

WHITEFISH MT WATER/SEWER IMPACT FEE ERRORS FOUND

The following is a brief description of the problems identified in the original report submitted to the City of Whitefish and other problems subsequently found during litigation discovery.

Calculating Water and Sewer Impact Fees

The scope of the report was Water/Sewer impact fees, how they are calculated, and how the City utilized this calculation to impose and overcharge impact fees. The actual calculation is quite complex so I'll try to simplify the process. There are three basic components needed to calculate water/sewer impact fees.

- 1. COST.** This component is both the cost of existing infrastructure that has excess capacity (Reimbursement) as well as the cost of future infrastructure (Improvement) needed to provide service for future development.
- 2. CAPACITY.** This component is the available capacity in the existing infrastructure plus the capacity created by expanding the existing infrastructure or building new infrastructure. For water and sewer, this is typically defined in terms of millions of gallons a day (mgd).
- 3. DEMAND.** This component is the need imposed on existing and future infrastructure by new development. This is why impact fees came to exist. Demand can be both aggregate (the needs of all new development) or simply the demand placed upon infrastructure by one unit. The most common unit is a typical single family home - **ERU** (Equivalent Residential Unit). For water, an ERU is defined in terms of the number of gallons a day a typical single family resident requires (during peak demand).

WATER IMPACT FEE CALCULATION

Simplistically, impact fees are calculated by first determining the number of **DEMAND** units (ERUs) that can be served by the infrastructure **CAPACITY**. Divide **CAPACITY** by unit **DEMAND** to get this number, **#ERUs**. **COST** is divided by **#ERUs** to determine the water impact fee, which is the fair and proportionate share for each typical single family residence.

EXAMPLE: If a water infrastructure has additional **CAPACITY** of 3,000,000 gallons/day and each typical single family residence requires 300 gallons per day, the infrastructure can support 10,000 new homes (3,000,000/300).

COST to build this capacity is \$10M, then the impact fee for each new residence is \$1000.

SIMPLE THINGS TO KNOW

But if that is confusing, here are the simple things to remember:

1. The HIGHER the **COSTS**, the HIGHER the IMPACT FEE. When you double Costs, you double the impact fee.
2. The HIGHER the **CAPACITY**, the LOWER the IMPACT FEE. When you double the Capacity, you halve the impact fee.
3. The HIGHER the unit **DEMAND**, the HIGHER the IMPACT FEE. When you double the unit Demand, you double the impact fee.

Whitefish Impact Fee Calculation Errors

Whitefish introduced numerous errors when calculating impact fees in all three areas plus in the method they used to collect impact fees. Here are the errors for both water and sewer.

COSTS

Water Impact Fees

1. **Padded cost of South Whitefish Reservoir.** An \$8.5M project was listed in the water impact fee costs that was listed In Whitefish CIPs for over a decade. This project was never built. Its description has changed along with the cost. **Raised Water Impact Fee Costs \$4.25M.**
2. **\$10M of new expenses listed with no supporting documentation.** \$5M was added to the new water treatment plant and \$5M added to the South Whitefish Reservoir. No benefit was identified to either the City or New Development. No new capacity was used in calculating impact fees resulting in overcharges to Development. **Raised water impact fee costs \$2.5M.**
3. **Water impact fee credits were decreased during the recalculation of these fees.** These credits were calculated using 2018 end of year water impact fee funds. 2017 end of year water impact fee funds were used to calculate all other impact fees and were not corrected. The 2018 water impact fee fund was the ONLY fund to go down in value. All others (which were not used in any recalculation) went UP. **Raised water impact fee costs \$250K.**

Wastewater Impact Fees

- 4. Padded cost of using Solar Array.** A \$4M project was listed in the water impact fee costs that was not included in any Whitefish CIP and was not approved by the City Council. The project was never built by the City and was abandoned by the City Council, City Manager, and Public Works Director. Raised wastewater impact fee costs by over \$1M.
- 5. Transposed Wastewater Treatment Plant Cost from CIP to Impact Fee Update.** When CIP numbers were transferred into the FCS Impact Fee Update by FCS, the cost of the new wastewater treatment plant was incorrectly copied. Instead of the \$17,275,000 amount in the CIP, FCS entered \$17,725,000 as the cost of the new plant. When the City manager amended the FCS Update, she failed to correct this problem. Raised costs used to determine wastewater impact fee \$122K.

Water and Wastewater Impact Fees

- 6. Failed to Offset Cost of Finance Charges.** The costs of building a new wastewater treatment plant and expanding the existing water treatment plant were incorrectly identified in the 2018 FCS Update as being paid for using Public Works funds. However, the City incurred over \$25Million of debt to pay for these new facilities. An offset needed to be provided in the Cost of each public facility to account for this financing. Otherwise, homeowners and builders were being charged impact fees on their fair share of these projects as well as future finance charges incurred by the city for this same share.

CAPACITY

Water and Wastewater Impact Fees

- 7. Failed To Add Capacity To Water Treatment Plant For \$10M New Costs.** A \$10Million cost was added to the water treatment plant and to the South Whitefish Reservoir without considering the added capacity to the water system. According to the FY 2020 CIP, the water system capacity as a result of these expenses went from 5.5 mgd as listed in the FCS Impact Fee Study to 8.0 mgd. **Should have added 2.5 mgd to Capacity.**
- 8. Failed To Add Capacity To Wastewater Treatment Plant.** The City Manager claimed the cost of the new wastewater treatment plant grew, and therefore she was justified in using impact fee revenues from the Solar Array project that was never built to pay for this increase. Although the cost of the new plant did go up by

several \$million, the capacity of the new plant likewise grew from 1.59 mgd to over 2.07 mgd. If this had been factored into the wastewater impact fee calculations, **wastewater impact fees in fact would have decreased from \$3384 to \$1778.**

DEMAND

Water and Wastewater Impact Fees

9. Used Incorrect Weighting Factors When Computing MDD.

When FCS calculated two key statistics used to determine the water and wastewater unit demand of a typical single family residence in Whitefish, it used inappropriate numbers obtained from City management. FCS should have used factors from the AWWA. FCS calculated MDD (Max Daily Demand) and #ERUs (Equivalent Residential Units) using these faulty numbers and arrived at inflated MDD number of 744 gpd. This compared with 322 gpd and 388 gpd from the prior two WF impact fee reports. These factors were subsequently calculated by another Engineering Firm (AE2S) for Whitefish that determined MDD to be 374 gpd. AE2S used actual customer data rather than estimates to determine daily demand. What do all these statistics mean? If the correct MDD number from AE2S had been used, **Whitefish water and wastewater impact fees would be half of what was charged builders and homeowners.** Because of this error, the entire 2018 FCS Impact Fee Update was invalid because the number of ERUs calculated by FCS was incorrect. Subsequent Addendum created by the City Manager was also invalidated.

Whitefish Impact Fee Collection Errors

Whitefish introduced numerous errors when it inserted its collection charts into the FCS report. The following list some of these errors.

10. The Public Works department overcounted fixture units used in the impact fee collection tables for water and wastewater. Standalone shower units were “double” charged by the City resulting in \$427 overcharge on average for each standalone shower.

11. Collection Chart uses the wrong meter size as its base.

The 2018 FCS Water and Wastewater impact fee collection charts were copied directly from the 2007 HDR collection chart by the City Manager, even though the minimum meter size went from 5/8” to 3/4” in 2018.

12. Chart fails to utilize 3/4" base meter weighting factors.

The collection charts use weighting factors from the 2007 collection chart for a 5/8" base meter when these factors should have been based on a 3/4" meter. Weighting factors for each meter starting at 3/4" should be reduced to reflect the HDR method of charging impact fees, i.e. 3/4" meter weighting factor should be .667, not 1.0. **This results in overcharges up to 50% higher than allowed.**

13. Chart reduces starting fixture unit per meter size by 1.

The collection chart used in the original 2018 FCS update has a starting number of fixture units per meter size that is one greater than used by the City Manager in her Addendum. This results in **every resident being charged for one additional fixture unit than necessary.** I.e. the 3/4" meter now starts at 20 rather than 21, per the original 2018 impact fee update.