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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman

JIM IRVIN
Commissioner

MARC SPITZER
Commissioner

Arizona Corporation Commission
DOCKETED

DEC 14 2001

DOCKETED BY	<i>rac</i>
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APPLICATION OF ARIZONA UTILITY
SUPPLY & SERVICES, LLC, FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE SEWER SERVICE
TO PORTIONS OF PINAL COUNTY,
ARIZONA.

DOCKET SW-04002A-01-0228

IN THE MATTER OF THE APPLICATION OF
JOHNSON UTILITIES, L.L.C., DBA JOHNSON
UTILITIES COMPANY, FOR AN EXTENSION
OF ITS CERTIFICATE OF CONVENIENCE
AND NECESSITY TO PROVIDE WATER AND
WASTEWATER SERVICE TO THE PUBLIC
IN THE DESCRIBED AREA IN PINAL
COUNTY, ARIZONA.

DOCKET WS-02987A-01-0295

**COMMENTS OF ARIZONA
UTILITY SUPPLY & SERVICES,
LLC, REGARDING PINAL
COUNTY RESOLUTION**

Arizona Utility Supply & Services, LLC ("AUSS"), by and through its counsel undersigned, submits the following comments regarding the Pinal County Board of Supervisors' Resolution No. 120501-CS (the "Resolution") adopted December 5, 2001, and docketed in this proceeding on December 7, 2001. The County's extraordinary Resolution is nothing short of an eleventh hour attempt at the behest of George Johnson to steer the issuance of a certificate of convenience and necessity ("CC&N") for sewer service to Johnson Utilities Company ("JUC"). Having utterly failed to meet its burden of proof, and in the face of recommendations by both Utilities Division Staff ("Staff") and the Commission's Administrative Law Judge ("ALJ") that JUC's requested CC&N be denied, JUC has turned to the political process to affect the outcome in this proceeding. Such an abuse of the system must not be permitted, and this Commission

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1 should reject the County's meddling in this matter which lies exclusively within the
2 Commission's jurisdiction.

3 INTRODUCTION

4 At 3:51 PM, on December 4, 2001, the ALJ docketed his recommended Opinion and
5 Order (the "Recommended Order") in this proceeding. The ALJ recommended issuance of a
6 CC&N to AUSS, and rejected the competing application of JUC. Less than 24 hours later, and
7 apparently at the request of JUC, the Pinal County Board of Supervisors adopted its Resolution
8 requesting that the Commission reject the ALJ's Recommended Order. Although Pinal County
9 did not participate in this proceeding, or conduct any proceeding of its own, it somehow
10 determined that the issuance of a CC&N to AUSS is not in the public interest. However, the
11 County's Resolution is not supported by the evidence in this case, or the County's own prior
12 actions in granting franchises and approvals to AUSS. Given the serious nature of the County's
13 allegations against AUSS, the company feels compelled to respond to the Resolution.

14 1. THIS COMMISSION AND NOT PINAL COUNTY MUST DETERMINE PUBLIC INTEREST.

15 The Arizona Corporation Commission is the body empowered under Article 15, Section 3,
16 of the Arizona Constitution and A.R.S. §§ 40-202 and 40-281 *et seq.*, to issue certificates of
17 public convenience and necessity to public service corporations. The Commission's process for
18 issuing CC&Ns is thorough, and designed to ensure that only qualified applicants receive
19 CC&Ns. The process was strictly followed in this case, and both Staff and the ALJ found that the
20 public interest would best be served by issuing a CC&N to AUSS and not JUC. A brief history of
21 this case is in order.

22 AUSS filed its application on March 15, 2001. JUC filed its competing application on
23 April 10, 2001.¹ Although AUSS provided all of the information that Staff needed and requested
24 in order to analyze its application, JUC never did submit the required information to Staff, as
25 stated in the Staff Report issued July 10, 2001:

26 ¹ The AUSS and JUC applications were thereafter consolidated in this proceeding.

1 *Johnson has not provided a complete description of the plant facilities to be*
2 *constructed to serve the proposed extension area; nor has Johnson provided the*
3 *preliminary engineering specifications; nor has Johnson provided an estimated*
4 *total cost of the plant facilities needed to serve the proposed extension area.*
 (Staff Report, page 7).²

5 After carefully evaluating both applications, Staff recommended approval of AUSS' application,
6 and denial of JUC's. George Johnson, the owner of JUC, would later assail the Staff Report on
7 the record, stating "*I think its all garbage.*" (Hearing Transcript, Vol. II, page 245). Johnson also
8 disparaged one of the Staff members who co-wrote the Report, stating "*I would have to believe*
9 *she was drunk or out of her mind.*" (Hearing Transcript, Vol. II, page 257).

10 The two-day hearing in this case was held August 15-16, 2001. Representatives of three
11 of the largest developers within the requested certificated territory--Woodside Homes, Providence
12 Homes and Great Western Homes--appeared and testified or made statements in support of the
13 issuance of a CC&N to AUSS.³ By comparison, no developer requested service from JUC, and
14 one developer expressed serious concerns about JUC. (Hearing Transcript, Vol. I, pages 28-29).
15 No one representing Pinal County attended the hearing. In all, the ALJ heard from seven
16 witnesses over two days. In her closing statement, the Commission's staff attorney punctuated
17 the Staff recommendation:

18 *MS. ALWARD: Also very briefly. Staff believes that this proceeding has more*
19 *than ever established the appropriateness of Staff's recommendations in this*
20 *matter. Clearly, the record demonstrated that AUSS has shown a need, public*
 need for its services and the ability to serve that need now and in the future.

21 *By contrast, I think Johnson Utilities has failed to demonstrate those very same*
22 *essential qualities in granting a certificate, and that's why Staff believes the Staff*
23 *report is compelling and that its recommendation should be adopted.* (Hearing
 Transcript, Vol. II, pages 379-380).

24 ² At the hearing, JUC's witness Brian Tompsett "was unable to satisfactorily explain why JUC failed to
25 provide Staff with timely information concerning engineering plans for the areas sought to be certificated
 herein." (Recommended Order, page 10, lines 12-14).

26 ³ Kip Gilleland spoke on behalf of Woodside homes; Steve Flaggman spoke on behalf of Great Western
 Homes; and John Poulsen appeared as a witness on behalf of Providence Home.

1 On December 4, 2001, the ALJ issued his Recommended Order adopting the Staff
2 recommendation. The Recommended Order was placed on the Commission's open
3 meeting calendar for December 18, 2001, and with time running out, JUC apparently
4 went to Pinal County and asked the County to intercede on its behalf. However, this
5 Commission should disregard the County's dubious Resolution. The Recommended
6 Order is fully supported by the evidence in this case. The County did not participate in
7 the hearing, and its knowledge of the facts of this case is undoubtedly based upon second-
8 hand information selectively provided to it by JUC. The Resolution is devoid of facts to
9 support its allegations, all of which were raised by JUC at the hearing, and all of which
10 were addressed by AUSS to the ALJ's complete satisfaction. It is this Commission
11 which is charged with determining the public interest with regard to certifying public
12 service corporations, not Pinal County. JUC has made its case, and must now wait for
13 the Commission's decision.

14 **2. PINAL COUNTY ISSUED SEWER FRANCHISES AND CONCEPTUAL APPROVALS TO AUSS.**

15 Although the County stated in its Resolution that it now has "concern and grave doubts
16 about AUSS' intentions and abilities for the long term future of sewer service in the contested
17 area," just eight months ago the County granted a sewer franchise to AUSS. More recently, the
18 County granted an expansion of AUSS' sewer franchise to include the very territory which is the
19 subject of this proceeding. Copies of AUSS' Pinal County sewer franchises are attached hereto
20 as Exhibit "A." If the Pinal County Board of Supervisors actually had concerns regarding the
21 intentions or abilities of AUSS, then the County would never have granted the franchises. In
22 reality, it was only after the ALJ issued his Recommended Order, and JUC contacted the County,
23 that the County developed its "concern and grave doubts."

24 Pinal County has done more than issue sewer franchises to AUSS. On July 23, 2001, the
25 County's Environmental Engineer signed ADEQ forms captioned Conceptual Approval of Water
26 and/or Wastewater Project for AUSS' planned Cambria and Castlegate wastewater treatment

1 facilities. In the space provided for County comments, the County's engineer wrote "none."
2 Certainly, the Pinal County Engineer would have identified any "concern and grave doubts."
3 Copies of the approval forms are attached hereto as Exhibit "B."

4 In reality, AUSS is much better qualified than JUC to serve the requested territory. Mr.
5 Jack Bale, a recently retired 19-year veteran of the Arizona Department of Environmental Quality
6 ("ADEQ"), testified regarding the "excellent" work of Maury Lee (one of the principals of
7 AUSS), who was retained as an outside contractor to ADEQ to renovate a non-compliant
8 wastewater treatment facility in Quartzsite, Arizona. When asked about Mr. Lee's work, Mr.
9 Bale testified that Mr. Lee "did everything we asked and did it well." (Hearing Transcript, Vol. I,
10 page 36). In sharp contrast, Mr. Bale testified regarding serious problems in JUC's water
11 division:

12 *Well, in [ADEQ's] Johnson Utility files, there were notices of violation, and I*
13 *guess more significant to me were the fact that there were a series in three years,*
14 *a series of three consent agreements.*

14 ***

15 *There were in the water utility I think significant problems that threatened the*
16 *public health in terms of nitrate exceedances and coliform exceedances, both total*
17 *and fecal coliform.*

16 ***

17 *That means that the people who were his [George Johnson's] customers were*
18 *subjected to water above the maximum contaminant limits set by EPA. (Hearing*
19 *Transcript, Vol. I at page 42).*

20 There is nothing in either the record in this case or in Pinal County's prior dealings with
21 AUSS to support the County's alleged "concern and grave doubts." Maury Lee was one of the
22 recognized experts that ADEQ trusted when it needed to clean-up non-compliant wastewater
23 treatment facilities. Both Staff and the ALJ found AUSS to be a fit and proper entity to receive a
24 CC&N. Certainly, the County's grave doubts would be better directed at JUC.

24 **3. ALLEGATIONS OF VIOLATIONS BY AUSS.**

25 In its Resolution, Pinal County asserts that AUSS is guilty of "known infractions of the
26 law" and "probable violations of Arizona Revised Statutes," and further, that "formal charges

1 against AUSS . . . have been filed with the Arizona Corporation Commission.” Presumably, the
2 County is referring to allegations contained in pleadings filed by JUC--the *competing* applicant in
3 this case. Not surprisingly, the allegations leveled by JUC against AUSS were never
4 substantiated at the hearing. After hearing the evidence, the ALJ concluded that as a system
5 operator, AUSS had “four or five violations” which “were of a minor nature and resolved within
6 30 days.” (Recommended Order, page 5, lines 7-8). This finding was supported by the testimony
7 of retired ADEQ employee Jack Bale:

8 MR. KEOGH: *Mr. Bale, in your review of AUSS' official records at DEQ, did you*
9 *see any evidence that in your opinion, based upon your prior managerial*
10 *experience as head of compliance, that reflected negatively on Mr. Lee's ability to*
service an area or ability to honestly service an area?

11 MR. BALE: *No, I did not.* (Hearing Transcript, Vol I, page 42).

12 Ironically, JUC is the entity which is guilty of serious violations of ADEQ rules. Most
13 recently, on October 16, 2001, ADEQ issued Notice of Violation (“NOV”) DW-02-098 to JUC’s
14 water division alleging various violations of Arizona Administrative Code R18-4-125.F, R18-4-
15 505 and R18-4-507. A copy of the October NOV is attached hereto as Exhibit “C.” The record
16 in this case also reflects that JUC received other NOV’s.

17 CONCLUSION

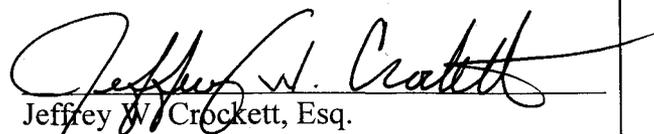
18 This Commission and not Pinal County is charged with determining whether a particular
19 public service corporation should receive a CC&N. Pinal County did not participate at all in this
20 proceeding, and has absolutely no basis to support the specious assertions contained in the
21 Resolution. Staff carefully investigated the competing applications in this case, and
22 recommended that the CC&N be issued to AUSS. The ALJ heard two days of testimony in this
23 case, and also recommended that the CC&N be issued to AUSS. AUSS respectfully requests that
24 the Commission consider the undisputable weight of evidence in this case, and adopt the ALJ’s
25 Recommended Order.

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RESPECTFULLY submitted this 14th day of December, 2001.

SNELL & WILMER



Jeffrey W. Crockett, Esq.
Thomas L. Mumaw, Esq.
One Arizona Center
Phoenix, Arizona 85004-2202
Attorney for Arizona Utility Supply &
Services, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of December, 2001, I caused the original and 10 copies of the foregoing document to be filed with:

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

Copies of the foregoing were hand-delivered this 14th day of December, 2001, to:

Marc E. Stern
Administrative Law Judge
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Janice Alward, Staff Attorney
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Jim Fisher
Utilities Division
ARIZONA CORPORATION COMMISSION
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- 1 William A. Mundell
Chairman
- 2 ARIZONA CORPORATION COMMISSION
- 3 1200 West Washington Street
Phoenix, Arizona 85007

- 4 Jim Irvin
Commissioner
- 5 ARIZONA CORPORATION COMMISSION
- 6 1200 West Washington Street
Phoenix, Arizona 85007

- 7 Marc Spitzer
Commissioner
- 8 ARIZONA CORPORATION COMMISSION
- 9 1200 West Washington Street
Phoenix, Arizona 85007

10 Copy of the foregoing mailed
this 14th day of December, 2001, to:

- 11 Thomas H. Campbell, Esq.
- 12 Michael Denby, Esq.
- 13 Michael Hallam, Esq.
- 14 LEWIS & ROCA
40 North Central Avenue
Phoenix, Arizona 85004
Attorneys for Johnson Utilities Company

15 

16 _____
17 Crockej\PHX\1109652.1

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EXHIBIT "A"

13



**OFFICIAL RECORDS OF
PINAL COUNTY RECORDER
LAURA DEAN-LYTTLE**

DATE: 04/16/01 TIME: 1434
 FEE : 0.00
 PAGES: 13
 FEE NO: 2001-016379

When recorded mail to:

Pinal County Board of Supervisors
P.O. Box 827
Florence, Arizona 85232

(The above space reserved for recording information)

CAPTION HEADING

Arizona Utility Supply & Services, LLC Sewer Franchise

Post-It® Fax Note	7671	Date 5/11	# of pages 13
To <i>Mary Jane Lee</i>		From <i>CADY MEDINA</i>	
Co./Dept.		Co. <i>Pinal County</i>	
Phone #		Phone # <i>808-6206</i>	
Fax # <i>602-564-5536</i>		Fax #	

Creation Of The Arizona Utility Supply & Services, LLC Sanitary Sewer Franchise

WHEREAS, Arizona Utility Supply & Services, LLC, a(n) Arizona corporation, duly authorized to conduct business in the State of Arizona, has duly filed and presented to the Board of Supervisors of the County of Pinal, State of Arizona, its application for a new public utility franchise for the purpose of constructing, operating and maintaining a sewer system and related appurtenances along, under and across the public streets, alleys and highways, except federal and state highways, within the unincorporated area of Pinal County, Arizona, as described in the Public Notice of the creation hearing attached hereto as Exhibit "A."

WHEREAS, upon Arizona Utility Supply & Services, LLC's filing of an application for the public utility franchise (hereinafter "Application"), the Board of Supervisors of Pinal County ordered a public notice of its intent to consider the granting of the public utility franchise to be published in a newspaper of general circulation, in Pinal County, Arizona, stating the time and place for consideration of the Application was set for 9:30 a.m. on Wednesday, February 14, 2001, at the Pinal County Board of Supervisors' Hearing Room, Administration Building No. 1, Florence, Arizona.

WHEREAS, said Application having come on regularly for hearing at 9:30 a.m. on Wednesday, February 14, 2001; and it appearing from the affidavit of the publisher of the Florence Reminder and Blade Tribune that due and regular notice of said time and place set for the consideration of such action has been published for at least once a week for three consecutive weeks prior to said hearing date, to-wit: in the issues of the Florence Reminder and Blade Tribune on January 25, 2001; February 1, 2001; and February 8, 2001; and the matter being called for hearing at 9:30 a.m. on February 14, 2001, and March 21, 2001, and an opportunity having been given to all interested parties to be heard.

WHEREAS, the Board of Supervisors of Pinal County has the power to create a sewer franchise under its general police powers in such matters.

NOW, THEREFORE,

Section 1: DEFINITIONS

The following terms used in this Franchise shall have the following meanings:

A. County: Pinal County, Arizona

Arizona Utility Supply & Services, LLC Sanitary Sewer Franchise Sewer Franchise

1

- B. Board: Board of Supervisors of Pinal County, Arizona.
- C. Grantor: Pinal County, by and through its Board of Supervisors
- D. Grantee: Arizona Utility Supply & Services, LLC, a(n) Arizona corporation, its successors and assigns
- E. Grantee's Facilities: Sewer system and related appurtenances

Section 2: GRANT

A. Grantor, on March 21, 2001, hereby grants to Grantee, for a period of 25 years, this new public utility franchise (hereinafter "Franchise") for the purpose of constructing, operating and maintaining a sewer system and related appurtenances along, under and across public streets, alleys and highways, except federal and state highways, under the terms and conditions set forth herein within the unincorporated area of Pinal County, Arizona, as described in the Application (hereinafter "Franchise Area").

B. Nonexclusive Franchise.

(1) The Franchise granted hereby shall not be exclusive and shall not restrict in any manner the right of County in the exercise of any regulatory power which it now has or which may hereafter be authorized or permitted by the laws of the State of Arizona. Nothing herein shall be construed to prevent County from granting other like or similar franchises to any other person, firm or corporation. County retains and shall ever be considered as having and retaining the right and power to allow and to grant to any other person, firm, corporation or other companies, franchise rights and privileges to be exercised in and upon its public streets, alleys, highways and public places, and such of the same and parts thereof as County may deem best or choose to allow, permit, give or grant.

(2) Nothing herein shall be construed to prevent County and its proper authorities from constructing and installing a sewer system, or improvements to its public highways, streets and alleys, and for that purpose, to require the Grantee at Grantee's own expense to remove Grantee's facilities to conform thereto and facilitate the same.

C. Reservation of Rights.

(1) County reserves the right to alter and amend the Franchise at any time and in any manner necessary for the safety or welfare of the public or to protect the public interests, and County reserves the right to impose at any time restrictions and limitations upon the use of the public streets, alleys and highways as County deems best for the public safety or welfare.

(2) County expressly reserves the right, after due notice to grantee, to modify, amend, alter, change or eliminate any of the provisions of the Franchise which may become obsolete or impractical; and to impose such additional conditions upon the grantee as may be just and

reasonable, such conditions to be those deemed necessary for the purpose of insuring adequate service to the public; provided however, County shall not modify, amend, alter, change or eliminate any of said provisions until after a public hearing, if such is legally required or requested by grantee.

Section 3: RENEWAL/SUBSEQUENT APPLICATION/REMOVAL OF SYSTEM

A. The Franchise herein granted shall expire on February 14, 2026; and upon its termination, Grantee shall cease to exercise under the terms of the Franchise the privileges herein granted. In the event Grantee desires a renewal of the Franchise herein granted, or a new franchise for a subsequent period, Grantee shall apply to and open negotiations with County for that purpose at least six (6) months before the expiration of the Franchise herein granted; but nothing herein shall be construed to bind County to grant such renewal or subsequent franchise.

B. Upon termination of the Franchise the grantee shall remove its facilities from the streets, alleys, ways, highways and bridges within the Franchise Area and shall restore the areas to their original condition. If such removal is not completed within six months of such termination, County may deem any property not removed as having been abandoned.

Section 4: REGULATION

Grantee, its successors and assigns shall be subject to reasonable regulations for the maintenance by grantee, its successors and assigns, of such portion of the public streets, alleys and highways altered, damaged or destroyed by Grantee, its agents or employees in exercising the privileges granted by the Franchise.

Section 5: CONSTRUCTION, INSTALLATION AND REPAIRS

A. Prior to the beginning of any construction for installation of the sewer system and related appurtenances, the Grantee, its successors and assigns will submit a plan of proposed construction to the Pinal County Engineer and will not commence any construction until the plan of construction is approved by the County Engineer or his designate.

B. All work performed by Grantee under the Franchise shall be done in the manner prescribed by County and subject to the supervision of County, and in strict compliance with all laws, ordinances, rules and regulations of federal, state and local governments.

C. No construction, reconstruction, repair, or relocation under the Franchise shall be commenced until written permits have been obtained from the proper county officials. In any permit so issued, such officials may impose such conditions and regulations as a condition of the granting of the same as are necessary for the purpose of protecting any structures in the highways or streets and for the proper restoration of such highways, streets and structures, and for the protection of the public and the continuity of pedestrian and vehicular traffic.

D. No construction under the Franchise by grantee shall impose upon County the duty to maintain any public street, alley or highway unless County accepts said public street, alley or highway into the county maintenance system as provided by law.

Section 6: INSPECTION

County shall, if it deems it necessary, have the right to inspect the construction, operation and maintenance of Grantee's facilities to insure the proper performance of the terms of the Franchise granted herein.

Section 7: SUFFICIENCY, LOCATION AND MAINTENANCE

All of Grantee's Facilities shall be in all respects adequate, efficient, substantial and permanent in design and workmanship, and shall be so located, erected and maintained so as not to interfere with the use and enjoyment of the public streets, alleys and highways. All of Grantee's Facilities erected by Grantee shall be maintained in a safe, suitable, substantial condition and in good order and repair.

Section 8: EXPANSION

Grantee will, from time to time, during the term of the Franchise make such enlargements and extensions of its water system as are necessary to adequately provide for the requirements of County and the inhabitants of the Franchise Area; provided that nothing herein shall compel Grantee to expand or enlarge its system beyond the economic and operating limits thereof. Such enlargements and extensions shall be made in accordance with company rules and regulations.

Section 9: RELOCATION

A. During the term of the Franchise whenever County or any qualified authority having jurisdiction in the Franchise Area alters, repairs, improves, or changes the grade of, any public streets, alleys and highways in the Franchise Area during the term of the Franchise, then and in such event, Grantee, its successors or assigns, at its own expense, shall promptly, upon reasonable notice, make such changes in the location, structure or alignment of its water lines and related appurtenances as the public officials in charge of such work may deem necessary.

B. After thirty (30) days notice to Grantee, of needed changes or corrections and upon the failure of Grantee, to make such changes set forth in Section 9(A) above or to correct any damage to the right-of-way of any public street, alley or highway within the Franchise Area caused directly or indirectly by Grantee, its agents, successors or assigns, County or its successors shall have the right to make such changes or corrections at the expense of said Grantee, its successors or assigns, and such expenses shall be due and payable upon written demand by County or its successors to Grantee, its successors or assigns.

Section 10: LIABILITY

A. If any streets, highways, alleys, ways, bridges, sidewalks, public place, or other public facility should be disturbed, altered, damaged or destroyed by Grantee, its employees, contractors, subcontractors or agents in the construction, installation, operation and maintenance of Grantee's Facilities under the Franchise, the same shall be promptly repaired, reconstructed, replaced or restored by Grantee, without cost to County, as soon as practicable and in as good condition as before Grantee's entry and to the satisfaction of County. If Grantee fails to make such restoration and repairs within a reasonable time as determined by County, then County may fix a reasonable

time for such restoration and repairs and shall notify Grantee in writing of the restoration and repairs required and the time fixed for the performance thereof. Upon failure of Grantee to comply within the time specified, County may cause proper restoration and repairs to be made, and the expense of such work shall be paid by Grantee upon demand by County.

B. Grantee shall be responsible to every owner of property which shall be injured by the work of construction, installation, operation or maintenance of Grantee's Facilities under the Franchise, all physical damage which shall be done to such injured property through any act or omission of Grantee, its employees, contractors, subcontractors or agents arising out of said construction, installation, operation or maintenance.

C. It is a condition of the Franchise that County shall not and does not by reason of the Franchise assume any liability of the Grantee whatsoever for injury to persons or damage to property.

Section 11: INDEMNIFICATION

Grantee by its acceptance of the Franchise agrees for itself, its successors and assigns that throughout the entire term of this franchise, Grantee, its successors and assigns, at its sole cost and expense, shall indemnify, defend, save and hold harmless Pinal County, its elected officers, employees and agents from any and all lawsuits, judgments and claims for injury, death and damage to persons and property, both real and personal, caused by the construction, design, installation, operation or maintenance of the sewer system or related appurtenances by Grantee within the Franchise Area. Indemnified expenses shall include, but not be limited to, litigation and arbitration expenses, and attorneys' fees.

Section 12: ACCEPTANCE BY GRANTEE / EFFECTIVE DATE FRANCHISE

The Franchise shall be accepted by Grantee by written instrument in the form attached hereto as Exhibit "B" (hereinafter "Acceptance"), executed and acknowledged by it as a deed is required to be, and filed with the Clerk of the Pinal County Board of Supervisors within thirty days after the date this Franchise is accepted by County. This Franchise shall be effective upon delivery of the Acceptance to the Clerk of the Pinal County Board of Supervisors in the form required and within the time specified above.

Section 13: LIMITS ON GRANTEE'S RECOURSE

A. Grantee by its acceptance of the Franchise acknowledges such acceptance relies upon grantee's own investigation and understanding of the power and authority of the County to grant said franchise. Grantee by its acceptance of the Franchise accepts the validity of the terms and conditions of the Franchise in their entirety and agrees it will not, at any time, proceed against County in any claim or proceeding challenging any term or provision of the Franchise as unreasonable, arbitrary or void, or that County did not have the authority to impose such term or condition.

B. Grantee by accepting the Franchise acknowledges that it has not been induced to accept the same by any promise, verbal or written, by or on behalf of County or by any third person regarding any term or condition of the Franchise not expressed therein. Grantee by its acceptance of the

Franchise further pledges that no promise or inducement, oral or written, has been made to any employee or official of County regarding receipt of the Franchise.

C. Grantee by its acceptance of the Franchise further acknowledges that it has carefully read the terms and conditions of the Franchise and accepts without reservation the obligations imposed by the terms and conditions herein.

D. The Board's decision concerning its selection and awarding of the Franchise shall be final.

Section 14: FAILURE TO ENFORCE FRANCHISE

Grantee shall not be excused from complying with any of the terms and conditions of the Franchise by any failure of County, upon any one or more occasions, to insist upon the Grantee's performance or to seek Grantee's compliance with any one or more of such terms or conditions.

Section 15: COMPLIANCE WITH THE LAW

Grantee shall at all times, conduct its business under the Franchise in accordance with all federal, state and local laws, rules and regulations, as amended, including any future amendments thereto as may, from time to time, be adopted.

Section 16: INTERPRETATION/GOVERNING LAW

The interpretation and performance of the Franchise and of the general terms and conditions shall be in accordance with and governed by the laws of the State of Arizona.

Section 17: VENUE

Exclusive venue for any legal action to enforce the provisions, terms and conditions of the Franchise shall be the Superior Court of the State of Arizona in and for the County of Pinal, Florence, Arizona..

Section 18: SEVERABILITY

If any section, provision, term or covenant or any portion of any section, provision, term or covenant of the Franchise is determined to be illegal, invalid or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory agency having jurisdiction thereof, such determination shall have no effect on any remaining portion of such section, provision, term or covenant or the remaining sections, provisions, terms or covenants of the Franchise, all of which will remain in full force and effect for the term of the Franchise or any renewal or renewals thereof.

Section 19: FORFEITURE

A. If Grantee fails to comply with any of the provisions of this agreement or defaults in any of its obligations hereunder, except for causes beyond the reasonable control of Grantee; and shall fail within thirty (30) days after written notice from County to commence, and within a reasonable time, complete the correction of such default or noncompliance, County shall have the right to revoke this

agreement and all rights of Grantee hereunder. In the event Grantee makes a general assignment or general arrangement for the benefit of creditors; or a trustee or receiver is appointed to take possession of substantially all of Grantee's Facilities within the Franchise Area or of Grantee's interest in this Franchise, where possession is not restored to Grantee within thirty (30) days; or Grantee's Facilities within the Franchise Area are subject to an attachment, execution or other seizure of substantially all of the Grantee's Facilities within the Franchise Area or this Franchise, where such seizure is not discharged within thirty (30) days, County may declare the Franchise, along with the Original Franchise, forfeited and terminated.

B. Nothing herein contained shall limit or restrict any other legal rights that County may possess arising from such violations.

Section 20: REVOCATION OF FRANCHISE

The Franchise may after due notice and hearing, be revoked by County for any of the following reasons:

- A. For false or misleading statements in, or material omissions from the application for and the hearing on the granting of the Franchise.
- B. For any transfer or assignment of the Franchise or control thereof without County's written consent.
- C. For failure to comply with any of the terms and conditions of the Franchise.

Section 21: ASSIGNMENT/TRANSFER

Grantee shall not assign or transfer any interest in the Franchise without the prior written consent of County. Said Board shall not unreasonably withhold its consent to a proposed transfer.

Section 22: NOTICE

Notices required under the Franchise shall be delivered or sent by certified mail, postage prepaid to:

Grantor:

Clerk of the Pinal County Board of Supervisors
P.O. Box 827
31 N. Pinal Street
Florence, Arizona 85232

Grantee:

Arizona Utility Supply & Services, LLC
4002 E. Taro Lane
Phoenix, Arizona 85050

The delivery or mailing of such notice shall be equivalent to direct personal notice and shall be deemed to have been given at the time of delivery. Either party may change its address under this section by written notice to the other party.

Section 23: REMEDIES

Rights and remedies reserved to the parties by the Franchise are cumulative and shall be in addition to and not in derogation of any other rights or remedies which the parties may have with respect to the subject matter of the Franchise and a waiver thereof at any time shall not affect any other time.

Section 24: RIGHT OF INTERVENTION

County hereby reserves to itself, and Grantee hereby grants to County, the right to intervene in any suit, action or proceeding involving any provision in the Franchise.

Section 25: BOOKS AND RECORDS

Grantee shall maintain books and records that identify all of Grantee's underground facilities by type and location within the Franchise Area. Grantee will make such books and records available to County upon County's request and without cost to County.

Section 26: AD VALOREM TAXES

Grantee shall pay its ad valorem taxes before they become delinquent.

IN WITNESS WHEREOF, the Board of Supervisors of Pinal County, Arizona, by its Chairman and its Clerk, thereunto duly authorized, has hereunto set its hand and cause its official seal to be affixed on **Actual date of hearing**.

PINAL COUNTY BOARD OF SUPERVISORS



Jimmie B. Kerr

Jimmie B. Kerr, Chairman

3-21-01

ATTEST

Stanley D. Griffis

Stanley D. Griffis, Clerk of the Board

APPROVED AS TO FORM:

ROBERT CARTER OLSON
PINAL COUNTY ATTORNEY

Robert Carter Olson

Richard Husk, Deputy County Attorney

Exhibit A
Page 1 of 2

Arizona Utility Supply & Services, LLC

4002 E. Taro Ln. Phoenix, AZ 85050
(602) 569-3190 FAX (602) 569-3536
888-921-5577

December 12, 2000

Mr. Gary Medina,
Director of Special Services
Pinal County Board of Supervisors
P.O. Box 827
Florence, Arizona 85232

RE: Sanitary Sewer Franchise

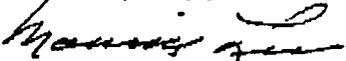
Mr. Gary Medina
Pinal County Board of Supervisors

May this letter serve as an application to The Pinal County Board of Supervisors to obtain a sanitary sewer franchise over the following described property:

All of Section 20, all of Section 29, and the ^{WEST} east one half of the north one half of Section 21 of Township 2 South, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona

Enclosed as well is the \$200 filing fee. Please advise if there is additional information that is needed to set this matter before your Board for hearing and granting this franchise.

Very truly yours,
Arizona Utility Supply & Services, LLC


Maurice Lee
Manager/Member

Encl. - Maps

Exhibit B**SAMPLE ACCEPTANCE OF SEWER FRANCHISE**

To: Board of Supervisors Pinal County, Arizona

Grantee, Arizona Utility Supply & Services, LLC, a(n) Arizona corporation, does hereby accept the _____ grant of a new public utility franchise from Pinal County, Arizona, (hereinafter "Franchise"), to construct, operate, and maintain a sewer system and related fixtures along, under and across present and future public streets, alleys and highways, except state highways, within the unincorporated area of Pinal County, Arizona, as stated in its application for a new public utility franchise.

Grantee unconditionally accepts the franchise and covenants to faithfully comply with, abide by, to observe and perform all the provisions, terms and conditions of the Franchise. Grantee accepts such provisions, terms and conditions and expressly waives any and all objections to the reasonableness or legality of any provisions of the same or any part thereof, or as to the legal right or authority of the County of Pinal to impose the same.

Grantee declares that the statements and recitals in said Franchise are correct, and Grantee declares it has made and does make the agreement, statements and admissions in said Franchise recited to have been or to be made by Grantee.

I:\attyciv\Franchise\WJ Utility Sewer Franchise

8
w/c

When recorded mail to:

Pinal County Board of Supervisors
P.O. Box 827
Florence, Arizona 85232



OFFICIAL RECORDS OF
PINAL COUNTY RECORDER
LAURA DEAN-LYTTLE

DATE: 05/14/01 TIME: 1614
FEE : 0.00
PAGES: 8
FEE NO: 2001-021507

(The above space reserved for recording information)

CAPTION HEADING

Expansion of a sewer franchise from Arizona Utility Supply & Services, LLC.
Original recorded franchise: 2001-016379.

Expansion and Amendment Of The Arizona Utility Supply & Services, LLC Sewer Franchise

WHEREAS, Arizona Utility Supply & Services, LLC had received a Sewer franchise from Pinal County to establish and maintain Sewer services on Arizona Utility Supply & Services, LLC, see document number orig. Recorder# in the Office of the Pinal County Recorder (hereinafter "Original Franchise").

WHEREAS, Arizona Utility Supply & Services, LLC, a(n) Arizona corporation, duly authorized to conduct business in the State of Arizona, has duly filed and presented to the Board of Supervisors of the County of Pinal, State of Arizona, its application for expansion of the Original Franchise for the purpose of constructing, operating and maintaining Sewer lines and related appurtenances along, under and across the public streets, alleys and highways, except federal and state highways, within the unincorporated area of Pinal County, Arizona, as described in Exhibit "A" attached hereto (hereinafter "Expansion").

WHEREAS, upon filing of Arizona Utility Supply & Services, LLC's application for the Expansion, the Board of Supervisors of Pinal County ordered a public notice of its intent to consider the granting of the Expansion to be published in a newspaper of general circulation, in Pinal County, Arizona, stating the time and place for consideration of the Expansion was set for 9:30 a.m. on May 9th, 2001, at the Pinal County Board of Supervisors' Hearing Room, Administration Building No. 1, Florence, Arizona.

WHEREAS, said application for the Expansion and Amendment having come on regularly for hearing at 9:30 a.m. on May 9th, 2001; and it appearing from the affidavit of the publisher of the Florence Reminder & Blade-Tribune that due and regular notice of said time and place set for the consideration of such action has been published for at least once a week for three consecutive weeks prior to said hearing date, to-wit: in the issues of the Florence Reminder & Blade-Tribune published on April 19th, April 26th, and May 3rd, 2001; and the matter being called for hearing at 9:30 a.m., and an opportunity having been given to all interested parties to be heard.

WHEREAS, the Board of Supervisors of Pinal County has the power to amend an existing franchise under its general police powers in such matters.

NOW, THEREFORE,

Section 1: DEFINITIONS

First Amended
Arizona Utility Supply & Services, LLC Sewer Franchise

The following terms used in this expansion and amendment of the Original Franchise shall have the following meanings:

- A. County: Pinal County, Arizona
- B. Board: Board of Supervisors of Pinal County, Arizona.
- C. Grantor: Pinal County, by and through its Board of Supervisors
- D. Grantee: Arizona Utility Supply & Services, LLC, a(n) Arizona corporation, its successors and assigns
- E. Grantee's Facilities: Sewer lines and related appurtenances

Section 2: GRANT

Grantor, on May 9th, 2001, hereby grants to Grantee, for a period of time not to exceed the Original Franchise, this expanded and amended franchise (hereinafter "First Amended Amended Franchise") for the purpose of constructing, operating and maintaining Sewer lines and related appurtenances along, under and across public streets, alleys and highways, except federal and state highways, under the terms and conditions set forth herein within the unincorporated area of Pinal County, Arizona, as described in the Expansion and the Original Franchise (hereinafter "Franchise Area").

Section 3: ACCEPTANCE BY GRANTEE / EFFECTIVE DATE FRANCHISE

The First Amended Franchise shall be accepted by Grantee by written instrument in the form attached hereto as Exhibit "B" (hereinafter "Acceptance"), executed and acknowledged by it as a deed is required to be, and filed with the Clerk of the Pinal County Board of Supervisors within thirty days after the date this First Amended Franchise is accepted by County. This First Amended Franchise shall be effective upon delivery of the Acceptance to the Clerk of the Pinal County Board of Supervisors in the form required and within the time specified above.

Section 4: LIMITS ON GRANTEE'S RECOURSE

A. Grantee by its acceptance of the First Amended Franchise acknowledges such acceptance relies upon grantee's own investigation and understanding of the power and authority of the County to grant said franchise. Grantee by its acceptance of the First Amended Franchise accepts the validity of the terms and conditions of the First Amended Franchise in their entirety and agrees it will not, at any time, proceed against County in any claim or proceeding challenging any term or provision of the First Amended Franchise as unreasonable, arbitrary or void, or that County did not have the authority to impose such term or condition.

B. Grantee by accepting the First Amended Franchise acknowledges that it has not been induced to accept the same by any promise, verbal or written, by or on behalf of County or by any third person regarding any term or condition of the First Amended Franchise not expressed therein. Grantee by its acceptance of the First Amended Franchise further pledges that no promise or inducement, oral or written, has been made to any employee or official of County regarding receipt of the First Amended Franchise.

C. Grantee by its acceptance of the First Amended Franchise further acknowledges that it has carefully read the terms and conditions of the First Amended Franchise and accepts without reservation the obligations imposed by the terms and conditions herein.

D. In case of conflict or ambiguity between the First Amended Franchise and the Original Franchise, the provision which provides the greatest benefit to County, as determined solely by County, shall prevail.

E. The Board's decision concerning its selection and awarding of the First Amended Franchise shall be final.

Section 5: SEVERABILITY

If any section, provision, term or covenant or any portion of any section, provision, term or covenant of the First Amended Franchise is determined to be illegal, invalid or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory agency having jurisdiction thereof, such determination shall have no effect on any remaining portion of such section, provision, term or covenant or the remaining sections, provisions, terms or covenants of the First Amended Franchise, all of which will remain in full force and effect for the term of the First Amended Franchise or any renewal or renewals thereof.

Section 6: NOTICE

Notices required under the First Amended Franchise shall be delivered or sent by certified mail, postage prepaid to:

Grantor:

Clerk of the Pinal County Board of Supervisors
P.O. Box 827
31 N. Pinal
Florence, Arizona 85232

Grantee:

Arizona Utility Supply & Services, LLC
3420 E. Shea Blvd., Ste. 213
Phoenix, Arizona 85050

First Amended
Arizona Utility Supply & Services, LLC Sewer Franchise

The delivery or mailing of such notice shall be equivalent to direct personal notice and shall be deemed to have been given at the time of delivery. Either party may change its address under this section by written notice to the other party.

IN WITNESS WHEREOF, the Board of Supervisors of Pinal County, Arizona, by its Chairman and its Clerk, thereunto duly authorized, has hereunto set its hand and cause its official seal to be affixed on May 9th, 2001.

PINAL COUNTY BOARD OF SUPERVISORS


Jimmie B. Kerr
Jimmie B. Kerr, Chairman

ATTEST:

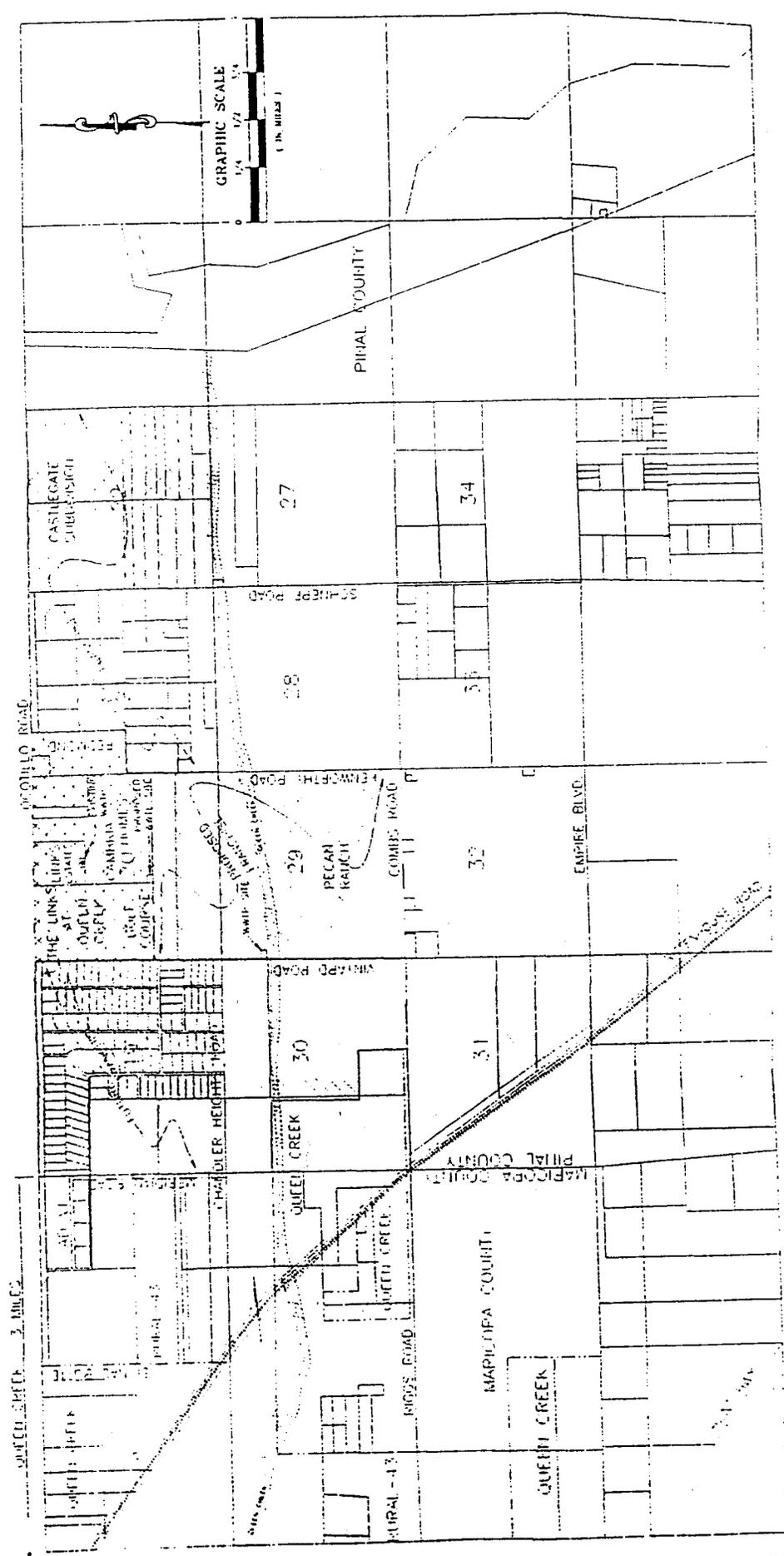
By: Shari Cluff, Deputy Clerk
Stanley D. Griffis, Clerk of the Board

APPROVED AS TO FORM:

ROBERT CARTER OLSON
PINAL COUNTY ATTORNEY

Rick Husk
Rick Husk, Deputy County Attorney

EXHIBIT 'A'
 1 OF 2
ARIZONA UTILITY SUPPLY & SERVICES, LLC
 MASTER SEWER PLAN

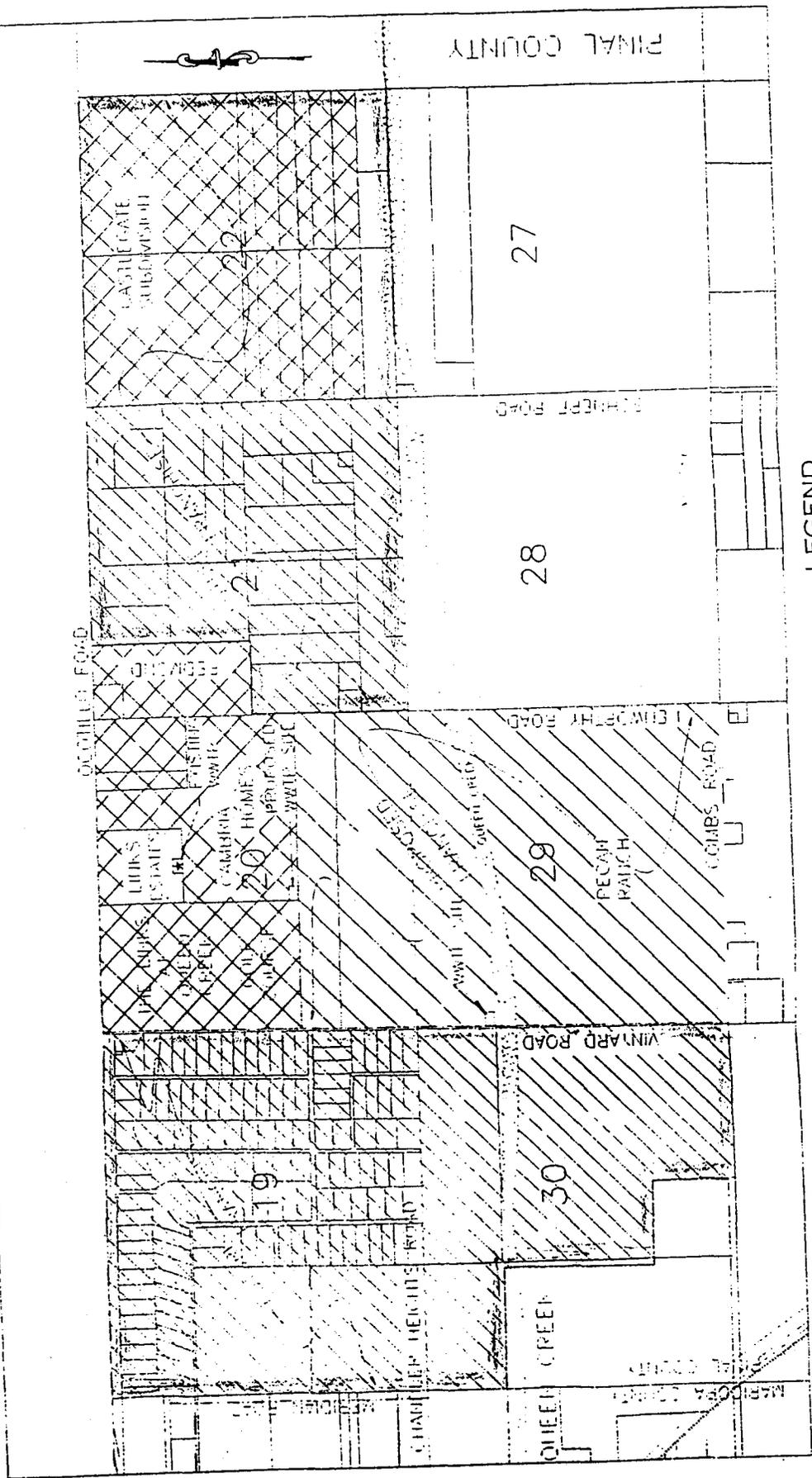


LEGEND

- [Symbol] EXISTING SEWER LINE (WITH REQUEST LETTERS)
- [Symbol] PROPOSED SEWER LINE (WITH REQUEST LETTERS)
- [Symbol] PROPOSED MANHOLE (WITH REQUEST LETTERS)
- [Symbol] PROPOSED PROPERTY LINE

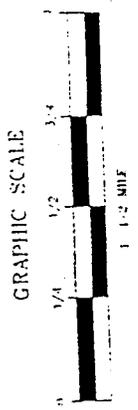
A PORTION OF TOWNSHIP 2 SOUTH,
 RANGE 8 EAST OF THE GILA AND
 SALT RIVER BASE AND MERIDIAN,
 PINAL COUNTY, ARIZONA.

EXHIBIT 'A'
 2 OF 2
 ARIZONA UTILITY SUPPLY & SERVICES, LLC
 MASTER SEWER PLAN



EXISTING FRAUDS (WITH REQUEST LETTERS)
 PECAN PATCH (PROPOSED FRAUDS HEARING 5.1.01)
 PROPOSED FRAUDS (WITH REQUEST LETTERS)
 PROPOSED FRAUDS

LEGEND



A PORTION OF TOWNSHIP 2 SOUTH,
 RANGE 8 EAST OF THE GILA AND
 SALT RIVER BASE AND MERIDIAN,
 PINAL COUNTY, ARIZONA.

Exhibit B

SAMPLE ACCEPTANCE OF EXPANDED AND AMENDED FRANCHISE

To: Board of Supervisors Pinal County, Arizona

Grantee, Arizona Utility Supply & Services, LLC, a(n) Arizona corporation, does hereby accept the May 9th, 2001 grant of an First Amended Franchise from Pinal County, Arizona, to construct, operate, and maintain Sewer lines and related fixtures along, under and across present and future public streets, alleys and highways, except state highways, within the unincorporated area of Pinal County, Arizona, as described in the Application, which is made a part hereof.

Grantee unconditionally accepts the franchise and covenants to faithfully comply with, abide by, to observe and perform all the provisions, terms and conditions of the First Amended Franchise. Grantee accepts such provisions, terms and conditions and expressly waives any and all objections to the reasonableness or legality of any provisions of the same or any part thereof, or as to the legal right or authority of the County of Pinal to impose the same.

Grantee declares that the statements and recitals in said First Amended Franchise are correct, and Grantee declares it has made and does make the agreement, statements and admissions in said First Amended Franchise recited to have been or to be made by Grantee.

AZ Utility First E&A

EXHIBIT "B"

COUNTY CONCEPTUAL APPROVAL OF WATER AND/OR WASTEWATER PROJECT (ADEQ Form 113)

This form is to be filled out, signed and SUBMITTED WITH all Applications for Approval to Construct Water and/or Wastewater Facilities and/or Applications for Approval of Sanitary Facilities for Subdivisions.

1. PROJECT NAME: Cambria Wastewater Treatment Facility

2. PROJECT TYPE (Please check all applicable components of the OVERALL PROJECT):

- New Public Drinking Water System
- New Community Sewage System
- Extend Existing Drinking Water System
- Extend Existing Sewage System
- Other (describe) _____
- Individual On-site Disposal System (for a single residence only)
- Other On-site Disposal System
- Subdivision
- Mobile Home or R.V. Park

3. COUNTY STATEMENT OF CONCEPTUAL APPROVAL:

Plans and supporting data for the above project have been reviewed by the

PINAL COUNTY DIVISION OF PUBLIC HEALTH
(NAME OF COUNTY HEALTH DEPARTMENT OR ENVIRONMENTAL AGENCY)

and county conceptual approval is hereby given for the project, except as noted below. For individual sewage disposal systems, this is an approval of method only. FINAL PLAN APPROVAL BY THE ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY MUST BE OBTAINED BEFORE CONSTRUCTION OF THE PROJECT CAN BEGIN.

County Comments: None

Continued on Attachment No Yes (Pages)

Name of County Official (type or print) Atul Shah

Signature of County Official Atul Shah

Title of County Official Environmental Engineer

Address P.O. Box 2517 (31 N. Pinal St., Bldg F)

City Florence Zip Code 85232

Date July 23, 2001

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY, ENGINEERING REVIEW DESK
3033 N. Central Ave., Phoenix, Arizona 85012

COUNTY CONCEPTUAL APPROVAL OF WATER AND/OR WASTEWATER PROJECT (ADEQ Form 113)

This form is to be filled out, signed and SUBMITTED WITH all Applications for Approval to Construct Water and/or Wastewater Facilities and/or Applications for Approval of Sanitary Facilities for Subdivisions.

1. PROJECT NAME: Castlegate Wastewater Treatment Facility

2. PROJECT TYPE (Please check all applicable components of the OVERALL PROJECT):

New Public Drinking Water System

Individual On-site Disposal System (for a single residence only)

New Community Sewage System

Other On-site Disposal System

Extend Existing Drinking Water System

Subdivision

Extend Existing Sewage System

Mobile Home or R.V. Park

Other (describe) _____

3. COUNTY STATEMENT OF CONCEPTUAL APPROVAL:

Plans and supporting data for the above project have been reviewed by the

PINAL COUNTY DIVISION OF PUBLIC HEALTH
(NAME OF COUNTY HEALTH DEPARTMENT OR ENVIRONMENTAL AGENCY)

and county conceptual approval is hereby given for the project, except as noted below. For individual sewage disposal systems, this is an approval of method only. FINAL PLAN APPROVAL BY THE ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY MUST BE OBTAINED BEFORE CONSTRUCTION OF THE PROJECT CAN BEGIN.

County Comments: None

Continued on Attachment No Yes (Pages)

Name of County Official (type or print) Anil Shah

Signature of County Official Anil Shah

Title of County Official Environmental Engineer

Address P.O. Box 2517 (31 N. Pinal St., Bldg F)

City Florence

Zip Code 85232

Date July 23, 2001

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY, ENGINEERING REVIEW DESK
3033 N. Central Ave., Phoenix, Arizona 85012

EXHIBIT "C"



Jane Dee Hull
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

3033 North Central Avenue • Phoenix, Arizona 85012-2809
(602) 207-2300 • www.adeq.state.az.us



Jacqueline E. Schafer
Director

DW-02-098
October 16, 2001

CERTIFIED MAIL
Return Receipt Requested
7099-3400-0016-2571-6260

Mr. George Johnson, President
Johnson Utilities, LLC
5230 East Shea Boulevard
Scottsdale, Arizona 85254

Subject: Sun Valley Farms Unit V, Public Water System (PWS) PWS ID #11-116

NOTICE OF VIOLATION

The Arizona Department of Environmental Quality (ADEQ), Water Quality Division, Water Quality Compliance Section, Drinking Water Compliance and Enforcement Unit has reason to believe that Mr. George Johnson, President, Johnson Utilities Co. as the owner and operator of PWS ID # 11-116, Sun Valley farms Unit V (Water Supplier), located near the City of Queen Creek in Pinal County, Arizona, has violated the Arizona Revised Statutes (A.R.S.) § 49-101 *et seq.* or the applicable rules found in the Arizona Administrative Code (A.A.C.). ADEQ discovered the violations alleged below during review of the facility's file completed on October 5, 2001.

I. LEGAL AUTHORITY and NATURE OF ALLEGED VIOLATION(S)

Legal Authority

Nature of Violation

- | | | |
|----|-------------------|--|
| A. | A.A.C. R18-4-507. | Failure of the Water Supplier to receive an Approval of Construction (AOC) from ADEQ, prior to operating a newly constructed facility. |
|----|-------------------|--|

No documentation exists in the public record at ADEQ that proves the required AOC (project # 20000368) was received by the water supplier prior to March 2, 2001. Johnson Utilities placed a newly constructed facility into service on October 3, 2000, and continued serving water to the Sun Valley Farms Unit V drinking water distribution system until March 27, 2001, a total of 178 days of operation.

DW-02-098
Notice of Violation
PWS ID# 11-116, Sun Valley Farms Unit V water system
October 16, 2001

Page 2

- B. A.A.C. R18-4-505. Failure of the water supplier to receive an Approval to Construct (ATC) from ADEQ, prior to starting construction of a modification to an existing facility.

No documentation exists in the public record that proves the required ATC was received by the water supplier prior to the construction of the "Rickie well", (ADWR # 55-570372) the associated line extension and connection to the Sun Valley Farms Unit V distribution system PWS ID # 11-116. Johnson Utilities began construction of the "Rickie well", the associated pipe line (Copper Road water transmission main) and the connection to PWS ID # 11-116, on December 2, 1998 and completed the construction on March 31, 1999, a total of 120 days.

- C. A.A.C. R18-4-507 Failure of the Water Supplier to receive an Approval of Construction (AOC) from ADEQ, prior to operating a newly constructed facility.

No documentation exists in the public record at ADEQ that proves the required AOC (Rickie Well/Cooper Road water transmission main project) was received by the water supplier from ADEQ, prior to March 12, 2001. Johnson Utilities placed a newly constructed facility into service on March 12, 2001, and continued serving water to the Sun Valley Farms Unit V distribution system until March 27, 2001, a total of 15 days of operation.

- D. A.A.C. R18-4-125.F Failure of the water hauler to maintain a log of all on-loading, chlorine disinfectant additions and residual-free chlorine measurements.

Johnson Utilities reported that water was hauled from September 1, 2000, until October 3, 2000. The log provided to ADEQ by Johnson Utilities indicates water hauling was discontinued on September 28, 2000. Therefore, the required log was not maintained for 6 days when water was being hauled to the Sun Valley Farms Unit V water system.

DW-02-098
Notice of Violation
PWS ID# 11-116, Sun Valley Farms Unit V water system
October 16, 2001

Page 3

II. DOCUMENTING COMPLIANCE

- A. Within 7 days of the effective date of this notice, Johnson Utilities Co., as owner and operator of PWS # 11-116, Sun Valley Farms Unit V water system, shall provide information as follows:

A report relating to the current status of the Ricki Well and the associated pipe line which will connect the Ricki well to the Sun Valley Farms Unit V distribution system. The status report should include a written description of the current status in obtaining, from ADEQ, the required Approval to Construct (ATC) and the Approval of Construction (AOC).

III. SUBMITTING COMPLIANCE DOCUMENTATION

Please send all compliance documentation and any other written correspondence regarding this Notice to ADEQ at the following address:

Bill DePaul, Case Manager
Arizona Department of Environmental Quality
Drinking Water Compliance & Enforcement Unit
3033 North Central Avenue M0501B
Phoenix, Arizona 85012-2809

IV. STATEMENT OF CONSEQUENCES

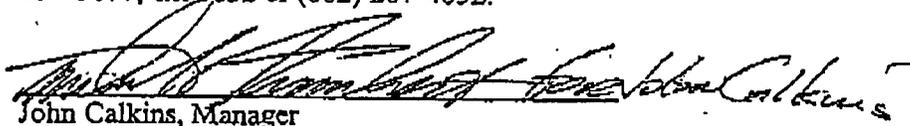
- A. The time frames within this Notice for achieving and documenting compliance are firm limits. Failure to achieve or document compliance within the time frames established in this Notice will result in an administrative order or civil action requiring compliance within a reasonable time frame and/or substantial civil penalties. ADEQ will agree to extend the time frames only in a compliance schedule negotiated in the context of an administrative consent order or civil consent judgment.
- B. Achieving compliance does not preclude ADEQ from seeking civil penalties for the violations alleged in this Notice as allowed by law.

DW-02-098
Notice of Violation
PWS ID# 11-116, Sun Valley Farms Unit V water system
October 16, 2001

Page 4

V. OFFER TO MEET

ADEQ is willing to meet regarding this Notice. To obtain additional information about this Notice or to schedule a meeting to discuss this Notice, please contact Bill DePaul at 1-800-234-5677, ext 4652 or (602) 207-4652.



John Calkins, Manager
Drinking Water Compliance & Enforcement Unit



Bill DePaul, Enforcement Coordinator
Drinking Water Compliance & Enforcement Unit

JAC:WAD:mf3

cc: DWCEU Reading File
Facility File PWS 11-116
Bill DePaul, Case Manager

Certified Mail, Return Receipt

7099-3400-0016-2571-6277

Delator Corporation, Statutory Agent
Johnson Utilities, L.L.C.
7201 E. Camelback Road, # 330
Scottsdale, AZ 85251

Regular U.S. Mail

Karen Berry, Field Inspector
Arizona Department of Environmental Quality
Water Quality Compliance Section
Drinking Water Compliance Enforcement Unit
3033 N. Central, M0501B
Phoenix, AZ 85012-2809

Reg Glos, Director of Environmental Health
Pinal County Health Department
P.O. Box 2517
Florence, AZ 85232

~~Steve D...~~ Assistant Director
Arizona Corporation Commission
Utilities Division
1200 West Washington
Phoenix, Arizona 85007