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February 17, 2006

AZ CORP COMMISSION
DOCUMENT CONTROL

Re: Perkins Mountain Water Company, Docket No. W-20380A-05-0490

SW-20379A-05-0489

Dear Colleagues and Parties to the Docket:

I have reviewed the testimony, briefs, docketed reports and Recommended Opinion and Order (ROO) in the above referenced matter and have several serious concerns regarding the adequacy of water supplies for these proposed developments in Golden Valley near Kingman.

As you know, just three days prior to our scheduled vote on the Perkins Mountain Utility case, counsel for Perkins Mountain and Rhodes Homes filed in the docket a letter from the Arizona Department of Water Resources (ADWR) demonstrating that water supplies in the proposed service territory may be physically inadequate to support the 32,000 homes planned at build-out of this project. According to the ADWR, only half the necessary water—9,000 acre feet—for this proposed development has been proven. Remarkably, this letter, while not filed at the Arizona Corporation Commission until February 10, was issued to the developer by ADWR four months ago, in October, 2005. The hearing on this matter was held on December 5, suggesting that while it appears the developer possessed the inadequacy letter at that time, it failed to make it known to the Administrative Law Judge, our Staff or the Commissioners.

A review of the transcript in this case demonstrates that the issue of adequate water supplies was not fulsomely addressed by the parties, perhaps because the company had not at that time presented ADWR's Water Adequacy letter presenting ADWR's view that water supplies were not proven for the entire 32,000 lots.¹ This study was requested by our staff in a letter dated August 5, 2005 to Rhodes' counsel at Snell and Wilmer. Rhodes' attorneys replied on August 29, 2005, stating that because this proposed development is located outside an Active Management Area (AMA), it is not required to obtain a Certificate of Assured Water Supply or a Designation of Assured Water Supply. That letter also stated that developments within the proposed development area are required to obtain a determination from DWR whether there are adequate water supplies prior to the marketing of subdivision lots, though a finding of inadequacy of water supplies is not a bar to sales of lots.

While developments outside AMAs may be allowed to proceed without a showing of adequate or assured water supply under rules promulgated at ADWR, water adequacy is an issue that may be considered by this Commission in determining whether to grant this Company either a CC&N or

¹ The filings in the case, including the Company's application and post-hearing brief, and the Staff report in this matter, also did not seriously address the water adequacy issue, except to say that DWR's adequacy letter should be filed as a compliance item.

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an Order Preliminary. As you know, without a CC&N a water company should not begin operations in Arizona. An Order Preliminary, unlike a conditional CC&N, would not allow the developer to proceed with construction of homes unless certain conditions were met. One of those conditions could be the requirement to prove adequate water supplies to service the homes planned for this development.

The Recommended Opinion and Order as it currently stands is written to grant Perkins Mountain Water a conditional CC&N, which would allow Rhodes to begin building homes well before we know whether the company will ever be able to find adequate water in the Golden Valley area to support these homes.

Because the water supplies for this proposed water company and development have now been called into question by ADWR, I believe at a minimum we should send this case back to hearing in order to, among other potential actions, obtain further evidence on the status of water supplies in the proposed service territory. At that point the ROO could be rewritten as a denial, could be rewritten as a conditional CC&N for only that area for which ADWR states there is adequate water, rewritten as an Order Preliminary, or left as is. If written as an Order Preliminary, the developer would be required to meet our conditions prior to receiving a CC&N, and prior to commencing construction.

Before the next scheduled Open Meeting, I would like the Company to file in this docket an explanation for why the ADWR inadequacy letter was not filed at the Commission prior to, during or even immediately after the December 5 hearing. I would also like the Company to file in the docket any additional analyses or studies that may have been conducted by it or ADWR on water supplies in the Golden Valley area or pertaining specifically to this proposed service territory.

Sincerely,



Kris Mayes

cc: Ernest Johnson
Brian McNeil
Heather Murphy