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ORIGINAL

ARIZONA CORPORATION COMMISSION

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WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
COMMISSIONER  
MARC SPITZER  
COMMISSIONER

2002 DEC 26 P 4: 10

AZ CORP COMMISSION  
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF  
FORTY NINER WATER COMPANY OF AN  
EMERGENCY RATE INCREASE.

Docket No. W-01777A-02-0547

**NOTICE OF FILING BOND**

Pursuant to December No. 65352, Forty Niner Water Company, Inc. hereby files  
proof of its performance bond (a copy of which is attached to this notice).

Respectfully submitted this 26<sup>th</sup> day of December 2002.

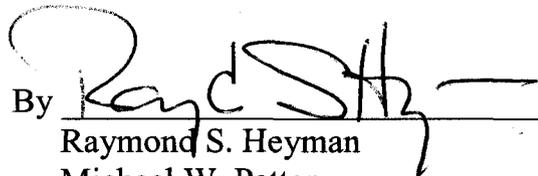
**ROSHKA HEYMAN & DEWULF, PLC**

Arizona Corporation Commission

DOCKETED

DEC 26 2002



By 

Raymond S. Heyman  
Michael W. Patten  
One Arizona Center  
400 East Van Buren Street, Suite 800  
Phoenix, Arizona 85004

Attorneys for Forty Niner Water Company

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**ORIGINAL and 13 COPIES** filed  
December 26, 2002, with:

Docket Control  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

**COPIES** hand-delivered December 26, 2002, to:

Lyn A. Farmer, Esq.  
Chief Administrative Law Judge  
Hearing Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

Christopher Kempley, Esq.  
Chief Counsel, Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

Ernest Johnson  
Director, Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

**COPIES** mailed December 26, 2002 to:

Bonnie O'Connor  
Forty Niner Water Company  
P.O. Box 85160  
Tucson, AZ 85754

Mr. Michael McNulty  
Brown & Bain  
One South Church Street  
Tucson, AZ 85702

**ROSKA HEYMAN & DEWULF, PLC**

ONE ARIZONA CENTER  
400 EAST VAN BUREN STREET - SUITE 800  
PHOENIX, ARIZONA 85004  
TELEPHONE NO 602-256-6100  
FACSIMILE 602-256-6800

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Mr. John Malamas  
11873 E. Wagon Trail Road  
Tucson, AZ 85749

Jody Elmer, President  
Forty Niner Country Club Estates  
Homeowners Association  
8987 E. Tanque Verde Road, #309  
PMB 169  
Tucson, AZ 85749



United States Fire Insurance Company  
A New York Corporation  
Home Office: New York, NY

The North River Insurance Company  
A New Jersey Corporation  
Home Office: Morristown, NJ

(Each a Capital Stock Company)

Bond No. 6102298305

KNOW ALL MEN BY THESE PRESENTS, THAT WE, 49'er Water Company, Inc.  
of 12000 E. Tanque Verde Rd., Tuscon, AZ 85749 as Principal (hereinafter called "Principal"  
and United States Fire Insurance Company, as Surety (hereinafter called "Surety") are held and  
firmly bound unto Arizona Corporation Commission as Obligee (hereinafter called  
"Obligee") in the penal sum of One hundred fifty thousand and 00/100 Dollars (\$150,000.00)  
for the payment whereof, well and truly to be made, we do hereby bind ourselves, our heirs, executors, administrators,  
successors and assigns, jointly and severally, firmly by these presents.

Signed, sealed and dated the 24th day of December A.D. 2002.

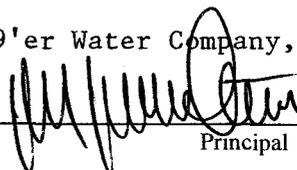
WHEREAS, a LICENSE or PERMIT has been granted by the Obligee to the above bounden Principal authorizing  
him Secure Water Useage Surcharge Funds

Now, therefore, the Condition of this Obligation is such, that if the said Principal shall faithfully observe the  
provisions of the Laws, Ordinances, and Resolutions, governing the issuance of this License or Permit, then this  
Obligation shall be null and void, otherwise to remain in full force and effect.

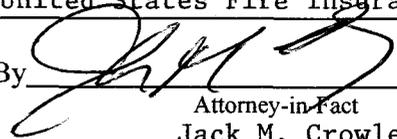
Liability under this bond shall terminate as of the 24th day of December, 2003, as to any  
acts subsequent thereto, unless said bond is continued in force from year to year by the issuance of a continuation  
certificate signed by the Surety.

The Surety may cancel this bond at any time by filing with the Obligee thirty (30) days written notice of its desire to  
be relieved of liability. The Surety shall not be discharged from any liability already accrued under this bond, or which  
shall accrue hereunder before the expiration of the thirty day period.

49'er Water Company, Inc.

  
Principal

United States Fire Insurance Co.

By   
Attorney-in-Fact  
Jack M. Crowley

Notice of Claim should be sent to: 305 Madison Ave., Morristown, NJ 07960 - Phone: 1-877-312-5300

**POWER OF ATTORNEY**  
**UNITED STATES FIRE INSURANCE COMPANY**  
**PRINCIPAL OFFICE, NEW YORK, N.Y.**

76093

KNOW ALL MEN BY THESE PRESENTS: That the UNITED STATES FIRE INSURANCE COMPANY a Corporation duly organized and existing under the laws of the State of New York, and having its administrative offices in the Township of Morris, New Jersey, has made, constituted and appointed, and does by these presents make, constitute and appoint **Wayne A. Coble, Carol L. Womack, R. Thomas Cravens, Patricia A. Smith, and Jack M. Crowley** of Arlington, Texas, each

its true and lawful Agent(s) and Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, seal, acknowledge and deliver: Any and all bonds and undertakings each in a penalty not to exceed the sum of One Million and 00/100 Dollars (\$ 1,000,000.00 ) SUBJECT TO THE EXCLUSIONS LISTED BELOW:

Bid, Proposal and Final Bonds and Undertakings guaranteeing contracts for the construction or erection of public or private buildings, improvements, and other works and guaranteeing public and private contracts for supplies.

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and to bind the Corporation thereby as fully and to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Corporation at its offices in Morris Township, New Jersey, in their own proper persons.

This Power of Attorney limits the act of those named therein to the bonds and undertakings specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated.

This Power of Attorney revokes all previous powers issued in behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the United States Fire Insurance Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 1st day of September, 1993.

Attest:

UNITED STATES FIRE INSURANCE COMPANY



Charles R. Van Buskirk  
Assistant Secretary  
Charles R. Van Buskirk

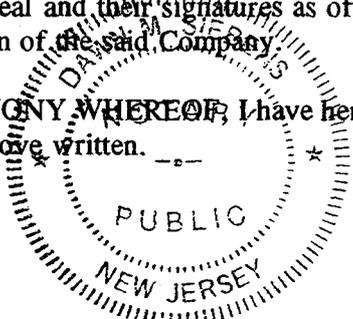
Richard A. Annese  
Vice President  
Richard A. Annese

STATE OF NEW JERSEY )  
COUNTY OF MORRIS ) ss.:

On this 1st day of September, 1993, before the subscriber, a duly qualified Notary Public of the State of New Jersey, came the above-mentioned Vice President and Assistant Secretary of United States Fire Insurance Company, to me personally known to be the officers described in, and who executed the preceding instrument, and they acknowledged the execution of the same, and being by me duly sworn, deposed and said, that they are the officers of said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and their signatures as officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my seal at the Township of Morris, the day and year first above written.

(Signed)  
(Seal)



Dawn M. Siebens  
Notary Public

DAWN M. SIEBENS  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES JULY 25, 1995

This Power of Attorney is granted pursuant to Article IV of the By-Laws of the UNITED STATES FIRE INSURANCE COMPANY as now in full force and effect.

**ARTICLE IV Execution of Instruments.** "The Chairman of the Board, Vice-Chairman of the Board, President, or any Vice-President, in conjunction with the Secretary, or any Secretary, if more than one shall be appointed by the Board, or an Assistant Secretary, shall have power on behalf of the Corporation:

(a) to execute, affix the corporate seal manually or by facsimile to, acknowledge, verify and deliver any contracts, obligations, instruments and documents whatsoever in connection with its business including, without limiting the foregoing, any bonds, guarantees, undertakings, recognizances, powers of attorney or revocations of any powers of attorney, stipulations, policies of insurance, deeds, leases, mortgages, releases, satisfactions and agency agreements;

(b) to appoint, in writing, one or more persons for any or all of the purposes mentioned in the preceding paragraph (a), including affixing the seal of the Corporation."

This Power of Attorney is signed and sealed under and by the authority of Article III, Section 9 of the By-Laws of the UNITED STATES FIRE INSURANCE COMPANY as now in full force and effect.

**ARTICLE III Section 9 Facsimile Signatures.** "The signature of any officer authorized by the Corporation to sign any bonds, guarantees, undertakings, recognizances, stipulations, powers of attorney or revocations of any powers of attorney and policies of insurance issued by the Corporation may be printed facsimile, lithographed, or otherwise produced . . . The Corporation may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Corporation, notwithstanding the fact that he may have ceased to be such at the time when such instruments shall be issued."

#### CERTIFICATE

State of New Jersey  
County of Morris

I, the undersigned, Assistant Secretary of UNITED STATES FIRE INSURANCE COMPANY, DO HEREBY CERTIFY that the foregoing POWER OF ATTORNEY remains in full force and effect and has not been revoked and furthermore that the above quoted abstracts of Article IV and Article III, Section 9 of the By-Laws of the Corporation are now in full force and effect.

In Testimony Whereof, I have hereunto subscribed my name and affixed the corporate seal of the said Company, this  
24th day of December, 2002

By Herbert H. Linder  
Assistant Secretary  
Herbert H. Linder

ADOPTED BY THE  
MAYOR AND COUNCIL

**FEB 10 2003**

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RESOLUTION NO. 19505

RELATING TO WATER; AUTHORIZING THE ADOPTION OF AN AGREEMENT FOR PURCHASE OF CERTAIN ASSETS OF 49ER WATER COMPANY, INC.; AND DECLARING AN EMERGENCY; REPEALING RESOLUTION 19143.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA, AS FOLLOWS:

SECTION 1. Resolution 19143, adopted by the Mayor and Council March 4, 2002, hereby is repealed. The Agreement for Purchase of Certain Assets of 49er Water Company, Inc., attached hereto as Exhibit "A", is approved.

SECTION 2. The Mayor is hereby authorized and directed to execute the said Agreement for Purchase of Assets for and on behalf of the City of Tucson and the City Clerk is directed to attest the same. The Mayor is hereby authorized and directed to execute any additional agreements that are necessary to complete the Purchase of Certain Assets of 49er Water Company, Inc., for and on behalf of the City of Tucson, and the City Clerk is directed to attest the same.

SECTION 3. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this resolution.

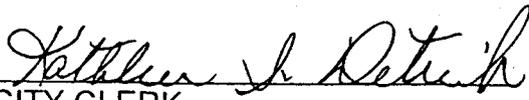
SECTION 4. WHEREAS, it is necessary for the preservation of the peace, health and safety of the City of Tucson that this resolution become immediately effective, an

emergency is hereby declared to exist, and this resolution shall be effective immediately upon its passage and adoption.

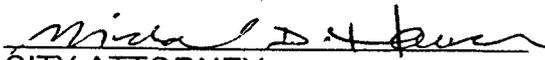
PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, FEB 10 2003

  
MAYOR

ATTEST:

  
CITY CLERK

APPROVED AS TO FORM:

  
CITY ATTORNEY

REVIEWED BY:

  
CITY MANAGER

CA:csv

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