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AZ CORP COMMISSION
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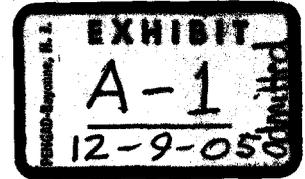
Transcript Exhibit(s)

Docket #(s): W-01445A-050469

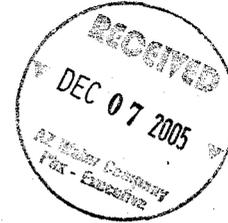
Exhibit #: A-1, A-2, A-3, A-4, E-1, E-2, E-3,

E-4, E-5, E-6, S-1, S-2, S-3

Eloy 812, LLC



December 7, 2005



William Garfield, President
Arizona Water Company
3805 North Black Canyon Highway
Phoenix, AZ 85015

RE: W-01445A-05-0469 CCN Expansion for Arizona Water Company

Dear Mr. Garfield:

I am the manager for Eloy 812, LLC, the owners of the below described real property.

Approximately 811.91 acres in Section 25 and the northeast quarter of Section 26, Township 7 South, Range 6 East, a.k.a. Parcel 2 of Arizona Water CCN Expansion Request

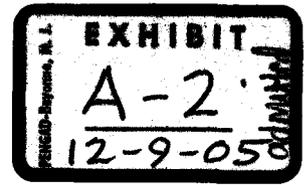
The owners of the Sierra Vista project no longer wish to have water service from Arizona Water. We ask that you remove the property from the CCN expansion request which is starting its hearing on Friday, December 9, 2005.

Please feel free to contact me or Kay Bigelow [(602)527-1629] with any questions or comments.

Sincerely,

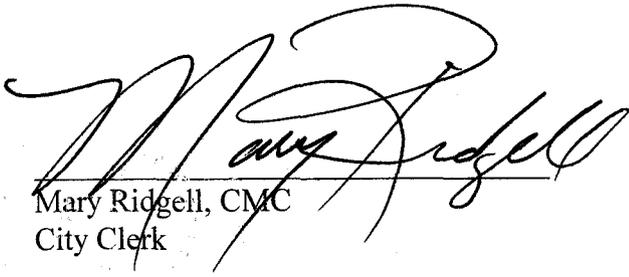
A handwritten signature in black ink, appearing to read "D Kimball Rogers".

D Kimball Rogers
Vice President-Development



CERTIFICATION

I, Mary Ridgell, do hereby certify that the foregoing agreement is a true and correct copy of the Southwest Gas Corporation Franchise Agreement adopted by the Eloy City Council, of Eloy, Arizona.


Mary Ridgell, CMC
City Clerk

12/11/05
Date

FRANCHISE AGREEMENT

Proposed by

Southwest Gas Corporation

AN ORDINANCE GRANTING TO SOUTHWEST GAS CORPORATION, A CALIFORNIA CORPORATION AUTHORIZED TO DO BUSINESS IN THE STATE OF ARIZONA, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE AND FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE UPON, OVER, ALONG, ACROSS AND UNDER THE STREETS, AVENUES, LANES, WAYS, ALLEYS, HIGHWAYS, BRIDGES AND OTHER PUBLIC PLACES IN THE CITY OF ELOY, ARIZONA, AND FUTURE ADDITIONS THERETO, A GAS DISTRIBUTION PLANT AND SYSTEM, TOGETHER WITH ALL NECESSARY OR DESIRABLE APPURTENANCES, FOR THE PURPOSE OF SUPPLYING NATURAL GAS AND ARTIFICIAL GAS OR A MIXTURE THEREOF, TO SAID CITY, ITS SUCCESSORS, THE INHABITANTS THEREOF, FOR ALL PURPOSES; PRESCRIBING CERTAIN RIGHTS, DUTIES, TERMS AND CONDITIONS IN RESPECT THERETO AND REPEALING CONFLICTING ORDINANCES.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ELOY, PINAL COUNTY, ARIZONA:

Section 1. There is hereby granted to Southwest Gas Corporation, a corporation organized and existing under and by virtue of the laws of the State of California, its successors and assigns (herein called "Grantee"), the right, privilege and franchise to construct, maintain, and operate upon, over, along, across and under the present and future public rights-of-way (including but not limited to) streets, avenues, alleys, lanes, ways, highways, bridges, public utility easements, and other public places in the City of Eloy, Arizona (herein called "Municipality"), pipes, pipelines, its plant and system, together with all necessary and desirable appurtenances and facilities (including but not limited to mains, laterals, pumps, manholes, meters, gauges, regulator stations and related equipment) for the purpose of

transporting and supplying natural gas and/or artificial gas, including gas manufactured by any method whatsoever, and/or gas containing a mixture of natural gas and such artificial gas, to the said Municipality, its successors, the inhabitants thereof, and all persons and corporations either within or beyond the limits thereof, for all purposes.

Section 2. All pipes, pipelines, mains, services, traps, fence, vaults, manholes, meters, gauges, regulators, valves, conduits, appliances, attachments, and, without limitation to the foregoing, any other property located or to be located in, upon, along, across, under or over the public rights-of-way within the Municipality used or useful in conveying and/or distributing gas shall be constructed and maintained in accordance with established practices with respect to such construction and shall be located so as to cause minimum interference with the proper use of such public rights-of-way. The Grantee agrees to maintain its plant, system and appurtenances in good order and condition, in due compliance with Arizona law and with the rules and regulations of the Arizona Corporation Commission from time to time effective, and with municipal ordinances to the extent they are not inconsistent with the foregoing or the provisions of this franchise.

Section 3. Whenever the Grantee shall cause any opening or alteration whatever to be made for any purpose in any public right-of-way, the work shall be completed within a reasonable time and the Grantee shall, upon the completion of such work, restore the property disturbed to as durable a condition as it was in before

such opening or alteration.

Section 4. The Municipality shall not be liable for any damage which may accrue to the Municipality by reason of the negligence or willful misconduct of the Grantee in the construction, operation, or maintenance of its plant, system and appurtenances hereunder. The Grantee agrees to indemnify the Municipality and hold it harmless against any and all liability, loss, cost, damage or expense which may accrue to the Municipality by reason of the negligence or willful misconduct of the Grantee in the construction, operation or maintenance of its plant, system and appurtenances.

Section 5. As a further consideration for the Franchise hereby granted, the Grantee will pay to the Municipality a Franchise Fee equal to 2% of the gross receipts of the Grantee from the sale of gas at retail for residential and commercial purposes within the corporate limits of the Municipality, as shown by Grantee's billing records, such payments to be due and payable quarterly. For the purpose of verifying the amounts payable hereunder, the books and records of the Grantee shall be subject to the inspection by duly authorized officials or representatives of the Municipality, at reasonable times. In the event that the Grantee enters into a franchise agreement with any governmental entity in the State of Arizona during the term of this Franchise Agreement which provides for a franchise fee greater than 2% of gross receipts, this Franchise Agreement shall be automatically amended so that the Municipality is entitled to a franchise fee of

the same percentage of gross receipts for the remainder of the term of this Franchise Agreement.

In the event that the Municipality, in addition to the payments hereinabove provided for, assesses, charges or levies upon Grantee or its business within the Municipality a license, privilege, excise or revenue taxes, permit fees or other exaction (except a utility tax, occupation tax, general ad valorem property taxes and special assessments for local improvements), then the payments hereinabove provided for shall be reduced by the amount of such license, privilege, excise or revenue taxes, permit fees or other exactions paid by the Grantee. If, in any year, said taxes, fees or exactions equal or exceed the payments provided for in this section, then no such payments shall be due or payable hereunder, for such year.

The Grantee may also deduct from the Franchise Fee: (1) any tax or fee paid by it or levied by the Municipality exclusively upon utilities; and (2) any additional occupational tax levied by the Municipality in excess of 2% of the total business done by the Grantee exclusively within the Municipality, and not including any business done to or from points without the State and not including any business done for the Government of the United States, state, county, city, and other municipal agencies, up to the amount of the Franchise Fee unless the Municipality's tax ordinances authorize the utility tax or occupational tax to be offset by the amount of the Franchise Fee paid pursuant to the Franchise Agreement, in which event the entire Franchise Fee shall be paid and the utility

tax and/or occupational tax offset thereby.

Section 6. The right, privilege and franchise hereby granted shall continue and exist for a period of twenty-five (25) years from the effective date of this Ordinance.

Section 7. This grant is not exclusive, and nothing herein contained shall be construed to prevent the Municipality from granting other like or similar grants or privileges to any other person, firm or corporation.

Section 8. All ordinances and parts of ordinances in conflict with the provisions hereof are hereby repealed.

Section 9. In the event that any pipes, appurtenances or other structures of the Grantee shall be found to interfere unduly with the proper use of the public rights-of-way of the Municipality, the Grantee agrees that it will, within a reasonable time after notice thereof by the City Council, relocate said pipes, appurtenances or other structures so as to minimize said interference, subject to the following:

(9) (a) The entire cost of said relocation shall be borne by the Municipality if the Grantee is required by the Municipality to relocate facilities which are located in private easements or rights-of-way obtained by the Grantee prior to the dedication of the public right-of-way from which the facilities must be relocated. The Municipality shall also bear the entire cost of all subsequent relocations of the relocated facilities required by the Municipality, until such time as the Municipality condemns or purchases the Grantee's private easement or right-of-

way.

(9) (b) Except as provided in paragraph 9(a) above, the Grantee shall bear the entire cost of relocating facilities located on public rights-of-way, the relocation of which is necessary for the City's execution of a governmental function.

(9) (c) The Municipality will bear the entire cost of relocating any facilities, the relocation of which is necessitated by the construction of improvements by or on behalf of the Municipality in furtherance of a proprietary function. All functions of the Municipality which are not governmental are proprietary. However, except as provided in paragraph 9(a) above, the installation of pipe and other appurtenances and facilities to serve domestic water shall be deemed both governmental and proprietary, and therefore, the costs of relocation shall be shared, with the Grantee paying fifty percent (50%) and the Municipality paying fifty percent (50%).

Section 10. If any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part of the provision hereof other than the part so adjudged to be invalid and unconstitutional.

Section 11. The Grantee shall comply with all federal, state and local nondiscrimination statutes in the operation, implementation and delivery of natural gas and artificial gas services pursuant to this Franchise Agreement, including state and federal civil rights and disabilities laws. In particular the

Grantee shall ensure that the Municipality's obligations for program, facility and service accessibility in Title II of the Americans with Disabilities Act are complied with in all activities arising under this Franchise Agreement, and shall hold harmless the Municipality for any and all loss, including but not limited to damages, costs or expenses, incurred or arising from any alleged violation of the Americans with Disabilities Act under the auspices of this Franchise Agreement unless resulting from an intentional or actual negligent act of the Municipality and its employees. Failure to comply with the nondiscrimination or accessibility requirements herein shall be construed as nonperformance and may result in civil action.

APPROVED BY THE COUNCIL OF THE CITY ELOY, ARIZONA, this 13th day of Sept, 1994.

ATTEST:

CITY OF ELOY

Mary Ridgell
City Clerk

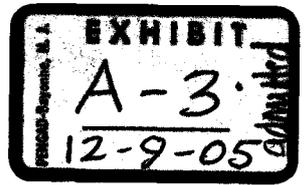
Sumida A. Jones
Mayor

APPROVED AS TO FORM:

SOUTHWEST GAS CORPORATION

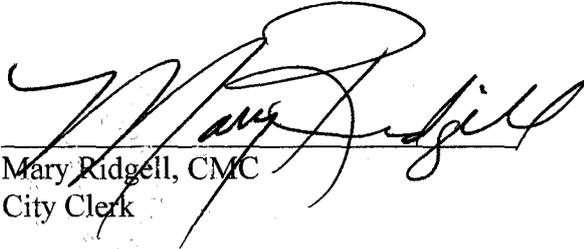
[Signature]
City Attorney

by James Kane
its Vice President, Southern Arizona Division



CERTIFICATION

I, Mary Ridgell, do hereby certify that the foregoing agreement is a true and correct copy of the Arizona Public Service Company Franchise Agreement adopted by the Eloy City Council, of Eloy, Arizona. Arizona.


Mary Ridgell, CMC
City Clerk

12/1/05
Date

FRANCHISE AGREEMENT
BETWEEN
ARIZONA PUBLIC SERVICE COMPANY
AND THE
ELOY, ARIZONA, CITY COUNCIL

Section 1. - Grant of Franchise:

There is hereby granted to Arizona Public Service Company, a corporation organized and existing under and by virtue of the laws of the State of Arizona (herein called "Grantee"), its successors and assigns, the right, privilege, and franchise to construct, maintain, and operate upon, over, along, across, and under the present and future public rights-of-way (including but not limited to streets, alleys, ways, highways, and bridges) in the City of Eloy, Arizona (herein called "Municipality"), electric power lines, together with all necessary or desirable appurtenances, including but not limited to poles, towers, wires, cables, transmission lines, transformers, switches and signals and telephone and telegraph wires for its own use (herein called the "Franchise"), for the purpose of supplying electric energy to Municipality, its successors, the inhabitants thereof, and all individuals and entities either within or beyond the limits thereof, for all purposes.

Any street lighting service furnished by Grantee to Municipality or to any street lighting improvement district within Municipality shall be the subject of a separate agreement and shall not be governed by the provisions of this Franchise.

Section 2. - Grantee's Compliance With Municipality Practice; Plans Submitted for Approval;

Municipality Construction Near Grantee's Facilities:

All construction under this Franchise shall be performed in accordance with established practices of Municipality with respect to such public rights-of-way. Before Grantee makes any installations in the public rights-of-way, Grantee shall upon request or direction from Municipality submit for approval a map showing the location of such proposed installations to Municipality's Director of Public Works or Council.

If Municipality undertakes either directly or through a contractor any construction project adjacent to or near Grantee's facilities operated pursuant to this Franchise, Municipality shall include in all such construction specifications, bids, and contracts, a requirement that, as part of the cost of the project, the contractor or his designee obtain from Grantee the temporary removal, barricading or de-energization of Grantee's lines or equipment, the location of which may create an unsafe condition in view of the equipment to be utilized or the methods of construction to be followed by the contractor.

Section 3. - Construction and Relocation of Grantee's Facilities; Payment:

All facilities installed or constructed pursuant to this Franchise shall be so located or relocated and so erected as to minimize the interference with traffic, or other authorized uses over, under or through the public rights-of-way. Those phases of construction of Grantee's facilities relating to traffic control, backfilling, compaction and paving, as well as the location or relocation of lines and related facilities herein provided for shall be subject to regulation by Municipality. Grantee shall keep accurate records of the location of all facilities in the public rights-of-way and furnish them to Municipality upon request. Upon completion of new or relocation construction of underground facilities in the public rights-of-way, Grantee shall

provide the Director of Public Works or Council with corrected drawings showing the actual location of the underground facilities in those cases where the actual location differs significantly from the proposed location.

A. If Municipality requires Grantee to relocate Grantee's facilities which are located in private easements obtained by Grantee prior to Municipality's acquisition of the public right-of-way from which the facilities must be relocated, the entire cost of relocating Grantee's facilities (including the cost of purchasing a new private easement if necessary) shall be borne by Municipality. Municipality shall also bear the entire cost of all subsequent relocations of the relocated facilities required by Municipality, until such time as Municipality condemns or purchases Grantee's private easement.

B. Except as covered in Paragraph A above, Grantee shall bear the entire cost of relocating its facilities located on public rights-of-way, the relocation of which is necessary for Municipality's carrying out of its governmental functions. Notwithstanding the foregoing, if Grantee is requested to perform work of a temporary nature on a governmental project to relieve construction problems which could be relieved by other means, the cost of said temporary work will be borne by Municipality or the contractor working on the governmental project. Governmental functions are those duties imposed by the State on Municipality, where the duties involve a general public benefit, not in the nature of a corporate or business undertaking for the corporate benefit and interest of Municipality. Governmental functions include, but are not limited to, the following:

- (1) Any and all improvement to Municipality streets, alleys and avenues;
- (2) Establishing and maintaining sanitary sewers, storm drains, and related facilities;

- (3) Establishing and maintaining municipal parks, parkings, parkways, pedestrian malls, or grass, shrubs, trees and other vegetation for the purpose of landscaping any street or public property;
- (4) Providing fire protection; and
- (5) Collection and disposal of garbage.

C. Municipality will bear the entire cost of relocating any facilities, the relocation of which is necessitated by the construction of improvements by or on behalf of Municipality in furtherance of a proprietary function. All functions of Municipality which are not governmental are proprietary. The installation of pipe and other facilities owned by Municipality to serve domestic water shall be considered both governmental and proprietary and therefore the actual cost of relocation shall be shared equally by Grantee and Municipality.

D. Where Municipality's facilities or other facilities occupying a right-of-way under authority of a Municipality permit or license are already located in the right-of-way and a conflict between Grantee's potential facilities and the existing facilities can only be resolved expeditiously by relocating the existing Municipality or permittee facilities, Grantee shall bear the entire cost of relocating the existing facilities, irrespective of the function they served.

E. If Municipality participates in the cost of relocating Grantee's facilities for any reason, the cost of relocation to Municipality shall not include any upgrade or improvement of Grantee's facilities as they existed prior to relocation.

F. Municipality will not exercise its right to require Grantee's facilities to be relocated in an unreasonable or arbitrary manner, or to avoid its obligations under

Section 2. Grantee and Municipality may agree to cooperate on the location and relocation of other facilities in the public rights-of-way.

G. Municipality will consult with Grantee regarding tree species approved for planting in the public rights-of-way where there are existing overhead power lines.

Grantee shall have the authority to trim, prune or remove any trees or shrubs located within or hanging upon and over the limits of the public rights-of-way of Municipality that in the judgment of the Grantee may interfere with the construction of or endanger the operation of the lines and/or facilities of the Grantee. All work is to be done at Grantee's expense.

Section 4. - Indemnification:

Municipality shall indemnify and hold Grantee harmless from any and all claims, costs, losses, or expenses incurred by Grantee as a result of the failure of Municipality to comply with the requirements of this agreement. Except as provided in the preceding sentence, Grantee shall save Municipality harmless from any expenses and losses incurred as a result of injury or damage to third persons occasioned by the exercise of this Franchise by Grantee; provided, however, that such claims, expenses and losses are not the result of any willful or negligent acts or omissions of Municipality.

Section 5. - Restoration of Rights-of-Way:

Whenever Grantee shall cause any opening or alteration whatever to be made for any purpose in any public right-of-way, the work shall be completed with due diligence within a reasonably prompt time, and Grantee shall, upon completion of such work, restore the property disturbed to as good condition as it was prior to such opening or alteration.

Section 6. - Franchise Fee:

Grantee agrees to pay Municipality in consideration of the grant of this Franchise the base amount of \$100,000 per calendar year. Such amount shall be in lieu of all fees or charges for permits or licenses issued for the construction of Grantee's facilities hereunder or for inspections thereof. The base amount of \$100,000 shall be adjusted on a calendar year basis, beginning in the calendar year 2003, by the annual average percent change in the Consumer Price Index for All Urban Consumers ("CPI-U") for the immediate prior year as published by the U.S. Department of Labor's Bureau of Labor Statistics in the monthly Summary Data from the Consumer Price Index News Release, Table 1A or similar publication. This adjusted amount shall be calculated and communicated to Municipality by March 1 of each calendar year. Should the annual average percent change in the CPI-U for any annual period be a negative factor, the payment amount shall not be calculated using the negative factor but shall be equal to the highest previously calculated annual amount.

Grantee will pay franchise fees pursuant to the terms of the previously executed Franchise Agreement until December 31, 2001. Beginning in calendar year 2002, the annual base amount as described in the preceding paragraph shall be payable in equal quarterly amounts within 30 days after the end of each calendar quarter.

Section 7. - Additional Fees:

Notwithstanding any provision contained herein to the contrary, Grantee shall, in addition to the payment provided in Section 6, pay any occupation tax established by Municipality, provided the tax is a flat fee per year and that the annual amount of such fee does not exceed the amount of similar fees paid by any other business operated within Municipality.

Section 8. - Term:

This Franchise shall continue and exist for a period of twenty-five (25) years from January 1, 2002; provided, however, that either party may terminate this Franchise on its tenth anniversary by giving written notice of its intention to do so not less than one (1) year before the date of termination. If such notice is given for the purpose of negotiating a new franchise and such negotiation is successful, the party giving the notice of termination shall be responsible for the costs of the resulting franchise election.

Section 9. - Franchise; Non-Exclusive:

This Franchise is not exclusive, and nothing herein contained shall be construed to prevent Municipality from granting other like or similar grants or privileges to any other person, firm or corporation.

Section 10. - Conflicting Ordinances:

All ordinances and parts of ordinances in conflict with the provisions hereof, to the extent applicable to a franchised electric public service corporation, are hereby superseded.

Section 11. - Independent Provisions:

If any section, paragraph, clause, phrase or provision of this Franchise, other than Section 6, shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Franchise as a whole or any part of the provisions hereof other than the part so adjudged invalid or unconstitutional. If Section 6 shall be adjudged invalid or unconstitutional in whole or in part by a final judgment, this Franchise shall immediately terminate and shall be of no further force or effect.

Section 12. - Condemnation; Right Reserved by Municipality:

Municipality reserves the right and power to purchase and condemn the plant and distribution facilities of Grantee within Municipality's corporate limits or any additions thereto, as provided by law.

Section 13. - Municipality Use of Facilities:

In consideration of this Franchise and the rights granted hereby, Municipality shall, if the following four criteria are met, have the right free of charge to place, maintain, and operate on Grantee's poles located on public rights-of-way within Municipality's corporate limits, any and all wires and appurtenances (other than steps or climbing devices) which Municipality may use, for its municipal fire alarm and police telephone or other municipal communication services utilized for a governmental function:

1. Municipality must notify Grantee in writing of Municipality's intended use of Grantee's poles;
2. Municipality shall hold Grantee harmless from any liability or additional expense in connection with Municipality's use of Grantee's poles;
3. Municipality's facilities and the installation and maintenance thereof must comply with the applicable requirements of the Occupational Safety and Health Act, the National Electrical Safety Code, and all other applicable rules and regulations as amended. If Municipality does not comply with all applicable laws, ordinances and regulations, Grantee retains the right to remove or correct Municipality's facilities at Municipality's expense; and
4. Municipality's use of its facilities shall not interfere with Grantee's use of Grantee's facilities.

Section 14. - Expiration:

Municipality and Grantee hereby expressly agree that the following provision shall survive the termination or expiration of this Franchise:

Upon the termination or expiration of the Franchise, if Grantee shall not have acquired and accepted an extension or renewal hereof, it may remove its facilities and system within Municipality or, at its option, may continue operating its facilities and system within Municipality, but it shall continue to pay the present franchise fee as required in Section 6 until a new franchise can be effected with the Municipality or until Grantee provides notice to Municipality that a new franchise will not be pursued.

Section 15. – Notices:

Any notice required or permitted to be given hereunder shall be in writing, unless otherwise expressly permitted or required, and shall be deemed effective either (i) upon hand delivery to the person then holding the office shown on the attention line of the address below, or, if such office is vacant or no longer exists, to a person holding a comparable office, or (ii) on the third business day following its deposit with the United States Postal Service, first class and certified or registered mail, return receipt requested, postage prepaid, addressed as follows:

- A. To the City: City Clerk
City of Eloy
628 North Main St.
Eloy, Arizona 85231

- B. To Arizona Public Service: Southeast Division Manager
Arizona Public Service Company
50 North Brown Ave.
Casa Grande, Arizona 85222

CITY OF ELOY

Ben Cruz
_____, Mayor

ARIZONA PUBLIC SERVICE COMPANY,
an Arizona corporation

By Jan H. Bennett

Jan H. Bennett, Vice President,
Customer Services

ATTEST:

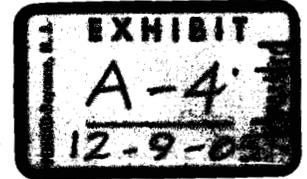
Mary Ridgell
_____, City Clerk

APPROVED AS TO FORM:

Carol V. ...
_____, City Attorney

November 28, 2005

Via facsimile transmission
and Regular Mail



Robert W. Geake
Vice President and General Counsel
Arizona Water Company
3805 N. Black Canyon Highway
P. O. Box 29006
Phoenix, Arizona 85038-9006

Re: Arizona Water Company's Application for Extension
Docket No: W-01445A-05-0469

Dear Mr. Geake:

Enclosed are the City of Eloy's Responses to Arizona Water Company's Second Set of Data Requests in the above-captioned proceeding.

Very truly yours,

LEWIS AND ROCA LLP

A handwritten signature in black ink, appearing to read "Tom".

Thomas H. Campbell

THC/bjg
Enclosures
cc: Doug Olson (w/encs.)

GARFIELD GEAKE HENDERSON
HUBBARD KENNEDY WHITEHEAD
ROCK - FILE

**CITY OF ELOY'S
RESPONSES TO ARIZONA WATER COMPANY'S
SECOND SET OF DATA REQUESTS**

Docket No: W-01445A-05-00469

The City of Eloy (the "City") submits the following objections and responses to Arizona Water Company's Second Set of Data Requests in the above-referenced docket.

GENERAL OBJECTIONS TO ALL DATA REQUESTS

1. The City objects to each and every Request to the extent it seeks 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, the City does not waive, but preserves, all such privileges.
2. The City objects to each and every Request to the extent it seeks information that is confidential, sensitive, competitive in nature or proprietary to it. In responding to these requests, the City does not waive, but preserves, its claim that request for customer and market information is confidential.
3. The City objects to each and every Request to the extent that it is unreasonably burdensome, overly broad or not reasonably calculated to lead to the discovery of admissible evidence.
4. The City objects to each and every one of Arizona Water Company's definitions and/or instructions to the extent it purports to abrogate any of the City's rights, or add to any of the City's obligations under, the Arizona Rules of Civil Procedure or the Commission's Rules.
5. The City objects to each and every Request to the extent it imposes any burden not expressly permitted under Commission's Rules or the Arizona Rules of Civil Procedure.

**CITY OF ELOY'S
RESPONSES TO ARIZONA WATER COMPANY'S
SECOND SET OF DATA REQUESTS**

Docket No: W-01445A-05-00469

6. The City objects to each and every Request to the extent that it calls for information already in the possession, custody and control of Arizona Water Company.
7. The City objects to each and every Request to the extent it seeks information outside of the City's possession, custody or control.
8. The City expressly reserves the right to supplement or amend its objections and responses as necessary.

The City incorporates the foregoing General Objections into each response as if fully set forth therein.

**CITY OF ELOY'S
RESPONSES TO ARIZONA WATER COMPANY'S
SECOND SET OF DATA REQUESTS**

Docket No: W-01445A-05-00469

SPECIFIC DATA RESPONSES

- 2.1 Please list and identify using DWR's Identification No. all wells currently in service that the City of Eloy uses to serve water within its Municipal Boundaries. For each well identified, please:
- a. Provide depth and diameter
 - b. Provide current pumping capacity
 - c. Provide static water level and draw down for each well
 - d. Provide a water facilities map showing the location of each well
 - e. Provide a copy of the most recent water quality lab certified analysis for each well for arsenic, nitrates, sulphates, T.D.S. and fluorides.

RESPONSE:

The City objects to this data request on the grounds it is neither relevant nor likely to lead to admissible evidence. New facilities, including wells, storage tanks, booster pumps, fire hydrants and generators will be constructed to serve Parcels 2, 3 and 4. The developer of Parcel 2 is currently digging wells in that parcel that will then be transferred to the City for ownership and operation.

**CITY OF ELOY'S
RESPONSES TO ARIZONA WATER COMPANY'S
SECOND SET OF DATA REQUESTS**

Docket No: W-01445A-05-00469

- 2.2 Please list all storage tanks with a capacity of 50,000 Gallons or more and for each tank identified, please:
- a. Provide a map showing tank location
 - b. Provide the height and diameter
 - c. Indicate whether the tank provides gravity flow to Eloy's system or provides merely a ground storage

RESPONSE:

See response to 2.1 above.

**CITY OF ELOY'S
RESPONSES TO ARIZONA WATER COMPANY'S
SECOND SET OF DATA REQUESTS**

Docket No: W-01445A-05-00469

- 2.3 Please provide a complete water system map with the following detail:
- a. Indicate location, size and pressure zones for the existing water distribution system serving Eloy
 - b. Indicate the location of all in-line booster pumps and hydro pneumatic pumping stations
 - c. Please indicate the location of the three (3) closest operational fire hydrants to the proposed Sierra Vista Development (Parcel 2 in Arizona Water Company's application) located in a portion of Section 26 & 27 T.7S., R.6E. G&SRB&M in Pinal County, Arizona. Please provide
 - i. The static pressure at each of the three fire hydrants
 - ii. The available flow and dynamic pressure for each of the fire hydrants listed.

RESPONSE:

With respect to 2.3 (a), the City is in the process of combining its two pressure zones into one pressure zone that will cover its entire service area.

With respect to 2.3 (b), *see* response to 2.1 above.

With respect to 2.3 (c), *see* response to 2.1 above.

**CITY OF ELOY'S
RESPONSES TO ARIZONA WATER COMPANY'S
SECOND SET OF DATA REQUESTS**

Docket No: W-01445A-05-00469

2.4 Please provide the most recent flow model for all or part of the existing water distribution system serving the City of Eloy.

RESPONSE:

See response to 2.1 above. Notwithstanding that objection, there are no current flow models for Parcels 2, 3 and 8. Such flow models will be prepared in the future.

**CITY OF ELOY'S
RESPONSES TO ARIZONA WATER COMPANY'S
SECOND SET OF DATA REQUESTS**

Docket No: W-01445A-05-00469

- 2.5 Please indicate how many electrical generators the City of Eloy Water Department owns and for each, please indicate the size (K.V.), location, and whether these generators are portable or stationary.

RESPONSE:

See response to 2.1 above. Notwithstanding that objection, the City has a generator at its well #3 and generators at both its pump houses.

**CITY OF ELOY'S
RESPONSES TO ARIZONA WATER COMPANY'S
SECOND SET OF DATA REQUESTS**

Docket No: W-01445A-05-00469

- 2.6 Does the City of Eloy have an emergency back up water interconnect with any ADEQ approved water provider? If so, please:
- a. Provide name of provider
 - b. Indicate location and capacity

RESPONSE:

No. The City requested that Arizona Water Company interconnect with the City so that each entity could serve as an emergency backup for the other, but Arizona Water Company refused.

**CITY OF ELOY'S
RESPONSES TO ARIZONA WATER COMPANY'S
SECOND SET OF DATA REQUESTS**

Docket No: W-01445A-05-00469

- 2.7 Please provide a copy of the most recent draft of the development agreement between the city of Eloy and the developer of Sierra Vista Development and any other agreements pertinent to the Sierra Vista Development. Also provide a copy of any signed development agreement between the City of Eloy and the developer of the Eloy Valley planned development reported to consist of 4,500 acres, if available.

RESPONSE:

Attached is a Developer Agreement between the City and the developer of Eloy Valley. There is no signed development agreement with the developer of the Sierra Vista Development. An interim water services agreement for the Sierra Vista Development was provided in response to AWC's first set of data requests.

**CITY OF ELOY'S
RESPONSES TO ARIZONA WATER COMPANY'S
SECOND SET OF DATA REQUESTS**

Docket No: W-01445A-05-00469

- 2.8 Please indicate whether the City of Eloy is an A.D.W.R. designated water provider or whether each development listed in 2.7 above, will be required to secure a Certificate of an Assured Water Supply for the development.

RESPONSE:

The City is an ADWR designated water provider.

**CITY OF ELOY'S
RESPONSES TO ARIZONA WATER COMPANY'S
SECOND SET OF DATA REQUESTS**

Docket No: W-01445A-05-00469

- 2.9 If the City has a Designation of an Assured Water Supply, how much groundwater is allowed under the Arizona Department of Water Resources Assured Water supply Rates to be served annually to new developments over and above the maximum groundwater pumping of the 1980? If no additional groundwater pumping is allowed, how will the city finance alternative non-groundwater supplies of water, and what is the extent and availability of such alternative supplies?

RESPONSE:

The City's Designation of Assured Water Supply is current being modified to certify the continuing availability of water to meet current, committed and a minimum of two years' projected demand on the City's municipal water system. The modification request is for 46,876 acre feet per year of groundwater.

**CITY OF ELOY'S
RESPONSES TO ARIZONA WATER COMPANY'S
SECOND SET OF DATA REQUESTS**

Docket No: W-01445A-05-00469

- 2.10 Mr. Doug Olson stated in his prepared direct testimony that the City of Eloy has an adequate assured water supply to serve Parcels 2, 3 and 8 as described in Arizona Water's application for an extension of its certificated area; with respect to Parcels 2, 3 and 8.
- a. When the City of Eloy first obtained its designation of assured water supply, how many acre feet of water did the City have at its disposal to provide water service to future developments that wished to plat a subdivision?
 - b. Please state how many acre feet of water the City of Eloy currently owns or controls to provide water service to any future developments that wish to plant a subdivision.
 - c. When the City updates and modifies its designation of assured water supply, how many additional acre feet of water will be made available for future developments?

RESPONSE:

See response to 2.9 above and Mr. Olson's prefiled direct testimony, page 3, lines 41-47. The City objects that this question misstates Mr. Olson's testimony.

**CITY OF ELOY'S
RESPONSES TO ARIZONA WATER COMPANY'S
SECOND SET OF DATA REQUESTS**

Docket No: W-01445A-05-00469

2.11 To how many existing customers does the City of Eloy currently provide metered water service?

RESPONSE:

Approximately 2,500.

**CITY OF ELOY'S
RESPONSES TO ARIZONA WATER COMPANY'S
SECOND SET OF DATA REQUESTS**

Docket No: W-01445A-05-00469

2.12 How many customers will the City of Eloy provide metered water service to upon the build-out of its current city boundaries?

RESPONSE:

The City's current estimate is approximately 65,000 households.

**CITY OF ELOY'S
RESPONSES TO ARIZONA WATER COMPANY'S
SECOND SET OF DATA REQUESTS**

Docket No: W-01445A-05-00469

- 2.13 Please list all public service corporations that currently provide water service within the City of Eloy. For the providers listed:
- a. Which has a City franchise?
 - b. Which operates by license or permit authorization only?
 - c. Which operate without any form of written agreement with the City of Eloy?

RESPONSE:

None.

**CITY OF ELOY'S
RESPONSES TO ARIZONA WATER COMPANY'S
SECOND SET OF DATA REQUESTS**

Docket No: W-01445A-05-00469

2.14 Please provide a copy of all franchise agreements and license agreements authorizing water public utility companies to operate within the City.

RESPONSE:

None.

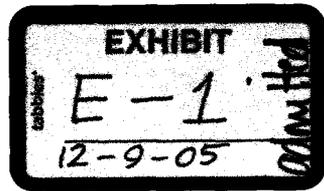
**CITY OF ELOY'S
RESPONSES TO ARIZONA WATER COMPANY'S
SECOND SET OF DATA REQUESTS**

Docket No: W-01445A-05-00469

- 2.15 Please identify the name(s), address(es), and telephone number(s) of all persons who prepared or helped in the preparation of any of the responses to this data request.

RESPONSE:

Doug Olson, Water/Wastewater System Manager
City of Eloy, Arizona
1750 N. 11 Mile Corner Road
Eloy, Arizona 85231
(520) 464-1392



RECEIVED

BEFORE THE ARIZONA CORPORATION COMMISSION

JEFF HATCH-MILLER
Chairman

2005 NOV 10 P 3:06

WILLIAM A. MUNDELL
Commissioner

AZ CORP COMMISSION
DOCUMENT CONTROL

MARC SPITZER
Commissioner

MIKE GLEASON
Commissioner

KRISTIN K. MAYES
Commissioner

In the Matter of the Application of
Arizona Water Company for an
Extension of its Existing Certificate
Of Convenience and Necessity

Docket No: W-01445A-05-0469

NOTICE OF FILING DIRECT TESTIMONY
OF DOUG OLSON

On November 10, 2005, the City of Eloy filed the attached direct testimony of
Doug Olson in the above referenced matter.

RESPECTFULLY SUBMITTED this 10th day November, 2005.

LEWIS AND ROCA

A handwritten signature in black ink that reads "Thomas H. Campbell".

Thomas H. Campbell
Michael T. Hallam
40 N. Central Avenue
Phoenix, Arizona 85004

Attorneys for the City of Eloy

1 ORIGINAL and thirteen (13) copies
2 of the foregoing filed this 10th day of
3 November, 2005, with:

4 Arizona Corporation Commission
5 Docket Control – Utilities Division
6 1200 W. Washington Street
7 Phoenix, Arizona 85007

8 COPY of the foregoing hand-delivered
9 this 10th day of November, 2005, to:

10 Amy B. Bjelland, Administrative Law Judge
11 Arizona Corporation Commission
12 1200 W. Washington Street
13 Phoenix, Arizona 85007

14 Keith Layton, Legal Division
15 Arizona Corporation Commission
16 1200 W. Washington Street
17 Phoenix, Arizona 85007

18 Blessing Chukwu, Utilities Division
19 Arizona Corporation Commission
20 1200 W. Washington Street
21 Phoenix, Arizona 85007

22 Ernest Johnson, Director
23 Utilities Division
24 Arizona Corporation Commission
25 1200 W. Washington Street
26 Phoenix, Arizona 85007

COPY of the foregoing mailed this
10th day of November, 2005, to:

Robert W. Geake
Arizona Water Company
P.O. Box 29006
Phoenix, Arizona 85038-9006

Betty J. Griffin

BEFORE THE ARIZONA CORPORATION COMMISSION

JEFF HATCH-MILLER

Chairman

WILLIAM MUNDELL

Commissioner

MARC SPITZER

Commissioner

MIKE GLEASON

Commissioner

KRISTIN K. MAYES

Commissioner

**IN THE MATTER OF THE APPLICATION
OF ARIZONA WATER COMPANY FOR
AN EXTENSION OF ITS EXISTING
CERTIFICATE OF CONVENIENCE AND
NECESSITY**

DOCKET NO. W-01445A-05-0469

DIRECT TESTIMONY OF

DOUG OLSON

ON BEHALF OF

THE CITY OF ELOY

November 10, 2005

DIRECT TESTIMONY OF DOUG OLSON ON BEHALF OF THE CITY OF ELOY

DOCKET NO. W-01445A-05-0469

Page 1 of 5

1684644.1

1 **I. INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME, OCCUPATION AND BUSINESS**
3 **ADDRESS.**

4 A. My name is Doug Olson. My business address is 1750 North Eleven Mile Corner
5 Road, Eloy, Arizona 85231. I am the water/wastewater system manager for the
6 City of Eloy (the "City").

7 **Q. WHAT ARE YOUR DUTIES AS THE WATER/WASTEWATER SYSTEM**
8 **MANAGER?**

9
10 A. I supervise and oversee the operation of the City's municipal water and
11 wastewater system. I also am involved in planning for the expansion of that
12 system, including meeting with potential developers. I am familiar with the City's
13 current water facilities and planned water facilities and water capacity. I represent
14 the City in its discussions and interface with the Arizona Department of Water
15 Resources.

16 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
17 **WORK EXPERIENCE.**

18 A. I have an Associate of Science degree from Central Arizona College and majored
19 in Metallurgical Engineering at the University of Arizona. Over the years, I have
20 worked for Hecla Mining Co., Davy McKee Engineering & Contractors, Dravo
21 Engineering & Contractors, Cimetta Engineering, EOS Engineering, the City of
22 Coolidge and the City of Eloy. During those years I held the title of Lead
23 Operator, Process Engineer, Chief Field Engineer, Operator of Record and
24 currently, Water/Wastewater Systems Manager.

25 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

26
27 A. To explain why the City opposes Arizona Water Company's application to extend
28 its certificated area to include what are identified as parcels 2, 3 and 8 in Arizona
29 Water Company's application for an extension of its certificated area. These
30 parcels are either in the City's city limits or contiguous to the city limits. In each
31 case, the City wants to serve these parcels and will have the capacity to serve
32 these parcels.

33 **Q. WHICH PARCELS ARE IN THE CITY OF ELOY?**

34 A. Parcel 2 and Parcel 8.

35 **Q. DOES THE ARIZONA WATER COMPANY HAVE A FRANCHISE,**
36 **LICENSE OR OTHER AUTHORIZATION FROM THE CITY OF ELOY**
37 **TO PROVIDE SERVICE TO THESE PARCELS?**

38 A. No. It is my belief that Arizona Water Company does not have a city franchise or
39 license authorizing it to use the public rights-of-way and roads in the City to serve
40 Parcels 2, 3 or 8.

41 **Q. DOES THE CITY OF ELOY HAVE AN ADEQUATE ASSURED WATER**
42 **SUPPLY TO PROVIDE SERVICE TO THESE THREE PARCELS?**

43 A. Yes. The City is currently working with the Arizona Department of Water
44 Resources to update and modify its designation of assured water supply and has
45 been notified that the modified designation will go to public notice November 8
46 and 15. After review of any comments resulting from the public notice, I
47 anticipate that the modified designation will be issued.

48 **Q. PLEASE DISCUSS PARCEL 2.**

49 A. Parcel 2 is entirely within the City limits. Parcel 2 is known as the Sierra Vista
50 development. Negotiations of a development agreement between the City and the
51 developers are in progress. After the agreement is finalized, the property will
52 move through the pre-plat phase. Sierra Vista will have approximately 200 acres
53 of commercial land and approximately 2100 houses. The City currently has a
54 water main that runs contiguous to this parcel on the east side of Sunland Gin
55 Road. In addition, the developer is digging a well that will be located on the
56 southeast corner of this development and will be turned over to the City to own
57 and operate. The City has a water distribution system immediately to the east of
58 the proposed Sierra Vista development.

59 **Q. PLEASE DESCRIBE PARCEL 3.**

60 A. Parcel 3 is immediately to the south of parcel 2. It is in unincorporated Pinal
61 County although it is contiguous to the City of Eloy city limits. The City would
62 like to serve this parcel and the same water main and well described above will be
63 within a few hundred feet of this unincorporated county parcel.

64 **Q. PLEASE DISCUSS PARCEL 8.**

65 A. Parcel 8 is within the City of Eloy city limits and is surrounded by the Eloy Valley
66 planned development. The Eloy Valley development is approximately 4,500
67 acres. It is expected to have approximately 12,000 houses. The developer has set
68 aside 110 acres for a regional wastewater treatment / reclamation plant. The
69 Development Agreement is signed and in place. The City is working with the

70 developers of Eloy Valley to build a water infrastructure to serve this area. The
71 developer will put in new wells, water lines, reservoirs, and pump houses as
72 required and agreed upon that will be transferred to the City to own and operate.
73 These new facilities can be extended to serve Parcel 8.

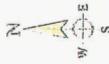
74 **Q. DO YOU HAVE ANY EXHIBITS, MAPS OR OTHER MATERIALS**
75 **USEFUL TO THE ARIZONA CORPORATION COMMISSION IN THIS**
76 **MATTER?**

77 A. Yes. Attached as exhibits to my testimony are the following maps:

- 78 1. A map showing the city limits of the City of Eloy and the current City of
79 Eloy water service area.
- 80 2. The City of Eloy Plan Developments Map showing Sierra Vista and Eloy
81 Valley Developments. Parcel 3 is the vacant land immediately to the south
82 of the Sierra Vista development.
- 83 3. A Water Resources Concept Plan with Eloy Valley Development which
84 encompasses or is contiguous to Parcel 8. Parcel 8 constitutes just 40
85 acres within a 4500 acre area development.
- 86 4. The City of Eloy Land Use Plan.

87 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

88 A. Yes, it does.



0 1/2 1 Mile
SCALE 1" = 1 Mile

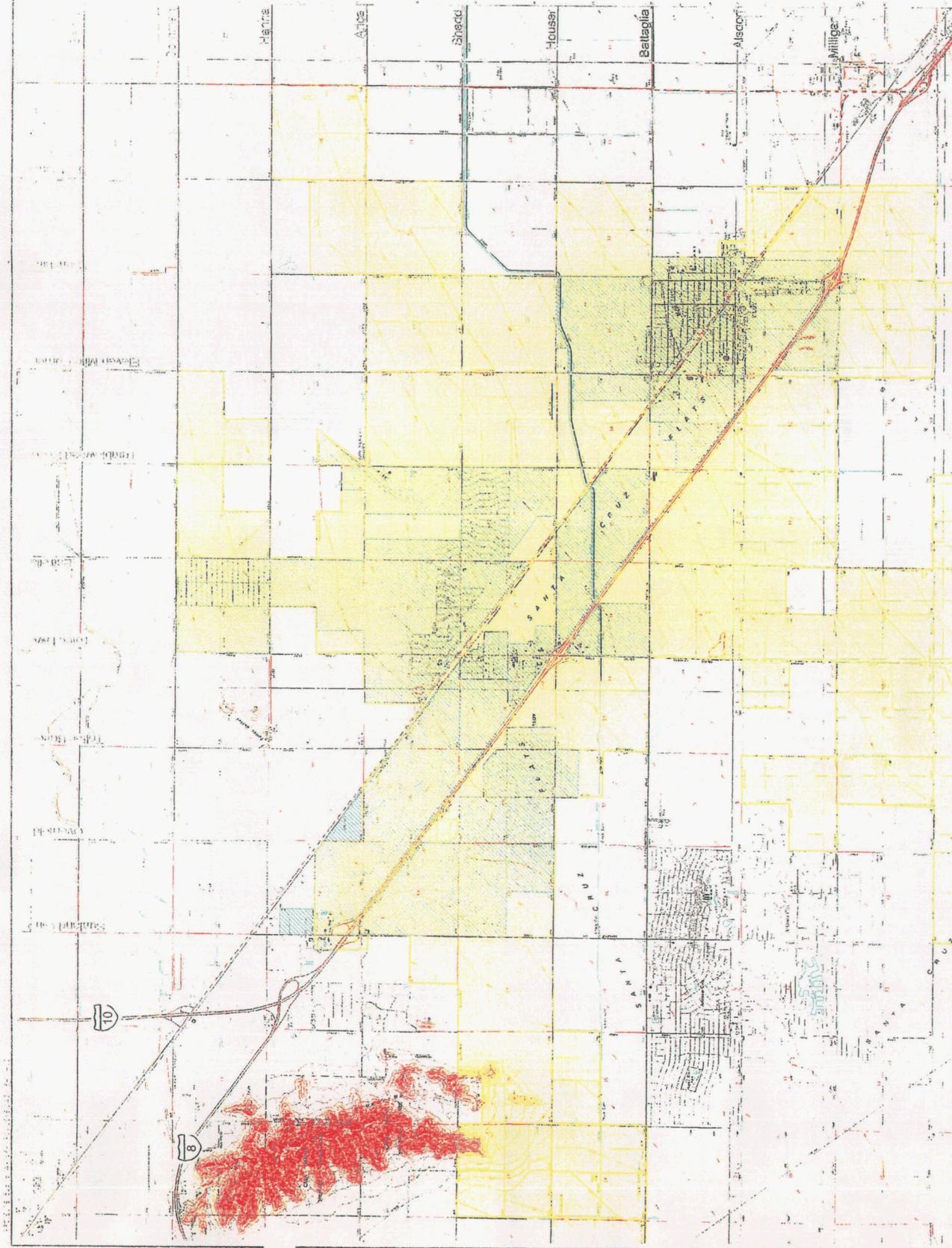
LOCATED ON THE ELOY NORTH AND THE
CASA GRANDE USGS QUADRANGLES

LEGEND

- CITY LIMITS
- CITY OF ELOY
- WATER SERVICE AREA

CITY OF ELOY

2002 MUNICIPAL WATER SERVICE AREA
CITY OF ELOY





Legend

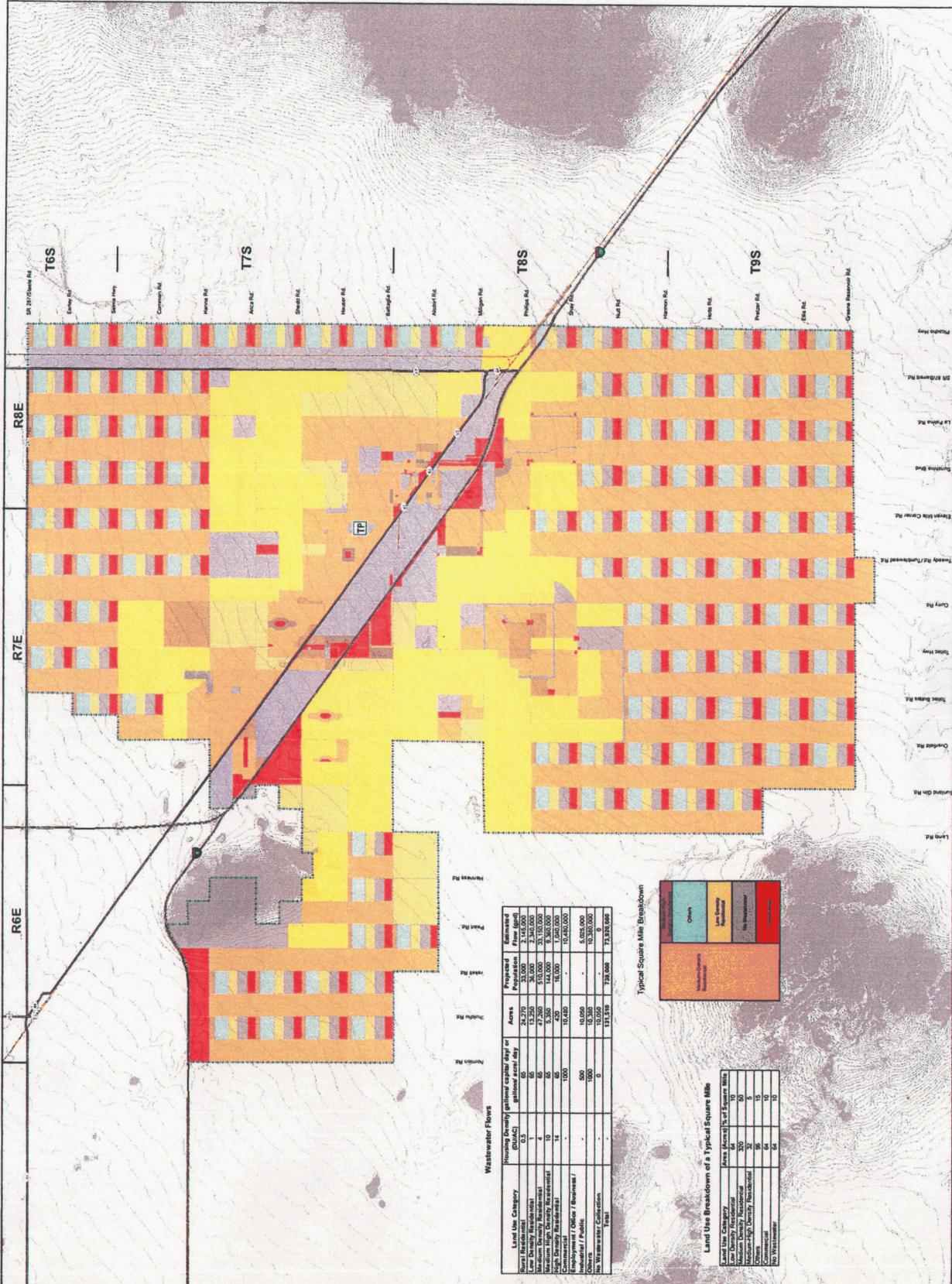
- Wastewater Treatment Plant
- Existing/Proposed Municipal Planning Area
- Interstate
- State Highway
- Railroad
- Contours (5ft Interval)

Landuse Category

- Rural Residential (0.5 DU/AC)
- Low Density Residential (1 DU/AC)
- Medium Density Residential (4 DU/AC)
- Medium-High Density Residential (10 DU/AC)
- High Density Residential (14 DU/AC)
- Commercial
- Industrial
- Others
- No Wastewater

Notes:

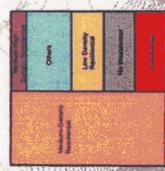
- The Transportation layers are GIS data from ESRI Data & Maps (2004).
- The planning boundary is based on information provided from the City of Eloy.
- This GIS map is intended for planning purposes only. It is not intended for construction or other purposes requiring higher precision accuracy.



Wastewater Flows

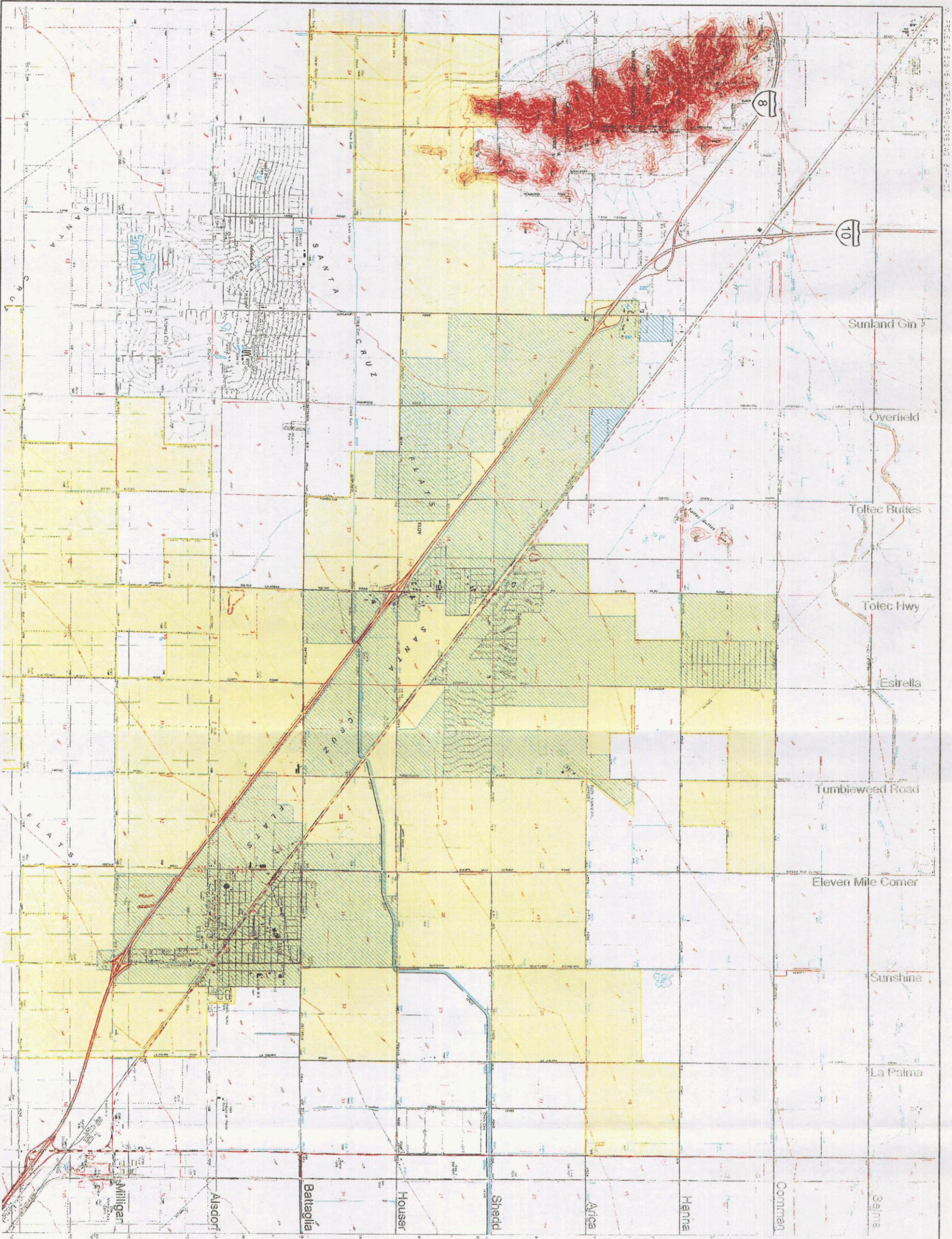
Land Use Category	Projected Population	Estimated Flow (gpd)
Rural Residential (0.5 DU/AC)	12,500	2,242,500
Low Density Residential (1 DU/AC)	25,000	4,485,000
Medium Density Residential (4 DU/AC)	100,000	17,940,000
High Density Residential (14 DU/AC)	40,000	7,168,000
Commercial	10,000	1,840,000
Industrial / Public	500	92,000
Others	10,000	1,840,000
No Wastewater Collection	0	0
Total	131,500	23,397,500

Typical Square Mile Breakdown

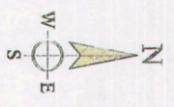


Land Use Breakdown of a Typical Square Mile

Land Use Category	Area (Acres) % of Square Mile
Rural Residential	300
Low Density Residential	300
Medium Density Residential	20
High Density Residential	5
Commercial	10
Industrial / Public	0.4
Others	10
No Wastewater	0



tabbles
EXHIBIT
E-2
 12-9-05
 admitted



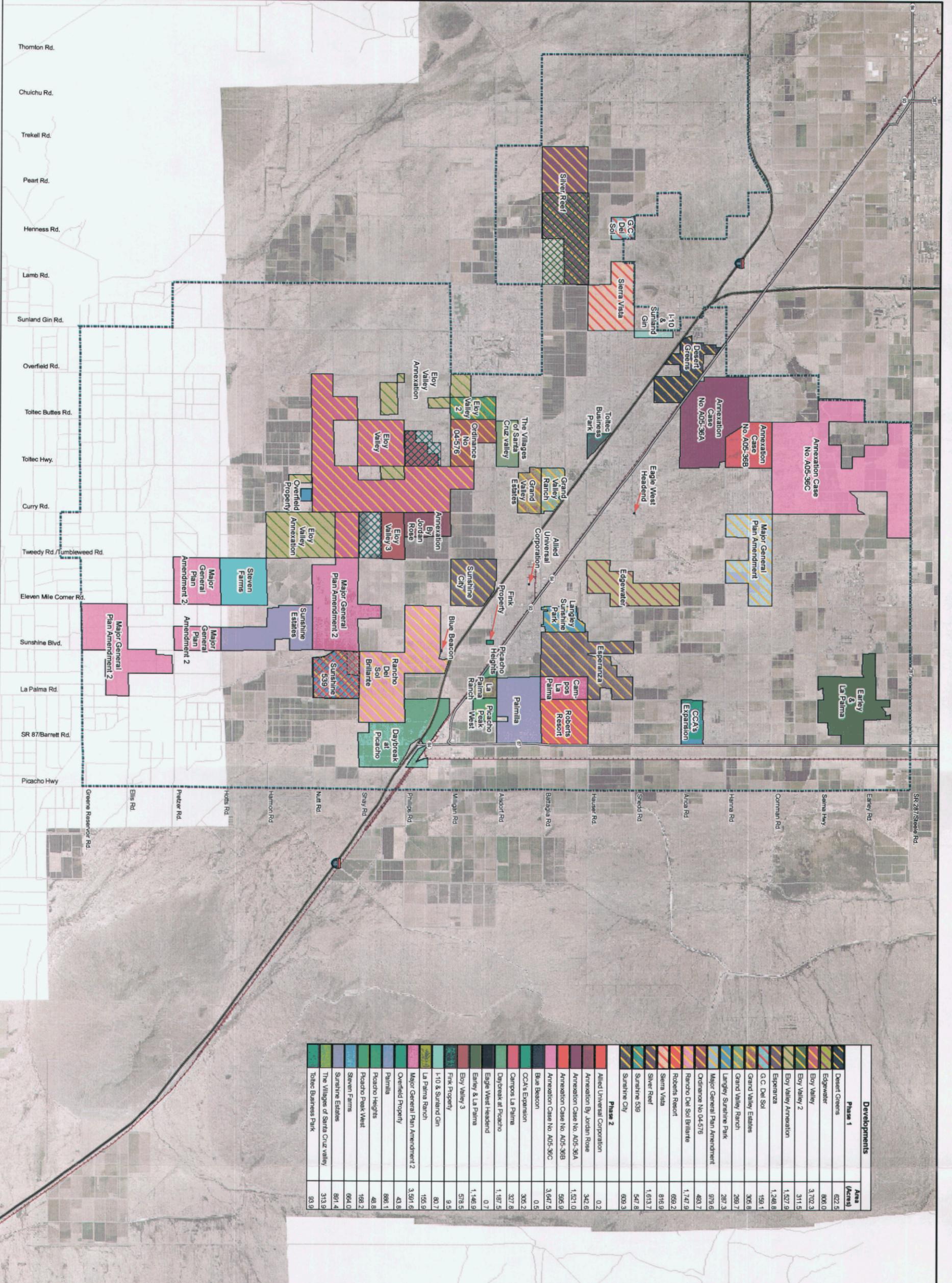
0 1/2 1 Mile
 SCALE: 1" = 1 Mile

LOCATED ON THE ELOY NORTH AND THE
 CASA GRANDE USGS QUADRANGLES

- LEGEND**
- CITY LIMITS
 - CITY OF ELOY WATER SERVICE AREA

CITY OF ELOY
 2002 MUNICIPAL WATER SERVICE AREA
 CITY OF ELOY

City of Eloy Planned Developments - Draft



Developments	Area (Acres)
Phase 1	
Desert Greens	627.5
Edgewater	806.0
Eloy Valley	3,702.3
Eloy Valley 2	311.5
Eloy Valley Annexion	1,527.9
Esperanza	1,248.8
G.C. Del Sol	159.1
Grand Valley Estates	305.8
Grand Valley Ranch	289.7
Langley Sunshine Park	287.3
Major General Plan Amendment	979.6
Ordinance No. 04-576	483.7
Rancho Del Sol Brillante	1,747.9
Roberts Resort	659.2
Sierra Vista	816.9
Silver Reef	1,913.7
Sunshine 539	547.8
Sunshine City	609.3
Phase 2	
Allied Universal Corporation	0.2
Annexion By Jordan Rose	342.6
Annexion Case No. A05-36A	1,521.0
Annexion Case No. A05-36B	595.9
Annexion Case No. A05-36C	3,647.5
Blue Beacon	0.5
CCA's Expansion	305.2
Campos La Palma	327.8
Daybreak at Picacho	1,187.5
Eagle West Headend	0.7
Eloy & La Palma	1,146.9
Eloy Valley 3	578.5
Fink Property	9.5
I-10 & Sunland Gin	90.7
La Palma Ranch	155.9
Major General Plan Amendment 2	3,591.6
Overfield Property	43.8
Palmita	886.1
Picacho Heights	48.8
Picacho Peak West	188.2
Steven Farms	664.0
Sunshine Estates	881.4
Sunshine 539	313.9
Toftec Business Park	93.9



- Legend**
- City of Eloy Proposed Municipal Planning Area
 - Interstate
 - State Highway
 - Streets
 - Railroad

- Development Discrepancies, ERM Data**
- Eloy Valley
 - Iron Family
 - Sunshine 539



Notes:

- The Transportation layers are GIS data from ESRI Data & Maps (2004).
- The planning boundary and developments are based on information obtained from the City of Eloy.
- This GIS map is a limited representation of the actual intended or planned purposes only. It is not intended for planning purposes only, purposes requiring greater positional accuracy.



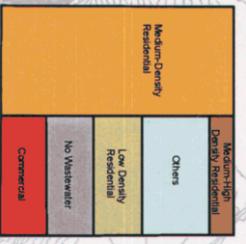
October 2005



Land Use Category	Housing Density (DU/AC)	gallons/ capital day/ or acre/ day	Acres	Projected Population	Estimated Flow (gpd)
Rural Residential	0.5	65	24,270	35,000	2,425,000
Low Density Residential	1	65	19,250	35,000	2,425,000
Medium Density Residential	10	65	47,250	510,000	33,150,000
High Density Residential	14	65	5,350	144,000	3,350,000
Commercial	-	1000	420	16,000	1,040,000
Employment / Office / Business / Industrial / Public	-	500	10,050	-	5,025,000
Others	-	1000	10,350	10,350,000	10,350,000
No Wastewater Collection	-	0	10,150	-	0
Total	-	-	131,570	739,000	73,920,000

Land Use Breakdown of a Typical Square Mile

Land Use Category	Area (Acres)	% of Square Mile
Low Density Residential	64	10
Medium Density Residential	320	50
Medium-High Density Residential	32	5
Others	96	15
Commercial	64	10
No Wastewater	64	10



City of Eloy Projected Land Use Plan



EXHIBIT
E-4
12-9-05

Legend

- Wastewater Treatment Plant
- Existing Proposed Municipal Planning Area
- Interstate
- State Highway
- Railroad
- Contours (5ft Interval)

Landuse Category

- Rural Residential (0.5 DU/AC)
- Low Density Residential (1 DU/AC)
- Medium Density Residential (4 DU/AC)
- Medium-High Density Residential (10 DU/AC)
- High Density Residential (14 DU/AC)
- Commercial
- Industrial
- Others
- No Wastewater

Notes:
1. The Transportation layers are GIS data from ESRI Data & Maps (2004).
2. The planning boundary is based on information obtained from the City of Eloy.
3. This GIS map is a limited representation of facilities. Intended for planning purposes only. It is not intended for construction or other purposes requiring greater positional accuracy.



October 2005

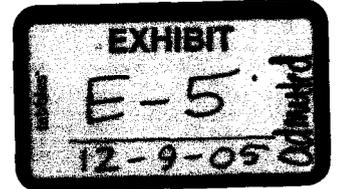


OFFICIAL RECORDS OF
PINAL COUNTY RECORDER
LAURA DEAN-LYTLE

WHEN RECORDED, RETURN TO:

Mary Ridgell
City Clerk
City of Eloy
628 North Main Street
Eloy, Arizona 85231

DATE/TIME: 06/10/04 1536
FEE: \$85.00
PAGES: 153
FEE NUMBER: 2004-043279



PRE-ANNEXATION AND DEVELOPMENT AGREEMENT

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LIST OF EXHIBITS

Exhibit A – Legal Description

Exhibit B – Specific Plan

Exhibit C – Eloy City Council Minutes for Eloy Valley General Plan and Rezoning Actions

Exhibit D – Dispute Resolution

PRE-ANNEXATION AND DEVELOPMENT AGREEMENT FOR ELOY VALLEY

THIS PRE-ANNEXATION AND DEVELOPMENT AGREEMENT ("**Agreement**") is entered into pursuant to Arizona Revised Statutes § 9-500.05 as of the 24th of November, 2003, by and between MARKLIN PROPERTIES, LLC, an Arizona limited liability company, (the "**Developer**") and the CITY OF ELOY, a municipal corporation of the State of Arizona (the "**City**").

RECITALS

A. Marklin Properties, LLC, Muzz Investments, LLC, and Kaneris LLC (collectively "**Owners**") own certain real property located within Pinal County, Arizona, and the City consisting of approximately 4,520 acres, legally described in attached **Exhibit "A"** (the "**Property**"). Developer has a contractual interest in the Property and intends to acquire the Property from Owners. If Developer does not acquire the Property, the rights and obligations contained in this Agreement shall remain with Owners. Owners have consented to Developer entering into this Agreement, and Owners' rights and obligations in this Agreement shall terminate upon acquisition by the Developers of the Property.

B. Developer and City desire that the portions of the Property not already within the corporate limits of City be annexed into the corporate limits of City and be developed as an integral part of City. The annexation and development of the Property pursuant to this Agreement and the Specific Plan (the "**Specific Plan**"), which is attached hereto as **Exhibit "B,"** is acknowledged by the parties hereto to be consistent with City's General Plan, as may be amended prior to this Agreement, and to operate to the benefit of City, Developer and the general public. The annexation of the Property would allow City to provide for high-quality development in the area and to ensure orderly, controlled and quality growth in City.

C. It is understood and agreed that only the Property set forth in **Exhibit "A"** is included in this Agreement.

D. A development agreement will advance the development of the Property by facilitating the annexation, proper municipal zoning designation, and development of the Property by establishing: (i) conditions, terms, restrictions and requirements for the annexation of the unincorporated portions of the Property to City; (ii) the permitted uses for the Property; (iii) the density and intensity of such uses; (iv) the phasing over time of construction and development of the Property; (v) approved zoning variances; (vi) conditions and requirements for the design, construction and installation of the infrastructure; and (vii) City's assurances to Developer in order to develop the Property.

E. A blank annexation petition has been filed with Pinal County and meetings and hearings have been held in connection with the annexation of the Property into City. City agrees that the Planned Area Development zoning designation (**P.A.D.**) is appropriate for this Property and that the Specific Plan is designed to establish proper and beneficial land use designations and regulations, densities, provisions for public facilities, design regulations, procedures for administration and implementation and other matters related to the development of the Property in accordance with the Planned Area Development zoning designation. Before the execution of this Agreement, City shall conduct public hearings and receive public comment and shall otherwise duly consider all such matters.

F. Developer and City acknowledge that the phased development of the Property is a major undertaking for Developer and that Developer has already incurred significant costs and expenses and will continue to incur substantial expenses in reliance on this Agreement and the approval of the Specific Plan including, without limitation, costs to design and construct lots, streets, sewer and water lines, other utility lines and infrastructure, park sites, trails and other amenities, professional and consulting fees, application fees, and other costs, fees and expenses. Therefore, Developer requires certain assurances and protection of rights in order that Developer will be

allowed to complete the development of the Property in accordance with the Specific Plan over the period of years permitted by this Agreement. Likewise, City requires assurances from Developer that the development of the Property will comply with the Specific Plan and the terms and conditions of this Agreement.

G. City and Developer acknowledge that the development of the Property pursuant to the Specific Plan may result in significant benefits to City by, among other things, (i) providing for the acquisition, design, construction and installation of infrastructure as part of the development, (ii) increasing tax and other revenue to City as a result of the improvements constructed on the Property, and (iii) the possible additional employment through the development of the Property.

H. The infrastructure improvements to be provided by Developer, while necessary to serve development within the Property, also are needed in certain instances to facilitate and support the ultimate development of a larger land area that includes the Property. Given the regional significance of such infrastructure improvements and development of the Property, City is willing to act in good faith in considering the use of various public and/or quasi-public financing methods as provided in this Agreement, subject to the requirements of the City of Eloy Subdivision Regulations.

I. City acknowledges that portions of such infrastructure improvements will be provided as part of the early phases of development of the Property, before the time when such infrastructure improvements would otherwise be required to serve completed phases of the development within the Property and, therefore, before the time Developer might otherwise be required to provide or contribute to the cost of same and before the time that the expense of such infrastructure improvements otherwise would be justified by the phasing of development of the Property. Developer is willing to provide such infrastructure improvements earlier than otherwise required for its private development of the Property only with the assurances that it will be able to complete development of the Property as provided in this Agreement. In this respect, the infrastructure improvements and dedications provided for herein, together with the development contemplated by this Agreement, are interdependent and together comprise an indivisible project.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions, it is agreed as follows:

AGREEMENT

1. **INCORPORATION OF DOCUMENTS AND RECITALS.** All documents and exhibits referred to in this Agreement are hereby incorporated by reference into this Agreement, and the Recitals stated above are hereby incorporated by reference into this Agreement.

2. **ANNEXATION.** City, having held public meetings thereon, has, concurrently with its approval of this Agreement, duly considered and approved the annexation of the portions of the Property not already in the City to the City. As soon as reasonably possible after execution of this Agreement by City and Developer, Developer shall deliver to City an appropriate Petition for Annexation duly executed by all necessary property owners (the "Annexation Petition"). Upon receipt of the Annexation Petition, City agrees to comply with the provisions of A.R.S. § 9-471 *et. seq.* and, if determined to be in the best interest of City, adopt the final ordinance annexing the Property into the corporate limits of City, which ordinance shall include a provision providing for the timely rescission of the annexation ordinance by City if, within the time frame provided by law: (a) any party files a verified petition with City challenging the validity of the annexation; (b) City does not approve the P.A.D. consistent with the Specific Plan following the annexation of the Property by City; (c) any party files a verified referendum petition with City challenging the P.A.D. or the Specific Plan; or (d) any party files a verified referendum petition with City challenging the validity of this Agreement. City expressly acknowledges and agrees that the Annexation Petition and this Agreement will have been executed and delivered to City contingent on City's adoption of the ordinance described above, including the rescission provisions. City also expressly acknowledges and agrees that it shall take all appropriate action to rescind this Agreement if City does not adopt the final ordinance annexing the Property into the corporate limits of City following approval of this Agreement.

3. **SPECIFIC PLAN APPROVAL.** The Developer intends to develop the Property as a phased, master planned community. The Developer will develop the Property in accordance with the Specific Plan. The Eloy City

Council will consider Resolution No. 03-925, the Major Amendment to the General Plan for Eloy Valley, and Ordinance No. 03-550, the zoning for Eloy Valley before December 31, 2003. A copy of the Eloy City Council minutes for Resolution No. 03-925 and Ordinance No. 03-550 will be attached before recordation of this Agreement as **Exhibit "C."** For the term of this Agreement, Developer shall have a vested right to develop the Property in accordance with this Agreement and the Specific Plan and in conformity with applicable general law. In no event shall City require Developer to waive a development right as a condition of development approval or issuance of a permit, without the consent of Developer.

4. TERM AND EFFECTIVE DATE. The Council grants to Developer, its successors and assigns, the right to implement in phases the Specific Plan under the terms and conditions of the Specific Plan and this Agreement for an initial period of twenty (20) years, with an additional five (5) years: (a) automatically if Developer has completed construction on thirty percent (30%) of the residential lots; or (b) upon approval by Council if Developer has not met the milestone listed in this Paragraph 4, unless terminated earlier as set forth below ("**Applicable Period**"). All development on the subject property shall be subject to the provisions set forth in Paragraph 12 below. This Agreement shall become effective and commence upon the execution of this Agreement by the parties hereto and execution of the acceptance of this Agreement by any other parties holding fee title to any portion of the Property.

5. RIGHTS RUN WITH THE LAND. The rights established under this Agreement and the Specific Plan are not personal rights but attach to and run with the Property, pursuant to the provisions set forth below in Paragraph 6 entitled "Termination." Upon the effective date of this Agreement, Developer and its successors are entitled to exercise the rights granted pursuant to this Agreement. This Agreement shall be interpreted and construed so as to preserve any vested and/or estoppel rights respecting Developer and/or the Property already existing under applicable law. Upon Developer obtaining in writing from its successor for delivery to City successor's acknowledgement and acceptance of this Agreement and agreement to comply with the obligations contained in this Agreement, Developer shall be liable only for performance of Developer's obligations under this Agreement during the period Developer owns the Property.

6. TERMINATION.

A. End of Applicable Period. This Agreement terminates at the end of the applicable period established above. However, if a building permit has been issued before the termination date, this Agreement and the right to develop under this Agreement remains valid until the building permit expires, but in no event for longer than one year and according to standards in effect at the time of permit issuance. Upon expiration of the building permit, only principal structures for which footings or foundations have been completed may be finished under this Agreement.

B. Upon Sale of Subdivided Lots. It is the intention of the parties that although recorded, this Agreement shall not create conditions or exceptions to title or covenants running with the Property when sold to the end purchaser or user. Therefore, in order to alleviate any concern as to the effect to this Agreement on the status of title to any of the Property, so long as not prohibited by law, this Agreement shall automatically terminate without the execution or recordation of any further document or instrument as to any lot (a "**Subdivided Lot**") which has been finally subdivided and individually (and not in bulk) leased (for a period of longer than one year) or sold to the end purchaser or user thereof, and thereupon such Subdivided Lot shall be released from and no longer subject to or burdened by the provisions of this Agreement. This Paragraph shall not apply to Paragraphs 3, 10, and 12, and such Paragraph shall terminate as to a Subdivided Lot only when construction of the permitted structures on the Subdivided Lot is complete and City has issued a certificate of occupancy for same. The term Subdivided Lot shall include commercial parcels as well as the residential lots into which the Property is divided and sold, and the end user or purchaser of the commercial parcels means the party purchasing such parcels from Developer.

C. Failure to Submit Preliminary Plat. This Agreement terminates in the City's sole discretion if the Developer fails to submit to the City a preliminary plat in acceptable form for the first phase of the development of the property within ten years of the execution of this Agreement by the parties hereto.

7. COMPLIANCE AND MODIFICATIONS. The development of the Property shall be in accordance with the Specific Plan and this Agreement unless otherwise amended pursuant to Paragraph 12, "**Applicable Law.**"

There may be occasions when deviations from the Specific Plan may be appropriate. Such deviations shall be addressed in accordance with the Specific Plan Administration section of the Specific Plan.

8. **DENSITY.** As long as the maximum number of dwelling units provided for in the Specific Plan does not increase, Developer shall have the right, consistent with and subject to the conditions of the Specific Plan, to transfer density from one residential parcel to another based upon a change in the housing market and/or site conditions on the Property. Such density transfer shall not exceed one step (e.g., Estate Residential to Medium Density residential) as depicted in the Land Use Element of the Eloy General Plan. If and when Developer and City find that such density transfers are necessary or appropriate, they shall effectuate such transfers through administrative amendments approved by the Planning Director or his designee which, after execution, shall be attached to the Specific Plan or this Agreement, as applicable, as an addendum and become a part thereof, and may be further changed and amended from time to time as necessary with the approval of Developer and City. Such addendum shall show the revised distribution of dwelling units on the Property and how the maximum dwelling units provided for in the Specific Plan is being maintained. Developer and City agree that any density transfer that conforms to this Paragraph shall be incorporated by reference into this Agreement with the same force and effect as if set forth herein and shall not require a corresponding amendment to this Agreement.

9. **IMPLEMENTATION AND COOPERATION.** Developer is authorized to implement the types and uses, variances, densities and intensities, location of uses, minimum size of proposed lots and residences and other standards of design as now set forth in the Specific Plan. City agrees to cooperate by processing in a timely manner applications for approval and issuance of plans, specifications or plats which are consistent with the Specific Plan, subject to Developer having first complied with the ordinances and regulations applicable thereto, and all platting, application, permit requirements and Developer paying the then current applicable fees.

10. **PHASES.** It is Developer's intent to develop the Property in multiple phases over a twenty (20) year term. The physical boundaries for each of the phases will be identified with the first preliminary plat, and will be approximate and contingent upon market conditions and matters beyond the control of Developer. One or more of the phases or a portion of those phases may be undertaken contemporaneously. The physical boundaries of the phases (not the exterior physical boundaries of the Property as described in Exhibit "A") may be adjusted administratively a minor amount, as mutually agreed by Developer and City. For purposes of this Agreement, "phases" do not indicate sequence or other timing of development.

11. **DEVELOPMENT AND OTHER FEES.** If City adopts development impact fees that apply to the Property, Developer shall pay such fees at the time of and as a condition to issuance of the building permit for each dwelling unit or nonresidential building. Development on the Property shall receive a credit toward the development impact fees for the cost of all infrastructure that it constructs or has constructed for which a development impact fee is assessed and for the appraised value of land dedicated for public facilities as required by ARS § 9-463.01(d,e) in connection with development of the Property. Developer will be required to pay the then current applicable filing fees, plan review fees, permit fees, and building fees. Notwithstanding this provision, no park fee shall be charged for development of the Property as the Developer is providing on-site park amenities.

12. **APPLICABLE LAW.**

A. All development on the subject property shall comply with the City of Eloy Subdivision Ordinance and the City of Eloy Zoning Ordinance, both in effect as of June 30, 2004, and Developer's right to develop the subject property shall be protected pursuant to said development standards and Zoning Ordinance for a period of Five (5) years with an additional two (2) years, upon approval by Council, from the date of the execution of this Agreement by all parties. In the event of a conflict between the Specific Plan and any substantive changes to the Subdivision Ordinance/Zoning Ordinance adopted by City after the date both parties execute this Development Agreement, the Specific Plan shall control. Building and other applicable code and permit requirements applicable to and governing the development of the Property shall be those that are existing and in force for the City as of the date of Final Plat and/or Site Plan approval, whichever occurs later. Development fees applicable to and governing the development of the Property shall be those that are existing and in force for the City as of the date of permit issuance.

B. Permissible Additions to the Applicable Rules. Notwithstanding the provisions of Subsection A above, the City may enact the following provisions, and take the following actions, which shall be applicable to and binding on the development of the Property:

1. Specifically agreed to in writing by Developer;
2. Necessary to alleviate or otherwise contain a legitimate, bona fide harmful and noxious use of the Property.
3. Required or mandated by state, federal or case law;
4. Changes to the City Building Code Ordinance and other similar construction and safety-related codes. Amendments to such construction and safety codes generated by the City for the purposes of conforming such codes to the conditions generally existing in the City, provided that such code amendments shall be applied in the most minimal and least intrusive manner that is practicable under the circumstances.

Nothing shall be interpreted as relieving Developer of any obligations that it may have with respect to laws and regulations enacted by the Federal government or the State of Arizona that apply to the Property. Nothing in this Agreement shall alter or diminish City's authority to exercise its eminent domain powers.

13. **INFRASTRUCTURE.** Developer will submit for review and approval the plans for grading, drainage, sewer, water, and roadway improvements and other infrastructure as necessary and required for the Specific Plan (collectively referred to as "**Infrastructure**"). City acknowledges that Developer intends to develop the Property in phases and that the size and timing of development will be dictated by market conditions. City agrees that the Infrastructure will be constructed in phases as set forth in the Specific Plan, subject to fulfillment of the requirements of this Agreement.

14. **INFRASTRUCTURE DESIGN CONCEPTS.** The City design standards, requirements and specifications ("**Engineering Design Standards for Infrastructure**"), in the City of Eloy Subdivision Code in effect as of June 30, 2004, or as thereafter amended and in effect at the time of design of the Infrastructure and any exceptions or variances specifically described in the Specific Plan or such exceptions and variances as may be granted by City or in this Agreement shall be the standard used for infrastructure requirements and design criteria for the Property. Developer shall notify the City Engineer at the time design is started for the Infrastructure or a portion thereof to determine the then applicable Engineering and Design Standards for Infrastructure. These Engineering Design Standards for Infrastructure shall include, but not be limited to, design criteria for site drainage, grading, paving, water system, and sewer system, as well as materials specifications for infrastructure improvements required by the Engineering Design Standards for Infrastructure. City and Developer acknowledge that amendments to the plans for the Infrastructure and/or the Infrastructure design standards and specifications for the Property may be necessary from time to time.

15. **INFRASTRUCTURE CONSTRUCTION.** Construction of the Infrastructure shall be performed in a workmanlike manner and in compliance with applicable federal, state and local laws. To the maximum extent practical, the prior dedication of any easements or rights-of-way shall not affect or proscribe Developer's rights to construct the Infrastructure. The parties hereto acknowledge and agree that City, as necessary to implement construction of the Infrastructure, shall cooperate reasonably and may assist in:

- A. At the sole cost of Developer, the abandonment of any unnecessary public rights-of-way or easements currently located on the Property and not otherwise used or required by other members of the public;
- B. At the sole cost of Developer, the acquisition and/or condemnation of any private property as may be necessary for public rights-of-way or easements not currently located on the Property and required to be consistent with the Specific Plan or to provide access to the Property pursuant to the Specific Plan; and

C. Submitting request or filing applications, or entering into appropriate intergovernmental agreements with Pinal County or other appropriate governmental entities regarding the acquisition or abandonment of public rights-of-way or easements necessary to develop the Property.

D. Obtaining grants or funds from other funding sources to beautify and develop Toltec Highway with enhanced landscaping to and through the Property, at no expense to City.

16. INFRASTRUCTURE FINANCIAL ASSURANCES. Before recordation of a particular final plat, City shall require Developer to provide financial assurances to City where appropriate and necessary to assure the installation of the Infrastructure directly related to such final plat for construction of the Infrastructure. All financial assurances provided by Developer shall relate to that construction which Developer undertakes. Developer may elect one of the following methods of assurance:

A. An irrevocable letter of credit from a recognized financial institution acceptable to City, authorized and licensed to do business in the State of Arizona; or

B. Cash or certified bank funds to be held by City in an escrow account; or

C. A performance surety bond executed by a company acceptable to City and licensed to do surety business in the State of Arizona; or

D. Any other method of assurance approved by the City.

City may allow a partial release of assurances for a portion of a phase in which the Infrastructure has been completed rather than waiting for a total release upon completion of the Infrastructure for an entire phase.

17. DEDICATION OF INFRASTRUCTURE. Upon completion of the installation and construction of the Infrastructure or a portion thereof and acceptance by the City, Developer shall convey the completed Infrastructure to City lien and debt free and deliver "as built" plans to City for such Infrastructure. Developer shall warrant to City the construction of all Infrastructure against defective workmanship and/or materials for a period of one (1) year from the date of acceptance of such Infrastructure. The procedure for dedication and acceptance of Infrastructure by City shall be as follows:

A. Developer shall give City written notice promptly following completion of Infrastructure (or any portion thereof) so long as any portion of completed Infrastructure is a discrete portion and its suitability for its purpose can be adequately determined when compared to the whole.

B. Within a reasonable time after its receipt of such notice, City shall inspect the Infrastructure identified within the notice to confirm whether it has been constructed in accordance with the City-approved plans and specifications therefore, and upon completion of the inspection, and upon acceptance by the Arizona Department of Environmental Quality (ADEQ), when applicable, and all relevant federal, state, and local permitting and reviewing agencies, City shall deliver written notice to Developer either (i) approving construction and agreeing to accept conveyance of Infrastructure and assume maintenance responsibility therefore (subject to Developer's warranty obligations), it being understood that separate acceptance notices will be issued for each component of Infrastructure; or (ii) identifying the specific items that are not in accordance with the City-approved plans and specifications and that are corrected by Developer; and

C. The one-year warranty shall commence as to each component of Infrastructure as of the date City delivers its written notice of acceptance.

City shall own, operate, and maintain all dedicated Infrastructure following City's acceptance thereof, subject to Developer's warranty obligations as provided in this subparagraph. City shall give written notice to Developer of any warranty claims within thirty (30) days after the expiration of the applicable one-year warranty period; any claims received after such date shall not be effective and Developer shall have no obligation with respect thereto.

18. COMMUNITY FACILITY DISTRICT.

In addition to the forms of assurances permitted by Section 15-9(h) of the Eloy Subdivision Rules and Regulations effective on the date of this Agreement and discussed in Paragraph 16 of this Agreement, Developer may propose a Community Facilities District for the purpose of funding not more than twenty five (25%) of the total cost of infrastructure improvements required for the Development Plan, subject to the following conditions:

A. Developer shall be solely and completely responsible for all costs associated with the establishment of the Community Facilities District, including legal and consultant fees, publication expenses, as well as any and all costs associated with the actual bond process.

B. Any proposal for creation of a Community Facilities District shall be reviewed by the City's bond counsel to determine potential liability issues. The City shall retain the right to reject any and all proposals for the creation of a Community Facilities District based upon liability issues as determined by the City's bond counsel and/or the City Attorney.

C. Developer shall be solely and completely responsible for preparing and submitting any and all materials, documentation, forms, and transcriptions, filings and/or recordations thereof, as may be necessary for the establishment and operation of the Community Facilities District, including but not limited to notices, applications, and/or petitions as required by Arizona law and/or Eloy City Code subject to review, approval, revision by the City's bond counsel and/or City Attorney.

19. **OVERSIZING OF INFRASTRUCTURE.** Developer or Assignee (or a designated representative, e. g., engineering consultant) shall conduct a pre-design meeting with the City Engineer or his representative at which time Developer or Assignee (or designated representative) shall present their calculations for the design of water or sewer infrastructure improvements for all or any specific Phase of the development. Within fourteen (14) working days after the pre-design meeting, the City shall provide notice to Developer or Assignee (or designated representative), in writing, as to the nature and extent of the oversizing (the "Oversizing Notice"), if any, that the City shall require as a condition of approval. Within ninety (90) days after the date of the Oversizing Notice, Developer or Assignee shall provide to the City a written estimate of the differential costs, including engineering, labor and materials, attributable to the required oversizing (the "Differential Costs"). Within fourteen (14) working days after the City receives from Developer or Assignee a written estimate of the Differential Costs as provided in this section, the City and Developer or Assignee shall agree upon the amount of the estimated Differential Costs due by the City to Developer or Assignee, which amount shall be adjusted if appropriate based on the actual construction costs. If the City decides to withdraw its oversizing request as a condition of approval of the water or sewer infrastructure improvement plans, within thirty (30) days after the City receives from Developer or Assignee a written estimate of the Differential Costs, the City shall provide Developer or Assignee written notice of its intent to withdraw the oversizing request, at which time Developer or Assignee may proceed with the City's infrastructure improvement approval process without incorporating the oversizing request. If the City requires oversizing of water or sewer infrastructure improvements, after completion of construction the City shall reimburse the Differential Costs to Developer or Assignee within sixty (60) days of the City's receipt of an invoice from Developer or Assignee verifying the Differential Costs. The City shall reimburse the invoice amount less ten percent (10%). Ten percent (10%) of the invoice amount shall be reimbursed to Developer or Assignee only after each Phase of the water or sewer infrastructure subject to the oversizing request has been inspected and accepted for dedication by the City.

20. **STREETS.** Developer shall construct the streets and roadways in compliance with "City of Eloy Subdivision Regulations and Requirements and Minimum Standards for Subdivision Street Paving" in existence as of June 30, 2004. At the time of platting, Developer will make an election whether or not to keep any or all of the streets private. At the preliminary plat stage, by mutual agreement of the specific alignment, City may require some realignment of internal streets for the purpose of providing access to existing arterial roads. Acceptance of public streets into the City highway maintenance system shall be in accordance with A.R.S. § 9-463.01. Incorporated into this document by reference is that certain document titled "Eloy Valley Master Plan Transportation Study" dated May 5, 2003 and prepared by Curtis Lueck & Associates (CLA). Specific reference is made to Page 21 of said document and which page addresses "Recommended Improvements" (Exhibit 11) and a "Transportation and Land Use Monitoring Plan". The recommended improvements listed refer to existing city roads that will be impacted by

the traffic generated by the Development (Eloy Valley). Prior to consideration by the City of Eloy for the approval of any plat, the Developer or Assignee shall submit, for approval by the City Engineer, a plan by which the Developer or Assignee commits to a financing mechanism to provide funds necessary for the design and construction of the recommended roadway improvements listed in the referenced transportation study and the need for which improvements are attributable to the impacts generated by the Development.

21. WASTEWATER TREATMENT. As part of Phase I construction of any improvements on the Property, City and Developer shall cooperate in good faith to cause the construction of either a new regional sewage and wastewater treatment facility on the Property (expandable to Five Million Gallons Per Day, 5 MGD) with an initial capacity to treat no less than 300,000 gallons per day or an interim wastewater treatment facility with the capacity to treat 60,000 gallons per day or more, all subject to the approval of the City Engineer. A new regional sewage and wastewater treatment facility on the Property shall use technology that is consistent in quality with proven sewage and wastewater treatment technologies. If an interim wastewater treatment facility is operated on the Property, construction of an expandable (up to 5 MGD) regional wastewater treatment facility shall begin at such time as said interim wastewater treatment facility reaches 80% of the 60,000 gallons per day capacity. The interim wastewater treatment facility shall be designed, constructed, and operated at Developer's cost. Any City sewer-related fees for Phase I of the development shall be placed in a segregated account to fund initial construction of, or future expansion of, the regional sewage and wastewater treatment facility on the Property. To the extent such City sewer-related fees are not sufficient to fund construction of, or expansion of, the regional sewer and wastewater treatment facility with an initial treatment capacity of 300,000 gallons per day, Developer agrees to pay for the shortfall. City shall cooperate to obtain Central Arizona Association of Governments ("CAAG") approval of any needed revision to the plan required by Section 208 of the Clean Water Act.

22. WATER SERVICES.

A. City confirms that it is designated as having an Assured Water Supply under A.R.S. § 45-576(D), and that it will extend its service area to include the Property, subject to and in consideration for Developer's covenants, as provided herein. City covenants that it will use its best efforts to remain designated as having an Assured Water Supply pursuant to the Arizona Groundwater Management Act, as it may be amended from time to time.

B. However, Developer acknowledges that the total water demand for the Property at build-out currently exceeds the total groundwater credit for the Property. Developer covenants that it will cooperate with, and participate in City's efforts to remain designated as having an Assured Water Supply pursuant to the Arizona Groundwater Code, the Assured and Adequate Water Supply Rules adopted by Arizona Department of Water Resources (ADWR), as well as any specific requirements imposed by ADWR upon City concerning City's Designation of Assured Water Supply.

C. Prior to the recordation of any final subdivision plat affecting all or any portion of the Property, Developer shall obtain DWR's consent to modify City's Designation of Assured Water Supply so that City's demonstrated ground water supply (the "physical, legal and continuous availability demonstration") shall be enlarged in amounts sufficient to serve the Property.

D. Developer shall extinguish all Grandfathered Groundwater Rights and transfer all credits related to the Property to City, and/or otherwise meet all requirements of this Paragraph 22, as a condition of new water service. Until all Grandfathered Groundwater Rights have been extinguished, prior to the recordation of any final subdivision plat affecting all or any portion of the Property, the Developer shall extinguish a sufficient quantity of Grandfathered Groundwater Rights and transfer to City all assured water supply credits that may be issued by the ADWR resulting from the extinguishment of said Grandfathered Rights as are necessary for City to remain designated as having an assured water supply for the portion of the Property affected by said subdivision plat. For any phases of development of the Property after all Grandfathered Groundwater Rights related to the Property have been extinguished with credits transferred to City, Developer agrees that said phases shall be served by renewable water sources, including surface, effluent, effluent recharge, CAP and CAP recharge, at no expense to City or its customers located outside the Property.

E. In accordance with water service agreements to be entered into between City and Developer prior to City's delivery of water to the Property, Developer, will construct, to all applicable standards, the necessary water infrastructure to serve the Property, which shall include such water treatment, storage, recharge, pumping and delivery systems as may be necessary for City to remain designated as having an Assured Water Supply for the Property. Developer further agrees that City shall be entitled to any and all storage and recharge credits resulting from the facilities and programs constructed and implemented as part of this Paragraph 22. Recharge credits resulting from the use of such facilities originating from the Property shall be attributed to the Development for purposes of meeting its assured water supply obligation herein. Upon completion of the water infrastructure, and acceptance by the City, and after any applicable construction warranty periods, Developer will convey the completed and accepted water service infrastructure to the City for operation and maintenance. Upon conveyance by the Developer and acceptance by the City of the water service infrastructure, the City shall, at its own cost and expense, operate and maintain such infrastructure.

F. Developer acknowledges that the City reserves the right to pass through CAGRDR replenishment assessments to water customers located within the Property, where the City's obligations to provide water to such users are the cause of the City having incurred CAGRDR assessments.

23. REGIONAL PARKS/FIRE STATION SITE. Developer shall construct four regional parks, as specified below:

A. Park with Catch and Release Lake. Developer may construct, a 25-acre regional park at a site designated on **Exhibit "B."** Developer's cost of construction of the regional park shall not exceed \$2.5 million in 2003 dollars. The regional park may include a catch and release lake, a landscaped pedestrian trail around the lake, an outdoor/open air amphitheater, public restrooms, and an exercise par-course. Developer or successors and assigns, including homeowners' association(s) shall, at its own cost and expense, operate and maintain the regional park and its amenities in accordance with all applicable federal, state, and local standards.

B. Additional Regional Parks. Developer shall construct, three 30-acre regional parks at sites designated on **Exhibit "B."** Developer's cost of construction of each of these three regional parks shall not exceed \$400,000.00 in 2003 dollars. Developer or successors and assigns, including homeowners' association(s) shall, at its own cost and expense, operate and maintain each of these regional parks and their its amenities in accordance with all applicable federal, state, and local standards. Developer shall dedicate each of the three regional parks to City when 75% of the residential lots in the particular phase in which each park is located have been sold to the end purchasers. Upon dedication to City, the City shall operate and maintain each regional park and its amenities.

C. Fire Station Site. Developer shall reserve an approximate two and one-half acre site, in a location mutually agreeable to the Developer, the City, and the fire district that will provide fire protection and emergency services to the Property, for the location of a fire station. The City anticipates that a police substation will be co-located within the facilities constructed by the district on the site.

24. SCHOOL DISTRICT AGREEMENT. Developer shall work with Eloy Elementary School District, Toltec Elementary School District, Santa Cruz Valley Union High School District, Casa Grande High School District, and any other impacted public school district to dedicate school sites, or provide an in lieu fee, to the impacted school district at the time of platting of residential phases to accommodate students generated by development of the Property.

25. DEFAULT. Failure or unreasonable delay by either party to perform or otherwise act in accordance with any term or provision of this Agreement for a reasonable time after written notice thereof from the other party, shall constitute a default under this Agreement. Said notice shall specify the nature of the alleged default and the manner in which said default may be satisfactorily cured, if possible. In the event such default is not cured within the a reasonable time, the non-defaulting party shall have all rights and remedies that are set forth in Paragraph 26, "Dispute Resolution/Remedies."

26. DISPUTE RESOLUTION/REMEDIES.

A. Representatives. To further the cooperation of the parties in implementing this Agreement, the City and Developer each shall designate and appoint a representative to act as a liaison between the City and its various departments and the Developer. The initial representative for the City ("City Representative") shall be the City Manager and the initial representative for the Developer shall be its project manager, as identified by the Developer from time to time ("Developer Representative"). The representatives shall be available at all reasonable times to discuss and review the performance of the parties to this Agreement and the development of the Property.

B. Arbitration. In the event that there is a dispute hereunder which the parties cannot resolve between themselves, the parties agree that they shall submit the dispute for resolution in the manner and process set forth in Exhibit "D." The parties shall be limited to the remedies and dispute resolution process set forth in this Section and in Exhibit "D." Any dispute, controversy, claim, or cause of action arising out of or relating to this Agreement shall be governed by Arizona law. Developer and City agree that any decision rendered by the Panel (as defined in Exhibit "D") pursuant to the provisions of Exhibit "D" shall be binding on both parties, and if either party does not abide by the decision rendered by the Panel, the other party may institute an action for money damages on the issues that were the subject of the Panel's decision and/or any other relief as may be permitted by law.

27. **NOTICES.** All notices, filings, consents, approvals and other communications provided for herein or given in connection herewith shall be in writing and delivered personally or sent by United States Mail in a postage prepaid envelope to the address provided herein or as may be changed in writing:

To City: City of Eloy Planning and Development Department
Attn: Planning Director
801 North Main
Eloy, Arizona 85231
Facsimile No. (520) 464-1438

With a copy to: City Manager
628 North Main
Eloy, Arizona 85231
Facsimile No. (520) 466-3161

To Developer: Marklin Properties, LLC
15770 North Greenway, #104
Scottsdale, Arizona 85260
Facsimile No. (480) 348-7459

With a copy to: Dana Stagg Belknap, Esq.
Gallagher & Kennedy, P.A.
2575 East Camelback Road
Phoenix, Arizona 85016-9225
Facsimile No. (602) 530-8500

28. **ESTOPPEL CERTIFICATE.** Either party may request of the other party, and the requested party shall, within twenty-one (21) calendar days, respond and certify by written instrument to the requesting party that (a) the Specific Plan is unmodified and in full force and effect, or if there have been modifications, that the Specific Plan is in full force and effect as modified, stating the nature and date of such modification, (b) the existence of the default under the Specific Plan and the scope and nature of the default; (c) the existence of any counterclaims which the requested party has against the other party; and (d) any other matters that may reasonably be requested in connection with the development of land, development of the Property, any financing thereof, or any material aspect of the Specific Plan. In the event Developer has not received an estoppel certificate within twenty-one (21) days from the date of the request, then in such event, Developer shall be entitled to prepare an estoppel certificate and deliver the certificate to City and such estoppel certificate shall be binding upon City.

29. **AGREEMENTS RELATING TO PUBLIC SAFETY.** For public safety purposes and with the written consent of Developer, City may provide for the application of speed limits, weight restrictions or other safety measures on private roadways located within the Property which are open to use and used by the public.

30. **WAIVER.** No delay in exercising any right or remedy by either City or Developer shall constitute a waiver thereof. Waiver of any of the terms of this Agreement or the Specific Plan shall not be valid unless in writing and signed by all parties hereto. The failure of any party to enforce the provisions of this Agreement or the Specific Plan or require performance of any of the provisions shall not be construed as a waiver of such provisions or affect the right of the party to enforce all of the provisions of this Agreement and the Specific Plan. Waiver of any breach of this Agreement or the Specific Plan shall not be held to be a waiver of any other or subsequent breach thereof.

31. **BINDING EFFECT.** This Agreement and the Specific Plan shall be binding upon City and Developer and their respective successors and assigns.

32. **CHOICE OF FORUM/VENUE.** Any suit or action brought under this Agreement shall be commenced in Superior Court of the State of Arizona in and for the County of Pinal, Florence, Arizona, but only after exhausting all possible administrative remedies. Such a suit or action may be removed therefrom only upon the mutual agreement of City and Developer. The parties hereby waive all provisions of law providing for a change of venue in such proceeding to another county.

33. **CHOICE OF LAW.** The laws of the State of Arizona shall be applied to the validity, performance and enforcement of all provisions of this Agreement.

34. **EXERCISE OF AUTHORITY.** It is understood and agreed that Developer shall not in any way exercise any portion of the authority or sovereign powers of City and shall not make or contract or commit or in any way represent itself as an agent for City. Nothing in this Agreement be construed to create a principal agency relationship between the parties.

35. **RECORDATION.** This Agreement shall be filed for recording with the Pinal County Recorder, Pinal County, Arizona, not later than ten (10) days after execution of this Agreement and the delivery of Developer's acceptance to the Clerk of the City.

36. **DISCLAIMER.** City enters into this Development Agreement and has approved the Specific Plan upon the condition that no elected officer, employee or agent of City shall be charged personally or held contractually liable by Developer under any term or provision of this Agreement as amended or because of any breach thereof or the execution or purported execution except as may be expressly agreed to in writing by City, except for any such person's failure to act in good faith or in a reasonable manner.

37. **SEVERABILITY OF PROVISIONS.** Each part, term and provision of this Development Agreement shall be considered severable and if, for any reason, any provision or provisions hereof are determined by a Court to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation or affect those portions of this Development Agreement which are valid. Said illegal or invalid part, term or provision shall not be deemed a part of this Agreement, notwithstanding any other provision of this Agreement to the contrary.

38. **CONFLICT OF INTEREST.** This Development Agreement is subject to the provisions of A.R.S. §38-511, but the parties do not believe that any such reasons for cancellation of this Agreement pursuant to said statute now exist.

39. **MORTGAGE PROVISIONS.**

A. **Mortgagee Protection.** This Agreement shall be superior and senior to any future lien placed upon the Property, or any portion thereof, including the lien of any mortgage or deed of trust (herein "**Mortgage**"). However, no breach hereof shall invalidate or impair the lien of any Mortgage made in good faith and for value, and any acquisition or acceptance of title or any right or interest in or with respect to the Property or any portion thereof

by a mortgagee (herein defined to include a beneficiary under a deed of trust), whether under or pursuant to a mortgage foreclosure, trustee's sale or deed in lieu of foreclosure or trustee's sale, or otherwise, shall be subject to all of the terms and conditions contained in this Agreement. No mortgagee shall have an obligation or duty under this Agreement to perform Developer's obligations or other affirmative covenants of Developer hereunder, or to guarantee such performance; except that to the extent that any covenant to be performed by Developer is a condition to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder.

B. Notice of Default to Mortgagee and Right to Cure. If City receives notice from a mortgagee requesting a copy of any notice of default given Developer hereunder and specifying the address for service thereof, then City shall deliver to such mortgagee, concurrently with service thereon to Developer, any notice given to Developer with respect to any claim by City that Developer has not complied in good faith with the terms of this Development Agreement or has committed an event of default. Each mortgagee shall have the right (but not the obligation) for a period of 90 days after the receipt of such notice from City to cure or remedy the claim of default or noncompliance set forth in City's notice. If the default is of a nature which can only be remedied or cured by such mortgagee upon obtaining possession, such mortgagee shall seek to obtain possession with diligence and continuity through foreclosure, a receiver or otherwise, and shall thereafter remedy or cure the default or noncompliance within 30 days after obtaining possession. If any such default or noncompliance cannot, through the exercise of reasonable diligence, be remedied or cured within such 90-day or 30-day period, whichever shall apply, then such mortgagee shall have such additional time as may be reasonably necessary to remedy or cure such default or noncompliance if such mortgagee commences cure during such 90-day or 30-day period, whichever shall apply, and thereafter in good faith diligently pursues and completes such cure.

C. Bankruptcy. If any mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof by any process or injunction issued by any court or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Developer, the times specified in **Section 39. B** for commencing or prosecuting foreclosure or other proceedings shall be extended for the period of the prohibition, provided that such mortgagee is proceeding expeditiously to terminate such prohibition and in no event for a period longer than 2 years.

40. COVENANTS, CONDITIONS AND RESTRICTIONS. Developer shall have the right to record one or more declaration(s) of covenants, conditions and restrictions ("CC&Rs") to govern the development of the Property or any portion thereof. Any such CC&Rs shall be consistent with the spirit and intent of the Specific Plan and all applicable laws and regulations. Developer shall submit a copy of any such CC&Rs, together with the articles of incorporation, bylaws and rules pertaining to the establishment of any homeowners' association thereunder and any restrictive covenants associated with the development of the Property, for City staff review and comment prior to final plat approval for the portion of the Property to be subjected thereto.

41. TIME OF THE ESSENCE. Time is of the essence in implementing the terms of this Agreement.

42. INDEMNIFICATION.

A. Developer agrees to defend, indemnify and hold harmless City, its officers, officials and employees ("**Indemnified Group**") for liability from and against claims, damages, losses and expenses of any nature whatsoever (including but not limited to reasonable attorney fees, court costs, the costs of appellate proceedings, and all claim adjusting and handling expense), relating to, arising out of, resulting from or alleged to have resulted from the Developer's acts, errors, mistakes or omissions relating to any action or inaction of the Developer under this Agreement, including but not limited to work or services in the performance of this Agreement by any subcontractor or anyone directly or indirectly employed by or contracting with the Developer or a subcontractor or anyone for whose acts any of them may be liable. This indemnity provision shall apply solely to the extent that such claim, damage, loss, and/or expense is caused by Developer's negligent act or omission. This indemnity provision shall not apply to the extent the claim, damage, loss, and/or expense is caused, in whole or part, by the City and/or any third party unrelated to Developer.

B. If any claim, action or proceeding is brought against the Indemnified Group, by reason of any event that is the subject of this Agreement, Developer (at its sole cost and expense) shall pay, resist or defend

such claim or action on behalf of the Indemnified Group by the attorney of the Developer, or if covered by insurance, Developer's insurer, all of which must be approved by City, which approval shall not be unreasonably withheld or delayed. The City shall cooperate with all reasonable efforts in the handling and defense of such claim. Notwithstanding the foregoing, the City may engage its own attorney to defend or assist in its defense, and the Developer shall pay the reasonable costs and expenses thereof.

C. Any settlement of claims must fully release and discharge the Indemnified Group from any liability for such claims. The release and discharge shall be in writing and shall be subject to approval by the City, which approval shall not be unreasonably withheld or delayed. If Developer neglects or refuses to defend any of the Indemnified Group as required by this Agreement, any recovery or judgment against the Indemnified Group for a claim covered by this Agreement shall conclusively establish Developer's liability to the Indemnified Group in connection with such recovery or judgment. If the City desires to settle such dispute, the City shall be entitled to settle such dispute in good faith and Developer shall be liable for the amount of such settlement, and all expenses in connection with such settlement.

43. **ADDITIONAL ACTS AND DOCUMENTS.** Each party hereto agrees to do all such things and take all such actions, and to make, execute and deliver such other documents and instruments, as shall be reasonably requested to carry out the provisions, intent and purpose of this Agreement. If any action or approval is required of any party in furtherance of the rights under this Agreement, such approval shall not be unreasonably withheld.

44. **AMENDMENTS.** No amendments are to be made to this Agreement except by written document executed by City and Developer. Within ten (10) days after the execution of the amendment by both parties, the amendment shall be recorded with the Pinal County Recorder, Pinal County, Arizona. From time to time, Developer may apply to amend one or more of the residential or non-residential zoning districts which comprise the Specific Plan, and City shall act on such applications without such applications or actions requiring or constituting amendment to this Agreement so long as the overall number and density of dwelling units in residential zoning districts, or the total intensity of use (determined by floor area ratio) of the non-residential zoning districts does not exceed the approved maximums under the Specific Plan.

45. **ATTORNEYS FEES.** In the event it becomes necessary for a party to this Agreement to employ legal counsel or to bring an action at law or other proceedings to enforce any of the terms, covenants or conditions of this Agreement, the successful party in any such action or proceeding may apply for attorneys fees pursuant to A.R.S. § 12-341.01.

46. **HEADINGS.** The headings for the paragraphs/provisions of this Agreement are for convenience and reference purposes only and in no way define, limit or describe the scope or intent of said paragraphs/provisions nor in any way affect this Agreement.

47. **ENTIRE AGREEMENT.** This Agreement, including all documents and exhibits incorporated herein by reference, supersedes any and all other prior or contemporaneous agreements, understandings, inducements, and conditions, express or implied, either oral or written, except as herein contained and no statement, promise or inducement made by either party or the agent of either party that is not contained in this written Agreement, with respect to the subject matter hereof, shall be valid or binding.

IN WITNESS WHEREOF, the City of Eloy, Arizona by its Mayor and its Clerk, duly authorized, have affixed hereunto their hands and caused its official seal to be affixed on this 10th day of June, 2004.

CITY OF ELOY, a municipal corporation
of the State of Arizona

Manuel Salas
Mayor

Mary Ridgell
Clerk/Deputy Clerk

STATE OF ARIZONA)

) ss.

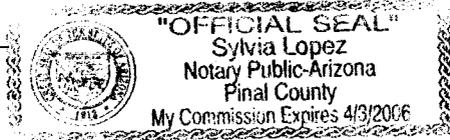
County of Pinal)

The foregoing instrument was acknowledged before me this 10th day of June, 2004, by Manuel Salas, and Mary Ridgell, Mayor and Clerk, respectively, of the City of Eloy, a municipal corporation of the State of Arizona, and being authorized to do so, executed the foregoing instrument on behalf of the City of Eloy for the purposes therein stated.

Sylvia Lopez
Notary Public

My Commission Expires:

04-03-06

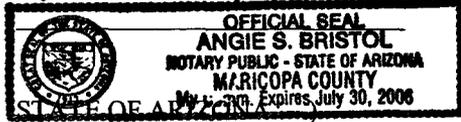


STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 26th day of May, 2004, by Owners, and being authorized to do so, executed the foregoing instrument on behalf of the entity for the purposes stated therein.

Angie S Bristol
Notary Public

My Commission Expires:

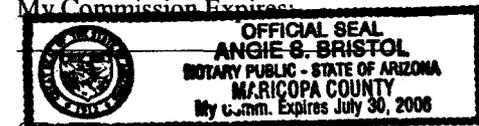


) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 26th day of May, 2004, by Owners, and being authorized to do so, executed the foregoing instrument on behalf of the entity for the purposes stated therein.

Angie S Bristol
Notary Public

My Commission Expires:

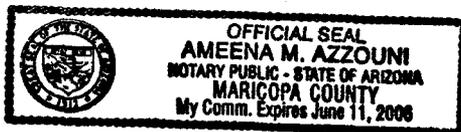


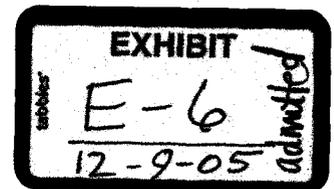
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 26 day of May, 2004, by Owners, and being authorized to do so, executed the foregoing instrument on behalf of the entity for the purposes stated therein.

Ameena M. Azzouni
Notary Public

My Commission Expires:





ARIZONA DEPARTMENT
OF WATER RESOURCES
Office of Assured and
Adequate Water Supply
500 North Third Street
Phoenix, AZ 85004

**NOTICE OF APPLICATION FOR
MODIFICATION OF A DESIGNATION
OF ASSURED WATER SUPPLY**

In accordance with Arizona Department of Water Resources A.A.C. R12-15-710, notice is hereby given that the City of Eloy, located within Pinal County, Pinal Active Management Area, has applied to the Department of Water Resources for a Modification of Designation of Assured Water Supply. The Department has determined that the application is administratively complete. The Modification of Designation of Assured Water Supply certifies the continuing availability of water to meet current, committed and a minimum of two years projected demand of the City of Eloy's municipal water system.

Objections to Issuance of Certificate

Any resident of the Pinal Active Management Area may file a written objection to the issuance of the Modification of Designation of Assured Water Supply with the Docket Supervisor of the Department of Water Resources, Legal Division, P.O. Box 458, Phoenix, AZ 85001-0458 by November 30, 2005. An objection must state the name and mailing address of the objector, be signed by the objector, his agent or attorney, and clearly set forth reasons why the Designation should not be issued. The grounds for objection are limited to whether the modification of designation application meets the criteria for determining an assured water supply, as defined in A.R.S. § 45-576, Subsection I.

November 4, 2005

Date

Doug Dunham,
Office of Assured Water Supply
Arizona Department of Water Resources
No. of publications: 2; dates of publica-
tions: Nov. 8, 15, 2005.

EXHIBIT
S-1
12-9/05
Chukwu

Daw us ✓
Kerts

FILE COPY MEMORANDUM

TO: Docket Control
FROM: Ernest G. Johnson
Director
Utilities Division

RECEIVED

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LEGAL DIV.
ARIZ. CORPORATION COMMISSION

Date: November 10, 2005

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AZ CORP COMMISSION
DOCUMENT CONTROL

RE: STAFF REPORT FOR ARIZONA WATER COMPANY - APPLICATION FOR EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY FOR ITS CASA GRANDE SYSTEM (DOCKET NO. W-0145A-05-0469)

Attached is the Staff Report for Arizona Water Company's application for extension of its existing Certificate of Convenience and Necessity to provide water service. Staff is recommending approval with conditions.

EGJ:BNC:tdp

Originator: Blessing Chukwu

Service List for: Arizona Water Company
Docket No. W-01445A-05-0469

Mr. Robert W. Geake
Arizona Water Company
Post Office Box 29006
Phoenix, Arizona 85038

Mr. Christopher C. Kempley
Chief, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Ernest G. Johnson
Director, Company Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

ARIZONA WATER COMPANY

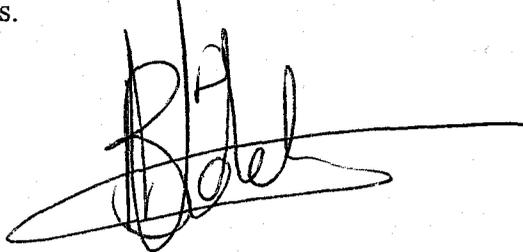
W-01445A-05-0469

APPLICATION FOR EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE
AND NECESSITY FOR ITS CASA GRANDE SYSTEM

NOVEMBER 2005

STAFF ACKNOWLEDGMENT

The Staff Report for Arizona Water Company (Docket No. W-01445A-05-0469) was the responsibility of the Staff members signed below. Blessing Chukwu was responsible for the review and analysis of the Company's application. Marlin Scott, Jr. was responsible for the engineering and technical analysis.

A handwritten signature in black ink, appearing to be 'B. Chukwu', with a long horizontal line extending to the right.

Blessing Chukwu
Executive Consultant III

A handwritten signature in black ink, appearing to be 'Marlin Scott, Jr.', with a stylized, cursive script.

Marlin Scott, Jr.
Utilities Engineer

EXECUTIVE SUMMARY
ARIZONA WATER COMPANY
APPLICATION FOR EXTENSION OF ITS EXISTING CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE WATER SERVICE
DOCKET NO. W-01445A-05-0469

On June 30, 2005, Arizona Water Company ("AWC" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") for an extension of its Certificate of Convenience and Necessity ("CC&N") to provide water service in portions of Pinal County, Arizona. On September 7, 2005, Staff filed a Sufficiency Letter indicating that the application had met the sufficiency requirements of Arizona Administrative Code.

AWC is an Arizona Corporation, in good standing with the Corporations Division, and engaged in providing water utility service to customers in various portions of Cochise, Coconino, Gila, Maricopa, Navajo, Pima, Pinal and Yavapai Counties in Arizona. According to the Company's Annual Report for the year ending December 31, 2004, the Company provides water utility service to approximately 72,800 customers in Arizona.

By this application, AWC is seeking Commission authority to add 8 different parcels (over 1,500 acres) to its CC&N. Two of the parcels are within the corporate city limits of the City of Eloy. The Water and Wastewater Systems Manager for the City of Eloy has informed Staff that the City of Eloy does not and would not give or issue any "consent, franchise or permit" to any water and/or wastewater utility company (including AWC) to provide utility services within its corporate city limits. The request will add approximately 12 square-miles to the Company's existing 138 square-miles of certificated area. The Company serves the City of Casa Grande in Pinal County.

Based on Staff's review and analysis of the application, Staff believes that the existing system will have adequate production and storage capacity to serve the existing and proposed CC&N extension areas within a conventional five year planning period and can reasonably be expected to develop additional production and storage as required in the future. However, the Company has indicated that it would be at least five years before it would serve its first customer in Parcels 4, 5, 6, 7, and 8.

Staff recommends the Commission approve AWC's application for extension of its existing Certificate of Convenience and Necessity to provide water service in Pinal County subject to compliance with the following conditions:

1. To require AWC to file with Docket Control an amended legal description excluding the Parcels that are within the corporate city limits of the City of Eloy, specifically, Parcels 2 and 8 prior to the hearing in this matter.
2. To require AWC to charge its authorized rates and charges in the extension area.

3. To require AWC to file with Docket Control, for Staff's review and approval, a copy of the fully executed main extension agreements for water facilities for each parcel within the extension area within 365 days of a decision in this case.
4. To require AWC to file with Docket Control, as a compliance item in this docket, a copy of the Arizona Department of Environmental Quality Approval To Construct ("ATC") for the facilities needed to serve the requested areas within one year of the effective date of an order in this proceeding.
5. To require AWC to file with Docket Control, as a compliance item in this docket, a copy of the developers' Certificate of Assured Water Supply, stating that there is adequate water supply, where applicable or when required by statute, within a year of the effective date of the final decision and order issued pursuant to this application.

Staff further recommends that the Commission's Decision granting the requested CC&N extension be considered null and void should the Company fail to meet the Condition Nos. 3, 4, and 5 listed above within the time specified.

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Introduction

On June 30, 2005, Arizona Water Company ("AWC" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") for an extension of its Certificate of Convenience and Necessity ("CC&N") to provide water service in portions of Pinal County, Arizona.

On July 21, 2005, the ACC Utilities Division ("Staff") filed an Insufficiency Letter, indicating that the Company's application did not meet the sufficiency requirements of Arizona Administrative Code ("A.A.C."). A copy of the Insufficiency Letter was sent to the Company via U.S mail. In the Letter, Staff listed the deficiencies that needed to be cured for administrative purposes.

On August 10 and 30, 2005, the Company provided additional documentation to support the relief requested.

On September 7, 2005, Staff filed a Sufficiency Letter indicating that the application had met the sufficiency requirements of A.A.C. R14-2-402.

On November 2, 2005, The City of Eloy filed an application to intervene in the proceeding.

Background

AWC is an Arizona Corporation, in good standing with the Corporations Division, and engaged in providing water utility service to customers in various portions of Cochise, Coconino, Gila, Maricopa, Navajo, Pima, Pinal and Yavapai Counties in Arizona. The Company is a wholly-owned subsidiary of Utility Investment Company, which is a wholly-owned subsidiary of United Resources, Inc. According to the Company's Annual Report for the year ending December 31, 2004, the Company provides water utility service to approximately 72,800 customers in Arizona. AWC provides water service to customers in 18 water systems in three groups: Northern, Eastern and Western.

By this application, AWC is seeking Commission authority to add 8 different parcels (over 1,500 acres) to its CC&N. The request will add approximately 12 square-miles to the Company's existing 138 square-miles of certificated area. The Company serves the City of Casa Grande in Pinal County.

Finance of Utility Facilities

The Company is proposing to finance the required utility facilities through advances in aid of construction. Advances in aid of construction are often in the form of Main Extension Agreements ("MXAs"). MXAs are standard industry practice. The minimal acceptable criteria for line extension agreements between water utilities and private parties are established by

A.A.C. R14-2-406. These agreements generally require the developer to design, construct and install (or cause to be), all facilities to provide adequate service to the development. The developer is required to pay all costs of constructing the required facilities necessary to serve the development. Upon acceptance of the facilities by the Utility Company, the developer conveys the utility facilities through a warranty deed to the Utility Company. Utility Companies will often refund ten (10) percent of the annual water revenue associated with development for a period of ten (10) years.

Staff recommends that AWC file with Docket Control, for Staff's review and approval, a copy of the fully executed main extension agreements for water facilities for each parcel within the extension area within 365 days of a decision in this case.

The Water System

According to the Water Use Data Sheet submitted by the Company, the Company has 14 wells producing 15,240 gallons per minute ("GPM"), 14.192 million gallons of storage capacity, and a distribution system serving 17,707 service connections as of June 2005. Based on historical growth rates, it is anticipated that the existing service area could grow to approximately 25,500 connections at the end of five years. The Company has predicted an additional 80 connections for the proposed CC&N extensions at the end of five years, resulting in a projected total customer base of approximately 25,900 at the end of five years. Based on the existing well production and storage capacities, the system can serve approximately 20,600 service connections.

The Company is proposing to extend its water system into the requested areas by extension of its distribution system. The development of each parcel will result in the following number of service connections:

Parcel 1: The Company is serving approximately 200 existing service connections and is projecting to increase to 230 connections within five years. At build out, this parcel could have approximately 1,000 connections.

According to the Company, this parcel was thought to be within the existing CC&N and service to this parcel has been in effect since 1962. Through Staff review of other Company – Casa Grande cases, it was revealed that this parcel was not within the Company's CC&N service area.

Parcel 2 and 3: Within the first year, the Company anticipates no new customers and 25 customers for each parcel within five years. At build out, the Company anticipates approximately 1,500 customers for each parcel.

Parcel 4, 5, 6, 7 and 8: These parcels are all located within several miles from the nearest distribution mains. Water service to these parcels will depend upon construction of other planned developments to bring the water closer to these parcels before their development.

The Company anticipates no new customers within the first five years. At build out, Parcel 4 could have about 400 customers; Parcel 5 at 200 customers; Parcel 6 at 150 customers; Parcel 7 at 150 customers; and Parcel 8 at 20 customers.

For all parcels, the total customer count to be served in the first five years is 80 customers and at total build out, the customer count is anticipated at 4,920.

Staff concludes that the existing system will have adequate production and storage capacity to serve the existing and proposed CC&N extension areas within a conventional five year planning period and can reasonably be expected to develop additional production and storage as required in the future. However, the Company has indicated that it would be at least five years before it would serve its first customer in Parcels 4, 5, 6, 7, and 8.

Staff recommends that the Company file with Docket Control as a compliance item in this docket a copy of the Arizona Department of Environmental Quality Approval To Construct ("ATC") for facilities needed to serve the requested areas within one year of the effective date of an order in this proceeding.

Arizona Department of Environmental Quality ("ADEQ") Compliance

ADEQ regulates the water system under ADEQ Public Water System I.D. #11-009. Based on compliance information submitted by the Company, the system has no deficiencies and ADEQ has determined that this system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, and Chapter 4.

Arizona Department of Water Resources ("ADWR") Compliance

There are five (5) Active Management Areas ("AMAs") in Arizona and each has a different goal depending on the water supply need of the area. The Company is located in the Pinal AMA, as designated by ADWR. The goal of the Pinal AMA is to allow the development of non-irrigation water uses, extend the life of the agricultural economy for as long as feasible, and preserve water supplies for future non-agricultural uses. As a result, the Company is subject to the reporting and conservation rules of ADWR. ADWR has indicated that the Company is in compliance with the Pinal AMA requirements.

Staff recommends that the Company be required to file with Docket Control as a compliance item in this docket a copy of the developers' Certificate of Assured Water Supply,

stating that there is adequate water supply, where applicable or when required by statute, within a year of the effective date of the final decision and order issued pursuant to this application.

ACC Compliance

According to the Utilities Division Compliance Section, AWC has no outstanding ACC compliance issues.

Arsenic

The U.S. Environmental Protection Agency ("EPA") has reduced the arsenic maximum contaminant level ("MCL") in drinking water from 50 micrograms per liter (" $\mu\text{g/l}$ ") or parts per billion ("ppb") to 10 $\mu\text{g/l}$. The date for compliance with the new MCL is January 23, 2006.

The Company indicated its arsenic levels for its wells range from 7 ppb to 45 ppb. Based on these levels, the Company is in the process of developing a treatment plan to comply with the new arsenic standard. In Decision No. 67518, issued on January 20, 2005, the Commission approved an accounting order authorizing the deferral of certain costs and expenses related to arsenic treatment that the Company expects to incur for its Western Group. An accounting order is a rate-making mechanism whereby a regulatory commission provides specific deferral authorization to treat costs in a manner that differs from generally accepted accounting principles. Such a deferral mechanism, pursuant to an authorized accounting order, is permitted under National Association of Regulatory Commissioners ("NARUC") Uniform System of Accounts ("USOA") guidelines. The Company's Western Group consists of the Case Grande, White Tanks, Stanfield, and the Ajo systems. The extension area will be provided water service by the Company's Casa Grande system.

Curtailment Plan Tariff

A Curtailment Plan Tariff ("CPT") is an effective tool to allow a water company to manage its resources during periods of shortages due to pump breakdowns, droughts, or other unforeseeable events.

AWC has an approved curtailment tariff for "All Service Areas" that was approved by Decision No. 66235 effective July 23, 2004.

Proposed Rates

AWC has proposed to provide water utility service to the extension area under its authorized rates and charges.

Franchise

Every applicant for a CC&N and/or CC&N extension is required to submit to the Commission evidence showing that the applicant has received the required consent, franchise or permit from the proper authority, pursuant to ARS 40-282.B. If the applicant operates in an unincorporated area, the company has to obtain the franchise from the County. If the applicant operates in an incorporated area of the County, the applicant has to obtain the franchise from the City/Town.

According to the application, portions of the extension areas are within the municipal boundaries of the City of Casa Grande and the City of Eloy, the remainder is located within unincorporated areas of Pinal County. AWC has filed in the docket copies of the franchise agreements it had entered into with both Pinal County and the City of Casa Grande.

On page 3 of the application, AWC stated: "Within those cities, AWC operates and maintains its water system pursuant to permits issued by those cities and not pursuant to franchise....." The City of Eloy was one of the cities referenced to in the application. On October 27, 2005, Staff contacted Mr. Douglas Olson¹, the Water and Wastewater Systems Manager for the City of Eloy, to verify AWC's statement that it operates and maintains its water system pursuant to permits issued by the City of Eloy and not pursuant to franchise. According to Mr. Olson, the City of Eloy operates its own municipal water and wastewater systems and as such it does not and would not give or issue any "consent, franchise or permit" to any water and/or wastewater utility company (including AWC) to provide utility services within its corporate city limits. Mr. Olson identified Parcels 2 and 8 as being within the corporate city limits. On October 31, 2005, Staff received a letter from Mr. James A. (Jim) McFellin, the City Manager for The City of Eloy, requesting that the Commission deny the Application submitted by AWC. (See Attachment C)

The inclusion of Parcels 2 and 8 in the application for extension of its CC&N as proposed by the Company may create an infringement or encroachment without permission if approved by the Commission. As such, Staff recommends that AWC be required to file with Docket Control an amended legal description excluding the Parcels that are within the corporate city limits of the City of Eloy, specifically, Parcels 2 and 8, prior to the hearing in this matter. The hearing on the merits of the application is set for December 9, 2005.

Recommendations

Staff recommends the Commission approve AWC's application for extension of its existing Certificate of Convenience and Necessity to provide water service in Pinal County subject to compliance with the following conditions:

1. To require AWC to file with Docket Control an amended legal description excluding the Parcels that are within the corporate city limits of the City of Eloy, specifically, Parcels 2 and 8 prior to the hearing in this matter.

¹ Staff contacted the City of Eloy's representative via telephone at 520-464-1392.

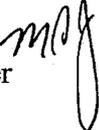
2. To require AWC to charge its authorized rates and charges in the extension area.
3. To require AWC to file with Docket Control, for Staff's review and approval, a copy of the fully executed main extension agreements for water facilities for each parcel within the extension area within 365 days of a decision in this case.
4. To require AWC to file with Docket Control, as a compliance item in this docket, a copy of the Arizona Department of Environmental Quality Approval To Construct ("ATC") for facilities needed to serve the requested areas within one year of the effective date of an order in this proceeding.
5. To require AWC to file with Docket Control, as a compliance item in this docket, a copy of the developers' Certificate of Assured Water Supply, stating that there is adequate water supply, where applicable or when required by statute, within one year of the effective date of the final decision and order issued pursuant to this application.

Staff further recommends that the Commission's Decision granting the requested CC&N extension be considered null and void should the Company fail to meet Conditions No. 3, 4, and 5 listed above within the time specified.

MEMORANDUM

DATE: September 14, 2005

TO: Blessing Chukwu
Executive Consultant III

FROM: Marlin Scott, Jr. 
Utilities Engineer

RE: Arizona Water Company – Casa Grande System
Docket No. W-01445A-05-0469 (CC&N Extension)

Introduction

Arizona Water Company (“Company”) has applied to extend its Certificate of Convenience and Necessity (“CC&N”) for its Casa Grande system to include eight different parcels. The requested areas will add approximately 12 square-miles to the Company’s existing 138 square-miles of local certificated area. The Company serves the City of Casa Grande in Pinal County.

Capacity

Existing Utility Plant

According to water use data submitted by the Company, the Company has 14 wells producing 15,240 gallons per minute (“GPM”), 14.192 million gallons of storage capacity, and a distribution system serving 17,707 service connections as of June 2005. Based on historical growth rates, it is anticipated that the existing service area could grow to approximately 25,500 connections at the end of five years. The Company has predicted an additional 80 connections for the proposed CC&N extensions at the end of five years, resulting in a projected total customer base of approximately 25,900 at the end of five years. Based on the existing well production and storage capacities, the system can serve approximately 20,600 service connections.

Proposed Plant Facilities

The Company is proposing to extend its water system into the requested areas by extension of its distribution system using advances in aid of construction. The development of each parcel will result in the following number of service connections:

Parcel 1: The Company is serving approximately 200 existing service connections and is projecting to increase to 230 connections within five years. At build out, this parcel could have approximately 1,000 connections.

According to the Company, this parcel was thought to be within the existing CC&N and service to this parcel has been in effect since 1962. Through Staff review of other Company – Casa Grande cases, it was revealed that this parcel was not within the Company's CC&N service area.

Parcel 2 and 3: Within the first year, the Company anticipates no new customers and 25 customers for each parcel within five years. At build out, the Company anticipates approximately 1,500 customers for each parcel.

Parcel 4, 5, 6, 7 and 8:

These parcels are all located within several miles from the nearest distribution mains. Water service to these parcels will depend upon construction of other planned developments to bring the water closer to these parcels before their development.

The Company anticipates no new customers within the first five years. At build out, Parcel 4 could have about 400 customers; Parcel 5 at 200 customers; Parcel 6 at 150 customers; Parcel 7 at 150 customers and Parcel 8 at 20 customers.

Conclusion

For all parcels, the total customer count to be served in the first five years is 80 customers and at total build out, the customer count is anticipated at 4,920.

Staff concludes that the existing system will have adequate production and storage capacity to serve the existing and proposed CC&N extension areas within a conventional five year planning period and can reasonably be expected to develop additional production and storage as required in the future.

Arizona Department of Environmental Quality ("ADEQ") Compliance

Compliance Status

ADEQ regulates the water system under ADEQ Public Water System I.D. #11-009. Based on compliance information submitted by the Company, the system has no deficiencies and ADEQ has determined that this system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, and Chapter 4.

Certificate of Approval to Construct

The ADEQ Certificate of Approval to Construct ("ATC") for facilities needed to serve the requested areas have not been submitted by the Company. Staff recommends that the Company docket as a compliance item in this case within one year of the effective date of an order in this proceeding copies of the ATC issued by ADEQ.

Arsenic

The U.S. Environmental Protection Agency has reduced the arsenic maximum contaminant level ("MCL") in drinking water from 50 parts per billion ("ppb") to 10 ppb. The date for compliance with the new MCL is January 23, 2006.

The Company indicated its arsenic levels for its wells range from 7 ppb to 45 ppb. Based on these levels, the Company is in the process of developing a treatment plan to comply with the new arsenic standard. In Decision No. 67518 (dated January 20, 2005), the Commission approved an accounting order which will allow the Company to record its arsenic treatment costs for the Company's Western Group. The Case Grande system is part of this Western Group.

Arizona Department of Water Resources Compliance

Compliance Status

The Company is located within the Pinal Active Management Area ("AMA") and is in compliance with its reporting and conservation requirements.

Certificate of Assured Water Supply

Staff recommends that the Company docket as a compliance item in this case within one year of the effective date of an order in this proceeding a copy the developer's Certificate of Assured Water Supply for the requested area, where applicable or when required by statute.

Arizona Corporation Commission Compliance

A check with the Utilities Division Compliance Section showed no outstanding compliance issues for the Company.

Curtailement Tariff

The Company has an approved curtailement tariff for "All Service Areas" that became effective on July 23, 2004 per Decision No. 66235.

Summary

Conclusions

- A. Staff concludes that the existing system will have adequate production and storage capacity to serve the existing and proposed CC&N extension area within a conventional five year planning period and can reasonably be expected to develop additional production and storage as required in the future.
- B. Based on compliance information submitted by the Company, the Casa Grande system has no deficiencies and ADEQ has determined that this system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.
- C. The Company indicated its arsenic levels for its wells range from 7 ppb to 45 ppb. Based on these levels, the Company is in the process of developing a treatment plan to comply with the new arsenic standard.
- D. The Company is within the Pinal AMA and is in compliance with its reporting and conservation requirements.
- E. A check with the Utilities Division Compliance Section showed no outstanding compliance issues.
- F. The Company has an approved curtailment tariff for all its systems.

Recommendations

- 1. Staff recommends that the Company docket as a compliance item in this case within one year of the effective date of an order in this proceeding copies of the ATC issued by ADEQ.
- 2. Staff recommends that the Company docket as a compliance item in this case within one year of the effective date of an order in this proceeding copies the developer's Certificate of Assured Water Supply for the requested area, where applicable or when required by statute.

MEMORANDUM

TO: Blessing Chukwu
Executive Consultant III
Utilities Division

FROM: Barb Wells 
Information Technology Specialist
Utilities Division

THRU: Del Smith 
Engineering Supervisor
Utilities Division

DATE: July 18, 2005

RE: **ARIZONA WATER COMPANY (DOCKET NO. W-01445A-05-0469)**

The area requested by Arizona Water for an extension has been plotted with no complications using the legal description provided with the application (a copy of which is attached).

- Also attached are copies of the maps for your files.

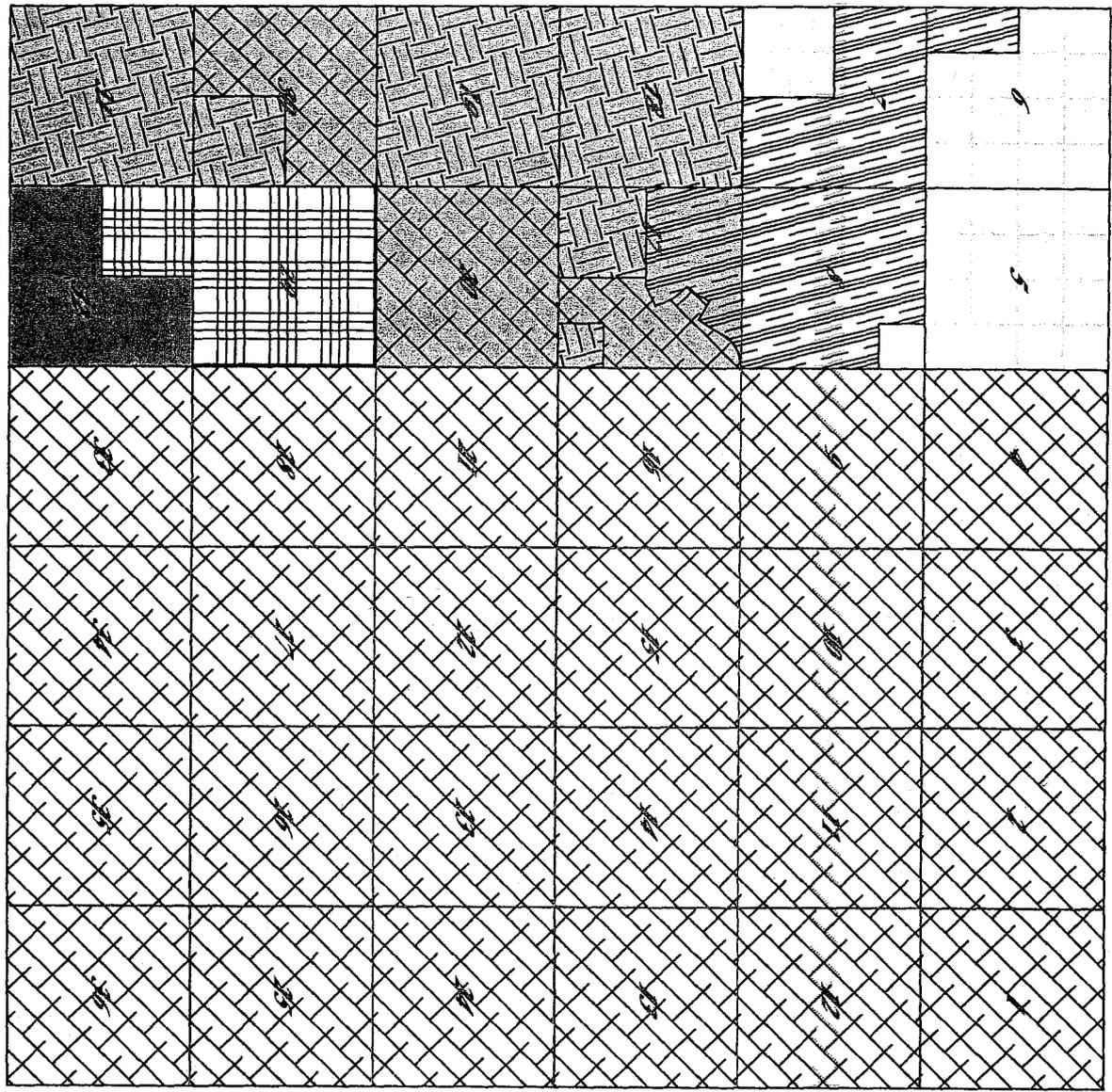
:bsw

Attachments

cc: Docket Control
Mr. Robert Geake
Ms. Deb Person (Hand Carried)
File

COUNTY OF Pinal

RANGE 5 East

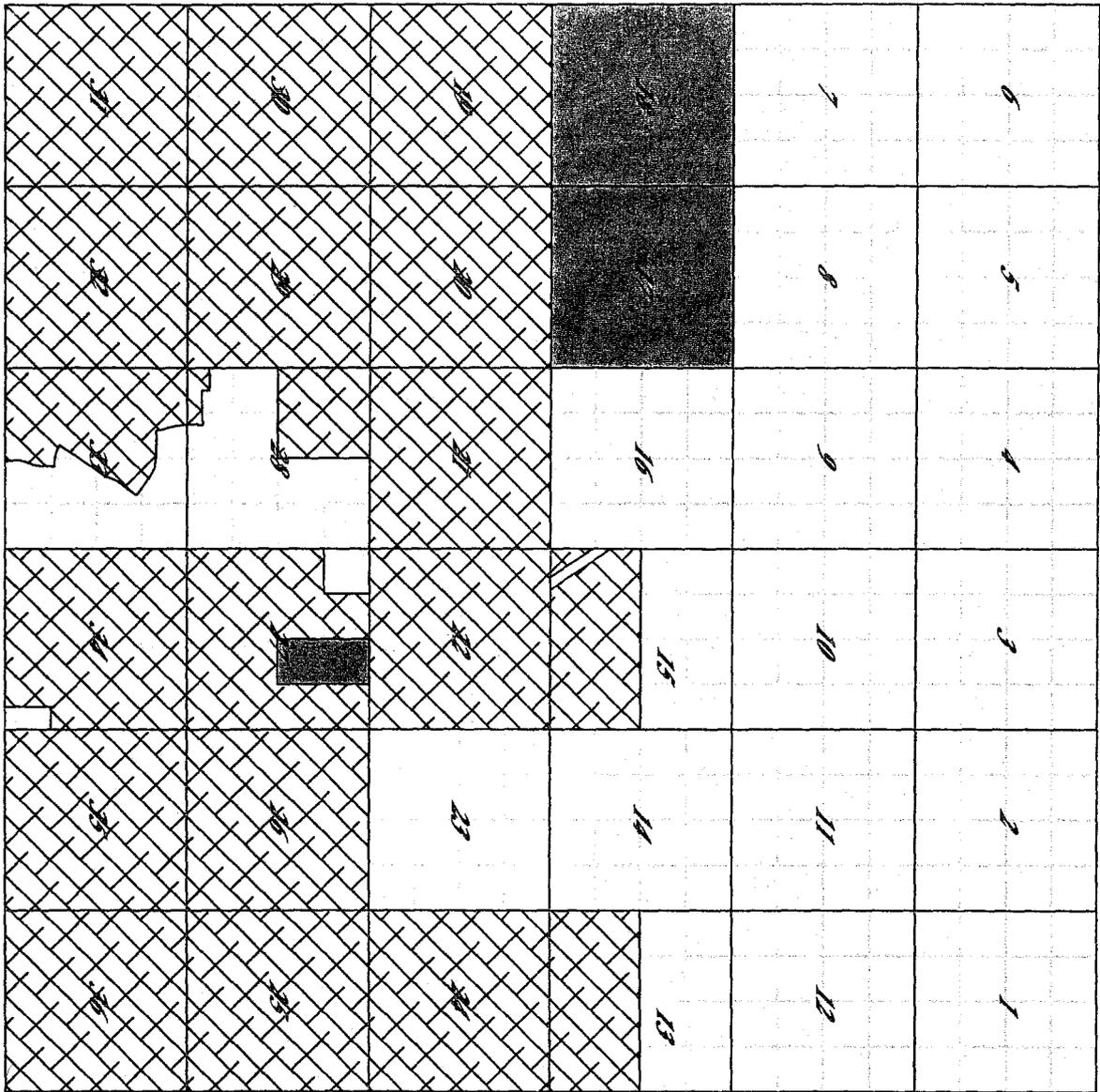


TOWNSHIP 6 South

-  W-1445 (34)(3)
Arizona Water Company (Stanfield)
-  W-1990 (1)
Casa Grande West Water Company, Inc.
-  W-2442 (2)
CP Water Company
-  WS-1775 (2)
Francisco Grande Utility Company
-  Arizona Water Company
Docket No. W-01445A-05-0469
Application for Extension
-  Sewer

COUNTY Pinal

RANGE 6 East



TOWNSHIP 5 South

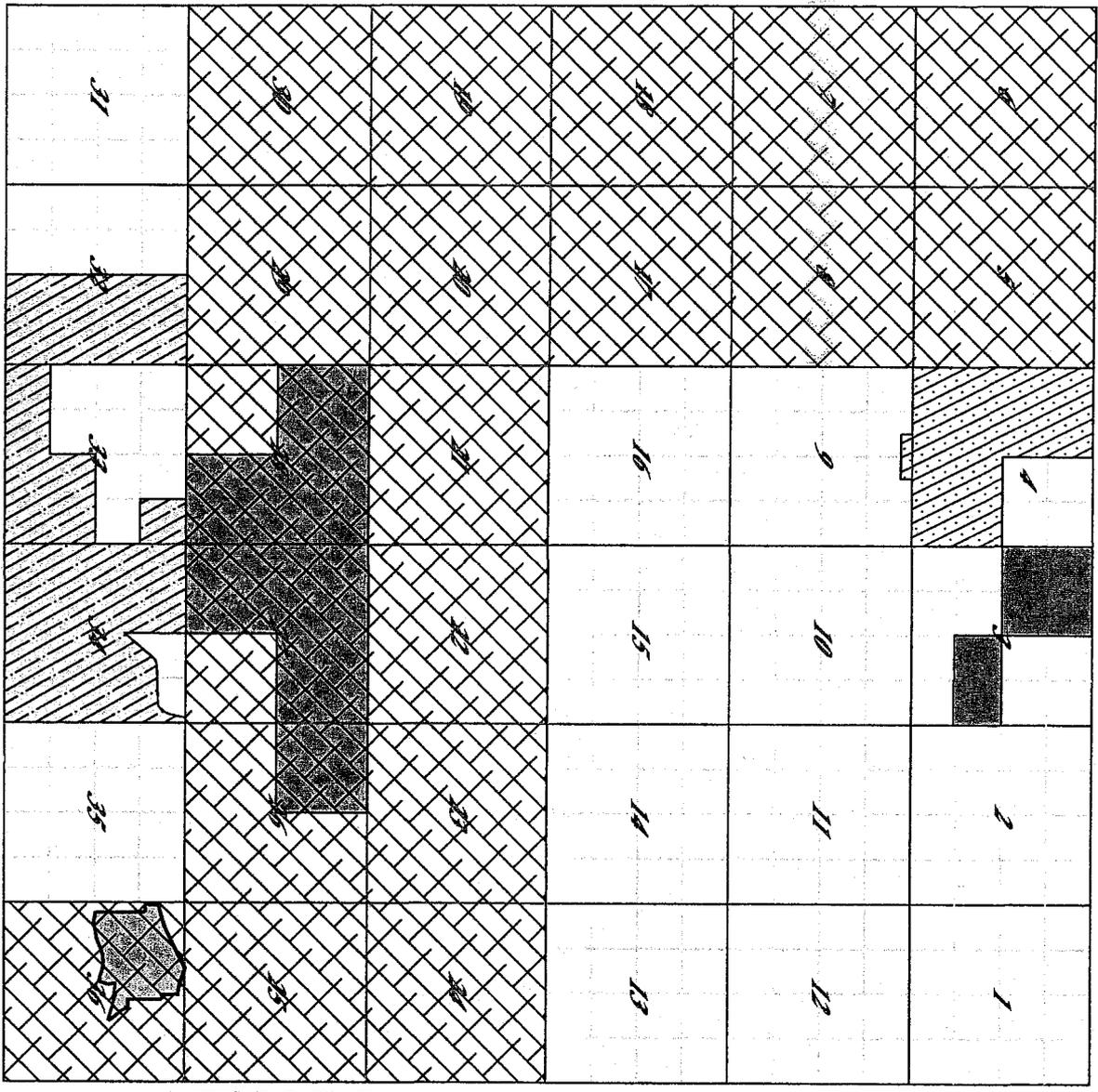
 W-1445 (35)(10)
Arizona Water Company (Casa Grande)

 Arizona Water Company
Docket No. W-1445-04-743
Application for Extension

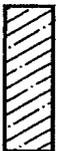
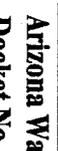
 Arizona Water Company
Docket No. W-01445A-05-0469
Application for Extension

COCHISE PINAL

RANGE 7 East



TOWNSHIP 6 South

-  W-1445 (34)(9)
Arizona Water Company (Casa Grande)
-  Sewer
SW-3709 (2)
Picacho Sewer Company
-  W-3528 (2)
Picacho Water Company
-  W-2109 (1)
Signal Peak Water Company, Inc.
-  Sewer
SW-2701 (1)
Tierra Grande Utility Cooperative, Inc.
-  Arizona Water Company
Docket No. W-01445A-05-0469
Application for Extension
-  Picacho Water Company
Docket No. W-3528-05-281
Application for Extension

COUNTY: Pinal

RANGE 4 East

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

TOWNSHIP 7 South



Arizona Water Company
 Docket No. W-01445A-05-0469
 Application for Extension

COUNTY: Pinal

RANGE 5 East

18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

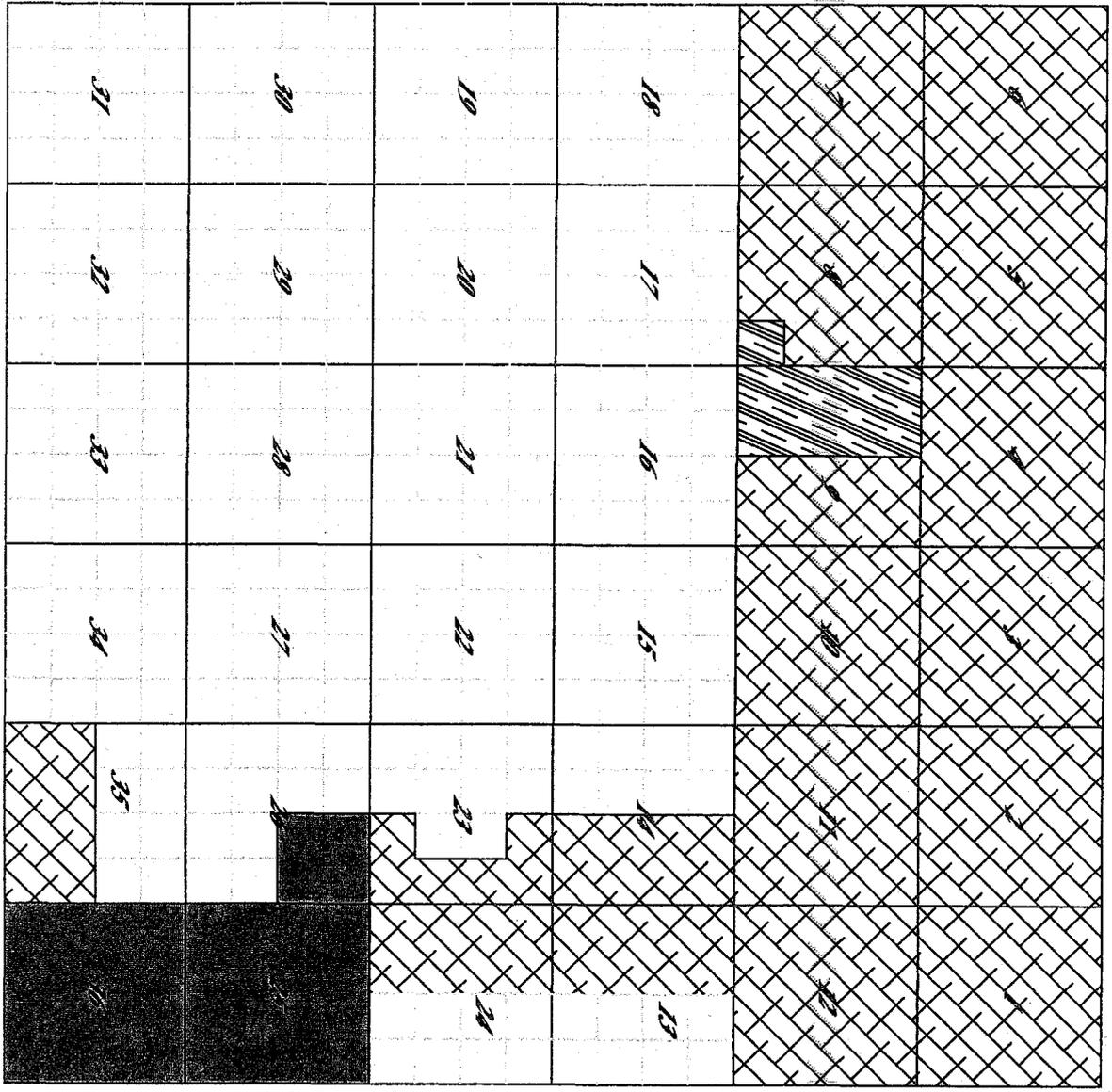
TOWNSHIP 7 South

 W-1445 (34)(9)
Arizona Water Company (Casa Grande)

 Arizona Water Company
Docket No. W-01445A-05-0469
Application for Extension

COUNTY: Pinal

RANGE 6 East

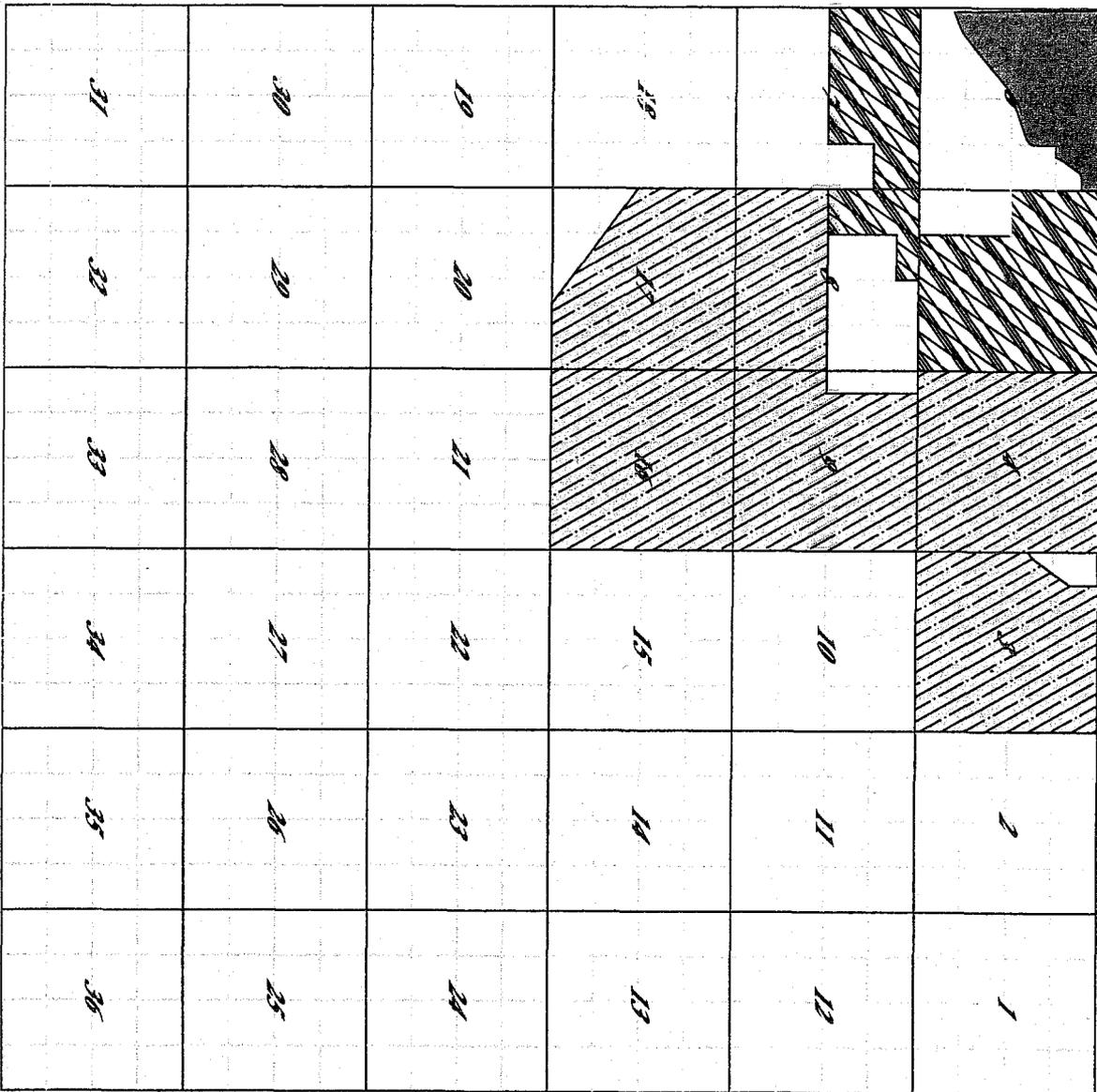


TOWNSHIP 7 South

-  W-1445 (34)(9)
Arizona Water Company (Casa Grande)
-  W-3847 (1)
Casa Grande South Water Company
-  Arizona Water Company
Docket No. W-01445A-05-0469
Application for Extension

COUNTY OF Pinal

RANGE 7 East

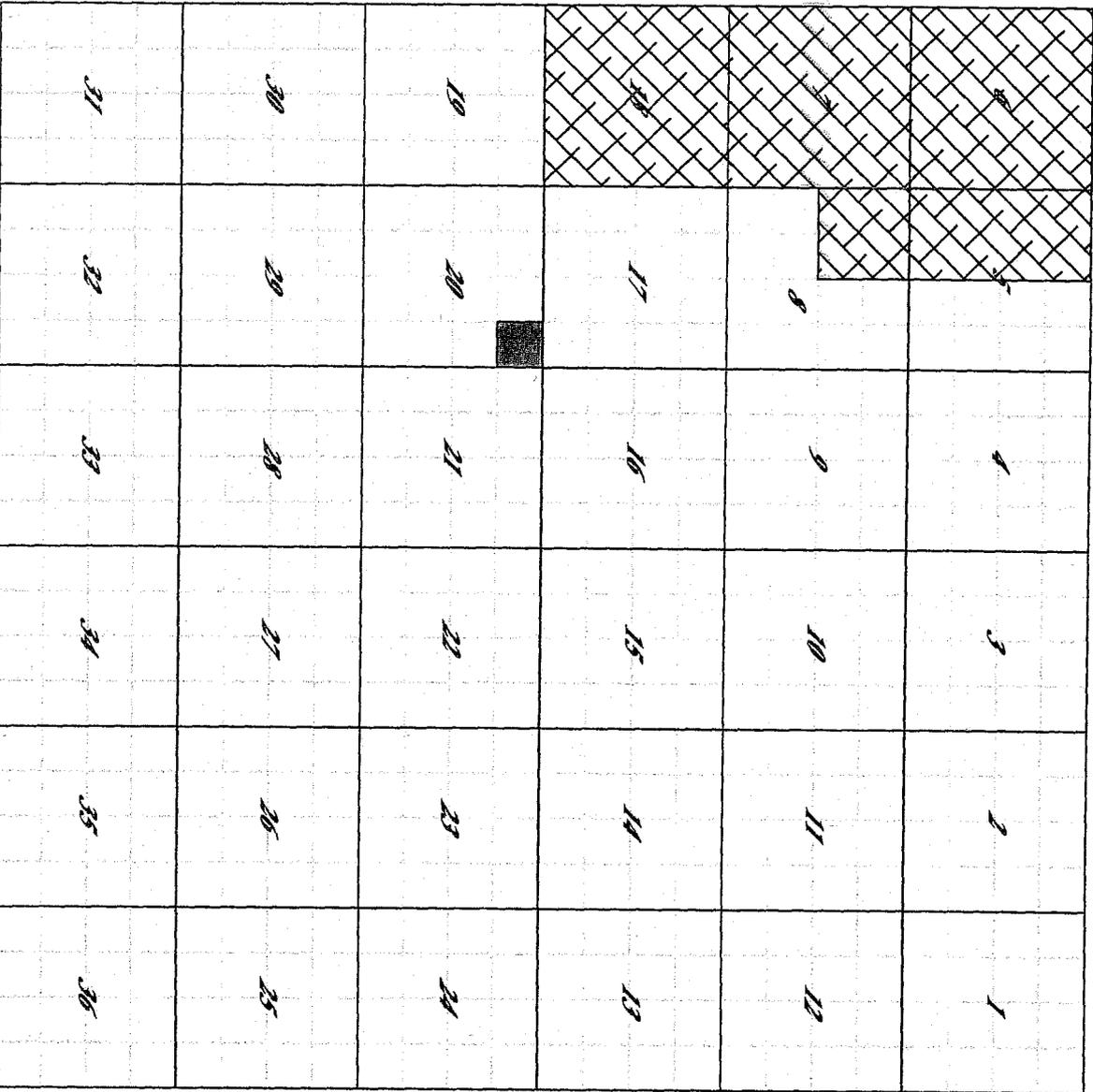


TOWNSHIP 7 South

- W-2497 (1)
Golden Corridor Water Company
- Sewer SW-3709 (2)
Plecho Sewer Company
- W-3528 (2)
Picacho Water Company
- Arizona Water Company
Docket No. W-01445A-05-0469
Application for Extension

COUNTY: Pinal

RANGE 7 East



TOWNSHIP 8 South



W-1445 (34)(9)

Arizona Water Company (Casa Grande)



Arizona Water Company
 Docket No. W-01445A-05-0469
 Application for Extension

EXHIBIT 1

CC&N This Application

PARCEL ONE

Sections 1 and 12 of Township 7 South, Range 4 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona. **Together With:**

Sections 5, 6, 7, and 8 of Township 7 South, Range 5 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona. **Together With:**

The Northeast quarter and the South half of Section 32, Township 6 South, Range 5 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

PARCEL TWO

All of Section 25 and the Northeast quarter of Section 26, Township 7 South, Range 6 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

PARCEL THREE

All of Section 36, Township 7 South, Range 6 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

PARCEL FOUR

That portion of Lots 1, 2, 3, 4, 5, 6, and 7 and the Southeast quarter of the Northwest quarter and the Southwest quarter of the Northeast quarter and the East half of the Southwest quarter of Section 6, Township 7 South, Range 7 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona, described as follows:

BEGINNING at the Northeast corner of said Section 6, also being the Northeast corner of said Lot 1;

Thence South 00 Degrees 46 Minutes 20 Seconds East, along the East line of said Lot 1, a distance of 589.31 feet to the existing field location of the North edge of the Florence-Casa Grande Canal;

Thence along said North edge, the following 15 courses and distances;

Thence North 89 Degrees 47 Minutes 23 Seconds West, 403.39 feet;

Thence South 63 Degrees 13 Minutes 34 Seconds West, 119.11 feet;

Thence South 36 Degrees 20 Minutes 31 Seconds West, 586.88 feet;

Thence South 27 Degrees 15 Minutes 22 Seconds West, 233.24 feet.;

Thence South 89 Degrees 56 Minutes 56 Seconds West, 356.22 feet;

Thence South 00 Degrees 54 Minutes 57 Seconds East, 668.72 feet;

Thence South 34 Degrees 10 Minutes 22 Seconds West, 136.77 feet;

EXHIBIT 1

Thence South 53 Degrees 59 Minutes 16 Seconds West, 122.25 feet;
Thence South 69 Degrees 44 Minutes 07 Seconds West, 1217.20 feet;
Thence South 01 Degrees 03 Minutes 35 Seconds East, 55.06 feet;
Thence North 89 Degrees 58 Minutes 48 Seconds West, 150.00 feet;
Thence South 61 Degrees 08 Minutes 49 Seconds West, 150.07 feet;
Thence South 51 Degrees 09 Minutes 27 Seconds West, 2015.19 feet;
Thence South 60 Degrees 17 Minutes 26 Seconds West, 190.09 feet;
Thence South 68 Degrees 41 Minutes 00 Seconds West, 572.72 feet to the West line of said Lot 7;
Thence North 01 Degrees 17 Minutes 36 Seconds West, 1639.99 feet to the West quarter corner of said Section 6;
Thence North 00 Degrees 39 Minutes 31 Seconds West, 2651.27 feet to the Northwest corner of said Section 6;
Thence North 89 Degrees 59 Minutes 58 Seconds East, 2568.10 feet to the North quarter corner of said section 6;
Thence North 90 Degrees 00 Minutes 00 Seconds East, 2667.57 feet to the Northeast corner of said Section 6 and the POINT OF BEGINNING.

PARCEL FIVE

The West half of the Northeast quarter of Section 27, Township 5 South Range 6 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

PARCEL SIX

The Northwest quarter of Section 3, Township 6 South, Range 7 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

PARCEL SEVEN

A portion of the Southeast quarter of Section 3, Township 6 South, Range 7 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona, described as follows:

Commencing at the East quarter corner of said Section 3, a rebar with aluminum cap;
Thence South 89 Degrees 52 Minutes 39 Seconds West, along the North line of said Southeast quarter, a distance of 1328.87 feet to the Northeast corner of the West half of the Southeast quarter of said Section 3 and the POINT OF BEGINNING;
Thence South 00 Degrees 16 Minutes 03 Seconds West, along the East line of said West half, a distance of 1368.45 feet to the North line of a El Paso Natural Gas Easement as described in Docket 556, Page 497, records of Pinal County;
Thence South 89 Degrees 54 Minutes 46 Seconds West, along said North line, a distance of 1331.05 feet to the West line of said Southeast quarter;
Thence North 00 Degrees 21 Minutes 34 Seconds East, along said West line, a distance of 1367.65 feet to the North line of said Southeast quarter;
Thence North 89 Degrees 52 Minutes 39 Seconds East, along said North line, a distance of 1328.87 feet to the POINT OF BEGINNING. **Together With:**

EXHIBIT 1

A portion of the Southeast quarter of Section 3, Township 6 South, Range 7 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona, described as follows:

BEGINNING at the East quarter corner of said Section 3, a rebar with aluminum cap;
Thence South 00 Degrees 10 Minutes 30 Seconds West, along the East line of the Southeast quarter of Section 3, a distance of 1394.23 feet to the North line of a El Paso Natural Gas Easement, as described in Docket 556, Page 497, records of Pinal County;
Thence South 89 Degrees 57 Minutes 44 Seconds West, along said North line, a distance of 1331.10 feet to the West line of the East half of said Southeast quarter of said Section 3;
Thence North 00 Degrees 16 Minutes 03 Seconds East, along said West line, a distance of 1392.26 feet to the Northwest corner of said East half, and the North line of said Southeast quarter;
Thence North 89 Degrees 52 Minutes 37 Seconds East, along said North line, a distance of 1328.86 feet to the POINT OF BEGINNING.

PARCEL EIGHT

The Northeast quarter of the Northeast quarter of Section 20, Township 8 South, Range 7 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona.

Chukwu



CITY OF ELOY

ARIZONA

RECEIVED

October 28, 2005

OCT 31 2005

Arizona Corporation Commission
Attn: Blessing Chukwu
1200 W. Washington
Phoenix, Arizona 85007

AZ Corporation Commission
Director of Utilities

Dear Ms. Chukwu,

Arizona Water Company is attempting to expand their service within the city limits of Eloy. Five of the eight parcels are within the Eloy city limits. Parcel 511-72 is within the City of Eloy and water is available within 400 feet. Parcel 511-73, 511-74, 408-23-053A and 408-23-054B are all within the city limits of Eloy. Service to all of these areas will be expanded as soon as our modification to the 100 year water assurance certificate is received from ADWR. Parcel 511-78-002 is outside the city limits of Eloy.

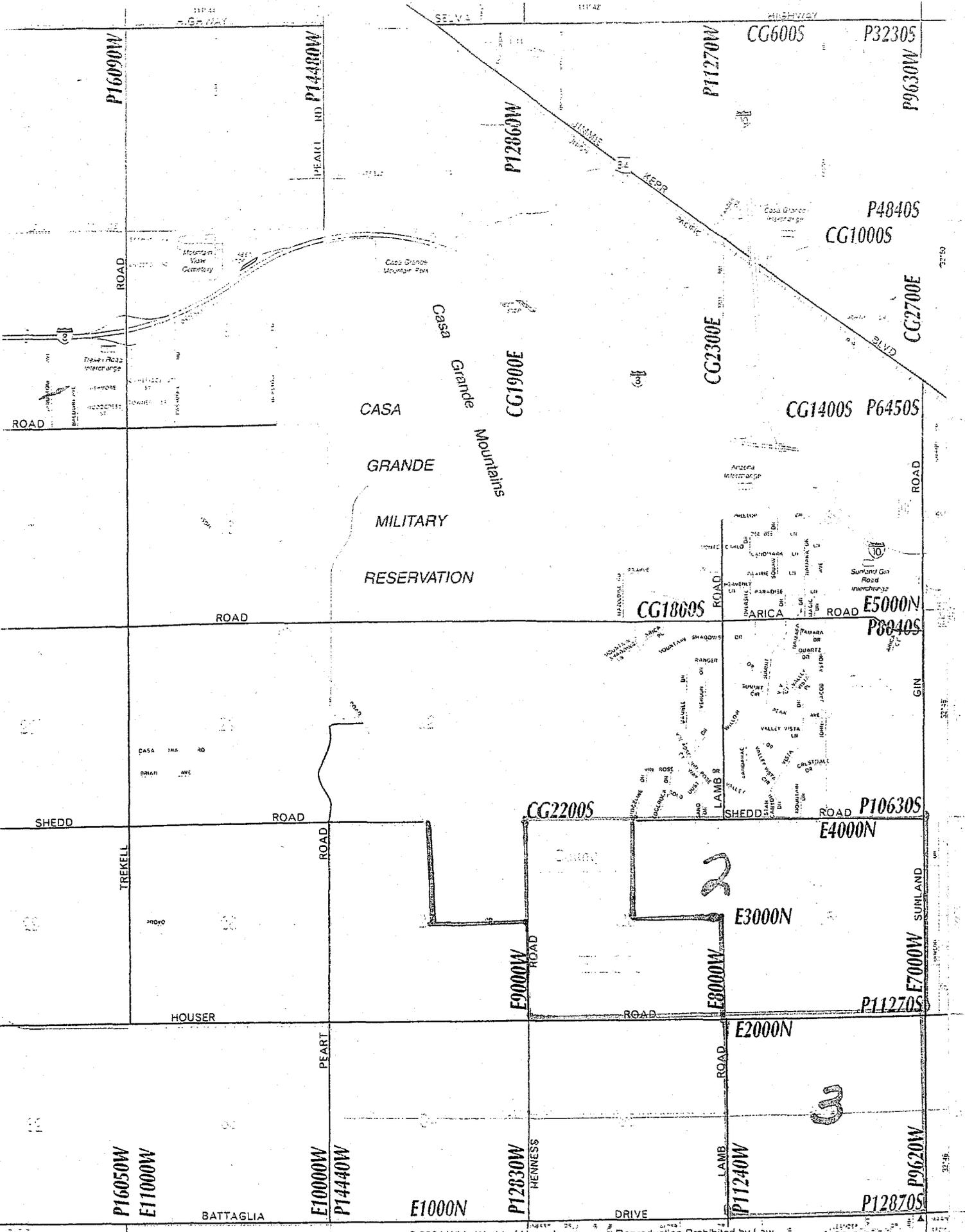
The City of Eloy was not notified of Arizona Water Company plans to extend their service within our city limits. On Maps No. 32, 33 and 36 the utility companies servicing the parcels are listed but the City of Eloy was omitted. I have included maps showing the parcels within the city limits of Eloy.

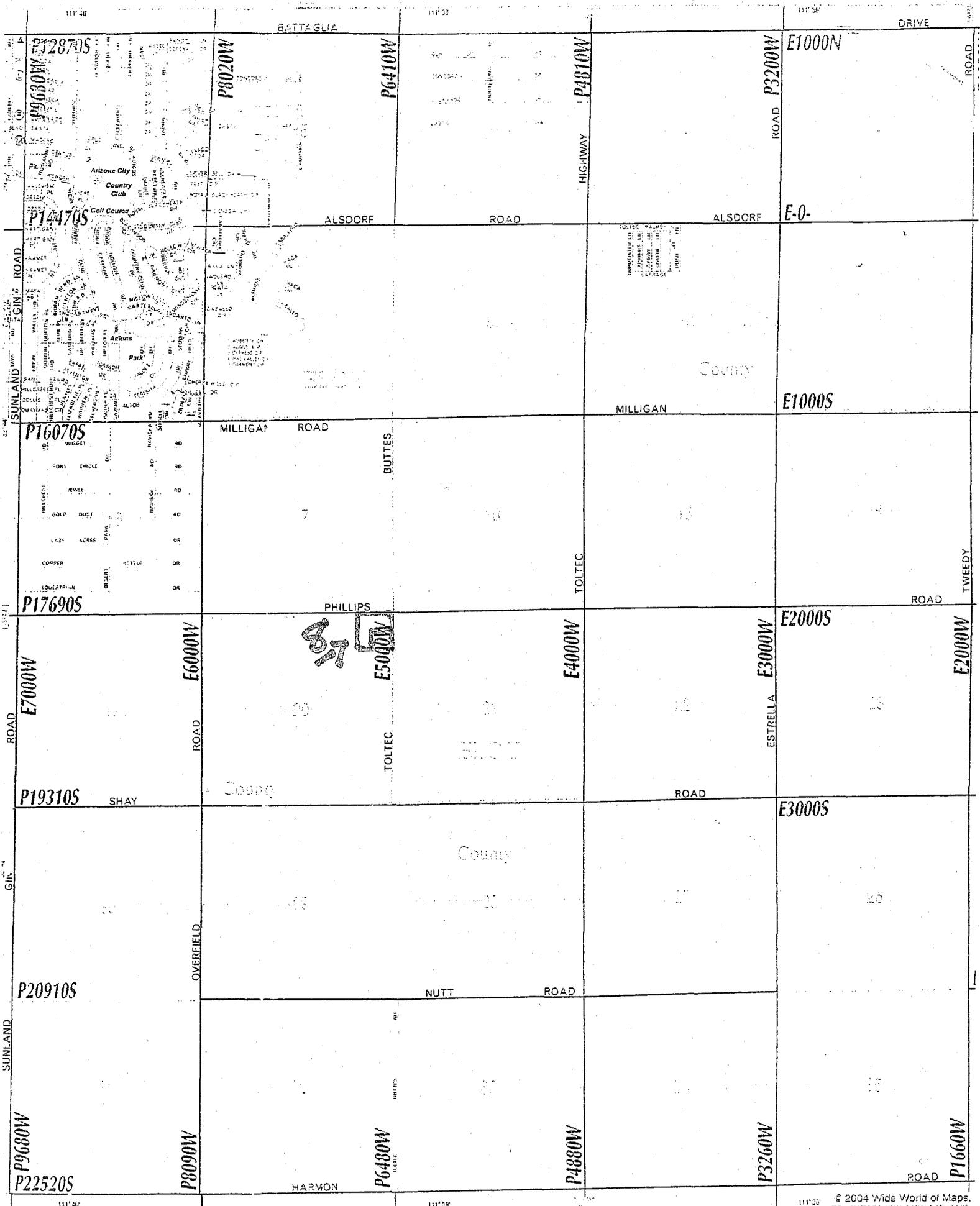
The City of Eloy has no intention of entering into a franchise agreement with Arizona Water Company to service any areas within the City of Eloy. Therefore the City of Eloy requests that the Commission deny the application submitted by Arizona Water Company.

Sincerely,
For The City of Eloy

James A. (Jim) McFellin
City Manager

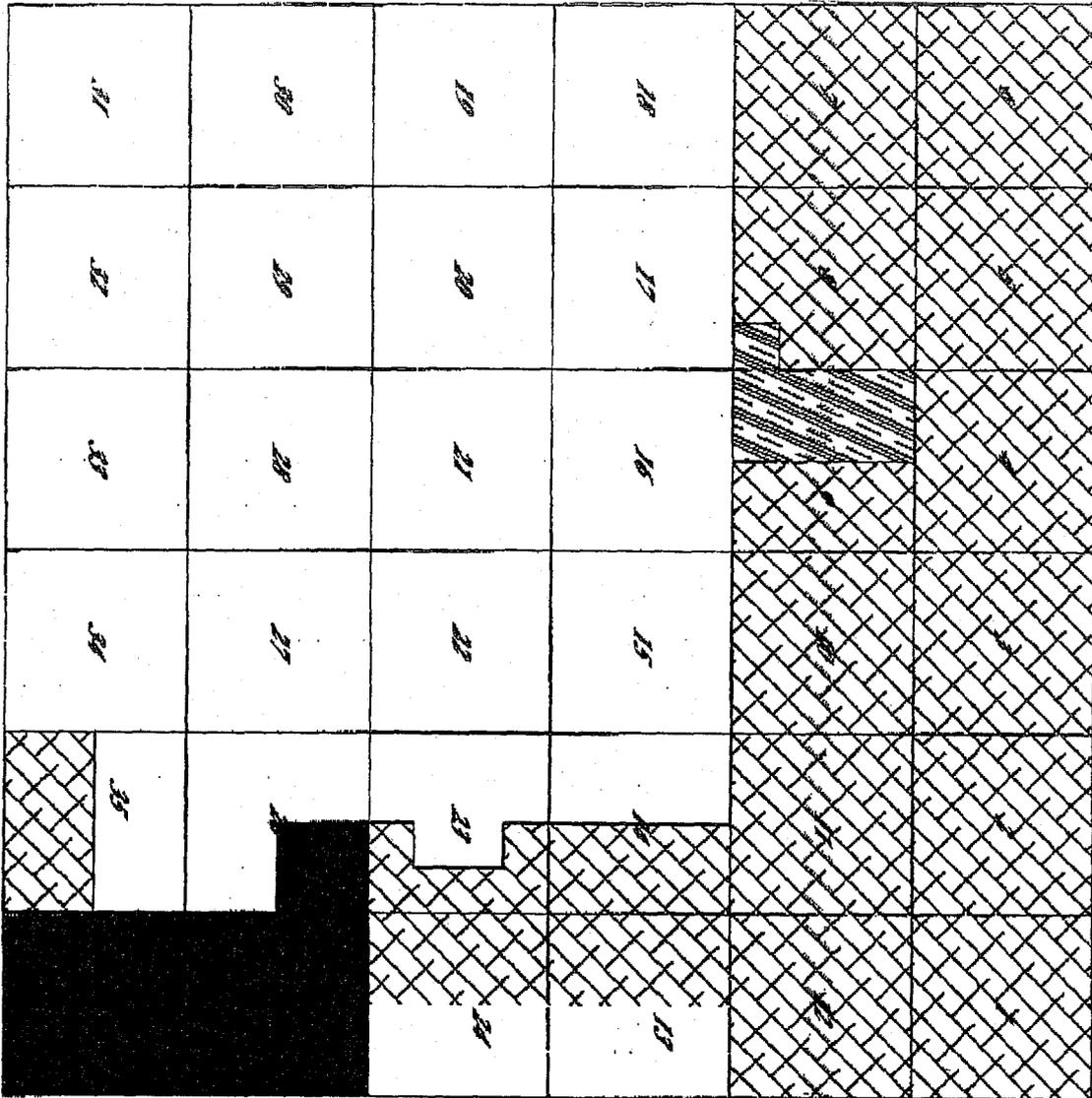
cc: City Attorney
City Engineer





COUNTY Pinal

RANGE 6 East



TOWNSHIP 7 South

Map No. 32



W-1445 (34)(9)

Arizona Water Company (Casa Grande)



W-3847 (1)

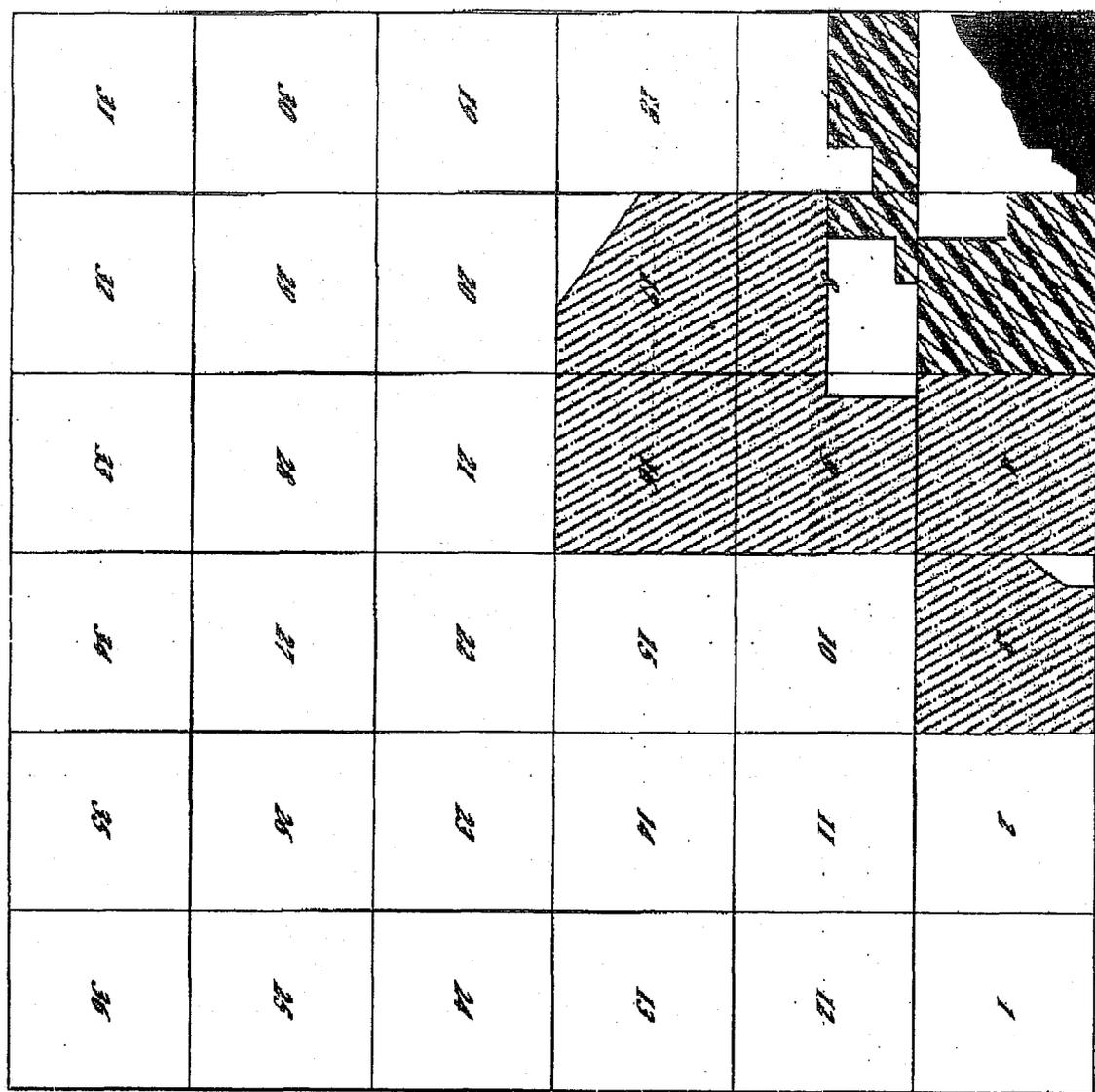
Casa Grande South Water Company



Arizona Water Company
Docket No. W-01445A-05-0469
Application for Extension

COUNTY of Pinal

RANGE 7 East



TOWNSHIP 7 South

Map No. 33

-  W-2497 (1)
Golden Corridor Water Company
-  Sewer SW-3709 (2)
Picocho Sewer Company
-  W-3528 (2)
Picocho Water Company
- 
Arizona Water Company
Docket No. W-01445A-05-0469
Application for Extension

COUNTY: Pinal

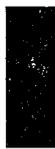
RANGE 7 East

31	30	19	18	17	16	15	14	13
32	29	20	17	16	15	14	13	12
33	28	21	18	17	16	15	14	13
34	27	22	19	18	17	16	15	14
35	26	23	20	19	18	17	16	15
36	25	24	21	20	19	18	17	16

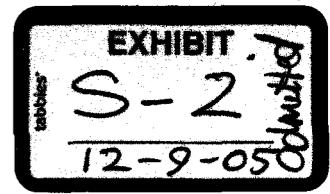
TOWNSHIP 8 South



W-1445 (34)(9)
Arizona Water Company (Casa Grande)



Arizona Water Company
Docket No. W-01445A-05-0469
Application for Extension



REVISED
EXECUTIVE SUMMARY
ARIZONA WATER COMPANY
APPLICATION FOR EXTENSION OF ITS EXISTING CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE WATER SERVICE
DOCKET NO. W-01445A-05-0469

On June 30, 2005, Arizona Water Company ("AWC" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") for an extension of its Certificate of Convenience and Necessity ("CC&N") to provide water service in portions of Pinal County, Arizona. On September 7, 2005, Staff filed a Sufficiency Letter indicating that the application had met the sufficiency requirements of Arizona Administrative Code.

AWC is an Arizona Corporation, in good standing with the Corporations Division, and engaged in providing water utility service to customers in various portions of Cochise, Coconino, Gila, Maricopa, Navajo, Pima, Pinal and Yavapai Counties in Arizona. According to the Company's Annual Report for the year ending December 31, 2004, the Company provides water utility service to approximately 72,800 customers in Arizona.

By this application, AWC is seeking Commission authority to add 8 different parcels (over 1,500 acres) to its CC&N. Two of the parcels are within the corporate city limits of the City of Eloy. The Water and Wastewater Systems Manager for the City of Eloy has informed Staff that the City of Eloy does not and would not give or issue any "consent, franchise or permit" to any water and/or wastewater utility company (including AWC) to provide utility services within its corporate city limits. The request will add approximately 12 square-miles to the Company's existing 138 square-miles of certificated area. The Company serves the City of Casa Grande in Pinal County.

Based on Staff's review and analysis of the application, Staff believes that the existing system will have adequate production and storage capacity to serve the existing and proposed CC&N extension areas within a conventional five year planning period and can reasonably be expected to develop additional production and storage as required in the future. However, the Company has indicated that it would be at least five years before it would serve its first customer in Parcels 4, 5, 6, 7, and 8.

Staff recommends the Commission approve AWC's application for extension of its existing Certificate of Convenience and Necessity to provide water service in Pinal County subject to compliance with the following conditions:

1. To require AWC to file with Docket Control an amended legal description excluding the Parcels that are within the corporate city limits of the City of Eloy, specifically, Parcels 2 and 8 prior to the hearing in this matter.
2. To require AWC to charge its authorized rates and charges in the extension area.

3. To require AWC to file with Docket Control, as a compliance item, a Notice of Filing indicating AWC has submitted for Staff's review and approval, a copy of the fully executed main extension agreements for water facilities for each parcel within the extension area (except for Parcel 1) within 2 years of a decision in this case.
4. To require AWC to file with Docket Control, as a compliance item in this docket, a copy of the Arizona Department of Environmental Quality Approval To Construct ("ATC") for the facilities needed to serve each of the Parcels within the requested areas (except for Parcel 1) within 2 years of the effective date of an order in this proceeding.
5. To require AWC to file with Docket Control, as a compliance item in this docket, a copy of the developers' Certificate of Assured Water Supply, for each of the Parcels within the requested areas (except for Parcel 1) stating that there is adequate water supply, where applicable or when required by statute, within 2 years of the effective date of the final decision and order issued pursuant to this application.

Staff further recommends that the Commission's Decision granting the requested CC&N extension be considered null and void should the Company fail to meet the Condition Nos. 3, 4, and 5 listed above within the time specified.

RANGE 8 East

RANGE 7 East

RANGE 6 East

RANGE 5 East

RANGE 4 East

ARIZONA WATER COMPANY - CASA GRANDE SYSTEM

TOWNSHIP 5 South

TOWNSHIP 6 South

TOWNSHIP 7 South

TOWNSHIP 8 South

- W-1445 Arizona Water Company
- W-2721 Carter Water Company
- W-3847 Casa Grande South Water Company
- W-1990 Casa Grande West Water Company, Inc.
- W-2442 CP Water Company
- WS-1775 Francisco Grande Utility Company
- W-2497 Golden Corridor Water Company
- W-3528 Pinalocho Water Company
- W-2109 Signal Peak Water Company, Inc.
- W-4015 (1) Sunland Water Company

EXHIBIT
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12-9105
 tables

- Arizona Water Company
Docket No. W-01445A-04-0743
- Arizona Water Company
Docket No. W-01445A-04-0755
- Arizona Water Company
Docket No. W-01445A-05-0389
- Arizona Water Company
Docket No. W-01445A-05-0469
- Woodruff Water Company, Inc.
Docket No. W-04264A-04-0438

