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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission
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IN THE MATTER OF THE APPLICATION OF
ARIZONA WATER COMPANY TO EXTEND ITS
EXISTING CERTIFICATE OF CONVENIENCE
AND NECESSITY FOR ITS COOLIDGE
SYSTEM, PINAL COUNTY, ARIZONA.

DOCKET NO. W-01445A-06-0317

**GLOBAL'S OBJECTION TO
STAFF REPORT**

Santa Cruz Water Company, LLC; Palo Verde Utilities Company, LLC; Global Water – Santa Cruz Water Company and Global Water – Palo Verde Utilities Company (collectively, “Global”) respectfully provide this Objection to the Staff Report dated June 22, 2006.

I. Preliminary Statement.

A number of significant events have occurred since the Staff Report was filed. These events include the filing of: (1) motions to intervene by Global and Woodruff Water Company; (2) an objection by Cardon Hiatt Companies; (3) Arizona Water Company’s (“AWC’s”) filing of a letter from the State Land Department concerning more than 2,800 acres; and (4) in another case, a Staff Report announcing a new proposed test concerning requests for service. In light of these new facts, Staff’s recommendations should be revised. Applying these new facts to well-established Commission precedent, the Commission should take the following actions:

- (1) deny an extension to AWC for all areas where AWC lacks requests for service;
- (2) require AWC to file, as a compliance item, a Certificate(s) of Assured Water Supply (“CAWS”) for each parcel included within its extension.

1 **II. Water conservation is critical in Pinal County.**

2 AWC recently unleashed a rapid succession of very large CC&N extension requests in
 3 Pinal County. In the last few months, AWC filed the following Applications:

5 Docket No.	Date Filed	Nearest City	Area (Acres)	% of Area Requesting Service
6 06-0059	February 1, 2006	Casa Grande	6,400 ¹	50 %
7 06-0199	March 29, 2006	Casa Grande	70,494 ²	0.3 %
8 06-0317	May 4, 2006	Coolidge	20,223 ³	39 % (or 53%)
9 Total	92 days		97,117	11.6 %

10
 11 Thus, in the span of little more than 90 days, AWC filed requests for about 97,000 acres, or
 12 about 152 square miles. Using standard planning assumptions, this vast area could ultimately have
 13 303,000 homes.⁴ The proposed extension in this case alone could have more than 63,000 homes.

14 This would constitute a massive expansion to AWC's Coolidge system, which has less
 15 than 4,000 customers.⁵ Indeed, the Coolidge system's area would nearly double.⁶ This is not a
 16 routine or minor extension. Given the large size of the proposed extension and large number of
 17 homes that will eventually be built, this extension could have a significant impact on the fragile
 18 aquifer in the area.

21
 22 ¹ See Exhibit 2 (Engineering Report) to the Staff Report dated April 3, 2006. (Approximately 10 square miles times
 640 acres/square mile equals 6,400 acres.)

23 ² See AWC Response to Staff's Insufficiency Letter, dated July 7, 2006, at Attachment B.

24 ³ See Exhibit 3 to the Staff Report dated June 22, 2006, which shows six parcels with requests (plus a proposed
 25 treatment site of 68 acres) for a total of 7,880 acres with requests, out of a total of 20,223 acres. $7,889/20,223 =$
 39.01% . The subsequent letter by the State Land Department covers slightly less than 2,821 acres. If the State Land
 Department letter is considered a request for service there are 10,701 acres with requests out of 20,223 acres. $7,880 +$
 $2,821 = 10,701$. $10,701/20,223 = 52.9\%$.

26 ⁴ A relatively accepted industry standard assumption is 2,000 dwelling units per section, or 3.125 per acre. For the
 three AWC Pinal County cases, 97,117 acres times 3.125 equals 303,490 dwelling units. For this case alone, 20,223
 acres times 3.125 equals 63,196 dwelling units.

27 ⁵ Staff Report, Ex. 2 at p. 1.

⁶ Id.

1 Historically, AWC used only groundwater to serve its Coolidge system. Moreover, the
2 Staff Engineering Report in this case mentions only groundwater. AWC's groundwater-focused
3 strategy is even more alarming given AWC's profligate record of wasting water. AWC pumps
4 138,659 gallons of groundwater annually for each customer in its Coolidge system -- 11,555
5 gallons per month, or almost 380 gallons a day.⁷ Considering that there may be 63,000 customers
6 in the extension area at build-out, and based on AWC's existing usage, AWC would use an **extra**
7 **8.7 billion gallons** of groundwater per year to serve this extension area.⁸ That would result in
8 serious consequences both for the health of the aquifer and the sustainability of groundwater use.

9 AWC's status as a water-only utility, with no capability or expertise to supply reclaimed
10 water in lieu of groundwater, only highlights the wasteful nature of its water usage. Without the
11 deployment of reclaimed water infrastructure to the area, customers will be forced to use precious
12 groundwater to irrigate common areas, golf courses, and other parcels – an unsustainable situation.

13 Global's water conservation strategy for the region is based on the "triad of conservation":
14 (1) re-use of reclaimed water; (2) using renewable surface water; and (3) recharging the aquifer
15 with excess reclaimed or surface water. These strategies can dramatically reduce reliance on
16 groundwater. AWC historically has not used these any of these strategies this region, and there is
17 no evidence in the record that they will change.⁹

18 Recent calculations show that the Pinal Active Management Area ("AMA") has a
19 renewable groundwater supply of about 82,000 acre feet per year on an average annual basis.¹⁰
20 This real "wet water" sharply contrasts to 408,000 acre feet of "paper water" that can already be
21 allocated for withdrawal. Moreover, AWC's potential groundwater usage of 8.7 billion gallons
22 per year equals about 26,800 acre feet, or about 32% of the sustainable annual groundwater usage
23 of the entire AMA. Such usage would impact the availability of groundwater for the entire region.

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25 ⁷ See Exhibit A, which uses data derived from AWC's 2005 annual report.

26 ⁸ Id.

27 ⁹ There is, however, a cryptic reference to a "Future... Water Treatment Plan for CAP" on a map. Global will explore this and other conservation related matters in discovery, if it is granted intervention in this matter.

¹⁰ From the Pinal Active Management Area Groundwater User's Advisory Committee "Assured Water Supply Modifications Concepts" draft dated December 29, 2005.

1 Given the critical groundwater issues facing this area, the Commission should only extend
2 AWC's certificate to those areas where necessity is clearly demonstrated through requests for
3 service.

4 In addition, the Commission should require AWC to file, as a compliance item, a CAWS
5 for each parcel for which it receives an extension. Staff only recommends that AWC file the "first
6 developer's Certificate of Assured Water Supply."¹¹ Under this proposal, AWC would have to file
7 a CAWS for one parcel. Indeed, the "first" parcel might be tiny. For example, the smallest parcel
8 shown on Staff's map is only 231 acres. An assured water supply for 231 acres is not the same as
9 an assured water supply for the entire 20,223 acres in this case. In addition, "parcel" could be
10 interpreted as a small platted subdivision – as little as 80 to 100 lots. In light of the serious
11 groundwater situation described above, AWC should be required to show an assured water supply
12 for all parcels included within its CC&N.

13 **III. The Commission should only grant an extension for areas with requests for service.**

14 **A. Necessity is shown by requests for service.**

15 A Certificate of Convenience and Necessity obviously requires a showing of necessity.
16 The Commission finds necessity by looking for requests for service. This principle protects both
17 the public interest and landowner rights. This principle is well-established, and the Commission
18 uses it to decide many cases. For example, the Commission used this principle in *Beardsley Water*
19 *Co.*, Decision No. 59396 (Nov. 28, 1995). Beardsley requested an extension, but only had
20 requests for service for 25% of the proposed extension area. *Id.* at 2. The Commission only
21 granted an extension for the area that had requests for service, and denied the remaining area. The
22 Commission explained that "there is no need to grant exclusive rights to [Beardsley] for the three
23 quarters of [the area] in which no development is taking place." *Id.*

24 This factor was also in play in *Woodruff Water Co.*, Decision No. 68453 (Feb. 2, 2006).
25 In that case, AWC requested an area for which it had no requests for service. The Commission
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¹¹ Staff Report at 2.

1 denied this extension, explaining that “we also concur with Staff’s recommendation that additional
2 areas which have not requested service should not be included in AWC’s certificated area at this
3 time.” *Id.* at 29. Also at issue in *Woodruff* was the disputed Sandia development. The property
4 owner of Sandia requested service from Woodruff, not AWC. The Commission rejected AWC’s
5 application to serve Sandia, noting that “[n]either...Sandia nor CHC has requested that their
6 properties be included in the CC&N extension that AWC seeks.” *Id.*

7 The Commission’s decision was based on Staff’s recommendation. Staff’s witness,
8 Assistant Director Steve Olea, testified that: “Staff has always been [of] the opinion that there has
9 to be a need for service, and without a request, there is not a need, so there is no need to have a
10 certificate of convenience and necessity because the necessity portion isn’t met.”¹²

11 The Commissioners also discussed the importance of landowner rights in their
12 deliberations on the case. For example, then-Commissioner Spitzer said: “... Commissioner
13 Gleason alluded to it very early that the property owner ought to have some say in how utility
14 service is provided... the rights of the property owner ought to be accorded some degree of
15 respect.”¹³

16 These are not isolated examples. For example, the Commission recently denied part of an
17 extension request because the denied area lacked requests for service. *Lyn Lee Water Co.*,
18 Decision No. 68445 (Feb. 2, 2006) at Finding of Fact No. 22. Likewise, Johnson Utilities
19 Company was forced to withdraw part of an application due to lack of requests for service. *H2O,*
20 *Inc. et al.*, Decision No. 64062 (Oct. 4, 2001) at Finding of Fact No. 48. Another Johnson
21 application was denied for lack of requests for service in *Johnson Utilities Co.*, Decision No.
22 64288 (Dec. 28, 2001) at Finding of Fact Nos. 47, 70, and 84.

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25 ¹² Aug. 4, 2005 Tr. in Docket No. W-04264A-04-0438 at 1415. Staff has made this point before. For example, Staff
26 has stated that a CC&N “should not be issued lightly... [it] by definition, requires a showing of necessity. Ordinarily,
27 a showing of necessity is made by demonstrating requests for service for the area. In an exceptional situation, a
showing of necessity can be made by other means.” *Staff’s Response to Johnson Utilities Company’s Motion to*
Continue, at 1, filed April 29, 2005 in Docket Nos. W-02859A-04-0844.

¹³ January 27, 2006 Open Meeting Tr. at 109.

1 In addition, the Commission indefinitely continued another utility's application after the
2 property owners withdrew their requests for service, noting "the public interest would not be
3 served by conducting a hearing on competing applications, or on one of those applications, where
4 there does not currently exist a request for service from any property owner in the proposed
5 extension areas of either application." *Diversified Water Utilities, Inc.*, Procedural Order dated
6 May 11, 2005 at 4 in Docket Nos. W-02859A-04-0844 et al.

7 **B. AWC has not shown necessity for much of the proposed extension area.**

8 AWC has requests for service from about 39% of the requested area in this case.¹⁴
9 However, if the State Land Department letter is considered, AWC has requests for 53% of the
10 requested area. The remaining 47% lacks any indication of necessity.

11 In addition, AWC projects only 2,000 customers in the extension area after five years.¹⁵
12 Given the potential for more than 63,000 customers in the extension area, it is clear that much of
13 the area will not be developed in the foreseeable future. Again, AWC has not demonstrated the
14 necessity of adding the areas without requests for service.

15 Staff recommends that the entire proposed area be granted to AWC. Staff based its
16 recommendation on the lack of "requests for intervention" which showed that other "water
17 companies have not indicated an interest in the extension area."¹⁶ However, after Staff made this
18 recommendation, Woodruff and Global filed motions to intervene. Thus, Staff's rationale no
19 longer applies.

20 In addition, Staff argues that approving boundaries along section lines results in easier
21 identification.¹⁷ This "whole section" theory runs counter to both *Beardsley* and *Lyn Lee*. For
22 example, in *Beardsley*, the applicant requested a whole section, but had requests for only a quarter-
23 section. The Commission limited the extension to the quarter-section. Similarly, in *Lyn Lee*, the
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25 ¹⁴ See Exhibit 3 to the Staff Report dated June 22, 2006, which shows six parcels with requests (plus a proposed
26 treatment site of 68 acres) for a total of 7,880 acres with requests, out of a total of 20,223 acres. $20,223/7,889 =$
39.01%.

27 ¹⁵ Staff Report, Ex. 2, at p. 1.

¹⁶ Staff Report at 3.

¹⁷ Id. at 2.

1 Commission granted only a quarter-section, rather than the requested half-section. Thus, the
2 Commission rejected the whole-section theory in both *Beardsley* and *Lyn Lee*.

3 Staff also expressed concern about planning lines “to skip or avoid contiguous sections...
4 to reach other sections.”¹⁸ This concern is inconsistent with the Commission’s decision in
5 *Beardsley* and *Lyn Lee*. Moreover, AWC’s vice-president of engineering, Mr. Whitehead, testified
6 during the Woodruff case that AWC could extend lines along “section line” roads using the public
7 right-of-way, even outside of its CC&N.¹⁹ He noted that “all utilities have the right to submit, in
8 this case to the City of Coolidge, and get a permit to go within that right-of-way for the purposes
9 of installing utilities.”²⁰ Whitehead testified that AWC could interconnect systems using this
10 method without having a CC&N for the area they would pass through.²¹ Moreover, Global’s
11 service area has many irregular boundaries because Global always insists on requests for service.
12 Yet Global is able to plan and construct large, efficient mains to maximize economies of scale.
13 Accordingly, Staff’s concern on this point should be given little weight.

14 In addition, after filing its report in this case, Staff announced that it had developed a new
15 nine-factor test to determine when it will recommend extensions without requests for service.²²
16 Global is still analyzing this new test, and offers no opinion on it at this time. Staff has not yet
17 applied its new test to this case, and its recommendation in this case is therefore out-of-date.

18 **C. The Cardon property should be excluded.**

19 The Cardon Hiatt Companies recently requested that their property not be included in
20 AWC’s extension.²³ They own 720 acres in and adjacent to Section 19, Township 5 South, Range
21 8 East. If this property seems familiar, it’s because this Commission told AWC in February that
22 AWC could not serve it. AWC asked for this same Cardon property in the Woodruff case.²⁴ The
23 Commission expressly rejected AWC’s request for an extension covering the Cardon property

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¹⁸ Staff Report at 2.

¹⁹ Tr. in Docket No. W-04264A-04-0438 at 1188-91.

²⁰ Id. at 1190:11-15.

²¹ Id. at 1188-91.

²² Supplemental Staff Report dated June 30, 2006 in Docket No. W-01445A-06-0059 at 3.

²³ Letter filed August 15, 2006 in this docket.

²⁴ Tr. in Docket No. W-04264A-04-0438 at 1379 (describing Cardon property).

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1 based on Cardon's objections. *See Woodruff Water Company*, Decision No. 68453 (Feb. 2, 2006),
2 at Findings of Fact Nos. 129 and 130. Yet AWC included the same property in this application,
3 which was filed only three months later. AWC should not be able to flout this Commission's
4 decisions in such a manner.

5 **IV. Conclusion.**

6 For these reasons, Global respectfully recommends that the Commission take the following
7 actions:

- 8 (1) deny an extension to AWC for all areas where AWC lacks requests for service;
9 (2) require AWC to file, as a compliance item, a Certificate(s) of Assured Water
10 Supply ("CAWS") for each parcel included within its extension.

11 RESPECTFULLY SUBMITTED this 25th day of August 2006.

12
13 ROSHKA DEWULF & PATTEN, PLC

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15 By 

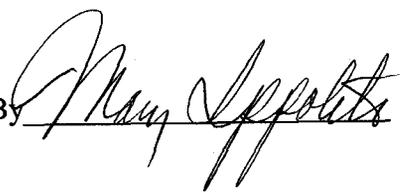
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EXHIBIT A

AWC Coolidge Groundwater Use

AWC Coolidge - 2005 Annual Report

Gallons pumped per customer	546,872,200.00
Customers	3,944.00
Gallons pumped per customer	138,659.28
Coolidge Population (US Census 7/05)	8,154.00
Gallons pumped per capita	67,067.97
Gallons pumped per customer per month	11,554.94
Gallons pumped per capita per month	5,589.00
Gallons pumped per customer per day	379.89
Gallons pumped per capita per day	183.75
Potential customers extension area	63,000.00
Potential annual groundwater use extension area (gallons)	8,735,534,634.89
Potential annual groundwater use extension area (acre feet)	26,808.37