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ADMITTED TO PRACTICE IN:  
ARIZONA, COLORADO, MONTANA,  
NEVADA, TEXAS, WYOMING,  
DISTRICT OF COLUMBIA

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

June 28, 2006

Docket Control  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

RECEIVED

JUN 28 2006

ARIZONA CORP. COMMISSION  
TUCSON, AZ

Re: Diablo Village Water Company  
Docket No. W-02309A-05-0501

Enclosed for filing in the above-referenced docket are the original and thirteen (13) copies of Diablo Village Water Company's Request for Procedural Conference Relating to Discovery.

Copies of this pleading are contemporaneously being mailed to Judge Rodda and the parties indicated on the service list.

Thank you for your assistance with regard to this matter.

Sincerely,

Lawrence V. Robertson, Jr.

AZ CORP COMMISSION  
DOCUMENT CONTROL

2006 JUN 30 P 3:31

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MUNGER CHADWICK, P.L.C.  
ATTORNEYS AT LAW  
NATIONAL BANK PLAZA  
333 NORTH WILMOT, SUITE 300  
TUCSON, ARIZONA 85711  
(520) 721-1900

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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

JEFF HATCH-MILLER, Chairman  
WILLIAM MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

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AZ CORP. COMMISSION  
DOCUMENT CONTROL

JUN 28 2006

ARIZONA CORP. COMMISSION  
TUCSON, AZ

IN THE MATTER OF THE APPLICATION OF ) DOCKET NO. W-02509A-05-0501  
DIABLO VILLAGE WATER COMPANY FOR )  
AN EXTENSION OF ITS CERTIFICATE OF ) APPLICANT'S REQUEST FOR  
CONVENIENCE AND NECESSITY. ) PROCEDURAL CONFERENCE  
) RELATING TO DISCOVERY

On or about May 25, 2006 the undersigned counsel for Diablo Village Water Company ("Applicant") submitted Applicant's First Set of Data Requests ("Data Requests") to the City of Tucson in connection with the above-captioned proceeding. A copy of the undersigned counsel's transmittal letter to Christopher E. Avery, Principal Assistant City Attorney, together with the aforesaid Data Requests is attached hereto as Appendix "A" and incorporated herein by reference. As may be noted therefrom, in the transmittal letter the undersigned counsel requested that the City of Tucson respond to the Data Requests within ten (10) days of its receipt of the same.

On or about June 19, 2006 the undersigned counsel wrote a second letter to Mr. Avery indicating that the Applicant was yet to receive any responses to the Data Requests. A copy of that letter is attached hereto as Appendix "B" and is incorporated herein by reference. In that letter, the undersigned counsel advised Mr. Avery that if he had not received the City of Tucson's responses to the Data Requests by June 26, 2006, the undersigned counsel would

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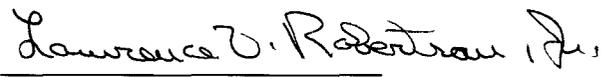
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formally file a request with the Commission that a Procedural Conference be convened in order that the failure and refusal of the City to respond to the Data Requests might addressed and resolved.

To date, the City of Tucson continues to fail and refuse to respond to the Data Requests. Accordingly, the Applicant hereby requests that the Commission issue an appropriate order scheduling a Procedural Conference before the Administrative Law Judge assigned to this matter, in order that the City of Tucson's failure and refusal to respond may be addressed and resolved, including the imposition of sanctions against the City of Tucson if determined to be appropriate.

Dated June 28, 2006

Respectfully submitted,



Lawrence V. Robertson, Jr.  
Attorney for Diablo Village  
Water Company  
P. O. Box 1448  
Tubac, Arizona 85646

An original and thirteen (13) copies of the foregoing Applicant's Request for Procedural Conference Relating to Discovery were filed with Docket Control c/o 400 West Congress, Suite 218 Tucson, Arizona 85701 on June 28, 2006.

Copies of the foregoing Applicant's Request for Procedural Conference Relating to Discovery were mailed on June 28, 2006 to

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Hon. Jane L. Rodda  
Hearing Division  
400 West Congress, Suite 218  
Tucson, Arizona 85701

Christopher Kempley, Chief Counsel  
Linda Fisher  
Legal Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Ernest Johnson, Director  
Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Christopher E. Avery  
Principal Asst. City Attorney  
Office of the Tucson City Attorney  
255 W. Alameda-Seventh Floor West  
Tucson, Arizona 85701

Robin M. Thim  
Diablo Village Water Company  
P. O. Box 13145  
Tucson, Arizona 85732

## **APPENDIX "A"**

**Diablo Village Water Company  
Docket No. W-02309A-05-0501**

LAWRENCE V. ROBERTSON, JR.  
ATTORNEY AT LAW

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

ADMITTED TO PRACTICE IN:  
ARIZONA, COLORADO, MONTANA,  
NEVADA, TEXAS, WYOMING,  
DISTRICT OF COLUMBIA

May 25, 2006

Christopher E. Avery  
Principal Assistant City Attorney  
255 West Alameda  
P. O. Box 27210  
Tucson, Arizona 85624-7210

Re: Diablo Village Water Company's  
First Set of Data Requests to  
City of Tucson, Arizona  
Docket No. W-02309A-05-0501

Dear Mr. Avery:

Please treat this letter and the attached data requests as Diablo Village Water Company's ("Company") First Set of Data Requests to the City of Tucson, Arizona ("City") in connection with the above-referenced docketed proceeding which is currently pending before the Arizona Corporation Commission ("Commission").

For purposes of these data requests, the words "City," "you," and "your" refer to City and any representative, including, but not limited to its Mayor, City Council, City Manager, City Clerk, City Attorney, Tucson Water, employees, consultants, and advisory committee(s) or board(s), and any other person and/or entity acting with, under the control of, or on behalf of the City. For each answer, please identify by name, title, and address each person providing information that forms the basis for the response provided.

These data requests are continuing, and your answers or any documents supplied in response to these data requests should be supplemented with any additional information or documents that come to your attention after you have provided your initial responses.

Please respond within TEN days of your receipt of the copy of this letter.

Christopher E. Avery  
May 25, 2006  
Page 2 of 2

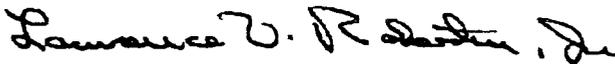
**Please provide one original copy, by electronic mail (where possible), and one original hard copy, of the requested data to the following addressee:**

- (1) **Lawrence V. Robertson, Jr. P. O. Box 1448, Tubac, Arizona, 85646;  
TubacLawyer@aol.com**

**Please provide one original hard copy of the requested data directly to the following addressee(s):**

- (1) **Robin Thim, President, Diablo Village Water Company, P. O. Box 13145, Tucson, Arizona 86732.**
- (2) **Sheila Bowen, Vice President, Castro Engineering Corp., 3580 West Ina Road, Suite 200, Tucson, Arizona, 85741.**

Very truly yours,



Lawrence V. Robertson, Jr.

CC: Linda Fisher, ACC Legal Division  
Robin Thim

C:\Documents and Settings\Angela Trujillo\Larry\Diablo Village Water Company\Avery Ltr. 5-12-06 Cln 3.doc

**DIABLO VILLAGE WATER COMPANY'S  
FIRST SET OF DATA REQUESTS TO  
CITY OF TUCSON, ARIZONA  
ARIZONA CORPORATION COMMISSION  
DOCKET NO. W-02309A-05-0501  
May 25, 2006**

- LVR 1-1 Please provide a hard copy of the City of Tucson's Water Plan: 2000-2050 ("Plan"), as adopted by the City for Tucson Water.
- In that regard, please indicate on that hard copy with hi-lighting or other readily identifiable markings those portions of the text and illustrations within the Plan (i) where and (ii) when the provision of water service to and within Section 18, Township 15 South, Range 12 East, G & SRBM, Pima County, Arizona ("Section 18"), is specifically discussed or otherwise indicted.
- LVR 1-2 Please indicate that statute, ordinance, regulation and/or other form of authority or directive pursuant to which the Plan was developed and adopted.
- LVR 1-3 Please provide a copy of the agenda and minutes of each meeting of the City at which the Plan was discussed or otherwise considered incident to the development of the Plan.
- LVR 1-4 Please provide a copy of the agenda and minutes of each meeting of the City at which all, or a portion, of the Plan was approved or adopted.
- LVR 1-5 Please provide a copy of all press releases, policy statements, summaries, analyses, discussion papers and/or reports prepared by or for the City in connection with or relating to the Plan.
- LVR 1-6 Please provide a list of all fees, charges and costs, together with tariffs, schedules and/or other supporting documentation that would be applicable to the City's extension of potable water service to and within the Pomegranate Farm project in Section 18.
- LVR 1-7 Please provide a list, by Applicant name and docket number, of all proceedings before the Arizona Corporation Commission ("ACC") in which the City has intervened in support of a request by the applicant for a new water utility certificate of convenience and necessity ("CC&N"), or an extension of an existing water utility CC&N, within a geographic area included within the City's "50-year Service Area," as that term is used in the City's February 8, 2006 Motion to Intervene in ACC Docket No. W-02309A-05-0501.
- LVR 1-8 Please provide a list, by Applicant name and docket number, of all proceedings before the ACC in which the City has intervened in opposition to a request by the applicant for a new water utility CC&N", or an extension of an existing water

utility CC&N, within a geographic area included within the City's "50-year Service Area," as that term is used in the City's February 8, 2006 Motion to Intervene in ACC Docket No. W-02309A-05-0501.

- LVR 1-9 Please provide a list, by Applicant name and docket number, of all proceedings before the ACC in which the City has intervened in and adopted a neutral posture in response to a request by the applicant for a new water utility CC&N, or an extension of an existing water utility CC&N, within a geographic area included within the City's "50-year Service Area," as that term is used in the City's February 8, 2006 Motion to Intervene in ACC Docket No. W-02309A-05-0501.
- LVR 1-10 Please provide a copy of the agenda and minutes of each meeting of the City at which the subject of the City's intervention in ACC Docket No. W-02309A-05-0501 was discussed or otherwise considered.
- LVR 1-11 Please provide a copy of the resolution and/or other form of formal action taken by the City authorizing and/or directing the filing of its Motion to Intervene in ACC Docket No. W-02309A-05-0501.
- LVR 1-12 Please provide a copy of the agenda and minutes of each meeting of the City at which the subject of the City's intervention in other ACC proceedings involving the proposed creation of a water utility CC&N, or the proposed expansion of an existing water utility CC&N, has been discussed or otherwise considered.
- LVR 1-13 Please provide a copy of the resolution and/or other form of formal action taken by the City authorizing and/or directing the filing of a Motion to Intervene in other ACC proceedings involving the proposed creation of a water utility CC&N, or the proposed expansion of an existing water utility CC&N.
- LVR 1-14 Please provide (i) the names of any employees of the ACC with whom representatives of the City met, or otherwise communicated, prior to the decision of the City to file its Motion to Intervene in ACC Docket No. W-02309A-05-0501, (ii) the date(s) on which such meeting(s) and/or communication(s) occurred and (iii) the matters discussed on such occasions.
- LVR 1-15 Please provide (i) the names of any employees of the ACC with whom representatives of the City met, or otherwise communicated, after the decision of the City to file its Motion to Intervene in ACC Docket No. W-02309A-05-0501, (ii) the date(s) on which such meeting(s) and/or communication(s) occurred and (iii) the matters discussed on such occasions.
- LVR 1-16 Please provide (i) the name and employment position of each person the City intends to call as a witness on behalf of the City at the hearings to be held in ACC Docket No. W-02309A-05-0501, and (ii) a description of the topic(s) or subject area(s) on which each witness will be offering testimony or sponsoring exhibits.

## **APPENDIX "B"**

**Diablo Village Water Company  
Docket No. W-02309A-05-0501**

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DISTRICT OF COLUMBIA

June 19, 2006

Christopher E. Avery  
Principal Assistant City Attorney  
255 West Alameda  
P. O. Box 27210  
Tucson, Arizona 85624-7210

Re: Diablo Village Water Company's  
First Set of Data Requests to  
City of Tucson, Arizona  
Docket No. W-02309A-05-0501

Dear Mr. Avery:

On May 25, 2006 I mailed Diablo Village Water Company's First Set of Data Requests to the City of Tucson in connection with the City of Tucson's intervention in Docket No. W-02309A-05-0501 before the Arizona Corporation Commission. To date, I have not received any responses to any of the aforesaid data requests. You did call me several days thereafter to indicate that your client was uncertain as to how to respond to certain of the data requests, and I suggested that you write me a letter expressly describing its concerns, in order that I might review the same with my client. However, I have not heard anything from you since then, which was approximately three (3) weeks ago.

The purpose of this letter is to advise you that if I have not received the City of Tucson's responses to Diablo Village Water Company's First Set of Data Requests by one (1) week from today, June 26, 2006, I will formally file a request that Judge Rodda convene a Procedural Conference in order that this matter may be resolved.

Very truly yours,



Lawrence V. Robertson, Jr.

CC: Linda Fisher, ACC Legal Division  
Robin Thim

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