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2005 MAR 11 P 3:02
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BEFORE THE ARIZONA CORPORATION COMMISSION

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IN THE MATTER OF THE
 APPLICATION OF PINE WATER
 COMPANY FOR A
 DETERMINATION OF THE
 CURRENT FAIR VALUE OF ITS
 UTILITY PLANT AND PROPERTY
 AND FOR INCREASES IN ITS
 RATES AND CHARGES BASED
 THEREON FOR UTILITY SERVICE
 AND FOR APPROVAL TO INCUR
 LONG-TERM DEBT

DOCKET NO: W-03512A-03-0279

DIRECT TESTIMONY OF ROBERT T. HARDCASTLE
 CONCERNING METER MORATORIUM AND COMPLIANCE ISSUES

Arizona Corporation Commission
DOCKETED
 MAR 11 2005
 DOCKETED BY *CR*

EXHIBIT
P-1
Admitted

67166

1 **I. INTRODUCTION AND QUALIFICATIONS**

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

4 A. Robert T. Hardcastle, 3101 State Rd., Bakersfield, California 93308. My telephone
5 number is (661) 633-7526.

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

7 A. I am the President of Brooke Utilities, Inc. ("Brooke"). Brooke is the sole
8 shareholder of the Applicant, Pine Water Company, Inc. ("PWCo" or the
9 "Company"). I am also the Company's President.

10 **Q. ARE YOU THE SAME ROBERT T. HARDCASTLE THAT PREVIOUSLY**
11 **TESTIFIED IN THIS DOCKET?**

12 A. Yes, my direct, rebuttal and rejoinder testimonies were admitted into evidence in
13 the rate setting portion of this proceeding along with my live testimony during the
14 hearings.

15 **Q. HAVE YOU REVIEWED THE COMPLIANCE STAFF REPORT DATED**
16 **NOVEMBER 19, 2004 IN THIS DOCKET?**

17 A. Yes.

18 **Q. IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING AT**
19 **THIS TIME TO RESPOND TO THAT COMPLAINE STAFF REPORT ?**

20 A. Yes. More specifically, I will address two aspects of that report. First, I will
21 address Staff's analysis and recommendations concerning a total moratorium on
22 new customer connections in the PWCo service territory. Next, I will address the
23 ADEQ compliance issues raised in Staff's November 19 Compliance Staff Report
24 (the "Report").

25 **Q. WOULD YOU PLEASE SUMMARIZE THE COMPANY'S POSITION ON**
26 **THESE TWO ISSUES?**

1 A. Yes. Regarding the recommended moratorium, I submit that adoption of Staff's
2 recommendation will exacerbate rather than improve the difficulties we face
3 managing limited water supplies in the area the Company serves. This follows
4 from the fact that, to the extent there is a demand for residential and/or commercial
5 growth in the area, if PWCo does not serve those customers someone else will
6 using the same water supplies we utilize to serve our existing customers.
7 Consequently, I believe it is better for the Commission and Company to work
8 together to manage growth in the PWCo CC&N rather than ceding control to Gila
9 County and the local real estate and development community, or worse, creating an
10 incentive for those entities to grow the community outside the current regulatory
11 structure, while utilizing the same water supply relied upon by PWCo and its
12 customers.

13 Regarding the compliance matters, PWCo began working immediately with
14 ADEQ to address the concerns raised and close the compliance files. I wish to
15 note, however, that because the concerns raised by ADEQ are primarily historic
16 deficiencies, we are confident that we have been, are now and will continue to
17 deliver water that meets all applicable water quality requirements.

18 **II. MORATORIUM ON NEW METERS**

19 **Q. HAS THE COMMISSION PREVIOUSLY ADDRESSED THE ISSUE OF A**
20 **MORATORIUM ON NEW METER CONNECTIONS IN THE PWCo**
21 **SYSTEM?**

22 A. Yes, on numerous occasions and I cannot describe the entire history of moratoria in
23 and around Pine, Arizona in this testimony because to do so would unduly lengthen
24 this filing. By way of summary though, to the best of our knowledge the
25 Commission first imposed various moratoria on new service connections and main
26 extensions in the area served by PWCo's predecessors E&R Water Company, Inc.

1 and Williamson Water Works, Inc. in 1989 due to "historical water shortages in
2 and around the Pine, Arizona area." See Decision 64400 (Jan. 31, 2002), citing
3 Decision Nos. 56539 (July 12, 1989) and 56654 (Oct. 6, 1989).

4 **Q. HOW LONG HAVE THESE VARIOUS MORATORIA BEEN IN EFECT?**

5 A. The Commission has kept the moratoria in effect in one form or another through
6 the present. For example, in Decision No. 59753 (July 18, 1996), E&R was limited
7 to one residential connection per month with a complete moratoria on new main
8 extensions. See Decision No. 64400 at 1. Then, in Decision 64400 the
9 Commission modified the moratoria on new connections and main extension
10 agreements for the portion of the PWCo CC&N previously certificated to E&R.
11 Specifically, with respect to new connections, the Commission modified the
12 moratorium to allow the Company to add up to 25 new service connections per
13 month based on the joint recommendation of Staff and the Company. Additionally,
14 with respect to main extension agreements, the Commission allowed the Company
15 to enter into main extension agreements if the developer could contribute a certain
16 minimum quantity of water to PWCo. Then, in Decision No. 65435 (December 9,
17 2002), the Commission extended these moratoria to the entirety of the PWCo
18 CC&N.

19 **Q. WHAT WAS THE BASIS FOR THE COMMISSION'S DECISION TO**
20 **MODIFY THE MORATORIA IN DECISION 64400?**

21 A. I believe it was twofold. First, as Decision No. 64400 reflects, since acquiring the
22 system we have taken a number of steps to improve water delivery and to enhance
23 the available supply of water to the Company's customers. Second, from our
24 perspective, we faced repeated and concerted efforts by local developers and Gila
25 County to circumvent our CC&N and the Commission imposed moratoria.

26 **Q. CAN YOU EXPLAIN WHAT YOU MEAN?**

1 A. Yes, it is no secret to the Commission that for some time now Gila County has
2 desired to and taken steps towards expanding the population in this portion of the
3 County despite the water supply deficiencies. Whether the local real estate
4 community that supports this effort is the reason for the County's desire to expand
5 the population or whether the County, desirous of increasing its tax base has
6 expressed a desire that has spawned the local real estate community, I really cannot
7 say. Either way, the result was that the Company was facing direct pressure from
8 the County and the real estate community to expand its service and increase
9 customer connections as well as indirect pressure through the formation of County
10 improvement districts which became competitors for a limited water supply. Thus,
11 we petitioned and Staff supported the modified moratoria approved in Decision No.
12 64400. To the credit of the Commission and Staff, a far-sighted decision was
13 issued in which the Commission weighed the various alternatives and recognized
14 that the lesser evil was to approve a moratorium that enhanced the agency's control
15 over the local water supply and, at the same time, applied water conservation
16 measures in an area where Gila County had failed to balance growth and resource
17 use for many years.

18 **Q. CAN YOU PROVIDE SPECIFIC EXAMPLES OF SUCH INDIRECT**
19 **PRESSURE MR. HARDCASTLE?**

20 A. Yes. Again, the Commission should recall the lengthy dispute between PWCo and
21 the Strawberry Hollow Domestic Water Improvement District. That District was
22 formed by a developer wishing to construct a 70 plus lot subdivision in PWCo's
23 CC&N. Unable to obtain an extension of service from PWCo to his residential
24 subdivision, the developer successfully petitioned Gila County to create the
25 improvement district with boundaries inside our certificated service area.

26 **Q. WHAT WAS THE COMPANY'S RESPONSE TO THE FORMATION OF**

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THE DISTRICT?

A. PWCo brought suit against Gila County challenging the County's right to form a water improvement district without consideration of the availability of water supplies or the impact of such formation on the existing community and its water provider. Unfortunately, after incurring more than \$100,000 in litigation fees and costs, the Court disagreed and essentially concluded that the County's discretion is so broad that it need not consider anything other than whether the requisite number of signatures from property owners is contained in the request to form an improvement district.

Q. WHY WOULD PWCO SPEND THAT KIND OF MONEY TO CHALLENGE THE FORMATION OF AN IMPROVEMENT DISTRICT BY GILA COUNTY?

A. Because the creation of competitive water providers in our service area threatens our ability to serve our customers and the Commission's ability to help regulate the use of the area's limited water supplies. Let me explain it this way, the groundwater supplies available in PWCo's CC&N are limited and in the end it does not matter whether the water supplies are being pumped by PWCo's wells or somebody else's wells; the water supply is still being used. Thus, when the Commission precluded us from hooking up new customers, it inadvertently created an incentive for Gila County and the real estate community to create alternative water providers. Unfortunately, those providers then utilized water supplies that would otherwise be available to PWCo to serve its customers. Obviously, a number of separate water providers working independently poses a greater threat to the region's limited water supplies than one provider serving all of the customers in the area and well aware of the needs to manage limited water supplies on a regional basis.

1 **Q. DID STAFF ADDRESS THESE CONCERNS IN THE REPORT?**

2 A. No, and that is one of the things that concerns me regarding Staff's analysis. Put
3 bluntly, if we could consider the situation in a vacuum the Company would likely
4 agree with Staff that there are inadequate water supplies available to PWCo to
5 allow for additional customers to be connected to the system. But, Staff ignores
6 the fact that it does not matter whether the Company or some other provider serves
7 those new customers. In the end, the affect is the same as we have only a limited
8 supply of water and I can not help but think that the Company and the
9 Commission, as its regulator, would be better off managing the overall use of the
10 limited supply, including using such supply to serve new customers, than by having
11 the County engage in regional water management and continue to form
12 independent providers serving small areas according to their own needs.

13 **Q. DO YOU HAVE ANY OTHER CONCERNS WITH THE REPORT?**

14 A. Yes, my other concern involves Staff's assessment of the Company's available
15 water supply. It does not appear that Staff has offered a complete enough
16 assessment of the Company's water supply to justify its recommendation that the
17 Commission reimpose a complete moratorium on new service connections.

18 **Q. WOULD YOU PLEASE EXPLAIN WHAT YOU MEAN?**

19 A. Certainly. In the Report, Staff concludes that PWCo's well production could
20 adequately serve up to 555 service connections during peak periods but notes that
21 PWCO has 1,992 active accounts. Staff is fully aware that we supplement our
22 water supply from various sources, most notably Project Magnolia, which brings
23 water from our neighboring Strawberry Water Company system into PWCo's
24 service area. Yet, the Report provides only a brief mention of this critical water
25 supply. In addition, we have made arrangements to purchase water that can be
26 hauled into the system as needed. The totality of available water sources available

1 to the Company to meet the needs of its customers has been the subject of
2 numerous Commission proceedings and decisions, including the decisions I
3 referenced above, and I believe any assessment of PWCo and its available water
4 supply and certainly any recommendations made to the Commission must take into
5 account not only PWCo's in-service territory production capacity but these
6 additional sources. In short, the Commission should take into account evidence of
7 the excellent job PWCo has done over the past 9 years to manage a very limited
8 water supply under the most adverse circumstances imaginable.

9 **Q. DOES THAT MEAN THE COMPANY OPPOSES STAFF'S**
10 **RECOMMENDATION THAT NO NEW METER CONNECTIONS BE**
11 **ALLOWED?**

12 **A.** Unfortunately, yes. While we are in complete agreement with Staff that we face
13 serious water supply limitations in the Pine area, we are very concerned that
14 precluding the Company from adding a reasonable number of new connections will
15 create an incentive for Gila County and/or the local real estate and development
16 community, likely still desirous of growing Northern Gila County and increasing
17 the tax base, to continue to find ways to circumvent the Commission moratoria.
18 The consequence of such circumvention is the continued carving up of PWCo's
19 CC&N. I am afraid what will happen is that we will continue to incur substantial
20 amounts to protect our property rights and protect our limited water supplies and
21 ultimately will end up with the same customer being served by another water
22 provider.

23 It should be noted that after years of long term water supply problems, Gila
24 County, despite their complete knowledge of the situation, has never attempted to
25 enact local water conservation measures to limit cultivation of the local water
26 supply through the expansion of development interests in the area. PWCo believes

1 the reasons for this lack of political leadership are self-serving. Meanwhile, we
2 submit that the best solution for all is for the Commission, Staff and the Company
3 to continue to work together to manage the limited water supply in a regional
4 fashion that accounts for all of the customers in the area and all the supplies in the
5 area. That cannot be done if PWCo is the only provider restricted from meeting
6 new customer demand. Indeed, I fear that if the Commission does not take this
7 broader outlook, although it might be the more difficult avenue, proper
8 management and regulation of the region's limited water supplies could be
9 permanently hampered.

10 **III. COMPLIANCE ISSUES**

11 **Q. HOW DOES THE COMPANY ADDRESS THE COMPLIANCE ISSUES**
12 **RAISED IN THE REPORT?**

13 A. There are essentially three compliance areas I will address in this testimony. First,
14 there is the 1994 Consent Order issued to E&R Water Company. Second, there are
15 violation notices relating to two of the wells from which PWCo obtains water for
16 service to its customers. Third, there are a number of alleged plant facility
17 deficiencies raised by ADEQ in its inspection report. I will address each of these
18 in turn.

19 **Q. BEFORE DOING THAT MR. HARDCASTLE, DOESN'T THE STAFF**
20 **REPORT ALSO REFER TO AN NOV FOR STRAWBERRY WATER**
21 **COMPANY?**

22 A. Yes it does and I am not sure why, given that Strawberry Water Company and
23 PWCo are separate entities. In any event, based on Staff's communication with the
24 ADEQ, the Report references an alleged failure to provide the Consumer
25 Confidence Report for Strawberry Water Company. We did not fail to provide this
26 and timely filed it in April 2003. Subsequently, after learning that despite

1 providing these materials to ADEQ the agency believed they were not filed, they
2 were again submitted. Then, when we saw this item referenced in the Report, a
3 third copy of the Consumer Confidence Report for Strawberry Water Company
4 was submitted directly to the ADEQ representative handling this matter for the
5 agency. As a result, ADEQ has now closed this NOV. See Letter dated January
6 12, 2005 attached hereto as Exhibit A.

7 **Q. WOULD YOU PLEASE ADDRESS THE 1994 CONSENT ORDER**
8 **RELATING TO E&R WATER COMPANY?**

9 A. Yes. To begin with, this problem predates our acquisition of the PWCo system and
10 I am concerned that the implication is that the Company has simply ignored this
11 matter. Indeed, despite several inspections of the system by ADEQ since we
12 acquired it, it wasn't raised by ADEQ, we did not see anything regarding it in
13 ADEQ's records when we conducted our due diligence and simply did not know
14 there was an outstanding matter.

15 **Q. NOW THAT YOU ARE AWARE WHAT IS THE COMPANY DOING TO**
16 **ADDRESS THE OUTSTANDING 1994 CONSENT ORDER?**

17 A. Unfortunately, this is a very difficult problem. In order to close the 1994 E&R
18 Consent Order, ADEQ wants engineering drawings for the entire portion of the
19 PWCo system that used to be E&R Water Company. Such drawings do not exist
20 and it would cost the Company at least tens of thousands and more likely in excess
21 of \$100,000 to prepare an as-built set of drawings of that portion of our water
22 system. I simply do not think this would be a prudent investment of the
23 Company's capital, particularly given the ongoing water supply crises we face on a
24 regular basis. Therefore, we will make an effort to resolve this issue with ADEQ
25 but I cannot at this time inform the Commission of how it will be finally resolved.

26 **Q. WOULD YOU PLEASE ADDRESS THE NOTICE OF VIOLATION**

1 **REGARDING THE WEEKS AND BLOOM WELLS RAISED IN THE**
2 **REPORT?**

3 A. Yes. Staff is correct that the Company has been informed of violations for failing
4 to obtain an approval of construction for those wells. We have also been informed
5 of certain facilities deficiencies associated with those two wells.

6 **Q. WHEN WAS THE COMPANY NOTIFIED OF THESE VIOLATIONS?**

7 A. We were first notified of the problem during a November 2004 Field Inspection by
8 ADEQ.

9 **Q. ARE THE BLOOM AND WEEKS WELLS OWNED BY THE COMPANY?**

10 A. The wells themselves are, however the properties where these two wells are located
11 are privately-owned by third-parties. The wells were drilled in 1998 by Brooke
12 under water sharing agreements with the landowners, which agreements specify
13 that the water sources themselves are owned by the water provider. PWCo
14 operates several wells under these arrangements.

15 **Q. WHY DIDN'T BROOKE OBTAIN APPROVALS OF CONSTRUCTION**
16 **FOR THE BLOOM AND WEEKS WELLS?**

17 A. Because at the time the wells were drilled we believed that such approvals were not
18 necessary given that the cost of each well was under \$50,000. In hindsight it
19 appears we were mistaken.

20 **Q. WHAT STEPS ARE BEING TAKEN TO ADDRESS THE NOV'S FOR THE**
21 **BLOOM AND WEEKS WELLS?**

22 A. PWCO has already conducted the necessary new source sampling and has received
23 the test results back. The only other items required for the approvals for both wells
24 are the completed engineering drawings. Once these materials are submitted to
25 ADEQ the issues giving rise to the violations will be resolved and approvals of
26 construction should be issued.

1 Q. IN THE MEANTIME, HAS THE COMPANY STOPPED PUMPING FROM
2 THE BLOOM AND WEEKS WELLS?

3 A. No and ADEQ has not directed us to do so. Moreover, it would be a burden on
4 PWCo and its customers to shut-down the two wells as they provide approximately
5 22% of the Company's well production.

6 Q. ARE YOU CONFIDENT THAT THE WATER FROM THE BLOOM AND
7 WEEKS WELLS DOES NOT POSE ANY ADVERSE HEALTH RISK TO
8 YOUR CUSTOMERS?

9 A. Yes, based on the water quality testing we have conducted, we are confident that
10 the water from those wells is safe for consumption by PWCo's customers.

11 Q. WHAT ABOUT THE OTHER DEFICIENCIES NOTED IN THE NOV'S
12 FOR THE BLOOM AND WEEKS WELLS?

13 A. These deficiencies are also being addressed as promptly as possible.

14 Q. THE REPORT ALSO REFERS TO SOME 20 ADDITIONAL PLANT
15 FACILITY DEFICIENCIES DISCOVERED BY ADEQ. WOULD YOU
16 PLEASE COMMENT ON THOSE DEFICIENCIES?

17 A. Yes. ADEQ has not found PWCo in violation with respect to any of these items
18 and has set forth no obligation or timeline for repair of these items. Although the
19 agency has not established any "due date", we do expect that these items will be
20 corrected promptly and certainly by the next regularly scheduled field inspection.
21 For example, we are in the process of replacing three concrete wells slabs and are
22 installing fences around wells sites. We will complete these efforts as soon as
23 possible given our other operational needs and capital investment requirements.
24 Meanwhile, as discussed above, we are not aware of any problems with the quality
25 of the water being delivered to our customers as a result of these deficiencies and
26 the Company will take all steps to ensure that such water quality is maintained.

1 Q. DOES THAT CONCLUDE YOUR TESTIMONY?

2 A. Yes.

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Janet Napolitano
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.azdeq.gov



Stephen A. Owens
Director

FS-05-410
January 12, 2005

CERTIFIED MAIL
Return Receipt Requested
7099-3400-0015-7590-7466

Robert Hardcastle
Brooke Utilities Inc.
P.O. Box 82218
Bakersfield, California 93380

Re: Closure of the November 2, 2004 Notice of Violation for E&R Water Co - Strawberry, Public Water System No. 04-006

Dear Mr. Hardcastle:

The Arizona Department of Environmental Quality (ADEQ) has closed the Notice of Violation (NOV) issued to E&R Water Co - Strawberry on November 2, 2004. By closing the NOV, ADEQ has determined that E&R Water Co - Strawberry is in compliance with the specific violation identified in the November 2, 2004 NOV. This determination is based upon your letter dated December 15, 2004 in which you state, "The 2002 CCR was originally sent on April 23, 2003. We resent a copy of the CCR to Jim Puckett May 14, 2004 in response to a compliance status report."

ADEQ will not proceed with further action at this time. However, if additional information regarding the alleged violations is discovered, or if further violations occur, ADEQ may reconsider its position and take additional action as appropriate and as allowed by law.

This closure only applies to the November 2, 2004 Strawberry water system NOV. The second NOV issued to Brooke Utilities on November 2, 2004 for operating two wells in the Pine water system without an Approval of Construction is still open and valid.

If you need any additional information or help, please feel free to contact me at (800) 234-5677 ext. 771-4841.

Sincerely,

Roman G. Diaz, Manager
Water Quality Field Services Unit

cc: Vivian Burns, ADEQ
Marlin Scott, Arizona Corporation Commission
Mistie Jared, Brooke Utilities Inc., P.O. Box 82218, Bakersfield, CA 93380
Gila County Health Department
WQFSU Facility Files, PWS 04-006
WQFSU Reading File

Northern Regional Office
1515 East Cedar Avenue • Suite F • Flagstaff, AZ 86004
(928) 779-0313

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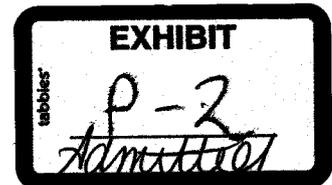
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4 Attorneys for Pine Water Company, Inc.

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6 **BEFORE THE ARIZONA CORPORATION COMMISSION**

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DOCKET NO: W-03512A-03-0279

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19 **SURREBUTTAL TESTIMONY OF ROBERT T. HARDCASTLE**
20 **CONCERNING METER MORATORIUM AND COMPLIANCE ISSUES**
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1 **I. INTRODUCTION AND QUALIFICATIONS**

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

4 A. Robert T. Hardcastle, 3101 State Rd., Bakersfield, California 93308. My telephone
5 number is (661) 633-7526.

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

7 A. I am the President of Brooke Utilities, Inc. ("Brooke"). Brooke is the sole
8 shareholder of the Applicant, Pine Water Company, Inc. ("PWCo" or the
9 "Company"). I am also the Company's President.

10 **Q. ARE YOU THE SAME ROBERT T. HARDCASTLE THAT PREVIOUSLY**
11 **SUBMITTED DIRECT TESTIMONY ON METER MORATORIUM AND**
12 **COMPLIANCE ISSUES?**

13 A. Yes, my direct testimony on these issues was filed in this docket on January 18,
14 2005.

15 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

16 A. The purpose of my surrebuttal testimony is two-fold. First, I will respond to the
17 Rebuttal Testimony of Marlin Scott, Jr. ("Scott Rebuttal") filed by Commission
18 Staff ("Staff") in this phase of this docket. Second, I will address several matters
19 and issues raised during the January 31, 2005 Public Comment Session in Pine,
20 Arizona, including: 1) Staff's analysis and recommendations concerning a total
21 moratorium on new customer connections in the PWCo service territory; and 2)
22 ADEQ compliance issues raised in Staff's November 19 Compliance Staff Report
23 (the "Report").

24 **Q. HAS PINE WATER'S POSITION ON A COMPLETE METER**
25 **MORATORIUM CHANGED?**

26 A. No. In fact, Mr. Scott's testimony does little to respond to the concerns raised in

1 my direct testimony. Specifically, Staff has ignored entirely the concern expressed
2 by me and several of our customers making public comment that a zero-meter
3 moratorium would motivate Gila County and the local real estate industry to find
4 other ways to grow the community, using the same water supply relied upon by
5 PWCo. Apparently, Staff has no answer for this concern and the Commission
6 should take no action to change the situation until a solution to this serious concern
7 is found. All of the various parties in Pine are utilizing the same water supply.
8 The assertion by Staff that PWCo should completely curtail its growth through a
9 prohibition of water meter connections is not reasonable if, at the same time, Gila
10 County does not participate in local water conservation. Gila County's potential
11 creation of additional water improvement districts does nothing to address the
12 problem that we all share. For PWCo to be the exclusive party with responsibility
13 to manage a limited water supply is not fair unless Gila County participates to a
14 similar degree.

15 **II. RESPONSE TO STAFF'S REBUTTAL**

16 **Q. DID STAFF MODIFY ITS RECOMMENDATION FOR ZERO-METER**
17 **MORATORIUM IN ANY MANNER FOLLOWING YOUR DIRECT**
18 **TESTIMONY?**

19 A. No, instead Staff is critical of the Company for failing to "provide any assessment
20 of how many service connections could be served by its water system." Scott
21 Rebuttal at 2.

22 **Q. DO YOU AGREE THAT THE COMPANY HASN'T MADE THE**
23 **ASSESSMENT STAFF SPEAKS OF IN MR. SCOTT'S REBUTTAL?**

24 A. Yes, but Staff misses the point. PWCo is not asking for or recommending that the
25 Commission make a change in the number of new service connections the
26 Company is allowed to make. However, Staff is making such a recommendation,

1 but it is up to Staff to demonstrate that its recommendation is in the public interest.
2 Staff cannot make that showing by shifting its burden of proof to PWCo.

3 **Q. IS STAFF CORRECT THAT THE COMPANY AGREES THAT IT FACES**
4 **SERIOUS WATER SUPPLY PROBLEMS?**

5 A. Absolutely, and these limited water supply conditions will be exacerbated if the
6 regulatory effect of a prohibition against meter connections in PWCo is not
7 accompanied by a similar effort by Gila County.

8 **Q. WHY WOULD THE WATER SUPPLY SITUATION GET WORSE IF THE**
9 **COMMISSION PRECLUDES THE COMPANY FROM ANY NEW**
10 **CONNECTIONS?**

11 A. For the reasons identified in my direct testimony, namely, that Gila County's past
12 support of the local real estate community has led to multiple water providers
13 tapping the same water supplies, and there is no reason to believe that will change.

14 **Q. HOW DOES STAFF ACCOUNT FOR THIS POTENTIAL PROBLEM IN**
15 **ITS RECOMMENDATION?**

16 A. As I stated above, it does not. Seemingly, Staff feels if it ignores the possibility
17 that a zero-meter moratorium will create an incentive for Gila County to create
18 water improvement districts, the possibility does not exist. History, however,
19 proves otherwise. The bottom line is, if growth occurs, someone is going to
20 provide water utility service to those new connections using the water supplies
21 available to PWCo. The Commission has a choice – either tie the Company's
22 hands and let another entity pump Pine's limited water supplies, or continue to
23 partner with PWCo to manage growth and pro-actively address the region's water
24 supply problem. Staff recommends the former. Until we can be certain Gila
25 County will prevent growth, PWCo recommends the latter.

26

1 **Q. BUT AREN'T 25 NEW CONNECTIONS PER MONTH TOO MANY?**

2 A. It is just a cap. The fact is, we are installing far less meters per month. For
3 example, in 2003 and 2004, PWCo connected eighty (80) and twenty-two (22) new
4 customers. Many of the 80 meters installed in 2003 were a result of Commission
5 Decision No. 65435 (December 9, 2002), which modified previous decisions to
6 include all areas of Pine, not only the previous "E&R portions." Commission
7 Decision No. 65434 allowed property owners to obtain a meter installation without
8 a building permit from the date of the Decision to January 31, 2003. This explains
9 the elevated number of meter installations in 2003 when compared to 2004. If, for
10 some unexpected reason, the Company faced an explosion of new meter requests,
11 PWCo would seek emergency relief from the Commission. As the current
12 moratorium exists, we are managing the limited growth and despite its
13 recommendation, Staff has not presented any evidence that the limited number of
14 new connections is making the situation measurably worse. PWCo feels it would
15 be very short sighted of the Commission, under the present circumstances, to
16 modify the meter moratorium in such a way that encourages Gila County to
17 continue promoting further real estate development in Pine at the expense of
18 current customers.

19 **Q. DOESN'T EVERY NEW CONNECTION MAKE THE WATER SUPPLY**
20 **SITUATION WORSE?**

21 A. In a general sense, yes. However, we have to view that marginal impact against the
22 undisputed fact that if we don't serve the new connection, someone else will, using
23 water the Company would otherwise have available. Given that the Company
24 serves the largest number of customers in the area, under Commission regulation,
25 and has access to other sources of supply (Project Magnolia and hauled water),
26 PWCo comes down on the side of allowing some new connections under a

1 managed approach.

2 **Q. DO YOU WISH TO RESPOND TO ANY PORTION OF MR. SCOTT'S**
3 **REBUTTAL TESTIMONY CONCERNING ADEQ COMPLIANCE**
4 **ISSUES?**

5 A. Yes, just one. Mr. Scott testified that my direct testimony failed to comment on an
6 ADEQ filed inspection report recommending that PWCo and Strawberry Water be
7 treated as one system. Mr. Scott is correct, but again, Staff misses the point.

8 **Q. PLEASE EXPLAIN.**

9 A. I did not address the issue of whether PWCO and Strawberry Water should be
10 combined because PWCo does not see that as an issue in this proceeding. No party
11 is recommending that the Commission treat these two separate public service
12 corporations, which have different tariffs of rates and charges, different facilities
13 and different customers, as one consolidated water company. Nor do I believe that
14 the recommendation in an ADEQ field inspection report is of any legal effect in
15 this proceeding. Indeed, Mr. Scott even testifies that at this time, it is unclear
16 whether ADEQ is even treating PWCo and Strawberry Water as a single system.

17 **III. PUBLIC COMMENT SESSION**

18 **Q. DURING THE PUBLIC COMMENT SESSION, SEVERAL CUSTOMERS**
19 **COMMENTED THAT NO MORATORIUM ON NEW CONNECTIONS**
20 **WOULD BE NEEDED IF THE COMPANY WOULD JUST ADD STORAGE**
21 **CAPACITY. DO YOU AGREE?**

22 A. No. Adding storage is often brought up as a solution to the region's
23 water supply shortages. However, as I testified at length in the rate phase of this
24 proceeding, "use of storage capacity is directly limited by water production. It
25 does not matter how much storage capacity Pine Water has if it does not have the
26 water production to fill it." Hardcastle Rejoinder at 25. Doubling Pine Water's

1 existing storage capacity would not even get the Company through a long Fourth of
2 July weekend. Moreover, there would be a significant expense – a one million
3 gallon water storage tank would likely cost more than \$1 million to construct. This
4 is equivalent to 6,410 loads of water that is bought only when needed, or about 8-
5 10 years of water hauling.

6 **Q. COULDN'T WATER BE STORED DURING THE WINTER SEASON**
7 **WHEN DEMAND IS SUBSTANTIALLY LESS AND THEN USED IN THE**
8 **SUMMER WHEN DEMAND IS MUCH HIGHER?**

9 A. Possibly. It depends on how the water is stored, where it is stored, and what form
10 of water treatment is applied, if applicable. Moreover, there is the issue of fiscal
11 responsibility and recovery. Mass water storage and treatment is very expensive.
12 PWCo has roughly 2,000 customers, which is a very small customer base to carry
13 the financial burden of such a project that is needed only for very short-term
14 periods.

15 **Q. WHAT ABOUT THE BLUE RIDGE RESERVOIR PROJECT THAT WAS**
16 **BROUGHT UP DURING THE PUBLIC COMMENT SESSION?**

17 A. The Blue Ridge Reservoir project has been discussed and considered for years. In
18 summary, this is a proposed water supply and storage project for the Town of
19 Payson, with a potential supply branch provided for Pine. The problem, again, is
20 economic. Even the Town of Payson has indicated the expense related to a Pine
21 supply branch cannot be justified. The Company agrees. Of course, if another
22 party wants to build a supply branch from Blue Ridge Reservoir and/or another
23 storage reservoir, and take the financial risks associated with such a project, PWCo
24 would be more than pleased to buy reasonably priced wholesale water from such a
25 project.

26

1 Q. TWO CUSTOMERS CLAIMED THAT STAFF'S RECOMMENDED
2 MORATORIUM IS DUE TO THE COMPANY'S SHORTCOMINGS. HOW
3 DO YOU RESPOND?

4 A. I disagree completely. As we saw in the recent rate case, water supplies are in
5 short supply and it is an ongoing problem. It is also easy to blame the water
6 provider. The fact is, though, that the Company has done more than anyone to
7 increase the water available to its customers, and for years has lost money doing it.

8 I would also point out, while Staff disagrees with PWCo on whether there
9 should be a zero-meter moratorium, Staff does not cite any shortcoming of the
10 Company as the reason for its recommendation. Nor does any such reason appear
11 in the Commission's recent rate case order, Decision No. 67166 (August 10, 2004).
12 Even ADEQ, whose violations have become an issue in this case, didn't find
13 anything that was impacting the amount of water available to serve customers.

14 Q. WILL THE COMPANY BE FILING ITS WATER LOSS REPORT AS
15 REQUIRED BY THAT DECISION?

16 A. Yes, it will be timely filed on February 10, 2005 as required. In summary, I
17 believe that report will show that PWCo has retained its water loss at significantly
18 less than 15%, the level above which Staff has previously testified water loss is
19 unacceptable. In addition, the report will generally show PWCo has examined
20 many different areas of potential water loss and had addressed each area to varying
21 degrees.

22 Q. DO YOU HAVE ANY OTHER RESPONSES TO THE PUBLIC
23 COMMENT?

24 A. Yes, there are a couple additional points I would like to make. First, I strongly
25 disagree with the individual that declared the "drought to be over." It is true that
26 we have had a wet winter. That is the good news. However, the entire State has

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been in a drought and nowhere has it had a worse impact than Pine, where water supplies are short in the wettest times. It is going to take a lot more than one wet winter to reverse the region's chronic water supplies problems.

Finally, while I have disagreed with Mr. Breninger's commitment to deep well drilling in and around Strawberry, I whole-heartedly agree with him that the recommended zero-meter moratorium falls far short of achieving anything. In fact, as I have testified, and as Mr. Steve Scott so eloquently stated at the Public Comment Session last week, it will likely make things worse. Instead, what we need - as Mr. Breninger, a long-time student of Pine's water woes, stated - is a multi-level effort by the State, Gila County, businesses, the Company and its customers to combine their collective knowledge and resources towards a long-term solution. The water supply deficiency problem in Pine is not PWCo's problem alone. This is a problem that all parties share. It deserves a multi-faceted solution approach with strong political leadership that has been absent for a long time.

Q. DOES THAT CONCLUDE YOUR SURREBUTTAL TESTIMONY?

A. Yes.

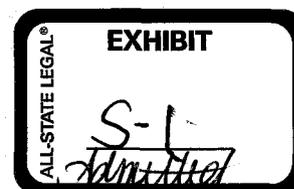
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STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

PINE WATER COMPANY
DECISION NO. 67166
FOR
DOCKET NO. W-03512A-03-0279

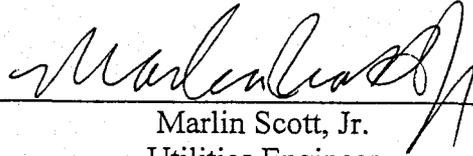
COMPLIANCE STAFF REPORT
PER
DECISION NO. 67166

NOVEMBER 2004



STAFF ACKNOWLEDGMENT

The Compliance Staff Report for Pine Water Company per Decision No. 67166, was the responsibility of the Staff member listed below. Marlin Scott, Jr. was responsible for the review and analysis of this compliance report.



Marlin Scott, Jr.
Utilities Engineer

**EXECUTIVE SUMMARY
PINE WATER COMPANY
DECISION NO. 67166**

On August 10, 2004, Decision No. 67166 was issued for Pine Water Company's ("Pine Water") rate proceeding. In that Decision, Staff was ordered to prepare a Staff Report within three months of the date of the order, to determine whether a moratorium on new water hook ups should be instituted for the Pine Water service area.

Pine Water is currently under a limited moratorium ordered by Decision No. 65435, dated December 9, 2002. This decision limited the number of new service connections to a maximum of 25 per month with no carryover. In addition, any new service connection that required a main extension would be denied unless the owner of the property provided Pine Water with an independent source of water.

Pine Water was ordered to submit semi-annual reports, beginning June 30, 2002 (per Decision No. 64400, dated January 31, 2002) and depending on the reporting information, Staff was ordered to submit a report to the Commission by September 30, 2005, recommending whether to continue the moratorium or to seek modification.

Staff has determined that the Pine Water's 19 well production source could adequately serve up to 555 service connections during the peak month. During the peak month, Pine Water had 1,992 active accounts, consisting of 1,752 accounts which used water and 240 accounts that did not use water.

Depending on the water availability from Strawberry Water Co. via Project Magnolia, water could be transported at 250 to 500 GPM. Although Project Magnolia is available year round, Pine Water would still need to haul water from May to September each year.

As of November 2, 2004, ADEQ has reported that Pine Water has pending a Consent Order, Notice of Violations, and numerous plant deficiencies. Based on this information, ADEQ cannot determine if Pine Water is currently delivering water that meets the water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

Staff recommends that no new service connections be added to the Pine Water system at this time. Staff will continue to review compliance reports as submitted by Pine Water and will provide a full report, including the possibility of operating Strawberry Water Company and Pine Water as one system, by September 30, 2005, as originally ordered in Decision No. 64400.

TABLE OF CONTENTS

	<u>PAGE</u>
INTRODUCTION	1
BACKGROUND.....	1
SYSTEM EVALUATION.....	1
ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (“ADEQ”) COMPLIANCE	2
CONCLUSIONS	2
RECOMMENDATIONS.....	3

Attachments

Pine Water System – Consumption by Customer Summary	A
Graph.....	1

Introduction

On August 10, 2004, Decision No. 67166 was issued for Pine Water Company's ("Pine Water") rate proceeding. Because the service area of Pine Water continues to suffer under drought conditions, resulting in a water shortage, Staff was ordered to prepare a Staff Report that would determine whether a moratorium on new water hook ups should be instituted for the Pine Water service area. Pine Water serves the community of Pine in Gila County.

Background

Since 1989, due to historical water shortages in and around the Pine area, the Commission ordered various moratoriums on new service connections and main extensions. These moratoriums have remained in effect in one form or another since that time.

Pine Water is currently under a limited moratorium ordered by Decision No. 65435, dated December 9, 2002. This decision limited the number of new service connections to a maximum of 25 per month with no carryover. In addition, any new service connection that required a main extension would be denied unless the owner of the property provided Pine Water with an independent source of water.

Pine Water was ordered to submit semi-annual reports, beginning June 30, 2002 (per Decision No. 64400, dated January 31, 2002) and depending on the reporting information, Staff was ordered to submit a report to the Commission by September 30, 2005, recommending whether to continue the moratorium or to seek modification. As stated in Decision No. 64400, Staff notes that the Commission on its own initiative could, at any time, reduce the number of new service connections to any number less than 25 if the Commission believed it was appropriate to do so to protect the public interest.

System Evaluation

According to the Water Use Data Sheets submitted by Pine Water, the operation of the Pine Water system consists of 19 wells (totaling 93.88 gallons per minute ("GPM") based on Pine Water's calculated average), nine storage tanks (totaling 970,000 gallons), interconnection with Strawberry Water Company (Project Magnolia pipeline equipped with two pumps at 250 GPM each), and a distribution system serving 1,990 service connections. The Pine Water well production source fluctuates year round.

Staff evaluated the Water Use Data Sheets covering the last 24 months using "Consumption by Customer" spreadsheets submitted by Pine Water. After evaluating this data, Staff determined that Pine Water's 19 well production source could adequately serve up to 555 service connections during the peak month (using a peaking factor of 2.0). During the peak month, Pine Water had 1,992 active accounts, consisting of 1,752 accounts which used water and 240 accounts that did not use water. (See Attachment A, Pine Water System - Consumption by Customer Summary.)

As part of a Commission compliance filing for Decision No. 67166, Pine Water submitted a report regarding Water Availability and Use for the period from October 2003 to September 2004. Staff combined this data with the same type of data obtained in the recent rate proceeding and prepared the attachment labeled Graph 1. Staff is providing Graph 1 to show the duration water was hauled and pumped via Project Magnolia during this period.

Arizona Department of Environmental Quality ("ADEQ") Compliance

On November 2, 2004, the Water Quality Field Services Unit of the ADEQ issued an inspection report regarding the system inspections of Strawberry Water Co. (old E&R – Strawberry), PWS 04 – 006, Pine Water Co. (Old E&R – Pine), PWS 04-034, and Pine Water Co. (Old Williamson), PWS 04-043. This one inspection report was issued for the three water systems because 1) they are interconnected, 2) owned by the same entity, and 3) ADEQ policy considers them to be one system.

According to the inspection report, Pine Water has the following deficiencies:

1. A Consent Order, D-36-94, was issued to the old E&R – Pine System on September 27, 1994, which required that a drawing of the water system be submitted. ADEQ has not received an accurate drawing of the water system; therefore, the Consent Order is still valid.
2. A Notice of Violation ("NOV") was issued for a) operating two wells (Weeks and Bloom Wells) without an Approval to Construct or an Approval of Construction, and b) failure to maintain and keep in proper operating condition facilities used in the production, treatment, or distribution of a water supply resulting in:
 - Deterioration of concrete slabs around several wells.
 - Failure to secure wells and storage tanks to limit unauthorized access.
 - Failure to post signs at each well to notify individuals not to trespass and to allow identification of the well.
 - Failure to have a secure gate on fences around storage tanks.
3. A NOV was issued for the Strawberry facilities for failing to provide a consumer confidence report.
4. In addition to the above violations, ADEQ has reported 20 plant facility items deficient which need to be corrected.

Conclusions

Staff has determined that the Pine Water's 19 well production source could adequately serve up to 555 service connections during the peak month. During the peak month, Pine Water had

1,992 active accounts, consisting of 1,752 accounts which used water and 240 accounts that did not use water.

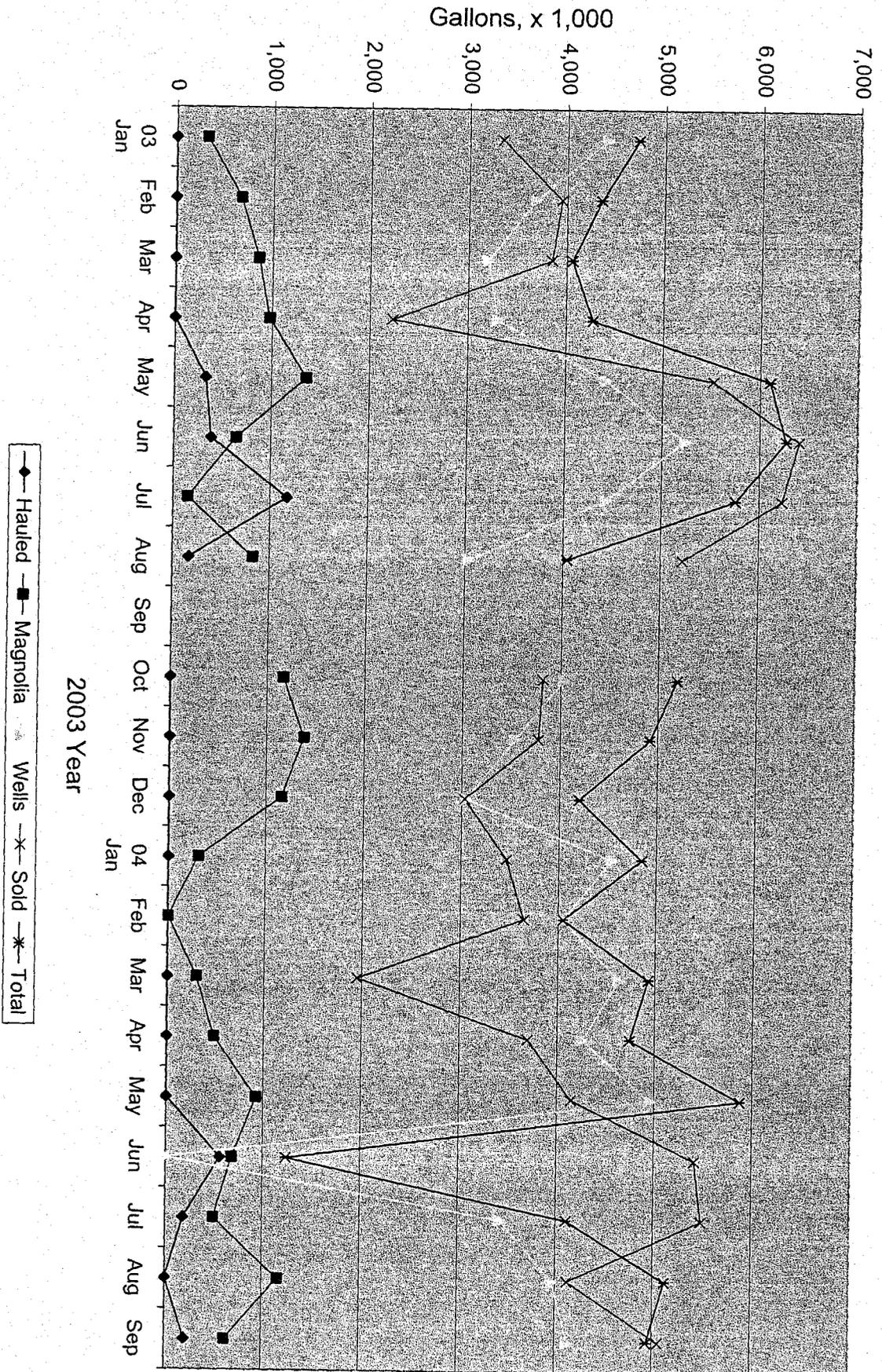
Depending on the water availability from Strawberry Water Co. via Project Magnolia, water could be transported at 250 to 500 GPM. Staff does not believe that the water production in Strawberry can support sustained and prolonged use of Project Magnolia without being a detriment to Strawberry's water supply. However, even considering a sustained flow of 250 GPM from Project Magnolia (which is highly unlikely, considering the information on Graph 1), this Project Magnolia source combined with the 19 wells could only support approximately 2,000 connections.

ADEQ has reported that Pine Water has pending a Consent Order, Notice of Violations, and numerous plant deficiencies. Based on this information, ADEQ cannot determine if Pine Water is currently delivering water that meets the water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

Recommendations

Based on the above, Staff recommends that no new service connections be added to the Pine Water system at this time. Staff will continue to review compliance reports as submitted by Pine Water and will provide a full report, including the possibility of operating Strawberry Water Company and Pine Water as one system, by September 30, 2005, as originally ordered in Decision No. 64400.

Pine Water Co. - Water Availability and Use

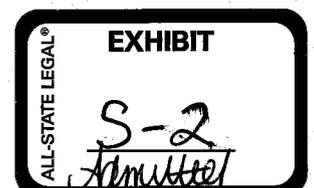


REBUTTAL
TESTIMONY
OF
MARLIN SCOTT, JR.

DOCKET NO. W-03512A-03-0279

IN THE MATTER OF THE APPLICATION OF
PINE WATER COMPANY FOR A
DETERMINATION OF THE CURRENT FAIR
VALUE OF ITS UTILITY PLANT AND
PROPERTY, A RATE INCREASE AND FOR
APPROVAL TO INCUR LONG-TERM DEBT

FEBRUARY 1, 2005



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

IN THE MATTER OF THE APPLICATION OF
PINE WATER COMPANY FOR A
DETERMINATION OF THE CURRENT FAIR
VALUE OF ITS UTILITY PLANT AND
PROPERTY, A RATE INCREASE AND FOR
APPROVAL TO INCUR LONG-TERM DEBT.

DOCKET NO. W-03512A-03-0279

(COMPLIANCE STAFF REPORT
REGARDING THE NEED TO
INSTITUTE A MORATORIUM)

REBUTTAL TESTIMONY

OF

MARLIN SCOTT, JR.

UTILITIES ENGINEER

UTILITIES DIVISION

FEBRUARY 1, 2005

TABLE OF CONTENTS

	<u>Page</u>
EXECUTIVE SUMMARY	i
Introduction.....	1
Moratorium on New Meters.....	1
ADEQ Compliance Issues	4

**EXECUTIVE SUMMARY
PINE WATER COMPANY
DOCKET NO. W-03512A-03-0279**

After having read the testimony of Pine Water Company ("Pine Water"), Staff still recommends that no new service connections be added to the Pine Water system at this time. Staff will continue to review compliance reports as submitted by Pine Water and will provide a full report, including the possibility of operating Strawberry Water Company and Pine Water as one system, by September 30, 2005, as originally ordered in Decision No. 64400.

1 **INTRODUCTION**

2 **Q. Please state your name, place of employment and job title.**

3 A. My name is Marlin Scott, Jr. My place of employment is the Arizona Corporation
4 Commission ("Commission"), Utilities Division, 1200 West Washington Street, Phoenix,
5 Arizona 85007. My job title is Utilities Engineer.

6
7 **Q. Are you the same Marlin Scott, Jr. that previously testified in this docket?**

8 A. Yes, I filed Direct Testimony on October 15, 2003, Surrebuttal Testimony on January 20,
9 2004, and testified at the rates/financing hearing on March 11, 2004.

10
11 **Q. What is the purpose of your rebuttal testimony?**

12 A. The purpose of my rebuttal testimony is to respond to testimony submitted by Pine Water
13 Company, Inc. ("Pine Water or Company") concerning the November 19, 2004
14 Compliance Staff Report regarding the need to institute a moratorium per Decision No.
15 67166 and the Arizona Department of Environmental Quality ("ADEQ") compliance
16 issues.

17
18 **MORATORIUM ON NEW METERS**

19 **Q. Have you reviewed the Direct Testimony of Robert T. Hardcastle concerning Staff's**
20 **recommendation for the need to institute a moratorium on new service line and**
21 **meter installations?**

22 A. Yes. Mr. Hardcastle opposes Staff's recommendation for the need of a moratorium on
23 new service connections mainly for reasons that it will preclude the Company from adding
24 a reasonable number of new service connections and will create an incentive for Gila
25 County and the local real estate and development community to continue to find ways to

1 circumvent a Commission moratorium and grow the community utilizing the same water
2 supply relied upon by Pine Water.

3
4 **Q. Does the Company agree with Staff that the Pine area is faced with a serious water
5 supply limitation?**

6 A. Yes.

7
8 **Q. If the Company opposes a moratorium but acknowledges that the water supply
9 limitation is serious, did the Company provide any assessments on how many service
10 connections could be served by its water system?**

11 A. No.

12
13 **Q. Please explain why Staff is recommending a moratorium on new service connections?**

14 A. Based on a review of customers water use from August 2002 to July 2004, Staff
15 determined that Pine Water's 19 well production source could adequately serve a
16 maximum of 555 average water customer users¹. This number is particularly striking
17 when one considers that during the peak month (June), Pine Water had 1,752 customers
18 consistently using water and only 240 (out of the 1,992 active accounts) that did not take
19 water during that month.

20
21 **Q. Please explain how Staff calculated the 555 service connection figure?**

22 A. Staff evaluated the Water Use Data Sheets submitted by the Company and used the peak
23 month, June 2003, to evaluate the Pine Water system. Staff used the actual water used
24 (6,400,669 gallons) during that peak month, and divided by 30 days and the number of
25 actual water users (1,752 users) to determine the 121.78 gallons per day ("GPD") per user.

¹ Note that average water customer user is synonymous with the term "service connection" in the original compliance report.

1 then used the 121.78 GPD per user and multiplied by a factor of 2.0 to determine a value
2 of 243.56 GPD per user, which equated to a value of 0.17 gallons per minute ("GPM") per
3 user. Finally, Staff used the 19 well production source (totaling 93.88 GPM) and divided
4 by 0.17 GPM per user to calculate the figure of 555 service connections.
5

6 **Q. Why did Staff use a multiplying factor of 2.0?**

7 A. Multipliers are typically used if direct peak day water use data is not available. The factor
8 of 2.0 was used because Pine Water has high seasonal and weekend use.
9

10 **Q. Is Staff aware of other water supplies that may supplement the Pine Water system?**

11 A. Yes. Staff is aware that, 1) Pine Water can receive water from Strawberry Water
12 Company ("SWC") through the Project Magnolia pipeline and, 2) Pine Water can haul in
13 water by truck.
14

15 **Q. Did Staff consider these two additional water supplies in its assessment?**

16 A. Yes. Page 3 of the Staff Report discusses the fact that with a sustained flow of 250 GPM
17 (half capacity) from Project Magnolia, Pine Water could barely support all the connections
18 it has today. However, Strawberry has eight wells that can produce less than 110 GPM.
19 Therefore, continuous use of Project Magnolia at even half capacity would very quickly
20 be detrimental to water service in Strawberry. As for water hauling by truck, Staff
21 considers this operation an emergency procedure.
22

23 **Q. Why doesn't Staff believe that the water availability from SWC is enough to support
24 Pine Water?**

25 A. Because even when water is being supplied by Project Magnolia, the Company is also
26 hauling water in by trucks at the same time. (See Graph 1.)

1 **ADEQ COMPLIANCE ISSUES**

2 **Q. Have you reviewed the Direct Testimony of Robert T. Hardcastle concerning the**
3 **ADEQ compliance issues?**

4 **A.** Yes. Mr. Hardcastle addressed and/or discussed the four compliance issues; 1) a Consent
5 Order for the old E&R-Pine System concerning as-built drawings, 2) a Notice of Violation
6 ("NOV") for two wells operating without an Approval to Construct or an Approval of
7 Construction, 3) a NOV for SWC for failing to provide a consumer confidence report, and
8 4) the 20 plant facility items that have deficiencies.

9
10 **Q. Have all these compliance issues be resolved?**

11 **A.** No. The only compliance issue that was resolved was the NOV for SWC. The remaining
12 other three compliance issues are still valid and being resolved by the Company.

13
14 **Q. Based on the Company's updated information provided at this time, is Pine Water**
15 **currently delivering safe water?**

16 **A.** This status is not known at this time. Staff has requested an updated Compliance Status
17 Report from ADEQ and will file this report in Docket Control when it is received.

18
19 **Q. Does Staff have any other comments regarding the ADEQ compliance issues?**

20 **A.** Yes. In its inspection report dated November 2, 2004, the ADEQ inspector noted that one
21 inspection report was being issued for the three systems; Strawberry PWS 04-006, Pine
22 04-034 and 04-043. This action was taken because the three regulated systems are
23 interconnected and owned by the same entity, and therefore, ADEQ considers them to be
24 one system.

25

1 Q. Did the Company mention or address the possibility of the Pine and Strawberry
2 systems becoming one system?

3 A. No. The Company ignored the ADEQ field inspector's recommendation and did not
4 provide any comment or an opinion of Pine Water's position.
5

6 Q. According to ADEQ, are the Pine and Strawberry systems considered one system?

7 A. At this time, Staff has not been officially notified by ADEQ that these two systems are one
8 system. When Staff read ADEQ's inspection reported, dated November 2, 2004, Staff
9 took the "one system" statement as the field inspector's recommendation, this
10 recommendation to combine the Pine and Strawberry systems as one system is still under
11 review by ADEQ.
12

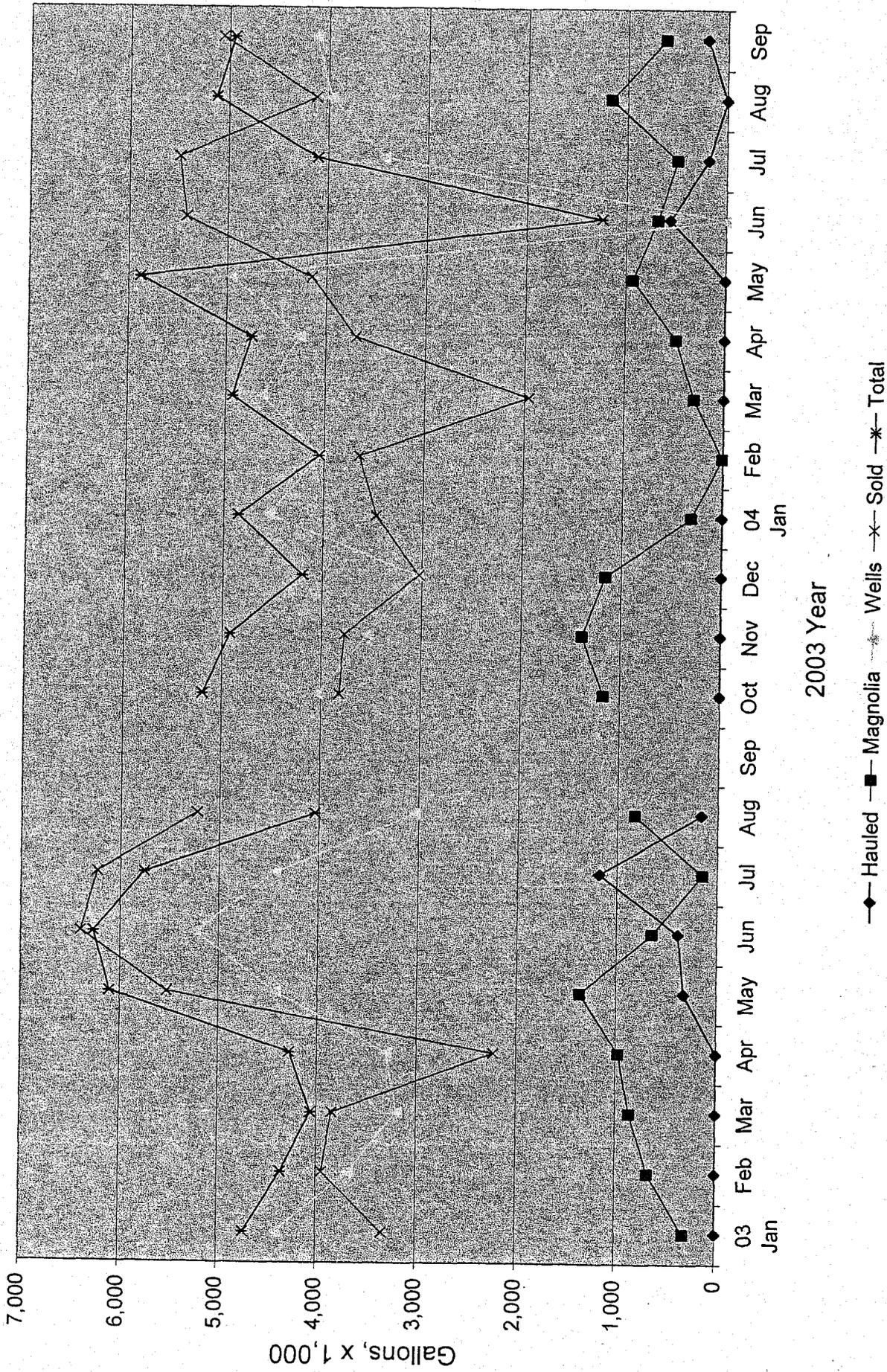
13 Q. After reviewing the comments of the Company's Direct Testimony, has Staff's
14 position changed regarding the moratorium?

15 A. No. Staff still recommends that no new service connections be added to the Pine Water
16 system at this time. Staff will continue to review compliance reports as submitted by Pine
17 Water and will provide a full report, including the possibility of operating Strawberry
18 Water Company and Pine Water as one system by September 30, 2005 as originally
19 ordered in Decision No. 64400.
20

21 Q. Does this conclude your rebuttal testimony?

22 A. Yes, it does.

Pine Water Co. - Water Availability and Use



2003 Year

◆ Hauled ■ Magnolia ▲ Wells × Sold



Janet Napolitano
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.adeq.state.az.us



Stephen A. Owens
Director

April 22, 2003

Loren Peterson
Strawberry Hollow
P.O. Box 2141
Pine, Arizona 85542

RE: Strawberry Hollow Capacity Development Evaluation; Public Water System Status

Dear Mr. Peterson,

Strawberry Hollow was issued an Approval To Construct (ATC) and an Approval of Construction (AOC) by the Drinking Water Section's Technical Engineering Unit. However, Strawberry Hollow does not meet the requirements to begin operating pursuant to R18-4-602.B of the Arizona Administrative Code (A.A.C.) which states:

R18-4-602. Elementary Business Plan

B. An owner shall not commence operation of a public water system without Department approval under R18-4-606.

Specifically, the water source listed by Strawberry Hollow has been deemed by the Arizona Department of Water Resources to be insufficient to supply drinking water for 100 years (Attachment A). This is a requirement pursuant to R18-4-603.1 as follows:

R18-4-603. Technical Capacity Requirements

An owner of a new public water system shall submit the following to the Department for a determination of technical capacity:

- 1. Documentation of a drinking water source adequacy minimum of 50 gallons of water per person per day for a period of 100 years, a 100 year water availability designation from the Arizona Department of Water Resources (ADWR), or a Certificate of Assured Water Supply from ADWR;*



Therefore, Strawberry Hollow shall not operate as a regulated public water system. Currently, Strawberry Hollow does not meet the minimum requirements to be classified as a "Community Water System". A community water system is defined as:

Northern Regional Office
1515 East Cedar Avenue • Suite F • Flagstaff, AZ 86004
(928) 779-0313

Southern Regional Office
400 West Congress Street • Suite 433 • Tucson, AZ 85701
(520) 628-6733

"Community water system" means a public water system that serves 15 or more service connections used by year-round residents or that serves 25 or more year-round residents.

If you have any additional information that proves the water supply for Strawberry Hollow is sufficient, please contact Kathy Stevens at 602-771-4653 within 60 days so that we may review the additional information and make a final determination.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey W. Stuck". The signature is written in a cursive style with a large initial "J".

Jeffrey W. Stuck
Manager, Drinking Water Section

enc. Attachment A: ADWR Water Adequacy Report #22-400383

ARIZONA DEPARTMENT OF WATER RESOURCES
HYDROLOGY DIVISION

500 North Third Street, Phoenix, Arizona 85004
Telephone 602-417-2448
Fax 602-417-2425

September 12, 2000



JANE DEE HULL
Governor

RITA PEARSON
MAGUIRE
Director

Mr. Roy Tanney
Department of Real Estate
2910 North 44th Street
Phoenix, Arizona 85018

Re: **Water Adequacy Report #22-400383**
Strawberry Hollow, Gila County

Pursuant to A.R.S. §45-108, Mr. Ralph Bossert, ASL Consulting Engineers, has provided the Department of Water Resources with information on the water supply for the proposed subdivision, Strawberry Hollow, Phase I, occupying a portion of Section 26, T12N, R8E, G&S R B&M.

Water for domestic use will be provided to each of the 41 lots in the subdivision by the Strawberry Hollow Development Inc.. Adequacy of the water supply was reviewed by the Department with regard to quantity, quality, and dependability.

Because a 100 year water supply could not be demonstrated as being available to each lot based on the Department's physical availability criteria, the Department of Water Resources must find the water supply to be *inadequate* for the proposed use.

A.R.S. §32-2181.F. requires a summary of the Department's report for a dry lot subdivisions or those with an inadequate water supply be included in all promotional material and contracts for sales of lots in the subdivision. We suggest the following synopsis:

"Strawberry Hollow Phase I, is being sold with the domestic water supply to be provided by the Strawberry Hollow Development, Inc. water distribution system as a homeowner's association or improvement district which has yet to be established. Groundwater is being produced from the Redwall limestone. The limited availability of data associated with this formation as an aquifer does not allow for determination of the amount of the groundwater in storage, nor the dependability of supply. Additionally, this general area has been determined to be drought-sensitive. The depth to groundwater may range from 21 to over 1200 feet below land surface depending on topography. Groundwater quality is unknown. Because a 100-year adequate water supply has not been demonstrated, the Department of Water Resources must find the water supply to be *inadequate*."

Page 2

Mr. Roy Tanney

Water Adequacy Report #22-400383

Strawberry Hollow, Gila County

September 12, 2000

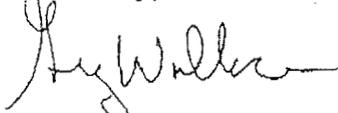
The developer, pursuant to A.R.S. §32-2181.F., may suggest a different summary of this report, but it must contain the above elements and/or the Department's findings. Any change to the above subdivision or water supply plans may invalidate this decision.

This letter constitutes the Department of Water Resources' report on the subdivision's water supply and is being forwarded to your office as required by A.R.S. §45-108. This law requires the developer to hold recordation of the above subdivision's plats until receipt of the Department's report on the subdivision's water supply. By copy of the report, the Gila County Recorder is being officially notified of the developer's compliance with the law.

This is an appealable agency action. The applicant is entitled to appeal this action. Rights to appeal are described in the Notice of Right of Appeal.

If you have any questions regarding this report, please call Andy Kurtz at 602-417-2448.

Sincerely,



Greg Wallace
Chief Hydrologist

GW/AK/ef
2059

cc: Ralph Bossert, ASL Consulting Engineers
Strawberry Hollow Development, Inc.
Linda H. Ortega, Gila County Recorder
Robert J. Mawson, Gila Planning & Zoning
Steve Rossi, Office of Assured & Adequate Water Supply

201

DIRECTOR

BEFORE THE ARIZONA CORPORATION COMMISSION

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

ARIZONA CORPORATION COMMISSION

DOCKETED

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JAN 31 2002

DOCKETED BY JK

Director of Utilities

5
6 IN THE MATTER OF PINE WATER COMPANY,
INC.'S APPLICATION FOR ORDER
7 INSTITUTING A MODIFIED WATER SERVICE
MORATORIUM.

DOCKET NO. W-03512A-01-0764

DECISION NO. 64400

OPINION AND ORDER

8

9 DATE OF HEARING: December 11, 2001

10 PLACE OF HEARING: Phoenix, Arizona

11 ADMINISTRATIVE LAW JUDGE: Dwight D. Nodes

12 APPEARANCES: Mr. Jay L. Shapiro and Mr. Thomas R. Wilmoth,
FENNEMORE CRAIG, on behalf Pine Water
13 Company, Inc.;

14 Mr. John Gliege, on behalf of Strawberry Hollow
Domestic Water Improvement District; and

15 Mr. Stephen Gibelli, Staff Attorney, on behalf of the
16 Utilities Division of the Arizona Corporation
Commission.

BY THE COMMISSION:

17

18 On September 27, 2001, Pine Water Company, Inc. ("Pine Water" or "Company") filed an
19 application requesting an Order modifying the current water service moratorium within Pine Water's
20 certificated service area. In 1989, due to historical water shortages in and around the Pine, Arizona
21 area, the Commission ordered various moratoria on new service connections and main extensions in
22 the area previously served by E&R Water Company, Inc. ("E&R") and Williamson Waterworks, Inc.
23 ("Williamson"). See, Decision Nos. 56539 (July 12, 1989) and 56654 (October 6, 1989). These
24 moratoria have remained in effect in one form or another since that time. As an example, in 1996
25 E&R was limited to one residential connection per month with a complete moratorium on new main
26 extensions. Decision No. 59753 (July 18, 1996).

27 Pine Water's Certificate of Convenience and Necessity ("CC&N") was established in 1998
28 when the assets and CC&Ns of E&R and Williamson were transferred to Pine Water. Decision No.

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1 60972 (June 19, 1998). As a result of that transaction, the existing moratoria imposed on E&R and
2 Williamson were transferred to Pine Water. Pine Water now seeks to modify the current service
3 connection and main extension moratoria due to more efficient water management practices, water
4 augmentation, and system improvements implemented by the Company over the past several years.
5 Pine Water believes these improvements to its system warrant the proposed moratorium
6 modifications.

7 The Strawberry Hollow Domestic Water Improvement District ("Strawberry Hollow") was
8 granted intervention. Counsel for Strawberry Hollow attended the hearing but did not oppose Pine
9 Water's application.

10 FINDINGS OF FACT

11 1. Pine Water currently provides domestic water utility service to approximately 1,900
12 customers in the Pine, Arizona area. Pine Water is owned by Brooke Utilities, Inc. ("Brooke
13 Utilities") which, along with its sister company, Brooke Water, LLC, own and operate 26 water
14 systems serving approximately 8,000 customers in Arizona.

15 2. The territory served by Pine Water is subject to water shortages, where groundwater is
16 the primary source of water. Groundwater in the Pine area typically flows through scattered rock
17 fractures and is heavily dependent on replenishment from rain and snow melt. Therefore, Pine
18 Water's service area is susceptible to shortages in dry years and especially during the summer months
19 when demand is highest.

20 3. In Decision No. 56539 (July 12, 1989), the Commission determined that new service
21 connections should be curtailed in E&R's service area due, in part, to a drought in the region and
22 lowering of the water table. In Decision No. 56654 (October 6, 1989), the Commission reaffirmed
23 the moratorium and also prohibited additional main extensions. The Commission directed that the
24 moratorium remain in place until such time as E&R could demonstrate an ability to increase water
25 supplies by implementing conservation measures and obtaining additional resources.

26 4. In Decision No. 57047 (August 22, 1990), the Commission approved a modification
27 on new service connections, allowing ten new connections per month under certain conditions. In
28 Decision No. 59753 (July 18, 1996), the Commission limited E&R to one single family residential

1 connection per month on a first come first served basis. Pine Water currently has a waiting list for
2 new connections of 243 customers. The complete moratorium on new main extensions was
3 reaffirmed in that Decision and remains in effect today. *Id.* At 12.

4 5. According to the Company's president, Robert Hardcastle, Brooke Utilities has
5 invested substantial capital in Pine Water to improve operational efficiency and to augment the
6 Company's water supply. Brooke Utilities has invested over \$1.2 million in its Pine and Strawberry
7 systems. The most significant improvement undertaken by Brooke Utilities is "Project Magnolia," an
8 eight-inch, 10,300 foot long water pipeline connecting the Pine Water system to the water system
9 operated by Strawberry Water Company, Inc. ("Strawberry Water"), which is also owned by Brooke
10 Utilities.

11 6. The Project Magnolia pipeline took three years to develop at a cost of \$448,000. The
12 pipeline can transport more than 700,000 gallons of water daily from Strawberry to Pine (north to
13 south) or from Pine to Strawberry (south to north). Project Magnolia's design includes automated
14 control systems that allow detection of decreasing storage levels in either Pine or Strawberry in order
15 for water to be moved in either direction as needed. Mr. Hardcastle testified that the completion of
16 the project resolves the long-standing problem of being able to transport water from the Strawberry
17 Water system, where groundwater is more plentiful, to the Pine Water system where groundwater is
18 often deficient.

19 7. Since 1996, Strawberry Water has drilled six new wells and Pine Water has drilled
20 five new wells. Two other wells in Pine were re-drilled to greater depths. The Company has also
21 recaptured water by repairing leaking infrastructure and by repairing more than 700 leaks in the
22 combined Pine and Strawberry systems. The Company estimates that these repairs have resulted in
23 the production or retention of an additional 250,000 gallons per day.

24 8. Another improvement made by the Company is the addition of storage capacity. Since
25 1996, the Pine Water system has added more than 100,000 gallons of storage and the Strawberry
26 Water system has added approximately 170,000 gallons of storage. In addition, the "Pine Reservoir
27 Project" is being developed by Brooke Utilities to construct a 25 million gallon water storage facility

28

1 in South Pine to enable the Company to store excess groundwater supplies developed in off-peak
2 months (October through April) for use in peak months.

3 9. Pine Water is also looking into the possibility of a water exchange in order to take
4 advantage of its contract for Central Arizona Project ("CAP") water. Although there are no CAP
5 canals in the Pine area, Pine Water is exploring the feasibility of exchanging Pine Creek surface water
6 flow with a water user in Phoenix, such as Salt River Project.

7 10. A further system improvement has been the replacement of non-functioning meters.
8 Since 1996, approximately 400 meters have been replaced in the Pine and Strawberry systems
9 thereby providing increased revenues to the Company. During the development of Project Magnolia,
10 Brooke Utilities also discovered an illegal water tap that was supplying a large pond in Strawberry
11 with approximately 40,000 gallons per day. The illegal tap, which the Company believes was made
12 in the late 1960s or early 1970s, has been disconnected and the water is now available for the use of
13 customers in the Pine and Strawberry systems.

14 11. Pine Water points out that, in comparison with the severe water usage restrictions
15 imposed in prior years, customers in the Pine Water service area experienced Stage 1 water
16 conservation levels (no water usage restrictions) throughout 2001. The Company claims that it has
17 achieved water storage levels never before seen in the Pine area during demand periods.

18 12. Due to these system improvements, Pine Water requests that the existing moratorium
19 should be modified to allow the Company to add up to 25 new service connections per month over
20 the next 36 months. Approval of the revised moratorium would allow the Company to extend service
21 to all customers on the waiting list within one year. Under the Company's proposal, its operations
22 would be reviewed at the end of 30 months to determine whether the 25 connections per month rate
23 should be continued. Additional annual reviews would be performed by Staff to ensure the ongoing
24 viability of the modified moratorium.

25 13. With respect to main extensions, Pine Water requests that the moratorium should be
26 modified so that any new developments would be required to provide sufficient water supplies to
27 support itself. Under this proposal, if a developer approaches Pine Water for service to a subdivision,
28 the developer must provide proof of its ability to procure "wet" water for the development. Pine

1 Water would have discretion to deny service to the developer if it reasonably questions the
2 developer's ability to provide a sufficient quantity of water needed to serve the new customers
3 without impacting existing customers. Customers in a new subdivision that are served under this
4 main extension policy would not be placed at the end of the waiting list because the developer of the
5 property would be required to provide a source of water that is adequate to serve the subdivision (Tr.
6 42-43). The Company claims that its proposal protects the public interest by ensuring that the
7 existing customers are not injured by additional subdivisions in the area.

8 14. Pine Water's main extension proposal would require developers to contribute 110
9 gallons per capita per day. Thus, a residential subdivision with an expected occupancy average of 2.5
10 persons per home would require the developer to contribute 275 gallons per capita per day to meet the
11 minimum requirements for extension to the Pine Water system.

12 15. Based on its analysis, Staff recommends approval of Pine Water's application, with
13 certain modifications. According to the Staff Report, Pine Water and Strawberry Water currently
14 serve 1,841 and 979 customers, respectively. Staff believes that, given the implementation of Project
15 Magnolia and other system improvements completed by Brooke Utilities, the combined Pine
16 Strawberry systems could adequately serve up to 3,605 customers.

17 16. Staff recommends that Pine Water's current moratorium of one connection per month
18 should be modified to allow a total of 25 new service connections per month, for three years.
19 However, Staff recommends that no carryover of the 25-connection limit should be permitted to
20 following months. Thus, if Pine Water connects 20 new customers in a given month, Staff would not
21 allow the Company to connect 30 customers the following month but would cap each month's
22 connections at 25.

23 17. Staff agrees that for any new service that requires a main extension, the
24 owner/developer should be required to provide Pine Water with an independent source of water. As
25 modified by Exhibit S-2, Staff recommends that one new service connection should equate to one
26 residential connection or one equivalent residential unit ("ERU") with a water use of 0.20 gallons per
27 minute, as verified using Arizona Department of Water Resources criteria with a 72-hour pump test.

28

1 18. Staff further recommends that Pine Water be required to submit semi-annual reports,
2 beginning June 30, 2002. Based on this information, Staff would be required to submit a report to the
3 Commission by September 30, 2005, recommending whether to continue the modified moratorium or
4 to seek further modification. Staff also states that the Commission on its own initiative could, at any
5 time, reduce the number of new service connections to any number less than 25 if the Commission
6 believes it is appropriate to do so to protect the public interest.

7 19. As amended by Exhibit S-2, Staff recommends that the current "waiting list" for Pine
8 Water should remain in effect and that any new potential customer that requests service should be
9 added to the end of the list and must obtain a county building permit within 45 days of installation of
10 a meter on the customer's property.

11 20. The final Staff recommendation indicates that, before the modified moratorium
12 becomes effective, Pine Water and Strawberry Water should be required to submit ADEQ
13 documentation to the Director of the Utilities Division stating that each of the companies is delivering
14 water that meets water quality standards required by the Arizona Administrative Code. On December
15 20, 2001, Staff filed a late-filed exhibit comprised of ADEQ Compliance Status Reports for both Pine
16 Water and Strawberry Water that were provided by the Company to prove compliance with Staff's
17 recommendation in the Staff Report.

18 21. Based on the information provided by the Company, as well as Staff's analysis of the
19 system improvements implemented in the Pine and Strawberry service areas, we conclude that the
20 current moratoria imposed on Pine Water should be modified. Consistent with the recommendations
21 of the Company and Staff, we will modify the existing moratorium to permit Pine Water to connect
22 up to 25 new service connections per month for the next three years. We will also approve
23 modification of the moratorium on main extensions consistent with Staff's recommendations. Under
24 this modification, for any new service connection that requires a main extension, the owner of the
25 property would be required to provide Pine Water with an independent source of water in accordance
26 with the minimum water production standards set forth in Staff's Exhibit S-2. We will also approve
27 Pine Water's request that customers in subdivisions that meet the "wet" water requirement described
28 above will not be placed on the Company's waiting list.

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ORDER

IT IS THEREFORE ORDERED that the application of Pine Water Company, Inc. for modification of moratoria on new service connections and main extensions is hereby approved subject to the Company's compliance with Staff's recommendations as more fully described herein.

IT IS FURTHER ORDERED that Pine Water Company Inc.'s current moratoria on new service connections and main extensions are hereby modified to permit the Company to initiate up to 25 new service connections per month, with no carryover to subsequent months, and that new service connections requiring a main extension shall require the owner of the requesting property to provide an independent source of water in accordance with the guidelines set forth herein.

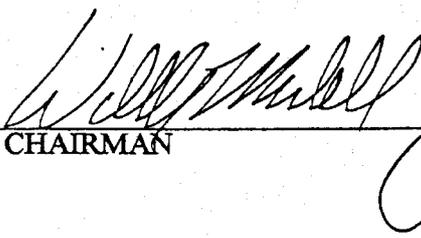
IT IS FURTHER ORDERED that Pine Water Company, Inc. shall be required to submit semi-annual reports, beginning June 30, 2002, in accordance with Staff's recommendations and that Staff shall submit a report to the Commission by September 30, 2005 with a recommendation as to whether the modified moratoria should be continued or modified.

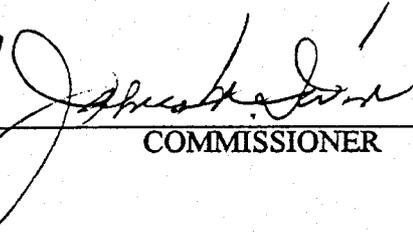
1 IT IS FURTHER ORDERED that Pine Water Company, Inc.'s current "waiting list" process
2 for water service shall remain in effect and that any new potential customers requesting water service
3 shall be added to the end of the waiting list and shall be required to obtain a county building permit
4 within 45 days of installation of a meter on the customer's property. Customers in subdivisions that
5 meet the "wet" water requirement described herein shall not be required to be placed on the waiting
6 list.

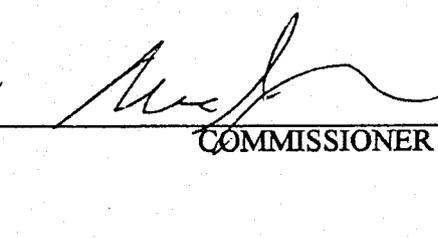
7 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

8 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

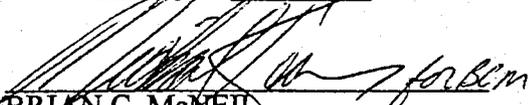
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CHAIRMAN


COMMISSIONER


COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 31st day of January, 2002.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____
DDN:dap

1 SERVICE LIST FOR:

PINE WATER COMPANY, INC.

2 DOCKET NO.:

W-03512A-01-0764

3 Jay L. Shapiro
4 Thomas R. Wilmoth
5 FENNEMORE CRAIG
6 3003 North Central Avenue, Suite 2600
7 Phoenix, Arizona 85012-2913
8 Attorneys for Pine Water Company

9 John J. Gliege
10 P.O. Box 1388
11 Flagstaff, AZ 86002
12 Attorney for Strawberry Hollow Domestic
13 Water Improvement District

14 Christopher Kempley, Chief Counsel
15 Legal Division
16 ARIZONA CORPORATION COMMISSION
17 1200 West Washington Street
18 Phoenix, Arizona 85007

19 Ernest G. Johnson, Director
20 Utilities Division
21 ARIZONA CORPORATION COMMISSION
22 1200 West Washington Street
23 Phoenix, Arizona 85007

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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

DEC 09 2002

WILLIAM A. MUNDELL
Chairman

JIM IRVIN
Commissioner

MARC SPITZER
Commissioner

DOCKETED BY

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IN THE MATTER OF PINE WATER COMPANY,))
INC.'S APPLICATION FOR AN ORDER)
INSTITUTING A MODIFIED WATER SERVICE)
MORATORIUM)

DOCKET NO. W-03512A-01-0764

DECISION NO. 65435

ORDER

Open Meeting
December 2, 2002
Phoenix, Arizona

BY THE COMMISSION:

DISCUSSION

BACKGROUND

1. On September 27, 2001, Pine Water Company, Inc. ("Pine Water" or "Company") filed an application requesting an Order modifying the then existing water service moratoria within Pine Water's certificated service area. The moratoria allowed only one meter connection per month and did not allow any new main extensions to be constructed. These moratoria were approved in Decision Nos. 56539, 56654 and 59753. Those Decisions dealt only with the former E&R Water Company, Inc. ("E&R").

2. Since the time the first moratoria were imposed on E&R, the water companies regulated by the Commission in Pine, Arizona, have been purchased by Brooke Utilities. These systems have been interconnected and organized into what is now known and operated as Pine Water Company, Inc. (the entity that filed the September 27, 2001 application for moratoria modification). This interconnection and reorganization occurred prior to the September 27, 2001 filing of the request to modify the moratoria. These water companies include E&R, Myers Water Company, Inc. ("Myers"), and Williamson Waterworks, Inc. ("Williamson"). The Arizona Department of Environmental Quality ("ADEQ") no longer identifies these water systems under separate Public Water System ("PWS") numbers, but under one PWS number: 04-034.

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Administrative Notice

1 DECISION NO. 64400

2 3. In Decision No. 64400, the Commission issued its decision on the moratoria
3 modification request filed by Pine Water on September 27, 2001. These new, modified moratoria
4 allowed the connection of up to 25 new meters per month and new main extensions if the party
5 requesting the new main provided its own, new water source.

6 4. The Staff Report issued for the Commission to consider in issuing Decision No. 64400
7 recommended that the moratoria modification be approved as requested by Pine Water with a few
8 changes. Staff's recommendation was based on its analysis of the entire Pine Water system as it
9 exists today, i.e., all Commission regulated water companies in Pine, Arizona, interconnected and
10 operating as one integrated water system, PWS #04-034.

11 5. Since the issuance of Decision No. 64400, on January 31, 2002, it has come to Staff's
12 attention that there is some question as to where the previous moratoria and the modified moratoria
13 apply.

14 6. Staff's memorandum, dated August 30, 2002, requested several amendments to
15 Decision No. 64400 that would have clarified that the moratoria as modified by Decision No. 64400
16 apply to the whole certificated area of Pine Water.

17 7. Staff's recommendations were based on the fact that the current operation of the
18 Commission regulated water systems in Pine, Arizona, is no longer separate, independent systems or
19 companies, but is now considered by Staff and ADEQ as one integral system and company.

20 8. The Staff recommendations that were adopted in Decision No. 64400 were based on
21 the analysis of Pine Water as a whole and not individual, separate water systems.

22 9. The August 30, 2002 Staff request for an amendment to Decision No. 64400, was
23 heard at the Commission's September 17, 2002 Open Meeting. At this Open Meeting, several
24 members of the public were present and stated that such amendments would be burdensome and
25 unfair to them because they had recently purchased lots with the intent to build and relied on
26 information that water was available to their properties to make such purchases. Others stated that
27 they were about ready to build and were not aware that their property was included in the moratorium.

28 ...

1 10. The Commission pulled this item from the agenda and requested that Staff investigate
2 this matter further and come back to the Commission with a possible solution to these people's
3 dilemma.

4 11. The third ordering paragraph of Decision No. 64400 requires that no later than
5 September 30, 2005, Staff submit a report "with a recommendation as to whether the modified
6 moratoria should be continued or modified" once again. The November 8, 2002 memorandum, is
7 Staff's report. The required report is being submitted much earlier than expected due primarily to the
8 extreme water shortage problems that were experienced by Pine Water this past summer and also
9 because of the seeming confusion as to where the moratoria modified by Decision No. 64400 apply
10 (i.e., in all of Pine Water's certificated area or just in the old E&R area).

11 **STAFF REPORT & RECOMMENDATIONS**

12 12. In order to fully address the chronic water shortage problems experienced by Pine
13 Water, Staff recommends the following:

14 A. *The moratoria discussed in Decision No. 64400 be modified to zero for both new*
15 *meter connections and new main extensions to serve new connections.* This is due
16 primarily to the on-going water shortage problems experienced by Pine Water. To
17 date, no long-term reliable water source has been developed by Pine Water. At a
18 public comment meeting that the Commission held in Pine this past summer, the
19 Chief Hydrologist for the Arizona Department of Water Resources stated that the
20 Pine area has been experiencing water shortage problems since the 1950s. It
is Staff's opinion that until a long-term permanent water source is developed by Pine
Water, adding new connections to this system will only make a critical water
supply situation even worse.

21 B. *The moratoria described in item A above should apply to the entire certificated*
22 *area of Pine Water.* As discussed in Staff's August 30, 2002 memorandum, the
23 modification of the moratoria approved in Decision No. 64400 was based entirely
24 on the operations of Pine Water as a whole and not just on the water sources in the
25 old E&R area. It is Staff's opinion that if this recommendation is not adopted by
the Commission, the moratoria that were in effect prior to Decision No. 64400
should again be in force.

26 C. *Pine Water be allowed a variance to the moratorium on new main extensions*
27 *discussed in item A above in the following manner:*

28 Any customer (either a single person, a commercial entity wishing to serve a
development, or anything in between) needing a water main extension in order to
be served would be required to provide Pine Water with a new source of water.

1 The new source would have to provide at least 0.5 gallons per minute ("gpm") of
2 water per each residential equivalent unit ("REU") that may be connected to the
3 new main. Pine Water would be allowed to install and service this new main once
4 the customer has proven that the water source being provided is permanent and
5 reliable. If the new source is a well, at a minimum the customer will conduct a 72-
6 hour pump test that meets all the requirements of the Arizona Department of Water
7 Resources for proving the pumping capacity of a new well.

8 In addition, Pine Water would be required to pay for any portion (on a percentage
9 basis) of the new water source provided by the customer that was in excess of 0.25
10 gpm per REU. The reason for this is that 0.25 gpm of flow from the new water
11 source will be used by Pine Water to serve each connection to the new main while
12 the remainder will be used to serve connections that are part of Pine Water's
13 existing distribution system as described in item D.a below. For example, assume
14 that for a ten lot (each lot is assumed to be one REU) development, the owner
15 provides Pine Water with a new water source that provides 10 gpm. The flow
16 needed for those ten lots is 2.5 gpm (10×0.25 gpm), that leaves an excess of 7.5
17 gpm. Therefore, Pine Water would have to pay for 75 percent of the cost of the
18 new water source ($7.5 \div 10$).

19 D. *Pine Water be allowed a variance to the moratorium on new meters discussed in
20 item A above in either of the following two ways:*

21 a) For each new water source that is provided by a customer requiring a new main
22 to be served as described in item C above, Pine Water shall be allowed to connect
23 one new REU for each 0.25 gpm of new water source. The amount of new water
24 source that is in excess of what is needed to serve all the possible direct metered
25 connections to the new main shall be used to meter new customers that connect to
26 mains that existed prior to a decision in this matter. In the example discussed in
27 item C above, Pine Water would be allowed to meter 30 REUs on its existing
28 mains ($7.5 \div 0.25$), while still serving the 10 possible REU connections to the new
main, or,

b) For each 0.5 gpm of new water source that the Company obtains on its own, it
shall be allowed to meter one new REU on its mains that existed prior to a decision
in this matter. The reason for not allowing two REUs for each 0.5 gpm of new
source is that history has shown that chronic water shortage problems in Pine have
made it difficult for Pine Water to serve its existing customers, much less new
connections. Therefore, half of the new 0.5 gpm will be used to serve new
connections while the other half will be used to bring the existing service up to
adequate and proper levels. The reason for not requiring the entire new water
source to go to provide service to existing customers and not allow any new
connections is to give the Company some incentive to pursue new water sources
other than the threat of enforcement action by a government agency.

The Company should continue its current waiting list in order to prioritize which
customers are to be connected to its existing mains as a result of this variance.
These customers shall provide to Pine Water, within 45 days of meter installation, a

1 copy of the Gila County building permit for a residential dwelling unit. If such a
2 building permit is not provided within 45 days, Pine Water shall remove the meter
3 and the customer shall be placed at the end of the waiting list for meter installation.
Existing mains shall be defined as all water distribution mains that existed prior to
September 27, 2001.

- 4
- 5 E. *Pine Water be required to submit, by May 1, 2003, a detailed plan showing how it*
6 *will address its water shortage problem.* This plan should include such details as,
7 but not be limited to, specific plant additions (raw water storage reservoir, new
8 finished water storage tanks, use of Central Arizona Project water, interconnections
9 with other water systems, new wells, etc.) and specific timeframes as to when these
10 additions will be operable. The Company outlined such items in its August 7, 2002
11 letter to Staff. This outline should be refined into a definitive plan with a specific
12 timetable.
- 13 F. *Pine Water be required to file a rate case by May 1, 2003, with a Test Year ending*
14 *December 31, 2002.* This rate case could be used to develop some innovative rate
15 design that would further promote conservation and/or provide the Company with
16 additional revenues by which to pursue solutions to its chronic water shortage
17 problems.
- 18 G. *Pine Water be required to re-evaluate its existing Curtailment Tariff.* Due to the
19 critical water situation, perhaps the tariff should be modified to allow the Company
20 to implement mandatory curtailment measures in Stage 4 instead of Stage 5. Staff
21 would not normally consider a measure such as this, except for the dire water
22 situation in Pine.
- 23 H. *Pine Water be required to submit reports on May 15 and October 15 of each year*
24 *showing the following for the previous 12 calendar months:*
- 25 a) Most current water source capacity (in gallons per day) of each water source of
26 Pine Water.
- 27 b) Amount of water (in gallons per day) that may be purchased from any other
28 water source that is interconnected to Pine Water that it is not owned by Pine
Water.
- c) Most current storage capacity of each tank of Pine Water.
- d) Actual amount of water in each of the storage tanks of Pine Water as of the last
day of the previous month before the issue date of this report.
- e) A completed Water Use Data Sheet listing the following data for each of the
last 12 calendar months:
- i. Amount of water sold (gallons).
- ii. Number of active connections.

- 1 iii. Number of inactive connections.
- 2 iv. Amount of water pumped from Pine Water owned sources (gallons).
- 3 v. Amount of water purchased from other interconnected water sources not
- 4 owned by Pine Water (gallons).
- 5 vi. Amount of water hauled to Pine Water (gallons).
- 6 vii. Amount of water transferred through Project Magnolia (gallons).
- 7 viii. Approximate amount of excess water available from the Strawberry
- 8 Water System that may be transferred to Pine Water through Project
- 9 Magnolia (gallons per day).

10 The above reports are needed to measure the progress of Pine Water in resolving
11 the water shortage situation.

- 12 I. *Pine Water be required to develop a customer education program.* Pine Water
13 should be required to provide educational and informational material to its
14 customers on a regular basis, e.g., quarterly. It is Staff's opinion that education is
15 the key to making any conservation program effective.
- 16 J. *That the measures described in items A, B, C, D, H, and I above remain in effect
17 until further order of the Commission.*

18 CURTAILMENT PLAN TARIFFS

19 13. In addition, even though this docket item deals specifically with Pine Water Company,
20 Staff recommends that Brooke Utilities be strongly encouraged to submit curtailment tariffs for all the
21 water systems which it operates. In particular, a curtailment tariff should be submitted for its
22 Strawberry Water system. Because this system is physically connected to Pine Water through Project
23 Magnolia, the curtailment tariff for the Strawberry system should be coordinated with the curtailment
24 tariff for Pine Water. Specifically, at any given time, the curtailment stage of the Strawberry system
25 should be one stage less than that existing in Pine Water whenever Pine Water is in any stage other
26 than Stage 1. In other words, if Pine Water is in Stage 4, Strawberry Water should be in Stage 3. It is
27 Staff's understanding that writing the curtailment tariff of Strawberry Water in this manner would
28 simply formalize the method by which Brooke Utilities currently operates these two systems.

1 VARIANCE TO METER INSTALLATION MORATORIUM

2 14. With regard to the recommendation in item 12.B above (moratoria applying to all of
3 Pine Water's certificated area), Staff believes that special consideration should be given to those
4 persons that meet the following criteria. Pine Water should be required to install a meter, on a
5 temporary basis, for those persons to which all of the following apply:

6 A. Purchased a parcel of property within Pine Water's certificated area that is not
7 located within the old E&R certificated area.

8 B. Purchase was made prior to September 1, 2002.

9 C. Meter connection application was made with Pine Water between January 1, 2002
10 and January 31, 2003.

11 D. Meter connection application was made by the actual owner of the property who
12 must also be the owner of the structure (as described in item E below) to be built on
the property.

13 E. The structure to be built on the property that will be served by the requested meter
14 is a residential dwelling unit.

15 15. In order for the meter connection to become permanent, the property owner should be
16 required to provide a copy of the Gila County building permit for the residential dwelling unit.

17 16. The meter moratorium as modified by Decision No. 64400 shall apply to all of Pine
18 Water Company's CC&N and not just the old E&R system after January 31, 2003.

19 CONCLUSIONS OF LAW

20 1. Pine Water Company, Inc., is a public service company within the meaning of Article
21 XV of the Arizona Constitution and A.R.S. §§40-201, 40-203, and 40-252.

22 2. The Commission has jurisdiction over Pine Water Company, Inc., and the subject
23 matter of this application.

24 3. Staff's recommendations, as set forth in its memorandum of December 3, 2002, and
25 discussed herein, to clarify Decision No. 64400 are reasonable and should be adopted and all of Staff's
26 other recommendations should be discussed at hearing.

27 ...

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ORDER

1
2 THEREFORE, IT IS ORDERED that after January 31, 2003, the moratorium on installation of
3 new mains to serve new customers and the moratorium on new meter installations, both as outlined in
4 Decision No. 64400, shall apply to the entirety of Pine Water Company, Inc.'s Certificate of
5 Convenience and Necessity as it exists today and may be modified by Commission order in the future.

6 IT IS FURTHER ORDERED that Pine Water Company, Inc., shall install temporary meters for
7 all customers meeting the requirements as outlined in Discussion Item No. 14.

8 IT IS FURTHER ORDERED that any temporary meters installed per Discussion Item No. 14
9 shall not become permanent until the customer has complied with Discussion Item No. 15.

10 IT IS FURTHER ORDERED that Pine Water Company, Inc. shall file a revised curtailment
11 tariff as discussed in Discussion Item No. 12.G by February 15, 2003.

12 IT IS FURTHER ORDERED that Pine Water Company, Inc. shall file a full rate case
13 application by May 1, 2003, using a Test Year ending December 31, 2002.

14 IT IS FURTHER ORDERED that Pine Water Company, Inc. shall file, with its full rate case, a
15 detailed plan as discussed in Discussion Item No. 12.E.

16 IT IS FURTHER ORDERED that the detailed plan shall include a comprehensive explanation
17 of how Pine Water Company, Inc. intends to fund implementation of the plan.

18 IT IS FURTHER ORDERED that Pine Water Company, Inc., shall file, with its full rate case, a
19 customer education program as discussed in Discussion Item No. 12.I.

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28 ...

1 SERVICE LIST FOR: Pine Water Company, Inc.
2 DOCKET NO. W-03512A-01-0764

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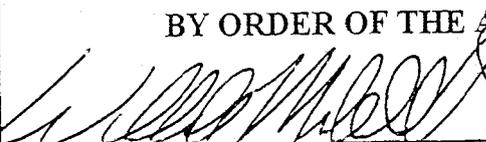
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19 Chief Counsel
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23 Ms. Lyn Farmer
24 Chief, Administrative Law Judge
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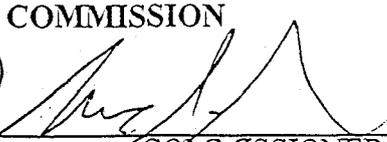
1 IT IS FURTHER ORDERED that all other items contained in the Staff Report shall be open for
2 discussion and resolution within the full rate case.

3 IT IS FURTHER ORDERED that this decision shall become effective immediately.

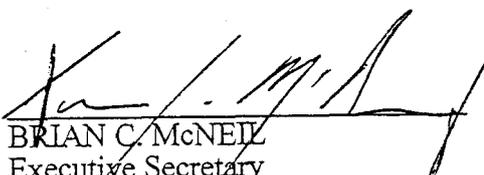
4
5 **BY ORDER OF THE ARIZONA CORPORATION COMMISSION**

6
7 
CHAIRMAN

8
9 
COMMISSIONER

10
11 
COMMISSIONER

12
13 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
14 Secretary of the Arizona Corporation Commission, have
15 hereunto, set my hand and caused the official seal of this
16 Commission to be affixed at the Capitol, in the City of
17 Phoenix, this 9th day of December, 2002.

18
19 
20 BRIAN C. McNEIL
21 Executive Secretary

22
23 DISSENT: _____

24
25 EGJ:SMO:lh