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**BEFORE THE ARIZONA CORPORATION COMMISSION**

Arizona Corporation Commission

**DOCKETED**

MAR 06 2001

DOCKETED BY *pd*

WILLIAM A. MUNDELL  
CHAIRMAN

JIM IRVIN  
COMMISSIONER

MARC SPITZER  
COMMISSIONER

IN THE MATTER OF THE )  
APPLICATIONS OF H2O, INC. AND )  
JOHNSON UTILITIES COMPANY FOR )  
AN EXTENSION OF THEIR )  
CERTIFICATES OF CONVENIENCE AND )  
NECESSITY. )

**DOCKET NOS. W-02234A-00-0371  
WS-02987A-99-0583**

IN THE MATTER OF THE APPLICATION )  
OF JOHNSON UTILITIES, L.L.C., DBA )  
JOHNSON UTILITIES COMPANY, FOR )  
AN EXTENSION OF ITS CERTIFICATE )  
OF CONVENIENCE AND NECESSITY TO )  
PROVIDE WATER AND WASTEWATER )  
SERVICE TO THE PUBLIC IN THE )  
DESCRIBED AREA IN PINAL COUNTY, )  
ARIZONA. )

**DOCKET NO. WS-02987A-00-0618**

IN THE MATTER OF THE APPLICATION )  
OF DIVERSIFIED WATER UTILITIES, )  
INC. TO EXTEND ITS CERTIFICATE OF )  
CONVENIENCE AND NECESSITY. )

**DOCKET NO. W-02859A-00-0774**

IN THE MATTER OF THE APPLICATION )  
OF QUEEN CREEK WATER COMPANY )  
TO EXTEND ITS CERTIFICATE OF )  
CONVENIENCE AND NECESSITY. )

**DOCKET NO. W-01395A-00-0784**

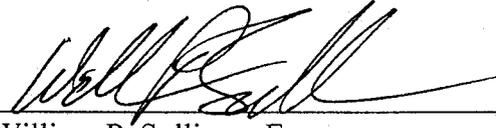
**DIVERSIFIED WATER UTILITIES, INC.'S NOTICE OF  
FILING REJOINDER TESTIMONY**

Diversified Water Utilities, Inc., by and through its attorney, hereby file the  
Rejoinder Testimony of Scott Gray, President of Diversified Water Utilities, Inc.

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Respectfully submitted this 6th day of March 2001.

MARTINEZ & CURTIS, P.C.



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PROOF OF SERVICE AND  
CERTIFICATE OF MAILING

I hereby certify that on this 6th day of March 2001, I caused the foregoing document to be served on the Arizona Corporation Commission by hand-delivering the original and ten (10) copies of said document to:

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Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

With copies of the foregoing mailed/hand-delivered this 6th day of March 2001 to:

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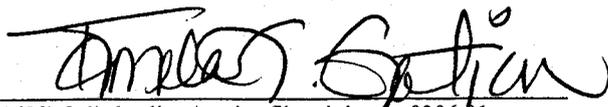
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**BEFORE THE ARIZONA CORPORATION COMMISSION**

WILLIAM A. MUNDELL  
CHAIRMAN  
JIM IRVIN  
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APPLICATIONS OF H2O, INC. AND )  
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**DOCKET NO. WS-02987A-00-0618**

IN THE MATTER OF THE APPLICATION )  
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**DOCKET NO. W-02859A-00-0774**

IN THE MATTER OF THE APPLICATION )  
OF QUEEN CREEK WATER COMPANY )  
TO EXTEND ITS CERTIFICATE OF )  
CONVENIENCE AND NECESSITY. )

**DOCKET NO. W-01395A-00-0784**

**REJOINDER TESTIMONY OF  
SCOTT GRAY, PRESIDENT OF  
DIVERSIFIED WATER UTILITIES, INC.**

**MARCH 6, 2001**

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**I. INTRODUCTION**

Q: PLEASE STATE YOUR NAME AND RELATIONSHIP TO DIVERSIFIED WATER UTILITIES, INC.

A: My name is Scott W. Gray. I am President of Diversified Water Utilities, Inc. ("DWU"), an Arizona corporation.

Q. ARE YOU THE SAME SCOTT GRAY THAT FILED REBUTTAL TESTIMONY ON JANUARY 30, 2001 IN THIS MATTER AND TESTIMONY IN RESPONSE TO PROPOSAL OF H2O, JOHNSON UTILITIES AND QUEEN CREEK ON FEBRUARY 8, 2001?

A. Yes.

Q. HAVE YOU HAD AN OPPORTUNITY TO REVIEW THE FILINGS MADE ON BEHALF OF SKYLINE RANCH DATED JANUARY 9, 2001, FEBRUARY 8, 2001 AND FEBRUARY 20, 2001, THE ON BEHALF OF JOHNSON UTILITIES, L.L.C., H2O, INC., QUEEN CREEK WATER COMPANY DATED JANUARY 30, 2001 AND FEBRUARY 22, 2001, WHICH INCLUDES TESTIMONY OF INTERVENOR KATHY ALEMAN, MANAGER OF WOLFCOR, LLC & WOLFKIN FARMS, AND THE FILINGS DATED FEBRUARY 8, 2001 AND FEBRUARY 20, 2001 MADE ON BEHALF OF COMMISSION STAFF?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR REJOINDER TESTIMONY?

A. To provide Diversified's response to the foregoing testimony. In this rejoinder testimony, I will be responding to misconceptions regarding the proposed Domestic

1 Improvement District, the nature of the alleged complaints regarding Diversified's  
2 service and why it is not in the public interest to approve the three-way proposal of H2O,  
3 Johnson Utilities, L.L.C. and Queen Creek or any proposal that does not grant DWU's  
4 request to expand its certificated area to serve Sections 13, 14, 15, 16 and 23, T3S, R8E  
5 and Section 18, T3S, R9E, Pinal County, Arizona and Sections 28 and 33, T2S, R8E,  
6 Pinal County, Arizona.

7  
8 Q. WHAT IS THE STATUS OF THE COUNTY DOMESTIC WATER IMPROVEMENT  
9 DISTRICT?

10 A. After closing the public hearing and holding an executive session, the Board of  
11 Supervisors continued the issue until February 9, 2001 at 9:00 a.m. The Board provided  
12 no explanation for their action to continue the matter.

13  
14 Q. DID DWU FORMALLY OPPOSE THE FORMATION OF THE DISTRICT?

15 A. Yes. A copy of the written opposition is attached as Rejoinder SG-1. To limit the paper  
16 being filed, we have eliminated the exhibits to the letter and much of the separate  
17 documentation that was submitted to the County. We have provided the index of the  
18 separate documentation and item numbers 3 and 7-20, inclusive.

19  
20 Q. WHY DOES DWU OPPOSE THE FORMATION FO THE DISTRICT?

21 A. In summary, DWU opposes the District because there is no evidence of need or that the  
22 District will promote the public convenience or welfare. The persons seeking to form the  
23 District, after three attempts, have failed to file petitions meeting the basic statutory  
24 requirements. See, Rejoinder SG-1. Further, after approximately three months of active  
25 formation activity, they have performed no analysis of the system's needs or the District's  
26

1 financial capability to finance both the acquisition of DWU and improvements to the  
2 system. In fact, DWU, through its dealings with 4 of the 5 persons listed on the petitions  
3 as potential members of the District's Board, has first hand experience with these  
4 individuals. On the whole they have evidenced a far greater concern for cutting costs and  
5 doing things quickly, than providing a reliable water system for future customers. For  
6 example, in 1997, Mr. Marchant and Mr. Brandt requested service to a 160-acre parcel  
7 and a 360-acre parcel. They designed proposed lines to allow future lot splits, but did not  
8 loop the lines, provide storage, well production or booster pumps for the ultimate  
9 population that would be served. DWU sought additional information so a proper system  
10 could be designed to serve the entire 520 acres. This resulted in Mr. Marchant filing a  
11 formal complaint against DWU. After discussions with Commission Staff, a settlement  
12 was reached and a distribution line constructed throughout the entire 160-acre parcel.  
13 Within two years the area had been divided into at least 90 home sites through lot  
14 splitting. It is my understanding this activity is under active investigation for possible  
15 violations of Arizona's subdivision laws. Further, DWU found the work performed on  
16 our system by Mr. Marchant to be unacceptable. After unsuccessfully attempting on  
17 several occasions to address the recurring problems with Mr. Marchant, DWU notified  
18 Mr. Marchant he no longer could perform new construction on DWU's system. Shortly  
19 thereafter Mr. Marchant became actively involved in efforts to form the District.  
20

21  
22 Q. ARE YOUR EXISTING CUSTOMERS GENERALLY SATISFIED WITH THE  
23 SERVICE PROVIDED BY DIVERSIFIED?

24 A. Despite the efforts to create dissatisfaction by Mr. George Johnson (Mr. Johnson is an  
25 active participant in the District formation efforts, an opponent of DWU's expansion and  
26 the leading candidate to provide water service within DWU's certificated area if the

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District is formed), and a handful of developers, who oppose DWU's efforts to require them to build a quality long term water distribution system that will adequately serve the areas they are developing, DWU's customers are generally satisfied with DWU's service. Many of the persons at the public hearing held in connection with the formation of the District expressed their satisfaction with the service they were receiving from DWU:

Anne Howe: "Another aspect is that we have no problem with Diversified as far as providing the water or quality of water."

Mona Anderson: "As for me, as far as Diversified, I have not had any problems with them."

Terry Perkins: "We have basically no problem so far as Diversified...."

Jean Canady: "I don't have any water problems. I have Diversified Water service. They have never failed to respond to me and I have only had to call them one time. I don't think any of this is being done for the current users of Diversified Water. It's being done for gentlemen who want to make money off their property.... They don't live there. They aren't going to live there. What they care about is selling their land and when its sold, that's right, they're gone—and you and I can stay right there and deal with whatever they put on us. \* \* \* I want to reinforce that I have no problem with Diversified Water. I think the thing I have the most problem with is that two or three people are trying to come in here and change some things that I don't think is in the best interest of the property owners."

Mr. Paul Wordselle placed the matter in perspective: "[T]hey [DWU] have completely improved the water system since they took it over. I was involved in that water system

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when the last owner owned it. I went through the worst of that session. We were out of water quite often and we had to maintain the system ourselves and everything else because there wasn't any money available to take care of it. Diversified Water took over. They have improved the system....Diversified Water Utilities has been giving us excellent service. Down time on the system has hardly been noticeable. I don't think that there as been more than a few hours that I have been without water over the past several years since they've took over. Repairs to the system area always done quickly if a backhoe operator accidentally breaks the lines. Many improvements have been made and are going on from day to day. I say if the system isn't broken, don't try to fix it. We've got a good system...I'm satisfied with what I've got and I know many of my neighbors are too."

Attached hereto as Rejoinder SG-2 are copies of some of the correspondence we have received opposing the formation of the District.

Q. WHAT EFFORTS HAS GEORGE JOHNSON OR JOHNSON UTILITIES TAKEN TO SUPPORT THE FORMATION OF THE DISTRICT?

A. Mr. Johnson was present that the public hearing conducted February 28, 2001 by the Board of Supervisors. The statements he made to the Board indicated that his trust would buy all the bonds the District needed to issue and would look for their repayment from revenues from the water used and the water bills paid in the District. He indicated that his Company would manage the District's water system and charge the people the same rates currently authorized for Johnson Utilities. On several occasions, Mr. Johnson responded to questions as if he was a representative of the District. Additionally, one of the persons circulating the district petitions identified himself as an employee of Johnson Utilities. These actions are in addition to Johnson Utilities' earlier interference with DWU's

1 purchase of a well from Russ Brandt and WIFA's processing of DWU's financing  
2 application that have inhibited DWU's efforts to improve its system and service.  
3

4 Q. DO YOU AGREE WITH DR. GIFFIS' STATEMENT THAT THE COUNTY IS  
5 REACTING TO CONCERNS VOICED BY ITS CITIZENS WHO BELIEVE THAT  
6 DIVERSIFIED IS UNABLE TO PROVIDE ADEQUATE WATER UTILITY  
7 SERVICES OR THAT THE SETTLEMENT AGREEMENT IS NOT INTENDED TO  
8 BENEFIT JOHNSON UTILITIES, QUEEN CREEK AND H2O AT DIVERSIFIED'S  
9 EXPENSE?

10 A. As set forth above, DWU's actual customers are satisfied with Diversified's service.  
11 However, Mr. Marchant and Mr. Johnson have promised formation of a District will  
12 provide better service and lower rates, but without taxation. These unrealistic and  
13 unenforceable promises, together with false statements made by those circulating District  
14 petitions, are clearly calculated not only to create dissatisfaction with Diversified and  
15 support for the District, but also to impact the outcome of these certification proceedings.  
16 At the public hearing conducted February 28, 2001, Dr. Griffis acknowledged that the  
17 formation of the District addresses: "Who is the Corporation Commission going to permit  
18 to get CC&Ns."

19  
20 It must be remembered that long before supporting the District, Dr. Griffis was already  
21 actively supporting Johnson Utilities' application to expand its certificate and vigorously  
22 opposed H2O. Can it be mere coincidence that the District, if formed, and the three-way  
23 agreement, if approve will eliminate the one existing water provider that could challenge  
24 Johnson Utilities' expansion, not only to Bella Vista Farms, but anywhere South of  
25 DWU's existing certificated area? Can it be mere coincidence that these landowners  
26 approached Dr. Griffis in December and commenced circulating petitions thereafter and

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that the entity Dr. Griffis previously supported, Johnson Utilities, was the only entity seriously discussed as a potential operator of the District? Can it be mere coincidence that one of Johnson's trust will provide the financing for the District and that a Johnson Utilities' employee was circulating District petitions and making false statements regarding the purpose of the petition and the character of DWU's service? Taken in isolation, these actions might be deemed harmless. Taken as a whole, they demonstrate a concerted effort by Johnson Utilities, and with the assistance of Dr. Griffis, to harm DWU.

Q. PRIOR TO MID-DECEMBER, HAD THE COUNTY RECEIVED COMPLAINTS REGARDING DWU?

A. At the deposition of Dr. Griffis, taken November 28, 2000, the following question and answer exchange occurred between DWU's legal counsel and Dr. Griffis:

“Q. Have you done any specific individual investigation of Diversified Water Utilities?

A. No. To be honest with you, until they filed their intent to intercede or whatever you call it, I didn't even know they existed.

Q. So you haven't had a lot of complaints about Diversified Water Utilities?

A. I think that is an understatement, yes.

Q. That you have not.

A. Have not. No.

Q. Have you received any that you are aware of?

A. No.

Griffis Deposition, p. 83, ll. 2-14.

Q. DID DR. GRIFFIS CONTACT DWU TO DISCUSS THE CONCERNS RAISED BY LANDOWNERS WITHIN YOUR CERTIFICATED AREA?

A. No. We received no communication from Dr. Griffis regarding the landowners' alleged concerns or their desire to form a District. Nor did we receive notice of or an invitation to attend any settlement discussions in which Dr. Griffis was involved. We were only

1 informed of the discussion after H2O, Johnson Utilities and Queen Creek had resolved  
2 their differences, so long as DWU received no additional territory.

3  
4 Q. DOES JOHNSON UTILITIES HAVE A NON-WATER UTILITY RELATIONSHIP  
5 WITH ANY OF THE PROPERTY OWNERS INVOLVED IN THE DISTRICT AND IN  
6 THE CONTESTED AREA?

7 A. Mr. Johnson testified in his deposition taken December 12, 2000 that he has a non-water  
8 relationship with many of these people through his work as a developer and as friends,  
9 including Bret Marchant, Russ Brandt, and the owners of the Bella Vista Farms. Johnson  
10 Deposition at pp. 173-177. Dr. Griffis also testified that he has a non-business  
11 relationship with Mr. Johnson. Griffis Deposition at p. 6, l. 8 through p. 7, l. 3. The  
12 Commission should consider these personal relationships in determining what weight to  
13 give the testimony of these landowners, as well as Dr. Griffis. The public interest is the  
14 issue presented to this Commission in these proceedings, not personal ties and  
15 friendships.  
16

17  
18 Q. DO YOU WANT TO ADDRESS ANY OTHER FACTOR THE COMMISSION  
19 SHOULD CONSIDER IN WEIGHING THE TESTIMONY PRESENTED IN THIS  
20 PROCEEDING?

21 A. The Commission should consider the credibility of witnesses who adamantly opposed the  
22 certification of a particular entity in October and now support their certification under the  
23 settlement agreement. For example, Paul Gardner, Brian P. Tompsett, George Johnson,  
24 Byron F. Handy and Dr. Griffis all filed pre-filed testimony in October 2000 that H2O  
25 was unfit to serve the contested area. Now, with the three-way agreement in hand, they all  
26 support H2O certification of the same area it was requesting in October.

1 Q. DO YOU HAVE ANY COMMENTS ON THE TESTIMONY OF DONALD L.  
2 SCHNEPF REGARDING YOUR FITNESS TO PROVIDE SERVICE TO THE  
3 CONTESTED AREA?

4 A. Mr. Schnepf provided four basis for his conclusion. I will address each of them. First, he  
5 indicates that DWU should not be allowed to expand until it resolves the complaints of  
6 their current customers. Rebuttal Testimony of Schnepf at p. 5, ll. 17-18. As set forth  
7 above, the actual customers of DWU are satisfied with their service.

8  
9 Mr. Schnepf alleges DWU's current facilities are not adequate to serve any additional  
10 area. *Id.* at p. 5, ll. 19-20. With the addition of a 200,000-gallon storage tank that is  
11 about 2/3 complete, DWU will have capacity to serve additional areas. Further, as the  
12 Commission is well aware, developers are required to install the facilities necessary to  
13 serve their development as advances in aid of construction. It should be emphasized that  
14 DWU's connection fee of \$850 per connection will generate sufficient revenue to fund  
15 any additional backbone system related to these developments. For example, Ware Farms  
16 projects 1,485 dwelling units. The \$1,262,25 generated by the connection fees will allow  
17 DWU to install the necessary backbone facilities that are not the requirement of the  
18 developer. The 2,174 dwelling units proposed for the Home Place will generate  
19 \$1,847,900 in connection fee revenues. The 12,818 dwelling units proposed for Bella  
20 Vista Farms will generate \$10,895,300 in connection fee revenues. A primary reason for  
21 DWU's entry into this highly contested proceeding was to secure additional, viable  
22 development, knowing that development will have to pay for or install its water  
23 infrastructure. The development and related water infrastructure, proposed to the  
24 Northwest and South of DWU's existing certificated area, will enhance the reliability of  
25 DWU's existing system. It would be imprudent for DWU to build facilities to serve these  
26 almost 16,000 lots that will not be built out for years.

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Mr. Schnepf also indicated he could not identify and efficiencies gained by looping the system. *Id.* at p. 5, ll. 25-26. Mr. Schnepf ignores the testimony of Mr. Potter who testified that without expansion to the Northwest, DWU will either have to build larger water lines, increasing cost of service, or a 1½ mile water line that will have no service connections. Such a line will contain a large volume of water, subjecting the water to becoming stagnant. Mr. Schnepf's suggestion that any looping could be accomplished by installing a line within the right-of-way of Schnepf Road ignores the loss of economies achieved by having customers fed off the line or the potential for stagnation caused by such a line.

Finally, Mr. Schnepf claims DWU has a history of violating ADEQ regulations, including MCL violations. *Id.* at p. 6, ll. 11-13. This characterization of DWU's status with ADEQ mischaracterizes the situation. First, DWU has hired a Certified Operator with 28 years experience and is certified Grade IV for water systems, the highest level of certification to perform its monitoring. He has served as DWU's Certified Operator for two years. As Mr. Schnepf should be aware, often times a sample has been taken and reported, but is not input into ADEQ's system either because it is misplaced or because it is on the wrong form. More importantly, Mr. Schnepf's statement totally ignores Staff's more recent finding of compliance.

DWU, like most small systems, has had a few instances where testing or reporting was not done in a timely fashion. The situation was far worse prior to our acquisition of the system. Now, the Monitoring Assistance Program (MAP) is responsible for most of the monitoring. The MCL violation to which Mr. Schnepf refers involves a high total coliform count in 1998 exceeding the MCL. This is deemed a non-acute MCL violation.

1 The repeat testing showed acceptable levels of total coliforms. The violation was the  
2 failure to take additional repeat samples.

3  
4 Further, it is inconsistent for Mr. Schnepf to testify that DWU is unfit to serve an  
5 expanded area due to these minor deficiencies while supporting a settlement agreement  
6 that would allow Johnson Utilities to significantly expand its certificated area despite the  
7 far greater number and more serious ADEQ violations of Johnson Utilities.

8  
9 Q. CAN THE DEVELOPERS OBTAIN AN ASSURED WATER SUPPLY IF YOU ARE  
10 THEIR WATER PROVIDER?

11 A. Yes. It is only necessary that the landowner join the Central Arizona Groundwater  
12 Replenishment District and submit the appropriate hydrologic data to the Department of  
13 Water Resources, to secure a certificate. This is a normal practice of water companies in  
14 Arizona. It should also be noted that relying upon a designation of assured water supply,  
15 rather than securing a "certificate" for the specific development, can have negative  
16 consequences to the developer. The designated provider can over-commit leaving the  
17 later phases of any development at risk.

18  
19 Q. HOW WOULD YOU SUMMARIZE THE PRESENT SITUATION BEFORE THE  
20 COMMISSION?

21 A. In 1995, at the urging of the Arizona Corporation Commission Staff, we investigated and  
22 ultimately acquired a dilapidated system know as Quail Hollow Water Company. We  
23 have invested significantly, both in time and money, to bring the system into compliance.  
24 As a result, for the last four years, we have experienced 300% growth. We became  
25 involved in this highly contested proceeding reluctantly and only because it was critical to  
26 DWU and its existing customers that additional good quality growth be added to its

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system as soon as possible. Unfortunately, the growth within DWU has primarily been limited to lot splitting, some of which is being investigated as illegal subdivisions. The eight sections of land to which DWU seeks certification provides that growth opportunity in areas immediately contiguous to DWU's existing certificated area. If the Commission is serious about assisting small companies and eliminating uneconomic systems, it will grant DWU a certificate to serve all eight sections.

Q. DOES THIS CONCLUDE YOUR REJOINDER TESTIMONY?

A. Yes.

1620\3-1\documents\testimony\gray.rejoinder.test.0306.01

SG-1

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REFER TO FILE NO. 1620-6

February 27, 2001

**Via Hand-Delivery**

Board of Supervisors  
Pinal County Administrative Services  
31 North Pinal Street  
Florence, Arizona 85232

Re: **Diversified Water Utilities, Inc. Opposition to Formation of  
Skyline Domestic Water Improvement District**

Dear Supervisors:

Our office represents Diversified Water Utilities, Inc. ("Diversified"). Diversified holds a Certificate of Convenience and Necessity from the Arizona Corporation Commission ("Commission") to provide domestic water service to all or portions of ten sections of land located in Townships 2 and 3 South Range 8 East, Pinal County, Arizona. Further, it is involved in a highly contested proceeding before the Commission wherein Diversified is seeking certification to eight additional sections. Dr. Griffis submitted testimony before the Commission in support of Johnson Utilities' efforts to be certificated for these same areas and extensive additional areas. Commission Staff has recommended Diversified be certificated to serve six of the sections Diversified has requested, finding Diversified fit and proper to serve these areas. In an attempt to thwart Diversified's expansion, H2O, Inc., Johnson Utilities and Queen Creek Water Company have entered into a so-called settlement agreement with the support of Dr. Griffis, purportedly on behalf of this Board.

The attempt to form the Skyline Domestic Water Improvement District is directly related to the contested Commission proceeding. A public hearing is scheduled for February 28, 2001 for the consideration of formation of the Skyline Domestic Water Improvement District (the "District"), which is proposed to encompass a portion of Diversified's certificated area. Diversified vigorously opposes the formation of the Skyline Domestic Water Improvement District (the "District").

This Board must ask:

1. Who benefits from the District – developers, customers or anyone?
2. How will the cost of acquiring Diversified and operating the system be raised?
3. Is the proposed Board qualified to run a water system?
4. Does the District have the capacity to operate the water system?
5. What is the real motivation for forming the District?
6. What will happen to funds advanced by customers as meter deposits?

THE ESTABLISHMENT OF THE DISTRICT WILL NOT PROMOTE THE PUBLIC CONVENIENCE, NECESSITY OR WELFARE.

A county domestic water improvement district may only be established if the Board of Supervisors, after consideration of all objections, determines that proper petitions have been signed by the requisite number of owners of real property, and that the public convenience, necessity and welfare will be promoted by the establishment of the District. A.R.S. § 48-906(A). For the reasons set forth in this letter, as well as the additional reasons that will be presented at hearing, the petitions presented by the petitioners are severely defective. More importantly, the public convenience, necessity and welfare will be injured, not promoted, if the petitions presented by real estate developers and lot splitters to form a county water improvement district is granted.

DIVERSIFIED'S ABILITY TO RECEIVE A FAIR HEARING IS IN DOUBT.

The pre-filed testimony of Dr. Stanley Griffis, County Manager for Pinal County, Arizona filed before the Commission in Docket Nos. W-02234A-00-0371; WS-02987A-99-0583; WS-02987A-00-0618; W-02859A-00-0774; and W-01395A-00-0784 (consolidated) dated February 21, 2001 casts serious doubts on whether this Board will give full, fair and impartial consideration to any objection filed to the formation of the District. (A copy of Dr. Griffis' Testimony is attached hereto as Exhibit A.) In that Testimony, Dr. Griffis, "on behalf of Pinal County", recommends the Commission adopt a settlement agreement dated January 23, 2001 between Johnson Utilities, Queen Creek and H2O, which agreement is expressly "contingent on the understanding that Pinal County will authorize a Water Improvement District." (A copy of the Settlement Agreement is attached as Exhibit B.) As explained by Dr. Griffis' Testimony, Dr. Griffis conveyed this understanding after his "discussions with the Supervisors" wherein he determined "they would support the formation of a district." Not only does this formal advocacy of the District before the Commission on behalf of Pinal County demonstrate that a

determination was made to form the District without consideration of objections thereto in violation of A.R.S. § 48-906(A), it also raises grave concerns regarding violation of Arizona's Open Meeting laws. A.R.S. § 38-431, et seq.

Furthermore, Dr. Griffis has made no inquiry of Diversified regarding its ability to serve the area. Yet, he has erroneously testified that Diversified is unable to provide adequate water service.

Finally, not one inquiry regarding the District received by the Board of Supervisors has been referred to Diversified, but instead all are referred to Mr. Marchant. Diversified was not informed of or invited to attend an "informational" meeting held February 26, 2001 at the requests of concerned landowners. Instead, Dr. Griffis, an unquestioned supporter of the District, and representatives of the District attended. Did the concerned landowners receive the complete story or only one side? The evidence indicates a decision has already been made and we are only going through the motions of a hearing. Diversified hopes this is not the case. Due process and the statutes requires much more than a window-dressing hearing.

THE DISTRICT IS NOT NECESSARY; THE AREA IS ALREADY SERVED BY A PUBLIC SERVICE CORPORATION.

Diversified is a public service corporation regulated by the Commission to provide domestic water service to the same area in which a domestic water improvement district is sought to be formed. The Company presently serves approximately 170 customers. Its customer base has grown more than 300 percent since 1995 when the Company was serving less than 50 people. At that time (1995), the Company had not paid property taxes for the years 1987 through 1994 and was under a moratorium precluding new connections. Further, the Company had been ordered by the Arizona Department of Environmental Quality to correct numerous deficiencies. The Company was subsequently acquired by its present owners who addressed all the deficiencies, brought the system into compliance, added storage, paid the outstanding property taxes, rehabilitated the well and created a system that could start adding customers. As a result, the system has been able to accommodate significant growth.

Diversified is also installing a new 200,000 gallon storage tank and a 5,000 gallon pressure tank at its wellsite (*see*, Items 19, 20 and 21<sup>1</sup>). Diversified also agreed to purchase a well and wellsite from Russ Brandt who had repeatedly indicated a commitment to sell the well to Diversified. However, in October, Mr. Brandt refused to sell the well to Diversified and instead offered to sell the well to Johnson Utilities. Mr. Brandt is one of the persons petitioning for formation of the District and seeking appointment to its Board. When these facilities are installed, Diversified's system will exceed ADEQ requirements.

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<sup>1</sup> "Items" refer to material in the notebook accompanying this letter.

Diversified has met all requests for service received during the last four years and is able to meet future requests. It has three pending requests for service. The first is from Skyline Vista subdivision, Phase II. Diversified's engineer has provided comments to the developer's preliminary water plan (*see*, Item 29), and is awaiting a response from the owners of the subdivision. These landowners have now petitioned to form the District. Are they trying to avoid Diversified's standards? Who will be harmed if they do?

The second pending request is a request from Josh Simonton. Diversified provided a draft form of line extension agreement to Mr. Simonton on February 16, 2000. He did not respond until December 4, 2000. Revised line extension agreements were provided to Mr. Simonton on January 22, 2001. He has not responded.

The third pending request for service is a request from Doug Adcox on behalf of Ecco Homes. Diversified provided a draft line extension agreement to Mr. Adcox September 30, 2000 and comments were provided by Mr. Adcox October 17, 2000. Mr. Adcox is one of the persons seeking to be appointed to the District's Board. It is Diversified's understanding he is awaiting a determination on the District before proceeding with the line extension.

Diversified is ready, willing and able to provide service to all these pending requests. The persons requesting service, however, must comply with the regulations of the Commission.

The Commission received only two informal complaints against Diversified during the entire calendar year 2000 (item 22), both arising from construction problems created by Mr. Marchant (one of the persons petitioning for formation of the District and seeking appointment to its Board).

Diversified is also seeking to extend its certificated area to eight additional sections, encompassing three new and substantial developments—Ware Farms, The Home Place and Bella Vista Farms (a portion of Bella Vista Farms is already within Diversified's certificated area). If approved, the extended area represents significant growth opportunities, which will enhance Diversified's operational reliability and provide further economies of scale.

#### THE CHARACTER OF THE PROPOSED DISTRICT.

The petitions propose to form a district encompassing approximately five sections of the nine sections currently encompassed by Diversified's Certificate of Convenience and Necessity. According to the petition, the District will acquire, construct, reconstruct, maintain, repair and expand the existing domestic water system. There is no specificity as to what improvements, if any, will be made to the existing system or how the acquisition of the existing system and improvements to the existing system will be funded. On January 19, 2001, representatives of Diversified met with four of the five persons seeking appointment to the District's Board. At that time, they had performed no valuation of Diversified, or even initiated a valuation. Representatives of the District indicated they had done no evaluation of the existing

system and had no specific recommendations regarding improvements that were needed to the existing system. These prospective Board members also indicated they did not intend to run the water system but rather intended to hire another utility, either Johnson Utilities, H2O, Inc. or Queen Creek Water Company to run the water system.

Where is the District's budget? How will it raise funds? What will the Board of Supervisors do if the District breaks the promises made to Diversified's customers? Will the County invest County funds to fulfill these promises? Is the County prepared to take over operation of the District if the proposed District fails?

These prospective Board members also indicated they had done no financial evaluation to determine how they would pay for the acquisition of Diversified or for any improvements to its existing system. However, they have communicated to Diversified customers that the District will:

1. Lower water rates "without risk of taxes or liens on property."
2. Guarantee a water supply in the event of an emergency by agreement with an existing well-established water company;
3. Assure water quality meets or exceeds all ADEQ standards; and
4. Make assistance available to answer questions regarding rates and billings and in the field to clear out water lines or make repairs (Exhibit E).

These voodoo promises of lowered rates, more staff and better facilities will not be fulfilled through formation of the District. However, they can be achieved through growth of Diversified's customer base. Diversified is already working toward growth and is attempting to expand its certificated area to accommodate growth. In contrast, the District will be smaller than Diversified meaning its customer base is likely to remain smaller longer than Diversified's. The District bisects Bella Vista Farms meaning there will be two water providers for this one development. The public need is met by Diversified, not by forming the District.

#### WHO WILL RUN THE PROPOSED DISTRICT?

The proposed District Board is composed solely of real estate developers. The customers of Diversified will not control the Board of the District. Rather, real estate developers will be in control of the rates and charges and tax liens imposed upon the customer's property. The risk is to the ultimate water customer. The Commission currently protects the ultimate customer. The District's Board will not be required to do so. A Board composed of developers will leave the ultimate customer at substantial risk.

THE NATURE OF PETITIONERS' COMPLAINTS.

Petitioners have alleged "the form, operation and organization of that District [sic] are unable to properly serve the current and future domestic water need of the District's inhabitants [sic]." There is no evidence to support the allegation. As noted, Diversified has met all requests for service since addressing the problems it inherited from its predecessor. Diversified's efforts to acquire a second well was abruptly halted in October, 2000 by Russell Brandt, a person now seeking to form the District. Mr. Brandt has now offered the same well to Johnson Utilities, which closest service area is several miles away and which has no legal authority to acquire the well (*see*, Item 27; A.R.S. § 40-281).<sup>2</sup>

It is important to recognize four of the five persons seeking to serve on the Board have all vigorously opposed Diversified's attempts to require installation of quality water facilities meeting rudimentary engineering requirements. For example, during 1997, Diversified received requests to serve a 160-acre parcel from Mr. Marchant and a 320-acre parcel from Mr. Brandt. As reflected by Items 9 and 10, both Mr. Marchant and Mr. Brandt proposed dead end line extensions. Further, as reflected in Item 11, neither would provide any details regarding the ultimate use of the property. Diversified resisted these efforts to build an inadequate water system. As a result, Mr. Marchant filed a formal complaint with the Commission against Diversified seeking to compel Diversified to either accept wholesale water from Sun Valley Farms Unit IV or to permit decertification of their property (Item 10), all to avoid making improvements to the water system. Mr. Marchant's allegations were vigorously denied by Diversified (Item 11). A settlement was reached and facilities installed to the 160-acre parcel (Item 12). Subsequently the 160-acres were split into more than 90 home sites (Item 13). In this manner, the landowners, with the assistance and active support of Mr. Marchant and Mr. Brandt, were able to avoid installing or paying for the water infrastructure associated therewith. It must be emphasized that these activities were ultimately the subject of investigation as illegal subdivision activities (Items 13, 14 and 15). It must be further emphasized that Diversified has ensured adequate infrastructure has been installed despite the efforts of Mr. Marchant to install inadequate water infrastructure.

Mr. Marchant, one of the petitioners, has also been hired by landowners to construct lines to be interconnected with Diversified's system. The construction has been unacceptable. Diversified had such great difficulties in dealing with Mr. Marchant and was so dissatisfied with the services Mr. Marchant rendered, including his failure to follow engineering drawings and address repairs, it ultimately notified Mr. Marchant he was no longer allowed to perform any new work on the Diversified water system (Item 16). Shortly thereafter, Mr. Marchant became actively involved in the effort to form the District.

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<sup>2</sup> It is this illegal arrangement that the District now touts as its emergency water supply. Mr. Brandt could make the well available as a permanent supply to Diversified's customers by simply living up to a commitment made repeatedly to Diversified and selling the well to Diversified.

In summary, persons petitioning to form the District and seeking to serve on its Board of Directors have a history of acting against the best interest of the ultimate customers and in their self-interest as lot splitters and real estate developers.

THE DISTRICT HAS NOT AND CANNOT SATISFY THE CAPACITY DEVELOPMENT REQUIREMENTS FOR A NEW PUBLIC DRINKING WATER SYSTEM.

Effective September 23, 1999, the Arizona Department of Environmental Quality ("ADEQ") adopted "capacity development requirements for a new public drinking water system". The rules apply to all new water systems beginning operation on or after October 1, 1999. A.A.C. R18-4-601, et seq., a copy of which is attached as Exhibit C.

Under the Capacity Development Rules, an owner of a new public water system must file an elementary business plan for review and approval by ADEQ before commencing service. A.A.C. R18-4-602. The elementary business plan must demonstrate, to ADEQ's satisfaction, technical, managerial and financial capacity to operate the system and meet National Primary Drinking Water Regulations. As stated in the summary of the economic small business and consumer impact of these rules when proposed:

"Unregulated development of new PWSs creates the potential for some of these systems, especially the smallest ones to have inadequate technical, managerial and financial (TMF) capacity ... Many PWSs lack business plans for long-term management, operation and maintenance, and they generally do not have the tools that enable their owners to plan for future financial requirements. As a result, a system that lacks adequate TMF capacity may end up in persistent non-compliance with state and federal drinking water regulations."

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Public water system **capacity** is the ability of a water system to operate in compliance with the [Safe Drinking Water Act] SDWA Arizona drinking water regulations. PWSs capacity has three inter-related elements:

Technical capacity refers to the physical infrastructure of the water system, and includes adequacy of the source water, infrastructure (source, treatment, storage and distribution), and the ability of system personnel to implement the requisite technical knowledge.

Managerial capacity refers to the management structure of a public water system, including ownership accountability, staffing, organization, and effective external linkages.

Financial capacity refers to the financial resources of a public water system, including revenue sufficiency, credit worthiness and fiscal controls.”

To demonstrate technical capacity, the elementary business plan must demonstrate:

1. a drinking water source adequacy minimum of 50 gallons of water per person per day for a period of 100 years;
2. the drinking water will meet the safe drinking water standards;
3. infrastructure treatment, storage and design meet ADEQ requirements;
4. the public water system is operated by a certified operator of sufficient grade and type;
5. day one to final build-out technical and engineering needs projections;
6. proposed water system design specification and proposed uses, including commercial and domestic use phases;
7. information describing the life of the plant;
8. a demonstration that all site-specific components meet nationally recognized standards;
9. the manufacturer’s specifications on components used in the construction of the water system; and
10. a corrective action plan to address cite-specific component replacement or repair protocols based on manufacturer’s recommendations or engineer specification.

Has the District made this demonstration? No.

The elementary business plan must also demonstrate managerial capacity. This includes, but is not limited to, a water system capital improvement plan up to the proposed full system build-out. Further, the owner must sign a statement setting forth the owner’s responsibility to comply with the capacity development requirements and disclose all information relevant to the operation of the public water system. Has the District made this demonstration? No.

The elementary business plan must also demonstrate financial capacity to operate the system. This requires a five-year projection showing expenses and revenues, coverage ratios, operating ratios, operating reserves, debt service reserves, capital improvement reserves and replacement reserves. Has the District made this demonstration? No.

It would be imprudent and an abuse of discretion for the Board of Supervisors to approve the formation of a District that has not submitted an elementary business plan and had it approved by ADEQ.

Importantly, when Diversified met with four members of the proposed Board of the District at the request of Mr. Griffis on January 19, 2001, Mr. Griffis made no inquiry of the petitioners regarding: 1) their ability to acquire Diversified; 2) their competency to manage the public water system; or 3) their financing plan. The four persons requesting to serve on the District's Board had done no investigation of the value of Diversified, had no funding analysis available or any offer to make to Diversified regarding acquisition of the system. Their entire business plan consisted of an expression of intent to interview surrounding public service corporations and get offers to manage the District once it was formed.

THE PETITIONS FAIL TO MEET SEVERAL STATUTORY REQUIREMENTS.

Articles 1 and 4, Chapter 6, Title 48 Arizona Revised Statutes set forth the requirements of a petition for the formation of a new county domestic water improvement district. Despite circulating the petition on three separate occasions in an effort to comply with the statutory requirements, the petitions still contain typographical errors and fail to comply with the statutory requirements. Is this indicative of the incompetence of the persons seeking to form the District? If they are incapable of meeting the statutory requirements after three tries, how can they be expected to run a public water system?

THE DATES OF THE ELECTIONS AND EXPIRATION OF TERMS IS NOT INCLUDED.

A.R.S. § 48-1012(B) provides: "The dates of elections and expiration of terms shall be specified in the petition for the establishment of the District." The petitions that have been circulated and signed fail to meet this basic statutory requirement. Neither the dates of the elections or the expiration of the terms for the specific Board members is specified anywhere on the petition. Therefore, all petitions currently submitted must be rejected.

REFERENCE TO A.R.S. § 48-1011 IS NOT PROVIDED.

A.R.S. § 48-903(D) provides: "A petition requesting the establishment of an improvement district for the purpose of purchasing an existing domestic water delivery system shall provide that the district be governed by a board of directors elected pursuant to Article 4 of this Chapter." Instead, the petitions submitted for the Skyline Domestic Water improvement District provides: "If established by this Board, the domestic water improvement district shall be

Governed pursuant to the provisions of A.R.S. 546-1011 et seq., by a board of directors Consisting of five (5) members, elected by the qualified electors of the district, and Serving staggered terms." This statutory reference is nonsensical. A.R.S. § 546-1011 et seq. does not exist. Therefore, the requirement of A.R.S. § 48-903(D) has not been satisfied and all petitions must be rejected.

THE PETITIONS HAVE NOT BEEN VERIFIED BY A PROPER PETITIONER.

A.R.S. § 48-903(F) provides: "Each copy of the petition shall be verified by one of the petitioners." In order to be a petitioner, a person must own real property within the limits of the proposed district. James Bret Marchant executed all verifications. Mr. Marchant's name does not appear as a landowner on the list of property owners provided by the Department of Revenue. Nor did Bret Marchant sign any of the petitions used as a basis for publishing public notice of the February 28, 2001 hearing. Mr. Marchant did, however, sign a petition submitted last week on behalf of Skyline Vista Ranch, L.L.C. Attached hereto as Exhibit D, is a list of members of Skyline Vista Ranch, L.L.C. Mr. Marchant is not listed as a member. Also enclosed, as part of Exhibit D, is the current information provided on each of the members. Again, Mr. Marchant is neither an officer, director nor member of any of the members of Skyline Vista Ranch, L.L.C. The address for Skyline Vista Ranch, L.L.C. as listed by the Department of Revenue is the same address as the statutory agent, Augusto Meoli and Fiaba Enterprises, Inc., not the address listed by Mr. Marchant. For these reasons, Mr. Marchant's petition should be rejected, as well as all petitions, which he verified.

Although corporations or partnerships own much of the property involved in this petition, the County did not require any evidence that the person signing the petition on behalf of the corporation or partnership has authority to act on their behalf. The danger of such haphazard acceptance of petitions is emphasized by the documentation herewith submitted with relation to Mr. Marchant. The County should require some documentation, such as a resolution from the corporation authorizing the entity signing on its behalf to act on behalf of the property owner. It is arbitrary and capricious for the County to assume that the person signing has authority to act. If all the corporate and partnership interests are excluded, less than 51% of the property to be included within the District is represented by the petitions. The petitions signed on behalf of corporations and partnerships must be rejected until authority to act is provided.

THE PETITION DOES NOT ADEQUATELY SET FORTH THE NECESSITY FOR THE PROPOSED DISTRICT.

A.R.S. § 48-903(C)(3) requires the petition to set forth "the necessity for the proposed district." As set forth above, the area is already served by Diversified. The petitions merely indicate that the District is necessary "in order to provide, preserve and Improve [sic] domestic water service to the inhabitants of the proposed district. Currently, Domestic [sic] water service is provided by Diversified Water Utilities and the form, operation and organization of that District [sic] are unable to properly serve the current and future domestic water need of the District's inhabitants [sic]." This statement is inadequate to put the parties signing the

petitions and members of the public in general on notice as the specific need for the District. Not only are there typographical errors that create confusion, such as referencing "District" where it is believed Diversified is supposed to be referenced, but there is no explanation as to why the form, operation and organization of Diversified renders it unable to properly serve the current and future domestic water needs of the District's inhabitants. As set forth above, Diversified has been meeting all requests for water service and intends to continue to do so. Further, inhabitants of the District who have problems with Diversified have a remedy through the Commission.

THE OUTLINE OF PROPOSED IMPROVEMENTS IS INADEQUATE.

A.R.S. § 48-903(C)(5) requires the petition to set forth "a general outline of the proposed improvement." What construction, reconstruction and expansion of the existing domestic water system are being proposed? How many wells will be added? How many wells and how much additional storage will be added to the system by the District? How will they be financed? When viewed in context of the elementary business plan required by A.A.C. R18-4-601 et seq., this statement is totally inadequate and an approval of the petition based upon such statement is arbitrary and capricious. The petitions should be rejected until an elementary business plan is presented and summarized in the petitions.

SUMMARY.

A Certificate of Convenience and Necessity was originally granted to Quail Hollow Water Company in 1962. The current owners of the Company acquired the Company in 1995 when it was serving less than 50 people, had outstanding property taxes and a consent order issued by the Department of Environmental Quality for numerous violations of their rules and regulations. The current owners corrected all outstanding violations, paid back taxes, rehabilitated the well, added storage and otherwise made significant improvements to the water system. As a result of these improvements, the Company has seen its customer base grow to 170 customers. This growth, however, has been largely through lot splits. As a result, the real estate developers involved in the lot splitting, and now seeking to form and run the District has minimized their investment in water infrastructure, and opposed the construction standards required by Diversified.

Diversified's certificated area is on the verge of extensive growth. The Bella Vista Farms development is a prime example of that potential growth. Diversified has requested the Commission expand its certificated area so that all of Bella Vista Farms will be located within one water provider's certificated area. Commission Staff has recommended this request be granted. Additionally, Diversified has sought to expand its are to serve adjoining or contiguous sections including Section 28, which contains the Home Place and Section 33, which contains the Ware Farms development. Such expansion is necessary and appropriate for Diversified. These new subdivisions will provide quality development and a significant customer base, which will have long lasting benefits to Diversified's existing customers in the form of more reliable service and economies of scale.

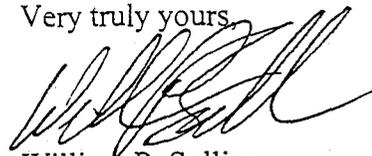
The proceedings before the Corporation Commission are hotly contested and involve three other water providers, Johnson Utilities, L.L.C., dba Johnson Utilities Company, H2O, Inc. and Queen Creek Water Company. Since entering into the contested Commission proceedings in October of 2000, Diversified has been the subject of intense efforts to interfere with its ability to provide service to existing and future customers. These efforts have included distortion of facts and encouraging landowners to complain about Diversified's service as well as support the formation of a district. In addition, representatives and agents of Johnson Utilities have interfered with Diversified's financing application submitted to the Water Infrastructure Financing Authority and Diversified's acquisition of a new well from Russ Brandt.

The effort to form the District arises from this contested Commission proceeding not any inadequacy of service provided by Diversified. There is no need for the District. The costs of service will go up, not down, if the District is formed. Lands will be subjected to taxes and liens on behalf of the District. The District has presented no justification for its formation and no business plan to meet its obligations to current and future water customers. Finally, the petitions, themselves, fail to meet the statutory criteria.

For these reasons, and the reasons to be presented at hearing, the formation of the District must be denied.

If you have any questions, please do not hesitate to contact the undersigned.

Very truly yours



William P. Sullivan  
For the Firm

WPS/tsg

Enclosures: As noted above

cc: Diversified Water Utilities, Inc. (w/enc.)

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# INDEX

**Diversified Water Utilities, Inc.  
Documents Opposing  
Formation of Skyline Domestic Water Improvement District**

**Pinal County Board of Supervisors**

**Public Hearing February 28, 2001**

Diversified Water Utilities, Inc. ("Diversified") submits the following documents to the Pinal County Board of Supervisors to show that the Skyline Domestic Water Improvement District ("District") is improper and that Diversified should be allowed to continue serving its Arizona Corporation Commission ("ACC") franchised service area.

|     |          |
|-----|----------|
| Tab | Document |
|-----|----------|

**Qualifications of Diversified Management**

- 1 Arizona Department of Environmental Quality ("ADEQ") Certified Operator License for water distribution systems issued July 11, 1998, to Scott W. Gray.
- 2 ADEQ Certified Operator License for wastewater collection systems issued July 11, 1998, to Mr. Gray.
- 3 ADEQ Letter of Commendation dated April 12, 1985, to Mr. Gray for correction of numerous serious water and wastewater violations in the public water and wastewater system no. 03-004 in Coconino County, Arizona.

**Examples Community Service by Scott W. Gray**

- 4 Scott W. Gray as Founding Board Member in 1982 of the Maricopa County Volunteer Lawyers Association, an award winning public organization created to provide legal services to the working poor.
- 5 Distinguished Pro Bono Award for 1993 given to Scott W. Gray by the State of Arizona Chapter of the March of Dimes for the Mom-Mobile, a mobile medical care facility helping poor mothers unable to travel to medical care.

**History of Diversified**

- 6 ADEQ Final Decision and Order and Compliance Order Docket No. D-5-94 against the Quail Hollow Water Company (now Diversified) dated February 15, 1995, showing numerous major water system violations and deficiencies placing the community served at risk. These violations and deficiencies were corrected by Diversified.

- 7 Redemption Certificate from the Pinal County Treasurer showing the full payment by Diversified of eight (8) years of past due property taxes due for 1987 to 1994 not paid by prior owner.

#### **Real Estate Development Activities in Diversified Service Area**

- 8 Original water service plan from James Marchant for the 160 acre Queen Creek Investments lot-split development showing hand-drawn proposal for two dead-end main transmission lines.
- 9 Request from Russell Brandt dated March 19, 1997, for water service and hand drawn plan for 320 acre Schneff and Combs Roads property proposing two dead-end main transmission lines. This project was created in the same manner as the Queen Creek Investments development and is currently on hold after Diversified filed its Answer (Tab 11) to the Marchant ACC Complaint.
- 10 Complaint filed by Mr. Marchant on June 2, 1997, against Diversified with the ACC after Diversified required proper water development plan information for the Queen Creek Investments development.
- 11 Answer of Diversified to the Marchant Complaint clarifying to the ACC the real estate development activity of Mr. Marchant and Mr. Brandt and their attempts in 1997 to avoid proper water development requirements. As noted, the 320-acre Brandt development did not move forward and is in abeyance.
- 12 Revised engineering plan for Queen Creek Investments development titled "Waterline Extension Plan For Bret Marchant" required by Diversified from a registered and licensed Arizona engineer showing a looped water system.
- 13 *Arizona Republic* front-page article on March 30, 1999, concerning the numerous problems with the Queen Creek Investments development.
- 14 Complaint Letter dated July 10, 1998, from the Pinal County Planning and Development Services Department to the Arizona Department of Real Estate requesting investigation of the Queen Creek Investments development.
- 15 Subpoena to Diversified dated July 27, 1998, from the Arizona Department of Real Estate for records of Diversified on the Queen Creek Investments project. Diversified has cooperated with the Arizona Department of Real Estate and Arizona Attorney General on the Queen Creek Investments development. **The Arizona Attorney General is currently investigating one or more of the individuals proposing the District regarding the Queen Creek Investments development and it is an open pending case.**

- 16 **Termination letter from Diversified dated December 14, 2000, prohibiting Mr. Marchant's construction company from performing any construction activity to the Diversified water system because of numerous continuing construction problems.** Diversified attempted to work with Mr. Marchant's construction company over three (3) years to perform satisfactory work without success.
- 17 Photographs of defective thrust block constructed by Mr. Marchant's construction company that caused a Diversified system failed on October 28, 2000, and Sunrise Engineering, Inc. report on required size for thrust block at the location of failure establishing defective workmanship.
- 18 Photograph comparing 6-inch IPS Class 200 line size desired by Mr. Adcox and Diversified required 6-inch C-900 Class 200 size pipe.

#### **Current Diversified System Improvements**

- 19 Photograph of the new 200,000-gallon water storage tank currently under construction (taken February 24, 2001).
- 20 Invoice for new 200,000-gallon water storage tank being constructed. Please note that \$37,500 has been already paid by Diversified (½ of the tank cost) and will be paid for without raising customer rates.
- 21 Photograph of new 5,000-gallon pressure tank being installed (taken February 24, 2001). The 5,000-gallon tank was paid for by Diversified without raising water rates.

#### **Complaints against Diversified at the ACC**

- 22 ACC printout showing only two complaints filed against Diversified during the year 2000 with an explanation that the two March, 2000 complaints were as a result of (i) construction problems caused by the Skyline Vista Ranch Development comprised of Mr. Brandt, Mr. Meoli and Mr. Marchant and (ii) a blown line as a result of the construction procedure defects by Mr. Marchant (prior to October 28, 2000, blowout at Tab 17). There have not been any ACC customer complaints against Diversified during the year 2001.
- 23 In contrast, ACC report showing seventeen (17) complaints filed against Johnson Utilities, L.L.C. with the ACC during the year 2000.

#### **Financial Ability of Diversified**

- 24 Deposit showing \$20,000 paid into Diversified on December 22, 2000, from funds provided by Mr. Gray.

- 25 Deposit showing \$48,000 paid into Diversified on February 2, 2001, from funds provided by Mr. Gray.

#### **Water Company Requirements for Improvements**

- 26 Standard letter of the Arizona Water Company showing its real estate developers required improvements to obtain water service.

#### **Current Matters**

- 27 Temporary Restraining Order dated December 6, 2000, issued by the ACC against Johnson Utilities, L.L.C. to protect Diversified and its customers.
- 28 Portion of Testimony by Dr. Stanley D. Griffis in the current hearing on water utility expansions before the ACC against H2O, Inc. submitted by the attorneys for Johnson Utilities, L.L.C.
- 29 Current response to Skyline Vista Ranch for the development of Phases 2 through 4 setting out the water development requirements within Diversified water system.
- 30 Question and Answer regarding the District prepared by Diversified.

TAB 3



# ARIZONA DEPARTMENT OF HEALTH SERVICES

BRUCE BABBITT, Governor  
LLOYD F. NOVICK, M.D., M.P.H., Director

APR 12 1985

Mr. Scott Gray  
Oak Creek Utility Corporation  
5951 East Calle Del Paisano  
Phoenix, AZ 85018

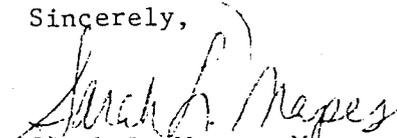
Re: Close out of the Cease and Desist Orders in the Matters of the  
R & S Utilities Water and Wastewater Treatment Systems, a.k.a.  
Oak Creek Utility Corporation  
Facility Nos. 03-004, 33-124; Docket No. D83-154

Dear Mr. Gray:

The cease and desist orders, issued against the R & S Utilities Water (May 29, 1983) and Wastewater (July 19, 1983) Systems and now known as Oak Creek Utility Corporation, have been closed out. According to our Northern Regional Office in Flagstaff, all of the requirements set forth in the orders have been substantially completed and no further legal action is being contemplated on these matters.

Let me commend you for your diligence and costly measures taken to correct the problems at the facilities. Your effort is especially laudable because of the poor compliance record and physical condition of the water and wastewater systems prior to their acquisition by the Oak Creek Utility Corporation.

Sincerely,

  
Sarah L. Mapes, Manager  
Compliance Section  
Office of Waste and Water  
Quality Management

SLM:BL:ds

cc: Coconino County Health Department  
Environmental Protection Unit, Attorney General's Office  
Don Schmid, Director's Office  
Northern Regional Office  
Benson Lee, Water/Wastewater Compliance Unit

TAB 7

# REDEMPTION CERTIFICATE

JIM L. TURNBULL  
 Pinal County Treasurer  
 County of Pinal  
 State of Arizona

PARCEL #: 921 50 12908  
 CERT #: 0149956-87  
 PURCHASE DATE: 10/12/94

OWNER OF RECORD: DIVERSIFIED WATER UTILITIES INC

I hereby certify that the real estate hereinafter described situated in the County of Pinal, State of Arizona, which had a tax lien sold for delinquent taxes on the 12TH day of OCTOBER, 1994 has this day been redeemed by DEVERSIIFIED WATER UTILITIES INC by payment to me of \$ 7,494.30, being the amount due thereon as provided by law.

921 50 12908  
 STATE ASSESSED: 210-04-119

| YR | CERTIFICATE | INTEREST | FEES   | TOTAL    | CERT # | DATE     |
|----|-------------|----------|--------|----------|--------|----------|
| 87 | 1,341.52    | 214.64   | 200.00 | 1,756.16 | 149956 | 10/12/94 |
| 88 | 631.31      | 101.01   |        | 732.32   | 157184 | 10/12/94 |
| 89 | 729.42      | 116.71   |        | 846.13   | 165381 | 10/12/94 |
| 90 | 748.44      | 119.75   |        | 868.19   | 173945 | 10/12/94 |
| 91 | 799.60      | 127.94   |        | 927.54   | 181966 | 10/12/94 |
| 92 | 823.82      | 131.81   |        | 955.63   | 189339 | 10/12/94 |
| 93 | 638.57      | 102.17   |        | 740.74   |        | 10/12/94 |
| 94 | 633.79      | 33.80    |        | 667.59   |        | 06/05/95 |

6,346.47                      947.83      200.00                      7,494.30

IN WITNESS WHEREOF, I have hereunto set my hand this 20TH day of SEPTEMBER, 1995.

*Jim L. Turnbull*  
 \_\_\_\_\_  
**JIM L. TURNBULL, TREASURER**

CNTRL# 0015041  
 09/20/95  
 SRN

Above redemption electronically recorded on the Pinal County Treasurer tax lien sale records this 20TH day of SEPTEMBER, 1995.

BY: SUKIE NUNEZ, DEPUTY

TAB 8

THIS SURVEY WAS MADE IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD OF SURVEYORS AND ENGINEERS OF THE STATE OF ARIZONA. THE SURVEYOR HAS BEEN INFORMED AND HEREBY IS REMINDED THAT THERE ARE RULES AND REGULATIONS THAT MUST BE COMPLIED WITH REGARDING THE PROPER GOVERNING AUTHORITIES SHOULD BE CONTACTED TO ANSWER ANY QUESTIONS.

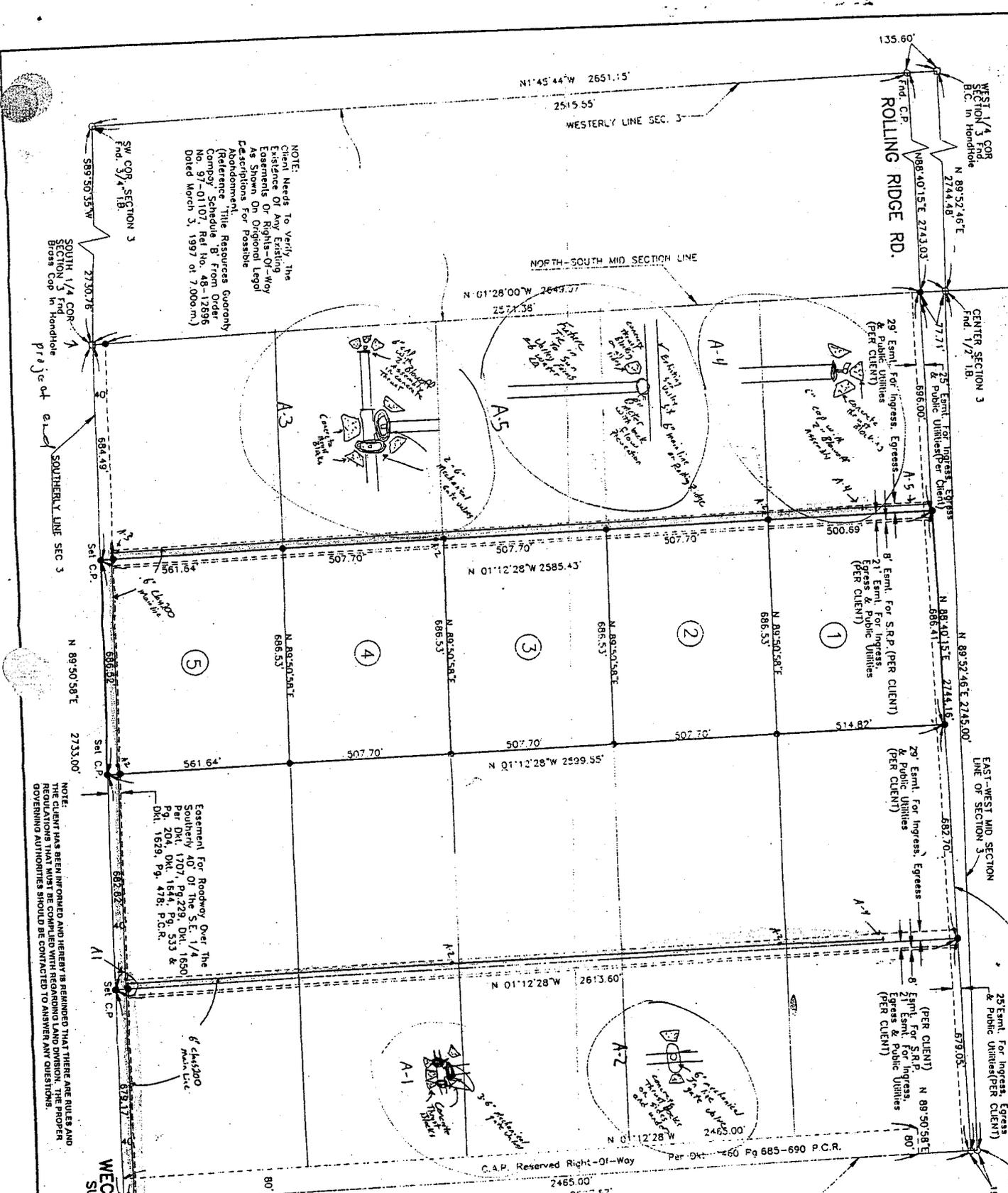
# RESULTS OF SURVEY MAP

S.E. 1/4 SECTION 3, T.3S.-R.8E. G.&S.R.B.&M.  
 PINAL COUNTY, ARIZONA  
 SURVEYED DURING THE MONTH OF MAY 1997

SOUTHERLY LINE SUN VALLEY FARMS UNIT 6 PER SURVEYS BK. 1, PG. 70, P.C.R.

EAST 1/4 COR SECTION 3, PIPES

SCALE 1" = 200'



NOTE:  
 Client Needs To Verify The Existence Of Any Existing Easements Or Rights-Of-Way As Shown On Original Legal Descriptions For Possible Abandonment. Resources Generally Reference Schedule 'B' From Order Compy. Schedule 'B' From Order No. 97-01107, Dated March 3, 1997 at 7,000-m.)

NOTE:  
 CLIENT HAS BEEN INFORMED AND HEREBY IS REMINDED THAT THERE ARE RULES AND REGULATIONS THAT MUST BE COMPLIED WITH REGARDING THE PROPER GOVERNING AUTHORITIES SHOULD BE CONTACTED TO ANSWER ANY QUESTIONS.

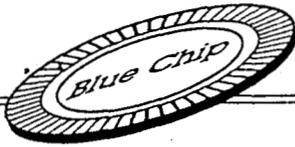
### LEGEND

- = Brass Cop In Handhole
- = Found 1/2" Iron Bolt/Utensils (Otherwise Noted)
- = Set 1/2" Iron Bolt (Unless Otherwise Noted)

SE COR SECTION 3  
 T.3S.-R.8E. FND. B.C.  
 IN HANDHOLE

**WECKERLY & ASSOCIATES**  
 SURVEYORS - ENGINEERS  
 337 N. ARIZONA AVE.  
 CHANDLER, ARIZONA  
 481

TAB 9



# Blue Chip Land Corporation

Investment Sales Marketing

March 19, 1997

Mr. Scot Gray  
DIVERSIFIED WATER UTILITIES INC.  
P.O. Box 17357  
Phoenix, Arizona 85011

Re: Water Line Service Proposal

Dear Mr. Gray,

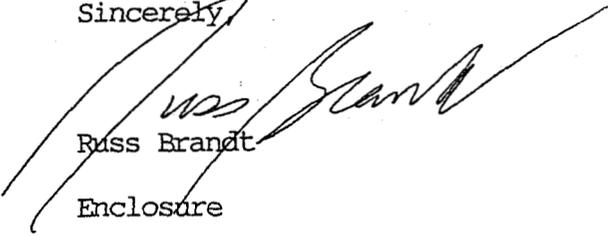
On behalf of the clients who purchased the 320 acres adjacent to the north of Sun Valley Farms Unit VI, it is their intention to build on the subject property. They would like to have domestic water to the property, but at the present time, the cost would be prohibitive.

Because of the cost, they would like to propose connecting two (2) temporary water lines into Sun Valley Farms Unit VI water system, metered at the points referred to on the enclosed map. Sun Valley Farms would wholesale the water to you at \$1.50 per thousand gallons, and you in turn could supply the water to these users by charging a monthly service fee plus water usage. The same agreement could also be applied to the 160 acres to the south of Sun Valley Farms VI, and remain in place until such time as it became economically feasible for you to advance a 6" line at a later date.

The practice of water wholesaling from one company to another is not uncommon around the country. While it allows you the benefit of profit with no risk, it will also provide both companies with the benefit of an emergency back-up system if ever necessary.

I would like to set up a meeting with you to discuss this matter and review the subject maps. Please contact me at 926-0333 at your convenience so we may discuss the proposal in detail.

Sincerely,



Russ Brandt

Enclosure



TAB 10

COMPLAINT FORM

|  |                                |                              |
|--|--------------------------------|------------------------------|
| COMPLAINANT<br>James Marchant                    | RECEIVED<br>AZ CORP COMMISSION | DATE<br>5-30-97              |
| ADDRESS<br>525 N. Val Vista QUEEN CREEK AZ 85242 | JUN 2 9 43 AM '97              | PHONE (Home)<br>641-7475     |
| NAME OF RESPONSIBLE PARTY<br>Fiona Scott Greely  |                                | PHONE (Work)<br>602-919-6725 |
| NAME OF UTILITY<br>Diversified Water Company     | ACCOUNT NUMBER                 |                              |

GROUND(S) FOR COMPLAINT: (Complete statement of the grounds for complaint, indicating date(s) of commission/omission or acts or things complained of.) (Use additional page if necessary.)

I represent property owners to the East and the North East of Immediate area in which Diversified serves. As well as SunValley Farms water company.

We had requested a reasonable service to our properties in January and it wasn't until the end of March before we could even get a meeting with Mr Greely. He is demanding that we run a mile and a 1/2 water line to his well which we feel is inadequate to handle our requests for our properties. After speaking to home owners in his existing area they have petitioned to not allow him to take in any new areas until he can fix there immediate problems such as low pressure and poor quality. I have proposed solutions in which Mr Greely has consistently rejected.

Arizona Corporation Commission  
**DOCKETED**

JUN 02 1997

DOCKETED BY CW

NATURE OF RELIEF SOUGHT: (Use additional page if necessary.)

We felt that a temporary tie in to SunValley 6 water Company would benefit every one. It would generate income to SunValley Farms of water to be used in adding additional storage until such time that Diversified had its system to the point it could tie back in to our properties which would give both SunValley 6 and Diversified back up emergency sources.

If this cannot be accomplished we would like to ask the Commission to allow us to be pulled from Diversified's area and begin a new Non Profit water company such as SunValley #6. Thank you for your attention.

SIGNATURE OF COMPLAINANT OR ATTORNEY

TAB 11

RECEIVED  
AZ CORP. COMMISSION  
JUN 12 1 17 PM '97  
DOCUMENT CONTROL

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Scott W. Gray, Esq, Bar #005247

BEFORE THE ARIZONA CORPORATION COMMISSION

James Marchant,

Complainant,

NO. U-2828-97-268

v.

Diversified Water Utilities, Inc., an Arizona  
public service corporation

Reply to Formal Complaint

Respondent.

COMES NOW Diversified Water Utilities, Inc., an Arizona public service corporation ("DWU") and provides its response to Complaint U-2828-97-268, filed by James Marchant. The facts and position of DWU with respect to this matter are as follows:

1. DWU is an Arizona public service corporation regulated by the Arizona Corporation Commission.
2. The franchise service area of DWU is approximately nine square miles and has been certificated for approximately 40 years;
3. DWU acquired the existing franchise area approximately twelve month ago when the water utility system was in a non-compliance status and subject to a Compliance Order issued by the Arizona Department of Environmental Quality ("ADEQ").
4. DWU has taken extensive efforts to bring the water system into compliance with the rules of the Arizona Corporation Commission and ADEQ. DWU has just obtained approval from the Arizona Corporation Commission to obtain financing of the installation of a storage tank and related service equipment and will begin its installation within the next several weeks.

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5. With respect to the Complaint filed by Mr. Marchant, DWU avows as follows:

a. Mr. Marchant is a real estate developer and desires to develop a 160-acre parcel within the franchised area with other common owners.

b. Mr. Russ Brandt is a real estate developer and desires to develop the 320-acre parcel within the franchised area with other common property owners.

c. Both Mr. Brandt and Mr. Marchant are knowledgeable and experienced real estate developers having previously developed real property in the State of Arizona and were aware of the water service franchise prior to their acquisition of the respective development sites.

d. To the best of DWU's knowledge Mr. Marchant and/or Mr. Brandt have an ownership interest in Sun Valley VI, the water company that they wish to serve their development sites.

e. DWU denies that it has been unavailable to meet with the complainants and specifically avows DWU has been available at all times to discuss the water service needs for the development sites as and when needed. DWU has requested on numerous occasions that Mr. Marchant and Mr. Brandt provide DWU with the proposed number of service connections, anticipated parcel build-out locations and other relevant water system use information before its meeting so that it can properly analyze the service requirements, properly respond to their service requests and initiate its engineering and design requirements for a proper water utility system. Despite the repeated requests of DWU, both Mr. Brandt and Mr. Merchant refused to provide such information, stating only that they were unsure of the build-out requirements and could not to provide any information at that time as to the demand or service connections required. The only correspondence received by DWU with respect to this matter is the letter attached hereto as Exhibit "A," which does not provide

1 any of the requested information, but reiterates the desire of Mr. Brandt and Mr. Marchant to  
2 obtain water service from their existing water utility system being Sun Valley VI.

3 f. DWU denies that it is demanding that Mr. Brandt and/or Mr.  
4 Marchant run a mile and one half of water line to the existing well of DWU. Each  
5 development area has its own specific requirements and needs. DWU has been unable to  
6 obtain sufficient information from the developers to properly analyze the requirements of each  
7 proposed development project. DWU has discussed alternatives with the developers and will  
8 attempt to determine a fair and appropriate system design which will meet the needs of both  
9 the developers and DWU when the service information requested is supplied.

10 g. DWU denies that there is any petition not to take in new areas from  
11 its existing customers. As set forth above, DWU has taken significant and material steps to  
12 correct the existing problems with the water system and intends to continue with the  
13 improvements making the additional service connections and revenues derived therefrom  
14 important to the proper operation of the water utility.

15 h. DWU understands the desire of Mr. Marchant and Mr. Brandt to  
16 obtain additional revenues for Sun Valley VI and correct its water storage deficiencies. The  
17 concern of DWU is for its customers and believes that any water storage deficiencies which  
18 exist at Sun Valley VI should be borne by the customers of Sun Valley VI.

19 i. DWU has not taken any final position with respect to the methods  
20 and system design with respect to the proposed development areas because DWU has not  
21 received sufficient information upon which it can base those decisions. However, DWU has  
22 expressed its concerns to Mr. Marchant and Mr. Brandt that any tie-in to Sun Valley VI  
23 wherein DWU is solely dependent upon water service from Sun Valley VI prevents DWU  
24 from having the ability to correct any deficiencies which may result from water service  
25 provided by Sun Valley VI and could result in DWU being responsible for providing quality  
26 water to its customers when it has no ability to do so through failures of Sun Valley VI. As

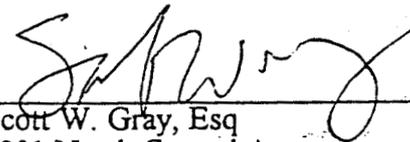
1 the ACC and ADEQ are aware, the water system presently comprising DWU was substantially  
2 out of compliance with its water testing and fiscal plant requirements for numerous years  
3 without the ability of the homeowners, ACC or ADEQ to correct the omissions and  
4 deficiencies after substantial efforts.

5 j. DWU strongly objects to any change or reduction in its franchise  
6 water service area. DWU has taken difficult and expensive steps to correct a troubled water  
7 system for the sole purpose of servicing expansions within its franchised area. DWU stands  
8 ready, willing and able to service the proposed developments of the developers under the  
9 rules and regulations of the Arizona Corporation Commission.

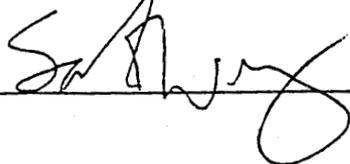
10 WHEREFORE, DWU respectfully requests a finding by the Arizona  
11 Corporation Commission that it has complied with its obligations to the Complainant and Mr.  
12 Brandt and that any development of the development projects by the developers within the  
13 certificated service areas of DWU comply with the rules and regulations of the Arizona  
14 Corporation Commission, including main line extension requirements and aids in advance of  
15 construction.

16 RESPECTFULLY SUBMITTED this 24 day of June, 1997.

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By   
\_\_\_\_\_  
Scott W. Gray, Esq  
2901 North Central Avenue  
Suite 800  
Phoenix, Arizona 85012  
Attorneys for Diversified Water Utilities,  
Inc.,

I hereby certify that I have this 24 day of June, 1997, served the foregoing  
document on all parties of record in this proceeding by mailing a copy thereof, property  
addressed with first class postage prepaid to James Merchant, 525 North Val Vista, Queen  
Creek, AZ 85242 and Russ Brandt, Blue Chip Land Corporation, 625 North Gilbert Road,  
Suite 103, Gilbert, Arizona, 85234.

  
\_\_\_\_\_



# Blue Chip Land Corporation

Investment Sales Marketing

March 19, 1997

Mr. Scot Gray  
DIVERSIFIED WATER UTILITIES INC.  
P.O. Box 17357  
Phoenix, Arizona 85011

Re: Water Line Service Proposal

Dear Mr. Gray,

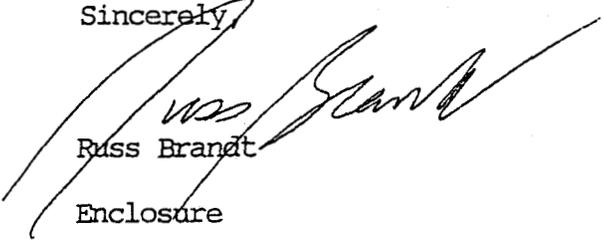
On behalf of the clients who purchased the 320 acres adjacent to the north of Sun Valley Farms Unit VI, it is their intention to build on the subject property. They would like to have domestic water to the property, but at the present time, the cost would be prohibitive.

Because of the cost, they would like to propose connecting two (2) temporary water lines into Sun Valley Farms Unit VI water system, metered at the points referred to on the enclosed map. Sun Valley Farms would wholesale the water to you at \$1.50 per thousand gallons, and you in turn could supply the water to these users by charging a monthly service fee plus water usage. The same agreement could also be applied to the 160 acres to the south of Sun Valley Farms VI, and remain in place until such time as it became economically feasible for you to advance a 6" line at a later date.

The practice of water wholesaling from one company to another is not uncommon around the country. While it allows you the benefit of profit with no risk, it will also provide both companies with the benefit of an emergency back-up system if ever necessary.

I would like to set up a meeting with you to discuss this matter and review the subject maps. Please contact me at 926-0333 at your convenience so we may discuss the proposal in detail.

Sincerely,



Russ Brandt

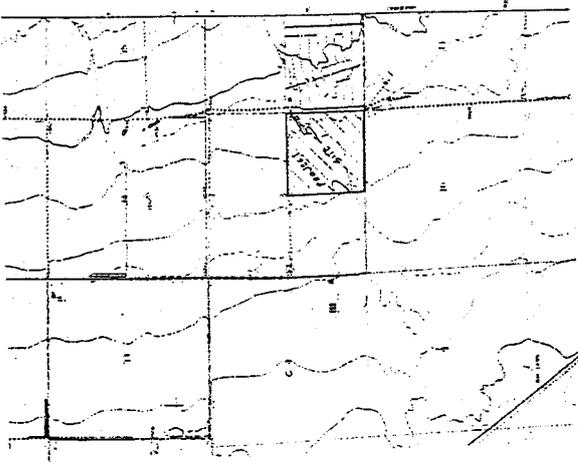
Enclosure

Exh. 6.7 A

TAB 12

# WATERLINE EXTENSION PLAN

OF PART OF  
**S:1/2 SECTION 3, T.3 S., -R.8 E., G.&S.R.B.&M.**  
**PINAL COUNTY, ARIZONA**  
 FOR  
**BRET MARCHANT**



VICINITY MAP

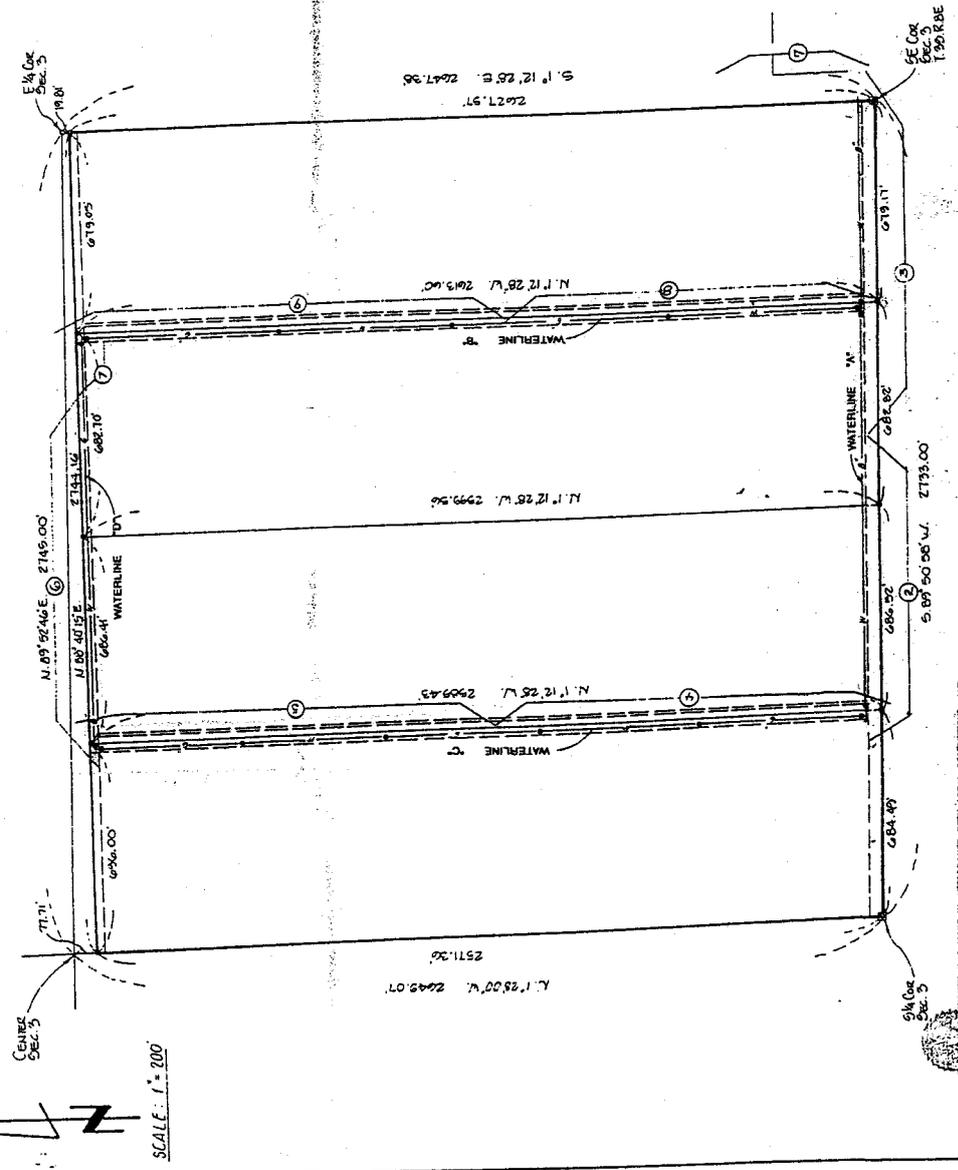
## WATER LINE CONSTRUCTION NOTES

1. THE CONTRACTOR SHALL NOTIFY THE ENGINEER AT LEAST 48 HOURS PRIOR TO BEGINNING THE PROJECT WORK TO ARRANGE FOR SCHEDULED INSPECTIONS. (WECKERLY & ASSOCIATES)
2. ALL WORK SHALL BE IN ACCORDANCE WITH THE APPLICABLE MARICOPA ASSOCIATION OF GOVERNMENTS (MAG) STANDARD SPECIFICATIONS AND DETAILS AND REQUIREMENTS OF IZCO, INC. WATER SYSTEMS.
3. WATER LINES SHALL BE FLUSHED AND DISINFECTED PRIOR TO SERVICE IN ACCORDANCE WITH ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (ADEQ) ENGINEERING BULLETIN NO. 8.
4. ALL WATER LINES AND SERVICES TO THE METERS SHALL BE PRESSURE TESTED AT 150 PSI AND PASS THE REQUIRED LEAKAGE TEST (MAG STD. SPECIFICATIONS 610.14).
5. ALL WATER PIPELINES SHALL BE 8" DIA. CLASS 150, P.V.C. MEETING AWWA C-300 STANDARDS AND BEARING THE NSF 304 OF APPROVAL.
6. ALL WATER FITTINGS, VALVES SHALL COMPLY WITH THE AWWA STANDARDS.
7. SHOP DRAWINGS FOR WATER PIPE, VALVES, FITTINGS AND FIRE HYDRANTS SHALL BE SUBMITTED TO THE ENGINEER AND IZCO, INC. AND APPROVED PRIOR TO ORDERING ITEMS.
8. ALL WATER LINES SHALL BE INSTALLED WITH A MINIMUM OF THREE (3) FEET OF COVER TO STREET OR NATURAL GROUND FINISHED GRADE. (3.5')
9. ALL WATER LINES SHALL BE INSTALLED 2' BACK OF CURB WHERE EVER POSSIBLE OR 5' NORTH OR EAST OF CENTERLINES WHEN IN THE STREET SECTION.

10. A FINAL INSPECTION BY THE ENGINEER SHALL BE ARRANGED FOR BY THE CONTRACTOR AFTER ALL THE SYSTEM CONSTRUCTION, TESTING, FLUSHING AND DISINFECTION IS COMPLETED.



**WECKERLY & ASSOCIATES**  
 ENGINEERS  
 1 ARIZONA AVENUE  
 TAVELER, ARIZONA  
 602-963-6481



SCALE: 1" = 200'

SHEET NUMBERS

NO WARRANTY IS MADE IN ACCORDANCE WITH LEGAL DESCRIPTIONS AND SURVEY DATA FURNISHED BY THE CLIENT. ANY DRAWING PRODUCED AS A RESULT OF THIS CONTRACT IS AN INSTRUMENT OF PROFESSIONAL SERVICE. THE USER OF THIS DRAWING IS STRICLY PROHIBITED.

TAB 13

Division records indicate that, as of Jan. 13, 130,962 licenses had been either suspended or revoked.

spend time working for someone who owes a \$100 traffic fine," said Sgt. Ken Fixel of the Gilbert Police Department. "They're wrong."

Daily, municipal and justice courts across the state automatically levy fines and suspend the driver's licenses of ticket no-shows. A subsequent traffic stop means a criminal citation for driving on a suspended license, or it could mean a trip to jail, depending on the seriousness of the original violation.

"People are shocked," Fixel said. "They ask, 'What do you mean, you have to handcuff me and I have to ride in the back of a police car?' Some are in tears,

— Please see DRIVERS, Page A2



Teuta Kelmendi, 20, tries to comfort her mother, Negimije, on Monday after Serb forces drove them from their home in Kosovo.

Associated Press

One group riding in the back of a dump truck told of their neighbor, Vefai Rexhemi, a deaf man, who failed to respond quickly enough to a Serb policeman's order to salute. The policeman punched him and then shot him dead in front of his wife and their two children.

They also told of how Agim Ramndani, 22, was pulled from a group of men and shot at close range while his parents watched.

— Please see TRAIL, Page A6

## INSIDE

**'PURPLE PEOPLE EATERS':** Abundant report of Serb terror. A7.

**NO EASY**

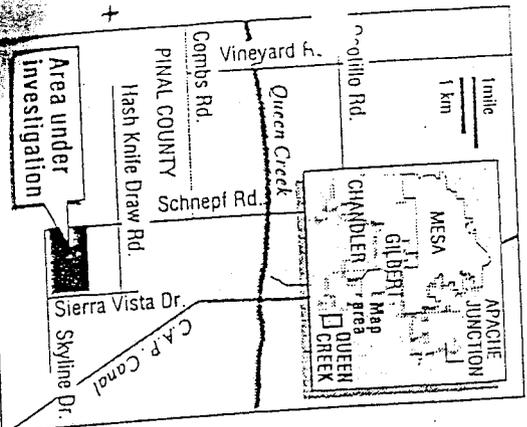
**OPTIONS:**

Escalating ethnic cleansing produces Chino foreign policy nightmare. A7.

# Officials caught up in land-splitting probe

By Edythe Jensen and Mike McCloy  
The Arizona Republic

Pinal County officials have clamped a building moratorium on 320 acres near Queen Creek pending a state probe into land dealings of partnerships that include a deput-



The Arizona Republic

ly Maricopa County attorney, Superior Court judge and state legislator. Pinal County is accusing sellers, buyers and agents of illegally subdividing half a square mile, violating an Arizona law designed to prevent haphazard development.

Most said they did nothing wrong, insisting that they split their land only as many times as state law allows.

Pinal County Planning Director Dennis Cady said this is likely to be one of the largest land-splitting investigations in Arizona history.

The practice — dividing up real estate without paved roads, approved utilities and without a nod from government — can permanently blight rural areas in the path of growth, Pinal County Supervisor Sandie Smith said.

Motivation for such dealings, said state Sen. Tom Freestone R-Mesa, who wants the state to keep the practice under control, "is greed, pure greed."

— Please see BUILDING, Page A2



Debra and John Gordon look over the land they live on in Pinal County. A state investigation into the way their land was subdivided has caused them delays and problems.

Sherrie Butzy/Special for the Republic

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patrol  
next

By William F and Chris F  
The Arizona Republic

In the wake of violence against is considered and

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# Building halted in Pinal land probe

BY JIM HING, from Page A1

The once-rural land three miles southeast of Queen Creek has already been carved into more than 90 home sites with no dedicated streets. Instead, they have dirt roads so narrow and bumpy that school buses can't use them.

Named in investigative reports as the original landowners are two real estate partnerships headed by Deputy Maricopa County Attorney Lawrence Cutler and Scottsdale golf course developer Sid White. Among Cutler's limited partners are Superior Court Judge Pete Reinstein and state Rep. Tom Horne, R-Phoenix.

On March 15, Horne's vote in the House helped pass a bill that would loosen real estate regulations.

"We are strongly opposed to this bill," deputy state real estate commissioner John King told a Senate committee Friday. "It will be extremely difficult or impossible to stop illegal subdivisions."

The committee, headed by Freestone, initially killed the bill. But House Speaker Jeff Groskost, R-Mesa, appeared after the vote, and the measure was approved on reconsideration. It could be debated by the Senate within a week.

Freestone, a vocal opponent of the bill, said he will fight to defeat it on the Senate floor this week.

Present at the committee hearing were Maricopa County Supervisor Don Stapley and his real estate business partner, Wilford Cardon. Their partnerships' land-splitting in Pinal County came under investigation for allegations of subdivision law violations since 1997. Records in the Attorney General's Office show the case is still under investigation, but Stapley is no longer a subject of the probe.

Horne said he did not know about his partnership's land activity or that it was named in a Pinal County complaint. Had he known, he said, he would not have voted on the bill.

Horne, who is an attorney, said limited partners in a real estate partnership are investors who do not participate in decision-making.

Reinstein said he invested with Cutler more than a decade ago when both were deputy county attorneys and said he knew nothing of the investigation or building permit moratorium.

Roy Tanney, director of the Real Estate Department's subdivision division, said the incentive to subdivide illegally is money.

"The biggest expense in a sub-



**Lawrence Cutler /** The deputy county attorney headed a real estate partnership in the land deal.



**Tom Horne /** Named as one of Cutler's limited partners, he said he did not know of the land activity.



**Pete Reinstein /** Another limited partner, the judge said he knew nothing of the probe.

division is the infrastructure — streets and utilities," he said. "Wildcat" subdivisions resulting from lot-splitting rarely have dedicated streets and sometimes force residents to cross each others' property, he added.

Pinal County drafting supervisor Pete McGrath discovered the splitting and reported it to the state last year when "a flood" of recorded land divisions were filed with the county within a few weeks for land near Schnepf Road and Skyline Drive southeast of Queen Creek.

Once the Department of Real Estate agreed to open an investigation in July, the county stopped issuing building permits.

McGrath said he regrets that the building permit moratorium came too late to save more than 100 acres from haphazard division and the resulting inferior roads.

State law allows landowners to split one parcel into five without filing a subdivision report that provides for roads and utilities — and, in the Tucson, Phoenix and Prescott areas, a 100-year assured water supply.

The law forbids investors and brokers to act in concert in avoiding the subdivision requirements by splitting a parcel into more than five pieces under a series of ownerships.

McGrath said a portion of the acreage — once controlled by a limited partnership headed by White — has been split into 93 lots in less than two years without a subdivision report or county zoning approval.

White said he violated no laws because he merely sold 160 acres to four different buyers.

In his complaint to the state, McGrath named Robert and Barbara Barrientos of Queen Creek; Kathy Jamieson of Gilbert; and Bronco Homes of Mesa as some of the buyers who split and resold land

that was once part of White's partnership's holding.

Tanney said key pieces of evidence in proving the sellers and buyers were acting in concert are lot releases. By releasing lots as security for financing, sellers allow buyers to sell off portions of their purchase in a chain that

avoids the lot-split limits on the original parcel.

Cutler, a deputy Maricopa County attorney who is also a licensed real estate agent, is one of two general partners in First Queen Creek Investors Ltd., which once controlled the entire 320 acres. The other general partner is Scottsdale real estate broker Earl Schwartz.

Cutler said his partnership purchased the entire parcel about 15 years ago. The real estate downturn in the late 1980s forced the partnership to relinquish 160 acres to the seller — White's partnership, Queen Creek Investments Ltd., Cutler said.

Last year, Cutler's partnership's remaining 160 acres was split and sold to five other investors; one of those investors split his portion three times before the building permit moratorium went into effect.

Cutler said the current owners of the 160 acres once controlled by his partnership are now seeking official subdivision approval and rezoning.

McGrath confirmed that application for rezoning was made for the land after the building moratorium was imposed. If it is approved, the moratorium will be lifted on that portion of the acreage.

According to a letter written by McGrath to the Department of Real Estate, there is evidence that Cutler's and White's partnerships are related through trusts.

Cutler disputes that, saying "Pinal County didn't bother to get their facts straight."

The trust tying the two partnerships goes back to First Queen Creek Investments' attempt to sell the 320 acres many years ago to a buyer who later defaulted, Cutler said.

Both partnerships were named in that trust because First Queen Creek Investments still owed money to

## AT A GLANCE

Series of events leading up to land investigation

Here's what happened on a portion of the Queen Creek area land under investigation for illegal splitting, or subdividing, between July 1997 and June 1998:

- Queen Creek Investors split approximately 160 acres and sold four of five parcels to four different buyers. The partnership retained one.

- Two of the four buyers, Roger Barrientos and Kathy Jamieson, each split and sold their 40-acre parcels as five 8-acre parcels. One of Barrientos' buyers, Bronco Homes of Mesa, split its 8 acres into five lots — four 1.25-acre lots and one 3-acre lot.

- A third Queen Creek Investors buyer, Lamarr Farr, split 40 acres into five parcels. One of the buyers was Barrientos, who in turn split 8 acres into four lots — three at 1.25 acres and one at 4.25 acres. He sold three and retained one.

- The series of splits reduced 160 acres to 1.25-acre lots in less than a year with no subdivision plan, no dedicated roadways and no documented provision for utilities.

- Affidavits filed with Pinal County indicate substantial profits for some. In one instance, Jamieson bought 40 acres for \$139,100, or about \$3,477 an acre. She sold an 8-acre parcel for \$52,000, or \$6,500 an acre.

- Robert Treviso, who purchased 3 acres from the original package of 160 from a different seller, paid \$50,000, or \$16,666 an acre. He had his acreage on the market for \$70,000 when the building moratorium was imposed.

Queen Creek Investors, Cutler. The relationship had nothing with any transaction in 1998 when the splitting occurred.

Records show both partnerships also had dealings with Gilbert real estate Russell Brandt, who owns Chip Realty.

Brandt brokered sales in 1997 and 1998 for both partnerships when the splitting started, purchased some of the land

Arizona  
verral other  
to track down scoff-

### ANAC

day of the year...  
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William Seward  
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979, Airey Neave, a  
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ed by an Irish  
bomb... In 1981,  
is shot and wounded  
gion hotel by John W.

### AL NEWS

LL?: Republican leaders  
on a two-year, \$12 billion  
pes of convening a special  
; today. B1

### CAUTION

ES: Terry Nichols, serv-  
r his federal conviction in  
y bombing, is charged  
murder in Oklahoma state

A Marine navigator  
... and conspiracy

But her troubles have only wors-  
ened. It's been three years since her  
driver's license was suspended, and  
her \$80 speeding ticket grew to a  
\$150 after it was turned over to a  
collection agency.

State and city laws allow collec-  
tion charges to be added to the  
fines. The collection charges pay  
for such services as Lind's, or for  
hiring extra municipal employees to  
make collections.

Unpaid fines also are turned over  
to the Arizona Department of  
Revenue, and tax refunds are gar-  
nished.

Also, Lind said professional skip  
tracers use public records to find  
people and collect the fines.

Adam Watterson, court sanctions supervisor in Gilbert, tracks down drivers  
who have not paid their traffic fines.

"They think that if they move, we  
won't find them," Lind said.  
"They're wrong."

Thanks to computers and in-  
terstate agreements, drivers whose  
Arizona licenses have been pulled  
can't get new ones in other states.

"Eventually, the system catches  
up with them," said Kane, the  
Phoenix courts spokesman.

"We get frantic calls from people  
who are trying to buy a house in  
another state, and they can't get a

# 'Little guys' suffer in land investigation

## Moratorium keeps some small buyers from sitting homes

By Edythe Jensen  
The Arizona Republic

All Debra and John Gordon  
wanted when they bought 2 acres  
and a manufactured home southeast  
of Queen Creek was a chance to  
escape city life and neighbors'  
complaints when John worked on  
cars.

What they got was a year of  
waiting and worries, not knowing  
whether they could move their  
prefab home onto the land or why  
the county was delaying permission.  
"I thought it was something about  
the water," Debra Gordon said,  
pulling out a large envelope filled  
with real-estate paperwork.

One document was a disclaimer  
the pair signed at Pinal County's

Michael Meister/The Arizona Republic

mortgage because they haven't tak-  
en care of a traffic fine in  
Phoenix," he said.

In addition to the tools already on  
hand, lawyers for Phoenix are  
developing a lawsuit collection  
process for traffic fines. That also  
could allow the city to win judg-  
ments and place liens on driver's  
homes, Kane said.

In Glendale, \$3.4 million in civil  
traffic fines are unpaid and in the  
hands of a collection agency. That

unable to use their property.

One is Robert Trevizo, a 66-year-  
old concrete worker who lives in  
Gilbert and who bought 3 acres last  
April to sell at a profit for his  
retirement. His purchase closed es-  
crow less than three months before  
the county announced its building  
moratorium.

Trevizo borrowed money to make  
the down payment and is making  
payments. Now he is worried he  
can't sell the land because no one  
can build on it.

"I sunk everything I had into this;  
if I can't sell it, I'll be hurting," he  
said.

Both Debra Gordon and Trevizo  
blame the county for the area's  
problems. "I can't believe, with all  
the building going on out here, that  
the county didn't know what was  
going on before now," Trevizo said.

Pinal County drafting supervisor  
Pete McGrath, who reported the  
land-splitting to the Arizona Depart-  
ment of Real Estate, said he tried to

temporarily separate  
for traffic, parking and neigh-  
borhood zoning violations.

However, Eric Halvorson, deputy  
court administrator, said that out of  
56,906 tickets issued in 1998, 9,415  
recipients did not show up in court.

Tempe is carrying \$3.3 million in  
unpaid fines on its books, he said.

Chandler Presiding Judge Mi-  
chael Traynor said he couldn't guess  
his court's no-show rate. But Tray-  
nor said his court has 4,000  
outstanding arrest warrants for all  
misdemeanors — including traffic  
no-shows.

Edythe Jensen can be reached at 444-7939  
or at edythe.jensen@pnl.com via e-mail.

stop the haphazard development  
more than a year ago, but it took  
months for the state to open an  
investigation and give the county a  
reason to stop construction.

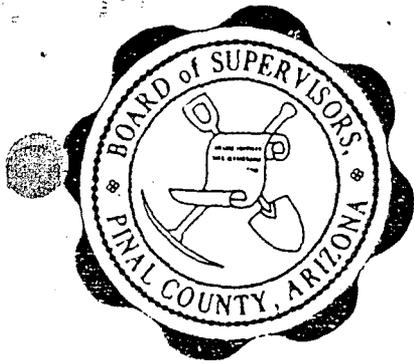
Supervisor Sandie Smith said  
Pinal County's building moratorium  
is an effort to avert disasters in a  
state known for its "Wild West"  
property-rights philosophy.

In another rural neighborhood  
near Queen Creek that sprouted  
from unregulated lot splits, postal  
workers recently threatened to stop  
delivering mail because the informal  
roads were nearly impassable.

Pinal County Planning Director  
Dennis Cady said it hasn't been easy  
turning people away who come to  
the counter requesting building per-  
mits. "But wildcat development is a  
big concern to us. No one maintains  
the roads ... and when it rains,  
things get really nasty," he said.

Edythe Jensen can be reached at 444-7939  
or at edythe.jensen@pnl.com via e-mail.

TAB 14



# PLANNING & DEVELOPMENT SERVICES

PLANNING-ZONING-ADDRESSING-ENFORCEMENT

PHIL C. HOGUE

Director

July 10, 1998

Mr. William Day  
Arizona State Real Estate Dept.  
2910 N. 44th Street Suite 100  
Phoenix, AZ 85018

Re: Parcel splits in the S ½ of T3S, R8E

Mr. Day:

The enclosed package is being submitted for your review of parcel splits created in the S ½ of Section 3, Township 3 South, Range 8 East.

The property was originally owned by two trusts. The first is Stewart Title taking up the SE ¼ and approx. the E-240' of the SW ¼. The second is the remainder of the SW ¼, owned by Security Title Trust 5793. The eastern 174 ac. was divided into four (4) 40 acre parcels by Queen Creek Investments, Ltd. leaving a remainder of about 19 ac. (parcel 210-05-038A). These were recorded with Affidavits of Property Values.

More recently, the SW ¼ has been divided by Security Title deeded to First Queen Creek Investors, Ltd. without affidavits, instead, using a B-8 exemption. This area was split into three (3) 40 acre parcels, a 32 acre parcel and an 8 acre parcel. These parcels were all straight transferred to a different entity in subsequent recordings.

After further reviewing deeds recorded in this area, I noticed a connection between Queen Creek Investments and First Queen Creek Investors, Ltd. They are listed as beneficiaries on a recorded document. Docket 1644/533, dated 12/7/89, a Special Warrantee Deed, places a property into trust #2246. The listed beneficiaries are Queen Creek Inv. and Security Title Trust 5793. Docket 1651/073, dated 1/12/90, places a property into Security Title Trust #5793, one of the listed beneficiaries is First Queen Creek Investors, Ltd. If it is determined that these trusts are connected, they have created a total of nine parcels, seven (7) at 40 acres and one (1) each 32 acres and 8 acres in size.

Within the same South-half, three other property owners have created parcel divisions beyond the allowed limit of five. This was done by Barrientos, Jamieson and Bronco homes.

July 10, 1998  
Page 2  
Parcel splits

In July 1997, Roger and Barbara Barrientos purchased a 40 acre parcel from Queen Creek Inv. Fee # 1997-023542, then divided the parcel into five (5) 8 acre parcels. One of the parcels sold to Bronco homes. Bronco Homes in turn divided this into five smaller parcels. Later in July 1997, Kathy Lynn Jamieson purchased a 40 acre parcel from Queen Creek Inv., Fee # 1997-042637. By May 1998, this parcel was divided into four parcels. In June 1998, another 40 acre parcel was purchased by Roger & Barbara Barrientos 50% and Kathy L Jamieson 50%, in Fee # 1998-021955. The same day a deed of partial release was recorded in 1998-021957. This release was for land that was then deeded to Bronco Homes in Fee # 1997-021968. Bronco Homes has not recorded any documents to divide this parcel.

Within the South-half of section 3, I am not aware of any "barrier" that may be present to allow an individual to split more than five times. All roads in the area are easements created privately for ingress/egress and utilities. No roads separating these parcels are owned or maintained by the county.

Please review these documents and inform me if a Public Report may be required on the 40 acre parcels. Also, if any DRE requirements must be met on the Barrientos, Jamieson and Bronco Homes parcels as well.

Mr. Phil Hogue, our Planning Director, has placed a hold on all parcels within this area pending a determination from your department.

If I can be of further assistance, please contact me at (520) 868-6535, Fax (520) 868-6530.

Sincerely,



Pete McGrath  
Drafting Supervisor

Enclosures  
1:\af210\_spl1.LTR

TAB 15

1 Arizona Department of Real Estate  
2 2910 North 44th Street, Suite 100  
3 Phoenix, AZ 85018  
4 Telephone: (602)468-1414  
5 Fax:(602)468-0562

6 **BEFORE THE ARIZONA DEPARTMENT OF REAL ESTATE**

7 In the matter of :

8 Queen Creek Investments

9 **SUBPOENA DUCES TECUM**

(C98-000182 DSC)

10 DIRECTED TO: Scott W. Gray  
11 Diversified Water Utilities, Inc.  
12 2901 North Central Ave. #800  
13 Phoenix, Arizona 85011

14 YOU ARE HEREBY COMMANDED, pursuant to A.R.S. Section 32-2158, all and singular business and expenses laid  
15 aside, to appear before the State Real Estate Commissioner for the State of Arizona, Department of Real Estate, or his  
16 duly appointed representative at 2910 North 44<sup>th</sup> Street, Suite 100, Phoenix, Arizona 85018, on August 3, 1998 at 9:00  
17 a.m.

18 YOU ARE FURTHER COMMANDED then and there to offer evidence in the above entitled matter now pending before  
19 said Department, bringing with you and producing the following documents and tangible things:

20 Certified copies of all records for water line installation for the south half of Section 3, Township 3 south, Range  
21 8 East, Pinal County, Arizona. Records should include, but are not limited to; applications, plans, maps,  
22 engineering reports, billing records, canceled checks, notes and correspondence.

23 Please list on your company's letterhead all documents you are providing to the Department of Real Estate.  
24 Also, type the following statement in your letter: "I certify that these are true and correct copies of business  
25 records kept in the normal everyday course of business of \_\_\_\_\_"

26 YOU ARE HEREBY NOTIFIED THAT FAILURE TO OBEY THIS SUBPOENA DUCES TECUM WITHOUT  
27 SATISFACTORY EXCUSE MAY BE DEEMED CONTEMPT, PURSUANT TO A.R.S. § 32-2158 AND 21-2212.  
28 BY ORDER OF THE REAL ESTATE COMMISSIONER.

29 DATED this 27<sup>th</sup> day of July 1998.



30 BY: \_\_\_\_\_

31 JAMES H. DUKE  
32 DIRECTOR  
33 AUDITING / INVESTIGATIONS  
34 Arizona Department of Real Estate



TAB 16

Diversified Water Utilities, Inc.  
P.O. Box 17357  
Phoenix, AZ 85011

December 14, 2000

Mr. Brett Merchant  
525 N. Val Vista, Suite 31  
Mesa, Arizona 85253

Dear Mr. Merchant:

This is in response to your letter dated October 31, 2000, mailed November 6, 2000, responding to our correspondence to you of May 16, 2000 and again on October 18, 2000. Recent proceedings have prevented our response until this time. The problems discussed in your letter were those conveyed to you over six months before your October letter. Prior to our writing those letters, we had attempted to speak with you by telephone making those problems even older.

Instead of addressing the limited issues of our May 16, 2000, and October 18, 2000, letters, DWU believes that it is more important to address the history of your company's performance of the construction projects on the DWU water system beginning with your first project a 160-acre project between Skyline Road and Rolling Ridge encompassing Tombstone and Jackpot Roads ("Original Project") approximately three years ago. Your company has performed various extensions to the DWU water system for real estate developers since the Original Project. The most recent project was for Josh Simonton to extend a water line on Fox Hollow Lane to certain lots owned by Mr. Simonton or his development company.

The work performed by your construction company has had repeated problems, failures, and defective work and your company has failed to communicate and to timely respond to the problems caused your companies defective workmanship. This letter will not attempt to address each and every problem with your company work but will be limited to certain major failures that have caused DWU and its customer's substantial problems.

The major problems experienced by DWU with your company include the following:

1. The initial 160-acre water line extension project failed to pass its bacteria tests on two occasions requiring three efforts to bring about acceptable water quality within those lines. DWU had previously noted to you its concerns about the open lines and the failure of your company to cap those lines to prevent problems. Those requests to you were not followed.

2. During the original 160-acre project, your company filled the 160-acre water lines repeated times to first charge the lines and then after each failure, to flush out the failed water system lines. During the filling of the water lines by your company, our water system suffered pressure outages from your company's failure to monitor the inflow at the water lines. We had instructed your company to charge the lines slowly to not effect the pressure in our lines. We also instructed your company to notify DWU and our customers as and when the water lines would be filled. The pressure was lost on several occasions and customer notification was not given to DWU or our customers of the specific timing of the work. This was the beginning of the complaints received by DWU about water pressure problems.
3. Your company installed the tie-in between the original transmission line ending at Preakness and Sierra Vista into the Original Project. The connection involved two (2) 90-degree turns at (i) the streets of Preakness and Sierra Vista going south to the Skyline transmission line and (ii) again turning 90 degrees west at Skyline and Sierra Vista. You did not (i) install any gate valves at the Sierra Vista and Preakness 90-degree connection, (ii) install any gate valves at the Skyline and Sierra Vista 90-degree connection or (iii) or provide us an "as built" plans of the exact location of the connection lines. These 90-degree connections were to contain gate valves in accordance with MAG Specs and the rules and regulations of ADEQ. The "as built" plans were not provided and are still due.
4. During your testing of the 8-inch Skyline Road extension from the well lot to the Skyline and Sierra Vista, your company failed to properly close the main transmission line being tested and put in very high pressures into the operating system of DWU. This extreme pressure caused a blowout at the corner of Fox Hollow and Quail Run roads. Upon experiencing the loss of pressure, your company did not locate the problem and left the premises without correcting the problem. Also, your company did not notify DWU of the failure. Later on the evening of that same day, residents experiencing an outage of water in the late evening hours contacted us. We attempted to contact your company without success and did not receive any response. We located the problem and instituted emergency repair procedures. Your company later admitted to the mistake and completed the repair as a result of the defective procedures. Our customers were again without water and upset.
5. During your construction of the Camino Largo water line extension, the system again experienced system wide pressure outages during your company's filling of the Camino Largo water line resulting in additional customer complaints and frustrations. Your company again

failed to notify DWU or the customers of the specific timing of your construction activity. Those lines also failed the tests and the same cycle repeated that we had initially experienced with your company on the construction of the water lines for the Original Project with the loss of pressure and customer frustration.

6. You installed blow offs for the Camino Largo extension and the Skyline Road extensions directly in the road, which consisted of a rigid pipe placed straight on top of the main transmission line. The design placed the water system at risk from extreme pressure placed upon a main transmission line if cars and trucks traveling in the roadway drove on the blow off. We requested numerous times that the blow offs be redesigned to an angle to divert the direct pressure or be removed. Our repeated requests were ignored for a substantial period of time. It was only upon our written demands to your company that these blow offs were removed.
7. You were specifically instructed to place the Skyline Vista main line extension North of the SRP telephone poles. This was communicated to you orally and in writing a number of times. You agreed to place those lines in the Northern location. You intentionally placed those lines South of the SRP telephone poles without our approval. We did not learn of the installation of these lines until after the lines had been installed.
8. During the construction phase of these projects, our engineers did not receive timely notice of the stages of construction for inspection purposes. Lines were buried before the engineers had the opportunity to inspect them. We repeatedly directed you to coordinate with the engineers and provide sufficient time to allow for the proper inspection of those lines.
9. Your construction of the main transmission line at the Skyline Vista Ranch project resulted in a dangling 2-inch poly blow off line protruding several feet into the air at the end of the line in violation of our engineering design requirements and without protection in a rural isolated location. We requested that the line be properly buried and secured. It was not done. The protruding line off blew off and we again were unable to reach you when the line break occurred.
10. DWU recently discovered that your construction company had never opened this Skyline Road main transmission line at the Sierra Vista and Skyline connection. DWU briefly opened the line to determine its status and discovered the line leaked from improper construction. We again contacted you on that day and later received a return call that you would "take care of it." We attempted to later discover what steps

were taken by your company to properly correct this turned off line and how the water left to sit in the line by your company was discharged. We did not receive a response. We contacted you in writing and received no response.

11. On October 28, 2000, DWU experienced major difficulties because of a defective thrust block constructed by your company. The main line of Camino Largo came apart on Friday night, October 28, 2000, at the 90-degree turn at the Northern end of your section. The thrust block installed by your company for this 8-inch line did not comply in any respect with MAG specifications or the engineering requirements of the project. We recovered and are in possession of the defective thrust block. Thousands of gallons of water were lost and our customers were again without water with a resulting frustration and complaints to us. Additionally, as a result of this failure and our search to locate the line break, we discovered that the Skyline and Sierra Vista problem discussed at paragraph 10 above had been repaired but was again turned off. The contractor assisting us on October 28, 2000, was required to open the line to determine where the system was leaking. We later discovered that a significant amount of stale and unpleasant water your company created from the line shut off was not discharged when the leak was repaired. That water entered the system and was dispersed into a portion of the system. Your failure to communicate with our company and correctly repair your company's defective work resulted in tremendous hardship to Diversified and very upset customers.

12. It is necessary to respond to two (2) specific issues in your letter:
- a. A next day response time to line breaks is not acceptable.
  - b. We have never expected to have your company obtain any certificates to construct from ADEQ. These were to be obtained and, to the best of our knowledge, were obtained by your engineers. We have been seeking this information from the developer group and have just been attempting to get copies of these documents.

I have not included in this list the additional hostility our company faced as a result of the unauthorized taking of water during the construction of Skyline Vista Ranch. Our customers repeatedly lost pressure for reasons that we could not explain. Again, their hostility was directed against DWU though we had nothing to do with the problem. Upon our investigation, we discovered that your group was taking significant amounts of water without authorization. Even after our discovery of the unauthorized taking, we made good faith efforts to assist the development activities requesting that water be taken only in limited circumstances and during certain limited time parameters. DWU's good

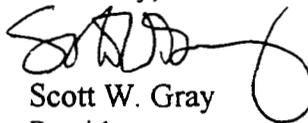
faith efforts were not returned and the system pressure failures continued to occur. We ultimately were required to lock off the development group because of their unauthorized detrimental use of the company's water resources. The constant pressure failures stopped after the system was locked off.

As a final matter, you have stated to others that the directions from DWU to your company are not understandable or are confusing. The instructions to you have been clear and DWU has been required to write each construction direction to the developers hiring your company to accomplish the require action. This is unacceptable. Regardless, even if there was some uncertainty, your company did not make an effort to follow up by asking questions or clarify the alleged confusion. It should be noted that we have made engineers available to you at our cost long ago to assure any questions you had were answered. This list does not discuss many other difficulties and problems DWU has had with the quality of the work preformed by your construction company.

Our customers are our first priority. A public water company is a serious business that cannot deal with repeated defective construction work. Regrettably, DWU has been required to inform you that your company is no longer allowed to perform any new work on the DWU water system. Only repairs of prior projects as specifically directed and approved by DWU are authorized. We are investigating our remedies at this time. We demand compliance with all matters set forth above that have not been completed. We understand that you are informing people that your company is licensed with the Arizona Registrar of Contractors. Please provide us your license number and name under which the license is held.

Please be informed that we have received information that you are defaming our company. Any slanderous statements against our company to any party will be defended. Please contact Bill Sullivan with any questions you might have concerning this letter.

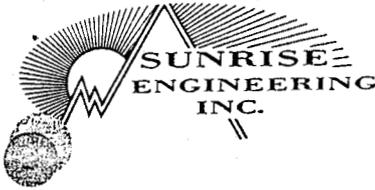
Sincerely,



Scott W. Gray  
President

cc: William Sullivan  
Sunrise Engineering  
Augusto Meoli, Skyline Vista Ranch

TAB 17



## SUNRISE ENGINEERING, INC.

3660 EAST UNIVERSITY DRIVE, SUITE 2 • MESA, ARIZONA 85205 • (480) 832-4420 • FAX (480) 830-4150

PRESCOTT VALLEY, AZ  
FILLMORE, UT  
SALT LAKE CITY, UT  
WASHINGTON, UT  
AFTON, WY

January 26, 2001

Mr. Scott Gray  
Diversified Water Utilities, Inc.  
P.O. Box 17357  
Phoenix, Arizona 85011

**RE: Thrust Block Recommendations**

Dear Mr. Gray:

This letter is in response to your request for a thrust block size calculation for an 8-inch, 90-degree bend for your water distribution system. The recommended design is in accordance with MAG standard 380 – Thrust Blocks for Water Lines.

According to MAG Standard 380 a thrust block for an 8-inch, 90-degree bend must have a minimum of 6 square feet of thrust block area against the trench based on a test pressure of 200 psi and 3000 lbs/sq-ft of soil bearing. The minimum width of a thrust block, according to the standard is 1-foot wide. In order to meet the 6 square feet requirement a typical size block might be 1' wide by 2' high by 3' long (1'x2'x3') for a total of 6 cubic feet of concrete. Concrete weighs approximately 150 lbs/cu-ft; therefore, this thrust block would weigh approximately 900 pounds.

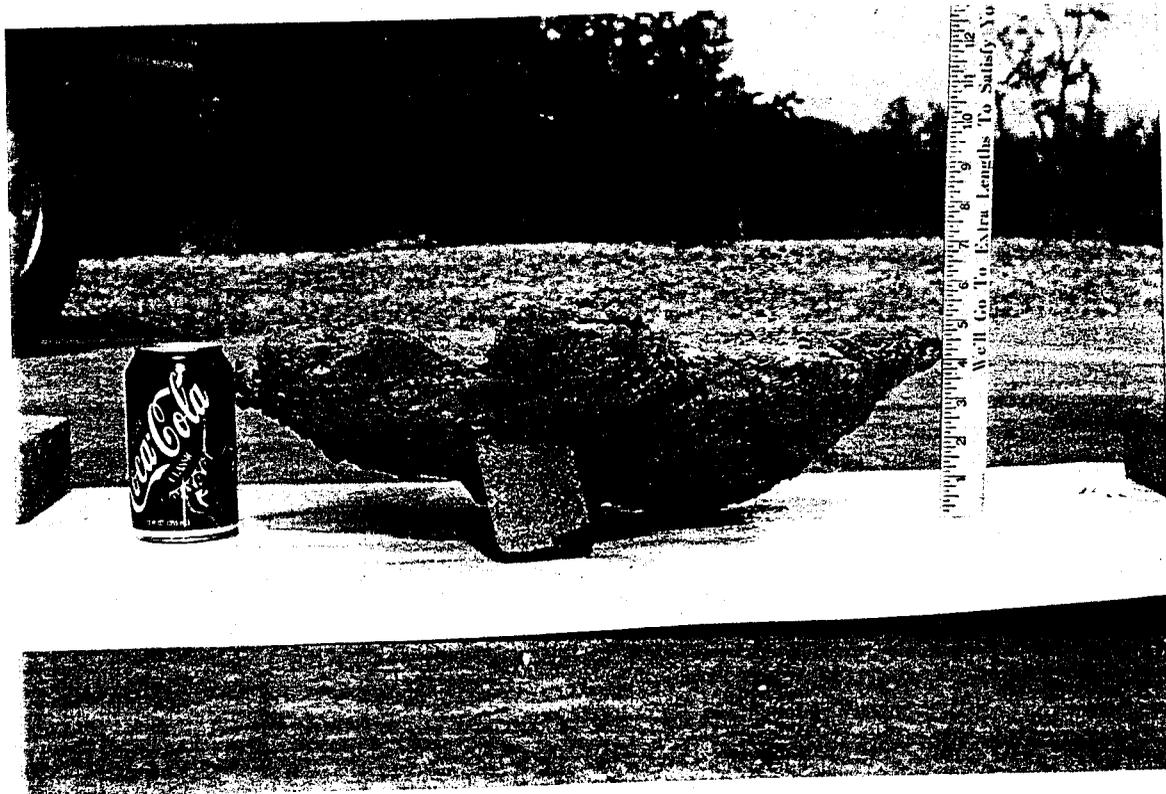
I have enclosed a copy of MAG Standard 380 for your future reference.

If there are any additional questions or comments, please contact our office.

Sincerely,  
Sunrise Engineering, Inc.

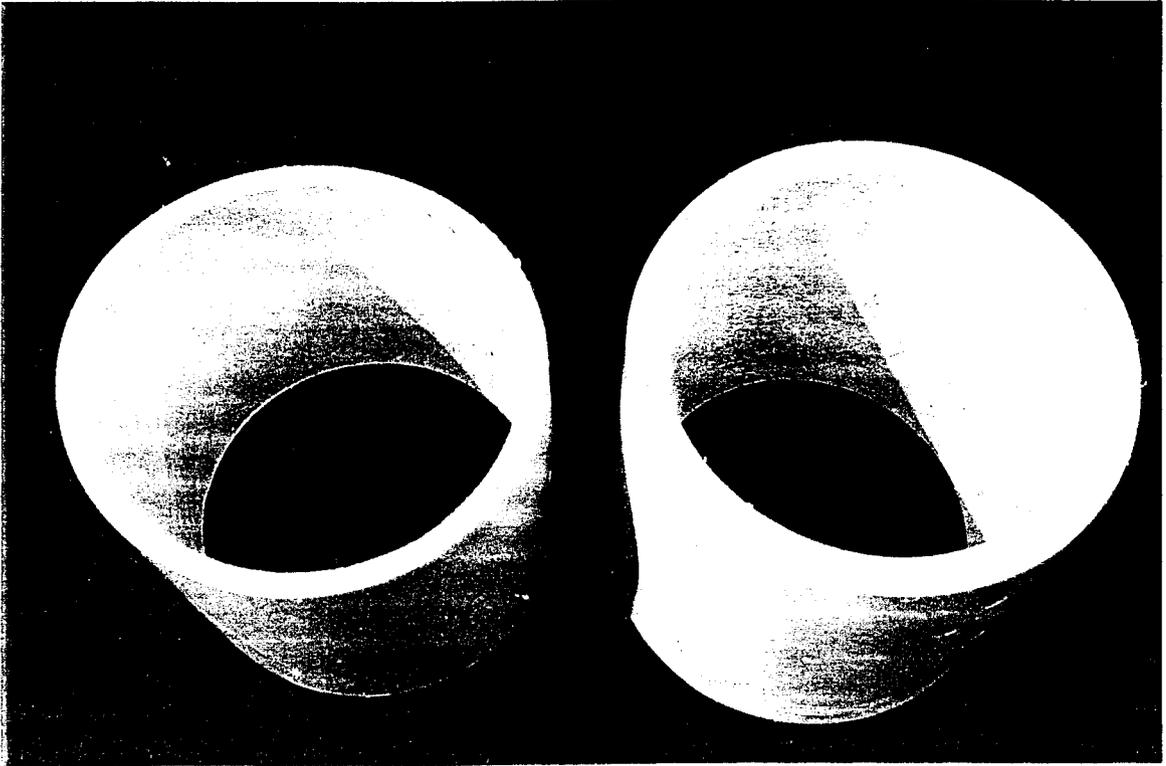
Gregory D. Potter, P.E.

CC: File



Defective Thrust Block  
Constructed by Mr. Marchant  
Causing System Failure on  
October 28, 2000

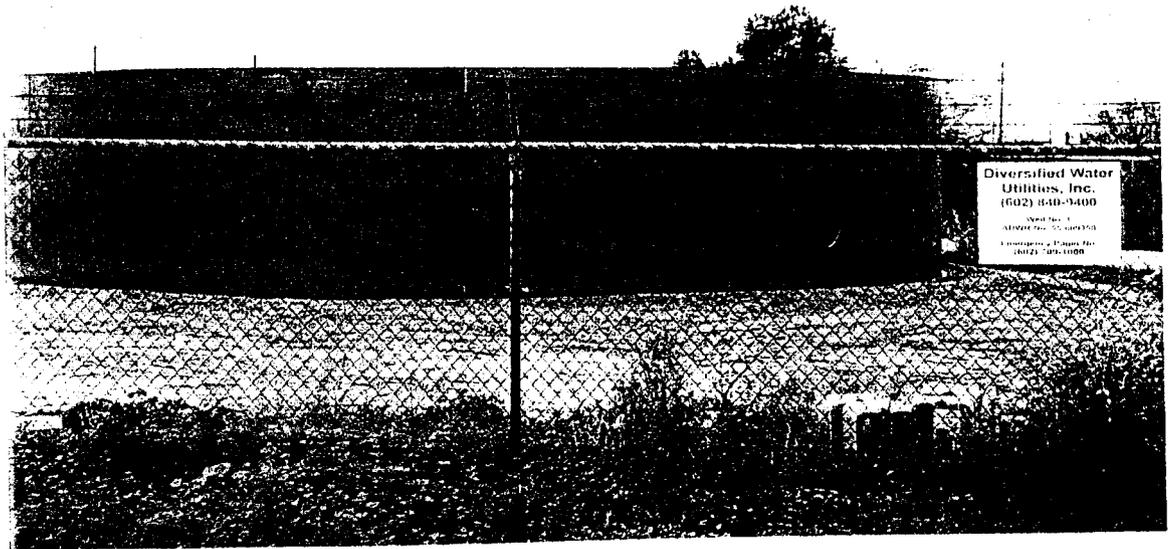
TAB 18



8-inch IPS Class 200 Pipe  
Desired by Mr. Adeox

6-inch C-900 Class 200 Pipe  
Required by Diversified

TAB 19



First Ring of the New 200,000-gallon  
Diversified Water Storage Tank Currently  
Under Construction  
Photograph taken February 24, 2001

TAB 20

# INVOICE

## ARIZONA WELDING SERVICES, INC.

4215 W. MESCAL  
 PHOENIX, ARIZONA 85029  
 (602) 978-4223  
 FAX (602) 504-8851

INVOICE NUMBER: 167

PAGE: 1

**SOLD TO:**

Diversified Water Utilities  
 P.O. Box 17357  
 Phoenix,, AZ

|               |              |              |
|---------------|--------------|--------------|
| CUSTOMER ID   | CUSTOMER PO  | SALES REP ID |
| DIVERSIFIED   | SCOTT GRAY   | Terry Brown  |
| PAYMENT TERMS | INVOICE DATE | DUE DATE     |
| Net 15 Days   | 2/4/01       | 2/19/01      |

| DESCRIPTION  | AMOUNT    |
|--|-----------|
| Invoicing you on 200,000 gallon storage tank. (Quail Hollow) | 75,000.00 |

|                      |                    |
|----------------------|--------------------|
| Subtotal             | 75,000.00          |
| Sales Tax            |                    |
| Total Invoice Amount | \$75,000.00        |
| Payment Received     | 37,500.00          |
| <b>TOTAL DUE</b>     | <b>\$37,500.00</b> |

**THANK YOU.**  
 We Appreciate Your  
 Business !!

Check No: 1893

SG-2

Soncho Smith  
Pinal County Board of Supervisors  
575 N. Idaho Rd  
Ste 101  
Apache Junction AZ 85219

RE: Public notice for Skyline Water Improvement District.

Be advised that Diversified Water Utilities Co has done an excellent job of operating our present water system, and improving the system.

There would be no advantage to us, by having a water district at this time. In fact, it would merely add a tax burden to the present users of our water system.

If you recall, I once led a drive for a district for this water system, which failed because of false information distributed in the neighborhood by one family.

The difference then, and now, is that the users would have had some control over water rates, etc. we would have no control over the Skyline water district, and would have an additional tax burden.

If you have any feeling for the low income families in this area, you will help us by stopping this unneeded takeover of our water system.

Please allow me to have my say when this comes up before the supervisors.

Paul Wotawelko  
5828 East Breakers Dr  
Queen Creek AZ 85242  
480-987-8711

Diversified Water -  
This is a copy of letter we  
sent. Only it was neater. This  
was just a draft.

Feb. 15, 01

RECEIVED MAR 8 1 2001

Sandie Smith  
Pinal County Board of Supervisors  
575 N. Idaho Road, Suite 101  
Apache Junction, Arizona 85219

We would like Diversified Water  
Utilities, Inc. to remain our provider  
of water. We have never had any  
problem with them. They have  
always been kind and courteous.

The only problem was with  
the construction going on. Which  
in our ~~opinion~~ <sup>opinion</sup> opinion was  
sabotage to get people angry and want  
another water company to come in.  
Anytime they were doing work,  
something would go wrong. Nothing  
ever happened when someone else  
was putting in a new home. Just  
with the real estate developers.

John L. & Deborah Gordon  
4678 E. Santa Rita  
Queen Creek, Az. 85242

4564 Preakness Drive  
Queen Creek, Arizona 85242  
February 12, 2001

Ms. Sandie Smith  
Pinal County Board of Supervisors  
575 N. Idaho Road, Suite 101  
Apache Junction, Arizona 85219

Dear Ms. Smith:

Re: Establishment of the Proposed Skyline Domestic  
Water Improvement District.

Three years ago, I purchased my home and property in the Rolling Hills Subdivision, from Real Estate Developer, Jim Adcox.

Because of problems I was having with the developer, at that time, I called the Pinal County Planning and Development Department for information. I was told that the Real Estate Developer had not filed a Subdivision Plan or Published Report with them and that they could not help me. Now these Real Estate Developers want to establish this water district.

I am very happy with the service that Diversified Water Utilities, Inc., has provided for the past three years and would like to have them continue. Diversified Water Utilities is answerable to the Arizona Corporation Commission for rates and service conditions. Skyline Domestic Water Improvement District would not be.

Therefore, I am deeply opposed to the Real Estate Developers having the opportunity to buy and operate this water company.

Yours truly,



Eve Heinzelman

CC: Stanley Griffis, Clerk of Pinal County Board of Supervisors  
Scott Gray, President, Diversified Water Utilities, Inc.