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MEMORANDUM

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TO: Docket Control  
Arizona Corporation Commission

2005 AUG 17 P 2:59

FROM: Ernest G. Jorgensen  
Director  
Utilities Division

AZ CORP COMMISSION  
DOCUMENT CONTROL

Date: August 17, 2005

RE: STAFF REPORT FOR THE APPLICATION FOR THE TRANSFER OF WEST PHOENIX WATER COMPANY'S CERTIFICATE OF CONVENIENCE AND NECESSITY TO THE WATER UTILITY OF GREATER TONOPAH (DOCKET NO. W-02450A-05-0430)

Attached is the Staff Report for the West Phoenix Water Company for approval to transfer its Certificate of Convenience and Necessity for water service to the Water Utility of Greater Tonopah. Staff recommends a nunc pro tunc entry to Decision No. 54419. As an alternative, if the application is treated as a transfer of the CC&N from West Phoenix to Greater Tonopah, Staff recommends approval subject to several conditions.

EGJ:LAJ:red

Originator: Linda A. Jaress

Attachment: Original and 13 Copies

Arizona Corporation Commission  
**DOCKETED**

**AUG 17 2005**

DOCKETED BY	<i>RS</i>
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Service List for: Water Utility of Greater Tonopah, Inc.  
Docket No. W-02450A-05-0430

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Water Utility of Greater Tonopah, Inc.  
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Mr. Christopher C. Kempley  
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Arizona Corporation Commission  
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STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION

WATER UTILITY OF GREATER TONOPAH, INC.  
DOCKET NO. W-02450A-05-0430

APPLICATION FOR EXTENSION  
OF EXISTING CERTIFICATE OF  
CONVENIENCE & NECESSITY

AUGUST 17, 2005

## STAFF ACKNOWLEDGMENT

The Staff Report for Water Utility of Greater Tonopah, Inc. W-02450A-05-0430 was prepared by the Staff members signed below. Linda Jaress prepared the Staff Report.

A handwritten signature in black ink that reads "Linda A. Jaress". The signature is written in a cursive style with a large initial 'L' and a long, sweeping tail on the 's'.

Linda A. Jaress  
Executive Consultant

**EXECUTIVE SUMMARY**  
**WATER UTILITY OF GREATER TONOPAH, INC.**  
**FOR AN EXTENSION OF CERTIFICATE OF CONVENIENCE AND NECESSITY**  
**DOCKET NO. W-02450A-05-0430**

On June 10, 2005, the Water Utility of Greater Tonopah (“Greater Tonopah” or “the Company”) filed an application with the Arizona Corporation Commission (“ACC” or “Commission”) for the transfer of the Certificate of Convenience and Necessity (“CC&N”) of West Phoenix Water Company (“West Phoenix”) to Greater Tonopah. Greater Tonopah operates 7 individual water systems. The largest system serves 72 customers while the smallest serves 6 customers.

The transfer is requested to correct an omission in an earlier transfer. The area at issue is comprised of one and one-half sections adjacent on three sides to Greater Tonopah. There are neither facilities nor customers in the area. Due to an oversight or error, the legal description included in Decision No. 54419, dated April 1, 1985, omitted the legal description for the area at issue. Staff believes that the proper procedural mechanism is a nunc pro tunc entry to Decision No. 54419 and recommends this action.

As an alternative, if the application is treated as a transfer of the CC&N from West Phoenix to Greater Tonopah, Staff recommends approval subject to several conditions. The conditions recommended by Staff are the same conditions recommended in Docket No. W-02450-05-0837, the application of Greater Tonopah to extend its CC&N for the Hassayampa Ranch Development filed August 2, 2005.

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## **Introduction**

On June 10, 2005, the Water Utility of Greater Tonopah (“Greater Tonopah” or “the Company”) filed an application with the Arizona Corporation Commission (“ACC” or “Commission”) for the transfer of the Certificate of Convenience and Necessity (“CC&N”) of West Phoenix Water Company (“West Phoenix”) to Greater Tonopah. The transfer is for one and one-half sections located in the vicinity of Indian School Road and 403<sup>rd</sup> Avenue in Maricopa County. On July 12, 2005, Staff filed a letter indicating that the Company’s application met the sufficiency requirements of Arizona Administrative Code (“A.A.C.”) R14-2-402(C) and R14-2-602(B).

## **Background**

Greater Tonopah is located west of Phoenix and serves various locations from 331<sup>st</sup> Avenue west to 555<sup>th</sup> Avenue and from Elliot Road north to Glendale. According to the 2004 annual report to the Commission, the Company serves 214 customers. The Company is comprised of seven systems acquired through several transactions over two decades.

## **History**

West Phoenix received its CC&N in June, 1970 and was owned and operated by Mr. John Mihlik. On April 1, 1985, pursuant to Decision No. 54419, West Phoenix transferred its CC&N (for the area described in the Decision No. 54419) to West Buckeye Water Company, Inc. (“West Buckeye”). West Buckeye was also owned by Mr. Mihlik. However, the legal description of the area to be transferred excluded the one and one-half sections of land which are the subject of this application. According to the current application, this exclusion was an oversight. On July 31, 1985, West Buckeye’s name was changed to the Water Company of Greater Tonopah.

Attached as Exhibit 1 is a map of the area to be transferred. Exhibit 2 is a larger map which illustrates the relationship of the transfer area to the rest of the Greater Tonopah CC&N. It can be clearly seen that the area at issue is adjacent on three sides to Greater Tonopah. There are neither facilities nor customers in the area at issue. Due to the location of this area, Staff believes that under the current circumstances, the area would not be better served by any other water utility.

## **Procedural Issue**

The Commission’s Corporations Division’s Starpass system has no record of the West Phoenix Corporation. According to Mr. Mihlik, the corporation is inactive. The ability of Mr. Mihlik to request a transfer of a CC&N for an entity that does not legally exist is in question. However, the Commission’s mapping records show the transfer area as falling within the CC&N area of West Phoenix. In fact, according to the mapping records, the transfer area comprises all that is left of West Phoenix’s CC&N.

Staff does not believe that the application to transfer the CC&N is the proper procedural mechanism. The proper applicant is West Phoenix and not Greater Tonopah. Additionally, West Phoenix does not exist to transfer its CC&N. The Ordering Paragraph of the Decision No. 54419 transferred the CC&N of West Phoenix to West Buckeye (now, Greater Tonopah) as described in Finding of Fact No. 4. The Finding of Fact included exceptions for areas that land owners requested to be deleted from the certificated area. Finding of Fact No. 4, Subsection I, listed West Phoenix's certificated areas for Township 2 North, Range 6 West. However, the finding did not include Section 30 or 31, the sections at issue in this application. Due to an oversight or error, the legal description included in the Finding omitted the legal description for the area at issue. Staff believes that the proper procedural mechanism is a nunc pro tunc entry to Decision No. 54419 and recommends this action.

As an alternative, if the application is treated as a transfer of the CC&N from West Phoenix to Greater Tonopah, Staff recommends approval subject to several conditions. The conditions recommended by Staff are the same conditions recommended in Docket No. W-02450-05-0837, the application of Greater Tonopah to extend its CC&N for the Hassayampa Ranch Development filed August 2, 2005.

**MEMORANDUM**

TO: Linda Jaress  
Executive Consultant III  
Utilities Division

FROM: Barb Wells   
Information Technology Specialist  
Utilities Division

THRU: Del Smith   
Engineering Supervisor  
Utilities Division

DATE: July 1, 2005

RE: **WATER UTILITY OF GREATER TONOPAH, INC. (DOCKET NO. W-02450A-05-0430)**

Tonopah has filed an application to transfer the remaining CC#N from West Phoenix Water Company, which was inadvertently overlooked when the original transfer was completed on April 1, 1985, by Decision No. 54419.

The area being transferred is the West Half of Section 30 and all of Section 31, Township 2 North, Range 6 West, Maricopa County, Arizona.

Attached is a copy of the map for your files.

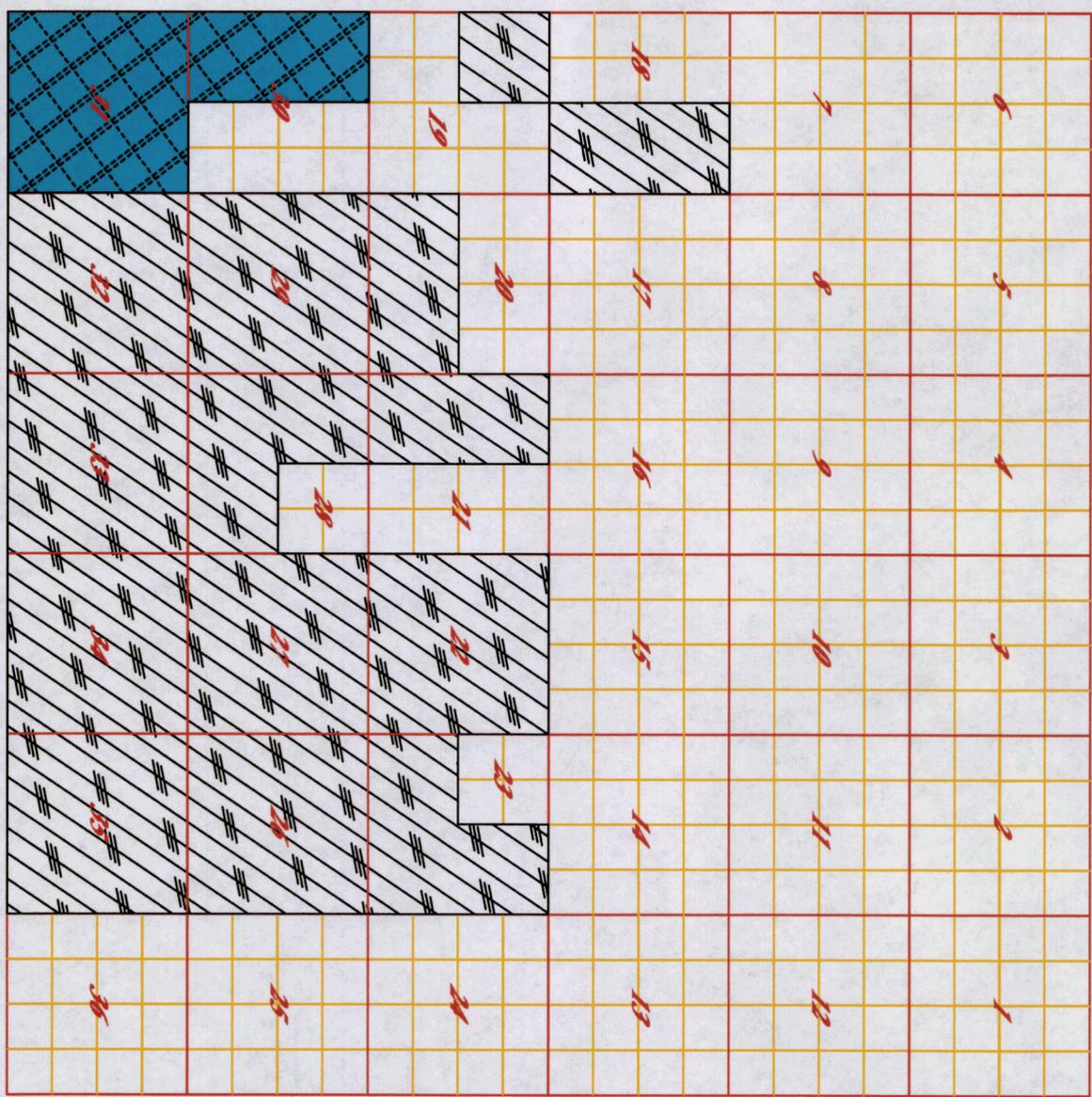
:bsw

Attachment

cc: Docket Control  
Mr. John Mihlik  
Ms. Deb Person (Hand Carried)  
File

# COUNTY: Maricopa

## RANGE 6 West



## TOWNSHIP 2 North



W-2450 (11)  
Water Utility of Greater Tonopah, Inc.  
(West Phoenix)



W-2067 (1)  
West Phoenix Water Company



Water Utility of Greater Tonopah, Inc.  
Docket No. W-2450-05-430  
Application to Transfer from  
West Phoenix Water Company (W-2067)

WATER UTILITY OF GREATER TONOPAH, INC.  
DOCKET NO. W-2450-04-837

**COUINTER** Maricopa

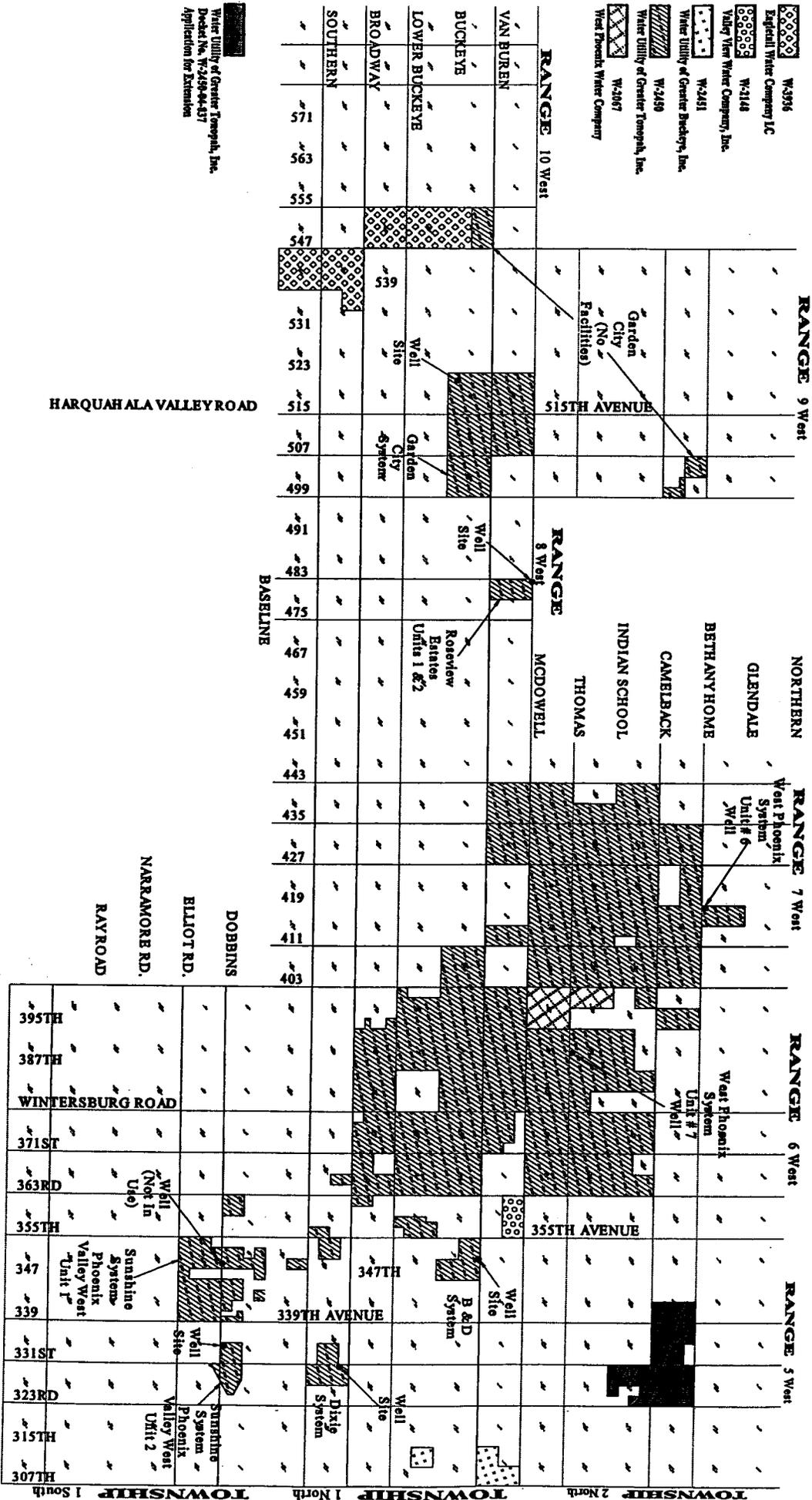


Exhibit 2