

ORIGINAL NEW APPLICATION



BEFORE THE ARIZONA CORPORATION COMMISSION

2007 MAY 22 P 1: 24

AZ CORP COMMISSION
DOCKET CONTROL

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Arizona Corporation Commission

DOCKETED

MAY 22 2007

DOCKETED BY [Signature]

W-02351A-07-0319

IN THE MATTER OF THE
APPLICATION OF PICACHO PEAK
WATER CO., INC., FOR AUTHORITY
TO INCUR DEBT TO FINANCE
WATER SYSTEM IMPROVEMENTS

Docket No. W-02351A-_____

FINANCE APPLICATION

Pursuant to A.R.S. § 40-301 *et seq.* and A.A.C. R14-3-106(F) Picacho Peak Water Company, Inc. ("Company" or "Applicant"), hereby applies for authority to incur debt to finance water system improvements.

PRELIMINARY STATEMENT

The Company is a public service corporation subject to regulation by the Arizona Corporation Commission ("Commission") as a water utility. The Company holds a Certificate of Convenience and Necessity ("CC&N") near Picacho Peak, Arizona. The Company has only 5 residential customer connections and 9 commercial customer

1 connections.

2 The Company operates like a non-profit cooperative. Every customer is treated as
3 an owner and allowed to vote on Company managerial matters. The owners intend to
4 collect only enough money necessary to cover expenses and maintain reasonable savings
5 in case of emergency.
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7 The Company's current rates have been in effect since 1982. Over the past 25
8 years, the Company's owners, customers, managers, and operators have changed several
9 times. In 2000, the Company applied for an emergency rate case, but the application was
10 withdrawn for reasons unknown to the Company's current management. Since then,
11 however, the Company's owners/customers have voluntarily given the Company
12 additional revenue through higher rates to enable the Company to remain solvent.
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14 Finally, water quality testing has shown that the nitrate levels in the Company's
15 source water exceed federal standards. Working with Arizona Department of
16 Environmental Quality ("ADEQ") staff as well as Commission staff, the Company
17 funded numerous feasibility studies and investigated alternatives for treating nitrates.
18 Based on what it learned, the Company voluntarily entered into a consent order with
19 ADEQ to find a way to treat the water using point of use technology or other viable
20 treatment solutions. This consent order is attached as Exhibit 1.
21

22 The Company has applied to the Water Infrastructure Finance Authority ("WIFA")
23 for a \$150,000 loan to finance the requisite equipment necessary to treat the water.
24 WIFA has ranked the Company third on the 2007 Priority List for Drinking Water
25 Revolving Fund. But WIFA will not fund the proposed loan until after the Commission
26
27
28

1 authorizes the Company to enter into the loan agreement through a financing application
2 proceeding. Therefore, the Company is submitting this application to receive authority to
3 borrow \$150,000 from WIFA to construct nitrate treatment infrastructure.
4

5 **INFORMATION REQUESTED ON APPLICATION FORM**

6 **1. Applicant's Name and Address.**

7
8 Picacho Peak Water Company, Inc.
9 Mr. Bill McCabe, President
10 150 Louisiana NE
11 Albuquerque, NM 87108

12 **2. Person Authorized to Receive Communications.**

13 Steve Wene, No, 19630
14 Moyes Storey, Ltd.
15 1850 North Central Ave., Suite 1100
16 Phoenix, Arizona 85004
17 Telephone: (602) 604-2189
18 Facsimile: (602) 274-9135

19 **3. Financing Description.**

20 If the Commission authorizes the proposed debt, then WIFA will lend the
21 Company \$150,000 for 20 years through the Drinking Water Revolving Fund. WIFA
22 does not offer finance terms until the Commission authorizes water providers like the
23 Company to incur debt. However, assuming an interest rate of 8%, which is consistent
24 with WIFA's terms, an estimated summary of the material terms is set forth below:

25 Amount 26 Financed	27 Term in 28 Years	Interest Rate	Monthly Payment	Annual Cash Needed	Annual Interest Expense
\$150,000	20	8%	\$1,254.66	\$15,055.92	\$11,885.42

The Company understands that the Commission and WIFA have a standard working arrangement to accommodate WIFA's loan practices. Accordingly, Commission staff may want to contact the following WIFA staff person:

1
2 Angie Valenzuela
3 Senior Loan Officer
4 Water Infrastructure Finance Authority
5 1110 W. Washington Street, Suite 290
6 Phoenix, Arizona 85007

7
8
9
10 **4. Proceeds Statement.**

11 Gross proceeds will be \$150,000. WIFA has a combined interest and fee rate
12 structure, so there are no issuance expenses. This means that the Company will net
13 \$150,000 from the proposed loan.

14 **5. Plant to be Acquired Using Net Proceeds.**

15 The proceeds will be used to purchase and install treatment facilities. ADEQ has
16 agreed that reverse osmosis systems can be installed at specific points where drinking
17 water is most likely dispensed. For the larger commercial facilities, large reverse
18 osmosis systems will be employed. The exact plant size and capacity for each customer
19 will be determined by the engineer to be employed for this project.

20 **6. Consistency with A.R.S. § 40-301 et seq.**

21 The proposed financing is: (a) within the Company's corporate powers, (b)
22 compatible with the public interest; (c) compatible with sound financial practices; (d)
23 compatible with the proper performance by the applicant of service as a public service
24 corporation; and (e) will not impair the Company's ability to perform that service.

25 **7. Service Fees.**

26 WIFA does not charge service fees. Under WIFA's combined interest and fee rate
27 structure, the Company anticipates paying a fixed interest rate of prime plus 2%
28 multiplied by a subsidy rate index set by WIFA. WIFA is offering the Company a 75%
subsidy rate, so the effective interest rate will be Prime + 2% x 75%. This below-market
rate loan is customary for WIFA and is reasonable for the Commission to approve.

1 **8. Documents to be executed in the matter.**

2 There are no documents to be executed in this matter at this time.

3 **9. Pro Forma Balance Sheet and Income Statement.**

4 A Company pro forma balance sheet is attached as Exhibit 2. A Company pro
5 forma income statement is attached as Exhibit 3.

6 **10. Customer Notice.**

7 The proposed notice, attached as Exhibit 4, will be inserted in the customers' next
8 bill. The Company will file with the Commission a copy of the actual notice sent and an
9 affidavit stating when it was sent to the customers.

10 **REQUEST FOR APPROVAL**

11
12 As set forth in this Application, the Company requests that the Commission
13 authorize the financing described herein.

14 DATED this 22nd day of May, 2007.

15 **MOYES STOREY, LTD.**

16
17 

18 Steve Wene
19 1850 North Central Avenue, Suite. 1100
20 Phoenix, AZ 80004
21 (602) 604-2189

22 Original and ~~2~~¹⁵ copies filed this
23 22nd day of May, 2007, with:

24 Docket Control
25 Arizona Corporation Commission
26 1200 West Washington
27 Phoenix, Arizona 85007

28 

Exhibit 1
Consent Order

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*Final
Dated 5/23/06
Rec'd 6/1/06*



**BEFORE THE DIRECTOR OF THE
ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY**

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In the Matter of:

Picacho Peak Water Company located off Interstate 10 near Picacho Peak State Park in Pinal County, Arizona.

Public Water System (PWS) # 11-038

CONSENT ORDER

Docket No. DW-45-06

To: Picacho Peak Water Company in its capacity as owner and operator of PWS No. 11-038 Picacho Peak Water System, an Arizona Corporation (Water Supplier), located off Interstate 10 near Picacho Peak State Park in Pinal County, Arizona.

RECITALS

The Water Supplier acknowledges that no promise of any kind or nature whatsoever was made to induce it to enter into this Consent Order, and the Water Supplier has done so voluntarily.

The Water Supplier acknowledges that by entering into this Consent Order, it does not resolve any liability it may have for civil penalties for violations of any State or Federal environmental law.

By entering into this Consent Order, the Water Supplier does not admit to any civil or criminal liability, or waive any right including but not limited to the assertion of any defense available to the Water Supplier under applicable law. Further, the Water Supplier does not admit, and both the Arizona Department of Environmental Quality (ADEQ) and the Water Supplier retain the right to controvert in any subsequent proceeding except a proceeding to implement or enforce this Consent Order, the validity of any Findings of Fact or Conclusions of Law contained in this Consent Order.

Initial *JS*

1 The undersigned representative of the Water Supplier certifies that he is fully authorized
2 to execute this Consent Order on behalf of Picacho Peak Water Company and to legally bind
3 Picacho Peak Water Company to this Consent Order.

4 The Water Supplier admits to the jurisdiction of the Director of ADEQ.

5 Except as to the right to controvert the validity of any Findings of Fact or Conclusion of
6 Law contained in this Consent Order, the Water Supplier consents to the terms and entry of this
7 Consent Order and agrees not to contest the validity or terms of this Consent Order in any
8 subsequent proceeding.

9 **THEREFORE, IT IS HEREBY ORDERED** as follows:

10 **I. JURISDICTION**

11 The Director of ADEQ has jurisdiction over the subject matter of this action and is
12 authorized to issue this Consent Order pursuant to the Arizona Revised Statutes (A.R.S.) § 49-
13 354.

14 **II. FINDINGS**

15 **THE DIRECTOR HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND
16 CONCLUSIONS OF LAW:**

17 **A. Findings of Fact**

18 1. Picacho Peak Water Company owns and operates PWS # 11-038.
19 2. PWS # 11-038 customers include commercial businesses and Picacho
20 Peak State Park, which is owned by the Arizona State Parks Department.

21 3. According to ADEQ records, analytical results submitted to ADEQ
22 confirm samples tested positive for total coliform for the following periods:

23 July 21, 1998 through July 30, 1998;

24 September 19, 1998 through September 29, 1998;

25 January 5, 1999 through January 12, 1999.

26 4. According to ADEQ records, the Water Supplier did not notify ADEQ of
27 the total coliform positive results within twenty four (24) hours of receipt of the analytical data
28 for the following periods:

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September 19, 1998 through September 29, 1998;
January 5, 1999 through January 12, 1999.

5. According to ADEQ records, the Water Supplier did not notify the public of the total coliform positive results within thirty (30) days of receipt of the analytical data for the following periods:

September 19, 1998 through September 29, 1998;
January 5, 1999 through January 12, 1999.

6. According to ADEQ records, the Water Supplier did not collect monthly total coliform samples for the following periods:

December 1999; November 2001.

7. According to ADEQ records, the Water Supplier did not notify ADEQ of the failure to collect monthly total coliform samples for the following periods:

December 1999; November 2001.

8. According to ADEQ records, the Water Supplier did not notify the public of the failure to collect monthly total coliform samples for the following periods:

December 1999; November 2001.

9. According to ADEQ records, the Water Supplier did not collect at least 5 routine total coliform samples during those months following the months in which a routine compliance sample tested positive for total coliform for the following periods:

February 1999; February 2000; May 2001; September 2004.

10. According to ADEQ records, the Water Supplier did not provide the required notification to ADEQ of the failure to collect at least 5 routine total coliform samples during those months following the months in which a routine compliance sample tested total coliform positive for the following periods:

February 1999; February 2000; May 2001 and September 2004.

11. According to ADEQ records, the Water Supplier did not notify the public of the failure to collect at least 5 routine total coliform bacteria samples during those

1 months following the months in which a routine compliance sample tested positive for total
2 coliform for the following periods:

February 1999; February 2000; May 2001 and September 2004.

3 12. According to ADEQ records, the Water Supplier did not collect annual
4 nitrate samples for the following years:

5 1997, 1998, and 1999.

6 13. According to ADEQ records, the Water Supplier did not notify ADEQ of
7 the failure to collect annual nitrate samples for the following years:

8 1997, 1998, and 1999.

9 14. According to ADEQ records, the Water Supplier did not notify the
10 public of the failure to collect annual nitrate samples for the following years:

11 1997, 1998, and 1999.

12 15. According to ADEQ records, the Water Supplier distributed water with
13 nitrate concentrations with an average value in excess of 15 mg/l for the following periods:

14 January 2000 through December 2000;

15 January 2001 through December 2001;

16 January 2002 through December 2002;

17 January 2003 through December 2003;

18 January 2004 through Present.

19 16. According to ADEQ records, the Water Supplier did not notify the public
20 that water being distributed had nitrate concentrations with an average value above 15 mg/l for
21 the following periods:

22 January 2000 through December 2000;

23 January 2001 through December 2001;

24 January 2002 through December 2002;

25 January 2003 through December 2003;

26 January 2004 through Present.

1 17. According to ADEQ records, the Water Supplier did not collect the
2 following quarterly samples after analytical results from routine samples taken by the Water
3 Supplier on August 21, 2000 showed that the concentration of nitrate was greater than 5 mg/l,
4 the concentration that triggers increased monitoring frequency:

- 4 4th Quarter 2000;
- 5 2nd Quarter, 3rd Quarter and 4th Quarter of 2001;
- 6 1st Quarter, 2nd Quarter, 3rd Quarter and 4th Quarter of 2002;
- 7 1st Quarter, 2nd Quarter, 3rd Quarter 2003.
- 8 2nd Quarter, 3rd Quarter and 4th Quarter of 2004.

9 18. According to ADEQ records, the Water Supplier did not notify ADEQ of
10 the failure to collect the following quarterly nitrate samples after analytical results for samples
11 taken on August 21, 2000 showed that the concentration of nitrate was greater than 5 mg/l, the
12 concentration that triggers increased monitoring frequency:

- 12 4th Quarter 2000;
- 13 2nd Quarter, 3rd Quarter and 4th Quarter of 2001;
- 14 1st Quarter, 2nd Quarter, 3rd Quarter and 4th Quarter of 2002;
- 15 1st Quarter, 2nd Quarter, 3rd Quarter 2003.
- 16 2nd Quarter, 3rd Quarter and 4th Quarter of 2004.

17 19. According to ADEQ records, the Water Supplier did not notify the
18 public of the failure to collect the following quarterly nitrate samples after analytical results for
19 samples collected on August 21, 2000 showed that the concentration of nitrate was greater than
20 or equal to 5 mg/l, the concentration that triggers increased monitoring frequency:

- 20 4th Quarter 2000;
- 21 2nd Quarter, 3rd Quarter and 4th Quarter of 2001;
- 22 1st Quarter, 2nd Quarter, 3rd Quarter and 4th Quarter of 2002;
- 23 1st Quarter, 2nd Quarter, 3rd Quarter 2003.
- 24 2nd Quarter, 3rd Quarter and 4th Quarter of 2004.

1 20. According to ADEQ records, the Water Supplier did not collect the
2 following quarterly samples for the volatile organic chemical (VOC) total xylenes, after
3 analytical results from a routine sample taken by the Monitoring Assistance Program (MAP) on
4 November 8, 2002 showed that the concentration of total xylenes was greater than 0.0005 mg/l:

5 1st Quarter, 2nd Quarter, 3rd Quarter and 4th Quarter of 2003;

6 1st Quarter, 2nd Quarter, 3rd Quarter and 4th Quarter of 2004.

7 21. According to ADEQ records, the Water Supplier did not notify ADEQ of
8 the failure to collect quarterly samples for the VOC total xylenes after analytical results for a
9 routine sample taken by MAP on November 8, 2002 showed that the concentration of total
10 xylenes was greater than 0.0005 mg/l:

11 1st Quarter, 2nd Quarter, 3rd Quarter and 4th Quarter of 2003;

12 1st Quarter, 2nd Quarter, 3rd Quarter and 4th Quarter of 2004.

13 22. According to ADEQ records, the Water Supplier did not notify the public
14 of the failure to collect quarterly samples for the VOC total xylenes after analytical results for a
15 routine sample collected by MAP on November 8, 2002 showed that the concentration of total
16 xylenes was greater than 0.0005 mg/L:

17 1st Quarter, 2nd Quarter, 3rd Quarter and 4th Quarter of 2003;

18 1st Quarter, 2nd Quarter, 3rd Quarter and 4th Quarter of 2004.

19 23. According to ADEQ records, the Water Supplier did not collect initial tap
20 water samples for lead and copper during 2002 or any year thereafter.

21 24. According to ADEQ records, the Water Supplier did not notify ADEQ of
22 the failure to collect initial tap water samples for lead and copper during 2002 or any year
23 thereafter.

24 25. According to ADEQ records, the Water Supplier did not notify the public
25 of the failure to collect initial tap water samples for lead and copper during 2002 or any year
26 thereafter.

27 26. ADEQ's Water Quality Field Services Unit confirmed that no
28 microbiological site sampling plan is available at the PWS site for review and approval.

1 27. According to ADEQ records, the Water Supplier did not provide a copy
2 of the annual consumer confidence report (CCR) to each customer by July 1 for the years 2002,
3 2003, and 2004.

4 28. According to ADEQ records, the Water Supplier did not submit a copy
5 of the annual CCR to ADEQ by July 1, for the years 2002, 2003, and 2004.

6 B. Conclusions of Law

7 1. PWS # 11-038 Picacho Peak Water Company is a public water system
8 as defined under A.R.S. § 49-352(B) and A.A.C. R18-4-101.

9 2. PWS # 11-038 Picacho Peak Water Company is community water
10 system, and Picacho Peak Water Company is a Water Supplier as defined under A.A.C. R18-4-
11 101.

12 3. By distributing water that exceeded the MCL for total coliform,
13 confirmed via a positive total coliform test result, the Water Supplier violated A.A.C. R18-4-
14 202(A)(2), which requires that a PWS distribute water that complies with the MCL for total
15 coliform.

16 4. By failing to notify ADEQ within 24 hours of being notified of the
17 positive total coliform result, the Water Supplier violated A.A.C. R18-4-104(B), which requires
18 that a PWS report a violation of the MCL for total coliform as soon as possible but no later than
19 24 hours after receipt of analytical results.

20 5. By failing to provide Level 1 Nonacute (30 day) Public Notice for
21 violation of the total coliform MCL, where Acute (24 hour) public notice is not required, the
22 Water Supplier violated A.A.C. R18-4-105(E)(1)(Table 3)(1), which requires that a PWS notify
23 the public within thirty (30) days of learning of a MCL violation.

24 6. By failing to collect a routine total coliform sample during each month,
25 the Water Supplier violated A.A.C. R18-202(E), which requires that a PWS conduct monthly
26 monitoring to determine compliance with the MCL for total coliform.

27 7. By failing to notify ADEQ within ten days of the discovery of the failure
28

1 to comply with the total coliform monitoring requirements, the Water Supplier violated A.A.C.
2 R18-4-104(L), which requires that a PWS notify ADEQ within ten days when the required
3 monitoring is not performed.

4 8. By failing to provide Level 1 (30 day) Public Notice, the Water
5 Supplier violated A.A.C. R18-4-105(E), which requires that a PWS notify the public of the
6 failure to comply with the total coliform monitoring requirements.

7 9. By failing to collect at least five routine total coliform bacteria
8 samples in the month following a total coliform positive test result, the Water Supplier violated
9 A.A.C. R18-4-202(I), which requires that a PWS collect at least five routine samples in the
10 month following a total coliform positive test result.

11 10. By failing to notify ADEQ within ten days of the discovery of the failure
12 to comply with the increased total coliform monitoring requirement, the Water Supplier
13 violated A.A.C. R18-4-104(L), which requires that a PWS notify ADEQ when the required
14 monitoring is not performed.

15 11. By failing to provide Level 1 (30 day) Public Notice, the Water Supplier
16 violated A.A.C. R18-4-105(E), which requires that a PWS notify the public of the failure to
17 comply with the total coliform monitoring requirements.

18 12. By failing to collect annual nitrate samples, the Water Supplier violated
19 A.A.C. R18-4-209(D), which requires that a PWS collect annual nitrate samples to determine
20 compliance with the nitrate MCL.

21 13. By failing to notify ADEQ within 48 hours of the discovery of the failure
22 to comply with the annual nitrate monitoring requirement, the Water Supplier violated A.A.C.
23 R18-4-208(D)(1), which requires that a PWS notify ADEQ when the required monitoring is not
24 performed.

25 14. By failing to provide Level 1 (30 day) Public Notice, the Water
26 Supplier violated A.A.C. R18-4-105(E)(1)(Table 3)(2), which requires that a PWS notify the
27 public of the failure to comply with the nitrate monitoring requirements.
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1 15. By distributing water with a nitrate concentration greater than 10 mg/L,
2 the MCL for nitrate, the Water Supplier violated A.A.C. R18-4-205(B), which requires a
3 community water system distribute water that does not exceed the nitrate MCL.

4 16. By failing to provide Acute (24 hour) Public Notice, the Water Supplier
5 violated A.A.C. R18-4-105(D), which requires that a PWS notify the public when water being
6 distributed exceeds the nitrate MCL.

7 17. By failing to increase nitrate monitoring from annually to quarterly, the
8 Water Supplier violated A.A.C. R18-4-208(F), which requires that a CWS collect quarterly
9 samples from the sampling point where a sample of groundwater shows a nitrate concentration
greater than or equal to 5 mg/l.

10 18. By failing to notify ADEQ within 48 hours of the discovery of a failure
11 to comply with the quarterly nitrate monitoring requirement, the Water Supplier violated A.A.C.
12 R18-4-104(L), which requires that a PWS notify ADEQ when the required monitoring is not
13 performed.

14 19. By failing to provide Level 1 (30 day) public notice of the failure to
15 collect quarterly nitrate samples, the Water Supplier violated A.A.C. R18-4-105(E)(1)(Table
16 3)(2), which requires that a PWS notify the public when the required monitoring is not
performed.

17 20. By failing to increase monitoring to quarterly for the volatile organic
18 chemical (VOC), total xylenes, the Water Supplier violated A.A.C. R18-4-212(G), which
19 requires that a community water system or a nontransient, noncommunity water system collect
20 quarterly samples if the concentration of a VOC in a sample is greater than or equal to 0.0005
mg/l.

21 21. By failing to notify ADEQ within 48 hours of the discovery of the failure
22 to monitor quarterly for total xylenes samples, the Water Supplier violated A.A.C. R18-4-
23 104(L), which requires that a PWS notify ADEQ when the required monitoring is not performed

24 22. By failing to provide Level 2 (12 months) public notice of the failure to

1 collect quarterly samples for the VOC total xylenes, the Water Supplier violated A.A.C. R18-
2 4-105(F)(1)(Table 4)(1), which requires that a PWS notify the public when the required
3 monitoring is not performed.

4 23. By failing to collect initial tap water samples for lead and copper, the
5 Water Supplier violated A.A.C. R18-4-310(A), which requires that a PWS collect initial tap
6 water samples for lead and copper.

7 24. By failing to notify ADEQ within 48 hours of the discovery of the
8 failure to collect initial tap water samples for lead and copper, the Water Supplier violated
9 A.A.C. R18-4-104(L), which requires that a PWS notify ADEQ when the required monitoring
10 is not performed.

11 25. By failing to provide Level 1 (30 day) public notice of the failure to
12 collect initial tap water samples for lead and copper, the Water Supplier violated A.A.C. R18-4-
13 105(E)(1)(Table 3)(2), which requires that a PWS notify the public when the required
14 monitoring is not performed.

15 26. By failing to collect total coliform samples at a site which is
16 representative of water throughout the distribution system according to a written site sampling
17 plan approved by ADEQ, the Water Supplier violated A.A.C. R18-4-202(C), which requires
18 that a PWS collect total coliform samples according to a written site sampling plan approved
19 by ADEQ.

20 27. By failing to provide a copy of the annual consumer confidence report,
21 (CCR) for the years 2002 and 2003 by July 1 of each succeeding year, the Water Supplier
22 violated A.A.C. R18-4-710(A), which requires that a CWS shall mail or otherwise directly
23 deliver one copy of the CCR to each customer by July 1 annually, or avail itself of the "Mailing
24 Waiver" under A.A.C. R18-4-710(H).

25 28. By failing to provide a copy of the annual CCR for the years 2002 and
26 2003 to ADEQ, the Water Supplier violated A.A.C. R18-4-710 (C), which requires that a CWS
27 deliver a copy of the CCR to ADEQ not later than the date the CWS delivers the CCR to its
28

1 customers, and that a CWS that complies with the "Mailing Waiver" requirements of A.A.C.
2 R18-4-710(H) delivers a copy of the CCR to ADEQ by July 1 annually.

3 **III. COMPLIANCE SCHEDULE**

4 **THE DIRECTOR HEREBY ORDERS** and the Water Supplier agrees to comply with the
5 provisions of this Consent Order as follows:

6 A. Within sixty (60) days of the effective date of this Consent Order, the Water Supplier
7 shall select one of, or a combination of the following options to ensure that water being served
8 for human consumption does not exceed the MCL of 10 mg/l for nitrates, and notify ADEQ in
9 writing of such selection:

- 10 1. Point of Entry or Point of Use Devices, pursuant to A.A.C. R18-4- 222;
- 11 2. Blend, pursuant to A.A.C. R18-4-221;
- 12 3. Haul water pursuant to A.A.C. R18-4-125; or
- 13 4. Any other technology approved by ADEQ.

14 B. Within sixty (60) days of selecting an option(s) as required in Section III.A of this
15 Consent Order, the Water Supplier shall submit an Emergency Rate Application to the Arizona
16 Corporation Commission (ACC).

17 C. Should the ACC issue to the Water Supplier an order granting a rate increase, by no later
18 than sixty (60) days after such issuance, the Water Supplier shall submit to ADEQ a Gantt Chart
19 or schedule prepared by an engineer registered in the state of Arizona, outlining each task the
20 Water Supplier will perform to implement the option(s) selected in Section III.A of this Consent
21 Order.

22 D. Within sixty (60) days of ADEQ's approval of the schedule, the Water Supplier shall
23 commence its implementation, and notify ADEQ in writing of such commencement. The Water
24 Supplier shall also notify ADEQ in writing when all tasks are completed and the option(s)
25 selected in Section III.A of this Consent Order becomes operational.

26 E. Should the ACC issue to the Water Supplier an order denying a rate increase, by no
27 later than sixty (60) days after such issuance, the Water Supplier shall submit to ADEQ a
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1 revised plan of action (RPA), that includes a schedule for completion, designed to achieve
2 compliance with the nitrate MCL of 10 mg/l.

3 F. Within thirty (30) days of ADEQ's approval of the RPA, the Water Supplier shall
4 commence its implementation and notify ADEQ in writing of such commencement. The Water
5 Supplier shall also notify ADEQ in writing when all tasks associated with the RPA are
6 completed, and include in this written communication the date on which compliance with the
7 nitrate MCL was achieved.

8 G. Within sixty (60) days of the effective date of this Consent Order, the Water Supplier
9 shall collect a sample for the VOC total xylenes and submit the analytical results to ADEQ on
10 laboratory forms approved by the department.

11 H. Within sixty (60) days of the effective date of this Consent Order, the Water Supplier
12 shall collect a sample for nitrates and submit the analytical results to ADEQ on laboratory forms
13 approved by the department.

14 I. Within sixty (60) days of the effective date of this Consent Order, the Water Supplier
15 shall provide public notification to all customers of its violation of the nitrate MCL, pursuant to
16 A.A.C. R18-4-104(E).

17 J. Within sixty (60) days of the effective date of this Consent Order, the Water Supplier
18 shall provide public notification to all customers of its failure to perform quarterly sampling for
19 total xylenes, pursuant to A.A.C. R18-4-104(E).

20 K. Within sixty (60) days of the effective date of this Consent Order, the Water Supplier
21 shall provide public notification to all customers of its failure to collect initial tap water samples
22 for lead and copper, pursuant to A.A.C. R18-4-104(E).

23 L. Within ninety (90) days of the effective date of this Consent Order, the Water Supplier
24 shall prepare a microbiological site sampling plan (MSSP), pursuant to A.A.C. R18-4-202(C)
25 and submit the MSSP to ADEQ for review. Should ADEQ request the MSSP be modified, the
26 Water Supplier shall make such modifications within thirty (30) days of receipt of a written
27 request from ADEQ.
28

1 M. Within sixty (60) days of the effective date of this Consent Order, the Water Supplier
2 shall prepare and make available to all customers, a consumer confidence report for the year
3 2004 pursuant to A.A.C. R18-4-710, and submit a copy of the CCR to ADEQ.

4 **IV. STATUS REPORTS**

5 A. The Water Supplier agrees to submit a written status report to ADEQ every
6 ninety (90) calendar days from the effective date of this Consent Order, until termination of
7 this Consent Order. Each written status report shall describe what measures have been taken
8 under Section III of this Consent Order, and shall certify when compliance with the
9 requirements of Section III of this Order has been achieved. Each report shall be accompanied
10 by evidence of compliance including, as appropriate, submittal of documents, photographs or
11 copies of any other supporting information that the Water Supplier deems necessary.

12 B. ADEQ will review the status reports and relay any disputes, in writing, to the
13 Water Supplier. The Water Supplier shall incorporate all required modifications, changes or
14 other alterations, as requested by ADEQ, within a reasonable time specified by ADEQ.

15 **V. VIOLATIONS OF ORDER STIPULATED PENALTIES**

16 A. Each day that the Water Supplier fails to meet the requirements of Section III of
17 this Consent Order will be regarded as an on going violation of the applicable rules under
18 A.A.C. Title 18, Chapter 4. Under A.R.S. § 49-354(G), violation of the rules set forth in
19 A.A.C. Title 18 Chapter 4 subjects the Water Supplier to civil penalties of up to \$500 per day
20 per violation.

21 B. ADEQ and the Water Supplier therefore agree that if the Water Supplier fails to
22 comply with any requirement of this Consent Order, the Water Supplier shall pay a stipulated
23 penalty of \$50 per day per violation up to \$500 per violation.

24 C. Except as otherwise provided herein, stipulated penalties shall begin to accrue
25 on the day that performance is due or that a violation of this Consent Order occurs and shall
26 continue to accrue until correction of the act of noncompliance is completed. Neither issuance
27 by ADEQ nor receipt by the Water Supplier of a Notice of Violation of the terms and conditions
28 of this Consent Order are conditions precedent to the accrual of stipulated penalties.

1 D. The stipulated penalties required by this Consent Order shall be in addition to
2 other remedies or sanctions available to ADEQ by reason of any failure by the Water Supplier
3 to comply with the requirements of Federal or State laws. The payment of stipulated penalties
4 shall not relieve the Water Supplier from compliance with the terms and conditions of this
5 Consent Order or Federal or State laws, nor limit the authority of the State to require
6 compliance with the Consent Order or State law.

6 VI. COMPLIANCE WITH OTHER LAWS

7 A. This Consent Order does not encompass issues regarding releases,
8 contamination, sources, operations, facilities or processes not expressly covered by the terms of
9 this Consent Order, and is without prejudice to the rights of the State of Arizona or the Water
10 Supplier arising under any federal or Arizona environmental statutes and rules with regard to
11 such issues.

12 B. Nothing in this Consent Order shall constitute a permit of any kind, or a
13 modification of any permit of any kind, or an agreement to issue a permit of any kind under
14 federal, state or local law, or relieve the Water Supplier in any manner of its obligation to apply
15 for, obtain, and comply with all applicable permits. Nothing in this Consent Order shall in any
16 manner of its obligation to comply with such laws. Compliance with the terms of this Consent
17 Order shall not be a defense to any action to enforce any such permits or laws.

18 VII. FORCE MAJEURE

19 A. The Water Supplier shall perform all the requirements of this Consent Order
20 according to the time limits set forth herein, unless performance is prevented or delayed by
21 events which constitute a *force majeure*. *Force majeure*, for the purposes of this Consent
22 Order, is defined as any event, arising from causes beyond the control of the Water Supplier or
23 its authorized representatives which delays or prevents the performance of any obligation under
24 this Consent Order and which could not have been overcome or prevented by the Water
25 Supplier. The financial inability of the Water Supplier to comply with the terms of this Consent
26 Order shall not constitute a *force majeure*.

1 E-mail: rc2@azdeq.gov

2 To Picacho Peak Water Company:

3 Bill McCabe, Treasurer

4 Picacho Peak Water Company

5 150 Louisiana North East

6 Albuquerque, NM 87108

7 Submissions to ADEQ as a result of this Consent Order shall be deemed submitted upon receipt.

8 **X. RESERVATION OF RIGHTS**

9 A. This Consent Order is based solely upon currently available information. If
10 additional information is discovered, which indicates that the actions taken under this Consent
11 Order are or will be inadequate to protect human health, safety, or the environment, or to
12 conform with applicable federal or state laws, ADEQ shall have the right to require further
13 action.

14 B. ADEQ shall have the right: to pursue civil penalties for violations of any and all
15 violations of A.R.S. Title 49, or the rules promulgated thereunder, occurring before entry of this
16 Consent Order; to disapprove of work performed by the Water Supplier that fails to comply
17 with this Consent Order; to take enforcement action for any and all violations of this Consent
18 Order; and to take enforcement action for any and all violations of A.R.S. Title 49, or the rules
19 promulgated thereunder, occurring after the entry of this Consent Order.

20 **XI. SEVERABILITY**

21 The provisions of this Consent Order are severable. If any provision of this Consent
22 Order is declared by a court of law to be invalid or unenforceable, all other provisions of this
23 Consent Order shall remain in full force and effect.
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XII. MODIFICATIONS

Any modifications of this Consent Order shall be in writing and must be approved by both and ADEQ.

XIII. EFFECTIVE DATE

The effective date of this Consent Order shall be the date this Consent Order is signed by ADEQ and the Water Supplier. If such signatures occur on different dates, the later date shall be the effective date of this Consent Order.

XIV. PARTIES BOUND

No change in ownership, corporate status, or partnership status relating to the subject of this Consent Order will in any way alter the responsibilities of the Water Supplier under this Consent Order. The Water Supplier will be responsible, and will remain responsible, for carrying out all activities required under this Consent Order.

XV. TERMINATION

The provisions of this Consent Order shall be deemed satisfied and this Consent Order shall be terminated upon receipt of written notification from ADEQ that has demonstrated, to the satisfaction of ADEQ, that all of the terms of this Consent Order have been completed. Any denial of a request for termination from the Water Supplier will be in writing and describe which terms of the Consent Order have not been completed to the satisfaction of ADEQ. ADEQ reserves the right to terminate this Consent Order unilaterally at any time for any reason. Any termination will include a written explanation of the reason(s) for termination.

ISSUED this 23rd day of May, 2006

Joan Card

Joan Card, Director, Water Quality Division
Arizona Department of Environmental Quality

CONSENT TO ORDER

1 The undersigned, on behalf of the Water Supplier, hereby acknowledges that [he/she] has
 2 read the foregoing Consent Order in its entirety, agrees with the statements made therein,
 3 consents to its entry and issuance by the Arizona Department of Environmental Quality,
 4 agrees that will abide by the same and waive any right to appeal therefrom.

5
 6 ISSUED this 8th day of May, 2006

7 Picacho Peak Water Company
 8 Bill McCabe
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10 Bill McCabe, ~~Treasurer~~ President
 11 Picacho Peak Water Company
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1 ORIGINAL of the foregoing Consent Order was filed
2 this 26 day of May, 2006, with:

3 Office of Administrative Counsel
4 Attention: Judy Fought, Hearing Administrator
5 Arizona Department of Environmental Quality
6 1110 West Washington Street, 6415A-1
7 Phoenix, Arizona 85007-2935

8
9 COPY of the foregoing Consent Order was sent certified mail, return receipt requested,
10 this 26 day of May, 2006, to:

11 Picacho Peak Water Company
12 Attention: Bill McCabe, Treasurer
13 150 Louisiana North East
14 Albuquerque, NM 87108

15
16 Arizona Corporation Commission
17 Utilities Division
18 Attention: Steve Olea, Assistant Director
19 1200 West Washington St.
20 Phoenix, AZ 85307

21 Arizona Corporation Commission
22 Utilities Division
23 Attention: Reg Lopez, Public Utilities Consumer Analyst
24 400 West Congress
25 Tucson, AZ 85701

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27
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1 Moyes Storey Law Offices
2 Attention: Steven L. Wene, Esq.
3 3003 North Central Ave. # 1250
4 Phoenix, AZ 85012-2923

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1 COPIES of the foregoing Consent Order were sent by regular/interdepartmental mail,
2 this 26 day of May, 2006, to the following:

- 3
- 4 Robert Casey, Manager, WQEU, ADEQ
- 5 Michael Clark, Chief Financial Officer, ADEQ
- 6 Laurie Woodall, Assistant Attorney General EQS03-0274

7

- 8 Susanne W. Straussner, Director
- 9 Pinal County Division of Public Health
- 10 P.O. Box 2945
- 11 Florence, AZ 85232-2945

12 Patrick Chan, EES - WTR-6

- 13 USEPA Region IX
- 14 75 Hawthorne Street
- 15 San Francisco, CA 94105

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Exhibit 2

Pro Forma Balance Sheet

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Picacho Peak Water Company
Balance Sheet as of 12/31/05
Includes Proforma Adjustments for WIFA Financing

Acct. No.	ASSETS	ACTUAL BALANCE AT TEST YEAR END - 12/31/2005	WIFA LOAN PROFORMA ADJUST- MENTS	WIFA AND RATE CASE ADJ BAL AT TEST YEAR END - 12/31/2005
	CURRENT AND ACCRUED ASSETS			
131	Cash	\$ 12,012	\$ -	\$ 12,012
134	Working Funds			
135	Temporary Cash Investments			
141	Customer Accounts Receivable	3,502	-	3,502
146	Notes/Receivables from Associated Companies			
151	Plant Material and Supplies			
162	Prepayments			
174	Miscellaneous Current and Accrued Assets			
	TOTAL CURRENT AND ACCRUED ASSETS	\$ 15,514	\$ -	\$ 15,514
	FIXED ASSETS			
101	Utility Plant in Service	\$ 209,825	\$ 150,000	\$ 359,825
103	Property Held for Future Use			
105	Construction Work In Progress			
108	Accumulated Depreciation - Utility Plant ("AD-UP")	(168,849)	-	(168,849)
121	Non-Utility Property			
122	Accumulated Depreciation - Non Utility ("AD-NU")			
	TOTAL FIXED ASSETS	\$ 40,976	\$ 150,000	\$ 190,976
	TOTAL ASSETS	\$ 56,490	\$ 150,000	\$ 206,490

Picacho Peak Water Company
Balance Sheet as of 12/31/05 (continued)
Includes Proforma Adjustments for WIFA Financing

Acct. No.	LIABILITIES	ACTUAL BALANCE AT TEST YEAR END - 12/31/2005	WIFA LOAN PROFORMA ADJUST- MENTS	WIFA AND RATE CASE ADJ BAL AT TEST YEAR END - 12/31/2005
	CURRENT LIABILITIES			
231	Accounts Payable	\$ 1,100		\$ 1,100
232	Notes Payable (Current Portion)			
234	Notes/Accounts Payable to Associated Companies			
235	Customer Deposits			
236	Accrued Taxes			
237	Accrued Interest			
241	Miscellaneous Current and Accrued Liabilities			
	TOTAL CURRENT LIABILITIES	\$ 1,100	\$ -	\$ 1,100
	LONG-TERM DEBT (Over 12 Months)			
224	Long-Term Notes and Bonds	\$ 59,804	\$ 150,000	\$ 209,804
	DEFERRED CREDITS			
251	Unamortized Premium on Debt			
252	Advances in Aid of Construction			
255	Accumulated Deferred Investment Tax Credits			
271	Gross Contributions in Aid of Construction			
272	Less: Amortization of contributions			
281	Accumulated Deferred Income Tax			
	TOTAL DEFERRED CREDITS	\$ -	\$ -	\$ -
	TOTAL LIABILITIES	\$ 60,904	\$ 150,000	\$ 210,904
	CAPITAL ACCOUNTS			
201	Common Stock Issued			\$ -
211	Paid in Capital in Excess of Par Value			-
215	Retained Earnings	(4,414)		(4,414)
218	Proprietary Capital (Sole Props and Partnerships)			
	TOTAL CAPITAL	(4,414)	-	(4,414)
	TOTAL LIABILITIES AND CAPITAL	\$ 56,490	\$ 150,000	\$ 206,490

Exhibit 3

Pro Forma Income Statement

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Picacho Peak Water Company
Income Statement from January through December of 2005
Includes Proforma Adjustments for WIFA Financing

Acct. No.	OPERATING REVENUES	TEST YEAR ACTUAL	RATE CASE PROFORMA ADJUSTMENTS	ADJUSTED TEST YEAR FOR RATE CASE	WIFA LOAN PROFORMA ADJUSTMENTS	WIFA AND RATE CASE TEST YEAR
461	Metered Water Revenue	\$ 33,687	\$ -	\$ 33,687	\$ 30,053	\$ 63,740
460	Unmetered Water Revenue	-	-	-	-	-
474	Other Water Revenues	-	-	-	-	-
	TOTAL OPERATING REVENUES	\$ 33,687	\$ -	\$ 33,687	\$ 30,053	\$ 63,740
	OPERATING EXPENSES					
601	Salaries and Wages	\$ -	\$ -	\$ -	\$ -	\$ -
610	Purchased Water	-	-	-	-	-
615	Purchased Power	3,394	-	3,394	-	3,394
618	Chemicals	-	-	-	-	-
620	Repairs and Maintenance	-	-	-	-	-
621	Office Supplies & Expense	-	-	-	-	-
630	Outside Services	8,444	-	8,444	-	8,444
635	Water Testing	510	305	815	-	815
641	Rents	-	-	-	-	-
650	Transportation Expenses	-	-	-	-	-
657	Insurance - General Liability	1,697	-	1,697	-	1,697
659	Insurance - Health and Life	-	-	-	-	-
666	Regulatory Commsn Exp-Rate Case	8,800	(4,444)	4,356	-	4,356
675	Miscellaneous Expense	154	-	154	-	154
403	Depreciation Expense	8,223	3,691	11,914	9,998	21,912
408	Taxes Other Than Income	-	-	-	-	-
408.1	Property Taxes	1,631	1,830	3,461	-	3,461
409	Income Tax	45	-	45	867	912
	TOTAL OPERATING EXPENSES	\$ 32,898	\$ 1,382	\$ 34,280	\$ 10,865	\$ 45,145
	OPERATING INCOME/(LOSS)	\$ 789	\$ (1,382)	\$ (593)	\$ 19,188	\$ 18,595
	OTHER INCOME/(EXPENSE)					
419	Interest and Dividend Income	\$ -	\$ -	\$ -	\$ -	\$ -
421	Non-Utility Income	-	-	-	-	-
426	Miscellaneous Non-Utility Exp	-	-	-	-	-
427	Interest Expense	3,264	-	3,264	11,885	15,149
	TOTAL OTHER INCOME/(EXPENSE)	\$ (3,264)	\$ -	\$ (3,264)	\$ (11,885)	\$ (15,149)
	NET INCOME/(LOSS)	\$ (2,475)	\$ (1,382)	\$ (3,857)	\$ 7,303	\$ 3,446

Exhibit 4

Proposed Notice

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PUBLIC NOTICE
OF
AN APPLICATION FOR AN ORDER
AUTHORIZAING THE ISSUANCE OF DEBT
BY PICACHO PEAK WATER COMPANY

Picacho Peak Water Company ("Picacho" or "Company") filed an Application with the Arizona Corporation Commission ("Commission") for an order authorizing Applicant to Issue \$150,000 of debt. The application is available for inspection during regular business hours at the office of the Commission in Phoenix, Arizona.

Intervention in the Commission's proceedings on the application shall be permitted to any person entitled by law to intervene and having a direct substantial interest in this matter. Persons desiring to intervene must file a Motion to Intervene with the Commission which must be served upon applicant and which, at a minimum, shall contain the following information:

1. The name, address and telephone number of the proposed intervenor and of any person upon whom service of documents is to be made if different than the intervenor.
2. A short statement of the proposed intervenor's interest in the proceeding.
3. Whether the proposed intervenor desires a formal evidentiary hearing on the application and the reasons for such a hearing.
4. A statement certifying that a copy of the Motion to Intervene has been mailed to Applicant.

The granting of Motions to Intervene shall be governed by A.A.C. R14-3-105, except that all Motions to Intervene must be filed on, or before, the 15th day after this notice.