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# Diversified Water Utilities, Inc.

Quality Water  
Quality Service

Arizona Corporation Commission  
**DOCKETED**

February 22, 2005

FEB 24 2005

DOCKETED BY	
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Member, AWWA  
AWPCA  
WUAA  
EVWF

Brian K. Bozzo  
Manager, Compliance and Enforcement  
Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007-2927 W-02859A-00-0774

AZ CORP COMMISSION  
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2005 FEB 24 P 2:23

RECEIVED

Re: Docket No. W-~~02234A-00-0374~~, Decision No. 64062

Dear Mr. Bozzo,

Thank you for your letter of February 11, 2005 to Diversified Water Utilities, Inc. ("Diversified") regarding its compliance status with various requirements set out Decision No. 64062 ("Decision"). Diversified takes compliance with Arizona Corporation Commission ("Commission") rules, regulations and orders very seriously and believes that compliance is an integral part of serving the public.

As you are aware, the Decision granted Diversified a CC&N extension to Section 18 of Range 9 East, Township 3 South of Pinal County, Arizona (identified in the Decision as Parcel 24).<sup>1</sup> The Decision provided that if Diversified did not timely take certain actions (obtain a Pinal County franchise for the area and demonstrate development was occurring), the CC&N extension would be automatically rendered of no force or effect.

We had recently discussed Diversified's non-compliance status with John Bulanowski of your department. We recognize and concur with you that the certificate granted to Diversified by the Decision was rendered null and void automatically on October 6, 2003, without further action of the Commission. When we received your letter, we were in the process of preparing this letter to explain how Diversified had been occupied with other litigation (funded in whole or in part by George Johnson or one of the entities he controls) and was not in a position to comply with these conditions.

<sup>1</sup> Your letter references Parcel 2, as well as Parcel 24. However, the awarding of Parcel 2 was deferred until the resolution of lawsuit with Pinal County discussed herein. We ask that you correct your records accordingly.

The first piece of litigation involved an action to invalidate Pinal County's improper formation of the Skyline Domestic Water Improvement District ("District"). The District was formed as three discontinuous service islands that overlapped much of Diversified's certificated area and included an uncertificated area sought to be served by Diversified that Utilities Division of the Commission had recommended be granted to Diversified. The District was approved by the Pinal County Board of Supervisors approximately 24 hours before the Commission's Hearing on the CC&N extension just 48 hours after the Board was presented with incomplete and defective petitions requesting its formation. The District never intended to serve these properties directly. The entire process was a sham to enable Johnson Utilities to provide water service (under a Water Service, Supply and Management Agreement entered into by Johnson Utilities with the District) without first securing a certificate from the Commission. The County, in consultation with Johnson, was able to draw out the proceedings for three years before agreeing to settle the matter last year. The Pinal County Board has now revoked the District and recognized Diversified to be ready, willing and able to serve the area encompassed by the District. Diversified has recently filed an Application with the Commission to complete the award of that uncertificated area to Diversified.

The second lawsuit (a condemnation action) was necessitated due to Mr. Johnson's interference with Diversified's efforts to secure from landowners a much needed second well within Diversified's certificated area. After Mr. Johnson convinced the well owners not to sell to Diversified, it took us almost two years of litigation to secure the well through condemnation. Not only did Johnson readily admit to funding the landowners' opposition, Johnson Utilities actually appeared and falsely asserted that it had a pre-existing contract with the landowners in order to delay our acquisition of the well. The landowners ultimately (a year later) settled and accepted the same basic price we had offered three years earlier.

Johnson's attempts to interfere with Diversified's day-to-day affairs are already reflected in the record leading to the Decision. In fact, Diversified found it necessary to secure a Temporary Order enjoining Johnson Utilities, its officers and employees from such interference and the Administrative Law Judge admonished Johnson to stay out of Diversified's business.

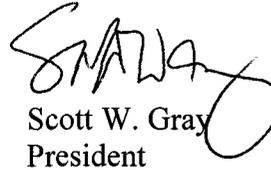
These lawsuits and other actions of Mr. Johnson and the entities he controls have been the subject of a number of newspaper articles. We will be glad to provide you copies of the articles, pleadings, the Water Service, Supply and Management Agreement, as well as the Commission's Temporary Order, upon request.

As you can imagine, our difficulties described above, coupled with the lack of new development in Section 18, effectively prevented Diversified from

complying with the Decision.<sup>2</sup> We apologize for not detailing these issues in an earlier letter to the Commission.

It is our understanding that Diversified has no other outstanding compliance issues and that this issue was resolved as of October 6, 2003 when the CC&N extension for Parcel 24 was automatically cancelled. If we are incorrect, please contact me immediately with any additional requirements or if you desire any further information regarding this matter.

Very truly yours,

  
Scott W. Gray  
President

cc: John Bulanowski

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<sup>2</sup> Diversified notes that both Johnson Utilities, L.L.C. and H2O Water Company, two of the other utilities granted certificates by the Decision, also failed to timely comply.