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BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION OF ARIZONA WATER COMPANY, AN ARIZONA CORPORATION, TO EXTEND ITS EXISTING CERTIFICATES OF CONVENIENCE AND NECESSITY AT CASA GRANDE AND COOLIDGE, PINAL COUNTY, ARIZONA	DOCKET NO. W-01445A-04-0755
IN THE MATTER OF THE APPLICATION OF WOODRUFF WATER COMPANY, INC. FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WATER SERVICE IN PINAL COUNTY, ARIZONA	DOCKET NO. W-04264A-04-0438
IN THE MATTER OF WOODRUFF UTILITY COMPANY, INC. FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE SEWER SERVICE IN PINAL COUNTY, ARIZONA	DOCKET NO. SW-04265A-04-0439 CERTIFICATE OF FILING OF OBJECTIONS TO STAFF REPORT

Arizona Water Company, through its undersigned counsel, presents for filing its objections to the Staff Report in this matter, dated March 3, 2005.

RESPECTFULLY SUBMITTED this 23rd day of March, 2005.

Arizona Corporation Commission
DOCKETED

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DOCKETED BY

ARIZONA WATER COMPANY

By: Robert W. Geake

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March 23, 2005

Mr. Jim Fisher
Executive Consultant II
Utilities Division
Arizona Corporation Commission
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Phoenix, AZ 85007

Re: Woodruff Water Company, Inc. -- Woodruff Utility Company, Inc. and Arizona Water Company, Docket Nos. W-04264A-04-0438; SW-04265A-04-0439 and W-01445A-04-0755; Arizona Water Company's Objections to Staff's March 3, 2005 Report.

Dear Mr. Fisher:

Pursuant to the Procedural Orders entered in this matter, Arizona Water Company hereby submits its objections to the Staff's March 3, 2005 Report.

Objections to Executive Summary

- *The Commission has long supported financially viable, interconnected utilities operating for long-term compliance with the states water policy goals.*

The Staff Report fails to advance the worthy public policy objectives set out in the Commission's "Proposed Policy for Water Certificates of Convenience and Necessity ("CC&N Policy"). That policy has the laudable public interest goal of eliminating the

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unnecessary proliferation of water systems when an existing Class A water company, such as Arizona Water Company is able to serve at substantially lower rates. Arizona Water Company is ready, willing and better able to serve the disputed area than Woodruff Water Company and has an existing Certificate of Convenience and Necessity ("CC&N") and water system facilities within a mile of that area. The Staff brushes aside the Commission's CC&N Policy in favor of its own, new policy, which advocates "regional planning for water and wastewater to ensure economies of scale for both services." As discussed further below, there is no evidence that any such economies, if available at all, are any more achievable by Woodruff Water Company than by Arizona Water Company. This latter theory has never been relied upon by the Commission, is not set forth in its written policies, and is contrary to the facts of this case, as set forth below.

The Commission is obligated to ensure that any water utility extending water service or entering into the water service industry is financially viable. But the Commission's stated support for a combined water and sewer utility as set forth in its ultimate recommendation in this matter fails to consider the primary factor to be weighed regarding these two competing applications: the public interest, public need and public benefits when considering any water company for a CC&N.

Part of the Commission's review must weigh how the public interest is best served by considering: cost of service, operating efficiency, economies of scale, water system reliability, managerial capacity, regulatory performance history, water service history, water infrastructure capital investment history, evidence of prudent business

decisions, leadership, and the proven ability to provide safe and reliable water service. When these interests are properly weighed, the public interest overwhelmingly favors Arizona Water Company's application to be the provider of water utility service for the disputed area.

- *Staff supports regional planning for water and wastewater to ensure an economy of scale for both services. Staff recognizes integrated utilities provide enhanced services to work in conjunction with public policy goals of clean water, use of reclaimed water for turf facilities and recharge of the aquifer.*

This is contrary to the Commission's policy regarding new, startup water providers attempting to carve out CC&N in the path of existing, proven public service corporations like Arizona Water Company. Also, Staff misunderstands the meaning of regional planning and economies of scale. For example, Woodruff Water Company and its parent company, Pivotal Group, are confining their planning only to their own specific development, Sandia, not for the region or even the general area surrounding the development. In comparison, Arizona Water Company already has performed and is performing regional water supply planning for the Casa Grande, Coolidge, Stanfield, and Tierra Grande areas, and the ultimate interconnection of these water systems into a fully integrated, truly <u>regional</u> water system. Anything less would not be a regional water plan.

Further, Staff provides no evidence or authority that demonstrates that only a combined water and sewer utility can meet such a policy goal. Arizona Water Company has worked side-by-side with wastewater providers in every one of the eight counties of Arizona where it provides water service and has consistently demonstrated that such arrangements are in the public interest. As for economies of scale, Woodruff Water Company's proposed water rates are more than 50% higher than Arizona Water Company's present rates, notwithstanding any of Woodruff Water Company's purported economies of scale. Since Arizona Water Company and the City of Coolidge are ready, willing and able to provide water and wastewater service, respectively, (as they already do in the Coolidge service area), there is no need to favor a new start-up water company like Woodruff Water Company simply because it is affiliated with the sewer system operator. Staff has failed to consider the full economies of scale that Arizona Water Company customers currently receive, and the residents of Sandia would receive should they receive water service from Arizona Water Company instead of Woodruff Water Company. The value of Arizona Water Company's engineering, accounting, financial, operations, legal, administrative and managerial expertise and experience is significant and should be the controlling factor in any analysis of the public interest. These significant public interests have not been fully quantified nor analyzed in Staff's report.

Finally, combined water supply and wastewater utilities are not the only way to achieve the public policy goals of clean water, use of reclaimed water and recharge of the aquifer. As a wastewater system operator, Woodruff Utility Company is required to

meet the requirements of the Clean Water Act and the requirements of ADEQ's Aquifer Protection Program. This requirement applies irrespective of whether it also operates a public water supply system or not.

Concerning the use of reclaimed water for turf facilities, Arizona Water Company supports the use of reclaimed water, especially if such use can offset the use of potable water supplies and provided that use doesn't adversely affect existing drinking water wells. Arizona Water Company already works with wastewater system operators to provide reclaimed water for turf facilities and sees no reason why it cannot do likewise in this instance, as well. An example of such cooperative efforts is in the SaddleBrooke Ranch project near Oracle, where Arizona Water Company has worked jointly with Robson Communities to ensure reclaimed water is used and that other non-groundwater resources, such as long term stored effluent can be delivered to turf facilities. In addition, Woodruff Utility Company's plan to discharge treated wastewater to replenish the groundwater basin would adversely impact Arizona Water Company's wells near Sandia. With Arizona Water Company as the water provider to Sandia, a joint effort and regional planning can be achieved to avert such a conflict.

- *Except for Martin Ranch, Arizona Water Company has not received a request for service for any other parcel included in its application for extension, including the proposed Sandia development. Staff believes Arizona Water's request should be granted for Martin Ranch and denied for the area requested by Woodruff Water Company.*

Staff is well aware that the Commission's CC&N Policy does not require a Class A utility to submit a request for service, nor does the CC&N Policy require joint water/sewer services. In fact, the CC&N Policy requires an applicant that is not already providing public utility water service to demonstrate that the existing water utility has refused to extend its CC&N to include the requested area. Past Commission decisions have granted CC&N extensions to Arizona Water Company and other utilities without requests for service for all areas included within the requested CC&N areas. Such a request is far from a fundamental requirement for service and is but only one factor (and likely a small one) in weighing the larger public interest. Nothing in the Commission's rules or policies provide that the customer has the right to insist upon service from a particular utility. In fact, past Commission decisions have focused on the public interest, cost of service, reliability and continuity of service, the orderly and logical expansion of service area, and other public interest factors, none of which rely upon who submitted the request for service. Finally, the overwhelming weight given to this single factor by Staff is especially inappropriate because the party requesting service from Woodruff Water Company will not even be receiving service. That is because the request for service is from the very same landowner who is selling his property to Woodruff Water Company's parent company, which is going to develop the property for future customers who will actually be receiving the utility service.

Comments on Staff Condition Number 2 Regarding Arizona Water Company's CC&N to Serve Martin Ranch

Staff misunderstands the purpose for a Physical Availability Demonstration ("PAD"), which is to have a demonstrated physical supply of water that can be used to demonstrate an assured water supply for use by that water utility's service area. ADWR has no such requirement to amend a PAD simply to extend a service area. Arizona Water Company's PAD applies to the entire service areas of its Casa Grande, Coolidge and Tierra Grande systems, whether served individually or collectively as in the case of consolidation and interconnection of these service areas. This should not be included in the Staff Report, since it is not a requirement of ADWR, the state regulatory agency that approves Certificates of an Assured Water Supply.

Comments On Staff Report

Page 3, First Paragraph

- *Arizona Water has stated that it eventually plans to interconnect the Casa Grande and Coolidge water systems at some undisclosed future date.*

The Staff Report should state that Arizona Water Company's master plan provides for the interconnection of the Casa Grande and Coolidge (also Tierra Grande)

water systems into one regional water system. Also, the Staff Report should recognize that interconnection of the Casa Grande and Coolidge water systems will be facilitated by Arizona Water Company's providing water service to both the Sandia and Martin Ranch developments. A glance at a map shows that the disputed area is the single remaining link to be filled in to complete this interconnection and consolidation. The Staff is aware that the systems are planned to be fully integrated within five years and that each will share the benefits of a central CAP Water Treatment Plant. Arizona Water Company is already poised to serve some fifteen master planned communities along the western border of Coolidge. If Woodruff Water Company is allowed to start its own small water company to serve Sandia, an island or barrier in the middle of this area will be created that will hinder the orderly interconnection of the Coolidge and Casa Grande water systems and thereby would be detrimental to the public interest.

Page 4, "Arizona Water Company's Extension Request"

- *Arizona Water Company currently serves approximately 65,000 customers.*

Arizona Water Company currently serves over 73,000 customers and is growing at a rate of over 3,000 customers per year.

Page 4, "Request for Service"

- *The Wuertz family has requested water and wastewater service from Woodruff Water Company. Mr. Wuertz has also offered public comment in opposition to AWC certification of the property.*

As noted above, the Wuertz family, although technically requesting service as the current property owner in the proposed development, will not be the owner of the property at the time water service is extended, as verified by Pivotal's response to Arizona Water Company's data requests. The critical distinction in this area of the Staff Report is that there is a need to evaluate how the eventual customers will best be served. The Wuertz's preference should carry little weight with the Commission in light of the fact that they are selling the property to the developer who owns Woodruff Water Company. In the end, it is the customers' interests that the Commission must consider, not the farmer who is selling the property and will no longer be involved, as a customer or otherwise.

- *AWC has not been requested to serve any other portion of the extension request.*

It is not critical that Arizona Water Company receive requests for water service for every square foot of the area for which Arizona Water Company seeks a certificate extension. In light of the fact that there is significant growth taking place in Pinal

County, specifically in the Casa Grande and Coolidge areas Arizona Water Company is poised to serve, it is imperative that the Arizona Water Company interconnection between Casa Grande and Coolidge be made at this time.

Page 5, "The Water System"

The water system components identified in the Staff Report as they relate to wells, treatment facilities, water storage and major water transmission mains are not based on known water quality, well conditions, or other factors necessary to determine if the water supply is adequate or of suitable quality to serve Sandia from irrigation wells, as proposed by Woodruff Water Company. Nor does the report address what additional facilities will be needed to provide water service and what the cost and rate implications of such additional facilities will be.

The focus of the Staff Report is misdirected on arsenic, and fails to confront the higher priority concerns relating to nitrates in the old irrigation wells Woodruff Water Company proposes to use. The water quality data provided by Woodruff Water Company and discussed by Staff is insufficient and inadequate to determine the rate implications associated with necessary water quality improvements in those old irrigation wells. As a result, there is an insufficient basis for the finding that Woodruff Water Company is better suited for water service. The report recommends that the yet to be determined arsenic and fluoride levels of Woodruff Water Company's proposed drinking water wells be filed within 365 days of a decision in this matter, but how can the

adequacy and reliability of Woodruff Water Company's water supply, treatment plant and blending plan, and its financial projections, be evaluated without complete water quality information on each of the old irrigation wells that it plans to use as the backbone of its system?

Page 6, "Arizona Water Company Offer to Serve Sandia"

The Staff Report does not fully and accurately characterize the customer advance repayment terms proposed for the Sandia development and the Martin Ranch development. Arizona Water Company proposes to invest in the major infrastructure for both projects, including wells, water storage, booster stations, 12-inch and larger transmission and distribution mains and water treatment facilities through a guaranteed payback arrangement that pays back the full cost of these facilities through refunds to the developers for each customer that initially establishes service with Arizona Water Company. The benefit of this arrangement is that it assigns the risk of water infrastructure investment initially to the developer. Only when customers are added to the water distribution system does Arizona Water Company refund the full infrastructure cost on a per customer basis. Arizona Water Company has successfully implemented this approach in other projects. In contrast, Woodruff Water Company's best projections show Woodruff Water Company is only barely beginning to cover its expenses in the first five years of operation, which places the risk primarily on the

customers. On the other hand, the refund approach proposed by Arizona Water Company is protective of rate impacts to customers and fair to the developer.

The Staff Report concludes that Arizona Water Company is able to develop and construct water storage and production facilities and can treat and provide water, that complies with ADEQ's Safe Drinking Water Rules. The Staff Report fails to point out that Arizona Water Company is one of only a very few water companies in the state that have advanced the program of arsenic treatment to the point that Arizona Water Company is on schedule to comply with the new arsenic standard by January 23, 2006. The Staff Report also fails to recognize that Arizona Water Company has been mentoring other Arizona water companies and public entities on arsenic treatment methods, costs, operations, financing methods and operator training through the Arsenic Remediation Coalition, an organization formed to help Arizona's water utilities comply with the new arsenic standard.

Page 6, "Arsenic"

The Staff Report concludes that Woodruff Water Company can construct and develop adequate water storage and production facilities producing water that meets water quality standards required by ADEQ's Safe Drinking Water Rules. The one critical component missing from this conclusion is that since the water quality is not known in the Sandia development, Staff cannot be sure that the resulting water rates will be even higher than Arizona Water Company's rates, that Woodruff Water Company

already projects, further increasing the rate differential between the two applicants' water rates.

As indicated above, Woodruff Water Company has not even included water quality results in its application. As such, the ultimate cost of meeting drinking water standards from water pumped and treated from the old wells within the Sandia development is unknown and there is risk to the residents that the costs could likely be significantly greater than water service from Arizona Water Company. Additionally, the Staff Report erroneously states that Arizona Water Company's Coolidge system will require arsenic treatment, which it will not.

As also noted above, another critical component missing from the Staff Report is the presence of nitrates and high total dissolved solids within the Sandia development and neighboring areas. Arizona Water Company has reviewed the information on each of the old wells that Woodruff Water Company proposes to use to serve Sandia. The existing wells are of inadequate construction and do not comply with standards for community water system service, and the age and life of the water wells will not survive until the last lot is sold. More importantly, Arizona Water Company's experience with rehabilitation of such wells shows that the use of agricultural wells is marginal given the difficulty and high cost of rehabilitating wells to remove sources of nitrate and other contaminants. In sealing off the upper areas, which are typically high in nitrates and total dissolved solids but low in arsenic, the overall arsenic concentrations increase. The costs of treating for high nitrates, total dissolved solids, or even fluoride are much greater than the cost of treating for the removal of arsenic.

The Staff Report states that Arizona Water Company would propose to construct arsenic treatment facilities for Sandia and Martin Ranch through advances. This statement lacks specificity as it concerns Arizona Water Company's guaranteed refunds based on a per customer basis for major infrastructure capital investment. Further, Woodruff Water Company's estimate of $1.0 million for constructing arsenic treatment facilities does not include any operating or maintenance expenses, such as media replacement, media servicing, waste disposal, among other costs, which can exceed the rate impacts from capital investments.

Concerning the cost impacts from arsenic treatment, the Commission concluded that Arizona Water Company's estimated costs presented in its Northern and Eastern Group rate proceedings were reasonable. The same will result from Arizona Water Company's Western Group rate proceeding. Arizona Water Company has already submitted arsenic levels for all of its production wells to the Commission pursuant to a request by Utilities Director Ernest Johnson. In addition, Arizona Water Company has begun design and construction on many of its arsenic treatment facilities, ahead of most, if not all other water companies in the state. Because of the extent and reliability of its production resources in the area, Arizona Water Company can provide groundwater from outside the Sandia area to mitigate the on-site arsenic, fluoride and other water quality problems Woodruff Water Company faces.

Page 9, "Proposed Water Rates"

Staff reports that Woodruff Water Company's proposed initial water rates ($24.00 minimum charge with $2.00, $3.00 and $4.00 per thousand gallons for the first 7,000, next 7,000 and use above 14,000 gallons, respectively) compare with Staff's recommended initial rates of $20.00 per month and $2.08, $3.13 and $3.74 for the first 4,000, next 16,000 and use above 20,000 gallons, respectively. The Staff notes that Arizona Water Company intends to offer service at its Coolidge tariff rates, but fails to disclose that Arizona Water Company's charges would be significantly less than Woodruff Water Company's. Arizona Water Company's currently filed tariff rates, in place since January 1993, provide a $10.88 minimum monthly charge including the first 1,000 gallons and $2.092 per thousand gallons thereafter.

It is of particular interest that even Arizona Water Company's proposed rates for the Coolidge system, which are the subject of a pending rate application in Docket No. W-01445A-04-0650, are less than the initial rates proposed by the Staff and Woodruff Water Company in this case.

Based on these proposed and existing rates, and based on a projected use of 10,000 gallons per month, a residential customer in Sandia would pay the following monthly bill:

Source of Comparison	Monthly Bill	Difference From Present Coolidge Rates
Woodruff Water Company -- Proposed Rates	*$47.00*	*+$17.29/Month or +58.2%*
Staff Proposed Rates	*$47.04*	*+$17.33/Month or +58.3%*
Arizona Water Company		
-- Present Rates	*$29.71*	*N/A*
-- Proposed Rates	*$41.13*	*+$11.42/Month or +38.4%*

Additionally, the rate proposed by Woodruff Water Company and Staff is only an initial rate. Permanent rates can only be established by the Commission upon a full rate application by Woodruff Water Company. The initial rates being proposed by Woodruff Water Company and Staff are already 58% higher than Arizona Water Company's present rates, and it is very likely that future rates will be even higher due to inherent uncertainties in establishing initial rates, which are based on projections that usually underestimate the actual cost of providing water service.

Page 9, "Special Service Tariffs"

The Staff Report recommends that Woodruff Water Company file a curtailment plan and cross connection/backflow tariffs within 60 days of a final order of the Commission. The Staff does not recognize that Arizona Water Company already has such special service tariffs in place and has two backflow prevention control specialists on its staff who are well suited to administer such programs. Staff also fails to point out

that Arizona Water Company's adopted and approved curtailment tariff is designed to provide specific and practical tariff actions that are more comprehensive than the standard Staff curtailment tariff, and which will enable Arizona Water Company to provide better control and performance in the event of a supply shortage. It is more efficient for Arizona Water Company to operate under existing tariffs than for Woodruff Water Company to file for new tariffs. In addition, Arizona Water Company, as an ongoing established utility, has already established administrative, managerial, operational and billing procedures addressed in the tariff, including emergency operation plans, vulnerability assessments, emergency response plans and an environmental management system. The Staff Report fails to recognize these components of primary public interest, and the fact that Woodruff Water Company has no such capabilities.

Pages 10-14, Environmental Issues

Arizona Water Company's general comments as to these sections of the Staff Report concern the lack of a regional wastewater collection system, reuse and recharge planning that typically would be performed by a wastewater provider such as the City of Coolidge. The City of Coolidge should logically be the wastewater provider to the Sandia development. The City of Coolidge is capable of providing wastewater service to Sandia and all areas within the City of Coolidge, now and in future expansions of the city limits, and the provision of this service by the City of Coolidge would be in the public

interest. Additionally, Woodruff Utility Company's proposed sewer rates are $52.00 per month, ($156.00 per quarter) while the City of Coolidge's rates range from $31.20 per quarter to a maximum of $62.40 per quarter. Woodruff Utility Company's proposed rates would be 250% to 500% higher than the City of Coolidge's existing sewer rates.

Woodruff Utility Company may interfere with the City of Coolidge's long-term plans since sewer service to Sandia and the Central Arizona College could have been planned for in a regional way and not in a development-specific way.

Finally, concerning the discharge of treated effluent from the Woodruff Utility Company's wastewater treatment plant, Arizona Water Company has legitimate concerns about the adverse impact of such discharges on its wells adjacent to the Sandia development. The cost of remedying these impacts would make Woodruff Utility Company's wastewater costs even higher than present estimates.

Page 14, "Staff Analysis of Competing Applications"

In summary, Staff inappropriately minimizes factors such as Arizona Water Company's experience, reliability and lower rates that are in the public interest and instead inappropriately gives weight to the fact that Woodruff Water Company and Woodruff Utility Company proposes to furnish both water supply and wastewater service and to the present owner's request for service even though the present property owner has a conflict of interest and will never receive service as a customer. The Staff properly concludes that Arizona Water Company is a fit and proper entity with the

financial and technical capabilities to serve the public. This fact alone should be dispositive in deciding that Arizona Water Company should be the water provider for Sandia under Arizona law and the policy of the Commission.

Arizona's stated policy regarding public service corporations is one of "regulated monopoly" rather than one of "free-wheeling competition." *Arizona Corporation Commission v. Tucson Insurance and Bonding Agency,* 3 Ariz. App. 458, 462, 415 P.2d 472, 476 (1966). Unlike the analysis undertaken by Staff in its report, there must be an adequate showing that the public interest will be served in deciding CC&N issuances or deletions. *James P. Paul Water Co. v. Arizona Corporation Commission,* 137 Ariz. 432, 434, 671 P.2d 410, 412 (App. 1982), *approved as modified, 137 Ariz. 426, 671 P.2d 404 (1983).* The Staff Report should have focused on Arizona Water Company's lower rates and superior experience, investment in plant and property, and demonstrated staffing, expertise, and capacity in providing service to the Sandia area, rather than on Woodruff Water Company's purported interface with sewer service, which has never been recognized as a relevant factor by Arizona's courts. Moreover, even if Woodruff Water Company could demonstrate that it equaled Arizona Water Company on these factors, which it cannot, Arizona's courts and the Commission have recognized that the public interest is not carried forward by allowing service areas to be "gerrymandered in small non-integrated tracts served by different companies" that inevitably lead to "injury [to] both the consumer and the companies." *See Davis v. Arizona Corporation Commission,* 96 Ariz. 215, 217, 393 P.2d 909, 911 (1964). This conclusion is especially

mandated where, as here, Arizona Water Company so clearly is the more fit and appropriate water provider for the Sandia development.

The appropriate test is more clearly recognized in other states—in the absence of proof that the existing, established utility is unable or unfit to provide service, that it is never in the public interest to allow a competing provider to enter the field—especially in the case of an entity like Woodruff Water Company, which would have much higher rates than Arizona Water Company. This conclusion is also consistent with the Commission's CC&N Policy regarding CC&Ns on its own website. That Policy has a goal of ensuring that Arizona consumers are served by viable water utilities, by avoiding the proliferation of unnecessary, isolated water systems when a Class A utility like Arizona Water Company is ready, willing and able to serve at a substantially lower cost.

Conclusion

Arizona Water Company does not support the Staff's recommendation that Woodruff Water Company be authorized to provide public utility water service to Sandia and its recommendation that Arizona Water Company only be authorized to serve the Martin Ranch development. The Staff has misapplied the true charge of the Staff and the Commission, which is to ensure that the best interests of the public are served as opposed to the financial goals of a developer/water utility marketing agent. Absent a showing to the contrary, Arizona Water Company should be authorized to provide public

utility water service to the entire area it has requested in this matter, and Woodruff Water Company's application should be denied. In addition, if Staff is concerned about regional wastewater planning, they would be best served to contact the City of Coolidge to determine whether a 250-500% higher wastewater rate is also in the public interest and if the proposed Woodruff Utility Company's wastewater rates are just and reasonable in the context of the overall customer needs.

RESPECTFULLY SUBMITTED this 23rd day of March, 2005.

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