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FENNEMORE CRAIG
 A Professional Corporation
 Jay L. Shapiro (No. 014650)
 Patrick J. Black (No. 017141)
 3003 North Central Avenue
 Suite 2600
 Phoenix, Arizona 85012
 Telephone (602) 916-5000

Attorneys for New River Utility Company

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION
 OF NEW RIVER UTILITY COMPANY FOR
 AN EXTENSION OF ITS EXISTING
 CERTIFICATE OF CONVENIENCE AND
 NECESSITY FOR WATER SERVICE.

DOCKET NO. W-01737A -04-0274

Arizona Corporation Commission

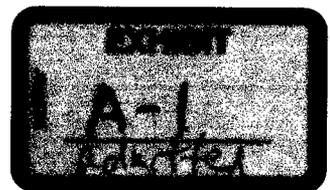
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TESTIMONY OF ROBERT L. FLETCHER

IN RESPONSE TO STAFF REPORT



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I. INTRODUCTION AND QUALIFICATIONS

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND TELEPHONE NUMBER.

A. Robert L. Fletcher, 7839 West Deer Valley Road, Peoria, Arizona 85382. My telephone number is (623) 561-1848.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am the President of New River Utility Company ("New River" or "Company").

II. PURPOSE AND SUMMARY OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. I have read the Staff Report ("Report") filed in this docket on May 14, 2004, and will respond to the analysis and recommendations contained therein with respect to New River's compliance with the rules and regulations of the Maricopa County Environmental Services Department ("MCESD") pertaining to water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

Q. WOULD YOU PLEASE SUMMARIZE YOUR TESTIMONY?

A. My testimony will address New River's compliance with the rules and regulations of the Maricopa County Environmental Services Department ("MCESD") that pertain to water quality standards required by Arizona Administrative Code, Title 18, Chapter 4. I will describe how New River has addressed violations alleged by MCESD to that agency's satisfaction. I will also offer proof of the Company's current compliance with MCESD standards based on MCESD's June 2, 2004 Public Water System Compliance Status Report to John Chelus, attached hereto as Exhibit RF-1.

1 **III. MCESD COMPLIANCE**

2 **Q. MR. FLETCHER, AT WHAT POINT WAS NEW RIVER FIRST NOTIFIED**
3 **THAT ITS WATER SYSTEM WAS NOT IN COMPLIANCE WITH**
4 **MCESD REGULATIONS?**

5 A. On April 16, 2004, the Company was notified by Commission Staff that MCESD
6 had issued a Public Water System Compliance Status Report on April 9, 2004,
7 indicating that New River was not in compliance with certain MCESD regulations.

8 **Q. WERE THESE DEFICIENCIES THE SAME ONES REFERENCED ON**
9 **PAGE 3 OF STAFF'S MAY 14, 2004 REPORT?**

10 A. Yes.

11 **Q. WHAT HAS NEW RIVER DONE TO CORRECT THESE DEFICIENCIES?**

12 A. The Company has removed weeds and posted a well sign at point of entry ("POE")
13 two. The loose cathodic covers have been tightened, and the fence will be replaced
14 when new construction has been completed. The November 2003 monthly
15 monitoring samples have been implemented and corrected, and the Company's
16 new Microbiological Site Sampling Program ("MSSP") was approved by MCESD,
17 with conditions, on May 19, 2004, which is attached hereto as Exhibit RF-1 and
18 RF-2. Finally, the pump located at POE three has been retrofitted with an air gap
19 to conform with MCESD requirements.

20 **Q. IS IT YOUR POSITION THAT NEW RIVER IS CURRENTLY IN**
21 **COMPLIANCE WITH MCESD?**

22 A. Yes. Attached hereto as Exhibit RF-1 is a June 2, 2004 Public Water System
23 Compliance Status Report to John Chelus of Commission Staff. This compliance
24 report states that the Company is currently compliant with MCESD regulations and
25 that the deficiencies identified on April 9, 2004, have been corrected.

26

1 Q. BUT DOESN'T THE COMPLIANCE REPORT ALSO INDICATE THAT
2 AN ENFORCEMENT ACTION IS PENDING AGAINST NEW RIVER?

3 A. Yes, but that does not mean that New River is not currently in compliance with
4 MCESD regulations. Company representatives have spoken with Mr. Luis Higuera
5 and Mr. Doug Taylor of the Water and Waste Management Division of MCESD,
6 and were informed that the pending enforcement action is an administrative
7 function in order to consider the possible assessment of fines and/or penalties
8 against New River for the alleged violations.

9 Q. WILL THE PENDING ENFORCEMENT ACTION PREVENT NEW RIVER
10 FROM PROVIDING WATER UTILITY SERVICE IN A SAFE AND
11 RELIABLE MANNER?

12 A. No, it will not.

13 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

14 A. Yes.

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EXHIBIT

RF-1



ENVIRONMENTAL SERVICES DEPARTMENT
WATER AND WASTE MANAGEMENT DIVISION
DRINKING WATER PROGRAM
MEMORANDUM

PUBLIC WATER SYSTEM COMPLIANCE STATUS REPORT

TO: Arizona Corporation Commission
John Chelus
Fax: (602) 542-2129

FROM: John Kolman R.S.
Drinking Water/Solid Waste Programs Manager

DATE: June 2, 2004

SUBJECT: REQUEST FOR COMPLIANCE STATUS INFORMATION RECEIVED

COMPLIANCE STATUS INFORMATION HAS BEEN REQUESTED FOR THE FOLLOWING WATER COMPANY:

System Name: New River Utility Company
PWS ID#: 07-051
Assigned Monitoring Dates - Initial: 1/1/95. Phase II: 1/1/95. Phase V: 1/1/95.

Does the water system have a Certified Operator? Yes

Does the system have major physical/plant (treatment) deficiencies? No
Please describe: _____

Date of last inspection: April 12, 2004

Does the system have major O & M deficiencies? No
Please describe: Major deficiency noted in last compliance review has been corrected.

Does the system have water quality monitoring/reporting deficiencies? No
Please describe: All water quality monitoring/reporting deficiencies noted in last compliance review have corrected and addressed.

Is enforcement action pending? Yes

Overall Public Water System Compliance Status? Compliant

Number of Service Connections: 2589. Population Served: 6500.
Type of System: Community. Number of POE's: 2. Surface Water: N/A.

Date of compliance review: June 2, 2004. By: Doug Taylor R.S. Initials: DT.
Phone: (602) 506-6631

A handwritten signature in black ink, appearing to be "DT" followed by a stylized flourish.

EXHIBIT

RF-2



Maricopa County

Environmental Services

Water and Waste Management
Division
1001 N. Central Avenue #150
Phoenix, Arizona 85004
Phone: (602) 506-6666
Fax: (602) 506-6925
TDD 602 506 6704

NOTIFICATION OF MONITORING PLANS APPROVAL WITH STIPULATIONS

May 19, 2004

Robert Fletcher
New River Utility Incorporated
7839 W. Deer Valley Road
Peoria, AZ 85382

Re: PWS 07-051, MSSP and D/DBP plans approval

Dear Mr. Fletcher:

This Department has reviewed the submitted microbiological site sampling plan (MSSP) and disinfection/byproduct plan (D/DBP). The plans are approved as written with the following stipulations:

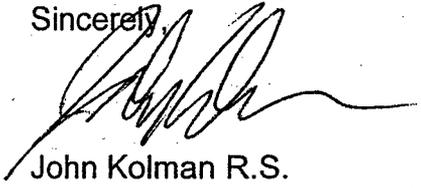
1. As per the submitted MSSP, the New River Utility water system can perform nine total coliform samples during the odd months and 10 samples during the even months of the year.
2. Update the MSSP to indicate when each MSSP sample will be collected for analysis throughout the month and the reporting method of results to the Arizona Department of Environmental Quality.
3. Update the MSSP to indicate that the disinfection residual will be collected, recorded and averaged as per the Safe Drinking Water Rule. Additionally, the updated MSSP needs to state reporting of quarterly average and running annual average of disinfection residual monitoring results to both the Arizona Department of Environmental Quality and this Department.
4. Submit a distribution system map indicating each MSSP location, disinfection byproduct location, points of entry and well locations.
5. Submit the updated MSSP and D/DBP plans for review and approval no later than June 30, 2004 with the distribution system map outlined in stipulations #5.
6. The MSSP and D/DBP should be reviewed periodically, a minimum of at least every three years, to ensure the configuration, services connections and population served is accurately reflected within the

Water and Waste Management May 19, 2004
Division 2
1001 N. Central Avenue #150
Phoenix, Arizona 85004
Phone: (602) 506-6666
Fax: (602) 506-6925
TDD 602 506 6704

plan. It is the water system responsibility to notify this Department concerning changes that might affect the MSSP.

If you have any questions or need additional information on the requirements for public water systems operating in Maricopa County, contact Doug Taylor R.S., at (602) 506-6631 or dtaylor@mail.maricopa.gov.

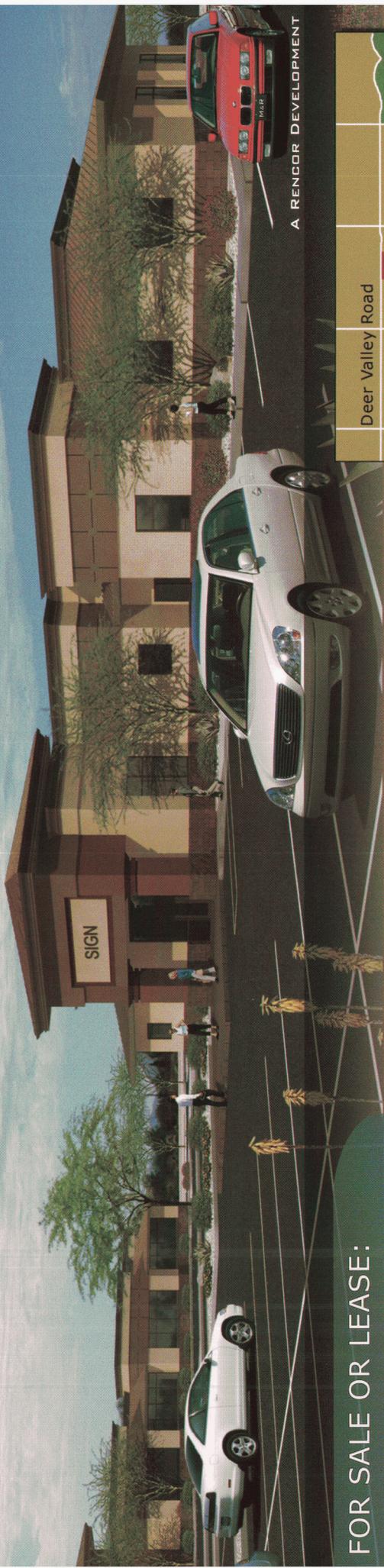
Sincerely,



John Kolman R.S.
Drinking Water/Solid Waste Programs Manager

cc: ADEQ
Jack Muir; Fax: 208-382-3247

ARROWHEAD RANCH OFFICE PARK



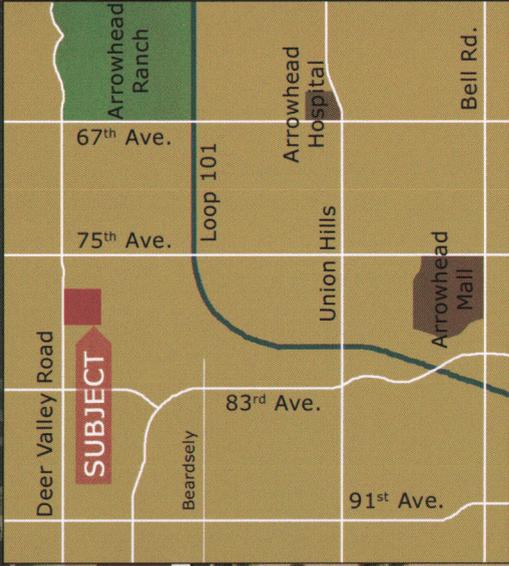
A RENCOR DEVELOPMENT

FOR SALE OR LEASE:

FEATURES

- Project Size: 60,000 s.f.
- 3 miles from Arrowhead Hospital
- 1 mile north of the Loop 101 Freeway
- Suites Available - 1,200 to 8,000 s.f.
- Parking Ratio
 - Medical 1:175
 - General 1:200
- Covered Parking Included
- Monument & Building Signage
- Client Parking at Your Door
- Ownership & Tax Advantages
- Customized Space Planning & Design
- 6,000+ New homes planned w/in 4 mi.
- 25,000 Cars per day on Deer Valley Rd.
- Average Income w/in 1 mile: \$85,000

LOCATION: Deer Valley Road & 78th Avenue

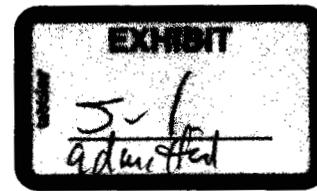


Arrowhead Ranch Office Park
78th Avenue & Deer Valley

RENCOR DEVELOPMENT

FOR INFORMATION CONTACT:

Ryan Reynolds
(602) 224-4502
info@RencorDevelopment.com
www.RencorDevelopment.com



LEGAL

MEMORANDUM

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2004 MAY 14 A 10:33

AZ CORP COMMISSION
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TO: Docket Control
FROM: Ernest G. Johnson
Director
Utilities Division
DATE: May 14, 2004

RE: NEW RIVER UTILITY COMPANY - APPLICATION FOR AN EXTENSION
OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE
WATER SERVICE IN MARICOPA COUNTY, ARIZONA (DOCKET NO. W-
01737A-04-0274)

Attached is the Staff Report for the above referenced application. Staff is recommending denial of the application.

EGJ:JEF:hml

Originator: Jim Fisher

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MAY 14 2004

LEGAL DIV.
ARIZ CORPORATION COMMISSION

Service List for: New River Utility Company
Docket No. W-01737A-04-0274

Mr. Robert Fletcher
President
New River Utility Company
7839 West Deer Valley Road
Phoenix, Arizona 85382

Mr. Marshall Reynolds
Arrowhead Ranch Office Park, LLC
2845 East Camelback Road Suite 700
Phoenix, Arizona 85016

Mr. Jay Shapiro
Fennemore Craig
3003 North Central Avenue
Suite 2600
Phoenix, Arizona 85012

Mr. Christopher C. Kempley
Chief, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

NEW RIVER UTILITY COMPANY

DOCKET NO. W-01737A-04-0274

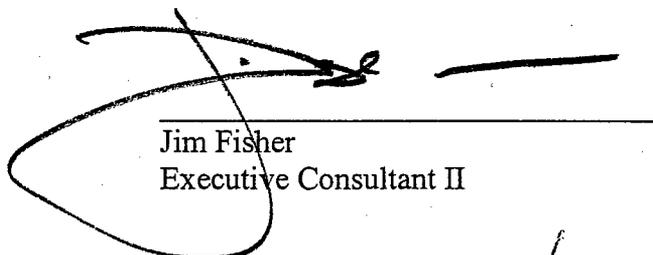
APPLICATION FOR AN EXTENSION OF
ITS CERTIFICATE OF CONVENIENCE & NECESSITY
TO PROVIDE WATER SERVICE
IN MARICOPA COUNTY, ARIZONA

MAY 2004

STAFF ACKNOWLEDGEMENT

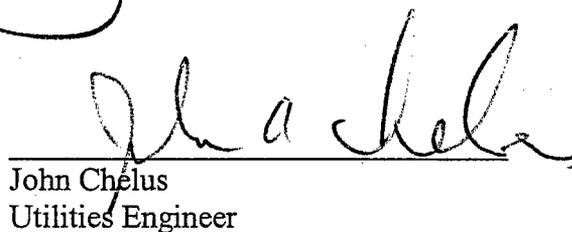
The Staff Report for New River Utility Company (Docket No. W-01737A-04-0274) was the responsibility of the Staff members listed below. Jim Fisher was responsible for the review and analyses of the Company's application. John Chelus was responsible for the engineering and technical analysis.

Contributing Staff:



A handwritten signature in black ink, appearing to read 'Jim Fisher', is written over a horizontal line. The signature is stylized and somewhat abstract.

Jim Fisher
Executive Consultant II



A handwritten signature in black ink, appearing to read 'John Chelus', is written over a horizontal line. The signature is cursive and clearly legible.

John Chelus
Utilities Engineer

**EXECUTIVE SUMMARY
NEW RIVER UTILITY COMPANY
DOCKET NO. W-01737A-04-0274**

On April 9, 2004, New River Utility Company ("New River" or "Company"), a certificated Arizona public service corporation, filed an application with the Arizona Corporation Commission ("ACC" or "Commission") requesting approval for an extension of its existing Certificate of Convenience and Necessity ("CC&N") to include additional property in Maricopa County, Arizona.

On March 24, 2004, Utilities Division Staff ("Staff") met with representatives of the Company, the City of Peoria and the Mr. Reynolds, the developer seeking inclusion of the subject property. During the meeting, New River asserted that it was the Company's desire to serve the property under the Commission's rules for contiguous service. Staff explained that the Company's view was not shared.

On April 9, 2004, the Company filed its application. On April 13, 2004, Staff requested a compliance status report from the Maricopa County Environmental Service Department ("MCESD"). On April 15, 2004, MCESD provided Staff with a status report disclosing major deficiencies in overall compliance, monitoring and reporting and operation and maintenance.

By this application, New River is seeking to add approximately 9.4 acres to its existing two square miles of certificated area. New River is located at the southeast corner of 78th Avenue and Deer Valley Road in the city of Peoria in Maricopa County. The area requested for service will include the proposed Arrowhead Ranch Office Park.

Arrowhead Ranch Office Park is a proposed medical office condominium complex of 36 units. New River has an existing transmission main bordering the northern portion of the property. The Company will construct a distribution loop into the property and interconnect the condominium units to the distribution facilities.

Staff recommends that the Commission deny the New River Utility Company's application for an extension of its Certificate of Convenience and Necessity in a portion of Maricopa County to provide water service, until the utility is able to demonstrate compliance with the following conditions:

1. To file evidence of its compliance with all aspects of the Maricopa County Environmental Service Department.
2. To file a report with the Commission's Utilities Division describing its arsenic treatment plan within three months from the effective date of any decision in this matter or by December 31, 2004, whichever comes first, to ensure the water quality standards are met.

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Introduction

On April 9, 2004, New River Utility Company ("New River" or "Company"), a certificated Arizona public service corporation, filed an application with the Arizona Corporation Commission ("ACC" or "Commission") requesting approval for an extension of its existing Certificate of Convenience and Necessity ("CC&N") to include additional property in Maricopa County, Arizona.

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On April 9, 2004, the Company filed its application. On April 13, 2004, Staff requested a compliance status report from the Maricopa County Environmental Service Department ("MCESD"). On April 15, 2004, MCESD provided Staff with a status report disclosing major deficiencies in overall compliance, monitoring and reporting and operation and maintenance.

On April 16, 2004, Staff informed New River of the MCESD compliance status report. On April 20, 2004, the Company informed Staff that it was working with MCESD to resolve the issues in the status report.

Background

New River is an Arizona subchapter S corporation, authorized by the ACC to provide water service within a portion of Maricopa County, Arizona. The ACC initially authorized New River a CC&N in 1961.

New River's current authorized rates became effective in Decision No. 65134 (August 22, 2002) which recognized 1,150 customers in the Test Year. The decision was based on a settlement agreement that approved a revenue requirement of \$678,180, a rate base of \$826,355, and an authorized rate of return of 7.78 percent.

According to its last Annual Report to the Commission, the Company currently serves approximately 2,548 customers, producing revenue of \$1,220,733 and income \$138,660. The Company reported income in the previous year of \$210,555. However, according to the annual report, salaries and wages increased from \$131,324 to \$517,750.

Decision No. 65134 found that MCESD could not determine if the Company was in compliance with regulations. The Commission required the Company to demonstrate compliance with MCESD prior to the new rates going to effect. Decision No. 65134 also required the Company to file a Curtailment Plan Tariff within 90 days of the effective date of the decision.

According to the Utilities Division Compliance Section, the Company complied with both conditions in a timely manner.

New River reports property tax payments of \$27,830.

The Extension Request

By this application, New River is seeking to add approximately 9.4 acres to its existing two square miles of certificated area. New River Utility is located at the southeast corner of 78th Avenue and Deer Valley Road in the City of Peoria in Maricopa County. The area requested for service will include the proposed Arrowhead Ranch Office Park ("ARO").

ARO is a proposed medical office condominium complex of 36 units. New River has an existing transmission main bordering the northern portion of the property. The Company will construct a distribution loop into the property and interconnect the condominium units to the distribution facilities.

On March 31, 2004, Marshall Reynolds, president of Rencor Development, the developer of Arrowhead Ranch Office Park requested service from New River.

On April 6, 2004, New River and the City of Peoria ("City") entered into a Utility Services Operating Agreement to allow the utility to operate in the streets of the City prior to obtaining a franchise that includes the proposed extension area.

The April 6, 2004 agreement, requires the Company to comply with all applicable statutes and regulations of a competent authority. The agreement specifically requires the Company to provide water in compliance with MCESD. The agreement requires the Company to provide the City with billing information to ensure the City can bill the development for wastewater services.

Finance of Facilities

On March 15, 2004, New River and ARO signed an Main Extension Agreement ("MXA"). New River will finance the required transmission and distribution facilities primarily with Advances in Aid of Construction ("AIAC"). AIAC are often in the form of MXAs. MXAs generally require the developer to design, construct and install (or cause to be), all facilities to provide adequate service to the development. The developer is required to pay all costs of constructing the required facilities necessary to serve the development. Upon acceptance of the facilities by the utility the developer will convey the water facilities by way of a warranty deed. The utility will often refund ten (10) percent of the annual water revenue associated with development for a period of ten (10) years.

The Company has informed Staff that service will be extended by installing 8-inch and 6-inch distribution lines, fire hydrants, and service connections. The projected costs are estimated to be \$313,715.

The MXA is consistent with Arizona Administrative Code R14-2-406 and should be approved as part of this application.

Water Production Capacity

New River has six production wells with a total production capacity of 4,497 gallons-per-minute ("GPM"). The system also retains 3,000,000 gallons of storage capacity, booster pumps, pressure tanks, and a distribution system serving 2,550 connections.

Based on historical growth rates, it is anticipated that the existing service area will have 5,000 total customers at the end of five years. The company has predicted an additional six customers for the proposed CC&N extension, at the end of five years. The existing production and storage can serve approximately 5,800 connections.

Therefore, Staff concludes that the existing system has adequate production and storage capacity to serve the existing and proposed CC&N area within a conventional five year planning period and can reasonably be expected to develop additional storage and production as required in the future.

Maricopa County Environmental Services Department ("MCESD") Compliance

MCESD regulates the water system under ADEQ Public Water System I.D. # 07-051. Based on data submitted by the Company, MCESD has determined that this system is currently delivering water that does **not** meet water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

MCESD has determined that the water company's violations are major deficiencies. Such major water quality violations raise a presumption of fact that the utility is operating, or has operated, in an unsafe and improper manner.

MCESD reported that point of entry ("POE") two, does not have a fence around the site and the well sign is not posted. Storage tanks at POE three have loose cathodic covers. Sites attached to POE two, need weeds removed and fence repaired. The system missed the November 2003 total coliform monitoring. The system did not perform total coliform monitoring in accordance with Safe Drinking Water Act requirements. Monitoring assistance program reports population exceeding 6,000 which requires seven monthly samples. The system needs to perform missed monitoring public notice for November 2003 and incorrect monitoring for total coliform. System needs to submit new microbial site sampling program for review and approval based upon proper population and chlorine by product testing plan by June 1, 2004. The system has attached an unapproved source to POE 3.

Arsenic

The U.S. Environmental Protection Agency ("EPA") has reduced the arsenic maximum contaminant level ("MCL") in drinking water from 50 micrograms per liter (" $\mu\text{g/l}$ ") to 10 $\mu\text{g/l}$. The date for compliance with the new MCL is January 23, 2006. The most recent lab analysis by the Company indicated that the arsenic level in its source supplies are Well No. 1 at 5 $\mu\text{g/l}$, Well No. 2 at 8 $\mu\text{g/l}$, Well No. 3 at 8 $\mu\text{g/l}$, Well No. 4 at 14 $\mu\text{g/l}$ and Well No. 6 at 16 $\mu\text{g/l}$.

Based on this arsenic level, the Company will be required to implement a plan to address this issue. This could mean installing treatment facilities, locating a better source of water or blending sources of water to achieve 10 $\mu\text{g/l}$ or less.

Staff recommends that the Company be required to file a report to the Commission's Utilities Division describing what steps the Company is planning to take in order to reduce the level in its water to a concentration to below 10 $\mu\text{g/l}$ within three months from the effective date of any decision in this matter or by December 31, 2004, whichever comes first.

Arizona Department of Water Resources Compliance

New River is within the Phoenix Active Management Area, and consequently is subject to reporting and conservation rules (GPCD requirements) of the Arizona Department of Water Resources ("ADWR"). The Phoenix AMA reported that New River Utility is in total compliance with the ADWR reporting and conservation rules.

The requested area is for a commercial development and therefore will not require a certificate of assured water supply from ADWR.

Curtailement Plan Tariff

Decision No. 65134 required the Company to file a Curtailement Plan Tariff within 90 days of the effective date of the decision. According to the Utilities Division Compliance Section, the Company complied in a timely manner.

ACC Compliance

A check with the Utilities Division, Compliance Section showed no outstanding compliance issues for the Company.

Proposed Rates

New River has proposed to extend service to the property at its authorized rates.

Recommendations

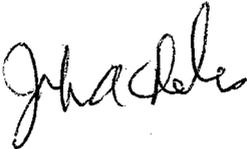
Staff recommends that the Commission deny the New River Utility Company's application for an extension of its Certificate of Convenience and Necessity in a portion of Maricopa County to provide water service, until the utility is able to demonstrate compliance with the following conditions:

1. To file evidence of its compliance with all aspects of the Maricopa County Environmental Service Department.
2. To file a report with the Commission's Utilities Division describing its arsenic treatment plan within three months from the effective date of any decision in this matter or by December 31, 2004, whichever comes first, to ensure the water quality standards are met.

MEMORANDUM

DATE: April 14, 2004

TO: James E. Fisher

FROM: John A. Chelus
Utilities Engineer 

RE: New River Utility Company
CC&N Extension – Water
Docket No. W-01737A-04-0274

Introduction.

New River Utility Company (New River Utility or Company) has applied to extend its Certificate of Convenience and Necessity (CC&N). The requested service area will add approximately 9.4 acres to its existing two square miles of certificated area. New River Utility is located in the area of 78th Avenue and Deer Valley Rd. in the City of Peoria in Maricopa County. The area requested for service will hold the Arrowhead Ranch Office Park.

Capacity

New River Utility has in existence six well(s) with a total production capacity of 4,497 gal/min, 3,000,000 gallons of storage capacity, booster pumps, pressure tanks, and a distribution system serving 2,550 connections. Based on historical growth rates, it is anticipated that the existing service area will have 5,000 total customers at the end of five years. The Company has predicted an additional six customers for the proposed CC&N extension, at the end of five years. The existing production and storage can serve approximately 5,800 connections. Therefore, Staff concludes that the existing system has adequate production and storage capacity to serve the existing and proposed CC&N area within a conventional five year planning period and can reasonably be expected to develop additional storage and production as required in the future. The area development will meet the City of Peoria fire flow requirements of 2,500 gal/min for 2 hours at a residual pressure of 20 pounds per square inch (“psi”).

Maricopa County Environmental Services (MCES) Compliance

MCES regulates the water system under ADEQ Public Water System I.D. # 07-051. Based on data submitted by the Company, MCES has determined that this system is currently delivering water that does **not** meet water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

MCES has determined that the water company's violations are major deficiencies. Such major water quality violations raise a presumption of fact that the utility is operating, or has operated, in an unsafe and improper manner.

MCES reported that point of entry (POE) 2 does not have a fence around the site and the well sign is not posted. Storage tanks at POE 3 have loose cathodic covers. Sites attached to POE 2 need weeds removed and fence repaired. The system missed the November 2003 total coliform monitoring. The system did not perform total coliform monitoring in accordance with safe drinking water act requirements. Monitoring assistance program reports population exceeding 6,000 which requires 7 monthly samples. The system needs to perform missed monitoring public notice for November 2003 and incorrect monitoring for total coliform. System needs to submit new microbial site sampling program for review and approval based upon proper population and chlorine by-products plan by June 1, 2004. The system has attached an unapproved source to POE 3.

The public interest is the controlling factor in the decision to issue a Certificate of Convenience and Necessity, and the Certificate of Convenience and Necessity can only be acquired by an affirmative showing that the issuance will serve the public interest. The granting of a CC&N to a public service corporation, which is operating in an unsafe and improper manner, is not in the public interest. Therefore, Staff recommends that the application for an extension to the CC&N be denied.

Arsenic

The U.S. Environmental Protection Agency (EPA) has reduced the arsenic maximum contaminant level (MCL) in drinking water from 50 micrograms per liter ($\mu\text{g/l}$) to 10 $\mu\text{g/l}$. The date for compliance with the new MCL is January 23rd, 2006. The most recent lab analysis by the Company indicated that the arsenic level in its source supplies are Well No. 1 at 5 $\mu\text{g/l}$, Well No. 2 at 8 $\mu\text{g/l}$, Well No. 3 at 8 $\mu\text{g/l}$, Well No. 4 at 14 $\mu\text{g/l}$ and Well No. 6 at 16 $\mu\text{g/l}$.

Based on this arsenic level, the Company will be required to implement a plan to address this issue. This could mean installing treatment facilities, locating a better source of water or blending sources of water to achieve 10 $\mu\text{g/l}$ or less. Staff recommends that the Company, within 3 months from the effective date of the Decision or by December 31, 2004, whichever comes first, submit a report to the Commission's Utilities Division describing what steps the Company is planning to take in order to reduce the level in their water to a concentration to below 10 $\mu\text{g/l}$.

Arizona Department of Water Resources (ADWR) Compliance

New River Utility is within the Phoenix Active Management Area, and consequently is subject to reporting and conservation rules (GPCD requirements). The Phoenix AMA reported that New River Utility is in total compliance with the ADWR reporting and conservation rules. It is also recommended that the New River Utility shall file with the commission a copy of the developers' certificate of Assured Water Supply, where applicable or when required by statute.

Summary

1. Staff concludes that the existing system has adequate production and storage capacity to serve the existing and proposed CC&N area within a conventional five year planning period and can reasonably be expected to develop additional storage and production as required in the future.
2. MCES regulates the water system under ADEQ Public Water System I.D. # 07-051. Based on data submitted by the Company, MCES has determined that this system is currently delivering water that does **not** meet water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

MCES has determined that the water company's violations are major deficiencies. Such major water quality violations raise a presumption of fact that the utility is operating, or has operated, in an unsafe and improper manner.

The public interest is the controlling factor in the decision to issue a Certificate of Convenience and Necessity, and the Certificate of Convenience and Necessity can only be acquired by an affirmative showing that the issuance will serve the public interest. The granting of a CC&N to a public service corporation, which is operating in an unsafe and improper manner, is not in the public interest. Therefore, Staff recommends that the application for an extension to the CC&N be denied.

3. Staff recommends that the Company, within 3 months from the effective date of the Decision or by December 31, 2004, whichever comes first, submit a report to the Commission's Utilities Division describing what steps the Company is planning to take in order to reduce the level in their water to a concentration below 10 µg/l.
4. New River Utility is within the Phoenix Active Management Area, and is subject to reporting and conservation rules (GPCD requirements). The Phoenix AMA reported that New River Utility is in total compliance with the ADWR reporting and conservation rules. Staff recommends that New River Utility file with the

commission a copy of the developers' certificate of Assured Water Supply, where applicable or when required by statute.

MEMORANDUM

TO: Jim Fisher
Executive Consultant II
Utilities Division

FROM: Barb Wells *lew*
Information Technology Specialist
Utilities Division

THRU: Del Smith *DS*
Engineering Supervisor
Utilities Division

DATE: April 23, 2004

RE: **NEW RIVER UTILITY COMPANY (DOCKET NO. W-01737A-04-0274)**

The area requested by New River for an extension to its CC#N has been plotted with no complications using the legal description provided with the application (a copy of which is attached).

Also attached is a copy of the map for your files.

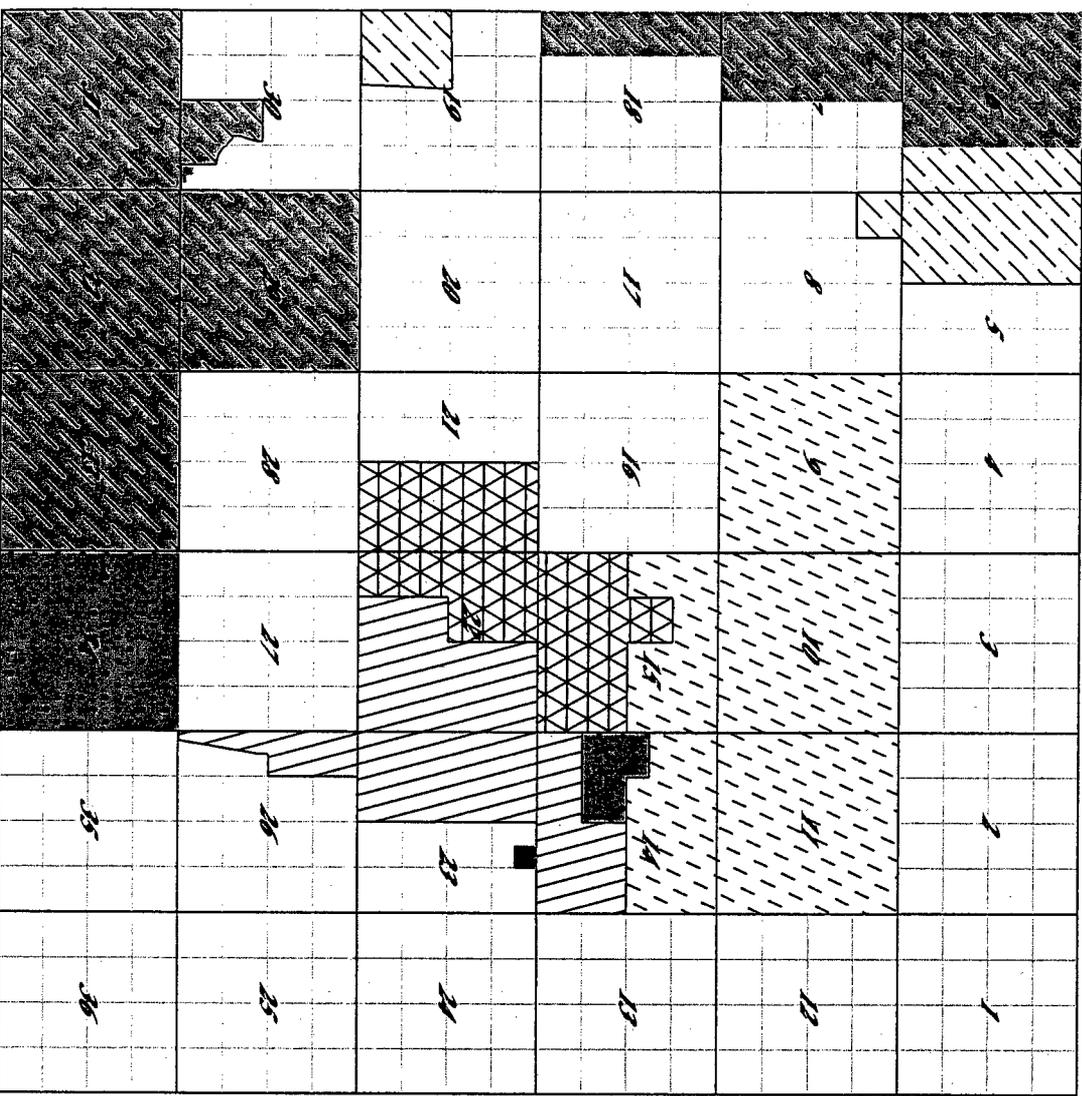
:bsw

Attachments

cc: Docket Control
Mr. Jay Shapiro
Ms. Deb Person (Hand Carried)
File

COUNTY: Maricopa

RANGE 1 East



TOWNSHIP 4 North

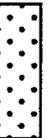
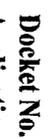
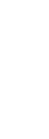
-  WS-1303 (14)
-  Sever
-  Arizona-American Water Company
-  Sever
-  W-1737 (1)
-  Sever
-  New River Utility Company
-  Sever
-  W-1539 (1)
-  Sever
-  Rose Valley Water Company
-  Sever
-  W-2069 (1)
-  Sever
-  Sunrise Water Company, Inc.
-  Sever
-  C-0008 (3)
-  Sever
-  City of Peoria (Nonjurisdictional)
-  Sever
-  New River Utility Company
-  Sever
-  Docket No. W-1737-04-274
-  Sever
-  Application for Extension
-  Sever

Exhibit A

That portion of the Northwest Quarter of the Northeast Quarter of Section 23, Township 4 North, Range 1 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, described as follows: Commencing at the North quarter corner of said Section 23;

Thence North 89 degrees 36 minutes 41 seconds East, along the North line of said Northeast Quarter, 665.89 feet to the Northwest corner of the Northeast Quarter of the Northwest Quarter of the Northeast Quarter of said Section 23, and the point of beginning of the herein described parcel;

Thence continuing North 89 degrees 36 minutes 41 seconds East, along said North line, 665.69 feet to the Northeast corner of the Northeast Quarter of the Northwest Quarter of the Northeast Quarter of said Section 23;

Thence South 00 degrees 12 minutes 23 seconds West, 660.70 feet to the Southeast corner of the Northeast Quarter of the Northwest Quarter of the Northeast Quarter of said Section 23;

Thence South 89 degrees 39 minutes 55 seconds West, 665.24 feet to the Southwest corner of the Northeast Quarter of the Northwest Quarter of the Northeast Quarter of said Section 23;

Thence North 00 degrees 09 minutes 01 second East, 660.07 feet to the point of beginning;

Except the West 25 feet; and

Except the South 22 feet of the North 55 feet, thereof, as conveyed to Maricopa County, a political subdivision of the State of Arizona in Deeds recorded in Document No. 01-965229 and Document No. 01-966003 and Document No. 01-965340; and

Except beginning at the point of intersection of the East line of the West 25 feet, and the South line of the North 55 feet, of the West half of the West half of the Northeast quarter of the Northwest quarter of the Northeast quarter of said Section 23;

Thence Southerly, 30 feet, along said East line of the West 25 feet ;

Thence in a Northeasterly direction to a point on said South line of the North 55 feet that is 30 feet Easterly from said point of intersection;

Thence Westerly, 30 feet to said point of beginning, as conveyed to Maricopa County, a political subdivision of the State of Arizona by Deed recorded in Document No. 01-965229; and

Except all coal, oil, gas and other mineral deposits as reserved in the Patents to said land recorded in Docket 1791, page 376, and Docket 1585, page 483.