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IN THE MATTER OF THE APPLICATION OF PERKINS MOUNTAIN WATER COMPANY FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY IN MOHAVE COUNTY.

DOCKET NO. W-20380A-05-0490

IN THE MATTER OF THE APPLICATION OF PERKINS MOUNTAIN UTILITY COMPANY FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY IN MOHAVE COUNTY.

DOCKET NO. SW-20379A-05-0489

RESPONSE TO ADDENDUM TO STAFF REPORT DATED DECEMBER 15, 2006

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Perkins Mountain Water Company ("PMWC") and Perkins Mountain Utility Company ("PMUC") (collectively "the Companies"), pursuant to the Procedural Order dated December 20, 2006, hereby submit their joint Response to the Addendum to Staff Report For Perkins Mountain Utility Company and Perkins Mountain Water Company—Applications for Certificates of Convenience and Necessity for Wastewater and Water Services dated December 15, 2006 ("Staff Report Addendum").

On July 7, 2005, the Companies filed with the Arizona Corporation Commission ("Commission") applications ("Applications") for Certificates of Convenience and Necessity ("CC&Ns") to provide water and wastewater services to the master planned developments of Golden Valley South and White Hills in Mohave County, Arizona. On March 31, 2005, PMWC filed an amendment to its Application (the "Amended Application") limiting its request for a CC&N to only a portion of the Golden Valley South development (Phases 1, 2, 3, 7, and part of 4) and requesting an Order Preliminary to the issuance of a CC&N ("Orders Preliminary") for the balance of Golden Valley South (Phases 5, 6, and the remaining part of 4) and all of White Hills.

In its Staff Report Addendum, Staff recommended approval of both Applications, subject to conditions. Although the Companies do not object to the large majority of the conditions recommended by Staff, the Companies believe that four of the CC&N conditions and three of the Order Preliminary Conditions should be modified or rejected.[1] Additionally, the Companies request that Golden Valley South not be included in the Orders Preliminary and that a CC&N be issued for all of Golden Valley South, for the reasons discussed below.

1. ISSUANCE OF A CC&N FOR ALL OF GOLDEN VALLEY SOUTH.

On February 10, 2006, PMWC filed with the Commission an Analysis of Adequate Water Supply for 9,000 acre-feet of groundwater, representing 57% of the initial estimated demand of 15,911 acre-feet per year. Although the PMWC fully expected to receive an additional Analysis of Adequate Water Supply for effluent credit, the Commission expressed some concern regarding the adequacy of water supply. To address the Commission's concerns, PMWC amended its CC&N application in this docket on March 31, 2006, to limit the Golden Valley South CC&N area to only those phases of Golden Valley South that could be served with the 9,000 acre-feet of water already proven (Phases 1, 2, 3, 7 and part of Phase 4), with the remaining phases (Phases 5, 6 and the remaining portion of Phase 4) addressed pursuant to an Order Preliminary. Subsequently, PMWC received a second Analysis of Adequate Water Supply for an additional 2,895.69 acre-feet per year of treated effluent and filed it with the Commission on September 13, 2006. The total of both analyses is 11,895.69 acre-feet per year.

[1] Conditions associated with the CC&N are referred to herein as "CC&N Conditions" and conditions associated with the Orders Preliminary are referred to herein as "Order Preliminary Conditions." The numbered CC&N Conditions and Orders Preliminary Conditions cited herein refer to the conditions listed on pages 9-14 of the Staff Report Addendum.

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As the Golden Valley South development has worked its way through the myriad approval processes at various Mohave County departments and state agencies, necessary changes were made to the developer's master plan, some of which reduced the demand for water. The current demand is now equal to 11,566.88 acre-feet. Based on the revised demand calculations,[2] the amount of physically available water that has already been proven is more than enough to serve all of the Golden Valley South development. The current demand of 11,566.88 acre-feet per year is 629.23 acre-feet less than the initial estimated demand of 12,196.11 acre-feet and 328.81 acre-feet less than the total physically available water of 11,895.69 acre-feet as determined by ADWR.

The need for an additional Analysis of Adequate Water Supply to demonstrate water availability no longer exists. The Companies, therefore, are requesting that the Commission issue a CC&N for all phases of the Golden Valley South development.

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2. IN CC&N CONDITION 15, STAFF RECOMMENDS THAT PMWC AND PMUC FINANCE AT LEAST 50% OF THEIR RESPECTIVE PLANT WITH EQUITY.

In CC&N Condition 15, Staff recommends that the Commission require PMWC and PMUC to finance at least 50% of their respective utility plant with equity. This recommendation was not included in the initial Staff Report dated November 10, 2005. Staff's stated objectives for including this recommendation in the Staff Report Addendum are to ensure that: (i) the Companies "invest the paid-in-capital shown in the November 10, 2005 Staff Report [Schedules REL-1 and REL-2];" (ii) the Companies "are substantially financed by the owner, and that the owner has a significant investment at risk;" and (iii) the Companies are motivated "to protect their investment by applying proper maintenance and installing quality plant." *Staff Report Addendum* at 6. The Companies agree that establishing a minimum equity requirement for new water and sewer companies can satisfy the objectives identified above. However, a 50% minimum

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[2] Attached as Exhibits 1 and 2 are a letter from Greg Wallace of Errol Montgomery and Associates notifying ADWR of the revised demand calculation for Golden Valley South and a revised generic demand calculator that confirms that the total demand is within the water availability that has already been demonstrated.

equity requirement is too high and will have several negative consequences, particularly in the case of PMWC.

The following Table RLJ-1 excerpts data from Staff's projected balance sheet for PMWC for the first five years of operation (Schedule REL-1 to the Staff Report):

Table RLJ - 1					
Perkins Mountain Water Company					**Schedule REL-1**
Excerpt from Balance Sheet					
	Year 1	**Year 2**	**Year 3**	**Year 4**	**Year 5**
Fixed Assets					
Utility Plant in Service	$ 4,812,375	$ 9,932,275	$ 11,980,317	$ 15,058,358	$ 19,424,750
(less) Accumulated Depreciation	$ 98,961	$ 389,847	$ 799,697	$ 1,273,740	$ 1,861,640
Net Plant in Service	$ 4,713,414	$ 9,542,428	$ 11,180,620	$ 13,784,618	$ 17,563,110
Total Capital	$ 3,448,588	$ 5,169,031	$ 5,130,369	$ 5,982,156	$ 7,266,095
Ratio - Total Capital to Net Plant	73%	54%	46%	43%	41%

This table reflects the underlying assumptions that in years 1 through 5, PMWC will use equity funding for all plant construction <u>except</u> for mains (including valves and fittings), service lines, fire hydrants and meters which will be funded by the developer or developers pursuant to main extension agreements approved by the Commission pursuant to A.A.C. R14-2-406(M). In years 1 and 2, PMWC could meet the 50% minimum equity requirement, based on Staff's projections. However, in years 3, 4 and 5, PMWC would fall below 50% equity. In order to satisfy Staff's minimum equity requirement, PMWC would need to increase equity by $1,515,460 to a total of $8,781,555 at the end of year 5. Since there is no debt in PMWC's capital structure which could be replaced with equity, the only other way to increase equity would be to forego advances in aid of construction.

The Commission has long required that mains, service lines, fire hydrants and meters be funded through main extension agreements as refundable advances in aid of construction by the developer. *See* A.A.C. R14-2-406. The reason for this is clear. Financing main extensions for new development with equity places undue and

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unnecessary risk on the utility—and ultimately—the customers of the utility. This so-called "development risk" should be borne by the developers of property within the utility's CC&N. Accordingly, PMWC believes that CC&N Condition 15 should be revised to require a minimum equity level of 40% and not 50%. An equity level of 40% will satisfy each of Staff's objectives as set forth in the Staff Report Addendum without forcing PMWC (and its customers) to assume development risk by funding main extensions with equity.

Additionally, in order to remove any possible ambiguity regarding the method of determining PMWC's equity level at any point in time, PMWC recommends that the condition be expressed as a ratio that can be calculated from the balance sheet information submitted in the annual reports that PMWC will file with the Commission. Specifically, PMWC proposes the following substitute for CC&N Condition 15 as it pertains to PMWC:

> ***15. That the Commission require PMWC to provide sufficient equity financing so that the ratio of Total Capital to Net Utility Plant In Service is not less than 40 percent.***

There is one additional (and highly significant) reason why the required minimum equity level should be reduced to 40% for PMWC. If Staff's recommended minimum equity of 50% is adopted, then PMWC's rates must necessarily be increased by 20-25% to provide a reasonable rate of return on the additional $1,515,460 in equity investment that will be required to meet the requirement. Staff's proposed rates are based on the capital structure set forth in Schedule REL-1 to the Staff Report, which does not take into account the increased equity. While PMWC does not oppose the rates recommended in the Staff Report, the Company does not believe that the public interest is served by increasing those rates to provide a return on equity that was invested in lieu of requiring advances in aid of construction from developers to fund main extensions.

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Regarding PMUC, the following Table RLJ-2 excerpts data from Staff's projected balance sheet for PMUC for the first five years of operation (Schedule REL-2 to the Staff Report):

Table RLJ-2					
Perkins Mountain Utility Company					**Schedule REL-1**
Excerpt from Balance Sheet					
	Year 1	**Year 2**	**Year 3**	**Year 4**	**Year 5**
Fixed Assets					
Utility Plant in Service	$ 4,548,325	$ 7,937,725	$ 9,541,950	$ 16,915,025	$ 19,024,350
(less) Accumulated Depreciation	$ 113,802	$ 388,726	$ 727,052	$ 1,242,847	$ 1,943,357
Net Plant in Service	$ 4,434,523	$ 7,548,999	$ 8,814,898	$ 15,672,178	$ 17,080,993
Total Capital	$ 3,272,679	$ 3,983,920	$ 4,990,040	$ 9,245,560	$ 9,228,035
Ratio - Total Capital to Net Plant	74%	53%	57%	59%	54%

Based upon Staff's projections, the equity level for PMUC is not expected to fall below 50% during the first five years of operation. Notwithstanding, PMUC recommends that its minimum equity level be set at 40%, consistent with PMWC's recommendation set forth above. A lower minimum equity level would give PMUC additional flexibility to fund construction of sewer infrastructure through a limited debt financing (with prior Commission approval) or collection main extension agreements. Thus, PMUC proposes the following substitute for CC&N Condition 15 as it pertains to PMUC:

> ***15. That the Commission require PMUC to provide sufficient equity financing so that the ratio of Total Capital to Net Utility Plant In Service is not less than 40 percent.***

2. <u>IN CC&N CONDITION 14, STAFF RECOMMENDS A LETTER OF CREDIT OR PERFORMANCE BOND IN THE AMOUNT OF $2,500,000</u>.

In CC&N Condition 14, Staff recommends that PMWC and PMUC each provide an irrevocable letter of credit or performance bond of $2,500,000 (for a combined total of $5,000,000) to remain in place until further order of the Commission or until the

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Commission's decision in the Companies' first rate cases.[3] Staff picked this amount because it "is adequate to secure the first four years of the estimated operating expenses" of PMWC and PMUC. *Staff Report Addendum* at 8. The Companies do not oppose a reasonable letter of credit or performance bond, but the amount recommended by Staff is clearly excessive based upon the facts of this case, as discussed below.

Moreover, the methodology Staff used to determine the amount has not previously been used by the Commission, and Staff's calculation of the amount is flawed because Staff included depreciation expense in the Companies' operating expenses. The Companies submit that a reasonable amount for each of PMWC and PMUC would be $500,000 (for a combined total of $1,000,000), which is consistent with amounts recommended by Staff and approved by the Commission in decisions approving other new CC&Ns.

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A. <u>No Letter of Credit or Performance Bond Should Cover Depreciation Expense, which is a Non-Cash Expense</u>.

Staff recommended the amount of the letter of credit/performance bond in this case based on the money that would be needed to cover four years of operating expenses for each of PMWC and PMUC. *Id.* Pursuant to Schedule REL-2 to the Staff Report, the first four years of operating expenses for PMWC total $2,224,892. Of that amount, depreciation expense accounts for $1,273,740, well over half of PMWC's projected operating expenses. While PMWC does <u>not</u> agree with Staff's methodology for setting the amount, at a minimum Staff should remove depreciation expense—which is a non-cash expense—from its calculation. This would reduce the amount of the letter of credit/performance bond below $1,000,000 for PMWC.

Likewise, the first four years of operating expenses for PMUC total $2,660,842. Of that amount, depreciation expense accounts for $1,242,848, or a little less than half. Removing depreciation expense from PMUC's projected operating expenses would

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[3] Pursuant to CC&N Condition 5, each Company must file a rate application no later than six months following the fifth anniversary of the date each Company begins providing service to its first customer.

reduce the amount of the letter of credit/performance bond below $1,500,000 for PMUC.

To the Companies' knowledge, the Commission has never based a letter of credit or performance bond on the amount of projected operating expenses. In a data request from PMWC and PMUC to Staff asking whether Staff has previously recommended an amount based on four years of estimated operating expenses, Staff responded as follows:

> Staff does not know if Staff has <u>ever</u> recommended a LOC or performance bond equal to four years operating [expense]. Staff is unaware of any recent similar recommendation. (emphasis in original)[4]

The requirement of a letter of credit or performance bond has traditionally been imposed by the Commission to protect customer deposits, prepayments and advances. In the case of applicants for new telecommunications CC&Ns, the Commission requires performance bonds ranging from $10,000 to $235,000. However, the largest bond amount applicable to any new telecommunications provider is still less than 10% of the $2,500,000 recommended for each of PMWC and PMUC.

The Companies submit that letters of credit and/or performance bonds should not be used (and have not previously been used) to insure the availability of adequate capital to fund operating expenses. As discussed below, the Companies are subsidiaries of a Moody's bond-rated parent, with access to all of the capital necessary to fund capital construction and operating expenses in the first five years of operation. Moreover, Staff has determined that "its proposed rates will be adequate to assure the financial integrity of the Companies." Attachment D to *Staff Report Addendum* at 3. For these reasons, Staff's recommendation regarding the amount of the letter of credit or performance bond is excessive, and should be reduced as set forth above.

Staff states in its Staff Report Addendum that the "Companies may ultimately serve 53,000 businesses and residences resulting in a significant amount of customer deposits and developer advances to be held and repaid by the Companies." Attachment D to *Staff Report Addendum* at 3. However, Staff must acknowledge that the two

[4] Staff's response to PMWC and PMUC Data Request 1(b) of the Third Set of Data Requests to Staff.

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master-planned communities will not reach build-out for at least 20 years. The Companies have estimated that PMWC and PMUC will serve 3,035 residential customers and 30 commercial customers by the end of the fifth year of operation. Letters of credit or performance bonds in the total amount of $5,000,000 are far in excess of the amount necessary to safeguard the deposits of the 3,065 customers projected at the end of five years. Moreover, since the Companies' sole shareholder, Rhodes Homes Arizona, is also the developer of the master-planned communities, the advances received by PMWC and PMUC will be paid by Rhodes Homes Arizona. Thus, any risk to the public associated with advances in aid of construction is substantially eliminated.

B. **The Companies Have Contracted with An Experienced Certified Operator and other Professionals to Assist with the Operation of the Water and Wastewater Utilities.**

Staff asserts as justification for a letter of credit or performance bond that the Companies have "no prior operating experience." *Staff Report Addendum* at 7. The Companies have two responses to this point. First, although the Companies were newly formed to provide water and wastewater services and do not yet have a track record (like all newly formed corporate entities), the Companies have contracted with qualified, experienced and reputable professionals to assist with the operation of the water and wastewater utilities. For example, Aricor Water Solutions, and its principal Ray Jones, are under contract to act as certified operator for PMWC and PMUC. Mr. Jones has been certified by the Arizona Department of Environmental Quality as (i) a Grade 3 Water Treatment Plant Operator; (ii) a Grade 3 Water Distribution System Operator; (iii) a Grade 3 Wastewater Treatment Plant Operator; and (iv) a Grade 3 Wastewater Collection System Operator. Mr. Jones has over 20 years experience in the operation, engineering and management of water and wastewater utilities in Arizona. His experience includes nineteen years with Citizens Water Resources and Arizona-American Water Company, the largest non-municipal water and wastewater provider in

Arizona. Similarly, PMWC and PMUC are contracting with other professionals to assist with other aspects of the operation of the water and wastewater utilities.

Second, in very recent cases where the Commission has required performance bonds for newly formed utility companies, the amount of the performance bond has been substantially less than the $2,500,000 recommended by Staff for each of the Companies. For example, in Decision 69256 (January 19, 2007) granting Orders Preliminary to the issuance of the CC&Ns to the newly formed Green Acres Water, LLC, and Green Acres Sewer, LLC, the Commission required performance bonds for each utility in the amount of $500,000. The Commission stated:

> Additionally, we believe since there is no evidence in the record which reveals that either of the Applicants has any prior experience in successfully operating a public utility, a performance bond for each utility in the amount of $500,000 should ensure that the Applicants will be able to continue operations for a reasonable period without a related entity's financial support, if necessary.

Decision 69256 at 12, Finding of Fact 48 (Docket Nos. W-20430A-05-0839 and SW-20431A-05-0840). Similarly, in Decision 68453 (February 2, 2006) granting a CC&N to newly formed Woodruff Utility Company, the Commission required a performance bond in the amount of $250,000. There was no requirement that newly formed affiliate Woodruff Water Company post a performance bond.

As stated above, PMWC and PMUC do not oppose the requirement of a letter of credit or performance bond, but submit that a reasonable amount for each of PMWC and PMUC would be $500,000, which is consistent with the Commission decisions discussed above.

C. <u>The Financial Capability of the Companies' Two Immediate Parent Companies is Secure</u>.

Staff's assertion in the Staff Report Addendum that the financial capability of the Companies' two immediate parent companies is not secure is simply not true and contrary to facts of this case. *Staff Report Addendum* at 6. The two immediate parents of PMWC and PMUC—Rhodes Homes Arizona, LLC (which owns 100% of the stock

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of both Companies) and its sole member, Rhodes Companies LLC—have a demonstrated financial capability that is backed up by a Moody's Investors Service ("Moody's") Corporate Family Rating of B1. A Corporate Family Rating is Moody's opinion regarding a corporate family's ability to honor all of its financial obligations, and is assigned to a corporate family as if that family had a single class of debt and a single consolidated legal entity structure. In other words, it applies to all affiliates under the management control of the entity which has been assigned the rating.[5] Staff's unsupported assertion that the bond rating could be stronger is striking in juxtaposition to Staff's ensuing statements that "[m]ost new water and wastewater utilities are affiliated with developers who have far less financial backing" and "the fact that the Utilities will be affiliated with entities which are large enough to receive bond ratings is somewhat reassuring." *Staff Report Addendum* at 6.

The facts are that after completing its rigorous financial due diligence regarding the Rhodes Companies family of companies, Moody's assigned a B1 rating concluding that Rhodes Companies LLC has a stable ratings outlook, that the ratings outlook is not negative or on watch. There can be no doubt that PMWC and PMUC are affiliated with companies having much greater demonstrated financial wherewithal than companies that have been certificated with performance bonds of $500,000, $250,000, or less. Thus, the recommended letters of credit or performance bonds for PMWC and PMUC, if required, should not be any higher than $500,000.

D. <u>The Litigation Matters Identified by Staff Do Not Justify the Requirement of a Letter of Credit or Performance Bond</u>.

In the Staff Report Addendum, Staff discusses a list of litigation matters involving affiliates of PMWC and PMUC. *Staff Report Addendum* at 7. However, Staff's statements and characterizations of these litigation matters create an unwarranted impression regarding the business practices of affiliates of PMWC and PMUC. For

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[5] *See* http://www.moodys.com/moodys/cust/AboutMoodys/AboutMoodys.aspx?topic=rdef&subtopic=moodys%20credit%20ratings&title=View+All+Rating+Definitions.htm

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example, Staff discusses the type of litigation matters and number of cases, but fails to state that many of the cases were, in fact, initiated by affiliates of the Companies and were, in fact, resolved with judgments favorable to those affiliates. Further, Staff provides copies of a random group of news reports and articles for "INFORMATIONAL PURPOSES ONLY" (emphasis in original) and then states that Staff "is satisfied that the Commission will accord this information appropriate weight." *Id.* Yet, Staff proceeds to use the information as a basis for its recommendation regarding the need for a letter of credit or performance bond in the amount of $2,500,000 per Company.

Staff's dump of a list of litigation matters, news stories and articles into its Staff Report Addendum provides no meaningful guidance to the Commission, and underscores the fact that there was no independent Staff evaluation of the information. And, contrary to Staff's assertion that the information was included for "Informational Purposes Only," Staff used the information to support the following conclusions in its December 15, 2006, Staff Report Addendum:

> Staff realizes that anyone who conducts business on the scale that Mr. Rhodes does is likely to encounter business disputes. In this case, it is the tenor and sheer number of the lawsuits that makes them unusual.

Id. More troubling is the fact that Staff's conclusions are lifted almost verbatim from an article that appeared in *Las Vegas Life* magazine three years ago, and obviously not as the result of Staff's own analysis:

> To be sure, anyone who conducts business on the scale that Rhodes does is likely to encounter some business disputes. It's the tenor of the lawsuits and their sheer number that makes them unusual.

Las Vegas Magazine at 38 (Dec. 2003). There has been no independent analysis of the information included by Staff, and that information certainly should not form the basis of Staff's recommendation to required $5,000,000 in letters of credit or performance bonds by the Companies.

Further, Staff's recommendation is inconsistent with other recent cases cited by Staff involving a performance bond and a utility with an owner and affiliates involved in

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litigation.[6] In those cases, the Commission required Johnson Utilities to secure a $500,000 performance bond, far less than the $5,000,000 recommended for the two Companies in this case. Only if Johnson Utilities is subsequently named as a defendant in a lawsuit does the bond requirement increase to $1,000,000. The existence of ongoing litigation involving affiliates of PMWC and PMUC does not support the unprecedented imposition of $5,000,000 in letters of credit or performance bonds.

For all of the above reasons, CC&N Condition 14 should be modified so that PMWC and PMUC are each required to post a $500,000 performance bond or irrevocable letter of credit.

3. <u>IN CC&N CONDITION 18 FOR PMWC, STAFF RECOMMENDS THAT A COPY OF THE ARIZONA DEPARTMENT OF WATER RESOURCES LETTER OF ADEQUATE WATER SUPPLY BE SUBMITTED TO THE COMMISSION FOR EACH INDIVIDUAL SUBDIVISION IN THE REQUESTED CC&N AREA.</u>

Staff recommends in CC&N Condition 18 that "PMWC ... file with Docket Control, as a compliance in this docket, a copy of Arizona Department of Water Resources ("ADWR") Letter of Adequate Water Supply for each individual Subdivision in the requested area, when received by the Company, but no later than 15 days after receipt." *Staff Report Addendum* at 10. However, Staff's language is ambiguous and should be clarified. The landowners in the requested CC&N service areas have received or applied for Analyses of Adequate Water Supply with ADWR. Copies of the analyses received to date by the developers have been filed with docket control, and copies of future analyses will be docketed pursuant to Order Preliminary Condition 4. ADWR does not issue a "Letter of Adequate Water Supply" for each individual subdivision in the requested area. Rather, ADWR issues a Water Report for each subdivision at the request of the developer. The developer must then include the Water Report in its application for a Public Report to the Arizona Department of Real Estate. If it is Staff's intention that the Water Reports also be filed with the Commission, then the language of

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[6] Decision Nos. 68235, 68236, and 68237.

CC&N Condition 18 should be modified to so provide.

4. **PURSUANT TO ORDER PRELIMINARY CONDITION 4 PERTAINING TO PMWC, STAFF RECOMMENDS THAT COPIES OF THE ADWR ANALYSIS OF ADEQUATE WATER SUPPLY DEMONSTRATING THE AVAILABILITY OF ADEQUATE WATER FOR PHASES 5, 6, AND THE REMAINING PORTION OF PHASE 4 OF GOLDEN VALLEY SOUTH, AND ALL OF THE VILLAGES AT WHITE HILLS, BE FILED WITH DOCKET CONTROL ONCE RECEIVED BY PMWC.**

Order Preliminary Condition 4 as recommended by Staff is requiring PMWC to file for an additional Analysis of Adequate Water Supply for Golden Valley South for 300.42 acre-feet difference, an amount less than 2½ percent of the original estimated demand for Golden Valley South at full build-out. As set forth above, the need for an additional analysis no longer exists and the Companies are requesting that a CC&N be issued for all of Golden Valley South and that Order Preliminary Condition 4 for PMWC be amended to read as follows:

> ***4. That the Commission require PMWC to file with Docket Control, as a compliance item, a copy or copies of the ADWR Analyses of Adequate Water Supply demonstrating the availability of adequate water for all of The Villages at White Hills when received by PMWC, but not later than 3 years after the effective date of the order granting the Order Preliminary.***

5. **PURSUANT TO ORDER PRELIMINARY CONDITION 6 PERTAINING TO PMWC AND ORDER PRELIMINARY CONDITION 8 PERTAINING TO PMUC, STAFF RECOMMENDS THAT UPON THE COMPANIES' COMPLYING WITH THE CONDITIONS SET FORTH IN THE ORDERS PRELIMINARY, THE COMMISSION WILL VOTE TO GRANT THE CC&N.**

A.R.S. §40-282(D) states: "if the commission makes an order preliminary to the issuance of the certificate, upon presentation to the commission of evidence that the franchise or permission has been secured by the corporation, the commission shall issue the certificate." (Emphasis added). Staff recommends that "[t]he Commission should schedule this item for a vote to grant the CC&N as soon as possible after Staff's filing

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that confirms [the Companies] compliance with items 2, 3, 4, 5, 6, and 7 has transpired." Staff's reference to "a vote to grant the CC&N" may be read to imply that the Commission has the discretion to deny issuance of a CC&N to the Companies even if the Companies have timely satisfied all conditions of the order preliminary. The Companies seek clarification of Order Preliminary Conditions 6 and 8 to reflect that once the Companies have satisfied all conditions of the order preliminary, the Commission shall issue the CC&Ns.

CONCLUSION.

For all the foregoing reasons, Perkins Mountain Water Company and Perkins Mountain Utility Company request that CC&N Conditions 14 and 15 pertaining to PMWC and PMUC, CC&N Condition 18 pertaining to PMWC, Order Preliminary Condition 4 and 6 pertaining to PMWC, and Order Preliminary Condition 8 pertaining to PMUC be modified as outlined above in the Decision and Order in this matter.

RESPECTFULLY SUBMITTED this 24th day of January, 2007.

SNELL & WILMER L.L.P.

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EXHIBIT A

ERROL L. MONTGOMERY & ASSOCIATES, INC.
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September 14, 2006

E-MAILED AND HAND DELIVERED

Douglas W. Dunham, Manager
Office of Assured & Adequate Water Supply
Arizona Department of Water Resources
3550 N. Central Avenue 2nd Floor
Phoenix, Arizona 85012

Re: Application for an Analysis of Water Adequacy (Golden Valley South DWR #23-402190.0000) Administrative Completeness Review

Dear Mr. Dunham:

I have received the letter from Ms Sandra Fabritz-Whitney dated August 14, 2006 concerning this application. I want to respond to you and confirm our agreement with the ADWR calculations regarding the effluent available for Golden Valley South of 2895.69 af/yr. The applicant has instructed me that in order to comply with current requirements of their development in Mohave County we will be altering our demand to 9000 acre feet of groundwater and 2895.69 acre feet of effluent for a total supply available of 11,895.7 ac/yr. Our demand has subsequently been altered by conversion of an additional 188 acres of previously turfed parks to low water use parks. Both demand calculators have been included for your review. Our total demand now is 11,566.88 acre feet per year which exceeds our agreed upon supply available to the development. If revised letter to that effect would be appreciated.
Copies of the revised application, both original and revised demand calculators are enclosed for your review and a copy of the August 14, 2006 ADWR letter for reference. Thank you for your assistance in this matter. I look forward to your response.

Respectfully,

Gregory L. Wallace

Gregory L. Wallace
Errol L. Montgomery and Associates

EXHIBIT B

February 27, 2006	**WATER REPORT - ADEQUATE WATER SUPPLY GENERIC DEMAND CALCULATOR**				
Golden Valley South					
INSTRUCTIONS: This spreadsheet is designed to help you calculate the water demand for your new subdivision for purposes					
of applying for a Certificate of Assured Water Supply. Please fill out all blue boxes. If you need help, contact the Office of					
Assured and Adequate Water Supply at (602) 417-2465.					
NOTE: This sheet, when completed, does not constitute approval of the demand estimate for your subdivision. It is intended for					
general estimation purposes only. Final official demand estimates will be determined by the Department upon review of your					
complete application.					
Enter the AMA the subdivision is located in:*	Mohave County - No AMA				
* Enter PHX for Phoenix, TUC for Tucson, PIN for Pinal, PRE for Prescott or SCR for Santa Cruz. If you are not located within an AMA, or are not					
sure which AMA you are located in, contact the Office of Assured and Adequate Water Supply at (602) 417-2465.					
Residential Usage					
Category	PPHU	GPCD or per house/day	Demand/HU/YR (af/yr)	No. HU (Lots)	Residential Demand/Yr (af/yr)
Single Family (int) - Active Adult	1.80	57.00	0.11	7,708	885.86
Single Family (int) - Single Family	3.00	57.00	0.19	5,950	1,139.69
Multi-Family (int) - High Density	2.40	57.00	0.15	2,775	425.23
Multi-Family (int) - Town Center	2.10	57.00	0.13	10,000	1,340.81
Single Family Landscape (ext)	1.00	126.50	0.14	13,658	1,935.31
Multi-Family Landscape (ext)	1.00	67.50	0.08	12,775	965.91
Single family Demand/HU/YR			0.26		
Multifamily Demand/HU/YR			0.23		
*NOTE: If the application is in the Pinal AMA, and lot sizes are no greater than 10,000 sq. ft., 125 GPCD is used to estimate both interior and exterior demand for single					
family homes. Do not enter lot numbers under the Landscape rows. Contact the Office of Assured and Adequate Water Supply for more information.					
	Square Feet	Acres	Demand Factor (af/yr)	No. HU (Lots)	Large Lot Adjustment Demand/Yr (af/yr)
Average Lot Size (sq. ft)**	7400.00	0.17			
TMP Model Lot Size (sq. ft)	7,500 - 10,000	0.17 - 0.23			
Large Lot Adjustment	0.00	0.00			
1/2 low water use	0.00	0.00	1.50	26433.00	-
1/2 turf	0.00	0.00	No AMA	26433.00	
**NOTE: If the subdivision contains several groupings of lot sizes, the large lot adjustment needs to be calculated for each grouping of large lot sizes.					
Contact the Office of Assured and Adequate Water Supply for assistance in calculating the large lot adjustment for subdivisions with several groupings of large					
lot sizes.					
Total Residential Demand					**6,692.82**
Non-Residential Usage***					
For each category please enter either square feet or acres of land for that type of non-residential use within your subdivision.					
Category	Square Feet	Acres	Demand Factor (af/ac)		Non-Residential Demand (af/yr)
Common Area1 effluent		174.00	1.50	low water use	261.00
Common Area2 effluent		222.17	4.90	turf	1,088.63
Right of Way			1.50	low water use	-
Golf Course effluent		110.00	4.90	Turf	539.00
Golf Course			6.20	Lakes	
Golf Course			1.50	low water use	
Commercial use		600.00	2.25	all acres	1,350.00
Public Pool (length x width = square feet)			AMA TMP model	pool	-
Parks1 effluent		288.60	1.50	low water use	432.90
Parks2			4.90	turf	-
Retention/Detention Basins			1.50	low water use	-
Retention/Detention Basins effluent		12.60	4.90	turf	61.74
School Landscape1		0.00	1.50	low water use	-
School Landscape2 effluent		40.50	4.90	turf	198.45
School interior - Middle/High****			43 GPCD	interior demand	-
School interior - Elementary****		4500.00	25 GPCD	interior demand	126.02
***NOTE: If application is for a change of ownership from a previously issued Certificate of Assured Water Supply, and is for only a portion of the original Certificate, contact the					
Office of Assured and Adequate Water Supply to pro-rate non-residential area acreage.					
****NOTE: For school interior demand, enter the number of students. If the proposed school is a high school or middle school, the demand factor is 43 GPCD.					
Total Non-Residential Demand					**4057.74**
Distribution Losses					
	Residential	Non-Residential	Total	Loss Factor %	Distribution Losses (af/yr)
Demand af/yr	6,692.82	4,057.74	10,750.55	7.50	**806.29**
Construction					
	No. of Lots	*Demand (gals/lot)*	*100 yr demand (af)*		*Construction Demand (af/yr)*
	26,433	10,000.00	1,004.75		**10.05**
Total Demand Per Year					
Residential Usage af/yr	Non-Residential Usage	Lost & Unaccounted for	Construction	Total Non-Res	**Total Demand Per Year (af/yr)**
6692.82	**4057.74**	**806.29**	**10.05**	**4874.08**	**11566.89**
Residential Usage GPCD					Total Demand GPCD
101					**174**
Annual Build Out Demand					
11566.89					