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EXCEPTION ORIGINAL

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1241 W. Calle De La Plaza
Sahuarita, Az. 85629
April 29, 2006 & May 4, 2006
Phone (520) 625 - 3327

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DOCKET NO. W-01583A-04-0178 ET. AL. / W-01583A-05-0326/
W-01583A-05-0340

Exceptions to the recommendation of Administrative Law Judge Jane Rodda.

1. **Emergency Backup Generator -- Interrupt Service (IS)** I feel that it is very important that everybody concerned with this case understand this subject. I have written on this subject two or three times to everybody and according to the various statements in Judge Rodda's recommendation nobody seems to understand the importance.

A. I think ?? that at the March 1st hearing all the papers I had sent in with my 1-22-06 letter, and listed as Exhibits G-1 thru G-12, were listed as Exhibit I-1. In the accompanying INDEX under number 13 it says "Exhibit G-12 Manager showing L.Q.S. savings of \$40,200 per year because we use Elec. Interrupt Service" It also has "(Watch what we do in future so do not loose this \$40,200)"

B. The January 22, 2006 letter that accompanied these Exhibits had on page 6 under number 11. "**Interrupt Service (IS)** I am including as Exhibit G-12 a page Steve Gay, our manager, wrote some time ago. He shows that **L.Q.S. saves over \$40.200 per year using interrupt service.** If we go with Westland's proposal we need to watch carefully, or L.Q.S.'s expenses in the future will be \$40k per year more."

C. The Exhibit G-12 is one page explaining what goes on, etc.

D. My letter of February 12, 2006 to Judge Rodda under item #4 had more comments about Dorothy Hains and the backup generator.

Here is how I understand the subject:

E. Judge Rodda's Recommendation page 5 line 8 &9, "The Company plans a backup generator to supply the system with treated water during emergencies." The #6 well is there, been there for many years, and supplies natural gas generated water into the system several times a month when Trico cuts off

our electric power. We have a pager that Steve Gay used to carry and now Dan Harmon carries the pager, and he knows when Trico cuts off our power. He can check to see if #6 started and is operating on natural gas and pumping water into the system, but it is not necessary as this is all automatic. I think the kind of "emergencies" the Company is talking about is when we have no electric power. With the Miller Brooks proposal this #6 well pump will work just as it always has and will pump water into the system .

The Westland system will destroy #6 well as a source for pumping water into the system and that is why they need expensive pumps and a "backup generator". In an electrical emergency Pump #6 can be changed to natural gas power, if it is not already on natural gas, and will pump about 400 gpm into the system so in an hour this can be 24,000 gallons. If the emergency continues for 10 hours here is 240,000 gallons which is about what Westland wanted to store in a tank at #6 well. Under the Miller Brooks proposal this treated water will go into our system where everyone can use it without any backup pump or emergency generator.

F. Judge Rodda's Recommendation Page 7 line 3 to 5, "LQS states that the Miller Brooks report presents a feasible concept for arsenic treatment but that it omits portions of the system that LQS believes are necessary such as flow control, chlorination, sand separation and back-up power." This statement is ridiculous, and I hope I have explained how #6 well and its ability to run on either electricity or natural gas **is** the backup power under the Miller Brooks proposal. I have no idea who at LQS would have made a statement like this.

G. Judge Rodda's Recommendation page 8 line 11 to 15, "Staff recommends excluding the 400,000 gallon storage tank, installation of the emergency backup generator, and the chlorination units. Staff's calculations show Staff states the emergency generator is not required for the proper operation of the arsenic treatment system," Bravo for Staff!!!! I certainly agree with Staff on the 400,000 gallon tank and the backup generator. The only way our customers could have water from the 400,000 gallon tank is to bring their gallon jugs for us to fill at #6 well location.

H. One item that also should be considered is in Appendix A of Applicant's Exhibit A-1 as Item No. 10 and says "Fencing and Site Work at Well Sites \$40,000 Well No. 6, includes grading for floodplain."

The floodwaters run down the north side of Well No. 6 lot and our present equipment is on the higher ground with berms mostly along our west fence. This leaves about a 50 foot wide area north of our north fence to let the storm waters past. Westlands plans called for moving this fence north and placing their booster pump station, new generator, electrical panel, and some of the 400,000 gallon tank in this flood area. With Miller Brooks plans everything stays within our present fence, and on the higher ground. This may not be New Orleans, but why take a chance?

2. **Costs** Judge Rodda's Recommendation page 6 line 23 "Mr. Gay asserts that his proposal would have a capital cost of \$580,000"

A. What I call Exhibit G-4 under what Corp. Comm. calls I-1.

This is basically what now is known as the Miller Brooks. This has an arsenic adsorber unit at each well. I came up with a cost of about **\$580,000**, and Westland's at that time was **\$1,279,000 or \$1,598,750**. You will notice that Severn Trent Services quotes for each well have: "Budgetary Estimate in Effect Through 22- June 2004.

B. The Miller Brooks report is my G-5 and their figure was **\$712,000**. But you notice that they used Sevrn Trent quotes good through 13 May 2005. LQS Manager/Operator at that time was Steve Gay, a electrician, who drew the electrical plans and did the electrical work when we put in a new well now called #7 well. Steve is also a mechanic and has done many construction jobs for LQS including the electrical or natural gas set - up on #6 well. I own a Case 580K front end loader - backhoe tractor which is parked most of the time at Steve's house in our service area. Steve has a set of keys for this tractor and can use it any time he wants, and usually LQS is never charged anything for tractor use. We figured for most of the work we would use this tractor as its lifting capacity is 5500 pounds. This is to explain the item in Judge Rodda's Recommendations Page 7 lines 13 and 20, "LQS also argues that Miller Brooks cost estimates do not allow for an "apples-to-apples" comparison and 2) does not allow for costs of equipment, such as cranes, that would be needed to install the plant, ..."

C. I will admit that I was naive in thinking that the plant would be in and have been working for several months by now. However Steve Gay is no longer working for LQS and with gasoline at nearly \$3 per gallon, I would expect

quotes of only a month ago could be much lower than when we do final engineering and plan to construct. Judge Rodda's Recommendation page 7 line 27 "Based on the Smyth Steel analysis, LQS estimates that the Miller Brooks design would have a total cost of **\$1,214,000.**" At that future time I wonder if the Corp. Comm. figure of **\$1,580,446** would cover the Miller Brooks proposal job. For sure, the \$1,580,446 will not cover the Westland proposal.

3. I recently received detnewscom which I have attached as Item #1. If the Corporation Commission believes there could be any substance in this article I would hope they would give us more time. Near the top of page 2 it states "EPA's new proposal would permit drinking water to have arsenic levels of as much as 30 parts per billion in some communities." Judge Rodda's Recommendation page 2 line 13 "Well No. 7 shows an arsenic level of 12 ppb; well No. 6 has an arsenic concentration of 15 ppb; and No. 5 has an arsenic concentration of 10.4 ppb." LQS is just over the 10 ppb but way under the 30 ppb so LQS might not have to treat their water at all.

The above was written before a LQS Directors meeting on May 2nd and the following is being written after the meeting.

4. The first two plus pages of this letter were written before the Directors meeting and I did not know how the two Phelps Dodge Directors would react to Judge Rodda's recommendation, and I felt it was important that Company and Staff understand **Emergency Backup Generator -- Interrupt service** better so LQS would not loose out on the \$40,200 per yeas. LQS is not going to file any exceptions. Mark Taylor was at the meeting, and even he said he likes storage better where we now have it, and not down at #6 well area.

5. All of us having read Judge Rodda's recommendations we all agreed with some smart ideas that mostly Mark and Rohn Householder came up with. These ideas mostly involved cutting costs and making the system more reliable. Santa Cruz Meadows is a subdivision of 239 lots where over the past several months they have cleared all the land, graded the property for lots, and are now installing sewer lines and will soon be placing the water lines underground. When they start selling

homes we all feel that this will put a strain on our water storage, so we came up with the following ideas.

A. Our #5 well is smaller than the others and has the least amount of arsenic (10.4 ppb.). It also is the well that has saved the day many times this past year when neither of the two larger wells would start automatically because of some instrumentation problem. The cost to construct arsenic treatment at #5 is \$150,071, plus a backwash tank of \$4,000, and chlorination and sand separator makes a total cost of around **\$160,000.** (See Judge Rodda's recommendation page 6)

The suggestion was to ask for permission to not spend any money on #5 well and not use this well in day to day operation, but it would start and run when we had an emergency. This well would just be an emergency well.

B. The second idea would be to take some of the \$160,000 we have saved on #5 well and see if we can go across the road from #7 well and make an emergency connection with Community Water Co. of Green Valley. Mark at the meeting made a guess that this would cost about \$30 to \$50,000.

I believe my I-2 exhibit has four or five pages of newspaper clippings on how Community Water Co. helped everyone by taking over New Pueblo when New Pueblo's owners were gouging the customers, and then these people had much more reasonable rates. Judge Rodda's recommendations on Page 6 line 26 to page 7 line 2 covers this nicely. Judge Rodda's recommendations page 8 line 31 states that LQS has received no offer of purchase from Community. This is correct, but neither LQS or I, as an intervenor, have approached Community about furnishing emergency water, or some regular water, or about covering some of our maintenance. In fact, Steve Gay, LQS Manager/Operator for about 23 years told me on May 4, 2006 that Arturo Gabaldon, General Manager of Community Water took Steve out to lunch and brought up the subject and they discussed it. I have not looked up the LQS minutes to see if it is mentioned, but I remember the discussion about connecting across the road to Community as the street was not paved then. Steve says that Mike Wood wanted no discussion at all. At our May 2, 2006 meeting we all agreed to contact Community. Ray Romero, General Manager, and Frank Nides, Operation Manager, who were both

hired on May 2, 2006, were asked to contact Community. Near the end of the meeting I asked them how soon they would do this and they thought in about a month. As I have received no background on either man, I thought I would at least mention the subject in this letter.

As a volunteer working at a not-for-profit organization which is a Community Water customer I received PUBLIC NOTICE OF HEARING ON THE RATE APPLICATION OF COMMUNITY WATER OF GREEN VALLEY, Docket No. W-02304A-05-0830. It says there will be a hearing on October 24, 2006 and they are asking for an approximate 27.5 % increase in revenue.

In my Exhibit I-2 under TARIFF SHEET for Community Water it states MONTHLY BILL MINIMUM \$12.50 for 5/8 x 3/4 meter for 2,000 gallons or less RATE \$1.07 per 1,000 gallons for all over 2,000 gallons. LQS MONTHLY USAGE CHARGE is \$10.00 for a 5/8 x 3/4 meter and \$10.10 for Standpipe and this includes no water.

Judge Rodda's recommendation page 13 line 54 states that if we get a WIFA loan of \$1,580,446 at 7.6 % the 5/8 meters will have an increase of **\$13.99 per month for 20 years. With LQS more than doubling their rate**, it is easy to see why we should try to work with Community who is only asking for about a 27.5 % increase from their \$1.07 per 1,000 gallons.

But money is only one reason we should try to work with Community Water. Steve Gay our Manager/ Operator who lives in the LQS franchise area and is a good electrician and mechanic has quit after about 23 years. We had a part time man who knew our system and he also quit. I have worked on the system part time for about 40 years. At the May 2, 2006 meeting I was told by the operation managers who were hired today that they will take care of everything. I believe one lives during the week in Ajo, Arizona, and I think the other lives in Tucson. The new managers have hired one new full time person and a second part time and neither has experience or knows the system. **So wish us luck.**

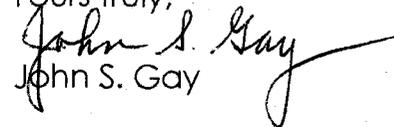
6 I think it was April 19th when Judge Rodda phoned, and as I understood the conversation, she wanted to know if I would waive the ten days I think I am entitled to have to answer Judge Rodda's recommendations. I said that I had asked LQS for some information in a letter, as Larry Robertson had wanted me to make these questions formal, and at that time I had no answer on several items and so I thought I would need the ten days. (See Item #2) Most of the questions in my February 27th letter Steve Gay answered verbally in a five minute conversation.

I have attached this letter as Item #2 and by my first paragraph I did not think I was asking for anything out of line, being President of LQS. But not being a lawyer I guess I said something wrong so I received Larry Robertson's letter of February 28th. (Item #3) I still do not have answers on my items 8, 9, and 11.

Number 9 is about costs to LQS that the two board majority have been spending. These costs mostly are to Westland, Larry Robertson, and special accounting, and in my March 15, 2006 letter to Mike Wood and Rohn Householder I cover the subject at the bottom of page 3 and all of page 4. Twelve copies of this letter went to Docket Control in Phoenix, copies also to Lawrence Robertson, Jason Gellman, Judge Rodda, Steve Gay (LQS), several stockholders, and some interested parties.

MY January 22, 2006 letter to Corp. Comm. Docket Control, that was part of my Exhibit I-1, explains how LQS hired Westland, but when their ideas came back to LQS I thought they had flaws and presented my G-4 plans which were not accepted as having any merit. So my Wife and I paid \$7,000 to Miller Brooks to do the engineering which is G-5. Still the two board majority continued to spend money to promote Westland's approach and argue against the Miller Brooks proposal. In fact, at the hearing when I tried to bring up the possibility (and enter Papers) that Community Water might be a good idea Larry Robertson knew the proper procedure so those papers were not entered as evidence. He did not say that *might be a good idea and lets explore the subject*. Now that we all have received Judge Rodda's recommendation and the LQS Board has accepted the fact that Westland's idea was no good, I think it only proper for the two majority Directors, or Phelps Dodge, to pay back to LQS the money wasted on this approach.

Yours truly,


John S. Gay

14 copies to Docket Control
400 West Congress Street
Tucson -- Hand Delivered

Copies to:
Lawrence V. Robertson, Jr
P.O. Box 1448, Tubac, Az. 85646

Las Quintas Serenas Water Co.

Stockholders

Donald K. Gill
Jane Appleby
Clare Gay
Steve Gay
The Carolyn Joyce R.T.
John Guy Carlton

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Rec'd from
art 4-27-06

EPA may weaken rule on water quality

Item #1

Juliet Eilperin / The Washington Post

April 1, 2006

WASHINGTON -- The Environmental Protection Agency is proposing to allow higher levels of contaminants such as arsenic in the drinking water used by small rural communities, in response to complaints that they cannot afford to comply with recently imposed limits.

The proposal would roll back a rule that went into effect earlier this year and make it permissible for water systems serving 10,000 or fewer residents to have three times the level of contaminants allowed under that regulation.

About 50 million people live in communities that would be affected by the proposed change. In the case of arsenic, the most recent EPA data suggest as many as 10 million Americans are drinking water that does not meet the new federal standards.

Benjamin Grumbles, assistant administrator for EPA's Office of Water, said the agency was trying to satisfy Congress, which instructed EPA in 1996 to take into account the fact that it costs small rural towns proportionately more to meet federal drinking water standards.

"We're taking the position both public health protection and affordability can be achieved together," Grumbles said in an interview this week. "When you're looking at small communities, oftentimes they cannot comply with the (current) standard."

But Erik Olson, a senior lawyer for the advocacy group Natural Resources Defense Council, called the move a broad attack on public health.

"It could have serious impacts on people's health, not just in small-town America," Olson said. "It is like overturning the whole apple cart on this program."

The question of how to regulate drinking water quality has roiled Washington for years. Just before leaving office, President Bill Clinton imposed a more stringent standard for arsenic, dictating that drinking water should contain no more than 10 parts per billion of the poison, which in small amounts is a known carcinogen. President Bush suspended the standard after taking office, but Congress voted to reinstate it, and in 2001, the National Academy of Sciences issued a study saying arsenic was more dangerous than the EPA had previously believed. The deadline

for water systems to comply with the arsenic rule was January of this year.

The proposed revision was unveiled in early March in the Federal Register and is subject to public comment until May 1. Administration officials said the number of comments they receive will determine when it would take effect.

EPA's new proposal would permit drinking water to have arsenic levels of as much as 30 parts per billion in some communities.

Maryland has a high level of naturally occurring arsenic in its water, and its Department of the Environment has estimated that 37 water systems serving more than 26,000 people now exceed the 10-parts-per-billion arsenic limit. These include systems serving several towns as well as individual developments, mobile home parks, schools and businesses in Dorchester, Caroline, Queen Anne's, Worcester, Garrett, St. Mary's and Talbot counties.

General Manager George Hanson's Chesapeake Water Association in Lusby, Md., serves 4,000 town residents with four wells. Three of them meet the new arsenic standard, but one well has 14 parts per billion in its water. He estimated that cleaning it up would cost between \$1 million and \$4 million.

"It's some of the most beautiful water I've ever seen. The arsenic is the only thing that fouls the entire system," Hanson said, adding that he and other community water suppliers are hoping the new EPA proposal will offer them a way out. "They're waiting for someone to help them."

Under the Safe Drinking Water Act Amendments of 1996, complying with federal drinking water standards is not supposed to cost water systems more than 2.5 percent of the median U.S. household income, which in 2004 was \$44,684, per household served. That means meeting these standards should not cost more than \$1,117 per household.

Under EPA's proposal, drinking water compliance could not cost more than \$335 per household.

Several public officials and environmental experts said they were just starting to review the administration's plan, but some said they worry that it could lead to broad exemptions from the current federal contaminant standards cities and larger towns must also meet. Besides arsenic, other water contaminants including radon and lead pose a health threat in some communities.

James Taft, executive director of the Association of State Drinking Water Administrators, said he and others are concerned that the less stringent standard will "become the rule, rather than the exception" if larger communities press for similar relief.

Avner Vengosh, a geochemistry and hydrology professor at Duke University's Nicholas School of the Environment and Earth Sciences, said he was surprised by the administration's proposal because North Carolina officials are trying to keep arsenic levels as low as 2 parts per billion.

"It's a bit ironic you have this loosening in the EPA standard when local authorities are making it more stringent," Vengosh said, adding that many rural

residents "have no clue what they have in the water."

National Rural Water Association analyst Mike Keegan, who backs the administration's proposal, said the current rule is based on what contaminant levels are economically and technically feasible, rather than what is essential to preserve public health.

The administration may face a fight on Capitol Hill over the proposal. Rep. Henry Waxman, D-Calif., who helped write the 1996 law, said EPA's proposal, "if finalized, would allow weakened drinking water standards, not just in rural areas, but in the majority of drinking water systems in the United States."

1241 W. Calle De La Plaza
Sahuarita, Az. 85629
February 27, 2006
Phone (520) 625 - 3327

Item #2

Las Quintas Serenas Water Co.
P. O. Box 68, Sahuarita, Az. 85629

Dear Kaycee and Steve;

As President of L.Q.S., and an intervenor in a rate case pending, I am asking for the following information. I do not want you to work overtime for any of these answers, and many you can answer verbally from your knowledge. I have no idea how long this case will drag on before the Corporation Commission, so some of these answers I may never need, and some I may not use for a month, or two. But with these answers I hope I will not say something for the record, and then have Steve say something different.

1. DRAFT of the minutes of the Jan. 19, 2006 Board Meeting.
2. DRAFT of the minutes of the Shareholders meeting of Feb. 16, 2006.
3. DRAFT of the Directors meeting that followed #2.
4. Permission to take one of the square D pressure switches to the March 1st. meeting (if we have one in #5 well storage building.)
5. Are the float valves in working order and being used at any time now on our two storage tanks on the dikes?
6. What is the highest water pressure Steve has observed in the system? How many times and under what situations did these occur?
7. I believe that at some time during the past month #7 well did not start when it was programmed to. What happened, when did it occur, and what costs were involved, and is it back to normal, and were any customers inconvenienced by this problem?
8. In my Exhibit G-2 (Steve Gay's 12/29/05 report to the Directors Pg. 3) Steve talks about our arsenic compliance. Do we have anything in writing from the Corp. Comm. about extension of time?

9. In the same report on page 1 Steve gave figures of costs on Legal, Accounting, etc. What are the costs for these non-ordinary subjects for the calendar year till now? Steve had over \$50,000 up to Dec. 29, 2005 when he wrote his report. What do we pay our attorney per hour? (I am not looking for something to file with the IRS, I am looking for general items because I feel the Board Majority is spending imprudently).

10. In the same report on page 2 Steve stated approximately what we had in stocks and mutual funds. Where do we stand here now?

11. On page 1 of the same report Steve tells how Larry Robertson is unhappy with our easement for our storage tanks on #3 tailings. I believe that at our Jan. 19th Board meeting we asked Larry to write up his suggestions so we could present to Park Corp. Has anything been done?

12. I believe at the same Board meeting we asked Steve to see about a well site on Santa Cruz Meadows. The last I heard was that he has not had them return his phone calls. I saw John Neunuebel, Town of Sahuarita Planning Director, the other day and he said the person we want is Kirk Lawson, of Tucson Land Co. and he would get his phone number for me which is 490 - 5479. I do not know if this is whom Steve has been trying to contact. What is the latest on this subject?

13 A. I apologize to Kaycee for not getting this formal request to her sooner. Some time ago I asked about Ron Kozoman's testimony and on December 29th Steve gave me 12 pages which the cover sheet indicated might be explanation of Exhibits A-9, A-10, A-11, and A-12. (I received on 2-25-06 ORIGINAL NUMBERING SYSTEM USED and REVISED NUMBERING SYSTEM information). Also received was I think 18 pages of Exhibit A - 8.

13B. At the same time (Dec. 29) Steve gave me a sheet (maybe two) that were some cost figures which I think was a photocopy of a page of Kaycee's book keeping. Thank you Kaycee!

Yours truly,

John S. Gay

2-27-06 Doc

cc: Larry Robertson

Have one copy to Steve at #17 well about 11 AM - Steve said they (if Co or Steve) would send E mail P. to Larry

4 PM 2-27-06 have several letters on

*Rec'd
2-28-06
LVR*

LAWRENCE V. ROBERTSON, JR.
ATTORNEY AT LAW

Item #3

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ADMITTED TO PRACTICE IN:
ARIZONA, COLORADO,
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DISTRICT OF COLUMBIA

OF Counsel TO
MUNGER CHADWICK, P.L.C.

February 28, 2006

John Gay
1241 W. Calle De La Plaza
Sahuarita, Arizona 85629

RE: Las Quintas Serenas Water Co.
Docket Nos. W-01583A-04-0178, W-01583A-05-0326, W-01583A-05-0340

Dear Mr. Gay:

Late this morning you hand-delivered a thirteen (13) item data request to Las Quintas Serenas Water Co. personnel at LQS's offices. In that data request you seek information that you could have requested well in advance of the public hearing scheduled to commence tomorrow in Tucson at 10:00 a.m. Instead, you have chosen to request that information at the proverbial eleventh hour before the hearing begins.

You were an indicated recipient of the Procedural Order issued by Judge Rodda on November 16, 2005; and, you are thus presumed to be aware of the provisions of that Procedural Order relating to discovery. Your data request of this morning is untimely, to say the least. Accordingly, and pursuant to the Procedural Order, I am objecting to your untimely data request upon behalf of LQS.

You will have an opportunity to question LQS's witnesses during the hearings tomorrow. If your questions are relevant and not argumentative, perhaps some of the information you seek can be provided at that time.

Very truly yours,

Lawrence V. Robertson Jr. /mwp

Lawrence V. Robertson, Jr.

CC: Hon. Jane L. Rodda
Jason Gellman
Las Quintas Serenas Water Co.

G:\Client\LarryVR\John Gay Ltr. 2-28-06.doc