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2007 FEB -5 P 4: 37

AZ CORP COMMISSION  
DOCUMENT CONTROL

Arizona Corporation Commission

DOCKETED

FEB - 5 2007

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A Professional Corporation  
2 Jay L. Shapiro (No. 014650)  
Patrick J. Black (No. 017141)  
3 3003 North Central Avenue  
Suite 2600  
4 Phoenix, Arizona 85012  
Telephone (602) 916-5000

5 Attorneys for New River Utility Company

DOCKETED BY	
KK	

7 **BEFORE THE ARIZONA CORPORATION COMMISSION**

8 IN THE MATTER OF THE APPLICATION  
9 OF NEW RIVER UTILITY COMPANY FOR  
AN EXTENSION OF ITS EXISTING  
10 CERTIFICATE OF CONVENIENCE AND  
NECESSITY FOR WATER SERVICE.

DOCKET NO. W-01737A-06-0171

**NOTICE OF FILING  
LATE-FILED EXHIBIT**

11  
12 New River Utility Company ("Applicant") hereby submits this Notice of Filing Late-Filed  
13 Exhibits in the above-captioned matter. During the January 22, 2007, hearing in this matter,  
14 Applicant agreed to file late-filed exhibits addressing two concerns raised by Staff: (1) the lack of  
15 a Certificate of Assured Water Supply ("CAWS") for that part of Applicant's certificate of  
16 convenience and necessity ("CC&N") found in Section 26, Township 4 North, Range 1 East, and  
17 (2) testing results for arsenic levels in Applicant's water wells.

18 **I. Certificate of Assured Water Supply**

19 Attached hereto as **Exhibit 1** are Commission Decision Nos. 33131 (May 24, 1961) and  
20 33354 (August 15, 1961), which together grant Applicant a CC&N. Decision No. 33131 is an  
21 order preliminary issued pursuant to A.R.S. § 40-282, and includes "Northeast Quarter and the  
22 South Half of Section 26.....in Township 4 North, Range 1 East." Decision No. 33354 finds that  
23 because the conditions in the order preliminary have been satisfied, the CC&N is issued for the  
24 area included in the original notice.

25 In 1961, the Arizona Groundwater Management Code did not exist. Therefore, it would  
26 have been impossible for the Commission to condition the grant of a CC&N upon proof of a

1 CAWS for any part of the CC&N granted to Applicant in Decision Nos. 33131 and 33354.  
2 Furthermore, the water being used in Section 26 is limited to commercial and industrial customers  
3 – entities that are not required to obtain a CAWS because their property was not subdivided.  
4 Therefore, Applicant asserts that it is properly serving within its CC&N in Section 26, Township  
5 4 North, Range 1 East.

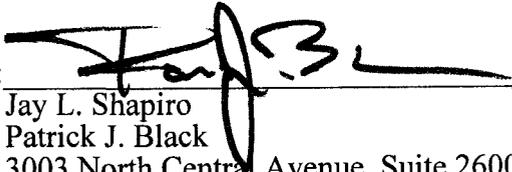
6 **II. Water Sample Laboratory Results - Arsenic**

7 Attached hereto as Exhibit 2 is the most recent testing laboratory results for arsenic  
8 concentration, at points of entry #2 and #3 within Applicant's system, dated July 6, 2006. These  
9 results illustrate that both points of entry produce water with arsenic levels below EPA's  
10 maximum contaminant level. According to the Maricopa County Environmental Services  
11 Department ("MCESD"), Applicant will be required to test its system for arsenic levels prior to  
12 March 31, 2007. Applicant submits that it has made arrangements with its operator to complete  
13 the required testing prior to the MCESD deadline.

14 Applicant is aware that one of the Commission's most important public charge is to  
15 protect the health and safety of customers. Applicant will do all things necessary to ensure the  
16 safe operation of its water distribution system so that consumers are protected.

17 RESPECTFULLY SUBMITTED this 5th day of February, 2007.

18 FENNEMORE CRAIG, P.C.

19  
20 By: 

21 Jay L. Shapiro  
22 Patrick J. Black  
23 3003 North Central Avenue, Suite 2600  
24 Phoenix, Arizona 85012  
25 Attorneys for New River Utility Company

26 ORIGINAL and 13 copies filed this 5th day of February, 2007:

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

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COPY hand delivered this 5th day of February, 2007 to:

Yvette B. Kinsey, ALJ  
Hearing Division  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, Arizona 85007

Kevin Torrey  
Legal Division  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, Arizona 85007

COPY mailed this 5th day of February, 2007 to:

Marshall Reynolds  
Rencor Development  
5013 E. Washington Street, Suite 100  
Phoenix, Arizona 85034

By: *Maia San Jose*

1881269.1/69300.024

# **Exhibit 1**

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION OF NEW RIVER MOBILTOWN UTILITY CO., AN ARIZONA CORPORATION, FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY AUTHORIZING THE CONSTRUCTION AND OPERATION OF A WATER SYSTEM IN THE AREA DESCRIBED AS FOLLOWS: SECTION 3 AND ALL OF SECTION 2 LYING NORTH AND WEST OF SKUNK CREEK, IN TOWNSHIP 3 NORTH, RANGE 1 EAST, GADSDEN., SOUTH HALF OF SECTION 14, EAST HALF AND THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 22, WEST HALF OF SECTION 23, NORTHWEST QUARTER AND THE SOUTH HALF OF SECTION 26, SECTION 34, NORTH HALF AND THE SOUTHEAST QUARTER OF SECTION 35, IN TOWNSHIP 4 NORTH, RANGE 1 EAST, GADSDEN., MARICOPA COUNTY, ARIZONA.

DOCKET NO. U-1737

DECISION NO. 33131

OPINION AND ORDER

Arizona Corporation Commission  
**DOCKETED**

BY THE COMMISSION:

Notice having been given as provided by law, this matter, entitled matter came on for hearing before the Commission at Phoenix, Arizona on February 8, 1961.

Applicant was represented by its attorney, George Welch.

Appearances in opposition to the granting of the application were made by Keith A. Halen, Attorney, for and on behalf of Lyle H. Patrick, dba Rose Valley Water Company; Norman F. Wykoff, Attorney, for and on behalf of the Town of Peoria and Burton H. Derby, who appeared in his own behalf.

During the hearing stipulations were made to delete from the application the area owned by Burton H. Derby, and described as Parcel 18, Section 2, Township 3 North, Range 1 East, the Northeast Quarter of the Northwest Quarter of this Section 2, 40.16 acres; and also area described as the North Half of the Southwest Quarter of Section 14, Township 4 North, Range 1 East.

It appears that the application does not conflict with any other person or corporation furnishing a service of like character within the area sought to be certificated and that a need and demand has been established and exists for the proposed service supporting a finding of convenience and necessity therefore.

At an executive meeting held May 23, 1961, the Commission is of the opinion that an order should be issued preliminary to the issuance of the certificate of convenience and necessity.

WHEREFORE, IT IS ORDERED that the application be, and this order shall constitute and be an order preliminary to the issuance of a certificate of convenience and necessity as contemplated by the provisions of Section 40-282, A. R. S., authorizing applicant herein to construct, operate and maintain a public water system within the area described as Section 3, Township 3 North, Range 1 East, GADSDEN.; South Half of the Southwest Quarter and the Southeast Quarter of Section 14, East Half and the East Half of the Southwest Quarter of Section 22, West Half of Section 23, Northwest Quarter and the South Half of Section 26, Section 34, North Half and the Southeast Quarter of Section 35, Township 4 North, Range 1 East, GADSDEN., Maricopa County, Arizona.

IT IS FURTHER ORDERED that upon Applicants compliance with the requirements of the Bureau of Sanitation of the State Health Department and a franchise obtained from the Maricopa County Board of Supervisors an order will be issued granting the Certificate of Convenience and Necessity.

IT IS FURTHER ORDERED that a proposed rate schedule be filed for the approval of the Commission prior to the issuance of the Certificate of Convenience and Necessity.

IT IS FURTHER ORDERED that applicant is hereby authorized to operate under the name and style of New River Mobiltown Utility Co., an Arizona Corporation, doing business as New River Water Co.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

IN WITNESS WHEREOF, I, FRANCIS J. BYRNES, Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of this Commission to be affixed at the Capital in the City of Phoenix, this 24 day of July, 1961.

*Francis J. Byrnes*  
FRANCIS J. BYRNES  
SECRETARY

*[Handwritten signature]*

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION OF NEW RIVER MOBILTOWN-UTILITY CO., DBA NEW RIVER WATER CO., FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY AS HEREINAFTER DESCRIBED.

DOCKET NO. M-1737

DECISION NO. 33354

OPINION AND ORDER

33354

BY THE COMMISSION:

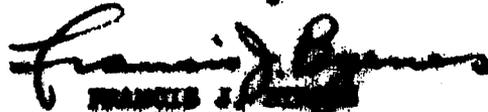
On May 24, 1961 this Commission issued its Opinion and Order, Decision No. 33131, which was an order preliminary to the issuance of a certificate of convenience and necessity to New River Mobiltown Utility Co., dba New River Water Co., and in which it was stated that a certificate of convenience and necessity would be issued upon the filing with this Commission a copy of the franchise granted by the Maricopa County Board of Supervisors, approval of the Bureau of Sanitation of the State Health Department and proposed rates to be charged. As of July 27, 1961 all of the aforementioned requirements have been met and the Commission is of the opinion that the certificate should issue.

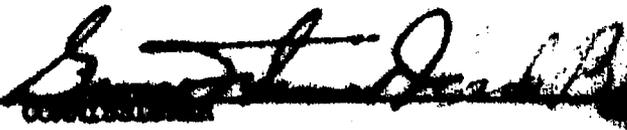
WHEREFORE, IT IS ORDERED that this order shall constitute and be a certificate of convenience and necessity authorizing the applicant herein, pursuant to Section 40-201, Arizona Revised Statutes, to construct, operate and maintain a domestic water system in the area described as Section 3, all of Section 2 lying North and West of Stunk Creek EXCEPT Parcel 10 (described as the Northeast Quarter (NE $\frac{1}{4}$ ) of the Northwest Quarter (NW $\frac{1}{4}$ ) of said Section, Township 3 North, Range 1 East; and the South Half (S $\frac{1}{2}$ ) of the Southwest Quarter (SW $\frac{1}{4}$ ) and the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 14, the East Half (E $\frac{1}{2}$ ) and the East Half (E $\frac{1}{2}$ ) of the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 22, the West Half (W $\frac{1}{2}$ ) of Section 23, the West Half (W $\frac{1}{2}$ ) of the Northwest Quarter (NW $\frac{1}{4}$ ) and the West Half (W $\frac{1}{2}$ ) of the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 24, Township 4 North, Range 1 East, GADSDEN, lying West of the West Bank of New River as recorded in the Office of the County Recorder of Maricopa County, on July 1, 1958 in Docket 2525 at page 341; Section 20, and the Northwest Quarter (NW $\frac{1}{4}$ ) and the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 21, Township 4 North, Range 1 East, GADSDEN, Maricopa County, Arizona.

IF IT FURTHER ORDERED that before Applicant commences any construction it shall submit plans and specifications to the Bureau of Sanitation of the State Health Department for its approval.

IN WITNESS WHEREOF, I, FRANCIS J. HENNER, Secretary

of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of said Commission to be affixed, at the Capital in the City of Phoenix, this 13th day of August, 1961.

  
FRANCIS J. HENNER  
SECRETARY



CHIEF CLERK

# **Exhibit 2**



17631 N. 25th Avenue • Phoenix, AZ 85023  
 P (602) 324-6100 • F (602) 324-6101  
 4585 S. Palo Verde Rd., Ste. 423 • Tucson, AZ 85714  
 P (520) 327-1234 • F (520) 327-0518  
 ADHS#0004

Jack Muir  
 Jack Muir Enterprises, Inc.  
 PO Box 629  
 Cascade, ID83611

Project: Drinking Water  
 Project Number: New River (07051)

Reported:  
 07/06/06 11:37

**POE #2 (6060789-04) Drinking Water (Grab) Sampled: 06/15/06 18:55 Received: 06/16/06 08:00**

Analyte	Result	PQL	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
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**Total Metals**

Arsenic	5	2	ug/L	1	B6G0007	07/01/06 11:00	07/01/06 11:00	EPA 200.9	
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**POE #3 (6060789-05) Drinking Water (Grab) Sampled: 06/15/06 18:25 Received: 06/16/06 08:00**

Analyte	Result	PQL	Units	Dilution	Batch	Prepared	Analyzed	Method	Notes
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**Total Metals**

Arsenic	6	2	ug/L	1	B6G0007	07/01/06 11:00	07/01/06 11:00	EPA 200.9	
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**Case Narrative:**

- Holding Times:** All holding times were met unless otherwise qualified.
- QA/QC Criteria:** All analyses met method requirements unless otherwise qualified.
- Comments:** There were no problems encountered during the processing of the samples, unless otherwise noted.

**Notes and Definitions**