

From: Roberts, Jim
Sent: Tuesday, November 10, 2009 11:55 PM
To: Mariella Smith
Cc: Merrill, Mike; Sharpe, Mark; Weiss, T. Barton; Stewart, Edith
Subject: RE: Cone Ranch chain of ownership, purchase price

Ms. Smith,

In 1988, West Coast held an option to purchase Cone Ranch and entered into an agreement with the County to essentially allow the County to purchase the property under that option (the "transfer agreement"). In consideration of allowing the County to purchase the property, West Coast received the water-development rights and the County received the right to all water produced by West Coast from the property. The approximately \$12M purchase price was the value of the land as negotiated by its owner at the time--not the value of the water-development rights.

The transfer agreement included a reversion clause if the property "cannot" be used as a water source, but the "impossibility" of such use has not been established. It may be possible to develop a water source even if it is not feasible to do so.

In 1998, West Coast became Tampa Bay Water. At that time, the County relinquished its rights to any water produced on Cone Ranch in consideration of TBW's promise to supply all of the County's water needs. In 1999, the County initiated negotiations for release of TBW's water-development rights on Cone Ranch but no agreement was reached.

The County's water utility is not a separate legal entity and therefore cannot take legal title to any asset. The attached document may be helpful in understanding the relationship of the utility and the County.

I am in training this week and won't have computer access during business hours until Friday. Please contact me if additional information is desired.

Jim Roberts, General Manager II
Hillsborough County Water Resource Services
925 E. Twiggs St.
Tampa, FL 33602
813-272-5977 (43204)

From: Stewart, Edith
Sent: Tuesday, November 10, 2009 11:42 AM
To: Mariella Smith
Cc: Roberts, Jim; Merrill, Mike; Sharpe, Mark
Subject: RE: Cone Ranch chain of ownership, purchase price

Ms. Smith, the water rights do not have to be developed in order for TBW to have authority over them. One of the recommendations that may come from the Advisory Panel is for the county to pursue the release of those water rights.

When Tampa Bay Water was formed through the regional agreement, water assets were part of the agreement - no money was asked for or exchanged. You would need to read that agreement to understand the extent of contribution by the member governments.

Since I do not know the answer to the deed transfer question, I am referring your request to Jim Roberts from WRS.

From: Mariella Smith [mailto:insightgraphics@earthlink.net]
Sent: Tuesday, November 10, 2009 11:13 AM
To: Stewart, Edith
Cc: Merrill, Mike; Sharpe, Mark
Subject: Re: Cone Ranch chain of ownership, purchase price

Thank you, Ms. Stewart, for your prompt response.

I do appreciate that you are very busy, so please understand that I had pored through the online documents before I brought my questions to you.

The first document you list indicates that TBW owns the water rights, which they inherited from WCRWSA, as everyone seems to assume. One puzzle is that they never seemed to have paid for these rights. Furthermore, every time their water rights are mentioned, it is also stated that if the site cannot be used as a water source, then the water rights shall be conveyed back to the county, and WCRWSA/TBW "shall have no further interest in Cone Ranch." **So how is it that TBW is still assumed to possess the water rights? Why doesn't the county press them to release those rights?**

The second document you list indicates that financing for the entire purchase price was provided by the Water Utility, so I can see how they would assume this gives them ownership of the land, but why do they not assume they also bought the water rights, even if they had an understanding that WCRWSA/TBW would develop the water?

Finally, this puzzle remains unanswered in my mind:

There were 2 deeds changing hands within 3 days of each other -- one for \$12M with water rights, and one for \$100 without water rights.

If the Water Utility paid the \$12M, why didn't they buy the water rights (albeit with the understanding the WCRWSA would develop & supply the water)?

After the land (without the water rights) was deeded to the county (not the Water Utility) for \$100, did the county ever formally transfer that deed to the Water Utility?

It is not clear to me that the land is deeded to the Water Utility, specifically. It looks as though the Water Utility may have provided financing while the county, as a whole, retained ownership of the land. If there is documentary evidence to show otherwise, please provide it.

It is not clear to me how the Water Utility could have provided full financing, without now owning the water rights, especially since WCRWSA/TBW has never, in 20 years, fulfilled its contractual obligation to provide water to the Utility from this site.

If my questions are not clear yet, please read my original message below.
Thank you,

Mariella

On Nov 10, 2009, at 9:49 AM, Stewart, Edith wrote:

Ms. Smith, here are two key documents that answer your questions. I would refer you to our Cone Ranch website for further enlightenment and history on the Cone Ranch property.

<http://www.hillsboroughcounty.org/coneranch/resources/publications/info/19991201reperortabr.pdf>

<http://www.hillsboroughcounty.org/coneranch/resources/publications/info/2172009minutes.pdf>

From: Mariella Smith [<mailto:insightgraphics@earthlink.net>]
Sent: Tuesday, November 10, 2009 9:20 AM
To: Merrill, Mike; Stewart, Edith
Cc: Sharpe, Mark
Subject: Cone Ranch chain of ownership, purchase price

Dear Mike Merrill & Edith Stewart,

Please help me figure out this matter quickly, as I am scheduled to speak publicly about Cone Ranch on Thursday, and I'll be discussing it with Sierra Club & U-CAN this week.

The documents attached and listed below show how Tampa Bay Water's predecessor, West Coast Regional (WCRWSA), bought Cone Ranch for \$12M, then sold the land to the county (not the Water Utility) for \$100, while retaining the water rights.

If the water rights were retained by WCRWSA -- the entity that paid \$12M -- while the land itself was sold for \$100 to the county (not the Water Utility), how is it that the Water Utility claims to have paid \$12M for the land itself, while TBW claims to have inherited the water rights from WCRWSA?

Even if the Water Utility paid WCRWSA \$12M (when? where's the documentation?), it seems like the Water Utility could have only bought the water rights from WCRWSA, for that is all that WCRWSA owned after WCRWSA deeded the land to the county (not the Water Utility) for \$100. Furthermore, it seems like the county (not the Water Utility) should still own the land, minus the water rights, which they bought for \$100 in 1988.

(Back in 1988, the water rights were deemed to be worth \$12M, though they are practically worthless now, given today's much stricter wetland regulations.)

If the Water Utility owns the land (but not the water rights?) please explain how that happened, and provide documentation. When did the Water Utility buy the land from the county which paid \$100 for it; and how much did the Water Utility pay the county? If the Water Utility ever paid \$12M to WCRWSA, how could they not have bought the water

rights, when the water rights were all that WCRWSA owned -- WCRWSA could not own the land after they deeded the land to the county?

Documentation:

2/17/88 WCRWSA bought Cone Ranch from A.K. Florida Properties for \$11,976,650

The online doc "Interlocal Agreement between Hillsborough County and the West Coast Regional Water Supply Authority - 02/17/1988 (PDF, 1.64MB)" shows West Coast Regional Water Supply Authority (WCRWSA), bought Cone Ranch from a private entity for \$950/acre x 12,607 acres = \$11,976,650 on February 17, 1988.

3/28/88 WCRWSA gets warranty deed from A.K. Florida Properties for \$11,794,700

See attached "Cone Ranch deed 1.pdf" the deed includes the water rights. The Property Appraiser's web site records the value as \$11,794,700. (see folios numbered 089075-0000, 089079-0000, 089160-0000, 089161-0000, 089175-0000, 089178-0000, 089315-0000, etc.)

3/31/88 WCRWSA sells warranty deed to Hillsborough County for \$100, but retains the water rights

See attached "Cone Ranch deed 2.pdf" the deed specifically excludes the water rights. The Property Appraiser's web site records the value as \$100. (see folios numbered 089075-0000, 089079-0000, 089160-0000, 089161-0000, 089175-0000, 089178-0000, 089315-0000, etc.)

Sincerely,
Mariella Smith
645-4218