

Montana State Legislature

Exhibit Number: 7

The following exhibit is several assorted documents that exceeds the 10-page limit therefore it cannot be scanned. A small portion has been scanned to aid in your research for information. The exhibit is on file at the Montana Historical Society and can be viewed there.

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EXHIBIT 7
DATE 2/1/05
HB 627

Summit Valley Turf
P.O. Box 66
Harrison, MT. 59735
January 29, 2002

Mr. Jim Johnson
Public Works Director
155 W. Granite
Butte, MT. 59701

Dear Mr. Johnson,

I enjoyed talking with you on the phone January 24, 2002, and appreciate your respect for my concerns about the sod production facility the Department of Public Works administrates. For the record, I want to tell you straight out that I'm not interested in causing undue trouble for your department and I realize that cities and counties all over the country face undaunting challenges in the proper and environmentally sensitive solutions to waste disposal. However, as a sod producer in the area I'm sure you can understand my concern about the market place in which my son and I have invested in. The Butte-Silver Bow area has been the focal point of our business plan since 1997.

* As I said, I'm not interested in unnecessary intervention in the county's business of solving nitrate contaminated soil as you explained, but as I talked with you further I realized that there is seemingly no criteria in place other than your word that you have no intention of competing with private interests in the sod business. As a producer, businessman and tax payer, I believe it is only right that your personal assurance is documented and monitored in the public interest. Therefore, I would respectfully request that you provide me with some facts of how your production facility operates.

Financial: Does the Public Works Department receive state, federal, or local tax revenues to construct, operate, or employ persons in conjunction with their sod producing facility? If so, could you break down the revenue sources categorically.

2003 Information Request

1. Current Figures on total square feet of sod sold or used internally by BSB Water and Sewer Dept. Since first harvest.
2. Detailed addresses and amounts of sod used on all projects.
3. Detailed wages paid to all persons involved in production, harvest and installation of sod . Include: Private employees
Prison or Pre-release personnel
County or City Inmates
4. Detailed costs for transportation of harvested sod to job sites. Identify equipment or private contractors used.
5. List in detail: receipts from all income sources related to the sales and installation of sod produced and installed by BSB Public Works Dept.
6. List professional training programs that growing, harvesting and installing personnel attend.
7. Irrigation:
 - How many gallons per day does the sod facility use of BSB waste water?
 - Does the sod facility use water other than high nitrate BSB waste water?
 - If so, identify the other sources:
 - Wells Yes__ No__ Location_____
 - Surface Water Rights Yes___ No___
 - Treatment Water from BSB Yes_____ No_____

126 W. GRANITE
BUTTE, MT 59701



OFFICE: (406) 497-6515
FAX: (406) 497-6524

March 4, 2002

R.J. Wagner & Ben Wagner
Summit Valley Turf
P.O. Box 66
Harrison MT 59735

Dear Sirs:

First of all, neither my staff nor I have the time or the inclination to answer your lengthy and somewhat ambiguous questions. As I tried to explain, during our extensive phone conversation, Butte-Silver Bow, at present, intends to use its sodsoley on public and non-profit facilities. I will not however, rule out using our sod for other purposes in the future.

For your information, please be advides that we have had an extremely good working relationship with Jim Hysel of Hysel Springhill Nursery for over twenty years and have purchased thousands of square feet of sod from Jim over the years.

In closing, I would respectfully suggest you take a hard look at your marketing plan. During the past construction season, contractors working on Butte-Silver Bow projects, purchased well over one million square feet of sod. I can't help but feel if you were marketing your sod effectively and are competitive, both in quality and pricing, you would have been chosen by general contractors to supply some of the sod on these projects.

* One of the top priorities of the Public Works Department is saving Butte-Silver Bow taxpayers and ratepayers money and our sod farm operation helps us achieve that goal.

I hope your business prospers and we are able to do business in the future.

Sincerely,

James E. Johnston
Public Works Director

CC: Judy Jacobson - Chief Executive
Mike Kerns - Council Chairman
Council of Commissioners

Summit Valley Turf
P.O. Box 66
Harrison, MT. 59735
March 21, 2002

Ms. Judy Jacobsen
Chief Executive Officer
Council of Commissioners
155 W. Granite
Butte, MT. 59701

Dear Judy:

After talking with you briefly at the Economic Development meeting, I realized that you possibly shared some of our concerns regarding Jim Johnston's reply to my request for information about the operations at the Butte Silver-Bow sod facility.

I would appreciate it very much if you could further assist us in our endeavor to get some honest and open answers to our questions. I believe at this point, that Mr. Johnston's brief remarks in his letter dated March 4, 2002, reflect an attitude that is not acceptable for a public employee that supposedly is representing the best interests of the people he serves. I can only conclude that from his response, Mr. Johnston either does not know the answers to these questions or does not wish to disclose the answers to these questions for fear that the people of Butte Silver-Bow might not agree with his conclusion about how much he saves and more importantly, who does his actions cost the most.

Anyone who examines my questions to Mr. Johnston will realize that the answers are important to know. These questions should have been addressed prior to opening this facility and should require very little of Mr. Johnston's time to retrieve them from his files. However, if these questions were not addressed, it shows a clear indication of recklessness on the county's part to find out how this facility might effect private enterprise and thus not protecting its citizens and their pocket book. Thank you for your time in this matter.

Sincerely,

R.J. Wagner and Ben Wagner

cc: Mike Kerns
Council Chairman
3412 Hannibal
Butte 59701

Summit Valley Turf
P.O. Box 66
Harrison, MT. 59735
February 25, 2002

Butte-Silver Bow Council
Of Commissioners
Butte, MT.

Dear Commissioner:

Enclosed please find a copy of a letter I sent to the Department of Public Works Director, Jim Johnson.

As of this date I have not received a response to my questions regarding the county's operations practiced relevant to the sod production operation of the waste water treatment facility. I believe it is not unreasonable for him to respond in a timely fashion to my inquiry. This letter was sent certified mail January 30, 2002. I don't mean to cause anyone undue criticism or scrutiny, but I believe the county's activity in this matter is of concern to private business interests and, therefore, should be explained to avoid conflict.

* It appears to me that the county's activities unregulated and unmonitored will lead to an unlawful interference with private enterprises that try to make a living here in southwest Montana.

It is my interest to understand the county's position in this matter and work with the county to reach an amiable agreement that protects our interests and the county's, if that is possible. However, without Mr. Johnson's cooperation and the free-flow of information this approach would be futile. With that in mind, I would respectfully request that the full Board of Commissioners would urge the Public Works Department Manager to provide answers to my questions and work to resolve issues that may arise between all parties concerned. Thank you and I look forward to hearing from you.

Sincerely,

R. J. Wagner

cc
enclosure

**Ben Wagner and Bob Wagner
Summit Valley Turf
P.O. Box 191
Harrison, MT. 59735
December 1, 2003**

**Mr. Michael Kerns
3412 Hannibal
Butte, MT. 59701**

Dear Mr. Kerns:

Enclosed is a copy of the response from the Public Works Department Manager, Jim Johnson. As you can see by his response, we think that it is clear he has an attitude of disdain and contempt for the people he is suppose to serve. We think that his "I will answer to no one" attitude is deplorable, unethical and rude.

We respectfully request that the Commissioners look into our complaint and take immediate action to correct Mr. Jim Johnson. As you can see by the enclosed correspondence, that we brought forth serious issues of accountability regarding the activities of Butte Silver Bow City and County growing sod and disrupting the free enterprise efforts of individuals trying to make a living in Montana. Recently, Butte Silver Bow Public Works donated sod to the Catholic Church. We believe this particular incident is a shining example of just how wrong it is for a government entity to hide behind a tax exempt status and bureaucratic intermingling of funds. We respectfully request the Commissioners to investigate and conduct a complete audit by an independent and unbiased third party auditor, of the Public Works Department and the funds related to the activity of growing sod, installing sod with public employees and donating their sod to religious or other nonprofit organizations. We believe these activities to be unethical and illegal and in direct competition with private enterprise. It is our opinion that only a complete and thorough audit of the Public Works Department will show the people of Butte Silver Bow County the true costs and liabilities associated with the activity of growing sod.

We also believe that once these facts are brought out in the open, the people of Butte Silver Bow will do the right thing and abolish this activity and come up with other ways to deal with the problems associated and the financial challenges of running the Butte Sewer and Water Department.

We would appreciate a response from the Commission dealing with these issues, and we would welcome the opportunity to meet with the Commissioners to clarify the facts about our position and answer any questions you might have and, hopefully, resolve this problem without legal action.

Respectfully submitted,

**Ben Wagner and Bob Wagner
Summit Valley Turf**

cc: All Commissioners



ROBERT M. McCARTHY
BUTTE-SILVER BOW
COUNTY ATTORNEY



December 17, 2003

*Ben Wagner and Bob Wagner
Summit Valley Turf
P. O. Box 191
Harrison, MT 59735*

RE: Complaint about Butte-Silver Bow Sod Farm

Gentlemen:

Your letter to the Butte-Silver Bow Council of Commissioners dated December 1, 2003 complaining about the Butte-Silver Bow City-County Sod Farm has been referred to me for response. Pursuant to this request of the Council, I offer the following comments.

Butte-Silver Bow established a sod farm to address two separate problems facing our local City-County government.

**The first problem is the high amount of nutrients which are found in the effluent water discharged by the City-County Metro Sewer Wastewater Treatment Plant. To correct this problem, the sod farm was developed as part of a plan for nutrient-load reduction into Silver Bow Creek during the months of June - September. During these months one million gallons of effluent per day is pumped from the Wastewater Treatment Plant to the sod farm for irrigation. By eliminating this effluent from Silver Bow Creek during these months, the amount of nutrient discharged to the Clark Fork River is substantially reduced. This drastically reduces the amount of algae in the Clark Fork River in the summer.*

*This sod has been used in public parks, Habitat for Humanity (low-moderate income) housing sites - and has been used by the Continental Public Land Trust (CPLT), a not-for-profit organization involved in the redevelopment of East Butte, particularly in the area of the Belmont Senior Citizen's Center area. In your letter, you incorrectly state "Recently, Butte-Silver Bow Public Works donated to the Catholic Church." *This sod was in fact sold to CPLT as part of the East Butte - Belmont Redevelopment Project.*

I am enclosing a copy of a letter from James J. Kambich, President of CPLT, to Butte-Silver Bow Chief Executive Judy Jacobson, confirming the sale of this sod, along with a copy of the invoice from the Butte-Silver Bow Metro Sewer Maintenance Department for \$14,000.00, the purchase price for the sod. This bill was paid on October 15, 2003, as evidenced by Butte-Silver Bow Treasurer's Receipt A-101 No. 51876 in the amount of \$14,000.00.

The second problem we faced was the need to provide suitable ground cover to correct the effects of 125 years of mining (and smelting) activities. The City-County has inherited substantial amounts of barren property through the tax forfeiture process and is involved in reclaiming other property owned by not-for-profit organizations.

I note in your letter that you say that:

"We also believe that once these facts are brought out in the open, the people of Butte Silver Bow will do the right thing and abolish this activity and come up with other ways to deal with the problems associated and the financial challenges of running the Butte Sewer and Water Department."

All other use
is ~~Banned~~

Based upon your statement, we understand you don't like the action we have taken with respect to creation and operation of the sod farm, but Butte-Silver Bow believes that this program is clearly in the best interests of our Metro Sewer District rate-payers. If this plan for nutrient-load reduction, including the sod farm, is not successful, the rate-payers of the Metro Sewer District will be faced with substantial costs to construct an addition to the Wastewater Treatment Plant. This construction is estimated to cost \$25 - \$30 million. This would cause the sewer rates to increase by at least 4 times.

In summary, Butte-Silver Bow has established this sod farm as an alternative to drastic increases in the sewer rates as well as providing a useful remedial source of ground cover (sod) for the citizens of Butte.

I hope that this answers your questions about the reasons for the development and operation of the Butte-Silver Bow City-County sod farm.

Sincerely,



ROBERT M. McCARTHY
BUTTE-SILVER BOW
COUNTY ATTORNEY

RMM/sk

encs.: (3)

*cc: Judy Jacobson, Chief Executive
Mike Kerns, Council Chairman
Council of Commissioners
James J. Kambich, President, CPTL*