

**INTERVENTION  
ORIGINAL**



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**BEFORE THE ARIZONA CORPORATION  
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**COMMISSIONERS**

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AZ CORP COMMISSION  
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Arizona Corporation Commission  
**DOCKETED**

DEC - 6 2006

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In the Matter of the Application of Arizona Water Company for Approvals Associated with a Transaction with the Maricopa County Municipal Water Conservation District Number One

**DOCKET NO. W-01303A-05-0718**

**JOINT APPLICATION OF FULTON HOMES CORPORATION, SUBURBAN LAND RESERVE, INC. AND WESTCOR/SURPRISE, LLC FOR LEAVE TO INTERVENE**

**Snell & Wilmer**

LLP  
LAW OFFICES  
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Fulton Homes Corporation, an Arizona Corporation (“Fulton”), Suburban Land Reserve, Inc., a Utah Corporation (“SLR”) and Westcor/Surprise, LLC, an Arizona limited liability company (“Westcor”) (collectively referred to herein as the “Prasada Group”) through their respective undersigned counsel, and pursuant to Arizona Administrative Code Sections R14-3-101(B) and R14-3-105, hereby apply for an order granting leave to intervene in the above-captioned proceeding.

In support of its Application, the Prasada Group states as follows:

1. Fulton and SLR have entered into a long-term Real Estate Purchase and Sale Agreement pursuant to which Fulton will acquire approximately 1,470 acres of land from SLR for the purpose of constructing residential housing in a master planned community known as Prasada within Arizona-American Water Company’s (“Arizona-American”) Agua Fria Water District (“Agua Fria District”).

2. SLR has also granted an option to Westcor to acquire a site within Prasada upon which to build a regional mall. SLR subsequently optioned three additional Prasada parcels to Westcor for the construction of an auto park and two power centers.

3. On October 11, 2005, Arizona-American filed with the Commission an

1 application (“Initial Application”) in this matter in which it requested the Commission’s  
2 approval of several actions related to a proposed joint project with Maricopa County  
3 Municipal Water Conservation District Number One (“MWD”) to build a water treatment  
4 facility known as the White Tanks Regional Water Treatment Facility (“White Tanks  
5 Plant”) in Arizona-American’s Agua Fria District.

6 4. The Initial Application indicated that Arizona-American and MWD  
7 executed a Memorandum of Understanding (“MOU”) under which the White Tanks Plant  
8 was to be financed, built and owned by MWD. *See, Initial Application* at 1. Arizona-  
9 American was to obtain treatment services for its Agua Fria District under a long-term  
10 capital lease with MWD, and an Arizona-American affiliate was to operate the White  
11 Tanks Plant under an Operation and Maintenance Agreement with MWD. *Id.*

12 5. To reduce the rate impact from the MWD capital lease, Arizona-American  
13 proposed to increase Central Arizona Project (“CAP”) hook-up fees for new customers  
14 while discontinuing water facilities hook-up fees (“Hook-up Fees”). *See, Report of*  
15 *Arizona-American Water Company: White Tanks Plant – Capital Lease with Maricopa*  
16 *Water District* at 22, attached to Initial Application. The net result would have been a  
17 total increase in overall hook-up fees of approximately 38%. *Id.* The Commission’s  
18 Utilities Division Staff (“Staff”) later recommended retaining the Hook-up fees and  
19 increasing those fees by a reduced amount. *See, Staff Report* filed February 10, 2006 at  
20 10-11.

21 6. On December 19, 2005, a procedural order was issued setting dates and  
22 deadlines for hearings and other matters in these proceedings. It was ordered that  
23 applications for leave to intervene be filed on or before January 23, 2006. In addition, a  
24 hearing was set for March 7, 2006, and a pre-hearing conference for March 2, 2006.

25 7. An application for leave to intervene was filed by the Residential Utility  
26 Consumer Office (“RUCO”). *See, RUCO’s Application to Intervene* filed January 4,  
27 2006.

28 8. On March 2, 2006, at the request of Arizona-American, a procedural order

1 was issued continuing the hearing set for March 7, 2006, to allow Arizona-American  
2 additional time to finalize its deal with MWD. However, by June, 2006, it became  
3 apparent that Arizona-American and MWD would not reach an agreement regarding  
4 construction of the White Tanks Plan. *See, Arizona-American's Notice of Filing May*  
5 *Report*, filed June 1, 2006.

6 9. On September 1, 2006, Arizona-American filed a substantially revised  
7 application with the Commission requesting approval of certain actions it asserts are  
8 needed to allow Arizona-American to proceed with the White Tanks Plan on its own  
9 ("Revised Application"). The Revised Application abandons the previous requests for  
10 approval asserted under the Initial Application, and proposes an entirely different means  
11 of financing the White Tanks Plant. American-American Water proposed two options  
12 that, under either option, would increase the Hook-Up Fees by substantial amounts.

13 10. Pursuant to a procedural order dated October 6, 2006, Staff filed its Staff  
14 Report on the Revised Application. The Staff Report recommends, in part, that the  
15 Hook-Up Fees be increased significantly.

16 11. On October 23, 2006, Pulte Home Corporation ("Pulte") filed an  
17 Application for Leave to Intervene. On November 2, 2006, a procedural order was issued  
18 granting Pulte's intervention request, but required Pulte to abide by the existing  
19 procedural schedule. Pulte was ordered to file any response to the Staff Report and Staff  
20 Recommended Order on or before November 6, 2006.

21 12. On November 3, 2006, CHI Construction Company, Coutland Homes, Inc.  
22 and Taylor Woodrow/Arizona, Inc. ("Developers") filed an Application for Leave to  
23 Intervene.

24 13. On November 6, 2006, Pulte and Developers filed comments to the Staff  
25 Report and Recommended Order. In its comments, Pulte recommended that the  
26 Commission reject the proposed increase in the Hook-Up Fee until other less expensive  
27 financing arrangements could be evaluated. Developers filed comments requesting, in  
28 part, that there be a clarification that to the extent Developers have already paid Hook-Up

1 Fees pursuant to the existing tariff, that Arizona-American would not be permitted to  
2 subsequently seek to collect additional amounts if and when the higher Hook-Up Fee  
3 tariff became effective.

4 14. In response to Pulte, Arizona-American indicated that if the White Tanks  
5 Plant was delayed, that Arizona-American could ask the Commission to institute a new-  
6 service moratorium in the Agua Fria District.

7 15. On November 8, 2006, MWD filed an Application for Leave to Intervene.  
8 In its Application to Intervene, as well as in subsequent comments that it filed, MWD  
9 alleged that Arizona-American made various misrepresentations in its Revised  
10 Application and that MWD had plans to build its own surface water treatment plant and  
11 could do so less expensively than Arizona-American.<sup>1, 2</sup>

12 16. Arizona-American filed a response to MWD objecting to the requested  
13 intervention and indicating, in part, that Arizona-American is in a better position to build  
14 the White Tanks Plant and can do so more expeditiously in order to meet the new-service  
15 water demands in the Agua Fria District.

16 17. On November 29, 2006, Arizona-American withdrew its objection to  
17 MWD's request to intervene and requested an expedited hearing in this matter. In its  
18 filing, Arizona-American also once again raised the issue of a possible new-service  
19 moratorium.

20 18. The Prasada Group is directly and substantially impacted by the issues that  
21 have been raised in this matter including the proposed Hook-Up Fee increase and the  
22 manner in which it will be applied by Arizona-American, the timely construction of a  
23 surface water treatment plant (whether it be constructed by Arizona-American or MWD)  
24 and the threatened moratorium on new water service within the Agua Fria District if  
25 construction of a surface water treatment plant is delayed.

26 \_\_\_\_\_  
27 <sup>1</sup> On November 13, 2006, Trend Homes, Inc. ("Trend") also filed an Application to Intervene in this  
28 matter.

<sup>2</sup> The Commission has not yet ruled on the pending Applications for Intervention filed by Developers,  
MWD or Trend.

1 19. There is good cause to allow the Prasada Group intervention in these  
2 proceedings after the intervention deadline because the requests in the Revised  
3 Application have changed dramatically since January and the Prasada Group is directly  
4 impacted by the changed requests. Moreover, the Prasada Group is directly impacted by  
5 the significant issues have been raised subsequent to the filing of the Staff Report by  
6 Arizona-American and other Intervenors, including, but not limited to: 1) which entity  
7 should construct the surface water treatment plant, as well as how the plant will be  
8 financed and the timing for its completion; 2) the threatened moratorium by Arizona-  
9 American; and 3) the objections to the Hook-Up Fee. No other party to this matter  
10 represents the same interests as the Prasada Group.

11 20. The Prasada Group's intervention will not expand the issues presented, nor  
12 is it intended that the Prasada Group's intervention will unduly broaden or delay the  
13 proceedings. Given the current procedural context of this docket, no party to this  
14 proceeding will be prejudiced by the Prasada Group's intervention.

15 21. Communications regarding these proceedings can be sent to the Prasada  
16 Group addressed to its attorneys as follows:

17 Jeffrey W. Crockett  
18 Bradley S. Carroll  
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21 Phoenix AZ 85004-2202  
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22. The Attorneys for Fulton have been authorized to execute this Application on behalf of the attorneys for SLR and Westcor.

A copy of this Application is being sent via first class mail and electronic mail to the attorneys for Arizona-American at the address below.

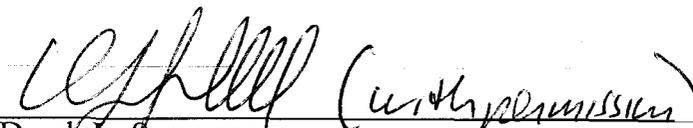
WHEREFORE, the Fulton, SLR and Westcor respectfully request that the Commission grant their Application for Leave to Intervene in the above-captioned proceeding.

DATED this 6th day of December, 2006.

SNELL & WILMER L.L.P.

By   
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1 ORIGINAL and thirteen (13) copies filed with  
2 Docket Control December 6, 2006.

3 COPY of the foregoing hand-delivered  
4 December 6, 2006, to:

5 Teena Wolfe  
6 Administrative Law Judge  
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24 COPY of the foregoing sent via first class mail  
25 and electronic mail December 6, 2006, to:

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29 COPY of the foregoing sent via first class mail  
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