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1 FENNEMORE CRAIG
Jay L. Shapiro (No. 014650)
2 Thomas R. Wilmoth (No. 017557)
3003 North Central Avenue
3 Suite 2600
Phoenix, Arizona 85012-2913
4 Telephone: (602) 916-5000
Attorneys for Complainant
5 Pine Water Company

BEFORE THE ARIZONA CORPORATION COMMISSION

8 PINE WATER COMPANY, an Arizona
corporation,

Docket No. W-03152A-01-0464

NOTICE OF FILING

9 Complainant,

10 v.

11 STRAWBERRY HOLLOW
DEVELOPMENT, INC., an Arizona
12 corporation, STRAWBERRY HOLLOW
13 PROPERTIES, L.L.C., an Arizona limited
liability company, STRAWBERRY
14 HOLLOW PROPERTY OWNER'S
ASSOCIATION, INC., an Arizona non-
15 profit corporation,

Arizona Corporation Commission

DOCKETED

AUG 14 2001

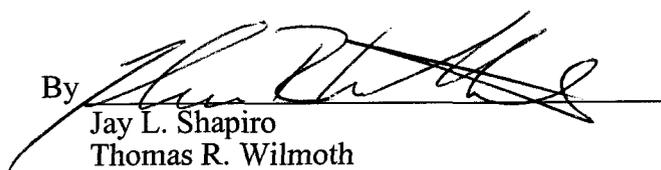
16 Respondents.

DOCKETED BY *muc*

17
18 Pine Water Company ("Pine Water") hereby files a letter dated August 13, 2001 from
19 Strawberry Hollow Development, Inc. to the Gila County Board of Supervisors.

20 DATED this 14th day of August, 2001.

21 FENNEMORE CRAIG

22
23 By 

Jay L. Shapiro
Thomas R. Wilmoth
Attorneys for Complainant
Pine Water Company

1 Original and 10 copies
hand-delivered this 14th
2 day of August, 2001 to:

3 Docket Control
Arizona Corporation Commission
4 1200 W. Washington St.
Phoenix, AZ 85007

5 Copy of the foregoing
6 hand-delivered this 14th
day of August, 2001 to:

7
8 Chairman William Mundell
Arizona Corporation Commission
1200 W. Washington St.
9 Phoenix, AZ 85007

10 Commissioner James Irvin
Arizona Corporation Commission
11 1200 W. Washington St.
Phoenix, AZ 85007
12

13 Commissioner Mark Spitzer
Arizona Corporation Commission
14 1200 W. Washington St.
Phoenix, AZ 85007

15 Hercules Dellas, aide to Commissioner Mundell
16 Arizona Corporation Commission
1200 W. Washington St.
17 Phoenix, AZ 85007

18 Patrick Black, Esq., aide to Commissioner Irvin
Arizona Corporation Commission
19 1200 W. Washington St.
Phoenix, AZ 85007
20

21 Paul Walker, aide to Commissioner Spitzer
Arizona Corporation Commission
22 1200 W. Washington St.
Phoenix, AZ 85007

23 Steve Olea Assistant Director
24 Utilities Division
Arizona Corporation Commission
25 1200 W. Washington St.
Phoenix, AZ 85007
26

1 Teena Wolfe
2 Legal Division
3 Arizona Corporation Commission
4 1200 W. Washington St.
5 Phoenix, AZ 85007

6 And a copy mailed to:

7 Thomas L. Mumaw, Esq.
8 Jeffrey W. Crockett, Esq.
9 Snell & Wilmer
10 One Arizona Center
11 Phoenix, Arizona 85004-2202

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Aran Elliott

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Strawberry Hollow Development, Inc.

P.O. Box 2141 PINE, ARIZONA 85544

August 13, 2001

Gila County Board of Supervisors
1400 East Ash Street
Globe, AZ 85501

**Re: *Petition for the Formation of the Strawberry Hollow
Domestic Water Improvement District***

To the Honorable Supervisors of Gila County:

After receiving a copy of Pine Water Company's letter to this Honorable Board dated August 10, 2001, I felt compelled to set the record straight. Pine Water Company has leveled a series of allegations against me personally and against the proposed Strawberry Hollow Domestic Water Improvement District ("Improvement District"). The personal attacks are of little significance. They are apparently part of the price for entrepreneurship these days, especially when you challenge an entrenched state-sanctioned private monopoly like Pine Water Company and its bureaucrat supporters in Phoenix. However, the allegations against the proposed Improvement District demand a response:

Allegation No. 1: *The Proposed District is "a desperate attempt to circumvent various long-standing water service moratoria enacted by the Arizona Corporation Commission" ["ACC"].*

The Proposed District is not "circumventing" anything. It is trying to do something to solve the water service moratorium imposed on Pine Water Company. In fact, we're trying to do Pine Water Company's job! We are presently in the process of drilling a very deep well within the boundaries of the Proposed District. If the Proposed District can't serve itself, we realize we cannot count on any help from Pine Water Company. Seventy-two customers represents less than 4% growth in Pine Water Company's customers. Real utilities routinely accommodate such growth year after year. If Pine Water Company were living up to the obligations inherent in a CC&N, we wouldn't be forced to provide for our own water.

Phone: 520-472-4477

E-mail: lorenpeterson@cybertrails.com

Fax: 520-472-7768

Allegation No. 2: The ACC-imposed moratorium is in the public interest.

I'm always taken when politicians in Phoenix think they know more about what's in the "public interest" of the people in Pine than do their own local officials. But in point of fact, even Pine Water Company agrees the moratorium should be lifted. It was imposed years ago because Pine Water Company and its predecessors had failed to acquire sufficient water resources. This is far different from a determination that there is actually insufficient water within the Pine area to support any new growth.

Allegation No. 3: The Board should show deference to the ACC's determination that there should be no new subdivisions in Pine.

The ACC has not bothered to reconsider its more than a decade old conclusion on Pine Water Company's inadequate service. So be it. But that doesn't mean the ACC is owed any special deference in land use or zoning decisions. The ACC certainly doesn't get to decide whether Gila County can establish special districts. That's clearly up to local officials like this Board to decide, and Pine Water Company knows this as much as I do.

Allegation No. 4: The Proposed District would be unfair to the land-owners on the Pine Water Company waiting list.

Some of those on the Pine Water Company waiting list have no current intent to actually construct homes and live in Pine. I also remind the Board that unlike those on the list, we aren't waiting around for Pine Water Company or the ACC to say its OK to build a house in Pine. We're finding our own water – and hopefully enough to share with the residents of Pine and Strawberry. Rather than being unfair to those on the waiting list, we're trying to help them.

Allegation No. 5: The Proposed Improvement District will not be able to successfully condemn the small portion of Pine Water Company's CC&N that is within the Improvement District.

Pine Water Company's CC&N within the proposed Improvement District is just a piece of paper. No water facilities exist, and we do not want any facilities of Pine Water Company. A CC&N without any facilities or customers has, by law, "de minimus value." See A.R.S. §40-287. However, these condemnation issues will no doubt have to be resolved by a judge and jury. We knew we were in for a fight when we asked for deletion from the Pine/Strawberry Water Improvement District and when we filed the Petition to form the proposed Improvement District. We ask only for the chance to prove our case, and a chance for 72 families to join our community.

Gila County Board of Supervisors
August 13, 2001
Page 3

I wish to thank the Board for it's consideration of our Petition. I am available to answer any questions you may have.

Very truly yours,

Strawberry Hollow Development, Inc.

A handwritten signature in black ink, appearing to read "Loren B. Peterson", with a long, sweeping flourish extending to the right.

Loren B. Peterson

LP:jyb