

LION'S GATE WATER

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August 23, 2011

Mr. Craig Roepke, P.E.
New Mexico Interstate Stream Commission
Post Office Box 25102
Santa Fe, New Mexico 87504-5102

RE: RECONSIDERATION OF LION'S GATE WATER TIER I PROPOSAL

Dear Mr. Roepke:

The evaluation of our Preliminary Tier 1 proposal was deficient and worthless as an evaluation. We were notified of three deficiencies in the most cursory manner. Each was a single line and an incomplete sentence. There was no detailed evaluation that could be used to improve the Tier 1 proposal. Lion's Gate Water (LGW) went to considerable effort to augment our Tier 1 proposal by providing additional information by following the outline for Tier 2 while still calling it Tier 1 and submitting it as such. There was no discussion of what might have been good about the original Tier 1 proposal. Hence in our view your evaluation system leaves much to be desired. Evaluations are supposed to be helpful.

It is my understanding that you have disqualified the Tier 1 proposal that we submitted by email on July 14, 2011 because you thought it a Tier 2 proposal. In fact you are incorrect. I have inspected the proposal and do not find anywhere within the text that it is stated that it is a Tier 2 proposal. In fact, I find the following statement within the text of the proposal.

“In fact on Sunday, May 1, 2011 at 3:50 PM as this Tier 1 proposal was being written a land owner from Reserve, New Mexico called to offer 50 acre feet of water rights.”

Tier 2 is mentioned twice

“Having revised our original Preliminary Proposal which is still in your files, we are moving on to provide the additional information which will be required in the Tier 2 Proposal.”

LGW believes it has been extremely responsive in compliance with the Tier 2 Project Evaluation Criteria

The proposal does not say it is the Tier 2 proposal and it is no disqualification to drift into providing information that may be required in the Tier 2 proposal for the purpose of improving the Tier 1 proposal, particularly when your evaluation committee provided no real clue as to what the specific deficiency was in your Preliminary Tier 1 review.

You may have thought it was the Tier 2 proposal because it appears that one of our employees incorrectly called it Tier 2 in the subject line of the transmittal email.

In fact, the LGW proposal states:

“Further the Tier 1 Application Sheet that accompanies this Proposal allows for revisions to the preliminary Tier 1 Proposals which was submitted by LGW.”

Therefore, the proposal was clearly to be considered a Tier 1 proposal. To add additional information that may be required in a Tier 2 proposal is not a defect in a Tier 1 proposal where there is no strict prohibition which there is not. If there was some confusion on your part, the general rule of equity is to err in favor of the Applicant or were this a case before the U.S. Tax Court their rule is to err in favor of the taxpayer.

I certainly hope this matter is corrigible. As you are aware, we seek no funding; but, only the supply of water. You will note that we have reduced the supply we believe we need for our project.

Ex multitudine signorum, colligitur identitas vera. From the great number of signs true identity may be ascertained. Bacon's Max. in Reg. 25.

Sincerely,



Dr. William M. Turner
Trustee/CEO