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Owners' Association

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AZ CORP COMMISSION  
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Arizona Corporation Commission

DOCKETED

JUL - 1 2004

**BEFORE THE ARIZONA CORPORATION COMMISSION**

DOCKETED BY *CAF*

IN THE MATTER OF THE APPLICATION	)
OF MONTEZUMA ESTATES PROPERTY	) DOCKET NO. W-02064A-04-0270
OWNERS' ASSOCIATION dba MONTEZUMA	) DOCKET NO. W-04254A-04-0270
ESTATES WATER COMPANY FOR APPROVAL)	)
OF THE SALE OF ASSETS AND TRANSFER OF	) RESPONSE OF MONTEZUMA
ITS CERTIFICATE OF CONVENIENCE AND	) ESTATES PROPERTY OWNERS'
NECESSITY.	) ASSOCIATION TO STAFF
	) REPORT

The Montezuma Estates Property Owners' Association, by its undersigned counsel, responds to the Staff Report filed with the Arizona Corporation Commission on June 24, 2004.

1. **Qualify of service.** The commission may reasonably be assured that the water company's customers will continue to receive service that is equal to or better than that previously provided by the volunteers of the homeowners' association. Patricia Arias, a principal of the Montezuma Rimrock Water Company [MRWC], is familiar with all phases of the water company's operation. Ms. Arias has worked as an independent contractor for the company for approximately two years. She has read meters, invoiced customers and assisted with troubleshooting of leaks and malfunctions of the system.

As an owner of the company, Ms. Arias would have a stake in the success of the operation. She understands that financial stability and growth of the water company are directly related to her effectiveness in providing prompt, courteous and quality service to the customers. Having been intimately involved in the day-to-day operations of the water company, Ms. Arias' continued

oversight of the business as an owner would mean continuity of the personnel who run the business and serve the customers.

2. **Qualifications of Patricia Arias.** Ms. Arias' familiarity with the water company, education and employment history reflect an ability to oversee the water company in a manner that would assure quality service to its customers. Details concerning Ms. Arias' education and employment history which demonstrate her ability to succeed as an owner are provided herewith.

In her report dated June 30, 2004, Ms. Arias has summarized her education and professional experience and that of her colleague, Gregory S. Olsen. Ms. Arias has detailed her approach to compliance with the Maximum Contaminate Level for arsenic and other compliance issues raised by staff. Applicant incorporate herein by reference Ms. Arias' report.

3. **Privatization of the water company is in the best interests of the customers.** In recent years, the burden of management of the water company has fallen on uncompensated volunteers. For approximately six years, Peter Sanchez has managed the operation, responding to emergency calls, and handling the day to day tasks which include reading meters, invoicing customers, oversight of finances, hiring of contractors for repairs and so forth. Mr. Sanchez has invested considerable time, energy and resources on a consistent basis without charge to the owners' association or the water company.

The community of customers has come to rely on Mr. Sanchez, perhaps taking for granted his sacrificial efforts. Mr. Sanchez has reached a point in life when he is entitled to the rest which comes with the retirement he has earned. The commission should not assume the continued smooth operation of the water company or Mr. Sanchez' willingness to oversee it. Neither should the commission assume that another volunteer with the commitment and work ethic of Mr. Sanchez is ready or willing to take on the onerous responsibilities of managing the water company. Mr. Sanchez

has attempted, throughout the course of his tenure in leadership of the owners' association, to get help from other interested owners and customers. His attempts have been fruitless.

4. **Conclusion**. The benefits of privatization of the water company speak to the need for approval of the proposed sale. To continue the status quo would mean that the responsibility and burden of management would continue to fall on uncompensated volunteers. Along with the status quo would come the uncertainty that volunteer oversight may or may not continue to be available. Patricia Arias is intimately familiar with the operation of the water company, has the ability, education and experience to effectively manage the business.

DATED this 1<sup>st</sup> day of July, 2004.

LAW OFFICE OF DOUGLAS C. FITZPATRICK

BY   
\_\_\_\_\_  
Douglas C. Fitzpatrick  
Attorney for applicant

ORIGINAL plus 13 copies  
of the foregoing with attachments  
hand-delivered this 1<sup>st</sup> day of  
July, 2004, to:

Arizona Corporation Commission  
Legal Division  
1200 West Washington Street  
Phoenix, Arizona 85007

COPY of the foregoing mailed  
this 1<sup>st</sup> day of July, 2004, to:

Montezuma Estates Property Owners Association  
P.O. Box 592  
Rimrock, Arizona 86335

Peter O. Sanchez  
60 Ridgecrest Road  
Sedona, Arizona 86351

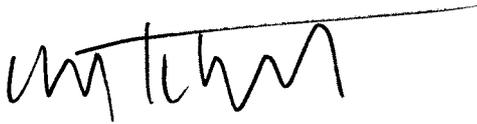
Montezuma Rimrock Water Company LLC  
P.O. Box 10  
Rimrock, Arizona 86335

Patricia D. Arias  
7209 West Windrose Drive  
Peoria, Arizona 85381

David Ronald  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

Ernest Johnson, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

Richard Rink  
6601 N. Mountain View Drive  
Paradise Valley, AZ 85253  
Intervenor



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Douglas C. Fitzpatrick

**Montezuma Rimrock Water Company LLC**  
**P.O. Box 10**  
**Rimrock, AZ 86335**

June 30, 2004

Douglas Fitzpatrick  
49 Bell Rock Plaza, Suite A  
Sedona, Arizona 86351

Re: Docket Nos W-02064A-04-0270 & W-04254A-04-0270

Dear Mr. Fitzpatrick:

On June 26, 2004, Montezuma Rimrock Water Company, LLC (MRWC) received a copy of the Arizona Corporation Commission (ACC) Staff Report regarding the recommendation for the sale of assets and transfer of its Certificate of Convenience and Necessity ("CC&N") to MRWC. Attached is MRWC's response to the ACC staff report recommendation.

### **Owner/Operator Qualifications**

The ACC Staff report did not challenge the technical capability of MRWC to operate the water system. However, we believe its important to point out that the Montezuma Rimrock Water Company LLC, is staffed by professionals degreed in the earth sciences and experienced not only in utilities, but water sciences.

Patricia D. Arias – B.S. Geology-Arizona State University. Ms. Arias has managed Montezuma Estates Water Company for two years and has experience in water treatment, water distribution, and wastewater. Current ADEQ certifications: Grade 3 Water Treatment, Grade 3 Wastewater Treatment, Grade 2 Water Distribution, Grade 2 Wastewater Collections. Currently studying for the Grade 3 Water Distribution certification.

Gregory S. Olsen – B.S. Environmental Earth Science-Eastern Connecticut State University, 1988. Mr. Olsen has 15 years of professional experience in surface water and groundwater issues including; water supply, wastewater, and water pollution assessment/prevention. Mr. Olsen is a Sr. Hydrologist in Hydrologic Support and Assessment Section of the ADEQ. He is currently studying for the Grade 2 Water Distribution certification.

Infrastructure contractors who are currently working for the existing water company are also available to work for MRWC.

### **Financial Capability**

The staff report questions the financial capability of MRWC to operate the system on the basis of revenue currently generated. Essentially, the report makes this case on the basis that monthly operating income of \$373 is not sufficient to offset the estimated \$1161 in monthly debt servicing of the purchase loan.

Some of the information in the staff report concerning financing is inaccurate. The report states that 100% of the purchase will be financed. However, MRWC intends to finance the purchase of the MEPOA water system through a pre-approved bank loan of \$80,000, with an additional \$20,000 from personal funds. A personal financial statement is attached.

On page 2 of the ACC staff report states, "...there are refunds due on the meter and service line installations which will continue to be refunded under the same terms by MRWC. This is inaccurate. MEPOA is responsible for and will distribute meter and service line installation refunds upon sale of the water company.

Upon transfer of the Company, no income from usage revenue is anticipated for the first 45 days of operation. These initial start-up operational costs (approximately \$12,000) will be covered by personal funds.

For the last six years the Montezuma Estates Property Owners Association water system has been able to support itself through usage and new service connection revenues and currently have no liens or outstanding bank loans. The Montezuma Estates subdivision is developing at a rate of 15 to 25 new connections per year. This growth rate supports the continued viability of the water company.

The MEPOA is operated as a non-profit entity. As such, it is not necessarily managed to maximize operational efficiencies.

According to Decision No. 65199, the Association was granted an approval for a \$10,000.00 line of credit. This decision was based on the information provided that the distribution system was in need of extensive repair. It also states that "...the cash required for capital additions and improvements exceeded cash flow." Water loss reports supported this. Implementation of a gate valve replacement program was initiated in order to correct the problem. Seventy-four gate valves are located within the distribution system. A total of sixty gate vales were replaced in 2003. Twenty 6" gate valves were replaced at a cost of \$360.00 each, totaling \$7,200.00. Forty 4" gates valves were replaced at a cost of \$260.00 each, totaling \$10,400.00. Labor costs for each gawe valve, along with needed line replacement, averaged \$800.00 per gate valve. Costs, including parts, for sixty gate vales totaled \$65,600.00. Between January 2003 and December 2003, the gate valve replacement program produced a 75% water loss reduction.

#### **Compliance with the new MCL for Arsenic**

MRWC is fully aware of the new Maximum Contaminate Level (MCL) for arsenic of 10 µg/L, which is scheduled for implementation in January 2006. Further, MRWC acknowledges that water pumped from the existing water supply wells will not meet the new standard.

MRWC's is committed to bringing the water system into compliance with the new MCL on schedule. This commitment was recently demonstrated when representatives of MRWC were one of only two water systems to attend the May 20, 2004 Arizona Corporation Commission Arsenic Master Plan Workshop held in Prescott. MRWC is proactively researching the best treatment option for system to implement, and will report to the ACC's Utilities Division Director as ordered in Decision No. 64665 by March 25, 2005.

As the ACC staff report indicates, the ADEQ Arsenic Master Plan estimates that \$257,000 in initial capitol funding would be needed to build a central treatment plant, plus an additional \$32,000 in annual operations and maintenance. The staff report indicates that consumer rates may need to be raised \$40 per month to support an arsenic reduction plant. However, as was discussed at the Master Plan Workshop, there may be less costly, but effective treatment options. Alternatives currently under consideration by MRWC

include;

- Point of Use Treatment (POU) - The ADEQ has indicated that POU treatment with in-home Reverse Osmosis (RO) filtration is a viable option for smaller water systems. On the basis of information from ADEQ and Watts Premier, Inc., a POU treatment approach would have capital costs of approximately \$38,000 plus \$15,000 in annual operations and maintenance costs. This information also suggests the monthly costs to consumers for arsenic reduction could be approximately \$15 per month for the POU treatment option. These costs for POU treatment are significantly less than the central treatment plant option.

- New Source Development - Because of expanding development in the area and subsequent new service connections, MRWC will likely be seeking new water sources in the future. MRWC is researching arsenic levels in area wells and may consider development of new sources with potentially lower arsenic concentrations.

Regardless of the technology selected, the treatment project can be financed through several mechanisms:

- Water Infrastructure Finance Authority (WIFA) Loan
- ACC Arsenic surcharge
- ACC Rate charge

The ACC Staff report correctly states that the water system will have to make expenditures to treat for arsenic. However, the staff report fails to acknowledge that financing, surcharges, and rate changes are available to cover these expenses. Within 60 days of transfer of the water company, MRWC will propose its arsenic treatment plan to ADEQ, and apply for financing and rate changes as suggested by ACC.

### Compliance

In order to address the arsenic and lead concerns addressed by ACC, ADEQ was contacted. When asked what deficiencies or violations outstanding by MEPOA, MRWC received the attached Drinking Water System Inventory (DWSI) on 6/29/04. Violations had occurred but were addressed as noted on pages 3 and 4 of DWSI. Poeid #002, due to exceedance of MCL for arsenic, is no longer in use. It has been replaced by a new well which is currently undergoing construction and will be in operation once source approval has been granted. This new well has been tested for arsenic and falls below the current MCL for arsenic.

<b>Personal Financial Statement</b>				
Name:	Patricia D. Arias			
Residence:	7209 W. Windrose Dr.			
City, State, Zip	Peoria, Az, 85381			
Position/Occupation	Environmental Health Specialist II			
Business Name/Employer	Arizona Department of Environmental Quality			
Business Address:	1110 W. Washington			
City, State, Zip:	Phoenix, AZ 85007			
Residence Phone:	623-878-3867			
Social Security #:	526-57-9557			
Date of Birth:	9-2-61			
What I Own	Value	Who I Owe	Balance Due	Payment
Cash:	\$20,000	Credit Cards & Dept. Stores:		
U.S. Treasury Money Fund	\$47,500	Bank One	\$6,000	\$150.00
<b>Autos:</b>		MBNA America	\$500	\$50.00
Year/Make:		Amounts Owed to Banks & Others:		
1998/Chevrolet G-Van	\$12,000	Student Loan	\$21,000	\$257.00
1980/MGB Midget	\$5,000			
1997/Arctic Fox RV	\$7,000	Mortgage on Resider	\$133,000	\$1,373.00
<b>Real Estate:</b>				
Primary Residence	\$285,000			
Rental/Investment Property	\$40,000			
<b>Total of All Assets</b>	<b>\$376,500.00</b>	<b>Total Liabilities:</b>	<b>\$160,500.00</b>	<b>\$1,830.00</b>

PWS Id 13071 MONTEZUMA ESTATES PROPERT of  
 County YAVAPAI

City/Area Served	Active/ Inactive	Serv Type	Pri serv	Population	Service Connections	Meter	Maj Srce	Conc Ind	Sys Bag	Season Beg	Season End	MAP
KIMROCK	A	CO	R1	225	130	9	G	0	06/01/1977			Y
Deact Date	Deact Reas	Nxt Insp Date	Owner Name	Address		City/State/Zip	Phone					
		03/15/1990	MONTEZUMA ESTATES PROPO BOX 592	RIM ROCK, AZ 86335			928-284-9087					

Ownertype	Region	District	Docket No	Regulateby	General Information	Physical Description	Initial Monitor Year
A	NRO	16	U-2064	B			01/01/1995

- 2 SITE CONTACT: RAYMOND JENSEN 567-4803
- 3 WATER TESTS RECIEVED ON 03/15/99 FOR OLD WELL #2 AS REQUIRED
- 4 LEGAL OWNER: MANTEZUMA ESTATES PROPERTY OWNERS ASSOCIATION, AZ ARIZONA CORPORATION, AS OWNER AND OPERATOR
- 5 OF PWS 13-071 MONTEZUMA ESTATES PROPERTY OWNERS WATER SYSTEM, LOCATED NEAR THE TOWN OF RIM ROCK, IN YAVAPAI COUNTY ARIZONA.
- 8 LEGAL/DAY TO DAY CONTACT: ROBIN MATTEO PRESIDENT
- 9 520-567-1285 AND ARTHUR GUENTHER, BOARD MEMBER, 520-634-2787
- 10 (NMK 11/20/2000.)
- 11

Sanitary Survey Information

Surv Date	Oper Main	Rpt Date	Viol Date	Insp	Indefc	Deficiency Short description	Comments
08/14/2003	1	08/28/2003		HKH	OLD1	ORIGINAL EVALUATION OF 1 FOR ENTIRE INSPECTION	
04/06/1998	3	04/16/1998		sec	OLD3	ORIGINAL EVALUATION OF 3 FOR ENTIRE INSPECTION	
08/12/1996	1	08/26/1996		JPJ	OLD1	ORIGINAL EVALUATION OF 1 FOR ENTIRE INSPECTION	





SDWR002

Arizona department Of Environmental Quality  
Drinking water System Inventory

06/29/2004  
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System ID	System Name	Priority	Assign Date	Epa Cas	Compl Date	Create Date
Sysid11 13071	Etl 2	SC		N		04/28/1998
Actv Typ	Actv Name		Assign Date		Compl Date	
SNF	ST FIELD SERVICES NOV ISSUED		04/16/1998		06/16/1998	
Sysid11 13071	Etl 3	EPA		Y		06/13/2000
Actv Typ	Actv Name		Assign Date		Compl Date	
EFL	FED FAO ISSUED.		05/23/2000		07/15/2000	