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Ref: Docket No. W-03512A-03-0279 Intervener Response, J. Bre

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AZ CORP COMMISSION  
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December 6, 2005

Docket Control

Arizona Corporation Commission (ACC)

1200 West Washington Street

Phoenix, Arizona 85007

SUBJECT: **INTERVENER RESPONSE TO: 2005 "Report by Pine Water Co., Inc.  
On Water Supply Alternatives, DATED, November 10, 2005"**

REFERENCE: 1) Docket No. W-03512A-03-0279  
2) Procedural Order, Dated October 31, 2005, Asst. Chief Administrative Law  
Judge, Dwight D. Nodes  
3) ACC Decision No. 67823

Commissioners and Asst. Chief Administrative Law Judge:

This letter response by Intervenor, John O. Breninger, in the matter of the Application per the Reference 1) Docket No., is hereby submitted in compliance with the schedule date of December 12, 2005 per the Reference 2) Procedural Order.

This Intervenor **protests that the subject Report** submitted by Pine Water Co., Inc. (Pine Water) is **un-responsive** in addressing the Reference 3) Decision Order, page 13, line 27 through Page 14, line 1. to wit: "... that Pine Water Company and Staff shall submit jointly or separately, ... a report with recommendations regarding specific long-term solutions to the Pine Water shortage issues." Although the Report does address a number of long-term solutions, in the end, **Pine Water evaluated these in a negative manner, but favored their first and second ranked Alternatives: #12 Expansion of Water Sharing Agreements, and #15, Water Hauling,** (ref: pages 27 and 29). **These are not long-term solutions, but just a continuation of the "status quo."** Also, the ACC Staff has not joined in the issuance of this Report, nor has provided its evaluation and corroboration of the declarations and conclusions contained therein.

Although the Report is voluminous with numerous exhibits, this Intervenor failed to find the ordered, "... recommendations regarding specific long-term solutions to the Pine Water shortage issues." Instead, the Conclusion of the Report (ref: page 14) states, "In the end, no stakeholder can be expected to shoulder a disproportionate share of the burden of augmenting PWCo.'s water supplies. Rather all interested parties must now assess the information contained in this comprehensive report and work together, creatively, to determine the most prudent courses of action."

In the Executive Summary (ref: page 4), last paragraph, "Pine Water Co. concludes that few water supply alternatives exist that are not expensive, very risky, and have substantial uncertainty related to sustained yield production."

Further, in the Conclusion (ref: page 14), "Clearly, the implementation of solutions cannot take place in the traditional regulatory environment."

It would be well to test the veracity of the report contents, viewpoints and conclusions made by Pine Water, and perhaps this is the role for Staff to initiate among the stakeholders. Otherwise, it may be necessary to invoke the fact-finding Hearing process, which certainly is not the desirable path. Earlier in the Rate Case Hearing, I recall that Staff indicated it would not take the lead in initiating such meetings among the stakeholders, but that they could be a facilitator of such actions, if that were warranted.

Since it is highly desirable to this Intervenor to keep the solution of the Pine water issues within the regulatory purview of the ACC, **I request that consideration be given to directing Staff to take an active part** in facilitating the analysis and discussions undertaken by the entities, as described in Decision No. 67823, with the intent of overcoming limitations of the traditional regulatory environment in developing creative solutions, as well as maintaining timely progress.

I believe the community of Pine, and its sister community of Strawberry, both are eager to see leadership toward a constructive solution to these on-going problems. Our conservation-minded consumption of water continues to be part of the problem, because it is so low. We always expect the next restriction announcement to hit, so we keep in practice. This is not a good way to live.

Sincerely,



John O. Breninger, Intervenor

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