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BEFORE THE ARIZONA CORPORATION COMMISSION

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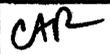
IN THE MATTER OF THE JOINT APPLICATION  
OF SUN CITY WATER COMPANY AND SUN  
CITY WEST UTILITIES COMPANY  
(APPLICATION NOW ASSUMED BY ARIZONA-  
AMERICAN WATER COMPANY) FOR  
APPROVAL OF CENTRAL ARIZONA PROJECT  
WATER UTILIZATION PLAN AND FOR AN  
ACCOUNTING ORDER AUTHORIZING A  
GROUNDWATER SAVINGS FEE AND  
RECOVERY OF DEFERRED CENTRAL ARIZONA  
PROJECT EXPENSES.

Docket Nos.: W-01656A-98-0577;  
SW-02334A-98-0577

**ARIZONA-AMERICAN WATER  
COMPANY'S RESPONSE BRIEF**

Arizona Corporation Commission  
**DOCKETED**

OCT 04 2002

DOCKETED BY 

Arizona-American Water Company ("Az-Am") submits the following response to SCTA's September 24, 2002 comments on future proceedings in this docket. Given the underlying factual record and undisputed public need for the Groundwater Savings Project (GSP), SCTA's comments are not well taken and should be rejected by the Commission. Rather than order any further proceedings as suggested by SCTA, the ACC should schedule an open meeting for approval of Administrative Law Judge Nodes' May 15, 2002 proposed order.

**I. THE COMMISSION SHOULD NOT UNDERTAKE ANY FURTHER PROCEEDINGS IN THIS DOCKET.**

This case focuses on the Sun City/Youngtown Groundwater Savings Project. The GSP is a public project designed to use CAP water in the Sun Cities and prevent further environmental damage from excessive groundwater mining. In Decision No. 62293, the Commission recognized the need for the GSP and approved the project concept. See Decision No. 62293, pp. 12-16. Because the GSP was in the conceptual stage, however, the ACC placed

two conditions on final approval. First, the ACC required Az-Am to perform an engineering analysis to evaluate the feasibility of a joint facility with the Aqua Fria Division and the need for all major elements of the proposed GSP. Second, the Commission ordered Az-Am to provide evidence of binding commitments from the golf courses participating in the GSP. Id. Based on extensive evidentiary hearings, Az-Am satisfied Decision No. 62293. The evidentiary record overwhelmingly weighs in Az-Am's favor; and, ALJ Nodes issued a May 15, 2002 proposed order and recommended approval of the GSP. See 5/15/02 Recommended Order, p. 25.

The GSP truly is a public project. In Decision No. 62293, the ACC found that "consequences of excessive groundwater withdrawal include decreased water levels, diminished water quality, well failures, increased pumping costs, and more land subsidence." See Decision 62293, p. 18. The GSP is designed to mitigate those problems by using CAP water (4,189 acres feet in Sun City and 2,382 acre feet in Sun City West) in place of groundwater pumping at participating golf courses. Unlike SCTA's recharge option, the GSP involves direct and immediate use of CAP water in the Sun Cities.

SCTA's refusal to support any direct use of CAP water in the Sun Cities flies in the face of the public need for the GSP. The Sun Cities pump approximately 34,000 acre feet of groundwater per year with only about 2,000 acre feet of recharge in Sun City West. See 1/9/02 Hearing Transcript ("TR"), Husted Test., pp. 60-63. Sun City doesn't recharge any water and relies exclusively on groundwater pumping. Id. at p. 52. Because of such excessive pumping, the Sun City CAP Task Force developed a community consensus for the best plan to use CAP water directly in the Sun Cities. The GSP was the chosen option and the ACC found that the GSP "will provide direct benefits to the Sun City areas." See Decision No. 62293, p. 19.

Based on the underlying record and prior ACC decisions, the Commission should decline SCTA's invitation for further analysis of additional project concepts and recharge issues. Those issues already have been decided--the CAP Task Force and the Commission (in Decision No. 62293) chose the GSP concept over recharge because the GSP will provide direct and immediate benefits to the Sun Cities. Az-Am has more than fulfilled its responsibilities to demonstrate the public need for the GSP and Az-Am has proven that the recommended GSP is the lowest cost option to use CAP water directly in the Sun Cities.

**II. SCTA'S RECHARGE ARGUMENTS ARE ILLUSORY AND DO NOT WARRANT FURTHER PROCEEDINGS IN THIS DOCKET.**

Originally, SCTA argued that recharge should be re-investigated as a project option based on the fact that hydrological responses are "being detected as far as four miles down stream of the Aqua Fria Recharge Facility Blowoff Structure." That issue prompted Chairman Mundell to suggest an additional limited evidentiary hearing to investigate that issue. But the record shows that SCTA attempted to mislead the Commission in several ways.

To start, SCTA implies that hydrological responses four miles downstream from the Blowoff Structure somehow indicate that the Agua Fria Recharge Facility may have direct and immediate impacts on the Sun Cities. That implication is false. All those hydrological responses indicate is increased water levels near the recharge basins--exactly as expected. The Aqua Fria Recharge Facility basins are located approximately 3.5 miles north of the northern most part of Sun City. The blow-off structure for the Aqua Fria Recharge Facility is located another four miles north of the recharge basins. The facility itself is approximately ten miles from the southern part of the Sun Cities and the blow-off structure is fourteen miles north. As adequately explained by Staff in its September 18, 2002 memorandum, hydrological responses four miles south of the blow-off structure occur because that's where the recharge basins are

located.<sup>1</sup> Those increased water levels are expected and necessary for recharge operations and do not indicate any direct impact in the Sun Cities.

Further, Az-Am agrees that the Aqua Fria Recharge Project is a substantial benefit to the region. But, the record in this docket establishes that the GSP, unlike the Aqua Fria Recharge Project, will result in direct and immediate benefits to the Sun Cities. The reason for that is common sense--using 6,571 acre-feet of CAP water directly in the Sun Cities will have an immediate impact on the water levels in the Sun Cities as compared to recharging 6,571 acre-feet of CAP water 10-14 miles north of the Sun Cities.

SCTA's prior testifying expert--Dennis Husted--testified on exactly that point. Specifically, he testified that recharge was not the preferred CAP water alternative because "the CAWCD and MWD recharge projects may provide for very long range and indirect benefits to the Sun City ratepayers ..." See Husted Pre-Filed Testimony, 9/10/99, p. 9; 1/9/02 Tr., Husted testimony, P. 83. Even further, the evidentiary record in this case already quantifies the minimal benefits to the Sun Cities from the Aqua Fria Recharge Facility. In September 1999, the CAP Task Force introduced pre-filed rebuttal testimony from Dess Chappelle as the Assistant Project Manager for the Central Arizona Project. See 9/30/99 Pre-Filed Rebuttal Testimony of Dess Chappelle. Mr. Chappelle supported the GSP and, as part of his testimony, he introduced a hydrological report prepared by Herb Schuman regarding "Utilization of Central Arizona Project Water in Sun City and Sun City West."

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<sup>1</sup> As noted in Assistant Director Olea's September 18, 2002 memorandum, "it is clear why there is a hydrologic response being detected as far south as four miles from the blow-off structure: that is exactly where the CAP water is being recharged." See 9/18/02 Staff Memorandum, p. 2.

Mr. Schuman reviewed a 1995 ADWR digital groundwater flow model and the hydrologic report prepared by CAWCD as part of the permit application for the Agua Fria Recharge Facility to evaluate impacts of various CAP water options on the Sun Cities; and, Mr. Schuman verified that the Agua Fria Recharge Facility would offer minimal benefits to the Sun Cities. See Schuman Report, 9/21/99, p.2 Specifically, Mr. Schuman presented evidence that “only about one foot of water level change is projected in the Sun City and Sun City West areas after recharging 100,000 acre feet/year for 20 years.” Id. Of note, that CAWCD hydrologic report doesn’t account for what happens when various entities (such as the Arizona Water Banking Authority and City of Peoria) recover their water recharged at the Agua Fria Recharge Facility or the effects of increased pumping by new users in the vicinity of the recharge facility.<sup>2</sup>

In other words, the CAWCD Report (as reviewed by Mr. Schuman) assumed the best-case scenario--that (1) the Aqua Fria Recharge Facility would recharge the maximum 100,000 acre-feet per year under its permit, (2) none of the entities recharging water at the recharge facility would recover any water put into the aquifer and (3) there would not be any new groundwater pumpers in the area of the recharge project. Even with those assumptions<sup>3</sup>, the benefits to Sun City and Sun City West are only about one acre foot of water level increase at

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<sup>2</sup> Under ADWR recharge permit application rules, applicants must submit a modeling study designed to estimate the maximum possible water level rise impact in order to identify potential water users affected by the recharge project. The CAWCD Report, therefore, was not designed to predict the actual future water level rises considering additional pumping in the future and/or recovery of recharged water by various entities.

<sup>3</sup> A proper comparison of the GSP to the Agua Fria Recharge Facility would involve modeling of the effects of direct use of 6,571 acre-feet of CAP water in the Sun Cities versus remote recharge of 6,571 acre-feet of CAP water at the recharge facility. But such analysis is unnecessary. If recharge of 100,000 acre-feet of CAP water for 20 years under a best-case scenario will result in only one foot of water level increase over 20 years in the Sun Cities, then suffice it to say that recharge of 6,571 acre-feet of CAP water for 20 years will have miniscule effects on the Sun Cities, at best.

the end of 20 years. SCTA refused then and refuses now to hire its own expert to support its allegations regarding the benefits of the Aqua Fria Recharge Facility. That refusal is telling and SCTA can't sustain its burden of proof on such issues.

**III. THE COMMISSION SHOULD ADOPT THE MAY 15, 2002 PROPOSED OPINION AND ORDER.**

Under these circumstances, the Commission should not reopen the evidentiary record and, instead, should approve ALJ Nodes' May 15, 2002 Proposed Opinion and Order. Likewise, the Commission should not undertake additional modeling of the indirect and remote effects of the Aqua Fria Recharge Facility. The record in this docket amply supports the GSP as the best and most cost effective option to use CAP water in the Sun Cities.

Approval of the GSP also is good policy. A careful reading of SCTA's comments illustrates that SCTA is seeking to avoid any responsibility for alleviating the water problems in the Sun Cities. SCTA opposes any effort to use CAP water directly in the Sun Cities. For all intents and purposes, SCTA wants to pass the buck for water problems in the West Valley to other municipalities and entities. On page 9 of its Comments, for example, SCTA states:

“the actions of the surrounding community (including the Company's Aqua Fria Division) can have far greater impacts on the Sun Cities than the utilization of 6,561 acre feet of CAP water by the Company, whether to recharge or direct delivery.”

Sun City and Sun City West are experiencing severe environmental problems resulting from excessive groundwater pumping by each municipality. And yet Sun City and Sun City West are doing little, if anything, to decrease their groundwater pumping and solve the environmental problems associated with land subsidence and other issues.

On those issues, the underlying evidentiary and factual record in this case includes testimony and evidence illustrating that the GSP will provide direct and immediate benefits to the Sun Cities and recharge at the Aqua Fria facility will not. Additional modeling of

the possible remote and indirect benefits on the Sun Cities from the Agua Fria Recharge Facility will do nothing more than delay this case for several months and allow the Sun Cities' excessive groundwater pumping to continue unfettered. At the January 9-10, 2002 hearings, the evidence further indicated that the Aqua Fria Recharge Facility likely would be used to capacity or near capacity without Sun City's CAP allocation. That means the Sun Cities can gain the best of both worlds by approval of the GSP--long term benefits from the Agua Fria Recharge Facility and immediate benefits from the GSP.

The underlying record also quantifies the costs of those immediate and direct benefits of the GSP for Sun City and Sun City West ratepayers. Specifically, the GSP will result in only \$4.95 in increased monthly costs per connection in Sun City and only \$2.65 in increased monthly costs per connection in Sun City West.

Further, ADWR--the State's agency in charge of independently monitoring the State's groundwater resources--fully supports the GSP. In his July 23, 2002 letter, ADWR Director, Joseph C. Smith, expressed ADWR's support for the GSP and explained several reasons why. First, the GSP will finally allow the Sun Cities and Youngtown to come in line with other municipalities and reduce reliance on groundwater mining. As Director Smith put it, "[o]ver the last twenty years, great strides had been made by many municipalities to reduce groundwater overdraft through the construction of water treatment and distribution infrastructure to enable the State's Central Arizona Project ("CAP") allocations. However, there are communities, including the Sun Cities and Youngtown that continue to rely almost exclusively on groundwater, resulting in excessive water level decline rates and associated problems such as land subsidence." See July 23, 2002 Smith Letter, p.1.

Second, the GSP provides substantial immediate and direct impact benefits to the Sun Cities because “use of the CAP allocations to replace a like amount of groundwater pumping by area golf courses is an innovative and cost effective means of reducing groundwater overdrafting in the area. *Id.* Under these circumstances, “ADWR endorses the direct use of the CAP water within the community because implementation of the GSP will result in an immediate reduction of groundwater pumping and a direct and immediate reduction in groundwater decline rates beneath the Sun Cities.”

Finally, the GSP will provide more immediate and direct impacts because it will involve direct use of CAP water in the Sun Cities rather than a remote recharge facility:

“As the Arizona Corporation Commission (“ACC”) recognized in its Decision No. 62293, from a water management standpoint, direct use within the community is preferred over recharge in the Aqua Fria Recharge Project, located 7 miles north of the center of Sun City, or other recharge facilities located some distance from the Sun Cities.”

See July 23, 2002 letter, p. 1. Ultimately, “for all the reasons stated above, ADWR urges the ACC to approve the groundwater savings project so that the Sun Cities area can begin addressing its water management issues in an effective way.” *Id.* SCTA cites no evidence to the contrary and refuses even to proffer any evidence that recharge is the better option for the Sun Cities.

Perhaps recognizing that there is little or no factual support for its recharge arguments, SCTA urges the Commission to reject Az-Am’s application for approval and allow the Commission to make an after-the-fact prudence determination. SCTA’s recommendation is nothing more than an effort to leave open the possibility of re-litigating Az-Am’s decision to construct the GSP and force Az-Am to proceed at its own risk. On that issue, Decision No. 62293 and the Recommended Order, if adopted, approving the GSP and authorizing Az-Am to proceed with project construction are tantamount to a finding that the GSP is a prudent and reasonable project. That’s what this docket is all about. Az-Am agrees that the ultimate cost

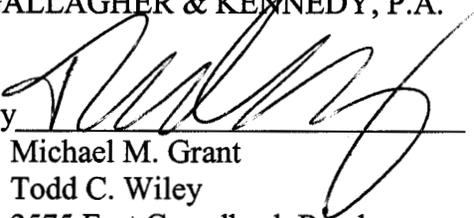
figures for the GSP would be subject to Staff, RUCO and other party analysis and review at a future rate hearing. But Az-Am can't agree to an order allowing Staff, RUCO, SCTA or anyone else to contest the prudence of the GSP project in the future. If the Commission adopts SCTA's recommendation concerning a future prudence determination, Az-Am will have no choice but to decline going forward with the GSP.

**IV. CONCLUSION.**

Based on the underlying record and prior ACC decisions, the Commission should reject SCTA's request for any further proceedings and approve the ALJ's May 15, 2002 Recommended Opinion and Order.

DATED this 4th day of October, 2002.

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