

OPEN MEETING ITEM
ORIGINAL



0000035222

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



EXECUTIVE DIRECTOR

22

ARIZONA CORPORATION COMMISSION

DATE: November 18, 2005

DOCKET NO: W-01045A-05-0578

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Amy Bjelland. The recommendation has been filed in the form of an Opinion and Order on:

COTTONWOOD WATER WORKS, INC.
(TRANSFER OF ASSETS/CC&N CANCELLATION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

NOVEMBER 28, 2005

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

DECEMBER 6 AND 7, 2005

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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AZ CORP COMMISSION
DOCUMENT CONTROL

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 JEFF HATCH-MILLER, Chairman
4 WILLIAM A. MUNDELL
5 MARC SPITZER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF
9 COTTONWOOD WATER WORKS, INC. FOR
10 APPROVAL OF THE TRANSFER OF ASSETS
11 AND FOR CANCELLATION OF THE
12 CERTIFICATE OF CONVENIENCE AND
13 NECESSITY.

DOCKET NO. W-01045A-05-0578

OPINION AND ORDER

14 DATE OF HEARING: October 13, 2005

15 PLACE OF HEARING: Phoenix, Arizona

16 ADMINISTRATIVE LAW JUDGE: Amy B. Bjelland

17 APPEARANCES: Mr. Jeffrey Crockett, SNELL & WILMER LLP, on
18 behalf of Cottonwood Water Works; and

19 Mr. Keith Layton, Staff Attorney, Legal Division, on
20 behalf of the Utilities Division of the Arizona
21 Corporation Commission.

22 **BY THE COMMISSION:**

23 On August 9, 2005, Cottonwood Water Works, Inc. ("CWW" or "Company") filed with the
24 Arizona Corporation Commission ("Commission") an application for approval of the transfer of
25 assets ("Application") to the City of Cottonwood ("Cottonwood" or "City") and the Town of
26 Clarkdale ("Clarkdale" or "Town") and for cancellation of its Certificate of Convenience and
27 Necessity ("Certificate").

28 On September 8, 2005, the Application was deemed administratively complete pursuant to
A.R.S. § 41-1074(C). By Procedural Order, a hearing on the Application was scheduled for October
13, 2005.

On September 29, 2005, the Arizona Corporation Commission's Utility Division Staff
("Staff") filed its report on the Application.

Pursuant to the Commission's Procedural Order, CWW provided notice of the Application

1 and the hearing thereon.

2 On October 13, 2005, a full public hearing was convened before a duly authorized
3 Administrative Law Judge of the Commission. CWW and Staff appeared with counsel. At the
4 conclusion of the hearing, the matter was taken under advisement pending submission of a
5 Recommended Opinion and Order to the Commission.

6 * * * * *

7 Having considered the entire record herein and being fully advised in the premises, the
8 Commission finds, concludes, and orders that:

9 **FINDINGS OF FACT**

10 1. Pursuant to authority previously granted by the Commission, CWW is an Arizona
11 corporation that is certificated to provide public water service to approximately 4,900 customers in
12 Cottonwood, Clarkdale and adjacent portions of Yavapai County in Arizona, a map of which is
13 attached as Attachment A. Exh. A-1.

14 2. CWW received its Certificate in Decision No. 2769 (May 15, 1926).

15 3. Cottonwood and Clarkdale are authorized by law and by virtue of separate elections
16 held on March 13, 2001, and March 14, 2000, respectively, to construct, purchase, acquire or lease
17 any plant or property devoted to the business or service of a public water utility, either within or
18 without the corporate limits of the City.

19 4. Cottonwood Municipal Property Corporation ("Cottonwood MPC") is a non-profit
20 corporation organized and existing under Arizona law. Cottonwood MPC was formed to assist
21 Cottonwood in acquiring and financing public infrastructure and improvements, including financing
22 the costs of the acquisition of the privately owned water utility systems that serve the residents of the
23 City.

24 5. On August 2, 2005, CWW, Cottonwood, Cottonwood MPC and Clarkdale executed an
25 Asset Purchase Agreement ("Agreement") whereby Cottonwood and Clarkdale, through Cottonwood
26 MPC, will acquire the assets of CWW. Pursuant to the Agreement, Cottonwood and Clarkdale are to
27 serve all existing customers and honor all customer deposits and line extension agreements. Exh. A-
28 1, Attachment A.

1 6. On August 9, 2005, CWW filed the Application requesting approval for the sale and
2 transfer of its water utility assets to Cottonwood and Clarkdale, and for the cancellation of its
3 Certificate.

4 7. On September 8, 2005, the Application was deemed administratively complete
5 pursuant to A.R.S. § 41-1074(C).

6 8. Pursuant to the Commission's Procedural Order issued September 14, 2005, CWW
7 provided notice of the proposed sale and cancellation of its Certificate to its customers by publication
8 and mail on September 14 and 22, 2005, respectively. In response thereto, the Commission has not
9 received any objections to the pending transaction.

10 9. On September 29, 2005, Staff filed its Report recommending the approval of the sale
11 of assets to Cottonwood and Clarkdale and cancellation of the Company's Certificate.

12 10. A full public hearing was convened on October 13, 2005 before a duly authorized
13 Administrative Law Judge of the Commission. CWW and Staff appeared with counsel. Public
14 comment was given in support of the Application by Brian Mickelsen, City Manager with the City of
15 Cottonwood, Doug Von Gausig, Mayor of the Town of Clarkdale, and Steve Horton, City Attorney
16 with Cottonwood. At the conclusion of the hearing, the matter was taken under advisement.

17 11. At the hearing, Charles Garrison, President of CWW, testified that a regional water
18 system is desirable for Cottonwood and Clarkdale, and that Cottonwood and Clarkdale have plans to
19 invest in substantial infrastructure, including upgrading the fire flow capacity. Mr. Garrison testified
20 that CWW is current on all of its property taxes. Although the Arizona Department of Environmental
21 Quality ("ADEQ") reported that one of CWW's water systems has major deficiencies for Monitoring
22 and Reporting Status, Mr. Garrison stated that since July 2005 CWW has proceeded to monitor the
23 level of disinfection byproducts and the maximum residual disinfection level in the water system and
24 the results have not exceeded the applicable standard for reporting parameters. Arsenic levels from
25 one CWW water system exceed the new arsenic standard of 10 micrograms per liter that becomes
26 effective January 23, 2006; however, Staff stated that Cottonwood and Clarkdale will move
27 "expeditiously and effectively" to reduce the level of arsenic in their water supplies to levels that
28 meet the new standard.

1 IT IS FURTHER ORDERED that Cottonwood Water Works shall file, as a compliance item
2 in this docket, within 60 days of the date of closing of the transaction, certification that all customers'
3 deposits have been credited.

4 IT IS FURTHER ORDERED that upon certification that all customers' deposits have been
5 credited, the Certificate of Convenience and Necessity of Cottonwood Water Works is cancelled.

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

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

8
9
10 CHAIRMAN

COMMISSIONER

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15 COMMISSIONER

COMMISSIONER

COMMISSIONER

16
17 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
18 Director of the Arizona Corporation Commission, have
19 hereunto set my hand and caused the official seal of the
20 Commission to be affixed at the Capitol, in the City of Phoenix,
21 this ____ day of _____, 2005.

22 BRIAN C. McNEIL
EXECUTIVE DIRECTOR

23
24 DISSENT _____

25
26 DISSENT _____

27 AB:mj

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SERVICE LIST FOR: COTTONWOOD WATER WORKS, INC.

DOCKET NO.: W-01045A-05-0579

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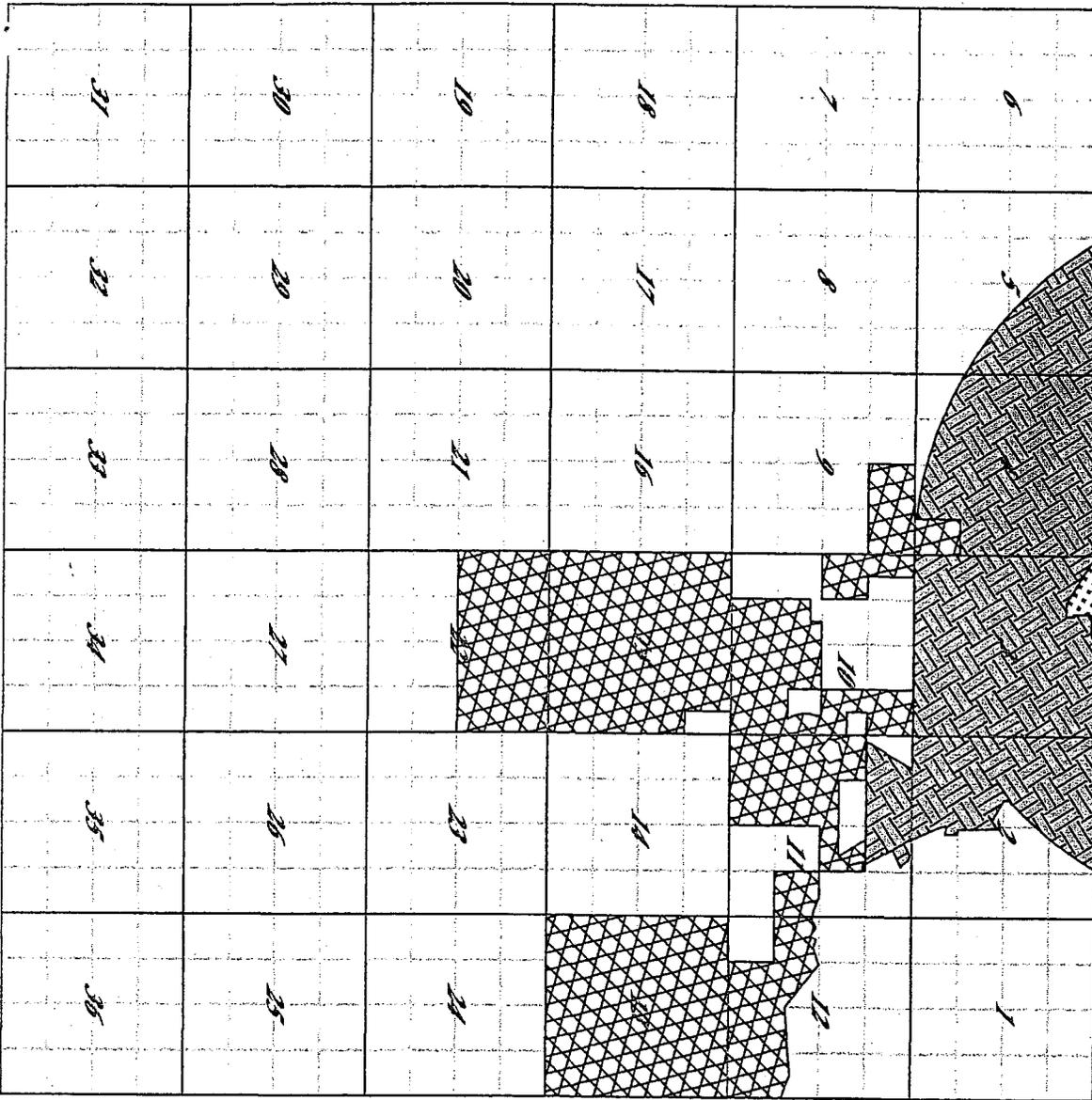
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COUNTY OF YAVAPAI

RANGE 3 East



TOWNSHIP 15 North

Map No. 26

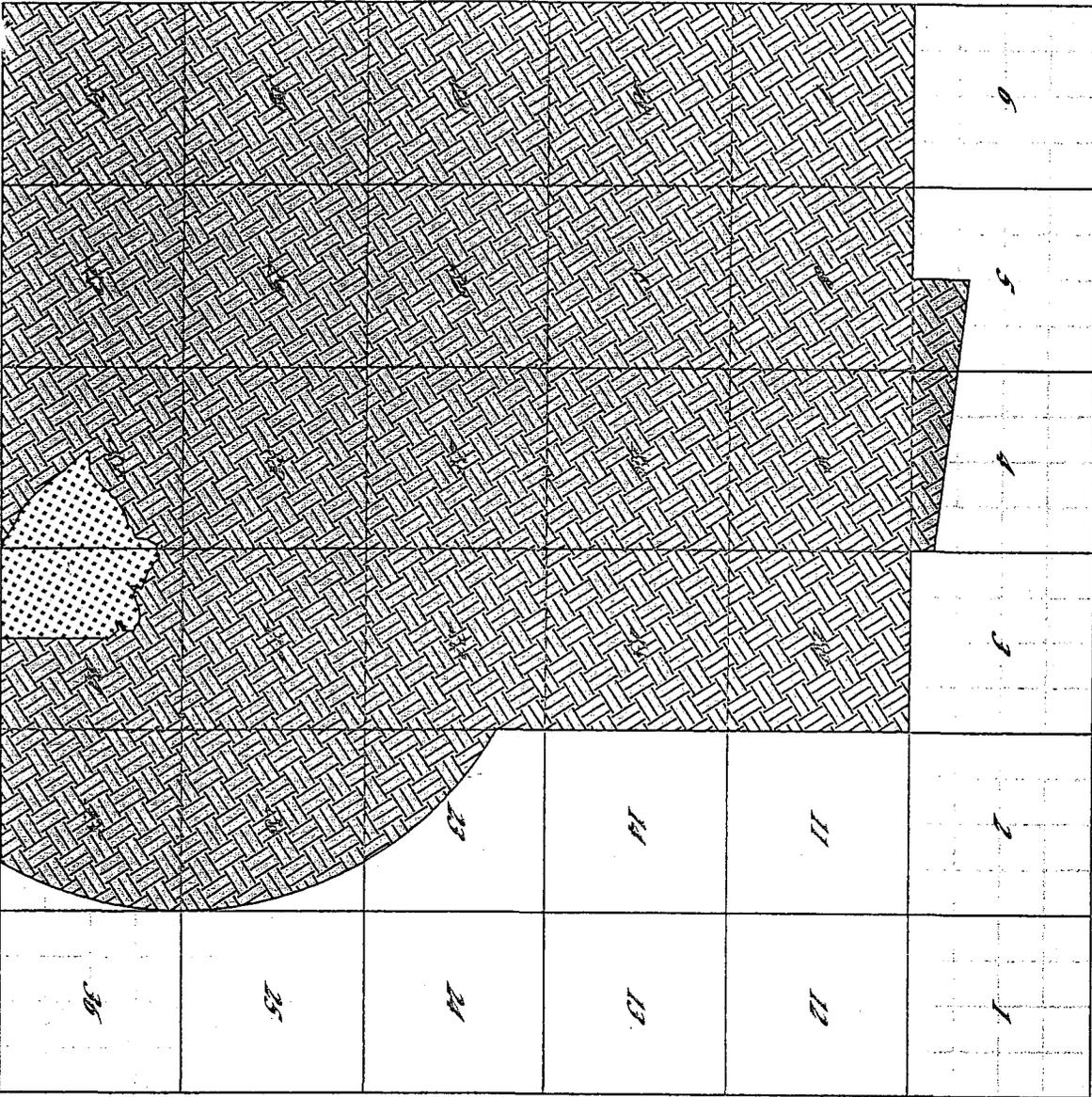
DECISION NO. _____

EXHIBIT A

-  W-1278 (2)
Clemenceau Water Company
-  W-2060 (3)
Cordes Lakes Water Company (Verde Village)
-  W-1045 (2)
Cottonwood Water Works, Inc.
-  (2)
Cottonwood Water Works, Inc.
Docket No. W-01045A-05-0578
Application to Cancel CC&N - to
City of Cottonwood and Town of Clarkdale

COUNTY OF Yavapai

RANGE 3 East



TOWNSHIP 16 North



W-1278 (2)

Clemeneau Water Company



W-1045 (2)

Cottonwood Water Works, Inc.



(2)

Cottonwood Water Works, Inc.
Docket No. W-01045A-05-0578
Application to Cancel CC&N - to
City of Cottonwood and Town of Clarkdale

DECISION NO. _____