

NEW APPLICATION



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Marc Spitzer  
Commissioner - Chairman  
William A. Mundell  
Commissioner  
Jeff Hatch-Miller  
Commissioner  
Mike Gleason  
Commissioner  
Kristin K. Mayes  
Commissioner

2004 JUN 17 P 3: 54

AZ CORP COMMISSION  
DOCUMENT CONTROL

Arizona Corporation Commission

DOCKETED

JUN 17 2004

DOCKETED BY *dm*

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION	)	DOCKET NO. W-01445A-04-
OF ARIZONA WATER COMPANY, AN	)	W-01445A-04-0453
ARIZONA CORPORATION, TO EXTEND	)	
ITS EXISTING CERTIFICATE OF	)	APPLICATION TO EXTEND
CONVENIENCE AND NECESSITY AT	)	EXISTING CERTIFICATE OF
COOLIDGE, PINAL COUNTY, ARIZONA	)	CONVENIENCE AND NECESSITY TO
	)	INCLUDE ADDITIONAL TERRITORY
	)	
	)	

ARIZONA WATER COMPANY, an Arizona corporation, ("AWC") through its undersigned counsel, presents the following Application to extend its existing certificate of convenience and necessity for its Coolidge system. This Application is based on the following:

1. AWC presently holds certificates of convenience and necessity issued to it by this Commission in various decisions beginning in 1955 for the purpose of providing water service in the City of Coolidge and the surrounding area in Pinal County.

2. The areas that AWC seeks to add to its certificated area are described in Exhibit #1 hereto. Much of the area surrounding the areas described in Exhibit #1 is already certificated to and served by AWC. Everett T. Lee and Omega Management Services, Inc., the owners and developers of portions of the property described in Exhibit #1, have requested AWC to provide water service to their property and apply to the Commission for authority to include their

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1 apply to the Commission for authority to include their property within AWC's certificated area.  
2 Copies of a letter from Mr. Lee and a communication from Omega Management are attached as  
3 Exhibit #2 hereto. In addition, AWC presently owns and operates water system facilities in  
4 Sections 9 and 10 described in Exhibit #1 which are used to serve 3 customers in those sections,  
5 and will be used to extend service to future customers.

6  
7 3. AWC estimates that the total number of customers that may be served in the areas  
8 described in Exhibit #1 will be approximately 50 within five years following the date of the  
9 filing of this Application.

10 4. A map showing the adjacent portion of AWC's present certificated area and the  
11 territory to be added by this Application is attached as Exhibit #3 hereto.

12 5. A list of the owners of all of the property described in Exhibit #1 is attached as  
13 Exhibit #4 hereto. Each property owner will be mailed the public notice attached as Exhibit #5  
14 hereto.

15 6. AWC is financially able to construct, operate, and maintain the facilities necessary  
16 to provide service to the areas described in Exhibit #1. A current financial statement for AWC is  
17 attached as Exhibit #6 hereto.

18 7. AWC has a City of Coolidge franchise for the area for which it is proposing to  
19 extend its certificate of convenience and necessity. A copy of the franchise is attached as Exhibit  
20 #7 hereto.

21 8. AWC's by-laws do not require a corporate resolution on behalf of AWC in  
22 conjunction with this Application.

23 9. Public convenience and necessity will be served by having AWC extend its  
24 certificate of convenience and necessity to include the areas described in Exhibit #1.  
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Ernest G. Johnson  
Director, Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

By: Robert W. Gade

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## Exhibit "1"

### Legal Description

Sections 6 and 7 of Township 6 South, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

Together with:

Section 9, Section 10, The South Half of Section 12 and the Northwest quarter of Section 13, all in Township 5 South, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

**EXCEPT** that portion of Section 10 lying within the Gila River Indian Reservation, described as follows:

BEGINNING a the Northwest corner of said Section 10;  
Thence South  $01^{\circ}35'$  East, a distance of 1,315.38 feet;  
Thence North  $89^{\circ}35'$  East, a distance of 2,661.12 feet;  
Thence North  $01^{\circ}44'$  West, a distance of 1,304.82 feet;  
Thence South  $89^{\circ}35'$  West, a distance of 2,653.20 feet to the POINT OF BEGINNING.

EXHIBIT "2"

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ARIZONA WATER COMPANY  
PHOENIX - ENGINEERING

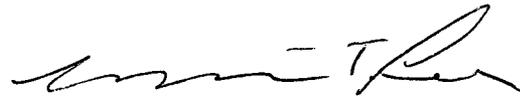
Everett T. Lee  
P.O. Box 1660  
Chandler, AZ 85244  
January 2, 2004

Arizona Water Company  
P.O. Box 29006  
Phoenix, AZ 85038-9006  
Attn: James Wilson

Dear Mr. Wilson,

I am requesting that my property be included in the Arizona Water Company's service area. Mark Brinton's water line extension will adjoin my property located north of Highway 287 west of Attaway Road. My property is located at 8324 Highway 287, Coolidge, AZ; also known as tax parcel numbers 209-12-009, 209-12-008, 209-13-001, 209-13-002A, & 209-13-002B totaling 113 acres.

Sincerely,



Everett T. Lee

602 722 5660

16009 N. 81<sup>st</sup> Street, Suite 200  
Scottsdale, Arizona 85260  
(480) 947-5100 FAX (480) 947-5151

**Omega Management  
Services, Inc.**

# Memo

**To:** Arizona Water Company  
**From:** Staci Steiner  
**Date:** 6-3-04  
**Re:** Coolidge property

---

Arizona Water Company,

Attention Ray Murietta: I would like to have our property included in your CC&N service area. The property includes sections 5, 6, & 7 in Township 6S, Range 8E.

If you need any further information please feel free to call me anytime.

Thank you,

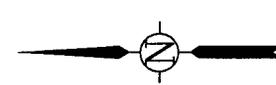
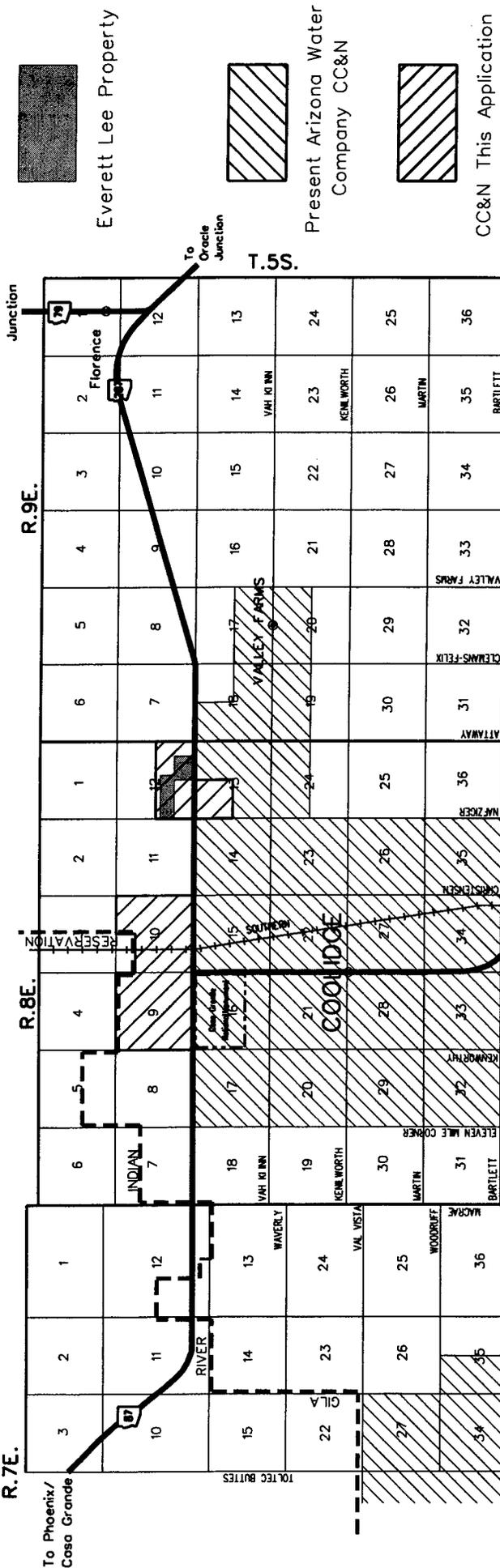
Staci Steiner  
Omega Management Services  
Project Manager  
[ssteiner@omegams.com](mailto:ssteiner@omegams.com)  
480-850-5262 direct  
480-947-5100\*338  
602-370-8220 cell  
480-947-5151 fax

**RECEIVED**  
JUN 08 2004

ARIZONA WATER COMPANY  
PHOENIX - ENGINEERING

**RECEIVED**  
JUN 04 2004  
ARIZONA WATER COMPANY  
COOLIDGE

# EXHIBIT '3'



**ARIZONA WATER COMPANY**

DESCRIPTION: PROPOSED EXTENSION OF CERTIFICATE OF CONVENIENCE AND NECESSITY IN THE COOLIDGE, AZ AREA

LOCATION: TOWNSHIP 5 SOUTH, RANGE 8 EAST, G.S.R.B.&M.  
TOWNSHIP 6 SOUTH, RANGE 8 EAST, G.S.R.B.&M.

DATE: 06.09.2004      SCALE: 1"=2 Miles      DRAWN BY: CB

T.6S.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50

T.5S.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50

R.7E.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50

R.8E.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50

R.9E.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50

## Exhibit "4"

### Property Owners

#### All of Section 9 - T.5S.,R.8E.

209-09-007E

Lonesome Valley Farms Ltd. Partnership

P.O. Box 1114

Coolidge, AZ 85228

209-09-001A

209-09-001B

209-09-002A

209-09-003

209-09-004

209-09-007

MLC Farms, LLC

19240 Quail Run Drive

Florence, AZ 85232

209-09-001C

209-10-005

209-10-006

River Resources, LLC

P.O. Box 10638

Tempe, AZ 85284

209-09-007F

209-09-007G

209-09-007A

209-09-007C

Alice G Robertson Trust

1800 West Highway 287

Casa Grande, AZ 85222

209-09-007D

Patricia J. Robertson

P.O. Box 68

Coolidge, AZ 85228

209-09-006

Dorothy D. Sipes Trust

P.O. Box 131

Coolidge, AZ 85228

209-09-005  
209-10-010A  
209-10-010B  
Bureau Of Land Management  
Arizona State Office  
222 North Central Avenue  
Phoenix, AZ 85004

**That Portion of Section 10 – T.5S.,R.8E.**

209-10-017  
209-10-018  
209-10-019  
209-10-020  
Union Pacific Railroad  
Real Estate Department  
1800 Farnam Street  
Omaha, Nebraska 68102

209-10-002  
California Portland Cement Company  
1501 Belvedere Road  
West Palm Beach, FL 33406

209-10-012B  
209-10-013  
209-10-014  
Arthur J. & Mary A. Faul  
6461 East Highway 287  
Coolidge, AZ 85228

209-10-009C  
Mark J. & Teresa A. Felix  
14000 North Christensen Road  
Coolidge, AZ 85228

209-10-003  
209-10-008  
209-10-009E  
Robert C. & Marybeth Goree Trust  
9538 North Christensen Road  
Coolidge, AZ 85228

209-10-015A  
209-10-015B  
Douglas J. & Carole C. Henry Trust  
P.O. Box 7127  
Roll, AZ 85347

209-10-001  
Pinal County  
31 North Pinal Street  
Florence, AZ 85232

209-10-016  
State Of Arizona  
1616 West Adams Street  
Phoenix, AZ 85007

209-10-012C  
The Archaeological Conservancy  
5301 Central Avenue  
#1218  
Albuquerque, NM 87108

209-10-011  
Bureau of Indian Affairs  
San Carlos Agency  
Joe La Plante  
P.O. Box 209  
San Carlos, AZ 85550

**Northwest quarter Section 13 – T.5S.,R.8E.**

209-15-007A  
209-15-007B  
Mark D. & Carol A. Brinton  
P.O. Box 145  
Valley Farms, Arizona 85291

209-15-003A  
209-15-004C  
Theodore R. & Mary K. Kulp  
3169 County Line Road  
Chalfont, PA 18914

**South half Section 12, T.5S.,R.8E.**

209-12-005

209-12-006

209-12-007A

209-12-007B

209-12-002A

BCW, Inc.

426 North 44<sup>th</sup> Street

Suite 250

Phoenix, Arizona 85008

209-12-002A

209-12-002B

209-12-008

209-12-009

209-13-001

\*Everett T. Lee

P.O. Box 1660

Chandler, Arizona 85233

209-13-003

Benny Y. Bustamente

P.O. Box 1364

Florence, Arizona 85232

209-13-012A

William R. Carolin

13893 Cacy Court

Coolidge, Arizona 85228

209-14-016A

Coolidge-Florence Elks Lodge 2350

P.O. Box 1033

Florence, Arizona 85232

209-13-007A

209-13-007B

209-13-005

Joseph L. & Francine S. Harper

P.O. Box 275

Coolidge, Arizona 85228

209-13-009  
209-13-010  
Clark M. Kelly  
P.O. Box 1177  
Tempe, Arizona 85280

209-13-008  
Kitchen Realty, Inc.  
8224 East McDowell Road  
Mesa, Arizona 85202

209-13-006  
La Font Properties  
117 North Riverside Drive  
Truth Or Consequences, New Mexico 87901

209-14-020  
Raymond Linafelter, Et. Al.  
1495 North Lamer Circle  
Casa Grande, Arizona 85222

209-13-011  
Fred Link, Et. Al.  
14322 South 50<sup>th</sup> Avenue  
Bixby, OK 74008

209-13-014D  
209-13-014E  
Gwen N. Moody  
P.O. Box 357  
Coolidge, Arizona 85228

209-14-001  
Thru  
209-14-015 Inclusive  
209-14-019  
Mikhail & Sabiha Putrus  
1444 East Pinon Way  
Gilbert, Arizona 85234

209-13-015  
Manuel S. & Oralia M. Robles  
799 East Highway 287  
Coolidge, Arizona 85228

209-13-013  
Rosemead Properties, Inc.  
P.O. Box 29006  
Phoenix, Arizona 85038-9006

209-13-004  
Mark L. & Kim M. Smith  
13825 North Nafziger Road  
Coolidge, Arizona 85228

209-14-021B  
Charles S. Jr. & Kathleen S. Teegarden  
1495 North Lamer Circle  
Casa Grande, Arizona 85222

**Section 6 – T.6S.,R.8E.**

401-24-001b  
401-24-001C  
Daniel Youtsey  
P.O. Box 1444  
Coolidge, Arizona 85228

401-24-001D  
Michael & Shawn Youtsey  
P.O. Box 1444  
Coolidge, Arizona 85228

401-24-002  
Howard C. & Jan K. Beeler  
P.O. Box 268  
Coolidge, Arizona 85228

401-24-003b  
Paul Luellig  
P.O. Box 95  
Coolidge, Arizona 85228

401-24-004b  
Zola Anderson  
6053 East University Drive  
Mesa, Arizona 85205

401-24-004D  
401-24-005b  
401-24-006A

401-24-006b  
Electrical District Number Two  
P.O. Box 548  
Coolidge, Arizona 85228

401-24-007E  
401-24-007J  
401-24-007K  
Sunshine 200 LLC  
4710 East Falcon Drive  
Mesa, Arizona 85215

401-24-007F  
401-24-007H  
C.A. Patterson  
P.O. Box 40811  
Mesa, Arizona 85274

401-24-010  
Dale E. & Susan J. Andersen  
6053 East University Drive  
Mesa, Arizona 85205

**Section 7 – T.6S.,R.8E.**

401-21-018A  
Joseph A. Farnsworth, Jr.  
6053 East University Drive  
Mesa, Arizona 85205

401-21-019b  
Dale E. & Susan J. Andersen  
6053 East University Drive  
Mesa, Arizona 85205

401-21-021  
Paul Ollerton  
9170 North Calle Candela Street  
Casa Grande, Arizona 85222

401-21-022A  
David A. & Lori J. Wuertz  
3227 West Bechtel Road  
Coolidge, Arizona 85228

EXHIBIT "5"

**ARIZONA WATER COMPANY**

3805 N. BLACK CANYON HIGHWAY, PHOENIX, ARIZONA 85015-5351 • P.O. BOX 29006, PHOENIX, ARIZONA 85038-9006  
PHONE: (602) 240-6860 • FAX: (602) 240-6878 • WWW.AZWATER.COM

[Date]

«PropertyOwner»

«Address1»

«Address2»

«City» «State» «PostalCode»

PINAL COUNTY ASSESSOR'S PARCEL NO.: «ParcelNumber»

**PUBLIC NOTICE OF AN APPLICATION FOR A CERTIFICATE OF CONVENIENCE AND  
NECESSITY BY ARIZONA WATER COMPANY**

Arizona Water Company has filed with the Arizona Corporation Commission ("Commission") an application for authority to provide water utility service to an area in which records indicate that you are a property owner. If the application is granted, Arizona Water Company would be the provider of water utility service to the proposed area. The Commission will require Arizona Water Company to provide this service under rates and charges and terms and conditions established by the Commission. The application is available for inspection during regular business hours at the offices of the Commission at 1200 West Washington Street, Phoenix, Arizona, and at Arizona Water Company, 448 West Central Avenue, Coolidge, Arizona 85228.

The Commission may hold a hearing on this matter. As a property owner you may have the right to intervene in the proceeding or you may appear at the hearing and make a statement on your own behalf. You may contact the Commission at the address and telephone number listed below for the date and time of the hearing and for more information on intervention. You may not receive any further notice of the proceeding unless you request it.

If you have questions or concerns about this application, have any objection to its approval, or wish to make a statement in support of it, you may contact the Consumer Services Section of the Arizona Corporation Commission at 1200 West Washington St., Phoenix, Arizona 85007 or call 1-800-222-7000.



William M. Garfield  
President

E-MAIL: [mail@azwater.com](mailto:mail@azwater.com)

EXHIBIT "6"

ARIZONA WATER COMPANY  
Comparative Balance Sheet  
at December 31, 2003

ASSETS

	Dec. 31, 2003	Dec. 31, 2002	Increase (Decrease)
<b>UTILITY PLANT</b>			
Gross Utility Plant	\$ 208,683,343	\$ 195,437,419	\$ 13,245,924
Less Accumulated Depreciation	51,538,267	47,228,763	4,309,504
Net Utility Plant	157,145,076	148,208,656	8,936,420
<b>CURRENT ASSETS</b>			
Cash on Hand and in Banks	343,608	503,472	(159,864)
Investments and Special Deposits	2,703	2,703	0
Accounts Receivable	2,474,648	2,436,526	38,122
Materials and Supplies	204,649	202,256	2,393
Other	346,910	508,599	(161,689)
Total Current Assets	3,372,518	3,653,556	(281,038)
<b>DEFERRED DEBITS</b>			
	6,270,115	5,535,987	734,128
<b>TOTAL</b>	\$ 166,787,709	\$ 157,398,199	\$ 9,389,510

LIABILITIES

<b>CAPITALIZATION</b>			
Common Stock	\$ 2,700,000	\$ 2,700,000	\$ 0
Capital Surplus	8,970,647	2,940,647	6,030,000
Retained Earnings	49,445,727	47,275,807	2,169,920
Common Stock Equity	61,116,374	52,916,454	8,199,920
Long-Term Debt	22,200,000	22,600,000	(400,000)
Total Capitalization	83,316,374	75,516,454	7,799,920
<b>CURRENT LIABILITIES</b>			
Notes Payable	0	4,500,000	(4,500,000)
Accounts Payable	2,675,133	3,908,599	(1,233,466)
Accrued Expenses	1,168,007	994,411	173,596
Other	452,647	450,973	1,674
Total Current Liabilities	4,295,787	9,853,983	(5,558,196)
<b>DEFERRED CREDITS</b>			
Advances for Construction	39,053,165	35,114,889	3,938,276
Contributions in Aid of Construction	22,325,304	20,461,331	1,863,973
Deferred Income Tax	14,876,768	12,912,949	1,963,819
Other	2,920,311	3,538,593	(618,282)
Total Deferred Credits	79,175,548	72,027,762	7,147,786
<b>TOTAL</b>	\$ 166,787,709	\$ 157,398,199	\$ 9,389,510

**ARIZONA WATER COMPANY**  
Comparative Statement of Income  
December 31, 2003

	12 MONTHS TO DATE		DECEMBER		12 Months to Date	
	2003	2002	2003	2002	2003	2002
<b>OPERATING REVENUE</b>	\$ 37,545,304	\$ 36,880,062	\$ 2,724,616	\$ 2,720,675	\$ 37,545,304	\$ 36,880,062
<b>OPERATING EXPENSES</b>						
Operation and Maintenance						
Depreciation	17,771,987	16,900,756	1,402,364	1,433,109	17,771,987	16,900,756
Taxes Other Than Income Taxes	4,471,079	4,210,754	298,869	318,418	4,471,079	4,210,754
Income Taxes	5,403,268	5,281,557	400,685	338,323	5,403,268	5,281,557
Total Operating Expenses	2,745,016	2,783,303	(80,381)	(248,892)	2,745,016	2,783,303
	<u>30,391,350</u>	<u>29,176,370</u>	<u>2,021,537</u>	<u>1,840,958</u>	<u>30,391,350</u>	<u>29,176,370</u>
<b>OPERATING INCOME</b>	7,153,954	7,703,692	703,079	879,717	7,153,954	7,703,692
<b>OTHER (INCOME) AND DEDUCTIONS</b>						
Other (Income) - Net	(141,949)	(299,529)	(12,482)	(5,821)	(141,949)	(299,529)
Interest on Long-Term Debt	1,886,383	1,923,383	155,400	158,483	1,886,383	1,923,383
Other Interest and Amortization	(30,100)	(96,778)	(5,453)	(5,774)	(30,100)	(96,778)
Total Other (Income) and Deductions	<u>1,714,334</u>	<u>1,527,076</u>	<u>137,465</u>	<u>146,888</u>	<u>1,714,334</u>	<u>1,527,076</u>
<b>NET INCOME</b>	5,439,620	6,176,616	\$ 565,614	\$ 732,829	\$ 5,439,620	\$ 6,176,616
Regular Common Dividends	3,269,700	2,988,900				
<b>INCOME RETAINED</b>	\$ 2,169,920	\$ 3,187,716				
<b>Active Services</b>	69,707	66,844				

DECEMBER 2003

EXHIBIT "7"

ORDINANCE NO. 02-15

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF COOLIDGE, PINAL COUNTY, ARIZONA, GRANTING TO ARIZONA WATER COMPANY, AN ARIZONA CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE AND FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE UPON, OVER, ALONG, ACROSS AND UNDER THE STREETS, AVENUES, ALLEYS, HIGHWAYS, BRIDGES AND OTHER PUBLIC PLACES IN THE CITY OF COOLIDGE, ARIZONA, AND FUTURE ADDITIONS THERETO, WATER LINES, TOGETHER WITH ALL NECESSARY OR DESIRABLE APPURTENANCES, FOR THE PURPOSE OF SUPPLYING WATER SERVICES, TO SAID CITY, ITS SUCCESSORS, THE INHABITANTS THEREOF, AND PERSONS AND CORPORATIONS EITHER WITHIN OR BEYOND THE LIMITS THEREOF, FOR ALL PURPOSES, PRESCRIBING CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS IN RESPECT THERETO; REPEALING CONFLICTING ORDINANCES; AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Mayor and Common Council of the City of Coolidge, Pinal County, Arizona, as follows:

**SECTION 1.** There is hereby granted to Arizona Water Company, a corporation organized and existing under and by virtue of the laws of the State of Arizona, its successors and assigns (hereinafter called "Grantee"), the right, privilege and franchise to construct, maintain and operate upon, over, along, across and under the present and future public streets, avenues, alleys, highways, bridges and other public places in the City of Coolidge, Pinal County, Arizona (hereinafter called "Municipality"), water lines, plant and system, including mains, laterals, pumps, manholes, meters, fire hydrants, regulator stations and related equipment, facilities and appurtenances, for the purpose of providing water service for all purposes in Municipality. Grantee's Application for Franchise is made a part hereof by reference thereto.

All facilities to be constructed and maintained pursuant to this Franchise shall be constructed and maintained in accordance with Municipality's standards with respect to repairs and maintenance of such public streets, avenues, alleys, highways, and bridges and other public places of Municipality.

Grantee shall apply for a right-of-way work permit in accordance with all existing and future ordinances and regulations of Municipality and upon request from Municipality submit for approval a map showing the location of such proposed installation to Municipality's Director of Public Works or Council.

**SECTION 2.** In the event that facilities constructed pursuant to this Franchise shall at any time be found by Municipality to interfere unduly with vehicular

and pedestrian traffic over such public streets, avenues, alleys, highways or bridges or other public places, Grantee hereby agrees that it will, at its own expense, and within a reasonable time after notice thereof by Municipality, remove or relocate said facilities so as to minimize said interference. In all other instances the costs incurred in relocating facilities shall be borne by and added to the costs of the public or private improvement causing or resulting in such relocation.

All facilities installed or constructed pursuant to this Franchise shall be so located or relocated and so constructed as to minimize the interference with traffic or other uses by Municipality over, under or through the public rights-of-way. Those phases of construction of Grantee's facilities relating to traffic control, backfilling, compaction and paving, as well as the location of water lines and related facilities herein provided for shall be subject to Municipality's regulations. Grantee shall keep accurate records of the location of all facilities in the public rights-of-way and furnish them to Municipality upon request in a format that is mutually acceptable to Municipality and Grantee. Grantee shall, upon request from the Municipality, provide the Director of Public Works or Council with corrected drawings showing the actual location of the underground facilities in those cases where the actual location differs significantly from the proposed location.

Grantee shall cause the work associated with any opening or alteration of any public right-of-way, to be completed with due diligence within a reasonably prompt time, and Grantee shall, upon completion of such work, restore the property disturbed to as good condition as it was prior to such opening or alteration. Should Grantee, after notice from Municipality fail to restore the property to such condition, Municipality may make such repairs and Grantee shall be responsible for the actual cost of such work.

If Municipality participates in the cost of relocating Grantee's facilities for any reason, the cost of relocation to Municipality shall not include any upgrade or improvement of Grantee's facilities, as they existed prior to relocation, unless specifically requested by Municipality.

**SECTION 3.** In the event Municipality takes action to dispose of unnecessary public roadways in accordance with the provisions of the Arizona Revised Statutes, Municipality shall recognize and preserve each of Grantee's prior rights-of-way, easements, and rights under this Franchise which are affected thereby, as they existed prior to such disposition, by including specific and appropriate language for that purpose in any legal instrument utilized for the purpose of accomplishing such disposition.

**SECTION 4.** As a further consideration for the franchise hereby granted, Grantee will pay quarterly to Municipality a sum equal to 2% of the gross receipts of Grantee from the sale of all water at retail for residential, commercial and industrial purposes within Municipality's corporate limits, as Grantee is notified from time to time by Municipality of the extent of such corporate limits. For the purpose of verifying the amounts payable hereunder, Grantee's billing records shall be subject to inspection by duly authorized officials or representatives of Municipality, at reasonable times.

Said payment shall be a franchise tax and shall not be taken or considered to be in lieu of any tax, license, fee, charge or assessment of Municipality now existing or hereafter levied upon Grantee's business or property, or its successors, provided that Grantee may deduct any tax, license or other exaction paid by it, which is assessed or levied by Municipality exclusively upon public utilities up to the amount payable under the terms of this section, and provided further that the amount of such franchise tax may be lawfully and specifically added to customer bills.

**SECTION 5.** Grantee shall save Municipality harmless from expenses, claims, and liability arising by reason of the exercise of this Franchise by Grantee.

**SECTION 6.** This franchise shall continue and exist for a period of twenty-five (25) years from February 1, 2003; provided, however, that either party may request renegotiation and terminate this Franchise on its tenth anniversary by giving written notice not less than one (1) year before its tenth anniversary. While such notice may or may not result in a renegotiated Franchise, the party giving the notice of termination shall be responsible for the costs of any resulting franchise election.

**SECTION 7.** The right, privilege and franchise hereby granted may be assigned by Grantee in whole or in part.

**SECTION 8.** This grant is not exclusive and nothing herein contained shall be construed to prevent Municipality from granting other like or similar grants or privileges to any other person, firm or corporation.

**SECTION 9.** All ordinances and parts of ordinances in conflict with the provisions hereof are hereby repealed.

**SECTION 10.** If any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this ordinance as a whole or any part of the provisions hereof other than the part so adjudged to be invalid and unconstitutional.

**SECTION 11.** Municipality reserves the right and power to purchase and condemn the plant and distribution facilities of Grantee within Municipality's corporate limits or any additions thereto, as provided by law.

**SECTION 12.** Upon the expiration or termination of this Franchise, if Grantee shall not have acquired an extension or renewal thereof and accepted the same, it may remove its facilities and system within Municipality or, at its option, may continue operating its facilities and system within Municipality until a new franchise can be effected with Municipality.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE  
CITY OF COOLIDGE, ARIZONA, this 12<sup>th</sup> day of November, 2002.

Wilbur H. Wherry  
Mayor  
City of Coolidge, Pinal County, Arizona

ATTEST:

Norma Ortiz  
City Clerk  
City of Coolidge, Pinal County, Arizona

APPROVED AS TO FORM:

J. M. Vitzell  
City Attorney  
City of Coolidge, Pinal County, Arizona