

DOCKETED

ORIGINAL



0000059414

FEB 11 2004

RECEIVED

DOCKETED BY *AK*

FENNEMORE CRAIG  
A Professional Corporation  
Jay L. Shapiro  
Patrick J. Black  
3003 North Central Avenue  
Suite 2600  
Phoenix, Arizona 85012  
Telephone (602) 916-5000

2004 FEB 11 P 4: 25

AZ CORP COMMISSION  
DOCUMENT CONTROL

Attorneys for Santa Cruz Water Company and Palo Verde Utilities Company

**BEFORE THE ARIZONA CORPORATION COMMISSION**

IN THE MATTER OF THE  
APPLICATION OF PALO VERDE  
UTILITIES COMPANY FOR AN  
EXTENSION OF ITS EXISTING  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY.

DOCKET NO. SW-03575A-03-0167

IN THE MATTER OF THE  
APPLICATION OF SANTA CRUZ  
WATER COMPANY, FOR AN  
EXTENSION OF ITS EXISTING  
CERTIFICATE OF CONVENIENCE  
AND NECESSITY.

DOCKET NO. W-03576A-03-0167

**NOTICE OF FILING**

Santa Cruz Water Company and Palo Verde Utilities Company ("Utilities") hereby submits this Notice of Filing in the above referenced matter. Arizona Corporation Commission ("Commission") Decision No. 66394 (October 6, 2003) ordered Utilities to increase their performance bonds to \$500,000 each, and file proof with the Commission prior to providing service in the extended service area.

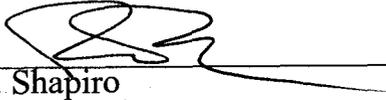
On October 29, 2003, Utilities filed proof with the Commission that each had increased existing performance bonds to \$500,000 by obtaining bonds in the amount of \$418,000 for Santa Cruz Water Company, and \$382,000 for Palo Verde Utilities Company. On February 5, 2004, Staff contacted Utilities informing the companies that the performance bonds filed on October 29, 2003 had been cancelled. Although Commission Staff was made aware of these cancellations soon afterwards, Utilities' management was not notified until February 5, 2004, and promptly responded by letter on

1 February 9, 2004. See Exhibit 1. Also attached is a February 9, 2004 letter from The  
2 Mahoney Group to Cindy Liles explaining that Mr. Mesenbrink, Utilities' bond broker,  
3 did not receive any notice of cancellation as well. See Exhibit 2.

4 Utilities have obtained the required performance bonds, and hereby file proof of  
5 compliance with Decision No. 66394. See Exhibit 3.

6 RESPECTFULLY submitted this 11<sup>th</sup> day of February, 2004.

7 FENNEMORE CRAIG, P.C.

8  
9 By:   
10 Jay L. Shapiro  
11 Patrick J. Black  
12 Attorney for Palo Verde Utilities Company  
13 and Santa Cruz Water Company

14 ORIGINAL and 15 copies delivered  
15 this 11<sup>th</sup> day of February, 2004, to:

16 Docket Control  
17 Arizona Corporation Commission  
18 1200 West Washington Street  
19 Phoenix, Arizona 85007

20 COPY hand-delivered this 11<sup>th</sup> day of February, 2004 to:

21 Dwight D. Nodes  
22 Hearing Division  
23 Arizona Corporation Commission  
24 1200 West Washington Street  
25 Phoenix, Arizona 85007

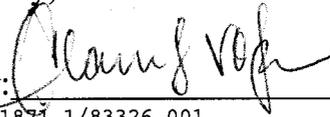
26 Christopher Kempley  
Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Steve Olea  
Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

1 COPY mailed this 11<sup>th</sup> day of February, 2004 to:

2 Brent D. Butcher  
3 3975 S. Highland Drive, #6  
4 Salt Lake City, UT 84124

5 Kent A. Hogan  
6 3799 E. Catamount Ridge Way  
7 Sandy, UT 84092

8 By:   
9 \_\_\_\_\_  
10 1511871.1/83326.001

- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26

# **EXHIBIT**

**1**

Santa Cruz Water Company, LLC  
Palo Verde Utilities Company, LLC

February 9, 2004

Mr. Brian Bozzo, Compliance Division  
Arizona Corporation Commission  
1200 W Washington St.  
Phoenix, AZ 85007

RE: Utility Bonds for Santa Cruz Water Company, LLC and Palo Verde Utilities Company, LLC

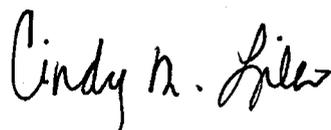
Dear Mr. Bozzo:

Thank you for your phone call last week regarding compliance for Santa Cruz Water Company, LLC and Palo Verde Utilities Company, LLC (the "Utilities"). When I received your phone call Thursday, February 5, 2004, it was the first I knew that the bonds put in place by the Utilities on September 30, 2003 had been cancelled in October of 2003. I immediately notified Mike Mesenbrink, Bond Manager for The Mahoney Group, who had arranged the bonds for us. Mike was also unaware of the cancellation as he also had not been notified. As of this date, neither the Utilities nor Mahoney Group have received a refund of the \$16,000.00 premium fully prepaid on October 6, 2003.

Upon questioning Hartford as to why neither party was notified of the cancellation, they answered that they are only obligated to notify the insured. In this case, the insured was the Arizona Corporation Commission ("ACC"). The Utilities secured new bonds today and will present these to the ACC for docketing on February 10. It remains our intent to always be in compliance on all corporate and utility matters with the ACC.

Thank you for working with us on this process. If I can be of more help, please feel free to contact me.

Respectfully yours,  
SANTA CRUZ WATER COMPANY, LLC  
PALO VERDE UTILITIES COMPANY, LLC



Cindy M. Liles  
VP and CFO

# **EXHIBIT**

**2**



*an Assurex Partner*

20410 N. 19th Avenue, Suite  
Phoenix, Arizona 85027-1405  
(623) 215-1300  
(623) 215-1333 FAX

February 9, 2004

Ms. Cindy Liles  
Phoenix Capital Partners LLC  
426 N. 44th St., Suite 200  
Phoenix, AZ 85008

RE: Hartford Fire Insurance Co.  
Bonds

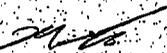
Dear Cindy:

I was informed last Thursday, February 5<sup>th</sup>, by the Arizona Corporation Commission that Hartford had cancelled the bonds that were issued on September 30, 2003. The Corporation Commission faxed me copies of the cancellation notices. I was never made aware of the cancellation by Hartford and I assume that you also did not receive any notice.

We collected the full annual premium for these bonds from your office on October 9<sup>th</sup> and remitted the premium due Hartford on our October statement. We have not received a refund of the premium from Hartford.

I am in the process of clarifying this situation with Hartford and determine if it was their intent to cancel these bonds and if so, when we can expect a return of the premium. I will be in contact with you as soon as possible.

Best regards,

  
Mike Mesenbrink



Our website address: [www.mahoneygroup.com](http://www.mahoneygroup.com)

Casa Grande • Coolidge • Globe • Kingman • Mesa • Phoenix • Pinetop • Prescott • Tucson

**EXHIBIT**

**3**

**Palo**

**Verde**

**Bond No. 08742106**

**Bond**

**Know All Men By These Presents, That we, Palo Verde Utilities Company, LLC, as Principal and Fidelity And Deposit Company of Maryland, A Maryland corporation authorized to do business in the State of Arizona, as Surety are held and firmly bound unto the Arizona Corporation Commission in the amount of Three Hundred Eighty Two Thousand and 00/100 (\$382,000), lawful money of the United States of America for the payment of which the Principal and Surety are hereby jointly and severally bound.**

**Now Therefore, if the said Principal, or any assigns of his fails to provide competitive water services so furnished, the said Surety will pay the same to the users of the Principal with the consent of the Arizona Corporation Commission as Trustee, an amount not exceeding the sum hereinabove specified, then this obligation shall be null and void; otherwise it shall remain in full force and effect.**

**Provided Further, that regardless of the number of years this bond shall continue in force and the number of premiums which shall be payable or paid, the Surety shall not be liable thereunder for a larger amount, in the aggregate, than the amount of the bond.**

**Provided Further, that should the Surety so elect, this bond may be cancelled by the Surety as to subsequent liability by giving thirty (30) days notice in writing by certified mail to Obligee.**

**Signed, sealed and dated this 10<sup>th</sup> Day of February, 2004.**

**Palo Verde Utilities Company, LLC      Fidelity And Deposit Company of Maryland**

**By:**

**By:**



**Virginia Bradley, Attorney-In-Fact  
3020 E. Camelback Rd. #200  
Phoenix, Arizona 85016  
602-381-2877**

**Power of Attorney**  
**FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

HOME OFFICE, BALTIMORE, MD

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by C. M. PECOT, JR., Vice-President, and C. W. ROBBINS, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, does hereby nominate, constitute and appoint Virginia Bradley of Phoenix, Arizona,

its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings.....

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes that issued on behalf of Virginia Heil, dated, July 5, 1996.

The said Assistant Secretary does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 25th day of September, A.D. 1996.

ATTEST:



FIDELITY AND DEPOSIT COMPANY OF MARYLAND

*C. W. Robbins*  
Assistant Secretary

By

*C. M. Pecot, Jr.*  
Vice-President

STATE OF MARYLAND  
COUNTY OF BALTIMORE

SS:

On this 25th day of September, A.D. 1996, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, came C. M. PECOT, JR., Vice-President and C. W. ROBBINS, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself depose and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



CAROL J. FADER

*Carol J. Fader*  
Notary Public

My Commission Expires August 1, 2000

**CERTIFICATE**

I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2, of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 16th day of July, 1969.

RESOLVED: "That the facsimile or mechanically reproduced signature of any Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company, this 10th day of February 2004.

*J. Gregory Hamilton*  
Assistant Secretary

**EXTRACT FROM BY-LAWS OF FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

“Article VI, Section 2. The Chairman of the Board, or the President, or any Executive Vice-President, or any of the Senior Vice-Presidents or Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Assistant Vice-Presidents and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgements, decrees, mortgages and instruments in the nature of mortgages, . . . and to affix the seal of the Company thereto.”

**EXHIBIT**

**3**

**Santa**

**Cruz**

**Bond No. 08742105**

**Bond**

**Know All Men By These Presents, That we, Santa Cruz Water Company, LLC, as Principal and Fidelity And Deposit Company of Maryland, A Maryland corporation authorized to do business in the State of Arizona, as Surety are held and firmly bound unto the Arizona Corporation Commission in the amount of Four Hundred Eighteen Thousand and 00/100 (\$418,000), lawful money of the United States of America for the payment of which the Principal and Surety are hereby jointly and severally bound.**

**Now Therefore, if the said Principal, or any assigns of his fails to provide competitive water services so furnished, the said Surety will pay the same to the users of the Principal with the consent of the Arizona Corporation Commission as Trustee, an amount not exceeding the sum hereinabove specified, then this obligation shall be null and void; otherwise it shall remain in full force and effect.**

**Provided Further, that regardless of the number of years this bond shall continue in force and the number of premiums which shall be payable or paid, the Surety shall not be liable thereunder for a larger amount, in the aggregate, than the amount of the bond.**

**Provided Further, that should the Surety so elect, this bond may be cancelled by the Surety as to subsequent liability by giving thirty (30) days notice in writing by certified mail to Obligee.**

**Signed, sealed and dated this 10<sup>th</sup> Day of February, 2004.**

**Santa Cruz Water Company, LLC**

**Fidelity And Deposit Company of Maryland**

**By:**

**By:**



**Virginia Bradley, Attorney-In-Fact  
3020 E. Camelback Rd. #200  
Phoenix, Arizona 85016  
602-381-2877**

**EXTRACT FROM BY-LAWS OF FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

“Article VI, Section 2. The Chairman of the Board, or the President, or any Executive Vice-President, or any of the Senior Vice-Presidents or Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Assistant Vice-Presidents and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgements, decrees, mortgages and instruments in the nature of mortgages, . . . and to affix the seal of the Company thereto.”

**Power of Attorney**  
**FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

HOME OFFICE, BALTIMORE, MD

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by C. M. PECOT, JR., Vice-President, and C. W. ROBBINS, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, does hereby nominate, constitute and appoint Virginia Bradley of Phoenix, Arizona,

its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for and on its behalf as surety, and as its act and deed: any and all bonds and undertakings.....

And the execution of such bonds or undertakings in pursuance of these presents shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes that issued on behalf of Virginia Heil, dated, July 5, 1990.

The said Assistant Secretary does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 25th day of September, A.D. 1996.

ATTEST:  C. M. Pecot, Jr. FIDELITY AND DEPOSIT COMPANY OF MARYLAND  
Assistant Secretary By C. W. Robbins  
Vice-President

STATE OF MARYLAND }  
COUNTY OF BALTIMORE } SS:

On this 25th day of September, A.D. 1996, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, came C. M. PECOT, JR., Vice-President and C. W. ROBBINS, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself deposed and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

 Carol J. Fader Notary Public  
My Commission Expires August 1, 2000

**CERTIFICATE**

I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2, of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 16th day of July, 1969.

RESOLVED: "That the facsimile or mechanically reproduced signature of any Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company, this 10th day of February, 2004.

J. Gregory Hamilton  
Assistant Secretary