



# Moyes Sellers & Hendricks

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September 17, 2014

## VIA ELECTRONIC MAIL

United States Department of Agriculture  
Kaibab Forest Service  
Attn: James Simino, Tusayan District Ranger  
PO Box 3088  
Grand Canyon, Arizona 86023

Town of Tusayan  
Attn: Will Wright, Manager  
PO Box 709  
Tusayan, Arizona 86023

### **Re: Utility Easement on Forest Land**

Dear Mr. Simino and Mr. Wright:

Our firm represents the Tusayan Sanitary District (“District”). The purpose of this letter is to point out that the District has not been provided any opportunity to provide its input regarding plans to site the wastewater collection system or reclaimed water delivery system.

As you may know, the Northern Arizona Council of Governments (“NACOG”), which is the local Designated Planning Agency concerning water quality issues, has authorized the District to serve as the Designated Management Agency (“DMA”) for the Tusayan area. As the DMA, the District is responsible for implementing the water quality plan for the area. This legal planning authority is intended to protect local water quality from degradation by wastewater releases, thereby safeguarding the long-term water supplies of the entire community. Accordingly, the District actively works to make certain that all proposed wastewater treatment facilities, including collection systems, are properly planned. The Arizona Department of Environmental Quality (“ADEQ”) and NACOG want

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all structures requiring sanitary service to connect to a central regional sewer system. In fact, the NACOG Section 208 Water Quality Management Plan specifically states that ADEQ and DMAs should encourage centralized wastewater treatment systems. The District takes this directive seriously and believes that centralized systems are optimal due to the dual benefit of protecting groundwater quality by treating the influent and providing effluent for non-potable reuse.

Recently, the District learned the Town of Tusayan ("Town") filed with the United States Forest Service ("Forest Service") an Application for Transportation and Utility Systems and Facilities on Federal Lands ("Application"), without prior consultation with the District. This Application contemplates siting what is essentially a utility easement ("Easement") across Kaibab National Forest land ("Forest"). The District understands this Easement is necessary to serve private lands being developed by Stilo Development Group USA, LP ("Stilo").

As the DMA, the District is responsible for ensuring that the wastewater collection system is adequately sized and sited to meet the contemporary and future needs of the entire community. Unfortunately, the District has not been consulted on these issues. While the Forest Service obviously has the authority to decide where the lines should be located on the Forest, the District has the authority to decide where lines should connect to the existing system. To be clear, the District will not be driven into ill-advised planning decision because transmission line siting was conducted and an Easement was granted without the District's input. Accordingly, siting the transmission lines and Easements on the Forest before it is determined where the lines need to connect to the existing system makes little sense.

Further, once construction is completed, the District may own and operate the wastewater collection system and effluent distribution system. Consequently, the District will insist upon siting, design and construction that will keep operational costs reasonable. Between the connection locations and the operational issues, the District firmly believes that it should be included in the utility line siting process.

Finally, our understanding is that the Forest Service issues Easements to specified entities for the construction, operation and maintenance of utility lines on the Forest. As written, the Application for the Easement is being filed by the Town. The District understands that the Town will neither construct nor own the

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utilities. Thus, the District is unclear as to the rights of a utility to operate within the Easement if the Application is granted to the Town as written.

If you should have any questions or concerns, please feel free to call me.

Respectfully,



Steve Wene

SW/dmn

cc: Mike Williams