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Arizona Corporation Commission  
MISSION  
**DOCKETED**

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**BEFORE THE**

1  
2 WILLIAM A. MUNDELL  
CHAIRMAN  
3 JIM IRVIN  
COMMISSIONER  
4 MARC SPITZER  
COMMISSIONER  
5

6 IN THE MATTER OF THE APPLICATION OF  
H<sub>2</sub>O, INC., FOR AN EXTENSION OF ITS  
7 EXISTING CERTIFICATE OF CONVENIENCE  
AND NECESSITY.

DOCKET NO. W-02234A-00-0371

8 IN THE MATTER OF THE APPLICATION OF  
9 JOHNSON UTILITIES, L.L.C. DBA JOHNSON  
UTILITIES COMPANY FOR AN EXTENSION OF  
10 ITS CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE WATER AND  
11 WASTEWATER SERVICE TO THE PUBLIC IN  
THE DESCRIBED AREA IN PINAL COUNTY,  
12 ARIZONA.

DOCKET NO. WS-02987A-99-0583

13 IN THE MATTER OF THE APPLICATION OF  
14 JOHNSON UTILITIES, L.L.C. DBA JOHNSON  
UTILITIES COMPANY FOR AN EXTENSION OF  
15 ITS CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE WATER AND  
16 WASTEWATER SERVICE TO THE PUBLIC IN  
THE DESCRIBED AREA IN PINAL COUNTY,  
ARIZONA.

DOCKET NO. WS-02987A-00-0618

17 IN THE MATTER OF THE APPLICATION OF  
18 DIVERSIFIED WATER UTILITIES, INC. TO  
EXTEND ITS CERTIFICATE OF CONVENIENCE  
19 AND NECESSITY.

DOCKET NO. W-02859A-00-0774

20 IN THE MATTER OF THE APPLICATION OF  
21 QUEEN CREEK WATER COMPANY TO  
EXTEND ITS CERTIFICATE OF CONVENIENCE  
AND NECESSITY.

DOCKET NO. W-01395A-00-0784

DECISION NO. 63960

**OPINION AND ORDER**

22 DATES OF PRE-HEARING CONFERENCES: October 11, 2000 and March 11, 2001  
23 DATES OF HEARING: March 15, 16, 19, 20, and 21, 2001  
24 PLACE OF HEARING: Phoenix, Arizona  
25 PRESIDING ADMINISTRATIVE LAW JUDGE: Marc E. Stern  
26 APPEARANCES: Fennemore Craig, P.C. by Mr. Jay L. Shapiro  
27 and Ms. Karen Errant, on behalf of H<sub>2</sub>O, Inc.;  
28 Lewis and Roca, L.L.P., by Mr. Thomas H.

Campbell and Mr. Michael L. Denby, on behalf of Johnson Utilities Company;

Martinez & Curtis, P.C. by Mr. William P. Sullivan, on behalf of Diversified Water Utilities, Inc.;

Jorden and Bischoff, P.L.C., by Mr. Charles L. Bischoff and Ms. Jenny J. Clevenger, on behalf of Queen Creek Water Company; and

Ms. Teena Wolfe, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

**BY THE COMMISSION:**

On October 18, 1999, Johnson Utilities, L.L.C. dba Johnson Utilities Company ("JUC") filed with the Arizona Corporation Commission ("Commission") an application for an extension of its Certificate of Convenience and Necessity ("Certificate") to provide water and wastewater services in various parts of Pinal County, Arizona, in Docket No. WS-02987A-99-0583 ("583 Docket").

On November 1, 1999, JUC filed an amendment to its application in the 583 Docket.

On May 30, 2000, H<sub>2</sub>O, Inc. ("H<sub>2</sub>O") filed an application for an extension of its Certificate.

On June 15, 2000, JUC filed what was captioned its Second Amended Application which revised its requested expansion area.

On July 5, 2000, JUC filed what was captioned its Third Amended Application which again revised its requested expansion area because of additional requests for service from other property owners.

On August 21, 2000, Pantano Development Limited Partnership ("Pantano") requested and was subsequently granted intervention in the proceeding.

On August 23, 2000, by Procedural Order, the Commission consolidated the JUC application as amended and the H<sub>2</sub>O application for purposes of hearing on the contested portions of the above-referenced applications. However, the Commission further ordered the bifurcation of JUC's application regarding uncontested territory for both water and wastewater services into a separate proceeding which was assigned Docket No. WS-02987A-00-0618 ("618 Docket").

On August 25, 2000, JUC filed what was captioned its Fourth Amended Application due to additional requests for water and wastewater service.

1 On August 30, 2000, at the request of the Commission's Utilities Division ("Staff"), JUC and  
2 H<sub>2</sub>O, a teleconference was held. At that time, scheduling issues were resolved for the various filings  
3 related to the proceedings.

4 A hearing was scheduled on the applications of JUC and H<sub>2</sub>O to commence on October 19,  
5 2000.

6 On September 29, 2000, five property owners who own approximately 500 acres of land  
7 encompassed within JUC's 583 Docket requested intervention on behalf of a development to be  
8 known as Skyline Ranch ("Skyline").

9 On October 2, 2000, Diversified Water Utilities, Inc. ("Diversified") filed a Motion to  
10 Intervene, Motion in Opposition to Applications and to Continue Hearings, and Notice of Intent to  
11 Present Testimony and Request for Waiver with respect to the JUC and H<sub>2</sub>O applications pending  
12 before the Commission. Diversified also filed an application for an extension of its Certificate in  
13 Docket No. W-02859A-00-0774, stating that JUC's and H<sub>2</sub>O's applications for the extension of their  
14 Certificates to provide water service impact areas that are either within, contiguous to, or in the  
15 vicinity of areas certificated to Diversified.

16 On October 4, 2000, Queen Creek Water Company ("Queen Creek") filed an application to  
17 intervene in the JUC/H<sub>2</sub>O proceeding and also filed an application for an extension of its Certificate  
18 stating that JUC's and H<sub>2</sub>O's applications to extend their Certificates to provide water service were in  
19 areas either contiguous to or in the vicinity of the areas previously certificated to Queen Creek.

20 On October 4 and 10, 2000, respectively, Staff filed a memorandum in support of both  
21 Diversified's and Queen Creek's applications to intervene in the JUC and H<sub>2</sub>O proceedings.

22 On October 11, 2000, a teleconference was held in which JUC, H<sub>2</sub>O, Diversified, Queen  
23 Creek and Staff participated. Discussions took place concerning the issues raised by JUC's and  
24 H<sub>2</sub>O's applications along with the pending requests for intervention by Diversified and Queen Creek  
25 along with their applications and their impact on the proceedings scheduled for hearing on October  
26 19, 2000. Staff was also concerned with respect to the various issues and potential conflicts between  
27 the pending applications. It was determined that the hearing should be continued for a period of time  
28 to allow all parties to prepare for a hearing on the issues. This delay in the hearing date resulted in a

1 suspension of the time-frame rules, due to the unusual circumstances of the competing applications in  
2 the respective Dockets.

3 On October 16, 2000, the Commission, by Procedural Order, consolidated the above-  
4 captioned Dockets for purposes of hearing. The hearing previously scheduled for October 19, 2000  
5 on the applications filed by H<sub>2</sub>O and JUC was continued until March 15, 2001 with the applications  
6 of Diversified and Queen Creek consolidated into the proceedings. October 19, 2000 was reserved  
7 for taking public comment as that date had been previously noticed for hearing by H<sub>2</sub>O and JUC.  
8 The Commission further ordered that the pre-hearing conference scheduled for October 16, 2000, be  
9 continued until March 12, 2001. Skyline was also granted intervention.

10 On October 19, 2000, the above-captioned proceeding was convened to take public comment.  
11 The parties and Staff were present with counsel. Although no intervenors entered an appearance at  
12 that time, a number of property owners for the areas involved in the respective applications were  
13 present and made public comment.

14 On December 14, 2000, Southwest Properties, Inc. ("SPI") and Vistoso Partners, L.L.C.  
15 ("Vistoso") requested and were subsequently granted intervention in the above-captioned proceeding.

16 On January 9, 2001, Staff filed its report with respect to the above-captioned applications.

17 On January 2, 2001, JUC filed a Request for Pre-Hearing Conference to review certain issues  
18 which had arisen with respect to the above-captioned proceeding.

19 On January 5, 2001, by Procedural Order, the Commission scheduled a pre-hearing  
20 conference on January 11, 2001.

21 On January 11, 2001, at the pre-hearing conference, a discussion took place involving a  
22 possible settlement between JUC, H<sub>2</sub>O and Queen Creek without the inclusion of Diversified.  
23 However, it was pointed out that Pinal County was taking an active part in attempting to resolve the  
24 competing applications of the parties and was also involved in the possible formation of a domestic  
25 improvement district that was proposed to be formed in Diversified's certificated service area. The  
26 parties also conducted discussions concerning possible changes in the filing dates of testimony  
27 previously ordered, given that the testimony might be affected by the filing of any proposed  
28 settlement.

1 On January 24, 2001, JUC, H<sub>2</sub>O and Queen Creek (collectively "HJQ") filed what was  
2 captioned "Notice of Filing Settlement Agreement and Joint Application for Approval Thereof"  
3 ("Settlement Agreement"). HJQ indicated that they had reached a settlement of a number of issues  
4 which had previously been contested. HJQ also represented that certain land owners and customers  
5 who were served by Diversified had filed a petition with Pinal County requesting that the County  
6 Board of Supervisors ("Pinal County Board") authorize the formation of a domestic water  
7 improvement district "that will condemn, purchase or otherwise acquire the water utility facilities of  
8 Diversified and become the water provider in what is now Diversified's certificated service area."  
9 HJQ believed that, if the Pinal County Board approved the formation of the district that would  
10 encompass Diversified's active service area, its application herein would be rendered moot.<sup>1</sup>

11 On January 29, 2001, by Procedural Order, the Commission established the procedures to be  
12 followed for the filing of any testimony and associated exhibits with respect to the scheduled hearing.  
13 The Commission's Procedural Order also set forth the filing schedule for any responses or replies  
14 with respect to the Settlement Agreement filed by HJQ. Subsequently, Diversified, Skyline and Staff  
15 objected to the Settlement Agreement between HJQ.

16 On February 26, 2001, Arizona Utilities Supply & Services, L.L.C. ("AUSS") filed an  
17 application to intervene in the above-captioned proceeding. AUSS indicated that it had received  
18 requests from certain landowners or developers of properties which were involved in this proceeding.  
19 AUSS indicated that it anticipated filing on or about March 1, 2001, an application for a Certificate to  
20 provide sewer service to an area which is part of the pending proceeding involving JUC.

21 On March 5, 2001, JUC, H<sub>2</sub>O and Queen Creek jointly filed an objection to the request by  
22 AUSS to intervene. They argued that the application of AUSS was filed more than two months after  
23 the deadline of December 15, 2000 set for filing requests for intervention in this proceeding.  
24 Subsequently, on March 8, 2001, by Procedural Order, the application for intervention by AUSS was  
25 denied.

26 \_\_\_\_\_  
27 <sup>1</sup> According to HJQ, only five of Diversified's nine certificated sections of land are presently able to be served by  
28 Diversified. The remaining four sections are not served and are owned by the State of Arizona which cannot petition the  
County to form an improvement district. HJQ cited A.R.S. § 48-902 and Attorney General Opinion 71-33 in support of  
this argument.

1 On March 12, 2001, the final pre-hearing conference was held. During this pre-hearing  
2 conference, Skyline withdrew its objection to the Settlement Agreement, and the parties also  
3 discussed the presentation of evidence during the proceeding.

4 On March 15, 2001, a full public hearing was commenced before a duly authorized  
5 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. JUC, H<sub>2</sub>O,  
6 Diversified, Queen Creek and Staff appeared with counsel. No intervenors appeared, but public  
7 comment was taken and additional hearings were conducted on March 16, 19, 20 and 21, 2001.  
8 Testimony was taken from utility witnesses, property owners, the Pinal County Manager and Staff.  
9 Numerous exhibits were admitted into evidence during the course of the proceeding. Following the  
10 conclusion of the hearing, the matter was taken under advisement pending submission of a  
11 Recommended Opinion and Order to the Commission.

12 \* \* \* \* \*

13 Having considered the entire record herein and being fully advised in the premises, the  
14 Commission finds, concludes, and orders that:

15 **FINDINGS OF FACT**

16 1. Pursuant to authority granted by the Commission, JUC is certificated to provide water  
17 and wastewater service to approximately 650 customers in an area of approximately forty-five square  
18 miles southeast of Queen Creek in various parts of Pinal County, Arizona.

19 2. Pursuant to authority granted by the Commission, H<sub>2</sub>O is certificated to provide public  
20 water service to approximately 783 customers located in approximately 13 ½ sections of Pinal and  
21 Maricopa Counties, Arizona.

22 3. Pursuant to authority granted by the Commission, Diversified is certificated to provide  
23 public water service to approximately 140 customers in various parties of Pinal County, Arizona.

24 4. Pursuant to authority granted by the Commission, Queen Creek is certificated to  
25 provide public water service to approximately 1,977 customers in various parts of southeast Maricopa  
26 and northwest Pinal Counties, near the town of Queen Creek, Arizona.

27 5. On October 18, 1999, JUC filed an application for an extension of its Certificate to  
28 provide water and wastewater service in various parts of Pinal County, Arizona. Subsequently, on

1 November 1, 1999, June 15, July 5 and August 25, 2000, JUC filed amendments to its application.  
2 JUC is seeking an extension of its Certificate to include an area of approximately 26 and ½ square  
3 miles which is more fully described in Exhibit A attached hereto and incorporated by reference in the  
4 form of a designated parcel list.<sup>2</sup>

5 6. With its application, JUC is seeking to provide water and wastewater service to all 24  
6 parcels with the exception of parcel 19, for which JUC seeks to provide wastewater service only, and  
7 to delete parcels 14 and 20 from H<sub>2</sub>O's certificated service area in order for JUC to provide both  
8 water and wastewater to both parcels.

9 7. On May 30, 2000, H<sub>2</sub>O filed an application for an extension of its existing Certificate  
10 to provide water service to four contiguous sections of land reflected on Exhibit A as parcels 5, 6, 11,  
11 14, 15, 16, 17, 18, and 22 which compromise approximately an additional 2,055 acres.

12 8. On October 2, 2000, Diversified filed an application for an extension of its existing  
13 Certificate to provide public water utility service to approximately nine sections of land in various  
14 parts of Pinal County, Arizona described as parcels 2, 14, 15, 16, 17 and 18 on Exhibit A. On  
15 October 3 and November 2, 2000, Diversified filed amendments to its application to add additional  
16 portions of parcel 14 and also added parcel 24 in order to provide service to a land owner who is  
17 requesting water service from Diversified for approximately 20 acres of land.

18 9. On October 4, 2000, Queen Creek filed an application for an extension of its existing  
19 Certificate to provide public water utility service for approximately four more sections of land  
20 described as part of parcel 11, and parcels 15, 16, 17, 18 and 22 as set forth on Exhibit A. H<sub>2</sub>O and  
21 JUC are also requesting to serve that part of parcel 11 requested by Queen Creek, along with parcels  
22 15, 16, 17, 18 and 22.

23 10. Notice of the above-captioned applications was given in the manner prescribed by law.

24 11. At the outset of the hearing, counsel for the parties to the Settlement Agreement  
25 announced that they were withdrawing it from consideration before the Commission because  
26 Diversified was not a party to the Agreement.

27

28 <sup>2</sup> The parcel list was designed by Staff as a convenient way to reference the various requested extensions.

THE JOHNSON APPLICATION

12. In support of its application, JUC called the following witnesses to testify on its behalf: Mr. Stanley Griffis, Ph.D., the Pinal County manager; Ms. Kathy Aleman, a principal with SPI, a developer; Mr. Gerald Bowen, a principal with Bowen Properties, Inc.; Mr. Byron Handy, president of BFH Development Corporation; Mr. Brian Tompsett, a civil engineer with WLB Group which is the primary engineering consultant for JUC; and Mr. George Johnson, the managing member of JUC.

13. During the public comment portion of the proceeding, it was indicated that Mr. Griffis would testify on behalf of H<sub>2</sub>O and JUC.

14. Mr. Griffis testified that he was making his recommendation on behalf of Pinal County with respect to the applications of JUC, H<sub>2</sub>O and Queen Creek as was resolved in the Settlement Agreement filed by these three utilities on January 24, 2001.

15. Mr. Griffis indicated that he was instrumental in bringing together H<sub>2</sub>O, JUC and Queen Creek after they had been unable to reach an agreement with Diversified over the contested areas occasioned by the competing applications.

16. According to Mr. Griffis, he had been contacted by several large landowners within Diversified's certificated service area requesting help from the county in their dealings with Diversified involving the use of their properties. These contacts came in approximately December, 2000.

17. In response to their concerns, Mr. Griffis had discussions with other Pinal County officials and learned that a majority of the land owners within Diversified's certificated service area "could petition Pinal County to form a water improvement district that could then seek to purchase, condemn or otherwise acquire Diversified's facilities and become the authorized provider of water utility service within that area."

18. Based on these discussions, Mr. Griffis believed that the Pinal County Board would support the formation of such a district due to the concerns of property owners within Diversified's certificated service area.

1           19. Mr. Griffis further testified that Pinal County is concerned that growth, which is  
2 occurring rapidly, move in an orderly fashion to enhance the quality of life of its citizens by having  
3 adequate water and wastewater utility services.

4           20. Pinal County is not interested in seeing excessive litigation delay the development of  
5 growth within the respective areas sought to be certificated herein.

6           21. Pinal County wishes to have a prompt resolution of the disputes arising from the  
7 competing applications herein because it anticipates significant revenue growth associated with  
8 development.

9           22. According to Mr. Griffis, if Diversified is removed from the process of competing for  
10 extensions of its certificated service area due to the formation of the district, JUC, H<sub>2</sub>O and Queen  
11 Creek indicated that they could resolve the issues brought about by their competing applications and  
12 agree on a means of allocating extensions of service within the areas contested by the utilities.

13           23. Mr. Griffis believes that the crucial factor of the proposed settlement was the  
14 agreement of Pinal County to support the formation of the Skyline Water Improvement District  
15 ("Skyline District"). Mr. Griffis further testified that the District was not formed to harm Diversified  
16 since it would receive adequate compensation, if need be, through litigation.

17           24. Mr. Griffis identified Resolution No. 031401-SDWID which was captioned "a  
18 resolution of the Pinal County Board of Supervisors establishing the Skyline Domestic Water  
19 Improvement District" that was approved on March 14, 2001 (the day before the hearing). He  
20 identified large portions of the district included in parcel 2 and parcel 16 as delineated on Exhibit A  
21 and pointed out that it also included significant portions of Diversified's certificated service area.

22           25. Although Mr. Griffis testified during the proceeding that he had received a number of  
23 complaints about Diversified's service, during his deposition on November 28, 2000, he stated that he  
24 was unaware of any complaints about service by Diversified.

25           26. Subsequently, Mr. Griffis' acknowledged that he had received mostly calls from  
26 property owners within Diversified's certificated service area and not actual customers who received  
27 service from Diversified.

28

1           27.     With respect to Diversified's existing Certificate, Mr. Griffis described the Skyline  
2 District as being composed of three separate and distinct parcels of land which are not contiguous to  
3 one another and include sizeable portions of Diversified's certified area.

4           28.     In concluding his testimony, Mr. Griffis indicated that he was satisfied that H<sub>2</sub>O could  
5 provide water service to parcel 15 (Pecan Ranch), parcel 16 (Home Place), and parcel 17 (Ware  
6 Farms) as originally agreed upon in the proposed settlement, and that parcel 11 (Circle Cross Ranch)  
7 could be provided with service by JUC.

8           29.     Ms. Aleman testified that her company, SPI, is in the process of co-developing parcel  
9 2, Bella Vista Farms ("Bella Vista"), an area which lies partially in Diversified's existing certificated  
10 area and also outside of its certificated area, but contiguous to Diversified's southern boundary. Bella  
11 Vista lies to the east of JUC's certificated area. She stated that SPI supports JUC's application and  
12 the former proposed Settlement Agreement between JUC, H<sub>2</sub>O and Queen Creek.

13           30.     That portion of Bella Vista which lies within Diversified's certificated service area is  
14 part of the Skyline District as is the remainder of the Bella Vista project which lies outside of  
15 Diversified's certificated area.

16           31.     Ms. Aleman testified that although no development has yet taken place in the Bella  
17 Vista area, it is to be a master planned development completed "hopefully within the next three years  
18 or so". The development consists of 3,800 acres which is controlled by SPI and other developers  
19 who plan to build between 12,000 and 13,000 homes there.

20           32.     Ms. Aleman testified that SPI preferred to keep its options open with respect to the  
21 formation of the Skyline District for the provision of water service within Diversified's area and  
22 favored JUC because, in her opinion, JUC is more qualified and able to provide water and wastewater  
23 service, both physically and financially, to the Bella Vista area.

24           33.     Mr. Bowen described his plans for approximately 200 acres in parcel 8, as delineated  
25 on Exhibit A, where his company plans to build 127 homes after approval for his subdivision is  
26 received from the Arizona Department of Real Estate. Approval of the Real Estate Department will  
27 follow if JUC is approved as a provider of water and sewer service, because JUC has a designation of  
28 an assured water supply.

1           34.     There are no other water or wastewater providers in the vicinity of parcel 8 where Mr.  
2 Bowen's property is located.

3           35.     Mr. Handy testified that the developers he is assisting in the development of the 480  
4 acres in parcel 17 (Ware Farms) are in agreement with the resolution reached in the Settlement  
5 Agreement between JUC, H<sub>2</sub>O and Queen Creek. They are desirous of H<sub>2</sub>O being certificated to  
6 provide water service in parcel 17 and that JUC be certificated to provide waste water treatment  
7 service in parcel 17 for approximately 1,500 residential lots.

8           36.     Mr. Handy expressed some reservations about the possibility of service from  
9 Diversified and has heard that a water improvement district was being formed to provide service to  
10 that area.

11           37.     Mr. Handy further testified in support of JUC's application for parcel 1 because Mr.  
12 Handy has a client, Arizona Farms, which has engaged him to market a 2,850 acre master planned  
13 community to home builders who will require the availability of water and waste water service.

14           38.     However, Mr. Handy indicated that development of parcel 1 in the Arizona Farms area  
15 was "probably about 3 years away" and that sales of the property to homebuilders would then take  
16 place.

17           39.     Mr. Tompsett, the vice-president and director of operations for JUC's primary  
18 engineering consultant, testified that Staff failed to consider JUC's construction schedule for the  
19 development of two 600 gallons per minute wells that will almost triple JUC's capacity and  
20 significantly increase JUC's storage, production and distribution capacity in the next few years.

21           40.     Mr. Tompsett emphasized that JUC has a Designation of an Assured Water Supply  
22 ("Designation") which will enable property owners who wish to be served with water service by JUC  
23 to receive the necessary regulatory approvals for their projects more easily because of the  
24 Designation<sup>3</sup>.

25           41.     With respect to a tariff issue that had arisen from the fact that JUC had been charging  
26 waste water rates from developers based on water meter sizes when the water meter was installed,  
27

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28 <sup>3</sup> JUC's current Designation is 5,967 acre feet of water per year.

1 even if no waste was being generated, Mr. Tompsett recommended that the tariff be amended so that  
2 the waste water rate would be charged at a flat rate and not based on meter size when it was installed.  
3 This is contrary to Staff's position that waste water rates should not become effective until waste  
4 water is first produced.

5 42. Mr. Tompsett opined that JUC is better situated to provide service to the Bella Vista  
6 Farms area than Diversified because of its stronger financial position and because of the scale of  
7 JUC's infrastructure improvements that Diversified cannot achieve.

8 43. With respect to parcel 1 sought by JUC to be certificated herein, Mr. Tompsett  
9 testified that JUC is currently certificated to provide service to an area immediately to the south and  
10 to the west of parcel 1. This area contains a subdivision, Wild Horse Estates, that is currently being  
11 built, and where a well has been drilled, water lines have been installed and the developer is  
12 preparing to pave streets within the development.

13 44. Mr. Tompsett described JUC's plans for Bella Vista explaining that JUC would loop  
14 the entire system from a main which it would run on Bella Vista Road.

15 45. During cross-examination, Mr. Tompsett acknowledged that JUC's three operating  
16 water systems, the Johnson Ranch system, the Sun Valley Unit 5 system, and the Wild Horse Ranch  
17 system, are not interconnected.

18 46. Mr. Johnson testified that JUC now is in compliance with the requirements of the  
19 Arizona Department of Environment Quality ("ADEQ") which had previously cited JUC for repeated  
20 compliance violations.

21 47. Mr. Johnson pointed out that after the issuance of a Procedural Order on March 8,  
22 2001, JUC had fulfilled the requirements of Decision No. 62087 (November 19, 1999) in which the  
23 Commission approved JUC's application for an extension of its Certificate to provide water and  
24 wastewater service to approximately 30 sections of land, more than half of which is contained within  
25 the San Tan Mountain Regional Park where JUC has been requested to construct facilities to provide  
26 service to ramadas and other park areas. As a condition for the approval granted in Decision 62087,  
27 JUC was required to file a number of copies of documents within one year of the effective date of the  
28 Decision. JUC filed copies of documents such as a Pinal County franchise, evidence of compliance

1 with the Rules of ADEQ, and evidence that it had received its Designation from the Arizona  
2 Department of Water Resources ("ADWR").

3 48. Mr. Johnson acknowledged that parcels 10 and 13 as delineated on Exhibit A are State  
4 and Bureau of Land Management property which have no existing requests for service, and he  
5 withdrew JUC's application for the certification of these parcels. However, Mr. Johnson disputed  
6 Staff's ultimate recommendation with respect to parcel 1 (Arizona Farms) maintaining that  
7 development is moving forward in that area and should be included in JUC's certificated service area.

8 49. Mr. Johnson also disagreed with Staff's recommendation that parcel 2 (Bella Vista) be  
9 included in Diversified's certificated service area because that portion of Bella Vista presently in  
10 Diversified's certificated service area is part of the Skyline District. He also stated that the owners of  
11 Bella Vista have specifically requested that their property be included in JUC's Certificate area in  
12 order that water and waste water treatment service will be available.

13 50. Mr. Johnson further testified that JUC still supports the Settlement Agreement reached  
14 by JUC, H<sub>2</sub>O and Queen Creek because it has the backing of the Pinal County Board.

15 51. While testifying, Mr. Johnson indicated that owners of parcels 3, 12, 6 and 5, the  
16 Jorde, Morning Sun Farms, Cravath, and Skyline parcels, respectively, had resolved earlier  
17 differences with JUC and now wish to be provided with public water and wastewater treatment  
18 service by JUC.

19 52. Mr. Johnson acknowledged having been contacted by individuals who own property  
20 within Diversified's certificated area who sought information with regard to the formation of a  
21 domestic water improvement district. He also acknowledged that he had been involved in at least  
22 several discussions with Mr. Griffis about general questions concerning the formation of a water  
23 improvement district.

24 53. Mr. Johnson made no attempt to deny the fact that JUC had received a number of  
25 complaints in the past, but stated that his utility is attempting to operate in a lawful manner and that a  
26 number of the problems had been due to construction accidents when contractors cut JUC's water or  
27 sewer lines.

28

1           54.     Mr. Johnson also described JUC's plans for expansion for the provision of wastewater  
2 treatment service to parcel 22, which lies north of the Union Pacific Railroad Company's tracks and  
3 parcel 11.

4           55.     With respect to a recent problem with its waste water tariff, Mr. Johnson believes that  
5 the matter will be resolved in the near future; however, JUC will file a tariff which conforms to  
6 Arizona law and the Commission's rules in the near future.

7 THE H<sub>2</sub>O APPLICATION

8           56.     H<sub>2</sub>O, in support of its application, called the following witnesses: Mr. Donald  
9 Schnepf, a 50 percent shareholder of H<sub>2</sub>O and its president since October 5, 1972, and Mr. Richard  
10 Bartholomew, H<sub>2</sub>O's consulting engineer for the past two years.

11           57.     Mr. Schnepf testified that H<sub>2</sub>O had originally applied for an extension of its Certificate  
12 to provide public water service in parcels 5, 6, 11, 14, 15, 16, 17, 18, 20, and 22 as delineated in  
13 Exhibit A.

14           58.     Pursuant to the terms of the Settlement Agreement, H<sub>2</sub>O's Certificate would have been  
15 extended to include that portion of parcel 14 not currently located within H<sub>2</sub>O's existing Certificate  
16 and parcels 15, 16, 17, 18 and 22 in Pinal County, Arizona, as delineated in Exhibit A. H<sub>2</sub>O is also  
17 requesting that its Certificate be extended to include Section 13, Range 7 East, Township 2 South, in  
18 Maricopa County. H<sub>2</sub>O is still desirous of providing water service to these areas.

19           59.     H<sub>2</sub>O is also requesting that the Country Thunder property, which lies south of the  
20 Queen Creek Wash and is comprised of approximately the western 1/3 of Section 30, Range 8 East,  
21 Township 2 South, in Pinal County, Arizona, be deleted from H<sub>2</sub>O's Certificate since Queen Creek  
22 actually provides water service to that parcel and is requesting the area be transferred to Queen  
23 Creek.

24           60.     Mr. Schnepf testified that, after he was contacted by Mr. Griffis, he learned that Pinal  
25 County's Board had received a petition from landowners in Diversified's certificated service area  
26 requesting that a water improvement district be created to replace Diversified as their water service  
27 provider.

1           61.     H<sub>2</sub>O agreed to support the Settlement Agreement proposed by Pinal County in order to  
2 reach an expeditious resolution of the competing applications and to avoid further problems.

3           62.     H<sub>2</sub>O is anxious for a prompt resolution of the dispute between the parties because of  
4 its need to expand its system to ensure quality service at reasonable rates, and to meet Pinal County's,  
5 the landowners' and developers' needs in order to promote orderly development.

6           63.     Mr. Schnepf does not believe that it is in the public interest for Diversified to receive  
7 an extension of its Certificate at this time based upon his review of a petition involved in the  
8 formation of the Skyline District and because Diversified's existing facilities are not adequate to  
9 serve any additional areas.<sup>4</sup>

10          64.     H<sub>2</sub>O's primary concern, with respect to the Staff Report issued on January 9, 2001, is  
11 that approval of H<sub>2</sub>O's application should be conditioned upon a variety of factors being satisfied and  
12 that if they are not, the recommended conditional Certificate would be rendered null and void without  
13 further order of the Commission. H<sub>2</sub>O believes that Staff's approach is arbitrary and potentially  
14 damaging to a landowner currently planning to commence development in approximately two years.

15          65.     H<sub>2</sub>O also takes exception to the proposed review process by Staff (as discussed  
16 hereinafter) because H<sub>2</sub>O would not be provided an opportunity to respond to Staff's  
17 recommendation and this could result in problems with the extension of service into the new areas  
18 approved for service in this proceeding.

19          66.     According to Mr. Schnepf, H<sub>2</sub>O has planned for the expansion of its system by  
20 developing a "Master Plan" which Mr. Schnepf described as having been developed to serve the  
21 contested areas in these proceedings and by the fact that H<sub>2</sub>O supported the Settlement Agreement  
22 before it was withdrawn from consideration.

23          67.     Mr. Schnepf acknowledged that in 1978, H<sub>2</sub>O had filed a Chapter 11 federal  
24 bankruptcy reorganization action during his tenure as president.

25          68.     Mr. Schnepf acknowledged that, in the past, H<sub>2</sub>O had been delinquent in the payment  
26 of property taxes prior to 1996 because its irrigation rates were insufficient to cover all of the  
27

28 <sup>4</sup>           Diversified presently has only one well, a pressure tank and an old 20,000 storage tank. It was completing the construction of a 200,000 gallon storage tank during the hearing.

1 company's expenses, including its property taxes. Subsequently, H<sub>2</sub>O and Pinal County entered into  
2 a settlement which called for a one-time payment of a portion of the taxes as satisfaction in full. This  
3 payment was made in 1998.

4 69. Currently, H<sub>2</sub>O's property taxes are current and have been since August 1998, with  
5 sufficient reserves to pay taxes in the future when they are due.

6 70. Mr. Schnepf reiterated that H<sub>2</sub>O, is seeking an extension of its Certificate for a portion  
7 of parcel 14, and parcels 15, 16, 17, 18, and 22 as delineated on Exhibit A and located north and east  
8 of the Union Pacific's railroad tracks.

9 71. Mr. Schnepf testified that Mr. Jim Wales, an individual who is involved in the  
10 development of parcel 16 known as Home Place, prefers that H<sub>2</sub>O be certificated to provide public  
11 water utility service to his development.

12 72. Mr. Schnepf testified in great detail concerning the development of H<sub>2</sub>O's Master Plan  
13 and the manner in which facilities would be extended to the areas which it sought to be certificated  
14 herein, including the development of a new production well that can produce 2,500 gallons of water  
15 per minute.

16 73. Mr. Schnepf indicated that, during the settlement negotiations with JUC and Queen  
17 Creek, "H<sub>2</sub>O decided to relinquish some area to Queen Creek and to Johnson" with respect to areas  
18 that had previously been contested in this proceeding.

19 74. While testifying, Mr. Schnepf explained that JUC had relinquished claims to provide  
20 water for parcels 22, 14, 17, 18, 16, and 15.

21 75. Mr. Schnepf further testified that H<sub>2</sub>O's Master Plan amply provides for the extension  
22 of service to parcel 15 (Pecan Ranch), parcel 16 (Home Place), and parcel 17 (Ware Farms).

23 76. Mr. Schnepf believes that parcel 15 (Pecan Ranch) alone, if added to H<sub>2</sub>O's system,  
24 would add at least 3,000 more residential lots to H<sub>2</sub>O's customer base. Additionally, he indicated that  
25 the other parcels which H<sub>2</sub>O is seeking to be certificated would add additional thousands of  
26 customers.

27 77. Much of the requested extension area for parcel 16 (Home Place), will also be lost to  
28 planned expansion by H<sub>2</sub>O since it is also included within the Skyline District.

1           78.     However, even in light of the fact that parcel 16, Home Place, has been included in the  
2 Skyline District, H<sub>2</sub>O believes that it is possible for the Commission to approve an extension of its  
3 Certificate for that area.

4           79.     All told, H<sub>2</sub>O would ultimately realize approximately 8,100 additional customers from  
5 the disputed parcels if the Commission authorizes an extension of H<sub>2</sub>O's Certificate for the  
6 uncertificated portion of parcel 14 and parcels 15, 16, 17, 18, and 22.

7           80.     Mr. Schnepf indicated that he had also reached an understanding with JUC for it to  
8 provide wastewater treatment service to all areas where H<sub>2</sub>O is certificated for water service, subject  
9 to Commission approval.

10          81.     Like JUC, Mr. Schnepf acknowledged that H<sub>2</sub>O has Commission-approved hook-up  
11 fees to pay for much of its backbone plant.

12          82.     H<sub>2</sub>O's engineer, Mr. Richard Bartholomew, testified that in his opinion, Diversified  
13 lacks adequate storage facilities to serve its current customers plus the proposed developments  
14 planned in parcels 16 (Home Place) and parcel 17 (Ware Farms). He also testified that Diversified's  
15 recent expansions with 6 inch mains would be inadequate to serve areas outside of Diversified's  
16 existing certificated service area because of the distance from Diversified's well and storage facilities  
17 to the location of the prospective customers.

18          83.     Mr. Bartholomew also disagreed with Diversified's plans for expansion, stating that  
19 transmission lines alone could not solve the service issues and that Diversified would need wells,  
20 storage reservoirs and pump stations to provide the facilities necessary for future customers in the  
21 areas sought to be certificated herein.

22          84.     Mr. Bartholomew discussed in great detail his description of H<sub>2</sub>O's Master Plan for  
23 expanding its certificated service area, illustrating that the plan had been well thought out and would  
24 be constructed with the approval of ADEQ.

25 THE DIVERSIFIED APPLICATION

26          85.     In support of its case, Diversified called the following witnesses: Mr. Scott Gray, its  
27 president; Mr. James Wright, Diversified's certified operator; and Mr. Greg Potter, an engineer  
28

1 employed by Sunrise Engineering, Inc. that has been performing engineering services for Diversified  
2 for several years.

3 86. In 1994, Mr. Gray acquired what was then known as Quail Hollow Water Company, a  
4 troubled utility that was providing poor service in what was then a rural area. He did so because he  
5 believed that the area bordered on the edge of future growth in the greater Phoenix metropolitan area  
6 and because Diversified "was a good prospect for being economically viable and a profitable  
7 venture."

8 87. Mr. Gray has previous experience in the water and wastewater business dating back to  
9 the early 1980's when he and his wife acquired Oak Creek Utility Corporation, a small water and  
10 wastewater utility in the area of Oak Creek Canyon, near Sedona, Arizona.

11 88. Although Mr. Gray is a practicing attorney, he has been certified as a Grade One  
12 operator for water and wastewater systems for approximately three years.

13 89. When Diversified acquired the water utility from its former owners in 1995, the  
14 system was under an ADEQ cease and desist order which had been issued for numerous violations  
15 and inadequacies; however, the former owners were taking no action to cure the deficiencies.

16 90. Diversified's system at that time had approximately 25 customers who were served by  
17 a single 50 gallons per minute well, a 5,000 gallon pressure tank and a single four-inch distribution  
18 line approximately one mile long.

19 91. Diversified refurbished and made substantial improvements to its system by adding a  
20 20,000 gallon storage following its acquisition of the utility. Diversified also added new electrical  
21 panels, two booster motors, a pressurization system to pressurize the hydro-mantic tank and system, a  
22 new pump and a chlorination treatment system.

23 92. By the time Diversified remedied the majority of its deficiencies in 1997, it had grown  
24 to 170 customers.

25 93. Diversified is taking the following steps to increase its storage and production  
26 capacity: attempting to purchase a 1,000 gallons per minute well within its certificated area; securing  
27  
28

1 ADEQ approval to construct a 250,000 gallon storage tank; and applying for a water infrastructure  
2 authority ("WIFA) loan in the amount of \$378,000 to fund the aforementioned projects.<sup>5</sup>

3 94. Mr. Gray indicated that it has always been Diversified's intent to expand its  
4 certificated service area beyond its existing 9 ½ sections of land. When Mr. Gray became aware in  
5 September, 2000 of JUC's and H<sub>2</sub>O's competing applications for areas contiguous to Diversified's  
6 service area, Diversified filed for intervention in the proceedings and also filed a competing  
7 application contesting those certain areas sought by JUC and H<sub>2</sub>O.

8 95. In pre-filed testimony, Mr. Gray indicated that he disagreed with a number of Staff's  
9 recommendations with respect to which utilities in competing areas should be approved to provide  
10 utility services. He argued that Queen Creek already has more than 2,000 metered customers and has  
11 a certificated service area encompassing approximately 31 square miles, JUC already covers  
12 approximately 45 square miles and anticipates approximately 40,000 total residential metered  
13 customers in those areas, and that H<sub>2</sub>O, while it is only certificated to provide service to 13 ½  
14 sections of land, is experiencing substantial customer growth.

15 96. According to Mr. Gray, Diversified would be "substantially benefited" if the  
16 Commission approves the extension of its Certificate for parcel 16 (Home Place), parcel 17 (Ware  
17 Farms), and parcel 2 (Bella Vista). Mr. Gray represented that the Home Place development  
18 represents a potential for an additional 2,174 metered customers, Ware Farms represents a potential  
19 for an additional 1,485 metered customers and Bella Vista represents a potential for an additional  
20 12,800 metered customers.

21 97. Mr. Gray pointed out that if the Commission authorizes the extension of Diversified's  
22 Certificate for the parcels which include Ware Farms and Home Place, Diversified will be able to  
23 loop its system and operate more efficiently. Mr. Gray also pointed out that Diversified's service  
24 lines are within 4,000 feet of the Ware Farms development and within 50 feet of the Bella Vista  
25 project.

26 \_\_\_\_\_  
27 <sup>5</sup> Diversified has instituted a complaint against JUC in a separate proceeding, Docket Nos. W-02234A-00-0775;  
28 WS-02987A-00-0775 and WS-02987A-00-0775 in which it alleges that JUC has interfered with Diversified's attempts to  
purchase the well within its certificated area and is attempting to "foster dissatisfaction among landowners and  
customers" of Diversified.

1           98.     Additionally, approximately one and one-half sections of the Bella Vista development  
2 are already within Diversified's certificated service area and, if the Commission approves the  
3 addition to Diversified's Certificate of parcel 2, it would represent a natural growth area for  
4 Diversified because a single service provider will provide consistency and efficiency.<sup>6</sup>

5           99.     Diversified's small certificated service area has caused Mr. Gray to be concerned with  
6 the inability to expand in a substantial portion of its certificated area because four sections of a total  
7 of nine and one-half sections are owned by the State. A further area of concern is the fact that if  
8 Diversified's Certificate is not extended, it will have less of an opportunity to obtain existing  
9 irrigation wells which could be converted to potable use.

10          100.    Diversified does not object to JUC offering sewer utility service within its certificated  
11 service area.

12          101.    In his pre-filed testimony, Mr. Gray, like the other utility owners, strongly disagreed  
13 with Staff's proposal of a conditional Certificate being issued for its requested extension areas which  
14 could be revoked by means of an automatic revocation if development and/or facilities were not  
15 installed within two years of the effective date of the Decision herein.

16          102.    In rejoinder, Mr. Gray pointed out that a number of Diversified's customers attended a  
17 public hearing in connection with the formation of the Skyline District and expressed their  
18 satisfaction with the service that was provided by Diversified. Mr. Gray cited comments by  
19 individuals who spoke at the public hearing evidencing the improvement in service which they  
20 received from Mr. Gray and Diversified after he acquired the water utility in 1995.

21          103.    Mr. Gray testified that at the hearing regarding the Skyline District on February 28,  
22 2001, Mr. Johnson was present and made statements to the Pinal County Board "that his trust would  
23 buy all bonds the District needed to issue and would look for their repayments from revenues from  
24 the water used and paid in the District."

25          104.    Mr. Gray believes that JUC, assisted by Mr. Griffis, is involved in a concerted effort to  
26 harm Diversified.

27 \_\_\_\_\_  
28 <sup>6</sup> It should be noted, however, that the entire Bella Vista project, including those areas already certificated to  
Diversified, are within the recently formed Skyline District.

1           105. Mr. Gray also testified that Diversified was not invited to discuss any of the alleged  
2 concerns raised by landowners within Diversified's certificated service area or their desire to form an  
3 improvement district. Additionally, Diversified was not notified or invited to attend any of the  
4 settlement discussions conducted by Mr. Griffis with JUC, H<sub>2</sub>O or Queen Creek.

5           106. Based on the number of dwelling units in projects such as Ware Farms, Home Place  
6 and Bella Vista, Mr. Gray calculated that Diversified would receive approximately \$14 million due to  
7 its \$850 per connection charge if Diversified was certificated to provide service to those areas.

8           107. Much of the area sought to be certificated by Diversified herein is located in the  
9 vicinity of parcels that were previously subject to lot splitting; however, based on the evidence, the  
10 parcels involved in the instant applications are presently devoted to farming or are large vacant tracts  
11 of land waiting to be developed.

12           108. Commission approval of Diversified's application to provide water service to large  
13 areas of land is important to Diversified because, as development takes place, it will be able to loop  
14 its system and develop backbone plant paid for by the collection of its hook-up fees.

15           109. Mr. Gray testified that Diversified is absolutely and unconditionally ready, willing and  
16 able to proceed with the development of facilities to provide service to parcels 2, 16, 17, 18 and 24.

17           110. Mr. Gray argued that the Commission has the authority to approve the extension of  
18 Diversified's Certificate to areas included within the Skyline District such as Bella Vista. Pursuant to  
19 A.R.S. §48-909(D), a certificated public utility is entitled to be compensated by an improvement  
20 district if it has previously constructed facilities which are acquired by the district. However, the  
21 right to compensation shall not apply if no facilities of the public utility are actually acquired by the  
22 improvement district and a Certificate is issued to the corporation for any area which is within an  
23 improvement district at the time the Certificate is issued, as would be the case here.

24           111. Mr. Gray acknowledged that outside of parcel 24, the property owners in the  
25 remaining parcels for which it is seeking an extension of its Certificate have not requested service  
26 from Diversified.

1           112. Mr. Gray also stated that the formation of the Skyline District will be injurious to  
2 Diversified because it may limit its opportunities for growth within its existing certificated service  
3 area.

4           113. Mr. Gray blames the formation of the Skyline District upon the collusive efforts of  
5 JUC, H<sub>2</sub>O and Queen Creek entering into the Settlement Agreement and thereby acquiescing to the  
6 formation of the district in areas sought to be certificated herein and in various parts of Diversified's  
7 certificated service area.

8           114. Mr. Gray alleged that the petition, which had been utilized to request that Pinal  
9 County form the Skyline District, contained signatures of Diversified's customers that had been  
10 obtained through fraudulent means.

11           115. Diversified's business office is located in Mesa, Arizona, at a company by the name of  
12 FaciliGroup with whom it has contracted to provide billing and other services. It was also established  
13 that Diversified does not have an on-site manager.

14           116. Based on the record, Diversified has made no definite plans for projected growth  
15 because without definite plans from developers, any plans to accommodate the growth would be  
16 highly speculative.

17           117. One of the proponents of the Skyline District was involved in a complaint proceeding  
18 previously with Diversified before the initiation of the development of the district.

19           118. Mr. Gray acknowledged that there were a number of ways to provide evidence to Staff  
20 that development was occurring in the subject parcels such as the following: filing a copy of a  
21 Master Plan; submitting drawings of installed plant; filing documentation which establishes water is  
22 being sold in the subject parcel; filing evidence that customers of the company are located in a  
23 subject parcel; filing evidence that a utility has acquired existing wells or well sites in a subject  
24 parcel; submitting evidence of the removal of an unused plant; and submitting evidence of steps  
25 taken to bring a new well on line.

26           119. Mr. Gray is unaware of any existing customers of Diversified whose property is  
27 located within the boundaries of the newly formed improvement district.

28

1           120. While Mr. Gray objected to the conditional form of a Certificate being awarded to any  
2 of the subject parcels herein, he has not objected to the form of Certificates previously awarded by  
3 the Commission in extension proceedings or in certification proceedings which were conditioned  
4 upon the utility meeting certain requirements in the past. He is objecting to the requirement of  
5 providing evidence that third parties are proceeding with development because the previous  
6 Commission Certificates and extensions of Certificates were within the control of the utility and not  
7 third parties.

8           121. It was acknowledged that Diversified does not have any existing full-time employees.  
9 However, Mr. Gray indicated that, if Diversified is awarded significant extensions of its Certificate  
10 resulting in a larger customer base and increased revenues, Diversified, rather than relying on  
11 contract employees, will retain and add permanent full-time employees as needed.

12           122. Diversified's certified operator, Mr. Jim Wright, is also employed on a full-time basis  
13 by the City of Scottsdale as a Water Maintenance Technician engaged in the operation of Scottsdale's  
14 public water system.

15           123. Mr. Wright acknowledged that, while ADEQ has found no major deficiencies with  
16 Diversified's current operations, ADEQ had found that Diversified lacked adequate storage with only  
17 a 20,000 gallon storage tank. However, when its new 200,000 gallon storage tank (reduced from  
18 250,000 gallons) is completed, this problem will be resolved.

19           124. According to Mr. Wright, with Diversified's addition of a new 200,000 gallon storage  
20 tank and a 5,000 gallon pressure tank, Diversified will provide a reliable water system for its existing  
21 customers and a solid base for future growth.

22           125. During the two years that Mr. Wright has been with Diversified, there have been  
23 relatively few service problems. He also indicated that Diversified responds promptly to any  
24 problems when they arise.

25           126. Mr. Wright believes that if Diversified's application is approved for the expansion of  
26 its system to the Home Place, Ware Farms and Bella Vista parcels, Diversified's system would be  
27 "greatly enhanced" because developers would be required to pay Diversified's hook-up fees resulting  
28 in funds to allow for additional backbone plant to be constructed and interconnected with the rest of

1 Diversified's system and thereby producing more revenues to produce funds for improvements, and  
2 the hiring of more employees to serve its customers.

3 127. According to testing conducted by an independent laboratory, Diversified's nitrate  
4 level was extremely low, and unlike H<sub>2</sub>O and JUC, Diversified was not required to do quarterly  
5 sampling.

6 128. Mr. Wright acknowledged that because of his full-time employment with the City of  
7 Scottsdale, he is not always available to handle emergency situations, but that because Mr. Gray is  
8 also a certified operator, he too can address customer complaints.

9 129. Because Diversified's system is small, it is currently not looped and Mr. Wright is  
10 required to flush Diversified's mains every week and test the chlorine levels to insure water quality.

11 130. At its present size, Diversified lacks the capacity to handle fire flows at the present  
12 time.

13 131. Mr. Greg Potter, an engineer whose firm has been working for Diversified for several  
14 years, testified that his firm had been retained to insure that Diversified's water system is designed to  
15 meet the requirements of ADEQ and the Maricopa Association of Government Standards. Mr. Potter  
16 related that lot splitters and small sub-dividers create problems for water companies such as  
17 Diversified because they fail to cooperate with the utility to build a quality water system because  
18 "they take every cost cutting opportunity available to them."

19 132. Mr. Potter opined that it would be in the public interest for Diversified's existing  
20 system to be expanded to serve quality growth areas such as those to the northwest represented by  
21 Ware Farms and Home Place and to the south with Bella Vista. He stated that such expansion would  
22 enable Diversified to ultimately loop its entire system and give it an opportunity to increase its water  
23 production and storage capacity, thereby, benefiting its customers.

24 133. Mr. Potter indicated that Diversified, in anticipation of expansion, installed new  
25 distribution mains of at least six inches or larger to meet future demands.

26 134. Because approximately 40 percent of Diversified's certificated service area is owned  
27 by the State, Mr. Potter believes that it is most important for Diversified to be able to extend its  
28 boundaries to the parcels sought to be certificated herein to experience quality growth of its system.

1           135. According to Mr. Potter, Diversified is continuing to improve its existing system by  
2 improving its well site, adding storage, and enhancing its transmission lines. He also stated that  
3 Diversified is mapping and modeling its existing system so it will be able to promptly advise  
4 developers of what facilities must be added as development takes place.

5           136. Mr. Potter is in agreement with Staff's recommendation for the expansion of  
6 Diversified Certificate to include Bella Vista, and is also in favor of the northwest expansion to the  
7 Home Place and Ware Farms parcels in order to loop the distribution system in that area to prevent  
8 water from becoming stagnant.

9           137. Mr. Potter also expressed concerns with respect to Staff's recommendations  
10 concerning the issuance of conditional Certificates with respect to the extension of any of the parties'  
11 Certificates because of the uncertain nature of the timing when development will take place in the  
12 proposed expansion areas.

13           138. Mr. Potter believes that due to the formation of the Skyline District, which includes  
14 large areas of developable land within Diversified's certificated area, the potential for Diversified's  
15 growth will be limited unless additional extensions of its Certificate are approved.

16           139. Mr. Potter acknowledged that, if Diversified's certificated service area is expanded to  
17 such parcels as Home Place and Ware Farms, Diversified will have to develop other sources of water.

18           140. If the developmental plans for the Skyline District do not go forward, depending upon  
19 future development in Diversified's plant or its existing certificated service area, Diversified will  
20 have to develop another source of water.

21           141. Mr. Potter acknowledged that, although he had developed Diversified's water system  
22 map (or, as he termed it, a "hydraulic model") so that projected growth could be evaluated for future  
23 development, he had not actually physically visited Diversified's plant or its certificated service area.

24           142. According to Mr. Potter, Diversified has sufficient utility plant with which to serve the  
25 initial demand of that portion of Bella Vista presently within its certificated service area through a  
26 main extension; however, if parcel 2 is approved for Diversified, it will require much more in the way  
27 of facilities and backbone plant to provide service.

28

1 THE QUEEN CREEK APPLICATON

2 143. On March 15, 2001, at the outset of the hearing on these proceedings, Queen Creek  
3 announced that it was withdrawing from active participation in the hearing itself, but not the outcome  
4 of the proceeding. Queen Creek withdrew its testimony and announced a "swap of territory" that had  
5 been agreed upon with H<sub>2</sub>O.

6 144. The swap evolved from the Settlement Agreement between JUC, H<sub>2</sub>O and Queen  
7 Creek and, although the proposal for the Commission's approval of the January 2001 Settlement  
8 Agreement has been withdrawn, H<sub>2</sub>O and Queen Creek have elected to request approval of the swap  
9 and for two sections of land contiguous to their existing certificated service areas.

10 145. On February 16, 2001, Queen Creek published notice of the proposed Settlement  
11 Agreement and the swap. In response thereto, the Commission has not received any protests of the  
12 agreed upon transfer between H<sub>2</sub>O and Queen Creek or their request for certification of two  
13 contiguous sections of land. In fact, correspondence has been received in support of the requests of  
14 H<sub>2</sub>O and Queen Creek.

15 146. Queen Creek's and H<sub>2</sub>O's proposed trade involves the following: the transfer of the  
16 property known as Country Thunder from H<sub>2</sub>O to Queen Creek comprised of the western one-third  
17 below the Queen Creek wash of Section 30, Township 2 South, Range 8 East; Section 13, Township  
18 2 South, Range 7 East would be certificated to H<sub>2</sub>O; and the eastern three-fourths comprised of the  
19 uncertificated portion of Section 14, Township 2 South, Range 7 East be certificated to Queen  
20 Creek.<sup>7</sup>

21 147. JUC has also indicated its willingness to provide wastewater service to the Country  
22 Thunder property.

23 STAFF'S RECOMMENDATIONS

24 148. With the filing of the Staff Report on January 9, 2001, Staff recommended approval of  
25 various portions of JUC's, H<sub>2</sub>O's, Diversified's and Queen Creek's applications herein subject to the  
26 Certificates being made conditional upon a number of factors being satisfied by the respective  
27

28 <sup>7</sup> The western quarter of Section 14, Township 2 South, Range 7 East is presently within Queen Creek's  
certificated service area.

1 applicants and their continuing to charge their existing rates and charges in their respective extension  
2 areas in the respective parcels as further delineated in Exhibit A. Staff also recommended the denial  
3 of applications for certain parcels.

4 149. However, due to the ongoing nature of these proceedings, Staff amended a number of  
5 its recommendations and, in a post-hearing filing on March 27, 2001, memorialized the amendments  
6 which it made during the actual hearing.

7 150. Staff's witness, Mr. Mark DiNunzio, emphasized that he is not convinced that  
8 development will take place in a timely manner as previously stated because he believes that there  
9 has been a good deal of speculation presented by developers who would be able to capitalize on the  
10 increased value of their property if it is included in a utility's Certificate. Therefore, Mr. DiNunzio  
11 recommends that any Certificate from this proceeding be granted conditionally and subject to a  
12 review after two years to determine the extent of development. As part of the two-year review, Staff  
13 would have an additional period of time to review the development, or lack thereof, and file a report  
14 either recommending final approval of the Certificate as requested, final approval of the Certificate  
15 for the portions of the areas requested where development has taken place with a cancellation of the  
16 remaining areas, and/or disapproval of the Certificate for all areas requested if no development has  
17 taken place.

18 151. Staff indicates that since 1998, JUC has had 15 complaints, H<sub>2</sub>O has had ten  
19 complaints, Diversified has had no complaints and Queen Creek has had four complaints.

20 152. With respect to compliance issues, Staff found that JUC, H<sub>2</sub>O, Diversified and Queen  
21 Creek are current on their property taxes and filings with the Commission and are presently in  
22 compliance with the rules of ADEQ with the exception of securing various approvals and permits to  
23 construct and/or the filing of franchises for the requested parcels herein.

24 JUC

25 153. With respect to JUC's application for the extension of its water and wastewater  
26 Certificate, Staff is recommending the following:

- 27 • that JUC's wastewater Certificate be conditionally extended to include parcels  
28 2, 14, 15, 16, 17, 18, 19, 20, and 22;

- 1 • that JUC's water and wastewater Certificates be conditionally extended to  
2 include parcels 3, 4, 5, 6, 7, 8, 9, 11, 12, 21 and 23;
- 3 • that JUC's application for parcel 1 be denied;
- 4 • that JUC's application with respect to its request to provide service for parcels  
5 10 and 13 be withdrawn as requested by JUC;
- 6 • that JUC file a copy for a request for service to parcel 8 within 90 days of the  
7 effective date of this Decision;
- 8 • that JUC file with the Commission in this Docket; within two years of the  
9 effective date of this Decision, a copy of its franchise from Pinal County for  
10 the extension of its Certificate for the areas authorized herein;
- 11 • that JUC file with the Commission in this Docket, within two years of the  
12 effective date of this Decision, copies of all Certificates of Approval to  
13 Construct ("CAC") and Certificates of Approval of Construction for  
14 development in each of the respective approved parcels as authorized  
15 hereinafter;
- 16 • that JUC file, within two years of the effective date of this Decision, a request  
17 for Certificate review after which, Staff, at its discretion, shall perform a  
18 physical plant inspection to determine the extent to which development has  
19 commenced.<sup>8</sup>

18 After submission of JUC's request for review, Staff shall have 120 days to file a report  
19 containing one of the following three recommendations:

- 20
- 21 ♦ final approval of the Certificate for all parcels approved in this proceeding;
- 22 ♦ final approval of the Certificate for portions of the parcels approved in this  
23 proceeding with the cancellation of the undeveloped portions of the parcels; or
- 24 ♦ disapproval of the Certificate for the parcel approved in this proceeding.
- 25
- 26

27 <sup>8</sup> The Certificate review should include the following data: number of customers in the extended area, amount of  
28 plant installed to serve the extended area, number of gallons sold in the extended area, the amount of revenue generated in  
the extended area, the Master Plan for the parcels showing all plant installed and customer location, and any other  
information Staff deems relevant.

1           154. Staff further recommends that JUC file, within 30 days of the anniversary date of this  
2 Decision each year for the next two years, documentation from ADEQ indicating that JUC has been  
3 in compliance with ADEQ for each year, and that failure to submit this documentation in the Docket  
4 or failure to correct any major or minor violation within 30 days from the date of notice of violation  
5 should result in the Certificate authorized hereinafter becoming null and void without further order of  
6 the Commission.

7           155. Staff further recommends that JUC file, within 30 days from the effective date of this  
8 Decision, an amended waste water tariff schedule which includes language for its wastewater rates  
9 and charges to state that said charges shall not become effective until wastewater first flows into the  
10 collection system.

11           156. Staff further recommends that, if JUC fails to meet any of the aforementioned  
12 conditions within the time specified, the Certificate authorized hereinafter for the respective parcel be  
13 considered null and void without further order by the Commission.

14 H<sub>2</sub>O

15           157. With respect H<sub>2</sub>O's application for the extension of its Certificate to provide public  
16 water service, Staff is recommending the conditional approval of the application to extend service to  
17 that portion of parcel 14 not previously certificated and parcels 15, 16, 17, 18, 22 and Section 13,  
18 Township 2 South, Range 7 East in Maricopa County, Arizona.

19           158. Staff further recommends that H<sub>2</sub>O file, within two years of the effective date of this  
20 Decision, a copy of the developers' Certificates of Assured Water Supply ("CAWS") to be issued by  
21 the Arizona Department of Water Resources ("ADWR") for the respective parcels and sections.

22           159. Staff further recommends that H<sub>2</sub>O file, within two years of the effective date of this  
23 Decision, a copy of its CAC to be issued by the ADEQ for the main extension for the Combs School.

24           160. Staff also recommends that H<sub>2</sub>O file, within two years from the effective date of this  
-5 Decision, a copy of its franchise from Pinal County for the extension areas represented by the  
26 aforementioned parcels and Section 13.

27           161. Staff is also recommending the following:  
28

- 1 • that H<sub>2</sub>O file with the Commission in this Docket within two years of the effective  
2 date of this Decision, a copy of its franchise from Pinal County for the extension of its  
3 Certificate for the areas authorized hereinafter;
- 4 • that H<sub>2</sub>O file with the Commission in this Docket, within two years of the effective  
5 date of this Decision, copies of all Certificates of Approval to Construct ("CAC") and  
6 Certificates of Approval of Construction for development in each of the respective  
7 approved parcels as authorized hereinafter;
- 8 • that H<sub>2</sub>O file, within two years of the effective date of this Decision, a request for  
9 Certificate review after which, Staff, at its discretion, shall perform a physical plant  
10 inspection to determine the extent to which development has commenced.<sup>9</sup>

11 After submission of H<sub>2</sub>O's request for review, Staff shall have 120 days to file a report  
12 containing one of the following three recommendations:

- 13 ♦ final approval of the Certificate for all parcels approved in this proceeding;
- 14 ♦ final approval of the Certificate for portions of the parcels approved in this proceeding  
15 with the cancellation of the undeveloped portions of the parcels; or
- 16 ♦ disapproval of the Certificate for the parcel approved in this proceeding.

17 162. Staff further recommends that H<sub>2</sub>O file, within 30 days of the anniversary date of this  
18 Decision each year for the next two years, documentation from ADEQ indicating that H<sub>2</sub>O has been  
19 in compliance with ADEQ for each year, and that failure to submit this documentation in the Docket  
20 or failure to correct any major or minor violation within 30 days from the date of notice of violation  
21 should result in the Certificate authorized hereinafter becoming null and void without further order of  
22 the Commission.

23 163. Staff further recommends that, if H<sub>2</sub>O fails to meet any of the aforementioned  
24 conditions within the time specified, the Certificate authorized hereinafter for the respective parcel be  
25 considered null and void without further order by the Commission.

26  
27 <sup>9</sup> The Certificate review should include the following data: number of customers in the extended area, amount of  
28 plant installed to serve the extended area, number of gallons sold in the extended area, the amount of revenue generated in  
the extended area, the Master Plan for the parcels showing all plant installed and customer location, and any other  
information Staff deems relevant.

1 DIVERSIFIED

2 164. With respect to Diversified's application for an extension of its Certificate, Staff is  
3 recommending that the Commission approve the extension of its Certificate to include parcels 2 and  
4 24.

5 165. Staff is further recommending that Diversified file, within two years of the effective  
6 date of this Decision, the following: the developers' CAWS to be issued by ADWR; copies of its  
7 CAC's to be issued by ADEQ; and a copy of its franchise for parcels 2 and 24 which are to be issued  
8 by the Pinal County Board.

9 166. Staff is also recommending the following:

- 10 • that Diversified file with the Commission in this Docket, within two years of the  
11 effective date of this Decision, copies of all Certificates of Approval to Construct  
12 ("CAC") and Certificates of Approval of Construction for development in each of the  
13 respective approved parcels as authorized hereinafter;
- 14 • that Diversified file, within two years of the effective date of this Decision, a request  
15 for Certificate review after which, Staff, at its discretion, shall perform a physical  
16 plant inspection to determine the extent to which development has commenced.<sup>10</sup>

17 After submission of Diversified's request for review, Staff file a report containing one of the  
18 following three recommendations:

- 19 ♦ final approval of the Certificate for all parcels approved in this proceeding;
- 20 ♦ final approval of the Certificate for portions of the parcels approved in this proceeding  
21 with the cancellation of the undeveloped portions of the parcels; or
- 22 ♦ disapproval of the Certificate for the parcel approved in this proceeding.

23 167. Staff further recommends that Diversified file, within 30 days of the anniversary date  
24 of this Decision each year for the next two years, documentation from ADEQ indicating that  
25 Diversified has been in compliance with ADEQ for each year and that failure to submit this  
26

27 <sup>10</sup> The Certificate review should include the following data: number of customers in the extended area, amount of  
28 plant installed to serve the extended area, number of gallons sold in the extended area, the amount of revenue generated in  
the extended area, the Master Plan for the parcels showing all plant installed and customer location, and any other  
information Staff deems relevant.

1 documentation in the Docket or failure to correct any major or minor violation within 30 days from  
2 the date of notice of violation should result in the Certificate authorized hereinafter becoming null  
3 and void without further order of the Commission.

4 168. Staff further recommends that, if Diversified fails to meet any of the aforementioned  
5 conditions within the time specified, the Certificate authorized hereinafter for the respective parcel be  
6 considered null and void without further order by the Commission.

7 QUEEN CREEK

8 169. With respect to Queen Creek's application for an extension of its Certificate, Staff is  
9 recommending the approval of Queen Creek's request for the extension of its Certificate to provide  
10 water service to the eastern three-quarters of Section 14, Township 2 South, Range 17 East for which  
11 it is not yet certificated subject only to the condition that Queen Creek files, within 365 days of the  
12 effective date of this Decision, a copy of its Maricopa County franchise issued by the Maricopa  
13 County Board of Supervisors or the approval granted hereinafter will be rendered null and void. Staff  
14 is also recommending that the Country Thunder parcel, located in Section 30, Township 2 South,  
15 Range 3 East, Pinal County, Arizona, be deleted from H<sub>2</sub>O's Certificate and transferred to Queen  
16 Creek's Certificate.

17 170. After reviewing the evidence in its entirety, we commend Staff at the end of this long  
18 and complex proceeding and find the majority of their recommendations are reasonable in light of the  
19 speculative nature of the purported development which is to take place in large undeveloped areas in  
20 Pinal County, Arizona. Based on this speculation, we believe that Staff has made well-reasoned  
21 unbiased recommendations with respect to recommending the issuance of conditional Certificates  
22 which will be subject to further Commission review in the future.

23 171. For the present, we will adopt Staff's recommendations with the exception of Parcel 2  
24 with respect to the approvals granted hereinafter for the respective parcels, except that we find Parcel  
25 1 should be certificated to JUC, as are described in Exhibits A and B attached hereto. With respect to  
26 Parcel 2, because of uncertainty with respect to the Skyline District and potential litigation in state  
27 court, we shall deny all applications for this parcel at this time. However, with respect to Staff's  
28 recommendation that an affected utility (JUC, H<sub>2</sub>O, Queen Creek, and Diversified) shall cure any

1 minor or major violation of a requirement of ADEQ within 30 days from the date of notice of  
2 violation, thus resulting in the nullification of an extension of that utility's Certificate, we find Staff's  
3 recommendation to be too extreme and will allow the violating utility a period of 90 days from the  
4 date of notice of the violation to either cure the violation or to request an extension of time in which  
5 to resolve the problem with ADEQ. We shall also require JUC, H<sub>2</sub>O, Diversified and Queen Creek to  
6 file the correct legal descriptions for the respective parcels within 30 days of the effective date of this  
7 Decision.

### 8 CONCLUSIONS OF LAW

9 1. Applicants, JUC, H<sub>2</sub>O, Diversified and Queen Creek are public service corporations  
10 within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-252, 40-281 and 40-  
11 282.

12 2. The Commission has jurisdiction over JUC, H<sub>2</sub>O, Diversified and Queen Creek and of  
13 the subject matter of the applications as amended.

14 3. Notice of the applications as amended and described herein was given in the manner  
15 prescribed by law.

16 4. The public convenience and necessity require the public would benefit by the  
17 amendment of the Certificates of JUC, H<sub>2</sub>O, Diversified and Queen Creek so that their certificated  
18 service areas include the parcels and sections more fully described in Exhibits A and B.

19 5. JUC, H<sub>2</sub>O, Diversified and Queen Creek are fit and proper entities to receive amended  
20 Certificates which encompass the areas more fully described in Exhibits A and B.

21 6. Staff's recommendations with respect to the applications of JUC, H<sub>2</sub>O, Diversified and  
22 Queen Creek, as set forth in Findings of Fact Nos. 153, 154, 156, 157, 158, 159, 160, 161, 162, 163,  
23 164, 165, 166, 167, 168, 169, and 171 for the amendment of their respective Certificates, should be  
24 approved, except that we find parcel 1 should be certificated to JUC and no certificate should be  
25 issued for parcel 2, subject to the recommendations of Staff with the exception that a utility cited for  
26 either a minor or major violation by ADEQ within the two year period of review following the  
27 effective date of this Decision should have 90 days from the date of the notice of violation to cure the  
28 defect or request an extension from the Commission in order to remedy the violation.

**ORDER**

1  
2 IT IS THEREFORE ORDERED that the applications of Johnson Utilities, L.L.C., dba  
3 Johnson Utilities Company, H<sub>2</sub>O, Inc., Diversified Water Utilities, Inc., and Queen Creek Water  
4 Company for amendment of their Certificates of Convenience and Necessity for the operation of the  
5 applicable water and/or waste water facilities in the areas more fully described in the parcels as set  
6 forth in Exhibits A and B attached hereto be, and are hereby, conditionally approved subject to the  
7 respective utilities meeting the applicable conditions as set forth in Findings of Fact Nos. 153, 154,  
8 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, and 171 and Conclusions of  
9 Law Nos.4, 5 and 6 above.

10 IT IS FURTHER ORDERED that in the event Johnson Utilities, L.L.C. dba Johnson Utilities  
11 Company, H<sub>2</sub>O, Inc., Diversified Water Utilities, Inc. and Queen Creek Water Company do not  
12 timely meet the requirements according to Staff's recommendations as set forth in Findings of Fact  
13 Nos. 153, 154, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, and 171, or fail  
14 to cure any major or minor violations cited by ADEQ within 90 days from the date of notice or  
15 request an extension therefrom, then such conditional Certificate granted herein for the respective  
16 parcel shall be rendered null and void without further order of the Commission.

17 IT IS FURTHER ORDERED that Johnson Utilities, L.L.C. dba Johnson Utilities Company,  
18 H<sub>2</sub>O, Inc., Diversified Water Utilities, Inc. and Queen Creek Water Company shall file, if not  
19 previously filed, correct legal descriptions for the parcels and/or sections amending their Certificates  
20 of Convenience and Necessity as described herein.

21 IT IS FURTHER ORDERED that Johnson Utilities, L.L.C. dba Johnson Utilities Company,  
22 H<sub>2</sub>O, Inc., Diversified Water Utilities, Inc. and Queen Creek Water Company shall charge those  
23 customers in the areas more fully described in Exhibits A and B their existing rates and charges until  
24 further Order of the Commission.

25 ...

26 ...

27 ...

28 ...

1 IT IS FURTHER ORDERED that Johnson Utilities, L.L.C. dba Johnson Utilities Company  
2 shall file, within 30 days of the effective date of this Decision, with the Director of the Commission's  
3 Utilities Division, an amended tariff schedule which addresses the issue described in Findings of Fact  
4 No. 155.

5 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

7   
8  
9 CHAIRMAN COMMISSIONER COMMISSIONER

10  
11 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
12 Secretary of the Arizona Corporation Commission, have  
13 hereunto set my hand and caused the official seal of the  
14 Commission to be affixed at the Capitol, in the City of Phoenix,  
15 this 4<sup>th</sup> day of September, 2001.

16   
17 BRIAN C. McNEIL  
18 EXECUTIVE SECRETARY

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1 SERVICE LIST FOR:

H<sub>2</sub>O, INC.; JOHNSON UTILITIES, LLC;  
2 DIVERSIFIED WATER UTILITIES, INC; and QUEEN  
CREEK WATER COMPANY

3 DOCKET NOS.

4 W-02234A-00-0371; WS-02987A-99-0583; WS-  
02987A-00-0618; W-02859A-00-0774; and W-01395A-  
00-0784

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Arizona Corporation Commission  
 H2O/Johnson Utilities/Diversified/Queen Creek  
 Request for CC&N Extension Areas  
 Docket Nos. W-2234-00-371, et al.

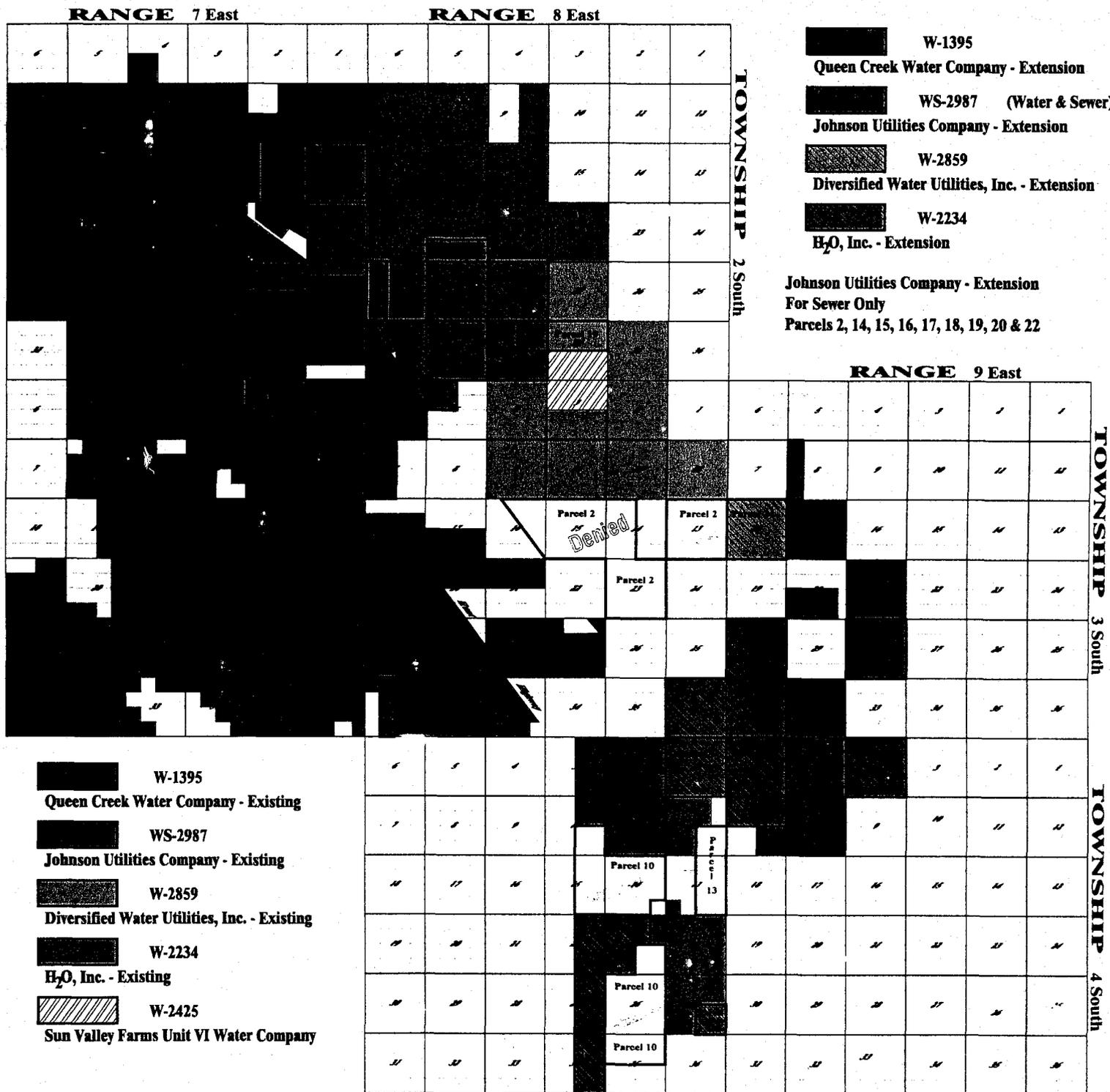
Parcel	Development	Twp/Rng	Description
1	Arizona Farms		
2	Bella Vista Farms		
3	Jorde Farms		
4	Whitehead		
5	Skyline		
6	Morning Sun Farms		
7	Shelton		
8	Various		
9	Farley Farms		
10	State of Arizona/Future Development		
11	Circle Cross Ranch (W of RR)		
12	Jorde/Morning Sun Farms		
13	BLM Property		
14	Johnson Farms/Combs School		
15	Pecan Estates		
16	Home Place		
17	Ware Farms		
18	Various		
19	Various		
20	Pecan Ranch		
21	Dobson Farms		
22	Circle Cross Ranch (E of RR)		
23	Magma Ranch		
24	Development - Sec 18, T3S, R9E		

Country Thunder	T2S, R8E	W 1/3 of Section 30
Miscellaneous	T2S, R7E	E 3/4 of Section 14

EXHIBIT 'A'

DECISION NO. 639600

### ALLOCATION OF REQUESTED AREAS



DOCKET NO. WS-2987-99-583, ET AL.  
JOHNSON UTILITIES COMPANY, ET AL.  
DOCKET NO. WS-2987-99-583, ET AL.  
PARCEL ALLOCATIONS

Parcel 2 - Denied

Parcels 10 & 13 - Requests Withdrawn

Johnson Utilities - (Wastewater Only)

Parcels 14, 15, 16, 17, 18, 19, 20 and 22

Johnson Utilities - (Water & Wastewater)

Parcels 1, 3, 4, 5, 6, 7, 8, 9, 11, 12, 21 and 23

H2O, Inc. - (Water Only)

Parcels 15, 16, 17, 18 and 22

That portion of Parcel 14 not previously certificated to H2O

All of Section 13, Township 2 South, Range 7 East, in Maricopa County, Arizona

TRANSFER Country Thunder (the western one-third of Section 30, Township 2 South, Range 8 East, Pinal County, Arizona

Diversified - (Water Only)

Parcel 24

Queen Creek - (Water Only)

TRANSFER of Country Thunder from H2O (see above description)

Eastern three-fourths of Section 14, Township 2 South, Range 7 East, Maricopa County, Arizona