



CITY OF FALLS CHURCH

An Open Letter to Falls Church Water Utility Customers

Feb. 19, 2009

Dear Customers:

Falls Church City has operated a water system in Fairfax County since the 1930s, and an agreement delineating the boundaries between the two water systems was ratified by the City Council and the Board of Supervisors in 1959. For generations this arrangement served the City and County well, allowing both to plan infrastructure improvements in a rational and cost effective manner. The agreement expired in 1989, and because the two water systems were fully built out, renewal was thought to be unnecessary. Indeed, both Fairfax Water and the City continued to respect each other's traditional service area for the next 15 years.

However, over the past two years Fairfax Water has veered sharply in a new direction, one that is harmful to both of our ratepayers and without precedent in the water utility industry. Fairfax Water began contacting developers in the City's traditional water service area in 2007 to request that they hook up to its system as opposed to the City's. While these efforts have been unsuccessful because Fairfax Water's connection fees are significantly higher than ours, recently the developer of a proposed mixed use project near the Dunn Loring Metro Station is being forced to hook up to Fairfax Water as a condition of its rezoning approvals.

The City has objected to this coercive approach. We believe it illustrates that Fairfax Water's goal is not to provide the best water service at the best price, but to take over the service area traditionally served by the City. Indeed, in a recent letter Fairfax Water stated its mission is to "eliminate" the other water systems providing service within the County.

Accordingly, in 2007 the City asked for relief in U.S. District Court, arguing that Fairfax Water's actions would result in increased costs for our customers. It would harm the federal taxpayer as well because the City purchases water from the Washington Aqueduct, a federal water treatment facility that also provides drinking water to the District of Columbia and Arlington County. Major federal investments have been made over time to provide treatment capacity for our customers and these investments will be devalued if Fairfax Water takes away projected growth in our customer base.

In the end, the Federal Court decided not to provide the injunctive relief we sought, even though our argument was based on sound economic principles common in the utility industry. However, we do not believe this decision means Fairfax Water can force our customers, including developers, to hook up to its system. The City has quite properly voiced its objections to that approach but, in response, on December 21, 2008 Fairfax Water filed suit alleging interference with its attempt to "compete" in our traditional service area. Shockingly, in this suit Fairfax Water has claimed \$21 million in damages from the City.

In our view, Fairfax Water's aggressive actions are bad for both of our customers for a number of reasons. To our knowledge there is no precedent in the United States where two utilities have built redundant infrastructure to provide retail service to the same area. The cost is prohibitive and the inconvenience to the public from digging up streets to

install unnecessary new water mains is insupportable. And, of course, both utilities will incur significant legal costs arising from the litigation.

Going forward, we hope that a more cooperative spirit between the City and Fairfax Water will return eventually. As we work toward this goal, we will continue to keep you informed.

Sincerely,

A handwritten signature in cursive script, appearing to read "F. Wyatt Shields".

F. Wyatt Shields
City Manager

