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MEMORANDUM

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TO: Docket Control  
FROM: Ernest <sup>EJS</sup>G. Johnson  
Director  
Utilities Division

AZ CORP COMMISSION  
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DATE: December 6, 2001

RE: STAFF REPORT FOR ANDERSON BROTHERS FARMS, INC. D.B.A. ANDERSON BROTHERS WATER COMPANY'S AND MOHAWK WATER COMPANY'S APPLICATION FOR APPROVAL OF THE SALE OF ASSETS AND/OR THE CANCELLATION OF THE CC&N AND TO TRANSFER THEM TO COPPER MOUNTAIN RANCH COMMUNITY FACILITIES DISTRICT (DOCKET NOS. W-02558A-01-0803, W-04053A-01-0802 AND W-02224A-01-0802)

Attached is the Staff Report for Anderson Brothers Farms, Inc. d.b.a. Anderson Brothers Water Company and Mohawk Water Company's application for approval of the sale of assets and/or the cancellation of the CC&N and to transfer them to Copper Mountain Ranch Community Facilities District. Staff recommends approval following a hearing.

EGJ:JEF:nms

Originator: James E. Fisher

Attachment: Original and Ten Copies

Arizona Corporation Commission

DOCKETED

DEC 11 2001

DOCKETED BY 

Service List for: Anderson Brothers Farms, Inc. d.b.a. Anderson Brothers Water Company  
Docket No. W-02558A-01-0803et al.

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**STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION**

**ANDERSON BROTHERS FARMS, INC.  
DOING BUSINESS AS  
ANDERSON BROTHERS WATER COMPANY  
AND MOHAWK WATER COMPANY**

**DOCKET NOS. W-02558A-01-0803,  
W-04053A-01-0802 AND W-02224A-01-0802**

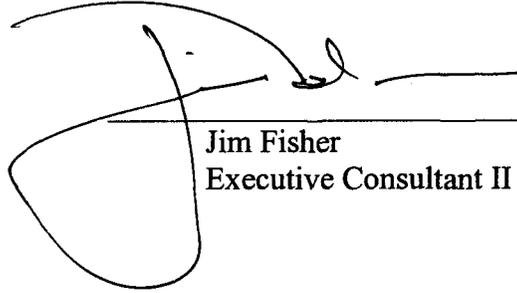
**APPLICATION FOR APPROVAL OF THE  
SALE OF ASSETS AND/OR THE CANCELLATION OF  
THE CERTIFICATE OF CONVENIENCE AND NECESSITY  
AND TO TRANSFER THEM TO COPPER MOUNTAIN  
RANCH COMMUNITY FACILITIES DISTRICT**

**DECEMBER 2001**

## STAFF ACKNOWLEDGMENT

The Staff members designated below contributed elements of this Staff Report.

Contributing Staff:



Jim Fisher  
Executive Consultant II

**EXECUTIVE SUMMARY**  
**ANDERSON BROTHERS WATER COMPANY**  
**MOHAWK WATER COMPANY**  
**DOCKET NO. W-02558A-01-0803et al.**

Anderson Brothers Water Company and Mohawk Water Company are two small water companies under common ownership. The utilities serve a combined 240 customers, located near Casa Grande in Pinal County. Both utilities have entered into an agreement to sell utility assets to Copper Mountain Ranch Community Facilities District, ("CFD") a political subdivision of the City of Casa Grande.

By this application the utilities are requesting Commission authorization to transfer the assets to the CFD and cancel the existing Certificates of Convenience and Necessity. In comparison to the utilities, the CFD has greater access to capital, which ensures the ability to develop higher quality water supplies, as well as expert personnel to ensure service to the existing customers meets or exceeds the current level of service from the utilities.

The CFD is acquiring the utilities to ensure water is available for other developments, to do so, the CFD is required to demonstrate adequate water supplies to serve existing and future customers. The CFD has located additional sources within the current service territories and intends to develop them.

Staff recommends that the Commission authorize the utilities to transfer their assets and cancel the CC&Ns.

**TABLE OF CONTENTS**

	<b><u>PAGE</u></b>
Introduction.....	1
Background.....	1
The Community Facilities District.....	2
The Proposed Transaction.....	2
Future Service to Existing Customers .....	3
Compliance .....	3
Recommendations.....	3

## **Introduction**

On October 12, 2001, Anderson Brothers Farms, Inc., d/b/a Anderson Brothers Water Company ("Anderson Brothers") applied to the Arizona Corporation Commission ("Commission") for approval of a sale of its assets and transfer its Certificate of Convenience and Necessity ("CC&N") to Copper Mountain Ranch Community Facilities District ("CFD"). The CFD is a political subdivision of the City of Casa Grande. On December 5, 2001, CFD provided Staff with additional information to support the application.

On October 12, 2001, in a separate application, Mohawk Water Company ("Mohawk") applied to the Commission for approval of a sale of its assets and transfer of its CC&N to the CFD.

Anderson Brothers and Mohawk are both controlled by the same management and have entered into the same sale agreement with the District. As both applications are interrelated, Staff has consolidated the matters for review and recommendation.

## **Background**

Mohawk is a Limited Liability Company located 11 miles east of the Town of Maricopa in Pinal County, serving approximately 150 customers. By Decision No. 43162, dated March 12, 1973, the Commission granted Mohawk a CC&N.

Anderson Brothers is an Arizona "C" Corporation located north of Stanfield and west of Casa Grande, to the south of the Mohawk system, serving an approximate 80 customers. The Commission granted Anderson Brothers its CC&N in Decision No. 57281, dated March 7, 1991.

Both companies are owned and operated by Mr. James Little. Both utilities are located in the Pinal Active Management Area, and are in compliance with Arizona Department of Water Resources ("ADWR") monitoring and reporting requirements. However, both Mohawk and Anderson Brothers have experienced intermittent high nitrate levels in their water since 1990, in violation of Arizona Department of Environmental Quality ("ADEQ").

Anderson Brothers and Mohawk made a joint application to the Commission for approval for a WIFA loan to fund the interconnection of the systems, thereby reducing the costs of developing an uncontaminated water supply. The utilities planned to blend the water. (See Decision No. 61312, dated January 7, 1999.) On May 1, 1999, Anderson Brothers obtained a \$92,650 loan to rehabilitate an existing well and upgrade storage and transmission plant.

The ADEQ issued a Certificate of Approval to Construct for the system intertie on January 10, 2000. Final construction of the transmission intertie was completed on February 1, 2001. ADEQ issued the utilities an Approval of Construction on August 13, 2001.

### **The Community Facilities District**

On May 1, 2000, the City of Casa Grande established the Copper Mountain Community Facilities District ("CFD") for the purpose of assisting in the orderly development of properties outside of the city limits. The CFD was formed pursuant to Title 48, Chapter 4, Article 6 of the Arizona Amended Statutes; to develop a master planned community on Copper Mountain, a property of approximately 5,600 acres.

The Copper Mountain CFD was created by the city, with voter approval, 6 votes to approve the formation, with no votes cast against it. The City Council serves as the Board of Directors. By resolution of May 15, 2001, the CFD was authorized to issue general obligation bonds of up to \$150,000,000.

Copper Mountain is a special purpose district for purposes of Article IX, Section 19, of the Arizona Constitution. Copper Mountain is a tax levying public improvement district for the purpose of Article XIII; Section 7. Copper Mountain is also a municipal corporation for all purposes of Title 35, Chapter 3.

The District has entered into a development agreement with the landowners of Copper Mountain to ensure that the property is developed in a coordinated manner, consistent with the City's Growing Smarter plan.

The District is authorized to construct public infrastructure or take action for "public infrastructure purposes" related in contemplation of acquisition of such public infrastructure by a community facilities district. For purposes of distributing and selling groundwater, the District is a private water company only for purposes of Title 45, Chapters 2 and 3.1.

Copper Mountain has no viable ground water. Copper Mountain must demonstrate the availability of adequate water supplies in order to ensure the development of the projected 12,000 homes of Copper Mountain Ranch. The CFD has located additional water production sources within the Mohawk and Anderson Water service territories. The CFD intends to develop them to serve the existing and future customers.

### **The Proposed Transaction**

On August 6, 2001, the Board of the Copper Mountain Ranch Community Facilities District authorized the acquisition of Mohawk and Anderson Brothers. On September 25, 2001, Mr. James Little, owner of Anderson Water and Mohawk, authorized the corporations to enter into any agreement to effect the sale of the companies.

On October 2, 2001, Anderson Brothers, Mohawk and the District entered into an asset purchase agreement requiring the District to pay the appraised value of \$986,860 for the combined water utility assets. The purchase price is adjusted to reflect any WIFA loan balances, or additions to plant prior to close of escrow.

The District will assume all outstanding obligations of the utilities or pay the liability in cash at the close of escrow.

The applicants are to provide any titles or evidence of ownership and all tangible assets. The applicant is also to provide a tax receipt from the Arizona Department of Revenue stating that no tax is due.

The District has agreed to retain Mr. Little for 24 months, at \$25,000 per year, for consulting services. Such services are to include advice regarding billing and collection services, training and oversight of District employees or contractors as well as system expansion and developer negotiation.

### **Future Service to Existing Customers**

The existing customers of Mohawk and Anderson Water should obtain significant system benefits through the acquisition by the CFD. The CFD has located additional water resources, which have lower nitrate and arsenic levels than the current supplies. The CFD has lower cost capital, and the need to interconnect the higher quality resources to ensure adequate supply to Copper Mountain.

Copper Mountain, like any master planned community in an active management area, is required to demonstrate the 100-year assured water supply. In order for Copper Mountain to demonstrate the adequate supply, the existing utility will need to be judged in compliance with all applicable standards.

In addition, the CFD, as a political subdivision of the City, will have ready access to expert personnel to make improvements and repairs the system.

Staff believes the proposed transaction is in the public interest. Staff believes the CFD's access to lower cost capital, its ability to develop higher quality water supplies, and its additional expert personnel to service the systems, ensures that the existing customers will receive service that is equal to, or better than the current level.

### **Compliance**

Anderson Water and Mohawk are both current on taxes obligations.

### **Recommendations**

Staff recommends that the Commission approve Anderson Brothers Water Company application to transfer its assets to Copper Mountain Ranch Community Facilities District and cancel its Certificate of Convenience and Necessity.

Staff recommends that the Commission approve Mohawk Water Company's application to transfer its assets to Copper Mountain Ranch Community Facilities District and cancel its Certificate of Convenience and Necessity.