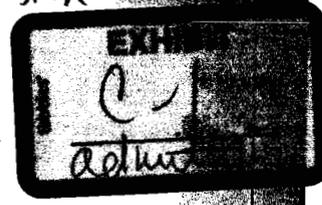




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W-03263A-00-0470

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BEFORE THE ARIZONA CORPORATION COMMISSION

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WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

HOUSTON T. MAYFIELD,
COMPLAINANT,

vs.

DIAMOND VALLEY WATER USER'S CORP.,
RESPONDENT.

GEORGE W. DYKMAN,
COMPLAINANT,

vs.

DIAMOND VALLEY WATER USER'S CORP.,
RESPONDENT.

MARIO DEMARCO,
COMPLAINANT,

vs.

DIAMOND VALLEY WATER USER'S CORP.,
RESPONDENT.

RAY R. RODRIGUEZ,
COMPLAINANT,

vs.

DIAMOND VALLEY WATER USER'S CORP.,
RESPONDENT.

DOCKET NO. W-03263A-00-0245 +

Arizona Corporation Commission
DOCKETED

OCT 10 2003

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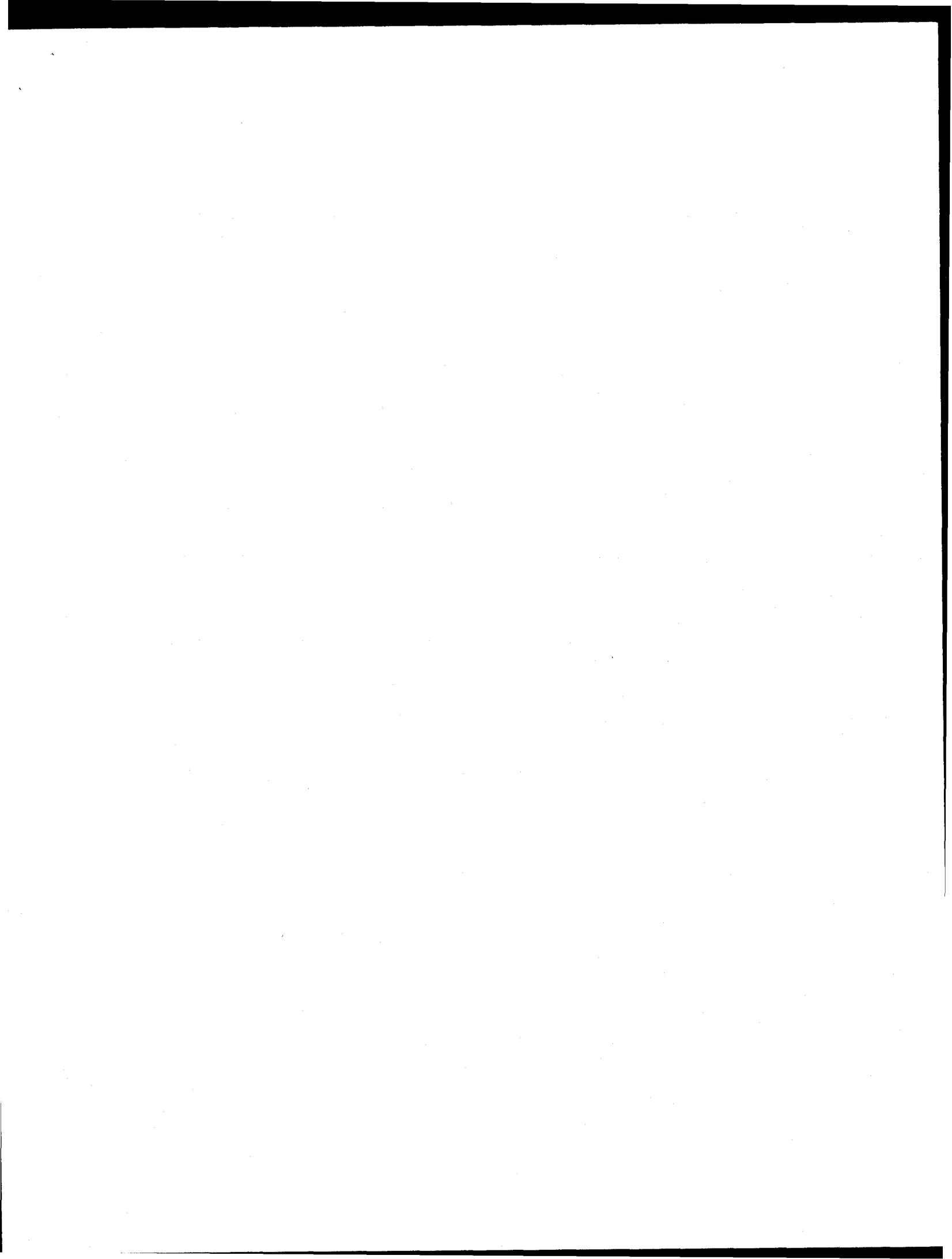
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AZ CORP COMMISSION
DOCUMENT CONTROL

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1 ARTHUR L. BOURQUE,
2 COMPLAINANT,
3 vs.
4
5 DIAMOND VALLEY WATER USER'S CORP.,
6 RESPONDENT.

DOCKET NO. W-03263A-00-0301

7 JERRY PFINGSTON,
8 COMPLAINANT,
9 vs.
10 DIAMOND VALLEY WATER USER'S CORP.,
11 RESPONDENT.

DOCKET NO. W-03263A-00-0302

12 JIM ROBERSON,
13 COMPLAINANT,
14 vs.
15 DIAMOND VALLEY WATER USER'S CORP.
16 RESPONDENT.

DOCKET NO. W-03263A-00-0340

17 KATHLEEN PARKER,
18 COMPLAINANT,
19 vs.
20 DIAMOND VALLEY WATER USER'S CORP.,
21 RESPONDENT.

DOCKET NO. W-03263A-00-0345

22 IN THE MATTER OF DIAMOND VALLEY
23 WATER USER'S CORP.; COMPLAINT AND
24 ORDER TO SHOW CAUSE.

DOCKET NO. W-03263A-00-0516

DECISION NO. 63547

OPINION AND ORDER

25
26
27 PRE-HEARING CONFERENCES:

August 3, 2000 and October 11, 2000

28

1 DATE OF HEARING: October 13, 2000
2 PLACE OF HEARING: Prescott Resort, Prescott, Arizona
3 ADMINISTRATIVE LAW JUDGE: Mr. Jerry L. Rudibaugh, Esq.¹
4 APPEARANCES: Ms. Teena Wolfe, Staff Attorney, Legal
5 Division, on behalf of the Utilities Division of
6 the Arizona Corporation Commission;
7 Mr. Jim Roberson, Complainant, in Propria
8 Persona;
9 Mr. Ray R. Rodriguez, Complainant, in Propria
10 Persona;
11 Mr. George W. Dyekman, Complainant, in
12 Propria Persona;
13 Mr. Houston T. Mayfield, Complainant, in
14 Propria Persona;
15 Mr. Ivan Legler, City Attorney, on behalf of
16 Prescott Valley Water Company and Prescott
17 Valley Water District;
18 Mr. Guy Emminger, on behalf of Diamond
19 Valley Water User's Corporation;

17 **BY THE COMMISSION:**

18 On April 17, 2000, Mr. Houston T. Mayfield filed a Complaint ("Customer Complaint")
19 against Diamond Valley Water Users Corporation ("Diamond Valley" or "Respondent") alleging
20 various billing improprieties by Diamond Valley.

21 On April 19, 2000, Mr. George W. Dyekman, Mr. Mario DeMarco, and Mr. Ray R.
22 Rodriguez filed similar Customer Complaints against Diamond Valley.

23 On May 3, 2000, Mr. Arthur Bourque and Mr. Jerry Pfingston filed similar Customer
24 Complaints against Diamond Valley.

25 On May 16, 2000, Mr. Jim Roberson filed a similar Customer Complaint against Diamond
26 Valley.

27 _____
28 ¹ Mr. Rudibaugh presided over the public comment and hearing, and this Opinion and Order was prepared by Mr. Stephen Gibelli.

1 On May 18, 2000, Ms. Kathleen Parker filed a similar Customer Complaint against Diamond
2 Valley.

3 On or about June 16, 2000, Diamond Valley filed Answers to each of the Customer
4 Complaints.

5 On July 21, 2000, a Procedural Order was issued consolidating each of the Customer
6 Complaints into a single proceeding and setting a pre-hearing conference.

7 On August 1, 2000, the Arizona Corporation Commission ("Commission") issued Decision
8 No. 62781, a Complaint and Order to Show Cause ("OSC") against Diamond Valley alleging that:

- 9 a. Diamond Valley has failed to file the 1995 Utilities Division Annual Report as required
10 by Decision No. 60125 (March 19, 1997), within 120 days of the effective date of the
11 Decision;
- 12 b. Diamond Valley has failed to file Utilities Division Annual Reports, as required by
13 A.A.C. R14-2-411.D, for the years 1997 through and including 1999;
- 14 c. in contravention of Decision No. 60125, Diamond Valley has failed to file within 60 days
15 of that Decision, a document either describing arrangements with Yavapai County for the
16 payment of back property taxes for the years 1993 through 1996, or advising that
17 Diamond Valley is contesting those taxes;
- 18 d. Diamond Valley has not complied with Decision No. 60125 by failing to file within 90
19 days of any determination of liability for the 1993 through 1996 back property taxes, a
20 status report with respect to the payment schedule made with Yavapai County;
- 21 e. Diamond Valley has failed to allow Staff to verify Diamond Valley's compliance with
22 A.A.C. R14-2-411.D.2 and Decision No. 60125, which ordered Diamond Valley to
23 maintain its books and records in accordance with the National Association of Regulatory
24 Commissioners Uniform System of Accounts. Staff scheduled a visit to verify
25 compliance, but upon arrival at Diamond Valley's offices, Staff was turned away by Mr.
26 Guy Emminger;
- 27 f. Diamond Valley has failed to file, as ordered by Decision No. 60125, within 30 days of
28 that Decision, an affidavit verifying that the sale of assets approved by the Decision has

1 2. On November 1, 1994, the U.S. Bankruptcy Court entered a Stipulated Order of
2 Abandonment which removed Triangle's water utility assets from the bankruptcy estate and thereby
3 allowed continued operation of the water system without further oversight by the Bankruptcy Court.

4 3. On or about December 30, 1994, the attorney for Triangle wrote to Mr. Guy
5 Emminger and authorized Diamond Valley to continue operating the water system on behalf of
6 Triangle as it had already been doing on a defacto basis.

7 4. On September 11, 1996, Triangle and Diamond Valley entered into an asset purchase
8 agreement ("Purchase Agreement") whereby Triangle agreed to sell its assets to Diamond Valley.

9 5. On December 3, 1996, Diamond Valley and Shamrock Water Company
10 ("Shamrock")² entered into a Service Agreement whereby Shamrock agreed to deliver water to a
11 single point of delivery for further distribution by Diamond Valley. Under the Service Agreement,
12 Diamond Valley was to pay Shamrock a monthly service charge of \$1.60 for each active water
13 service, which charge would increase by increments until it was \$5.60 on January 1, 2004. The
14 monthly service charge was \$2.60 until December 31, 2000, when the charge would increase to
15 \$3.60. Diamond Valley was also to pay Shamrock a monthly gallonage rate of \$1.80 per 1,000
16 gallons delivered, subject to increase when and to the extent that Shamrock's gallonage rate
17 increased. Finally, Diamond Valley was to pay Shamrock a one-time facilities charge of \$1,200.00
18 for each new hook-up, payable monthly.

19 6. In Decision No. 60125, the Commission issued an Opinion and Order which, among
20 other things: (a) approved the Purchase Agreement between Triangle and Diamond Valley along with
21 the transfer of Triangle's Certificate of Convenience and Necessity ("CC&N") to Diamond Valley;
22 (b) required Diamond Valley to make arrangements to either pay or contest back ad valorem taxes
23 allegedly owed to Yavapai County for the years 1993 through 1996; (c) required Diamond Valley to
24 maintain its books and records in accordance with the National Association of Regulatory Utility
25 Commissioners Uniform System of Accounts; (d) approved the Service Agreement between
26
27

28 ² Shamrock Water Company provides water to Prescott Valley and other areas outside of Prescott Valley.

1 Diamond Valley and Shamrock; and (e) required Diamond Valley to file with the Commission an
2 application for rate review fifteen (15) months from the effective date of the Decision.

3 7. On September 24, 1998, the Prescott Valley Town Council ("Council") created the
4 Prescott Valley Water District under Art. 6, Chap. 4, Title 48, Arizona Revised Statutes. On October
5 19, 1998, the Council, serving as the District's governing board ("Board"), approved an agreement to
6 acquire Shamrock by purchasing Shamrock's stock. That purchase occurred on January 21, 1999.
7 Shamrock was then changed to a non-profit company with the District as its sole Member, and re-
8 named the Prescott Valley Water Company ("PVWC"). The PVWC's Board of Directors was made
9 up of the members of the Council/Board, with the Town Manager as PVWC Manager, the Town
10 Clerk as PVWC Secretary, and the Town Attorney as PVWC Attorney. The Prescott Valley Water
11 District then entered into a Service Agreement with PVWC to receive all of PVWC's revenues and to
12 use the PVWC's real and personal property to provide PVWC's services to its customers and to
13 otherwise meet PVWC's obligations.

14 8. On October 15, 1998, prior to its purchase by the District, Shamrock had filed with the
15 Commission an application for cancellation of its CC&N, approval of the sale of its stock to the
16 District, and a declaration of non-jurisdiction. The Commission granted that application in Decision
17 No. 61296 of the Commission (December 16, 1998).

18 9. After Shamrock filed its application with the Commission to cancel its CC&N,
19 Diamond Valley expressed concern about the planned increase in PVWC rates as part of the plan to
20 acquire Shamrock. Thereafter, the PVWC entered into a Letter of Understanding with Diamond
21 Valley (November 23, 1998), wherein the PVWC agreed not to apply any gallonage rate increase to
22 Diamond Valley under the Service Agreement until January 15, 2000, or until the Commission
23 granted Diamond Valley a rate increase (whichever came sooner). The PVWC further agreed that
24 any future increases would not be applied to Diamond Valley for nine (9) months or until the
25 Commission granted Diamond Valley a rate increase (whichever came sooner). However, Diamond
26 Valley did not apply to the Commission for a rate increase. Therefore, the PVWC's new gallonage
27 rate of \$2.25 per 1000 gallons was applied to Diamond Valley effective January 16, 2000.
28

1 10. On April 30, 1997, shortly after the Commission's Decision No. 60125, Diamond
2 Valley filed a request for an emergency rate increase in the form of a \$10.00 per month per customer
3 surcharge. In Decision No. 60394, (September 5, 1997), the Commission voted 2-1 to approve the
4 proposed Opinion and Order which denied Diamond Valley an emergency rate increase. Diamond
5 Valley has not filed an application for a permanent rate increase.

6 11. Diamond Valley has had on-going difficulty living up to the terms of the Service
7 Agreement. Despite several requests from Shamrock, Diamond Valley never provided the monthly
8 report required by the Service Agreement to verify Diamond Valley's compliance with payment
9 requirements ("Report"). That Report was to list (a) the lot number and account number of each
10 customer with active water service, (b) the lot number and account number of each customer with an
11 installed meter (regardless of whether the customer has active water service), and (c) the lot number
12 and account number of customers whose meters have been installed each month. According to
13 PVWC, Diamond Valley reported a number of active water services, and that number fluctuated
14 from month to month, decreasing from a high of 361 to a low of 320. PVWC provided unrebutted
15 testimony that Diamond Valley has at least 424 active water services. Diamond Valley has never
16 reported or paid a \$1,200.00 facilities charge for new hook-ups as required under the Service
17 Agreement.

18 12. Beginning on or around November 1, 1998, Diamond Valley experienced a series of
19 computer problems that impacted its billings when a high voltage power surge destroyed its
20 computer. A new computer was purchased, only to be destroyed as well, in March 1999 as a result of
21 another power surge. A new computer was again purchased. As a result of these events, billing data
22 was apparently lost from hard drives. Also, a software problem is said to have occurred as a result of
23 the year 2000 change, as reported in a letter from Guy Emminger (March 3, 2000).

24 13. Diamond Valley has evolved into essentially a one-man operation since its original
25 incorporation in 1994. Guy Emminger is the President of Diamond Valley, and makes management
26 and operational decisions for Diamond Valley. Mr. Emminger reads the meters, sometimes with the
27 assistance of one or more volunteers.

28

1 14. Beginning roughly in 1998, numerous Diamond Valley customers experienced various
2 billing problems. As examples, a number of customers have never been billed for water service or
3 have been billed only occasionally. Other customers have been billed multiple times for service for
4 which they allegedly have already paid. Other customers have received erratic billings from month
5 to month, often including large billings for amounts of water which they allegedly could not have
6 used in the described period. Other customers have made up-front payments for meters and other
7 services that they have never received.

8 15. During public comment, Diamond Valley customers indicated that they have
9 contacted Staff as well as other state and local entities over inconsistent and confusing billing
10 practices and that Mr. Emminger has made some threats to shut off water service to certain
11 customers.

12 16. Because Diamond Valley did not report the number of active water services to the
13 PVWC beginning in January 1999, PVWC's billings were initially based on 320 customers (the
14 number passed on by Shamrock at the end of 1998). PVWC monthly billings to Diamond Valley
15 were determined by applying the gallonage charge of \$2.25 per thousand to the amount of water
16 delivered to the single delivery point (after accounting for water passed through to other small water
17 systems), multiplying the monthly service charge of \$2.60 by 320, and adding the two products
18 together.

19 17. Diamond Valley stopped paying the PVWC's billings beginning with the April 2000
20 service period. The PVWC's billing for that period was \$6,010.15. The subsequent unpaid PVWC
21 billings to Diamond Valley were \$8,056.30 for May, \$9,509.58 for June, and \$8,522.95 for July.

22 18. Beginning with the August 2000 PVWC billing, 424 active water services were used
23 based on reliable information supplied to the PVWC. Utilizing that number and adding the charge
24 for gallonage, the billing for August was \$7,509.05 and the billing for September was \$8,443.48.
25 The total unpaid balance was then \$48,051.51 for water supplied to Diamond Valley from April
26 through September, 2000. After Diamond Valley paid \$6,010.15 for the April billing just prior to the
27 hearing, Diamond Valley owed a balance of \$42,041.36 to the PVWC for water received from May
28 through September, 2000.

1 19. On August 7, 2000, the PVWC invoiced Diamond Valley for \$81,443.80, representing
2 (a) the difference between the number of active water services that should have been reported by
3 Diamond Valley under the Service Agreement from January 1999 through July 2000 and the number
4 actually used for billing, times the \$2.60 monthly service charge (\$2,243.80), plus (b) the number of
5 building permits issued in Diamond Valley from December 1996 through July 2000.³

6 20. At the time of the hearing on October 13, 2000, Diamond Valley owed the PVWC
7 \$123,485.16. That amount increases by thousands of dollars with each new building permit issued in
8 Diamond Valley and each additional unpaid monthly billing.

9 21. The PVWC's remedies against Diamond Valley under the Service Agreement include
10 termination of the Service Agreement (with the resulting cessation of water delivery to Diamond
11 Valley) without further action of the Commission, and bringing contract and other actions in Superior
12 Court. Such remedies risk ending water service to Diamond Valley customers, are not timely, may
13 be difficult to implement or collect, and could result in the complication of federal bankruptcy
14 proceedings and involvement by the Bankruptcy Court.

15 22. Following the October hearing, Staff has read meters with Guy Emminger and has
16 attempted to mediate billing complaints between complainant customers and Diamond Valley.

17 23. On January 16, 2001, Staff filed a Memorandum indicating that little effort was made
18 by Guy Emminger to resolve the complaints in this Docket.

19 24. Staff's Memorandum also indicated that from January 1, 2000 to January 11, 2001, the
20 Commission received a total of one-hundred twenty-two (122) informal complaints and twenty-two
21 formal complaints.

22 25. Staff has recommended the following relief:

- 23
24 (a) That pursuant to Article XV, Section 3 of the Arizona Constitution and A.R.S.
25 §40-204, the Commission require Respondents to comply with the requirements of
26 Decision No. 60125; to file Utilities Division Annual Reports for the years 1997
27 through and including 1999, in compliance with A.A.C. R14-2-411.D.2; and to
28 properly bill Diamond Valley customers in compliance with A.A.C. R14-2-409.A;

³ 66 x \$1,200 = \$79,200

1 (b) That the Commission declare that Diamond Valley has violated the provisions of
2 the Arizona Administrative Code and Arizona Revised Statutes and shall be
sanctioned appropriately in accordance with Commission rules and State law
(A.R.S. §§ 40-424, 40-425, 40-426, and 40-428);

3 (c) That the Commission authorize Staff to take any action necessary to engage a
4 qualified management entity to operate and manage Diamond Valley to bring the
utility into full compliance; and,

5 (d) That the Commission order such other relief as may be appropriate under the
6 circumstances of this case.

7 26. Diamond Valley has consistently issued incorrect and inflated bills to its customers.

8 27. Diamond Valley has collected funds from at least one customer and has not provided
9 service.

10 28. As presently operated by Guy Emminger and those with whom it may have oral
11 contracts, Diamond Valley has not, and is not, operating its water system in accordance with
12 Decision No. 60125, Commission regulations, and State law. Based on the evidence presented, we
13 conclude that Diamond Valley's current management is not capable of operating its water system in
14 accordance with Decision No. 60125, applicable Commission regulations, and State law.

15 CONCLUSIONS OF LAW

16 1. Diamond Valley is a public service corporation within the meaning of Article XV of
17 the Arizona Constitution and A.R.S §§40-250, 40-251, 40-281, 40-282 and 40-285.

18 2. The Commission has jurisdiction over the Diamond Valley and of the subject matter
19 of the Complaints and OSC.

20 3. The issuance of a Certificate of Convenience and Necessity to a public service
21 corporation imposes a duty upon the certificate holder to operate the utility in a lawful manner, to
22 comply with law, and to provide competent management and adequate service to its customers.

23 4. Diamond Valley is in violation of A.R.S. §40-321, and Commission Rules A.A.C.
24 R14-2-409(A) and R14-2-411(D).

25 5. Diamond Valley has also failed to comply with Decision No. 60125 by:

26 (a) failing to file a 1995 Utilities Division Annual Report within 120 days of the
27 effective date of the Decision;

- 1 (b) failing to file Utilities Division Annual Reports for the years 1997 and
2 including 1999;
- 3 (c) failing to file a document either describing arrangements with Yavapai County
4 for the payment of back property taxes for the years 1993 through 1996 or
5 contesting those taxes within 60 days of that Decision;
- 6 (d) failing to file a status report with respect to the payment schedule made with
7 Yavapai County within 90 days of any determination of liability for the 1993
8 through 1996 property taxes;
- 9 (e) failing to file an affidavit verifying that the sale of assets approved by the
10 Decision has been consummated;
- 11 (f) failing to maintain books and records in accordance with the National
12 Association of Regulatory Utility Commissioners Uniform System of
13 Accounts; and,
- 14 (g) failing to properly bill its customers.

15 6. Diamond Valley attempted to comply with Decision No. 60125, as stated in Count VII
16 of the OSC, by filing for an emergency rate increase on April 30, 1997. However, Decision No.
17 60394 denied Diamond Valley an emergency rate increase and Diamond Valley did not then file an
18 application for a permanent rate increase within 15 months of the date of Decision No. 60125.

19 **ORDER**

20 IT IS THEREFORE ORDERED that the Commission's Utilities and Legal Divisions, shall be
21 authorized to take all lawful action necessary, including court action, to engage a qualified
22 management entity to operate, manage, and maintain Diamond Valley Water User's Corporation in
23 order to bring the utility into full compliance with Arizona law, the Commission's Rules, and the
24 Commission's Orders. The schedule of costs for any such Manager shall be as set forth by agreement
25 between the Utilities Division Director and such Manager, which costs may be reviewed and revised
26 after twelve (12) months of satisfactory service by such Manager.

27 IT IS FURTHER ORDERED that Diamond Valley Water User's Corporation, its present
28 directors, officers, employees and contractors, shall take any and all steps necessary to safeguard the

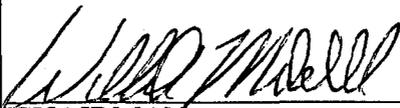
1 property and operations of Diamond Valley and the Diamond Valley water system so that
2 uninterrupted water service shall continue to be provided to Diamond Valley customers during the
3 transition to operation of the system by any such Manager.

4 IT IS FURTHER ORDERED that said Manager shall file a Progress Report with the Arizona
5 Corporation Commission's Compliance Section as follows: (a) 60 days, (b) 120 days, (c) 180 days,
6 (d) 270 days, and (e) 360 days after taking over the operation, maintenance and management of the
7 Diamond Valley water system. These progress reports shall include information detailing all funds
8 received and funds disbursed by expense category. These progress reports shall also include updates
9 detailing the resolution of all formal customer complaints.

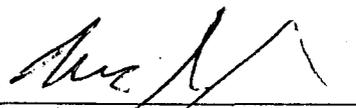
10 IT IS FURTHER ORDERED that in the event that Diamond Valley Water User's Corporation
11 and/or Mr. Guy Emminger fails to cooperate or seeks to interfere in the lawful operation of the utility
12 by a qualified management entity selected by Staff, the Commission's Legal Division is directed to
13 bring an action in court to enforce compliance with this Decision.

14 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

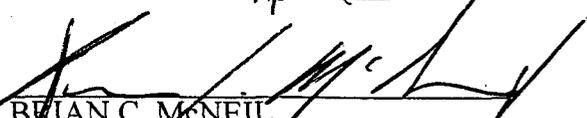
15 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

17 
18 _____
CHAIRMAN

17 _____
18 COMMISSIONER

17 
18 _____
COMMISSIONER

20 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
21 Secretary of the Arizona Corporation Commission, have
22 hereunto set my hand and caused the official seal of the
23 Commission to be affixed at the Capitol, in the City of Phoenix,
24 this 4th day of April, 2001.

23 
24 _____
25 BRIAN C. McNEIL
26 EXECUTIVE SECRETARY

26 DISSENT _____
27 SG:dap

1 SERVICE LIST FOR:

VARIOUS COMPLAINANTS vs. DIAMOND
2 VALLEY WATER USER'S CORP.

3 DOCKET NOS.:

W-03263A-00-0245; W-03263A-00-0251; W-03263A-
4 00-0253; W-03263A-00-0254; W-03263A-00-0301; W-
5 03263A-00-0302; W-03263A-00-0340; W-03263A-00-
6 0345; and W-03263A-00-0516

7 Guy Emminger, President
8 Diamond Valley Water User's Corporation
9 4754 East Donna Drive
10 Prescott, Arizona 86301

11 Ivan Legler, Legal Counsel
12 Prescott Valley Water Company
13 Prescott Valley Water District
14 7501 East Civic Circle
15 Prescott Valley, Arizona 86314

16 Houston T. Mayfield
17 4866 Amber Dr.
18 Prescott, Arizona 86301

19 George W. Dyekman
20 4845 Amber Dr.
21 Prescott, Arizona 86301

22 Mario DeMarco
23 4614 Gloria Drive
24 Prescott, Arizona 86301

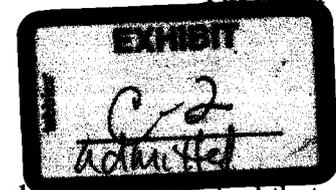
25 Ray R. Rodriguez
26 1700 E. Jade Circle
27 Prescott, Arizona 86301

28 Arthur L. Bourque
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Prescott, Arizona 86301

Jerry Pfingston
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5 Kevin Greif
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9 Christopher Kempley, Chief Counsel
10 Legal Division
11 Arizona Corporation Commission
12 1200 W. Washington Street
13 Phoenix, Arizona 85007
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15 Deborah Scott, Director
16 Utilities Division
17 Arizona Corporation Commission
18 1200 W. Washington Street
19 Phoenix, Arizona 85007
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21
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10-1430. Grounds for judicial dissolution or equitable relief

A. The court may dissolve a corporation in a proceeding by the attorney general if it is established that either:

1. The corporation obtained its articles of incorporation through fraud.
2. The corporation has continued to exceed or abuse the authority conferred on it by law.

B. The court may dissolve a corporation in a proceeding by a shareholder if it is established that either:

1. The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock and irreparable injury to the corporation is threatened or being suffered or the business and affairs of the corporation cannot be conducted to the advantage of the shareholders generally because of the deadlock.
2. The directors or those in control of the corporation have acted, are acting or will act in a manner that is illegal, oppressive or fraudulent.
3. The shareholders are deadlocked in voting power and have failed for a period that includes at least two consecutive annual meeting dates to elect one or more directors.
4. The corporate assets are being wasted, misapplied or diverted for noncorporate purposes.

C. The court may dissolve a corporation in a proceeding by a creditor if it is established that either:

1. The creditor's claim has been reduced to a judgment, the execution of the judgment has been returned unsatisfied and the corporation is insolvent.
2. The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent.

D. The court may dissolve a corporation in a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

➤ > "Kevin Greif" <k_greif@hotmail.com <mailto:k_greif@hotmail.com>> 01/07/01
10:13PM >>>
>>Dear Ms. Ruf,

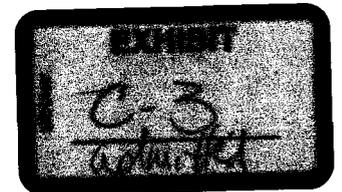
➤ >> We are preparing an article on the water situation for the Community
>>Association newsletter. We will likely print a copy of the consumer rights
>>page as well as contact addresses and phone numbers for the Commission and
>>Commissioners.
>> There are still many customers that have problems that haven't been
>>resolved. I realize that the your agency is working on the problem but
>>there has been very little action by the ACC to date and no resolution of the
>>problems.

➤ >> I am requesting a formal complaint form and instructions that we can
>>reproduce in the newsletter. In our recent conversation you implied that an
>>informal review was required before a formal complaint could be filed but I
>>have been unable to find any such rule. The Arizona Revised Statutes make
>>it quite clear that "any person" can file a complaint.

➤ >> In dealing with this Utility even the mediation process has had little
>>effect. Informal reviews and mediation are a waste of time for both your
>>agency and the customers here. It is my hope that a growing list of formal
>>complaints and the hearings they require will prompt the Commissioners to
>>take some meaningful action. Please send me the complaint form as soon as
>>possible. If you are unable to do so please let me know specifically what
>>rule or who in your agency prohibits you from doing so.

➤ >> In regard to my complaint, your consumer hints page states that at the
>>end of the mediation process "the investigator sends both parties a letter
>>containing a recommended resolution to the complaint". I have never
>>received this letter. Please send me a copy.
>> The ACC hint page also outlines the procedure after a failed mediation
>>attempt. It prescribes a hearing before an officer of the Commission who
>>will hear both sides of the complaint in the presence of a court reporter. You
>>also stated in your email of 11/7/00 that the "arbitration process does not
>>preclude any customer from taking their formal complaint to a hearing".

➤ >> My mediated hearing was over two months ago and the overcharges have
>>not been corrected. I am requesting a formal hearing. Please let me know
>>when it will be scheduled.
>>
>>Thanks for your assistance,
>>
>>Kevin Greif



>>From: Joan Ruf <JAR@CC.STATE.AZ.US <mailto:JAR@CC.STATE.AZ.US>>
>>To: k_greif@hotmail.com <mailto:k_greif@hotmail.com>
>>Subject: Re: Kevin Greif / Diamond Valley complaint
>>Date: Mon, 08 Jan 2001 10:34:01 -0700
>>
>>Good morning. The Commission is very aware that customer issues continue
>>and have not been resolved with Diamond Valley.
>>
>>Your formal complaint is still pending with the Commission. Please
>>remember, the formal complaint has not been heard by the Hearing Officer.
>>The Hearing Division determines when the formal complaint will be heard.
>>Also, the Procedural Order directed Staff to perform certain task and this
>>was the mediation process. There is no indication that a satisfactory
>>resolution would be reached. However, Staff gave it their best and have not
>>been successful. Therefore, the next step is the formal complaint which is
>>pending.
>>If the customer cannot resolve the dispute on an informal basis, the next
>>step is the formal process which you are already involved. The Hearing
>>Division is the responsible entity to schedule a hearing date on the subject
>>matter.
>>You are correct that the informal process was not satisfactory to the
>>customer and Staff. The intent to resolve the complaint was there, however,
>>reads taken by Staff in October and November was an important factor in
>>making a determination if in fact the issue could be resolved. Since this
>>was not the case, Staff will continue to work on all the complaints. Your
>>pending formal complaint is a Hearing matter.

>>> "Kevin Greif" <k_greif@hotmail.com <mailto:k_greif@hotmail.com>> 01/08/01
06:05PM >>>

>Dear Ms. Ruf,

>

> Thanks for your response. I spoke with the hearing department and have
>requested a formal hearing. I have also written to the commissioners asking
>them to expedite this case. I do need a copy of the "recomended resolution"
>letter from the mediation hearing of my complaint.

> Apparently there is no specific form required for a "formal complaint"
>so we will develop a simple complaint form for the community newsletter. If
>you think the ACC will object for any reason or if you would like to review
>the form before we publish and distribute it let me know.

> I really appreciate your efforts on this case and I realize it must be
>almost as frustrating for you as it is for the customers up here. Maybe it
>is time to get this problem more public and political attention. If you have
>any suggestions I would love to hear them.

>

>Best of luck,

>Kevin

>From: Joan Ruf <JAR@CC.STATE.AZ.US <mailto:JAR@CC.STATE.AZ.US>>

>To: k_greif@hotmail.com <mailto:k_greif@hotmail.com>

>Subject: Re: Kevin Greif / Diamond Valley complaint

>Date: Tue, 09 Jan 2001 11:55:34 -0700

>

>Good morning.

>

>I have not provided a written response to the customer nor Diamond Valley because the
issue has not been resolved. Being that there are so many formal and informal complaints
pending and very little resolution to the complaints, it is my opinion that it is better for
Staff the use all of the complaints as a working tool to make a recommendation as to what
is to be done with the present situation. The formal complaint is still pending.

>

>There is a formal complaint form that is used in filing formal complaints. I can't really
advise you one way or another whether the forms you develop will be used because Staff
has to adhere first to the informal process as required by the Arizona Administrative code.

>

>Just to provide you with an update, I am just finishing up the memo to Legal Counsel on
the 8 formal complaints that were joined with the Docket No. W-03263-A-00-0516
(Order to Show Cause).

>

>Sorry I can't be of much help at this time, however, it is a time consuming task. Also, I
am waiting for several more billing statements from customers.

Tuesday, January 09, 2001 3:11 PM
Arizona Corporation Commission
Consumer Services Specialist
Utilities Division

Dear Ms. Ruf,

I've got to admit I'm beginning to think you are stonewalling me. I have looked at the administrative code and it states "Informal procedure is recommended in all cases except those which clearly cannot be adjusted informally."

The code says recommended not required. And I find it hard to believe that you or anyone else in your department thinks they can resolve problems with Mr. Emminger informally. You have been unwilling to send me a complaint form so if your department is not happy with the one we generate they will know we did try to get an official one.

My understanding of the "resolution letter" is that it documents the findings of the mediation hearing. There is currently no documentation of the findings of the hearing officers. Mr. Emminger has not been given any written notification that he needs to correct my bills and I have no written record of the meeting or your conclusion. Your recommendations to the Commissioners is a separate matter and process. Let me know if I am misinterpreting this.

Thanks,

Kevin

Kevin Greif

From: "Joan Ruf" <JAR@CC.STATE.AZ.US>
To: <k_greif@hotmail.com>
Sent: Tuesday, November 07, 2000 2:21 PM
Subject: Re: Kevin Greif / Diamond Valley complaint

In response to your questions, here are the following answers.

1. I am aware of other customer accounts that have been billed incorrectly. My assignment is to arbitrate each complaint and try to resolve the customer's dispute. My assignment did not include those customers that did not file a complaint with the Commission.

2. I was only assigned to arbitrate the pending formal and informal complaints. I cannot provide an answer as to what action will be taken on those customers who did not file a complaint that have a similar problem. The recommendation is up to the Hearing Office and not Staff. However, I will make my recommendations through my supervisor as to what my findings were based on all the informal and formal complaints that I have mediated. I either have to bring closure to the customer complaints or advise the customer to proceed with the formal process. The arbitration process does not preclude any customer to taking their formal complaint to a hearing.

I hope the information provided helps for a better understanding as to what my assignment is associated with. I would suggest that you may want to contact the Commission's Legal Council on the subject matter.

>>> "Kevin Greif" <k_greif@hotmail.com> 11/05/00 10:45AM >>>

Dear Ms. Ruf,

I have received your letter of November 3, 2000 as well your email response below. I understand what your current assignment is and that it relates only to the formal and informal complaints.

The questions that I have asked both you and Utilities Division Director Deborah Scott in my letter of October 31, 2000 are really quite simple but has yet to be answered. Here it is simplest form.

1. Is the Corporation Commission aware of instances of customers being double billed for water by the Diamond Valley Water Users?

Yes or No

2. Is the Corporation Commission going to address the problem for all Diamond Valley Water user customers or only those that have filed complaints?

I would really appreciate direct answers to these questions. Please let me know how I can contact the Honorable Jerry L. Rudibaugh as well.

Thanks,

Kevin Greif

9/23/2003

>From: Joan Ruf <JAR@CC.STATE.AZ.US>
>To: k_greif@hotmail.com
>Subject: Re: Kevin Greif / Diamond Valley complaint
>Date: Fri, 03 Nov 2000 09:12:28 -0700

>
>I apologize for the delay in responding to your e-mail. Your suggestions
>are well taken. However, my assignment is to mediate all the formal and
>informal complaints pending with the Commission.

>
>The procedural order issued October 12, 2000 by the Chief Hearing Officer
>reflects mandatory assignments for Utilities Staff. Once my assignment is
>completed, it is my intent to write my investigative report based on the
>customers complaints and write my recommendations. The Hearing Officer
>will submit recommendations to the Commissioners for a vote.

>
>As it appears now, there is a definite billing problem.

>
>>>> "Kevin Greif" <k_greif@hotmail.com> 10/30/00 07:35PM >>>>

>Mr. Rigsby,

>
>I have spoken with a number of other people in the area about overlapping
>meter readings. It appears that I am not the only one that has experienced
>this problem. How many customers must complain about this double billing
>before an audit is deemed appropriate by the Corporation Commission?

>
>It also seemed strange that I was required to send ten copies of my
>complaint and yet neither of the Corporation Commission hearing officers
>had
>a complete copy at the hearing. What gives?

>
>I have attached the excel file that covers my bills from 1/98 to present. I
>appreciate your help in this matter. If you have any questions please give
>me a call at (520)776-2422.

>
>Thanks,

>
>Kevin Greif

>
>
>
>

>Get Your Private, Free E-mail from MSN Hotmail at <http://www.hotmail.com>.

>
>Share information about yourself, create your own public profile at
><http://profiles.msn.com>.

METERS

12200

| Date | Previous | Current | Correction | Usage | Minimum | Past due | Taxes | Cmt use bill | Total | Paid | Calculated |
|---------|----------|---------|------------|-------|---------|----------|--------|--------------|----------|---------|------------|
| 1/1/98 | 96740 | 98320 | 0 | 2580 | \$16.00 | \$33.93 | \$1.65 | \$13.93 | \$65.51 | \$31.35 | \$16.00 |
| 2/1/98 | 99320 | 101430 | 0 | 2110 | \$16.00 | \$33.93 | \$1.51 | \$11.39 | \$62.83 | \$31.58 | \$16.00 |
| 3/1/98 | 101430 | 104190 | 0 | 2760 | \$16.00 | \$62.83 | \$1.70 | \$14.90 | \$95.43 | \$28.90 | \$16.00 |
| 4/1/98 | 104190 | 108470 | 0 | 4280 | \$16.00 | \$0.70 | \$2.15 | \$23.11 | \$41.96 | \$32.60 | \$16.00 |
| 5/1/98 | 108470 | 116180 | 0 | 7710 | \$16.00 | \$0.70 | \$3.17 | \$41.63 | \$61.50 | \$41.26 | \$16.00 |
| 6/1/98 | 116180 | 124670 | 0 | 8490 | \$16.00 | \$0.70 | \$3.40 | \$45.85 | \$69.95 | \$60.80 | \$16.00 |
| 7/1/98 | 124670 | 131610 | 0 | 6940 | \$16.00 | \$65.95 | \$2.94 | \$37.48 | \$122.37 | \$65.25 | \$16.00 |
| 8/1/98 | 131610 | 141820 | 0 | 10210 | \$16.00 | \$0.70 | \$3.91 | \$55.13 | \$75.74 | \$56.42 | \$16.00 |
| 9/1/98 | 141820 | 147810 | 0 | 5990 | \$16.00 | \$0.00 | \$2.66 | \$32.35 | \$51.01 | \$75.04 | \$16.00 |
| 10/1/98 | 147810 | 150610 | 0 | 2800 | \$16.00 | \$0.00 | \$1.55 | \$12.26 | \$29.81 | \$51.01 | \$16.00 |
| 11/1/98 | 150610 | 152890 | 0 | 2270 | \$16.00 | \$0.00 | \$1.70 | \$14.96 | \$62.47 | \$32.83 | \$16.00 |
| 12/1/98 | 152890 | 156650 | 0 | 2770 | \$16.00 | \$29.81 | \$1.83 | \$17.23 | \$84.87 | \$29.81 | \$16.00 |
| 1/1/99 | 156650 | 158840 | 0 | 3190 | \$16.00 | \$29.81 | \$1.74 | \$15.55 | \$83.10 | \$32.68 | \$16.00 |
| 2/1/99 | 158840 | 161720 | 0 | 2880 | \$16.00 | \$29.81 | \$1.74 | \$15.55 | \$83.10 | \$35.06 | \$16.00 |
| 3/1/99 | 161720 | 165570 | 0 | 3850 | \$16.00 | \$0.00 | \$2.38 | \$27.22 | \$75.91 | \$38.29 | \$16.00 |
| 4/1/99 | 165570 | 170610 | 0 | 5040 | \$16.00 | \$30.31 | \$2.22 | \$24.41 | \$118.54 | \$45.60 | \$16.00 |
| 5/1/99 | 170610 | 175130 | 0 | 4520 | \$16.00 | \$75.91 | \$4.32 | \$62.59 | \$153.49 | \$42.62 | \$16.00 |
| 6/1/99 | 175130 | 182200 | 4520 | 11590 | \$16.00 | \$70.58 | \$4.05 | \$57.62 | \$98.25 | \$50.00 | \$16.00 |
| 7/1/99 | 182200 | 185800 | 7070 | 10670 | \$16.00 | \$20.58 | \$1.82 | \$17.06 | \$98.13 | \$45.00 | \$16.00 |
| 8/1/99 | 185800 | 188960 | 0 | 3160 | \$16.00 | \$53.25 | \$2.30 | \$25.81 | \$97.36 | \$34.88 | \$16.00 |
| 9/1/99 | 188960 | 193740 | 0 | 4780 | \$16.00 | \$53.25 | \$1.36 | \$8.64 | \$81.55 | \$41.81 | \$16.00 |
| 10/1/99 | 193740 | 195340 | 0 | 1600 | \$16.00 | \$55.55 | \$1.53 | \$8.64 | \$81.55 | \$41.81 | \$16.00 |
| 11/1/99 | 195340 | 195340 | 0 | 0 | \$16.00 | \$46.98 | \$1.67 | \$11.88 | \$76.39 | \$34.57 | \$16.00 |
| 12/1/99 | 195340 | 197540 | 0 | 2200 | \$16.00 | \$76.39 | \$1.67 | \$14.31 | \$108.37 | \$29.41 | \$16.00 |
| 1/1/00 | 197540 | 200190 | 0 | 2650 | \$16.00 | \$76.39 | \$2.55 | \$14.31 | \$142.13 | \$31.98 | \$16.00 |
| 2/1/00 | 197540 | 200190 | 0 | 2650 | \$16.00 | \$93.27 | \$2.55 | \$14.31 | \$142.13 | \$31.98 | \$16.00 |

| gallons | difference | measured | 11590 | 115040 | 117690 | \$384.00 | \$54.11 | \$599.62 | \$1,037.73 | \$1,032.54 | \$416.00 |
|---------|------------|----------|--------|--------|----------|----------|----------|------------|------------|------------|----------|
| 14240 | 103460 | 11590 | 115040 | 117690 | \$384.00 | \$54.11 | \$599.62 | \$1,037.73 | \$1,032.54 | \$416.00 | |

| Gallons | Minimum | Taxes | Current use | Total | Paid | Calculated |
|---------|----------|---------|-------------|------------|---------|------------|
| 117690 | \$384.00 | \$54.11 | \$599.62 | \$1,037.73 | \$31.58 | \$16.00 |
| 103460 | \$416.00 | \$54.39 | \$572.94 | \$1,043.33 | \$28.90 | \$16.00 |
| | | | | | \$32.60 | \$16.00 |
| | | | | | \$41.26 | \$16.00 |
| | | | | | \$60.80 | \$16.00 |
| | | | | | \$65.25 | \$16.00 |
| | | | | | \$56.42 | \$16.00 |
| | | | | | \$75.04 | \$16.00 |
| | | | | | \$32.83 | \$16.00 |
| | | | | | \$29.81 | \$16.00 |
| | | | | | \$32.68 | \$16.00 |
| | | | | | \$35.06 | \$16.00 |
| | | | | | \$38.29 | \$16.00 |
| | | | | | \$45.59 | \$16.00 |
| | | | | | \$42.62 | \$16.00 |
| | | | | | \$57.16 | \$16.00 |
| | | | | | \$37.39 | \$16.00 |
| | | | | | \$34.88 | \$16.00 |
| | | | | | \$44.11 | \$16.00 |
| | | | | | \$26.00 | \$16.00 |
| | | | | | \$16.88 | \$16.00 |
| | | | | | \$29.41 | \$16.00 |
| | | | | | \$31.98 | \$16.00 |
| | | | | | \$31.98 | \$16.00 |

Paid to date \$1,032.54
 Balance \$10.79
 Past due from 1/98 \$33.93
 Total due \$44.72

Amount billed \$142.13

DIAMOND VALLEY WATER USER'S CORPORATION
P.O. BOX 10996 PRESCOTT, ARIZONA 86304
PHONE: (520)778-6174 FAX: (520)778-0435

USER'S NAME: KEVEN GREIF

METER #:

ADDRESS: 1140 OPAL DR.

CITY/STATE/ZIP: Prescott, AZ 86303-

SERVICE ID: 012200

ACCOUNT NO: GREIF K.

PREVIOUS READING
170610

CURRENT READING
175130

CURRENT USAGE
4520

MINIMUM CHARGE
\$ 16.00

**PAST DUE BALANCE
\$ 75.91

TAXES
\$ 2.22

CURRENT USAGE BILLING
05/01/99 THRU 06/01/99
\$ 24.41
18.22

TOTAL AMOUNT DUE FIFTEEN (15)
DAYS FROM POST MARK DATE **
118.54
42.63

PLEASE NOTE TEN DAY SHUTOFF NOTICE INCLUDED WITH BILLING **

42.63

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT

USER NAME: KEVEN GREIF

METER:

SERVICE ID: 012200

ACCOUNT NO: GREIF K.

STATEMENT DATE: 06/01/99

TOTAL AMOUNT DUE \$ 118.54

DIAMOND VALLEY WATER USER'S CORPORATION
P.O. BOX 10996 PRESCOTT, ARIZONA 86304
PHONE: (520)778-6174 FAX: (520)778-0435

USER'S NAME: KEVEN GREIF

METER #:

ADDRESS: 424 N. WASHINGTON

CITY/STATE/ZIP: Prescott, AZ 86301

SERVICE ID: 012200

ACCOUNT NO: GREIF K.

PREVIOUS READING

170610

175130

CURRENT READING

182200

CURRENT USAGE

11590

MINIMUM CHARGE

\$ 16.00

**PAST DUE BALANCE

\$ 70.58

TAXES

\$ 4.32

CURRENT USAGE BILLING

06/01/99 THRU 07/01/99

\$ 62.59

TOTAL AMOUNT DUE FIFTEEN (15)

DAYS FROM POST MARK DATE **

153.49

PLEASE NOTE TEN DAY SHUTOFF NOTICE INCLUDED WITH BILLING **

URGENT READ !

On 6-1399 we were hit with an electrical surge. We have retrieved most of the data. Will be going door to door to get some information lost. The 6-1-99 and 7-1-99 bills that didn't show payments were all retrieved. Again its time for the homeowners to clean their meter.

There will be two or three people collecting data. They will have letter from Diamond Valley Water Users Corp, Identifying them to Retrieve data. Please give them just the information they request. Sorry for the late billings and inconvenience Guy

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT

USER NAME: KEVEN GREIF

METER:

SERVICE ID: 012200

ACCOUNT NO: GREIF K.

STATEMENT DATE: 07/01/99

TOTAL AMOUNT DUE \$ 153.49

DIAMOND VALLEY WATER USER'S CORPORATION
P.O. BOX 10996 PRESCOTT, ARIZONA 86304
PHONE: (520)778-6174 FAX: (520)778-0435

USER'S NAME: KEVEN GREIF

METER #:

ADDRESS: 424 N. WASHINGTON

CITY/STATE/ZIP: Prescott, AZ 86301

SERVICE ID: 012200

ACCOUNT NO: GREIF K.

PREVIOUS READING

175130

182200

MINIMUM CHARGE

\$ 16.00

CURRENT READING

185800

**PAST DUE BALANCE

\$ 20.58

CURRENT USAGE

10670

TAXES

\$ 4.05

CURRENT USAGE BILLING

06/01/99 THRU 08/01/99

\$ 57.62

TOTAL AMOUNT DUE FIFTEEN (15)

DAYS FROM POST MARK DATE **

98.25

PLEASE NOTE TEN DAY SHUTOFF NOTICE INCLUDED WITH BILLING **

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT

USER NAME: KEVEN GREIF

METER:

SERVICE ID: 012200

ACCOUNT NO: GREIF K.

STATEMENT DATE: 07/01/99

TOTAL AMOUNT DUE \$ 98.25

| Date | 6610 Meter reading | Previous | Current | Correction | Billed Usage | Minimum | Billed | Past due | Taxes | Billed | Current use | Total | Paid | Minimum | taxes | crrt use |
|---------|--------------------|----------|---------|------------|--------------|---------|----------|----------|--------|---------|-------------|---------|---------|---------|-------|----------|
| 1/1/98 | 557490 | 580480 | 0 | 0 | 2910 | \$16.00 | \$31.75 | \$1.74 | \$1.74 | \$15.71 | \$65.20 | \$34.14 | \$16.00 | 1.74 | 15.71 | |
| 2/1/98 | 580400 | 583270 | 0 | 0 | 2870 | \$16.00 | \$31.75 | \$1.73 | \$1.73 | \$15.50 | \$64.98 | \$33.45 | \$16.00 | 1.73 | 15.50 | |
| 3/1/98 | 583270 | 585210 | 0 | 0 | 1940 | \$16.00 | \$64.98 | \$1.46 | \$1.46 | \$10.48 | \$92.92 | \$33.23 | \$16.00 | 1.46 | 10.48 | |
| 4/1/98 | 585210 | 588940 | 0 | 0 | 3730 | \$16.00 | \$64.98 | \$1.99 | \$1.99 | \$20.14 | \$103.11 | \$27.94 | \$16.00 | 1.99 | 20.14 | |
| 5/1/98 | 588940 | 574640 | 0 | 0 | 5700 | \$16.00 | \$64.98 | \$2.57 | \$3.72 | \$30.78 | \$114.33 | \$38.13 | \$16.00 | 2.57 | 30.78 | |
| 6/1/98 | 574640 | 584190 | 0 | 0 | 9550 | \$16.00 | \$64.98 | \$3.72 | \$3.72 | \$51.57 | \$136.27 | \$49.35 | \$16.00 | 3.72 | 51.57 | |
| 7/1/98 | 584190 | 590690 | 0 | 0 | 6700 | \$16.00 | \$136.27 | \$2.87 | \$2.87 | \$36.18 | \$191.32 | \$71.29 | \$16.00 | 2.87 | 36.18 | |
| 8/1/98 | 590690 | 594510 | 0 | 0 | 3620 | \$16.00 | \$64.98 | \$1.96 | \$1.96 | \$19.55 | \$102.49 | \$65.05 | \$16.00 | 1.96 | 19.55 | |
| 9/1/98 | 594510 | 599490 | 0 | 0 | 4980 | \$16.00 | \$64.98 | \$2.36 | \$2.36 | \$26.89 | \$110.23 | \$87.51 | \$16.00 | 2.36 | 26.89 | |
| 10/1/98 | 599490 | 603130 | 0 | 0 | 3640 | \$16.00 | \$64.98 | \$2.02 | \$2.02 | \$20.79 | \$103.79 | \$45.25 | \$16.00 | 1.96 | 19.66 | |
| 11/1/98 | 603130 | 606980 | 0 | 0 | 8850 | \$16.00 | \$35.17 | \$2.09 | \$2.09 | \$22.03 | \$75.29 | \$37.62 | \$16.00 | 2.02 | 20.79 | |
| 12/1/98 | 606980 | 611060 | 0 | 0 | 4080 | \$16.00 | \$35.17 | \$2.00 | \$2.00 | \$20.41 | \$73.58 | \$38.81 | \$16.00 | 2.09 | 22.03 | |
| 1/1/99 | 611060 | 614840 | 0 | 0 | 3780 | \$16.00 | \$35.17 | \$2.00 | \$2.00 | \$20.41 | \$73.58 | \$40.12 | \$16.00 | 2.00 | 20.41 | |
| 2/1/99 | 614840 | 618350 | 0 | 0 | 3510 | \$16.00 | \$35.17 | \$1.92 | \$1.92 | \$18.95 | \$72.04 | \$38.41 | \$16.00 | 1.92 | 18.95 | |
| 3/1/99 | 618350 | 621750 | 0 | 0 | 3400 | \$16.00 | \$35.17 | \$1.92 | \$1.92 | \$18.95 | \$72.04 | \$38.41 | \$16.00 | 1.92 | 18.95 | |
| 4/1/99 | 621750 | 624630 | 0 | 0 | 2880 | \$16.00 | \$35.17 | \$1.74 | \$1.74 | \$15.55 | \$68.46 | \$36.25 | \$16.00 | 1.89 | 18.36 | |
| 5/1/99 | 624630 | 624630 | 0 | 0 | 0 | \$16.00 | \$35.17 | \$1.74 | \$1.74 | \$15.55 | \$68.46 | \$36.25 | \$16.00 | 1.74 | 15.55 | |
| 6/1/99 | 624630 | 631270 | 0 | 0 | 6840 | \$16.00 | \$94.45 | \$2.85 | \$2.85 | \$35.86 | \$149.16 | \$33.29 | \$16.00 | 2.85 | 35.86 | |
| 7/1/99 | 627680 | 634640 | 3590 | 0 | 6960 | \$32.00 | \$14.45 | \$3.83 | \$3.83 | \$37.58 | \$87.86 | \$80.00 | \$16.00 | 2.85 | 35.86 | |
| 8/1/99 | 634640 | 637320 | 0 | 0 | 2680 | \$16.00 | \$42.86 | \$1.68 | \$1.68 | \$14.47 | \$75.01 | \$45.00 | \$16.00 | 1.88 | 18.20 | |
| 9/1/99 | 637320 | 642520 | 0 | 0 | 5200 | \$32.00 | \$42.86 | \$3.30 | \$3.30 | \$28.68 | \$108.24 | \$32.15 | \$16.00 | 1.68 | 14.47 | |
| 10/1/99 | 642520 | 645470 | 0 | 0 | 2950 | \$32.00 | \$62.16 | \$2.64 | \$2.64 | \$15.93 | \$112.73 | \$32.15 | \$16.00 | 2.42 | 28.08 | |
| 11/1/99 | 645470 | 645470 | 0 | 0 | 0 | \$32.00 | \$62.16 | \$2.64 | \$2.64 | \$15.93 | \$112.73 | \$32.15 | \$16.00 | 1.76 | 15.93 | |
| 12/1/99 | 645470 | 648950 | 0 | 0 | 3480 | \$16.00 | \$86.73 | \$1.91 | \$1.91 | \$18.79 | \$123.43 | \$44.08 | \$16.00 | 0.88 | 0.00 | |
| 1/1/00 | 648950 | 652610 | 0 | 0 | 3660 | \$16.00 | \$160.13 | \$1.97 | \$1.97 | \$19.76 | \$167.86 | \$36.70 | \$16.00 | 1.91 | 18.79 | |
| 2/1/00 | 648950 | 655330 | 3660 | 0 | 6380 | \$32.00 | \$70.80 | \$3.65 | \$3.65 | \$34.45 | \$140.70 | \$37.73 | \$16.00 | 1.97 | 19.76 | |
| 3/1/00 | 655330 | | | 0 | 0 | \$32.00 | \$70.80 | \$3.65 | \$3.65 | \$34.45 | \$140.70 | \$37.73 | \$16.00 | 1.69 | 14.69 | |
| 4/1/00 | 0 | | | 0 | 0 | \$0.00 | | | | | | | \$0.00 | 0.00 | 0.00 | |
| 5/1/00 | 0 | | | 0 | 0 | \$0.00 | | | | | | | \$0.00 | 0.00 | 0.00 | |
| 6/1/00 | 0 | | | 0 | 0 | \$0.00 | | | | | | | \$0.00 | 0.00 | 0.00 | |

gallons difference metered 7250 97840 7250 105090 416.00 52.00 529.45 997.45 988.37 416.00 51.94 528.34

Billed 105090 416.00 52.00 529.45 997.45
 Actual 97840 416.00 51.94 528.34 988.27
 Taxes Current use Total
 Paid to date 988.37
 Balance 7.90
 Past due from 1/98 31.75
 Total 39.65
 Amount billed 140.70

DIAMOND VALLEY WATER USER'S CORPORATION
P.O. BOX 10996 PRESCOTT, ARIZONA 86304
PHONE: (520)778-6174 FAX: (520)778-0435

USER'S NAME: KEVIN GREIF

METER #: 006610

ADDRESS: 424 N. WASHINGTON

CITY/STATE/ZIP: Prescott, AZ 86301

SERVICE ID: 006610

ACCOUNT NO: GREIF K

PREVIOUS READING

624630

CURRENT READING

631270

CURRENT USAGE

6640

MINIMUM CHARGE

\$ 16.00

**PAST DUE BALANCE

\$ 94.45

TAXES

\$ 2.85

CURRENT USAGE BILLING

06/01/99 THRU 07/01/99

\$ 35.86

TOTAL AMOUNT DUE FIFTEEN (15)

DAYS FROM POST MARK DATE **

149.16

PLEASE NOTE TEN DAY SHUTOFF NOTICE INCLUDED WITH BILLING **

URGENT READ !

On 6-1399 we were hit with an electrical surge. We have retrieved most of the data. Will be going door to door to get some information lost. The 6-1-99 and 7-1-99 bills that didn't show payments were all retrieved. Again its time for the homeowners to clean their meter.

There will be two or three people collecting data. They will have letter from Diamond Valley Water Users Corp, Identifying them to Retrieve data. Please give them just the information they request. Sorry for the late billings and inconvenience Guy

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT

USER NAME: KEVIN GREIF

METER: 006610

SERVICE ID: 006610

ACCOUNT NO: GREIF K

STATEMENT DATE: 07/01/99

TOTAL AMOUNT DUE \$ 149.16

DIAMOND VALLEY WATER USER'S CORPORATION
P.O. BOX 10996 PRESCOTT, ARIZONA 86304
PHONE: (520)778-6174 FAX: (520)778-0435

USER'S NAME: KEVIN GREIF

METER #: 006610

ADDRESS: 424 N. WASHINGTON

CITY/STATE/ZIP: Prescott, AZ 86301

SERVICE ID: 006610

ACCOUNT NO: GREIF K

PREVIOUS READING
627680

CURRENT READING
634640

CURRENT USAGE
6960

MINIMUM CHARGE
\$ 32.00

**PAST DUE BALANCE
\$ 14.45

TAXES
\$ 3.83

CURRENT USAGE BILLING
06/01/99 THRU 08/01/99
\$ 37.58

TOTAL AMOUNT DUE FIFTEEN (15)
DAYS FROM POST MARK DATE **
87.86

PLEASE NOTE TEN DAY SHUTOFF NOTICE INCLUDED WITH BILLING **

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT

USER NAME: KEVIN GREIF

METER: 006610

SERVICE ID: 006610

ACCOUNT NO: GREIF K

STATEMENT DATE: 07/01/99

TOTAL AMOUNT DUE \$ 87.86

DIAMOND VALLEY WATER USER'S CORPORATION
P.O. BOX 10996 PRESCOTT, ARIZONA 86304
PHONE: (520)778-6174 FAX: (520)778-0435

USER'S NAME: *Kevin Greif*

METER #: *006610*

ADDRESS: *424 N. Washington*

CITY/STATE/ZIP: *Prescott AZ 86301*

SERVICE ID: *006610*

ACCOUNT NO: *Greif K*

PREVIOUS READING

648950

CURRENT READING

652610

CURRENT USAGE

3660

MINIMUM CHARGE

\$ 16.00

**PAST DUE BALANCE

\$ 160.13

TAXES

\$ 1.97

CURRENT USAGE BILLING
THRU

\$ 19.76

TOTAL AMOUNT DUE FIFTEEN (15)
DAYS FROM POST MARK DATE **

\$ 197.86

PLEASE NOTE TEN DAY SHUTOFF NOTICE INCLUDED WITH BILLING **

1.97
16.00
19.76

37.73

PLEASE RETURN THIS PORTION WITH YOUR PAYMENT

USER NAME:

METER:

SERVICE ID:

ACCOUNT NO:

STATEMENT DATE:

TOTAL AMOUNT DUE

Diamond Valley Water User's Corporation
P.O. Box 10996 Prescott, Arizona 86304
Phone: (520)778-6174 FAX: (520)778-0435

User's Name: KEVIN GREIF

Meter #: 006610

Address: 424 N. WASHINGTON

City/State/Zip: Prescott, AZ 86301

Service ID: 237

Account No. GREIF K

Previous Reading
648950

Current Reading
655330

Current Usage
6380.0000

Minimum Charge
32.00

Past Due Balance
70.60

Taxes
3.65

Current Usage Billing
34.45

Total Amount Due Fifteen (15)
Days From Post Mark Date.
140.70

****Please Note** Ten Day Shutoff Notice Included With Billing. ****

This bill contains two months worth of charges. The first being Feb. charges (Jan 24/Feb. 24th). The second month is March's charges (Feb 24th /March 24.) The payments received during this time frame have been included.

The \$32 monthly minimum is a valid charge. This is for two months.

Please Return This Portion With Your Payment.

User's Name: KEVIN GREIF

Meter #: 006610

Service ID: 237

Account No. GREIF K

Statement Date: 04/01/00

Total Amount Due: 140.70

COMMISSIONERS
MARC SPITZER - Chairman
JIM IRVIN
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON



ARIZONA CORPORATION COMMISSION

BRIAN C. MCNEIL
Executive Secretary
JOANNE C. MACDONNELL
Director, Corporations Division

February 14, 2003

Diamond Valley Community Association
1103 North Opal Drive
Prescott, AZ 86303
Attn: Mary A. Morel

Re: Diamond Valley Water User's Corporation (D VWUC)

Dear Ms. Morel:

The commissioners forwarded your February 10 letter concerning Diamond Valley Water User's Corporation to me for response.

The questions are answered below, but please know that we are a repository for corporation documents and can only speak to that. We cannot dispense legal advice. Below are facts based on documents filed with our agency.

1) Is the DVWUC still a non-profit corporation?

According to the records this corporation was incorporated as a non-profit corporation, but was Administratively Dissolved on 4/28/03 for failure to file an annual report.

2) Is there an elected, functioning board of directors?

According to the Annual Report filed on 10/25/99 for Fiscal Year 1999, the Directors are: Rhonda Emminger, and Guy E. Emminger.

3) Who are the officers of the DVWUC?

According to the Annual Report filed on 10/25/99 for Fiscal Year 1999, the officers are: President, Robert J. Seleman, and Vice-President, Rhonda M. Emminger.

4) Is the DVWUC in compliance with the ACC re-corporate filings?

No, this corporation was Administratively Dissolved on 4/28/03 for failure to file an annual report.

5) Who owns the assets of the DVWUC?

The Articles of Incorporation are not required to contain this information. Neither are the annual reports.

6) Are the meeting of the board of the DVWUC open to the public?

The Articles of Incorporation are not required to contain this information. Typically, this would be stated in the corporation's bylaws. Bylaws are not filed with the Corporation Commission. Arizona Revised Statutes does not require it.

Arizona Revised Statutes require the Corporation Commission to charge for copies of documents [50 cents per page]. Please contact me with any request for copies of the documents on file, so I can inform you an exact charge. Enclosed is a computer printout showing the status of the corporation, along with a list of documents on file.

Certain documents may be viewed on our web site [www.cc.state.az.us] via the Internet. The annual reports for FY1995, FY1996, FY1998, and FY1999 are available for free download. These annual reports list the officers and directors, and also contain a financial statement.

If you have any further questions, please do not hesitate to contact me for help.

Sincerely,



Melissa C. Hawkins,
Records Manager,
Corporations Division
Arizona Corporation Commission
602-542-5085

CC: Commissioner Marc Spitzer
Commissioner Mike Gleason
Jodi Jerich, Aide to Commissioner Gleason
Joanne MacDonnell, Director, Corporations Division

- 1 (b) failing to file Utilities Division Annual Reports for the years 1997 and
2 including 1999;
- 3 (c) failing to file a document either describing arrangements with Yavapai County
4 for the payment of back property taxes for the years 1993 through 1996 or
5 contesting those taxes within 60 days of that Decision;
- 6 (d) failing to file a status report with respect to the payment schedule made with
7 Yavapai County within 90 days of any determination of liability for the 1993
8 through 1996 property taxes;
- 9 (e) failing to file an affidavit verifying that the sale of assets approved by the
10 Decision has been consummated;
- 11 (f) failing to maintain books and records in accordance with the National
12 Association of Regulatory Utility Commissioners Uniform System of
13 Accounts; and,
- 14 (g) failing to properly bill its customers.

15 6. Diamond Valley attempted to comply with Decision No. 60125, as stated in Count VII
16 of the OSC, by filing for an emergency rate increase on April 30, 1997. However, Decision No.
17 60394 denied Diamond Valley an emergency rate increase and Diamond Valley did not then file an
18 application for a permanent rate increase within 15 months of the date of Decision No. 60125.

19 **ORDER**

20 IT IS THEREFORE ORDERED that the Commission's Utilities and Legal Divisions, shall be
21 authorized to take all lawful action necessary, including court action, to engage a qualified
22 management entity to operate, manage, and maintain Diamond Valley Water User's Corporation in
23 order to bring the utility into full compliance with Arizona law, the Commission's Rules, and the
24 Commission's Orders. The schedule of costs for any such Manager shall be as set forth by agreement
25 between the Utilities Division Director and such Manager, which costs may be reviewed and revised
26 after twelve (12) months of satisfactory service by such Manager.

27 IT IS FURTHER ORDERED that Diamond Valley Water User's Corporation, its present
28 directors, officers, employees and contractors, shall take any and all steps necessary to safeguard the



Yavapai County Attorney

255 East Gurley Street
Prescott, AZ 86301
(928) 771-3344 (Criminal)
(928) 771-3338 (Civil)
Facsimile (928) 771-3110

SHEILA SULLIVAN POLK
Yavapai County Attorney

February 24, 2003

Mary A. Morel
Diamond Valley Community Association
1103 North Opal Drive
Prescott, AZ 86303

Re: Diamond Valley Water User's Corporation

Dear Ms. Morel:

I am writing in response to your letter asking about the status of an investigation into the Diamond Valley Water User's Corporation. First, I want to make it clear that the role of this office is to file charges and prosecute a case after an investigation is completed and presented to us by a law enforcement agency. My investigators do assist local law enforcement agencies when we can, but given our limited resources, we cannot conduct the primary investigation. In this case, the best we can do is to continue in our attempts to locate an agency that is willing to investigate the allegations.

Dave Goode, the County Attorney investigator who was attempting to work with the Arizona Corporation Commission on your behalf, is no longer with this office. I have asked his supervisor, Roger Williamson, to contact the Corporation Commission to learn whether they have made any progress and whether we can assist that agency in moving this investigation along. In terms of local law enforcement, it is the Yavapai County Sheriff's Office that has the jurisdiction to investigate criminal activities in your area, and Mr. Williamson will also be contacting them to see if they have the resources to conduct the investigation.

I suggest that you contact Mr. Williamson directly regarding his progress and I will let him know you will be giving him a call. He can be reached at 771-3344. Let me emphasize again that this office cannot prosecute a case until a law enforcement agency conducts their investigation, whether it be the Sheriff's Office or the Corporation Commission.

Very truly yours,

Sheila Sullivan Polk
Yavapai County Attorney

cc: Supervisor Gheral Brownlow
Roger Williamson