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BEFORE THE POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE

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2001 SEP 14 P 3:54

IN THE MATTER OF THE APPLICATION OF DUKE ENERGY MARICOPA, LLC IN CONFORMANCE WITH THE REQUIREMENTS OF ARIZONA REVISED STATUTES 40-360.01 ET SEQ., FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AUTHORIZING CONSTRUCTION OF A NATURAL GAS-FIRED, COMBINED-CYCLE GENERATING FACILITY (ARLINGTON VALLEY ENERGY FACILITY II) NEAR ARLINGTON IN MARICOPA COUNTY, ARIZONA

AZ CORP COMMISSION DOCUMENT CONTROL CASE NO. 999 DOCKET NO. L-00000P-01-0117

NOTICE OF FILING STAFF COMMENTS

The Arizona Corporation Commission's Utilities Division ("Staff") hereby files its Staff Comments in this matter. The format of Staff's Comments is a Staff Memorandum reflecting its views on significant issues related to this matter.

RESPECTFULLY SUBMITTED this 14th day of September, 2001.

Teena Wolfe, Attorney Arizona Corporation Commission 1200 West Washington Street Phoenix, Arizona 85007 Telephone: (602) 542-3402 Facsimile: (602) 542-4870

Pursuant to R14-3-204 the ORIGINAL and twenty-five copies were filed this 14th day of September, 2001 with:

Docket Control Arizona Corporation Commission 1200 West Washington Street Phoenix, Arizona 85007

COPY of the foregoing mailed/hand-delivered this 14th day of September, 2001, to:

Thomas H. Campbell Lewis and Roca LLP 40 North Central Phoenix, Arizona 85004-4429

Arizona Corporation Commission

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Memorandum

Date: September 14, 2001
To: Steve M. Olea, Utilities Division, Acting Director
From: Jerry D. Smith, Engineering, Electric Utility Engineer 
Through: Del W. Smith, Engineering, Supervisor
Subject: Duke Energy Arlington Valley (Phase 2), Docket No. L-00000P-01-0117

Duke Energy Maricopa, LLC (Applicant or Duke) filed via Docket No. L-00000P-99-0098 an application for a Certificate of Environmental Compatibility (CEC) for a 580 megawatt (MW) natural gas-fired combined cycle generating unit Arlington Valley Energy Facility and 2.4 mile 500 kV transmission line connecting the plant with a new Palo Verde hub switchyard named Hassayampa. Authorization to construct the requested facilities was conditionally granted on November 3, 2000 by the Arizona Corporation Commission (ACC or Commission) via Decision No. 62995. On July 13, 2001, Duke filed for an expansion of its proposed Arlington Valley Energy Facility via Docket No. L-00000P-01-0117. Scope of the proposed expansion is limited to a second combined cycle generating unit to be rated at 500 MW without duct firing or 600 MW with duct firing and inlet air chilling.

Duke met with ACC Staff on June 19, 2001, to discuss expansion of its Arlington Valley plant prior to filing its new CEC application. Staff explained that system conditions, siting statutes and expectations of projects have changed significantly since Duke's initial project was considered. Staff outlined a variety of project features and conditions that would be required of the Applicant to receive Staff support of the proposed expansion. The application filed as Docket No. L-00000P-01-0117 failed to contain the Staff recommended features and failed to address some of Staff's suggested conditions. Therefore, Staff submitted a formal data request of the Applicant on August 9, 2001. A copy of the Applicant's response to the data request is attached.

I have reviewed Duke's application and response to Staff's data request. I suggest that ACC Staff recommend denial of the expansion project for reasons outlined below:

1. Duke's data request response fails to alleviate Staff's concerns regarding reliable gas supply and delivery capacity for the project.
2. Generation capacity of plants having approved CEC's that plan to interconnect at the Palo Verde Hub already exceeds the capability of the existing and planned transmission system interconnected at the Palo Verde Hub.
3. Connection of a second combined cycle unit to the same 2.4 mile transmission line interconnecting Arlington Valley with its transmission switchyard (Hassayampa) is in direct contradiction of Docket No. L-00000P-99-0098 testimony and negotiations between Duke and Staff regarding interconnecting Applicant's first combined cycle unit without a plant site switchyard of its own as an exception.
4. Duke's application and data request response fails to establish its market objective and composition of its intended market portfolio with sufficient specificity to allow Staff to evaluate the merits of the expansion.

5. Applicant indicates a willingness to share in local or regional ancillary service obligations only through commercially reasonable efforts or competitively participating in such ancillary service markets. This level of commitment is no longer sufficient given the electric utility industry experience over the past 18 months. The power plant industry is legally challenging all jurisdiction authority regarding pricing, obligation to run, need to coordinate planned outages with control areas or Regional Transmission Operators, and even the sharing of operational data they deem to be commercially confidential.

I further recommend that the Commission place a moratorium on all pending, or yet to be filed, CEC applications for generating units proposing to interconnect at the Palo Verde hub or with transmission lines emanating from the hub. This moratorium is needed to allow proper development and review of reliability and system security traits appropriate for large commercial hubs in Arizona and the Western Interconnection and commensurate with risks present and prevalent in today's society. This need has been underscored by the tragic and devastating terrorist attacks against the United States on September 11, 2001.

It is in the public's interest that serious consideration of such risks must take center stage for all concerned. Responsible public policy should not condone commercial interest of power plants shielding itself with WSCC reliability and system security practices not designed or applicable to the development of large commercial hubs in a restructuring electric industry. Similarly, responsible public policy should not allow transmission providers to hide behind FERC Order 888 provisions that allow them to exercise market power by not requiring that necessary transmission construction accompany a plant interconnection. Such interconnection requests should be accompanied by a transmission service obligation that ensures the reliable delivery of all power from new plants to the intended market even if the transmission provider has no vested interest in the energy being produced by the new generating plant. Transmission providers should deny interconnection of plants that cannot reliably delivery all of their energy to market without adversely impacting another pre-existing use of the transmission system.



JDS:DukeAV2.doc

Attachment: Duke Response to Staff Data Request

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Our File Number 38655-00008

August 27, 2001

**VIA FACSIMILE
AND REGULAR MAIL**

Ms. Teena I. Wolfe
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

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AUG 28 2001

LEGAL DIV.
ARIZ. CORPORATION COMMISSION

Re: Duke Energy Arlington Vaaley, L.L.C.
Docket No: L-00000P-01-0117

Dear Ms. Wolfe:

Enclosed is the original and one copy of Duke Energy Arlington Valley's
Objections and Responses to Arizona Corporation Commission Staff's First Set of Data
Requests.

Very truly yours,

LEWIS AND ROCA LLP


Thomas H. Campbell

THC/bjg
Enclosure

cc: Madeline Coblenz (w/enc.)
H. Max Shilstone (w/enc.)
Nancy DeSchane (w/enc.)
Michael Denby (w/enc.)

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AUG 28 2001

LEGAL DIV.
ARIZ. CORPORATION COMMISSION

BEFORE THE ARIZONA POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE

IN THE MATTER OF THE APPLICATION)
 OF DUKE ENERGY ARLINGTON VALLEY,)
 L.L.C. IN CONFORMANCE WITH THE) Docket No. L-00000P-01-0117
 REQUIREMENTS OF ARIZONA REVISED)
 STATUTES §40-360.03 AND §40-360.06)
 FOR A CERTIFICATE OF)
 ENVIRONMENTAL COMPATIBILITY) Case No: 0117
 AUTHORIZING THE CONSTRUCTION)
 OF A NATURAL GAS-FIRED, COMBINED)
 CYCLE GENERATING FACILITY)
 (ARLINGTON VALLEY ENERGY FACILITY)
 II) NEAR ARLINGTON IN MARICOPA)
 COUNTY, ARIZONA)

DUKE ENERGY ARLINGTON VALLEY, L.L.C.'S OBJECTIONS AND RESPONSES TO ARIZONA CORPORATION COMMISSION STAFF'S FIRST SET OF DATA REQUESTS

Duke Energy Arlington Valley, L.L.C. f/k/a Duke Energy Maricopa L.L.C. ("Duke") hereby submits the following objections and responses to the First Set of Data Requests submitted by Arizona Corporation Commission Staff ("Staff").

GENERAL OBJECTIONS TO ALL DATA REQUESTS

1. Duke objects to each and every Request to the extent they seek information subject to the attorney-client privilege, work product doctrine or any other privilege recognized by the State of Arizona. In responding to these Requests, Duke does not waive, but preserves, all such privileges.
2. Duke objects to each and every Request to the extent they seek information that is confidential, sensitive, competitive in nature or proprietary to it. In responding to these requests, Duke does not waive, but preserves, its claim that request for customer and market information is confidential
3. Duke objects to each and every Request to the extent that they are unreasonably burdensome, overly broad or not reasonably calculated to lead to the discovery of admissible evidence.

4. Duke objects to each and every one of Staff's definitions and/or instructions to the extent they purport to abrogate any of Duke's rights, or add to any of Duke's obligations under, the Arizona Rules of Civil Procedure or the Commission's Rules.

5. Duke objects to each and every Request to the extent they impose any burden not expressly permitted under the Commission's Rules or the Arizona Rules of Civil Procedure. Specifically, Duke is not required to extract information from documents, recite information contained in documents, or perform work or analysis that Staff can perform for itself. To the extent that the burden of deriving or ascertaining the response to any Request is substantially the same for Duke and Staff, Staff may not shift such burden onto Duke.

6. Duke objects to each and every Request to the extent that they call for information already in the possession, custody and control of Staff.

7. Duke objects to each and every Request to the extent they seek information outside of Duke's possession, custody or control.

8. Duke expressly reserves the right to supplement or amend its objections and responses as necessary.

Duke incorporates the foregoing General Objections and Reservation of Right into each response as if fully set forth therein.

SPECIFIC RESPONSES TO ALL DATA REQUESTS

**DUKE ENERGY ARLINGTON VALLEY, L.L.C.'S RESPONSES TO
STAFF'S FIRST SET OF DATA REQUESTS
L-00000P-01-0117**

JDS 1-1 Do you plan on constructing a power plant transmission switchyard on the Arlington Valley site with the second phase of the plant? If not, why not?

No because Duke will use the Hassayampa switchyard.

JDS 1-2 Your application does not include a request for approval of a second transmission line out of your plant. One intervenor (City of Goodyear) seems to think otherwise. Staff has previously communicated with you the fact that Staff will not recommend approval of this application without a second transmission line out of your plant. Do you plan on building a second transmission line out of the Arlington Valley generating plant? If not, why not?

The second phase of Arlington Valley will be an expansion of the first phase. As such, the line interconnecting the first phase to the Hassayampa switchyard will also serve to interconnect the second phase. Therefore, like AVEF I, there will be multiple lines connecting to the AVEF II switchyard (*i.e.* the Hassayampa switchyard). The reason for this is two-fold.

First, the rating of the line interconnecting AVEF I and the terminal equipment at Hassayampa switchyard where the line connects are rated such that they can accommodate the additional 600MW's for AVEF II.

Second, based on reliability analysis of one line versus two line configurations, a second line does not appreciably increase the reliability of the plant. A second interconnecting line cannot be justified on either a reliability or economic basis. With only one line, the AVEF I and II aggregate generation (1200MW) will be more reliable than any one of the 1300MW Palo Verde nuclear units now existing.

JDS 1-3 Does Duke plan on proposing or participating on additional transmission lines out of the Palo Verde hub? If so, what are your plans? If not, why not?

At this time, Duke has not determined what type of transmission service arrangements need to be in place for delivery beyond the Palo

Verde/Hassayampa hub. If the power is to be marketed at the Palo Verde/Hassayampa market hub, then transmission out of the Palo Verde hub will be an issue for those parties taking ownership of the power. On the other hand, if Duke determines that (1) it wants to have firm or non-firm rights for delivery of its power to a location other than Palo Verde/Hassayampa and (2) determines that through a transmission service request to the host utility that the transmission capability out of Palo Verde/Hassayampa is insufficient to achieve delivery, then the host utility, in response to the request, is required to provide what upgrades would need to be constructed, and the associated cost of the upgrades, in order to satisfy the request.

JDS 1-4 What percentage of your plant energy production do you intend to market for Arizona consumption?

Duke does not target specific customers in its trading and marketing activities. All energy and capacity will be competitively offered to any and all credit worthy wholesale customers at Arizona locations (primarily the Palo Verde Substation).

JDS 1-5 What is the composition objective of your market portfolio regarding spot market, forward market and future market? Do you intend to pursue long term firm contracts?

Duke's precise levels of spot and forward transactions vary as market prices change. However, the majority of our production will be sold through forward contracts with around 10%-20% of our production sold into spot markets.

Duke rarely transacts in the NYMEX futures market.

Duke does pursue long-term firm contracts.

JDS 1-6 Does your plant intend to compete within Arizona's energy market in a way that will displace older, higher emission and more costly generating units? If so, how do you propose to accomplish this?

Duke markets all of its power at competitive prices and will run its plants when it makes economic sense to run. There is no objective to displace any specific type of generator but Duke's newer, more efficient generating units may displace older, less efficient plants.

JDS 1-7 What percentage of your plant output are you willing to commit to contributing to the regional reserve requirements?

Duke's entire plant, and any other plant interconnected to the transmission grid, will inherently contribute to the regional reserve requirements. To the extent that there are specific ancillary service products needed by the control area in the region, Duke will actively and competitively participate in those markets.

JDS 1-8 What percentage of your plant output are you willing to commit to participation in the local ancillary service market?

Duke will actively and competitively participate in any local ancillary service market. The percentage of our plant that will ultimately provide those ancillary service needs will depend on how competitive and flexible our plant is in those markets.

JDS 1-9 Please provide detailed information regarding the status of actions Duke has taken to date in order to achieve compliance with the conditions appearing in Arizona Corporation Commission Decision No. 62995 (November 3, 2000), which conditionally granted Duke a Certificate of Environmental Compatibility.

See Attachment A.

BBG 1-10 What is the heat rate of the proposed generating units?

The heat rate of the proposed generating units with 100% duct firing is 6,840 BTU/kWh

BBG 1-11 Do the proposed generating units have the ability to burn other fuels? Please describe any such ability.

The proposed generating units are designed to only burn natural gas, and no other fuel.

BBG 1-12 What supply basin(s) does Duke anticipate purchasing natural gas from?

The aggregated gas supply will be purchased from the Permian and San Juan basins.

BBG 1-13 How much interstate pipeline capacity does Duke anticipate will be needed to supply natural gas supplies to the proposed generating units?

It is anticipated that Duke's peak day demand will be 250,000 MMBTU per day AVEF I and AVEF II.

BBG 1-14 The application indicates that the proposed facility will rely on natural gas supplied by El Paso Natural Gas Company.

A. Please describe any information El Paso has provided, indicating the availability of pipeline capacity on its system for serving the proposed generating units.

In meetings between Duke and El Paso as recently as August, El Paso has indicated that adequate capacity will exist on its system in part because there is unsubscribed potential expansion capacity.

B. Will this involve pipeline capacity on the existing southern system El Paso lines or capacity on an as yet to be constructed El Paso pipeline or pipelines?

Capacity used to serve Duke's facility will primarily be served with existing southern system capacity. However, it is possible Duke will procure expansion capacity.

C. Is Duke aware of any plans by El Paso to expand its southern system, beyond the Line 2000 project and possible compression on Line 2000?

No.

D. Is Duke aware of the on-going proceeding at the Federal Energy Regulatory Commission regarding systemwide pipeline capacity allocations on the El Paso system (Docket No. RP00-336)? Please discuss how this proceeding relates to the natural gas supply plans for the proposed generating units.

Duke is aware and is closely following the capacity allocation proceedings. Duke does not anticipate any adverse effect from the FERC proceeding with respect to fueling its facility due to the fact that Duke is an active market participant on El Paso and currently controls a diversified supply portfolio.

- E. Is Duke aware of two recently filed complaints at the FERC (Docket Nos. RP01-484 and RP01-486) in which many shippers on the El Paso system allege that there is a sizable pipeline capacity shortfall for existing shippers? Please discuss how these proceedings relate to the natural gas supply plans for the proposed generating units.**

Duke is aware of the complaints. Duke does not anticipate any adverse effect relative to its plans for supplying the proposed project. It is Duke's opinion that a resolution will result from the FERC proceedings that will provide more reliability on El Paso's system and this will benefit all shippers on the El Paso system.

- F. If Duke anticipates using pipeline capacity on yet to be constructed pipelines, please identify those pipelines and their anticipated in-service dates.**

Duke anticipates using existing and proposed El Paso capacity to serve the project. Duke is aware of two expansion projects on competing pipelines owned by Transwestern and North Baja. Duke anticipates that these projects will be available in three stages: the first in September, 2002; the second in 2003; and the third in 2004. Duke will look at all possibilities when making a decision on how to serve the project.

- G. Please provide any documents showing arrangements that have been made for procuring natural gas supply and interstate pipeline capacity for the proposed generating units.**

See answer to question H.

- H. If arrangements haven't been made, please explain how Duke will ensure it has reliable access to natural gas supplies and interstate pipeline capacity, given the many other natural gas fired generating units that have been proposed or are under construction in the southwest and the limited sources of natural gas and interstate pipeline capacity available to Arizona natural gas users at this time.**

Duke plans on utilizing the following resources to serve its facility:

1. Duke has contracted for approximately 60,000 MMBtu of El Paso south system capacity.
2. Duke has a fully functional natural gas trading operation that will purchase natural gas and transportation on a daily, monthly, and yearly basis.
3. Duke will monitor and participate in any open seasons for new pipeline capacity on El Paso or other pipelines.
4. Duke will monitor the secondary transportation capacity market and seek opportunities to acquire capacity.

BBH 1-15 Will Duke match firm pipeline capacity with firm electricity contracts and interruptible pipeline capacity with interruptible electricity contracts? If not, please explain.

There is not necessarily a correlation between firm/interruptible pipeline capacity and firm/interruptible electricity contracts. It is possible that firm electricity contracts could be backed with interruptible pipeline capacity and interruptible electricity contracts could be backed with firm pipeline capacity.

BBG 1-16 Will the proposed generating units be served off of the same tap that was part of the now withdrawn El Paso filing in the FERC Docket No> CP-01-90?

Yes.

BBH 1-17 What utilization rate are the daily, monthly, and annual fuel consumption estimates for the proposed generating units based upon?

The projected gas usage is based on lower heating value (LHV).

This Certificate is granted upon the following conditions:

1. The Applicant and its assignees will comply with all existing applicable air and water pollution control standards and regulations, and with all existing applicable ordinances, master plans and regulations of the State of Arizona, the County of Maricopa, the United States, and any other governmental entities having jurisdiction.

(A) The Applicant is in compliance with all existing applicable air & water pollution control standards, regulations ordinances, master plans and regulations of the State of Arizona, Maricopa County, the US, and any other government entities.

2. This authorization to construct the Project will expire five years from the date the Certificate is approved by the Arizona Corporation Commission unless construction is completed to the point that the plant is capable of operating at its rated capacity by that time; provided, however, that prior to such expiration the Project owner may request that the Arizona Corporation Commission extend this time limitation.

(A) Construction is well underway, and the plant will be capable of operating at its rated capacity by summer 2002.

3. Applicant's project having two (2) approved transmission lines emanating from its power plant's transmission switchyard and interconnecting with the existing transmission system. This plant interconnection must satisfy the single contingency outage criteria (N-1) without reliance on remedial action such a generator unit tripping or load shedding.

(A) Already satisfies

4. Applicant providing to the Commission, not more than 12 months prior to the commercial operation of the plant, a technical study regarding the sufficiency of transmission capacity to the plant. Applicant has satisfied this condition for its 580 MW facility; provided that applicant meets all construction deadlines and operational deadlines as set forth in its application.

(A) Already satisfied

5. Applicant submitting to the Commission an interconnection agreement with the transmission provider with whom it is interconnecting.

(A) Duke is in the midst of finalizing an interconnection agreement with the owners of the Palo Verde Switchyard which will provide for, among other things, the interconnection of the Arlington Valley facility to the Palo Verde Switchyard via the Hassayampa Switchyard. It is anticipated that the

interconnection agreement will be filed with the Commission by the end of next week (i.e., no later than August 31, 2001).

6. Applicant or one of its affiliates becoming a member of WSCC, or its successor, and filing a copy of its WSCC Reliability Criteria Agreement or Reliability Management System (RMS) Generator Agreement with the Commission.

(A) Duke is currently a full member of WSCC, and active at several levels within the WSCC committee structure. Duke is not currently a signatory to the RMS Agreement, but has fallen under its authority by virtue of an ISO tariff change that required generators who sign a PGA to fall under the RMS jurisdiction. Duke will have all plants in the WSCC participating in the RMS program, either as a direct signatory or through the associated control area.

7. Applicant using commercially reasonable efforts to become a member of the Southwest Reserve Sharing Group, or its successor, thereby making its units available for reserve sharing purposes, subject to competitive pricing.

(A) Duke, using commercially reasonable efforts, will become a member of SWRSG by the time our generating assets become commercially operational in Arizona.

8. Each of the conditions 3-7 above shall automatically terminate if it or a substantially similar condition is not included in future generating facility Certificates of Environmental Compatibility as approved by the Commission or upon any subsequent amendment or invalidation by the Commission or a reviewing court.

9. The Applicant shall operate its evaporation pond so that any salt residue contained therein shall not cause damage to crops grown on the fields adjacent to the Project site.

(A) Completion of the evaporation pond has not yet occurred. Pond excavation and lining are installed. Mechanical and electrical items remain, which have not yet been scheduled. Construction is under the supervision of design engineer URS, which the Planning and Development Department has designated to perform an inspection upon completion. When in service, the pond will be operated so that any salt residues contained in the pond will not cause damage to crops grown on the fields adjacent to the Project.

10. Applicant shall operate the Project so that during normal operations the Project shall not exceed (i) HUD or EPA residential noise guidelines or (ii) OSHA worker safety noise standards.

(A) The project is still under construction, and no plant equipment has been placed in service. When in service, during normal operations, the Project shall not exceed (i) HUD or EPA residential noise guidelines or (ii) OSHA worker safety noise standards.

11. Applicant shall use a zero discharge system for its cooling water, subject to existing regulatory requirements.

(A) Cooling water will be discharged to the evaporation pond. The plant is in the process of receiving an Aquifer Protection Permit from the Arizona Department of Environmental Quality.

12. Applicant shall use low profile structures, moderate stacks, neutral colors, compatible landscaping, and low intensity directed lighting for the plant. Applicant shall use non-reflective conductors and towers.

(A) Construction is underway. Low profile structures and moderate stacks have been designed and are being built. Neutral colors have been selected. Landscaping has been designed and will be installed as described in the Land Management Plan. All outdoor lighting has been designed in accordance with recommendations by the International Dark Sky Association. Non-reflective towers have been erected and non-reflective conductors will be installed.

13. Applicant shall implement a Land Management Plan that includes:

- (i) Installation of professionally designed landscape plan for the entrance of the facility and along Elliott Road.

(A) Duke Energy North America has contracted with Todd and Associates, Inc., a landscape architectural/planning firm, to complete the landscape design and prepare landscape/irrigation construction documents to meet the criteria as so stated. The proposed plant palette is as indicated in the Annual Report (see answer to 13.iv below).

- (ii) A comprehensive revegetation program that will restore a large portion of the property with plant communities similar to the adjacent desert lands.

(A) In order to understand how to effectively implement a long-term revegetation strategy, Duke Energy has contracted with the University of Arizona, Office of Arid Lands Studies. The University of Arizona has begun to study the implementation of a comprehensive revegetation program to restore a large

portion of the property with self-sustaining plant communities similar to the adjacent desert lands. Their revegetation report is contained in the Annual Report (see answer to 13.iv below).

- (iii) A partnership with The Arizona Game and Fish Department to provide enhanced wildlife habitat on lands that border Centennial Wash.

(A) Representatives of Duke Energy and the Arizona Game and Fish Department have had excellent discussions over recent months to determine how best to accomplish improvements to existing habitat. These discussions have frequently included both the Arizona Game and Fish Department and University of Arizona to gain as much synergy from the two efforts; the goal is to encourage both game and non-game species. Most recently, site visits have been made with the Arizona Game and Fish Department and with regional representative of Ducks Unlimited. The next step is to develop a habitat plan. That plan will include recommendations on the various options that might be considered in the development of a wildlife habitat program.

- (iv) An Annual report (for six years) submitted to the Arizona Corporation Commission setting forth the status of the Land Management Plan.

(A) The Annual Report was submitted to the Arizona Corporation Commission on June 14th, 2001 (a copy is provided).

- 14. Applicant shall meet all the requirements for groundwater set forth in the Third Management Plan for the Phoenix Active Management Area.

(A) Duke is in compliance with the Third Management Plan for the Phoenix Active Management Area.