear Mr. Huckelberry:

I am in receipt of your March 25, 2013, letter regarding discussions between representatives of the Pascua Yaqui Tribe (Tribe) and Pima County Regional Waster Reclamation Department (RWRD) relating to the provision of wastewater services on the Pascua Yaqui Reservation (Reservation).

First, thank you for expressing Pima County's desire to continue to provide wastewater services to the Tribe. While the Tribe was required to provide notice of its intent to construct a Tribal wastewater treatment plant (Tribal WWTP) on the Reservation pursuant to the Intergovernmental Agreement between Pima County and the Pascua Yaqui Tribe for Interim Sewer Service dated December 20, 2011, as amended, I explained in my earlier letter to Pima County, dated January 30, 2013, that the Tribe remains committed to working with Pima County and RWRD to develop potential terms of a revised agreement for continued sewer services with Pima County, which would include the early payment of outstanding connection fees, if we are able to mutually achieve a fair and equitable agreement for both the Tribe and Pima County.

As stated in your letter dated March 25, 2013, it is the Tribe's understanding that the County has decided to set aside the prior drafts of the IGA that we have been exchanging and that the County has developed a "greatly streamlined proposed agreement" that it intends to propose to the Tribe. While the Tribe does not quite fully understand what may be included in a streamlined agreement, the Tribe is certainly willing to entertain a new proposal by Pima County related to the IGA and looks forward to seeing a new draft.

The Tribe agrees that there is a need to establish a baseline regarding the extent of prior connections to Pima County's sewer systems so that we can remove any uncertainty going forward. To this end, the Tribe has considered your suggestion that we have our respective

technical staff engage in a "joint effort to clearly identify which structures on Tribal Lands are connected to the public sewer system and the size of the water meter providing services to each structure."

The Tribe is certainly willing to work with Pima County's technical staff to complete this task, provided that this task is undertaken concurrently with completing the final accounting regarding past payments made by or for the Tribe for sewer connections and capacity. The Tribe also requests that Pima County agree to at least share a framework of the streamlined draft agreement it has recently prepared in advance of the technical work that would be undertaken.

But we also ask your understanding of the fact that it is important to the Tribe that Pima County agree that it will not use any information gathered during the joint review, or for that matter any issues regarding alleged monetary obligations for past connections to the County's sewer system, to deny the Tribe the ability to connect to Pima County's sewer system in the future.

Frankly, Pima County's history of threatening to decline future sewer service connections based upon allegations of "delinquent" connection fee payments was a major contributing factor in the Tribe's decision to develop a Tribal WWTP on the Reservation. If we can establish a baseline regarding the extent of prior connections to Pima County's sewer systems so that we can remove any uncertainty going forward, this will remove one of the most significant barriers that presently stands in the way of the Tribe remaining connected to Pima County's system.

The Tribe has waived its sovereign immunity so that these types of payment issues can be resolved in the courts if ultimately necessary pursuant to the terms of the IGA. Again, the Tribe asks the County's consideration of the fact that removal of the possibility of denial of service for future projects, and instead resolving monetary issues regarding existing disputes through mediation or the courts, would go a very long way to the Tribe reconsidering its decision to construct its own Tribal WWTP.

Thank you for taking a direct interest in this important matter for Pima County and the Tribe. I look forward to hearing whether this approach is amenable to the County.

Sincerely,

A handwritten signature in black ink, appearing to read 'JZU', with a long horizontal line extending to the right.

Peter Yucupicio, Chairman
Pascua Yaqui Tribe

cc: Clerk of the Board, 130 West Congress Street, 5th Floor, Tucson, AZ 85701
Robert Gillon, Assistant Attorney General, Pascua Yaqui Tribe