

ORIGINAL



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ROSHKA DeWULF & PATTEN

ROSHKA DeWULF & PATTEN, PLC
ATTORNEYS AT LAW
ONE ARIZONA CENTER
400 EAST VAN BUREN STREET
SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

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AZ CORP COMMISSION
DOCUMENT CONTROL

March 19, 2007

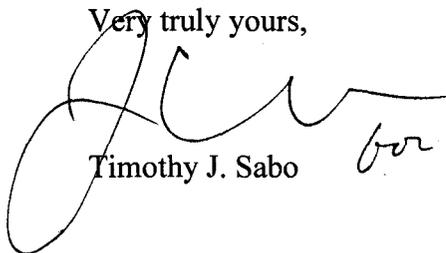
Ms. Blessing N. Chukwu
Executive Consultant III
Utilities Division
Arizona Corporation Commission
1200 West Washington Avenue
Phoenix, Arizona 85007

Re: Water Utility of Greater Buckeye – Application for Extension of it Certificate of Convenience and Necessity (CC&N)
Docket No. W-02451A-06-0792

Dear Ms. Chukwu:

Water Utility of Greater Buckeye, Inc. (“WUGB”) responds to your insufficiency letter dated January 16, 2007 in this docket. We hope that the responses and the documents that are part of this response do address your concerns and questions. Please let us know if Staff has any further questions.

Very truly yours,



Timothy J. Sabo

TJS:da

cc: Mr. Del Smith
Christopher C. Kempley, Esq.
Mr. Graham Symmonds
ACC Docket Control (Original + 13 copies).

Arizona Corporation Commission
DOCKETED
MAR 19 2007

DOCKETED BY 

WATER UTILITY OF GREATER BUCKEYE'S
RESPONSES TO INSUFFICIENCY LETTER
DATED JANUARY 16, 2007
DOCKET NO. W-02451A-06-0792
MARCH 19, 2007

1. Please provide a copy of the water usage data for the last 13 months for Water Utility of Greater Buckeye ("WUGB") water systems.

RESPONSE: Please see the attached.

RESPONDENT: Robin Bain, P.E., DEE for Graham Symmonds.

WATER USE DATA SHEET

NAME OF COMPANY _____	Water Utility of Greater Buckeye, Inc.
ADEQ Public Water System No. →	Sun Valley/Sweetwater 1 System PWS #07-195

MONTH/YEAR (Last 13 Months)	NUMBER OF CUSTOMERS	GALLONS SOLD (Thousands)
02/06	348	2,420
03/06	353	2,404
04/06	358	3,424
05/06	367	3,253
06/06	373	5,235
07/06	372	5,897
08/06	368	4,789
09/06	368	3,925
10/06	370	3,428
11/06	376	3,293
12/06	378	2,738
01/07	376	2,713
02/07	380	2,176
Total		45,695

STORAGE TANK CAPACITY (Gallons)	NUMBER OF EACH	ARIZONA DEPT. OF WATER RESOURCES WELL I.D. NUMBER	WELL PRODUCTION (Gallons per Minute)
120,000	1	55-800947	300

Other Water Sources in Gallons per Minute _____	GPM	-
Fire Hydrants on System _____	Yes	X No
Total Water Pumped Last 13 Months (Gallons in Thousands) _____		51,587

WATER USE DATA SHEET

NAME OF COMPANY —————>	Water Utility of Greater Buckeye, Inc.
ADEQ Public Water System No. —>	Sweetwater 2 System PWS #07-129

MONTH/YEAR (Last 13 Months)	NUMBER OF CUSTOMERS	GALLONS SOLD (Thousands)
02/06	93	796
03/06	93	728
04/06	92	958
05/06	92	1,029
06/06	93	1,460
07/06	91	1,386
08/06	91	1,244
09/06	92	1,039
10/06	91	1,091
11/06	94	845
12/06	91	734
01/07	91	765
02/07	92	701
Total		12,776

STORAGE TANK CAPACITY (Gallons)	NUMBER OF EACH	ARIZONA DEPT. OF WATER RESOURCES WELL I.D. NUMBER	WELL PRODUCTION (Gallons per Minute)
11,000	4	55-802333	30

Other Water Sources in Gallons per Minute —————>	GPM	-
Fire Hydrants on System —————>	Yes	X No
Total Water Pumped Last 13 Months (Gallons in Thousands) —————>		14,161

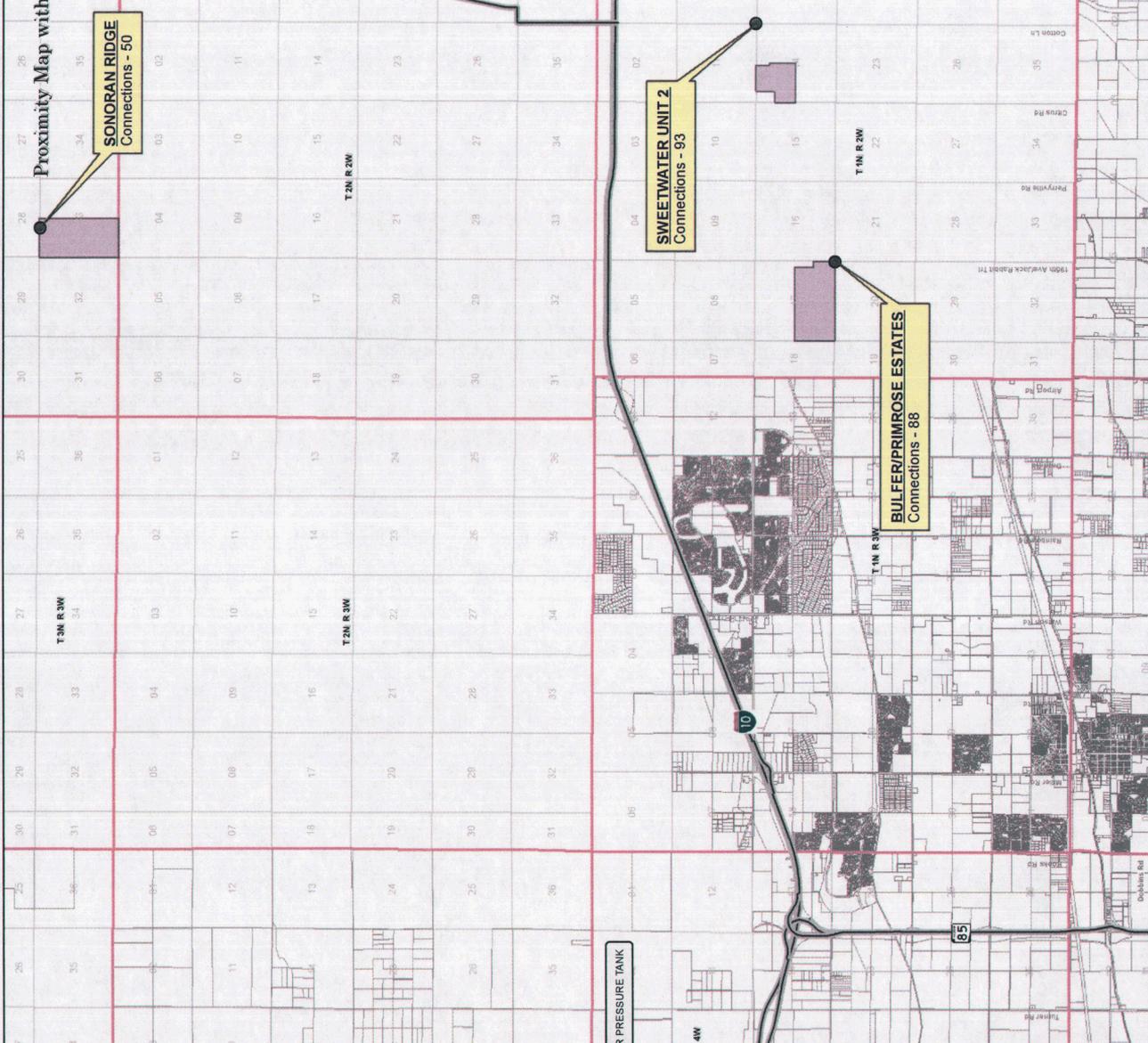
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2. Please specify the acreage of WUGB's existing CC&N and provide a detailed proximity map.

RESPONSE: The approximate acreage of the existing CC&N is 4,272 acres. See the attached proximity map.

RESPONDENT: Robin Bain, P.E., DEE for Graham Symmonds.

Water Utility of Greater Buckeye
Proximity Map with Montana Vista CC&N Extension
 Docket W-02451A-06-0792



SUN VALLEY RANCHES / SWEETWATER 1
 Connections - 380
 300 gpm well
 120,000 gal storage
 Average daily demand = 53 gpm

70.5 acres, 52 lbs

SWEETWATER PRESSURE TANK

SONORAN RIDGE
 Connections - 50

SWEETWATER UNIT 2
 Connections - 93

BULFER/PRIMROSE ESTATES
 Connections - 88

-  Water Utility of Greater Buckeye (4,272 acres)
-  Montana Vista (Proposed CC&N Extension)
-  Water Main

WATER UTILITY OF GREATER BUCKEYE'S
RESPONSES TO INSUFFICIENCY LETTER
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3. According to Exhibit 8 of the Application, WUGB has 4 existing water systems. Please provide the following information related to these water systems:

- a) A detailed proximity map showing the location of each water system.
- b) A most recent ADEQ/ MCESD Drinking Water Compliance Report for each water system.

RESPONSE: a) See exhibit provided for No. 2.

- b) See the attached Compliance reports from MCESD; these are the most recent we have been able to obtain.

RESPONDENT: Robin Bain, P.E., DEE for Graham Symmonds.



Maricopa County
Environmental Services Department

PUBLIC WATER SYSTEM COMPLIANCE STATUS REPORT

System Name: Sun Valley Ranch
PWS ID#: 07-195

Type of System: Community Number of POE's: 1 Surface Water: n/a
Number of Service Connections: 373 Population Served: 1156

Assigned Monitoring Dates - Initial: 1/1/98 Phase II: 1/1/98 Phase V: 1/1/98

Does the water system have a Certified Operator? Yes

Does the system have major treatment plant deficiencies? No
Please describe: _____

Date of last inspection: November 14, 2006

Does the system have major O & M deficiencies? No
Please describe: _____

Does the system have water quality monitoring/reporting deficiencies? No
Please describe: _____

General Public Water System Compliance Status? **Compliant**

Date of compliance review: 02/07/2007 By: Duncan Wright Initials: _____
Phone: (602) 506-5173

Requested By: _____ Fax Number/ Contact: _____ Tracking Number: 1247
Supervisor Initials: GY Date: 1/7/07

Drinking Water Program
John Kolman, Manager

1001 N. Central Ave., Suite 150 Phoenix, Arizona 85004-1940 Phone: (602) 506-6666 Fax: (602) 506-6925



Maricopa County
Environmental Services Department

PUBLIC WATER SYSTEM COMPLIANCE STATUS REPORT

System Name: Sweetwater 2
PWS ID#: 07-12

Type of System: Community Number of POE's: 1 Surface Water: No
Number of Service Connections: 291 Population Served: 94

Assigned Monitoring Dates - Initial: 1/1/95 Phase II: 1/1/95 Phase V: 1/1/98

Does the water system have a Certified Operator? Yes

Does the system have major treatment plant deficiencies? No
Please describe: _____

Date of last inspection: July 8, 2004

Does the system have major O & M deficiencies? No
Please describe: System installed connection to City of Goodyear on 1/12/07 due to nitrate MCL. System has emergency interim approval; must apply for AOC within 30 days. System is now effectively a consecutive system, serving water from City of Goodyear. Corrections from last inspection have been documented. System must update MSSP and include DBP sampling plan. System has arsenic levels which will exceed the new MCL.

Does the system have water quality monitoring/reporting deficiencies? No
Please describe: System has Nitrate MCL exceedance but is now serving Goodyear water

General Public Water System Compliance Status? Substantial Compliance

Date of compliance review: 02/05/07 By: Mike Mallette Initials: MKM
Phone: (602) 506-6644

Requested By: ACC
Fax Number/ Contact: _____ Tracking Number: 1249
Supervisor Initials: GY Date: 2/7/07

Drinking Water Program
John Kolman, Manager

1001 N. Central Ave., Suite 150 Phoenix, Arizona 85004-1940 Phone: (602) 506-6666 Fax: (602) 506-6925



Maricopa County
Environmental Services Department

PUBLIC WATER SYSTEM COMPLIANCE STATUS REPORT

System Name: WUGB - Bulfer Water Co.
PWS ID#: 07-114

Type of System: Community Number of EPDS's: 1 Surface Water: N/A
Number of Service Connections: 84 Population Served: 260

Assigned Monitoring Dates - Initial: 1/1/95 Phase II: 1/1/95 Phase V: 1/1/98

Does the water system have a Certified Operator? Yes

Does the system have major treatment plant deficiencies? N/A
Please describe: _____

Date of last Sanitary Survey: December 3, 2003

Does the system have major O & M deficiencies? Minor
Please describe: This Department has not received documentation of corrective action for noted deficiencies.

Does the system have water quality monitoring/reporting deficiencies? No
Please describe: _____

General Public Water System Compliance Status? Substantial Compliance

Date of compliance review: April 10, 2006 By: Doug Taylor R.S. Initials: _____
Phone: (602) 506-6631

Requested By: Joyce Goodwin, Paralegal Fax Number/ Contact: 602-256-6800 Tracking Number: 1113

Supervisor Initials: [Signature] Date: 4/10/06



Maricopa County
Environmental Services Department

PUBLIC WATER SYSTEM COMPLIANCE STATUS REPORT

System Name: WUGB - Sonoran Ridge
PWS ID#: 07-732

Type of System: Community **Number of EPDS's:** 1 **Surface Water:** N/A
Number of Service Connections: 52 **Population Served:** 161

Assigned Monitoring Dates - Initial: 1/1/04 **Phase II:** 1/1/04 **Phase V:** 1/1/04

Does the water system have a Certified Operator? Yes

Does the system have major treatment plant deficiencies? N/A
Please describe: _____

Date of last Sanitary Survey: December 22, 2005

Does the system have major O & M deficiencies? Minor
Please describe: This Department has not received documentation of corrective action for noted deficiencies during last sanitary survey.

Does the system have water quality monitoring/reporting deficiencies? No
Please describe: _____

General Public Water System Compliance Status? Substantial Compliance

Date of compliance review: April 11, 2006 **By:** Doug Taylor R.S. **Initials:** _____
Phone: (602) 506-6631

Requested By: Joyce Goodwin, Paralegal **Fax Number/ Contact:** 602-256-8800 **Tracking Number:** 11/6

Supervisor Initials: [Signature] **Date:** 4/12/06

WATER UTILITY OF GREATER BUCKEYE'S
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4. According to the information reported in the 2005 Annual Reports for WUGB, the level of arsenic in Sweetwater II and Sonoran Ridge Water Systems exceeds the new arsenic standard of 0.01 mg/l. The reported nitrate level in Sweetwater II water system exceeds the maximum contamination level of 10 mg/l. Please address what steps are taken to resolve these issues.

RESPONSE: Regarding Sweetwater 2: Nitrate exceedances were detected in January 2007 and an emergency interconnect with the City of Goodyear was implemented. A blending plan was approved in July 2000 by Maricopa County (see attached), which involves a permanent connection to Goodyear. The application for Approval to Construct has been submitted (also attached) and we expect approval in 4 weeks, at which time we can make the permanent valving and connection to deliver approximately 15 gpm which will reduce the nitrate levels to maintain compliance. The arsenic levels will also fall within acceptable limits due to implementation of this blending plan.

Regarding Sonoran Ridge: Media treatment has been selected for arsenic removals to non-detect. McBride Engineering Solutions has been retained to size and design the installation, which is expected to be complete in the third quarter of 2007.

RESPONDENT: Robin Bain, P.E., DEE for Graham Symmonds.

Environmental Services Department
1001 N. Central Avenue, Suite 150
Phoenix AZ 85004



Water and Waste Management Division
Water and Wastewater Treatment Program
(602) 506-6666
FAX (602) 506-6925

APPLICATION FOR APPROVAL TO CONSTRUCT WATER AND/OR WASTEWATER TREATMENT/REUSE FACILITIES

1. PROJECT INFORMATION: Standard review Expedited review Phased review Time extension (approval renewal)

Project Name: Sweetwater Unit 2 Blending Plan Infrastructure

Project Description: This project is being completed in support of the Sweetwater II Backup Waterline Blending Plan approved on July 28, 2000. The project consists of installing a meter for the City of Goodyear's use, a flow control valve for blending, backflow preventer, site meter and copper waterline necessary to connect the blending supply water to the existing system.

Project Components: (check the applicable components)

- | | | | |
|--------------------------------------------------------------|-------------------------------------------------------|-----------------------------------------------------|---------------------------------------|
| <input checked="" type="checkbox"/> Treatment Facility/Plant | <input type="checkbox"/> PRV Station | <input type="checkbox"/> Recharge/Recovery Facility | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Well | <input type="checkbox"/> Pipeline | <input type="checkbox"/> Reuse Irrigation System | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Storage Tank/Reservoir | <input type="checkbox"/> Disinfection System | <input type="checkbox"/> Reuse Impoundment/Lake | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Pump Station | <input type="checkbox"/> Odor Control/Facility System | <input type="checkbox"/> Disposal System/Wetland | |

Required Permits: (check each category where a new or modified permit is required)

- | | | |
|---------------------------------------------------------|-----------------------------------------------------------|---------------------------------------------------|
| <input type="checkbox"/> ADEQ AZPDES Permit | <input type="checkbox"/> ADWR U/G Storage Facility Permit | <input type="checkbox"/> POTW Pretreatment Permit |
| <input type="checkbox"/> ADEQ Aquifer Protection Permit | <input type="checkbox"/> ADWR Water Storage Permit | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> ADEQ Reclaimed Water Permit | <input type="checkbox"/> ADWR Recovery Well Permit | <input type="checkbox"/> Other: _____ |

2. SYSTEM INFORMATION:

System Type: Water Wastewater Reclaimed Water

System Name: Water Utility of Greater Buckeye System ID Number: PWS 04-07-129
System Name (Type or Print) ID (Type or Print)

Owner's Name: Water Utility of Greater Buckeye Contact Person: Graham Symmonds
Owner's Name (Type or Print) Contact Person (Type or Print)

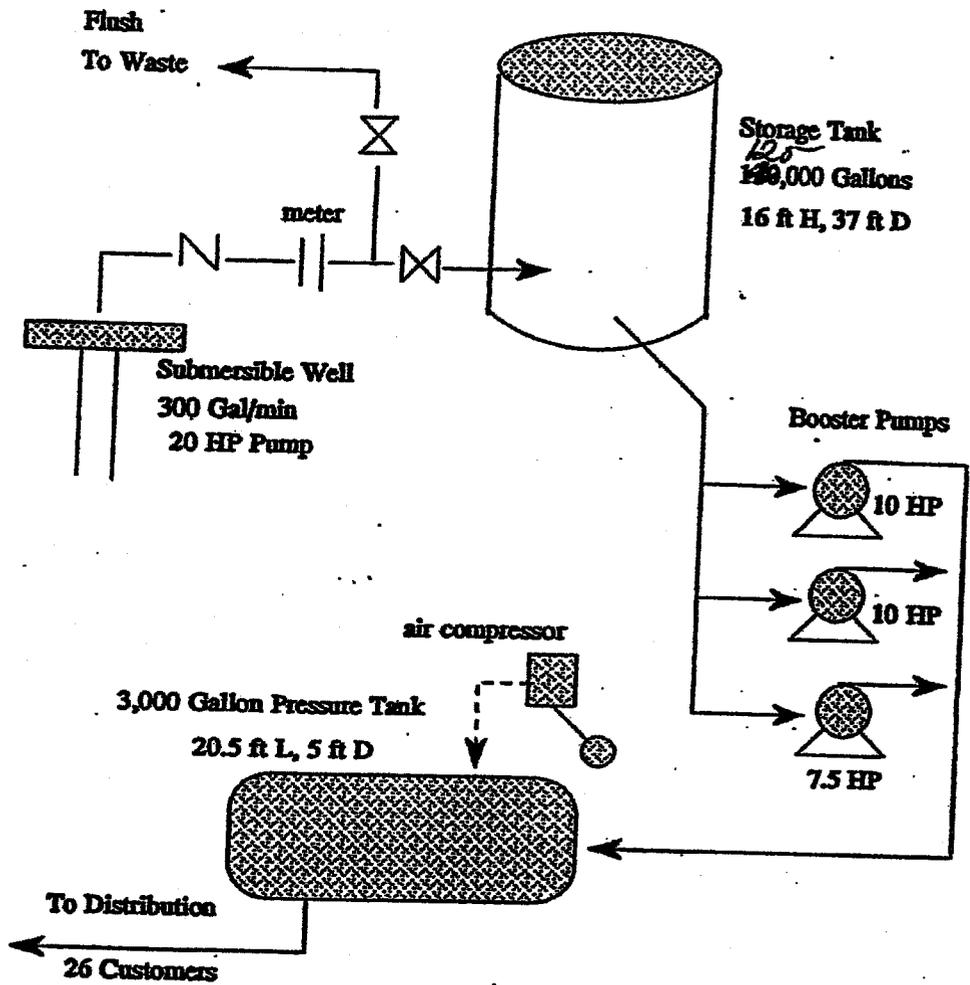
3. SITE INFORMATION:

Location: Goodyear Township: T1N Range: R2W Section: 14
Nearest City or Town (Type or Print)

Physical Address: _____
Address, City, State, and ZIP Code (Type or Print)

4. DOCUMENTS SUBMITTED WITH THIS APPLICATION: (Check where applicable)

- | | | |
|-------------------------------------------------------|----------------------------------------------------------|-----------------------------------------------------------------|
| <input type="checkbox"/> Engineering Design Report | <input type="checkbox"/> Master Plan/Study/Report | <input type="checkbox"/> Copies of Permits/Certificates |
| <input type="checkbox"/> Design Drawings | <input type="checkbox"/> Pilot Testing Plan/Study/Report | <input type="checkbox"/> Recorded Legal Easements/Documents |
| <input type="checkbox"/> Technical Specifications | <input type="checkbox"/> Water Quality Analysis Report | <input type="checkbox"/> Signed Service or Extension Agreements |
| <input type="checkbox"/> Engineering Calculations | <input type="checkbox"/> Operational Log/Report | <input type="checkbox"/> Sewer Capacity Letter |
| <input type="checkbox"/> Manufacturer's Documentation | <input type="checkbox"/> MAG 208 Certification Report | <input checked="" type="checkbox"/> Other: <u>Blending Plan</u> |



PROCESS SCHEMATIC

SUN VALLEY RANCHES WATER SYSTEM

Figure 5
H:\buckeye\svr.wpg

- 07/26/2000 14:59

NO. 625 502



ENVIRONMENTAL SERVICES
DEPARTMENT

Albert F. Brown, RS, MPA, Director
1001 N. Central Ave., Suite 150
Phoenix, AZ 85004

WATER AND WASTE MANAGEMENT
DIVISION

John A. Power, P.E., Division Manager
Dale G. Bodlya, P.E., Civil Engineer
(602) 506-8866
TTN (602) 506-3704
FAX (602) 506-8825

BLENDING PLAN APPROVAL

July 28, 2000

J. John Mihlik, President
Water Utility of Greater Buckeye, Inc.
3800 North Central Avenue, Suite 600
Phoenix, Arizona 85012

Re: Sweetwater II Backup Waterline Blending Plan (PWS 04-07-129)

Dear Mr. Mihlik:

I have reviewed the blending plan dated July 5, 2000 (May 19, 2000) for the Sweetwater II well located on 175th Avenue just south of Yuma road (PWS 04-07-129). The plan is approved as written, with the stipulation that a flow switch be included to shut down the pump, should the valve supplying water from the City of Goodyear system fail to open. Indicate these changes on the as-built drawings you provide to us. You may implement the plan at your discretion. The monitoring program described in the plan needs to include sampling both the two sources and the blended water. Please monitor the quality of the blended water closely and make whatever changes are necessary to keep the final product in compliance with the Safe Drinking Water Act. Keep me informed of any changes that you make. The changes will become a part of the blending plan after they are approved.

A copy of the approved plan marked APPROVED is attached to this letter and will serve as the approved blending plan.

If you have any questions please contact me at 506-6414 or Dale Bodlya at 506-6670

Sincerely,

Donald R. Burgess
Donald R. Burgess, PE

cc: Dale G. Bodlya, PE, MCESD
Tom Waidbillig, RS, Drinking Water Program Manager
ADEQ Drinking Water Section

07/28/2000 14:59

NO. 605 073
2000 908-150

WATER UTILITY OF GREATER BUCKEYE, INC.
3600 NORTH CENTRAL AVENUE, SUITE 500
PHOENIX, ARIZONA 85012
TEL. 602-224-0711
FAX 602-224-5435

July 5, 2000
~~May 19, 2000~~

Mr. Don Burgess
Maricopa County Environmental Services
1001 N. Central Avenue, Suite 150
Phoenix, AZ 85004

Re: Sweetwater II Backup Waterline Blending Plan
System # 07-129, 175th Avenue and Yuma Road

APPROVED
Donna Burgess PE 7/12/00
MARICOPA COUNTY
ENGINEERING SERVICES DIVISION
ENVIRONMENTAL SERVICES DEPARTMENT
with stipulation that a flow switch be added to shut down the pump if the valve fails to open.

Dear Don:

This report is for your approval of a Blending Plan for the well located on 175th Avenue just south of Yuma Road. This proposed Blending plan would blend higher quality water into the distribution system for the Sweetwater II water system. Our new waterline will enable the Sweetwater II system to hookup to the Goodyear water system in Cottonflower Unit 1. This will enable Sweetwater II to mix its water with the Goodyear water during the summer months in order to keep the nitrate level below 10ppm.

BLENDING PLAN

The present well at Sweetwater II has had nitrate readings of 9.3ppm, which is just under the MCL of 10ppm. The City of Goodyear, Cottonflower subdivision will be receiving water from their one million gallon storage tank located at Lower Buckeye and Jackrabbits Trail. This tank is being filled by water from their 18A and 18B wells. The Goodyear water will have a nitrate reading of 7.8ppm. We will place a 1" water meter just after a 2" electrical gate valve on the waterline coming in from Goodyear. Our well presently pumps at 45 gallons per minute. The water from Goodyear will be controlled to allow a flow of 15 gallons per minute and would only run when our well was running.

This blending of 25% Goodyear water at 7.8ppm nitrates with 75% of our water with 9.5ppm of nitrates should result in blended water having a 9.08ppm nitrates. We would only blend the two sources when and if the nitrates in our water reached 9.5ppm of nitrates. Once the blending started we would monitor the system on a weekly basis to make the blended water remained below the 9.5ppm and to stop the blending if the blended water nitrates fell below 8.8ppm and our water fell below 9.3ppm.

Enclosed you will find a copy of the following:

1. A schematic diagram, which shows the layout of the waterlines, valves, flow meters and direction and amount of flows.
2. Test results for Sweetwater II system for nitrates taken on 4/25/2000.
3. Test results for Sweetwater II system for (OCs taken on 12/09/98.
4. Copy of Blending Plan for Goodyear wells 18A and 18B.
5. Projected contaminant levels that will result from blending.

If you require additional information, please let us know.

Yours truly,
John Mihlik
John Mihlik
President

WATER UTILITY OF GREATER BUCKEYE, INC.
3800 NORTH CENTRAL AVENUE, SUITE 500
PHOENIX, ARIZONA 85012
TEL. 602-224-0711
FAX 602-224-5455

PROJECTED CONTAMINANT LEVELS FROM BLENDING

WATER FROM SWEETWATER II WITH THE CITY OF GOODYEAR, COTTONFLOWER SYSTEM
WELLS 18A AND 18B

1.	Number of gallons per minute from Sweetwater II	45
2.	Nitrates in Sweetwater II water at time of blending	9.5ppm
3.	Number of gallons per minute from Cottonflower system	15
4.	Nitrates in Cottonflower water at time of blending	7.8ppm
5.	Number of gallons for one minute flow (45 + 15)	60
6.	Nitrates in blended water $((45 * 9.5) + (15 * 7.8)) / 60 =$	9.08ppm

Notes:

1. Both sources come on and go off at the same time.
2. Goodyear source will be fixed for a flow rate of 15gpm

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5. The submitted Exhibit 10 provides information for only the **on-site** water lines within Montana Vista. Please specify which existing system(s) will serve the proposed CC&N extension area.

RESPONSE: Montana Vista will be served by connection to existing infrastructure in the Sun Valley system.

RESPONDENT: Robin Bain, P.E., DEE for Graham Symmonds.

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6. Please provide detailed Master Plan explaining the **off-site** infrastructure, including existing and additional facilities, such as, sources of water supply (interconnection, if any), treatment, storage, booster and distribution facilities. Please provide proximity map showing the infrastructure's layout.

RESPONSE: No new infrastructure is required to serve Montana Vista. The existing system is shown on the exhibit provided in the response to Question No.2., and on the attached excerpt from the company's Emergency Operation Procedures Manual.

RESPONDENT: Robin Bain, P.E., DEE for Graham Symmonds.

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7. The submitted Exhibits 4 and 9 are incomplete. Please provide an estimate of the **off-site** water facilities costs necessary to serve the proposed CC&N extension area. The cost should include a description of the major components (see item # 6 above) with the cost of the component, including cost of treatment installation, if required (see item # 4 above). Please explain the method of financing for the major components.

RESPONSE: No additional offsites are required.

RESPONDENT: Robin Bain, P.E., DEE for Graham Symmonds.

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8. Please state the estimated number of customers expected for each water system (existing and proposed) in the next five years. This information will enable the Commission Staff to perform analysis and determine if each water system has adequate water production and storage capacity to serve the existing base of customers and expected growth within a five-year planning period.

RESPONSE:

System	Current Customers	Year 1 Total	Year 2 Total	Year 3 Total	Year 4 Total	Year 5 Total
<i>Sun Valley/ Sweetwater 1*</i>	380	400	420	432	432	432
<i>Bulfer/ Primrose</i>	88	90	92	95	95	95
<i>Sonoran Ridge</i>	58	60	60	60	60	60
Sweetwater 2	92	93	95	96	97	98

* System into which Montana Vista Extension will be connected

RESPONDENT: Robin Bain, P.E., DEE for Graham Symmonds.

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9. The submitted request for service (Exhibit 2) has not been signed. Please provide a signed request for service.

RESPONSE: See attached

RESPONDENT: Robin Bain, P.E., DEE for Graham Symmonds.



604 West McKellips Road
Suite II
Mesa, AZ 85201
ROC# B-209887

Water Utility of Greater Buckeye, Inc.

Attn: Tim Wyss

3800 N. Central Ave., Suite 770

Phoenix, AZ 85012

Re: Montana Vista

Dear Tim;

Please consider this as a formal request for Water Utility of Greater Buckeye, Inc. to provide service for the above referenced community. This community consists of 52 lots and 4 tracts.

The parcel numbers associated with this project are: 504-14-002 D, E, F and G.

Sincerely,

Brady Bartlett

President

WATER UTILITY OF GREATER BUCKEYE'S
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10. Please indicate who will be providing wastewater service in the proposed extension area.

RESPONSE: To our knowledge the area will be served by individual septic systems.

RESPONDENT: Robin Bain, P.E., DEE for Graham Symmonds.

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11. Please provide a copy of the Maricopa County franchise agreement that includes the proposed extension area. If the franchise agreement(s) has not been issued, please inform Staff of the status of the application for the franchise agreement.

RESPONSE: The existing franchise included the existing Sun valley system where WUGBs infrastructure is located. An application to extend the franchise over the extension area will be filed within 30 days, unless the Clerk in Maricopa County advises that an extension is not required where the developer installs his on-sites and no off-sites in the extension area are needed.

RESPONDENT: Robin Bain, P.E., DEE for Graham Symmonds.

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12. Staff understanding that the Town of Buckeye did initiate a condemnation proceeding in order to take over WUGB's CC&N areas. Please inform Staff of the status of the application. Also provide Staff a copy of all the information WUGB has regarding the proceeding.

RESPONSE: The condemnation proceeding is ongoing. On December 22, 2006, the Honorable Robert E. Miles found that the Town of Buckeye violated the open meeting law when it passed its original condemnation resolution in the Summer of 2006. A copy of that Minute Entry is attached. Then the Town, on January 11, 2007, held a special council meeting to consider ratification of its prior action to acquire WUGB's assets. A copy of the agenda, detailed description, related ordinances, service area descriptions, and requests for council action are attached. On January 16, 2007, the Town's attorneys in the condemnation case filed a notice of ratification action and request for entry of order for immediate possession. On February 5, 2007, WUGB through other counsel filed a Motion for Summary Judgment alleging that the Town's ratification on January 11, 2007, was illegal and violated the Open Meeting law. Judge Miles issued a Minute Entry on February 8, 2007, stating that the Court would not take action on the Town's request for immediate possession until after the summary judgment motion is determined. A copy of that Minute Entry is also attached. Oral argument on the summary judgment motion is set for April 2007.

RESPONDENT: Legal Counsel for WUGB.

Michael K. Jeanes, Clerk of Court
*** Electronically Filed ***
02/12/2007 8:00 AM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2006-010954

02/08/2007

JUDGE ROBERT E. MILES

CLERK OF THE COURT
K. Ballard
Deputy

BUCKEYE TOWN

DAVID A PENNARTZ

RECEIVED
FEB 14 2007

v.

WATER UTILITY OF GREATER BUCKEYE
INC, et al.

MARTIN A ARONSON

CASE STATUS MINUTE ENTRY

The Court has received and considered Town of Buckeye's Notice of Ratification Action Taken Pursuant to A.R.S. §38-431.05(B) and Request for Entry of Order for Immediate Possession and Plaintiff's Request that Notice of Ratification Action Taken Pursuant to A.R.S. §38-431.05(B) and Request for Entry of Order for Immediate Possession be Granted as Unopposed by Defendant WUGB.

In light of the filing of Defendant Water Utility of Greater Buckeye, Inc.'s Motion for Summary Judgment re: Ratification, the Court declines to take action on the Order of Immediate Possession until after determination of the Motion for Summary Judgment.

Michael K. Jeanes, Clerk of Court
*** Electronically Filed ***
02/12/2007 8:00 AM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2006-010954

02/08/2007

JUDGE ROBERT E. MILES

CLERK OF THE COURT
K. Ballard
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BUCKEYE TOWN

DAVID A PENNARTZ

v.

WATER UTILITY OF GREATER BUCKEYE
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FEB 12 2007

CASE STATUS MINUTE ENTRY

The Court has received and considered Town of Buckeye's Notice of Ratification Action Taken Pursuant to A.R.S. §38-431.05(B) and Request for Entry of Order for Immediate Possession and Plaintiff's Request that Notice of Ratification Action Taken Pursuant to A.R.S. §38-431.05(B) and Request for Entry of Order for Immediate Possession be Granted as Unopposed by Defendant WUGB.

In light of the filing of Defendant Water Utility of Greater Buckeye, Inc.'s Motion for Summary Judgment re: Ratification, the Court declines to take action on the Order of Immediate Possession until after determination of the Motion for Summary Judgment.

**TOWN OF BUCKEYE
SPECIAL COUNCIL MEETING
JANUARY 11, 2007
AGENDA**

**Town Council Chambers
100 N. Apache Road
Buckeye, AZ 85326
6:00 p.m.**

Accessibility for all persons with disabilities will be provided upon request. Please telephone your accommodation request (623 349-6007) 72 hours in advance if you need a sign language interpreter or alternate materials for a visual or hearing impairment. (TTD 623 349-6400)

Members of the Town Council will either attend in person or by telephone conference call or video presentation. Items listed may be considered by the Council in any order.

1. Call to Order/Roll Call
Council Action: None.

2. Council to consider and if advisable, RATIFICATION OF PRIOR ACTION BY THE BUCKEYE TOWN COUNCIL PURSUANT TO A.R.S. §38-431.05(B), adopting Ordinance No. 54-06, on June 29, 2006, authorizing acquisition of the water utility system and assets of the Water Utility of Greater Buckeye, Inc.

The purpose of this Agenda Item is for Council to consider and if advisable, adopt Ordinance 04-07, which would ratify the Council's prior action, taken on June 29, 2006, in adopting Ordinance 54-06. Ordinance 54-06 authorized, and if adopted proposed Ordinance 04-07 would ratify, make findings of the Town Council, and again authorize the Town manager and Town Attorney, and their Designees, to acquire the water utility system and assets of the Water Utility of Greater Buckeye, Inc., located within and without the boundaries of the Town of Buckeye, by donation, purchase or through the exercise of the power of eminent domain; to apply for and obtain immediate possession of the same and to take all actions and to post all bonds necessary thereto; and further authorizing the Town manager and the Town's Financial officers to disburse the necessary funds for the purchase price, if agreed upon, or the amount of just compensation if determined in the manner provided by law, plus usual and customary closing costs, and all necessary attorney's fees, legal expenses and costs, incurred by the Town and to the Water Utility of Greater Buckeye, Inc. and interest as may be required or provided by law, and declaring an emergency.

The purposes of this Agenda item for ratification also include maintaining in effect the eminent domain action filed on behalf of the Town of Buckeye against the Water Utility of Greater Buckeye, Inc., Maricopa County Superior Court No. CV2006-

010954. In the event that the Court determines that the pending eminent domain action must be dismissed, the Council's action under this Agenda Item also will authorize the Town Manager, Town Attorney, other Town Officials, and the Town's special legal counsel, to take the steps necessary to re-file a new action in eminent domain for the purposes as set forth in Ordinance 54-06 and Ordinance 04-07.

The public may obtain a copy of Ordinance 54-06, proposed Ordinance 04-07, and a detailed description of the action to be ratified in the office of the Town Clerk, Town of Buckeye, 100 N. Apache Rd., Buckeye, AZ 85326, Phone: 623-349-6000.

Council Action: Discussion and possible motion.

THIS NOTICE POSTED AT LEAST 72 HOURS IN ADVANCE OF THE PUBLIC MEETING OF THE BUCKEYE TOWN COUNCIL AT WHICH THE COUNCIL WILL CONSIDER TAKING THE RATIFICATION ACTION.

4. Adjournment.

Council Action: Motion to adjourn.

Posted: January 8, 2007 10:00 a.m.

DETAILED DESCRIPTION FOR
Agenda Item for
Buckeye Town Council Ratification
of Ord. 54-06

A. On January 11, 2007, at 6:00 p.m., the Town Council of the Town of Buckeye will consider the following Agenda Item in a public meeting:

2. Council to consider and if advisable, RATIFICATION OF PRIOR ACTION BY THE BUCKEYE TOWN COUNCIL PURSUANT TO A.R.S. §38-431.05(B), adopting Ordinance No. 54-06, on June 29, 2006, authorizing acquisition of the water utility system and assets of the Water Utility of Greater Buckeye, Inc.

The purpose of this Agenda Item is for Council to consider and if advisable, adopt Ordinance 04-07, which would ratify the Council's prior action, taken on June 29, 2006, in adopting Ordinance 54-06. Ordinance 54-06 authorized, and if adopted proposed Ordinance 04-07 would ratify, make findings of the Town Council, and again authorize the Town manager and Town Attorney, and their Designees, to acquire the water utility system and assets of the Water Utility of Greater Buckeye, Inc., located within and without the boundaries of the Town of Buckeye, by donation, purchase or through the exercise of the power of eminent domain; to apply for and obtain immediate possession of the same and to take all actions and to post all bonds necessary thereto; and further authorizing the Town manager and the Town's Financial officers to disburse the necessary funds for the purchase price, if agreed upon, or the amount of just compensation if determined in the manner provided by law, plus usual and customary closing costs, and all necessary attorney's fees, legal expenses and costs, incurred by the Town and to the Water Utility of Greater Buckeye, Inc. and interest as may be required or provided by law, and declaring an emergency.

The purposes of this Agenda item for ratification also include maintaining in effect the eminent domain action filed on behalf of the Town of Buckeye against the Water Utility of Greater Buckeye, Inc., Maricopa County Superior Court No. CV2006-010954. In the event that the Court determines that the pending eminent domain action must be dismissed, the Council's action under this Agenda Item also will authorize the Town Manager, Town Attorney, other Town Officials, and the Town's special legal counsel, to take the steps necessary to re-file a new action in eminent domain for the purposes as set forth in Ordinance 54-06 and Ordinance 04-07.

The public may obtain a copy of Ordinance 54-06, proposed Ordinance 04-07, and a detailed description of the action to be ratified in the office of the Town Clerk, Town of Buckeye, 100 N. Apache Rd., Buckeye, AZ 85326, Phone: 623-349-6000.

THIS NOTICE POSTED AT LEAST 72 HOURS IN ADVANCE OF THE PUBLIC MEETING OF THE BUCKEYE TOWN COUNCIL AT WHICH THE COUNCIL WILL CONSIDER TAKING THE RATIFICATION ACTION.

B. Description of deliberations, consultations and decisions of the Buckeye Town Council that preceded and related to adoption of Ordinance 54-06.

On June 29, 2006, the Buckeye Town Council held two meetings that related to the acquisition of the water system and assets of the Water Utility of Greater Buckeye, Inc.

1. The Town Council voted in a public meeting to enter into executive session, pursuant to A.R.S. §38-431.03(A)(3) and (A)(4) for legal advice and instructions to the attorneys of the Town regarding the Town's position in contemplated condemnation litigation. An executive session of approximately 49 minutes followed.

2. Following the executive session, the Town Council voted to adjourn the executive session and reconvene the public meeting. During the public meeting the Buckeye Town Council passed a motion adopting Ordinance 54-06, described above.

On June 30, 2006, a pre-condemnation offer was made to the Water Utility of Greater Buckeye, Inc., by the Town's special legal council, to acquire the water system and assets of the Water Company for a price of TWO MILLION DOLLARS (\$2,000,000.00), which is the amount of the appraisal of the water system and assets commissioned on behalf of the Town. A copy of the appraisal is on file with the Office of the Town Clerk of the Town of Buckeye and may be viewed or a copy obtained by the public.

C. Legal proceedings.

The Water Utility of Greater Buckeye, Inc. did not accept the Town's pre-condemnation offer. Therefore, on July 21, 2006, an action in eminent domain was filed by the Town's special legal counsel, in Maricopa County Superior Court No. CV2006-010954, to condemn the water system and assets of the Water Utility of Greater Buckeye, Inc. An Application also has been filed by the Town to obtain immediate possession of the subject water system and assets so that they may be operated by the Town and as part of the Town's municipal water system while the final price to be paid for the acquisition is either settled or determined, if necessary, by a trial.

During the legal proceedings, the Water Company challenged whether passage of Ordinance 54-06, authorizing the condemnation action, had been passed by a manner that may have violated the Arizona Open Meeting Law. On October 30, 2006, the Court ruled in the Town's favor. The Water Company, however, re-filed its challenge based upon alleged Open Meeting Law Violations. On December 22, 2006, the Court ruled that the legal advice and legal strategy discussions in executive session on June 29, 2006, could have exceeded the nature of the discussions permitted under the executive session statute and, therefore, that an Open Meeting law Violation may have occurred involving the adoption of Ordinance 54-06.

D. Ratification.

Even so, the Open Meeting Law provides the public body the opportunity to take another action in a public meeting to ratify the action alleged to have been in violation of the Open Meeting Law. The noticed public meeting on January 11, 2007, and Agenda Item 2 is such a ratification action and is intended to cure any violation of the Open Meeting Law that may have occurred in the passage of Ordinance 54-06 on June 29, 2006. If the Town Council does ratify Ordinance 54-06, by adoption of Ordinance 04-07, the Town will urge the Court to proceed with the condemnation action, including entry of the Order of Immediate Possession.

If the Court dismisses the eminent domain action instead, Ordinance 04-07 if passed, would authorize re-filing of the eminent domain action, following the necessary legal steps and actions.

THIS DETAILED DESCRIPTION AVAILABLE TO THE PUBLIC AT LEAST 72 HOURS IN ADVANCE OF THE PUBLIC MEETING OF THE BUCKEYE TOWN COUNCIL AT WHICH THE COUNCIL WILL CONSIDER TAKING THE RATIFICATION ACTION.

ORDINANCE NO. 54-06

AN ORDINANCE OF THE TOWN OF BUCKEYE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY, AND THEIR DESIGNEES, TO ACQUIRE THE WATER UTILITY SYSTEM AND ASSETS OF THE WATER UTILITY OF GREATER BUCKEYE, INC., LOCATED WITHIN AND WITHOUT THE BOUNDARIES OF THE TOWN OF BUCKEYE, BY DONATION, PURCHASE OR THROUGH THE EXERCISE OF THE POWER OF EMINENT DOMAIN; TO APPLY FOR AND OBTAIN IMMEDIATE POSSESSION OF THE SAME AND TO TAKE ALL ACTIONS AND TO POST ALL BONDS NECESSARY THERETO; AND FURTHER AUTHORIZING THE TOWN MANAGER AND THE TOWN'S FINANCIAL OFFICERS TO DISBURSE THE NECESSARY FUNDS FOR THE PURCHASE PRICE, IF AGREED UPON, OR THE AMOUNT OF JUST COMPENSATION IF DETERMINED IN THE MANNER PROVIDED BY LAW, PLUS USUAL AND CUSTOMARY CLOSING COSTS, AND ANY NECESSARY ATTORNEY'S FEES, LEGAL EXPENSES AND COSTS, INCURRED BY THE TOWN, AND TO THE WATER UTILITY OF GREATER BUCKEYE, INC. AND INTEREST AS MAY BE REQUIRED OR PROVIDED BY LAW; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BUCKEYE, MARICOPA COUNTY, ARIZONA, as follows:

SECTION 1. That it is deemed essential as a matter of public use and necessity that the entire water system and related assets of the Water Utility of Greater Buckeye, Inc., more particularly described but not necessarily limited to the descriptions thereof on the attached Exhibits A and B and Table 1, and located within or without the existing incorporated limits of the Town of Buckeye, be acquired by the Town of Buckeye for the purpose of being incorporated into the Town's water service and delivery system, future water resources and water service planning and development of the Town and its water system, and in order to provide current and future residents and businesses of the Town and others in the vicinity with water service by the Town through its municipal water system, and that the Town obtain immediate possession and use of said water system and related assets in order timely to proceed with such purposes and with incorporation of the acquired water system and assets into the Town's municipal water system.

SECTION 2. That the Town Manager, the Town Attorney, their designees, and the Town's Financial Officers be, and they are hereby, authorized and directed to acquire full title and ownership of the entire water system and related assets of the Water Utility of Greater Buckeye, Inc., more particularly described but not necessarily limited to the descriptions thereof on the attached Exhibits A and B and Table 1, and located within or without the existing incorporated limits of the Town of Buckeye, by donation, purchase, or through the exercise of the power of eminent domain, and the Town Manager and the Town's Financial Officials are further authorized and directed to disburse the necessary funds for the purchase price, if agreed upon, or the amount of just compensation if determined in the manner provided by law, plus usual and customary closing costs, and any necessary attorney's fees, legal expenses and costs, incurred by the Town, and to the Water Utility of Greater Buckeye, Inc. and interest as may be required or provided by law; and to do any and all other things necessary or appropriate toward achieving these purposes.

SECTION 3. That the Town Manager, the Town Attorney, their designees, and the Town's Financial Officers be, and they are hereby, authorized and directed to obtain immediate possession, as provided by law, of the entire water system and related assets of the Water Utility

Ordinance 54-06

of Greater Buckeye, Inc., as described above, and to take all actions and to post all bonds necessary thereto; and to do any and all other things necessary or appropriate toward achieving these purposes.

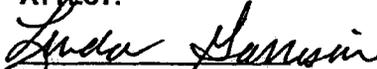
SECTION 4. The Council of the Town of Buckeye hereby determines and declares that, it is necessary that this Ordinance go into immediate effect, to preserve the public peace, health, safety and welfare of the citizens of the Town, and therefore, declares that this Ordinance, if passed by the requisite number of votes of the Town Council, shall be immediately effective as an emergency measure, pursuant to the provisions of A.R.S. title 19, Sec. 19-142(B).

PASSED AND ADOPTED by the Council of the Town of Buckeye this 29th day of June, 2006.



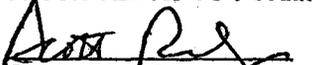
Bobby Bryant, Mayor

ATTEST:



Linda Garrison, Town Clerk

APPROVED AS TO FORM:



Scott Ruby, Town Attorney

or

APPROVED AS TO FORM:
THE PENNARTZ LAW FIRM, P.L.C.

David A. Pennartz, Esq.
Special Counsel
for Town Attorney

EXHIBIT A.

Water Utility of Greater Buckeye, Inc.

(Also reference to but not limited by Exhibit B and Table 1 attached hereto)

All utility plant; system; property; wells, water sources, resources and water rights; all fee and/or leasehold interests in real property; all easements and rights-of-way; water lines, meters, valves, tanks and all other personal property an/or equipment utilized or which may be utilized to provide water service to the public; as well as the Certificate(s) of Convenience and Necessity, franchise(s), intangible assets and rights; and all other assets of any type or nature owned by and/or associated with the utility operations of the Water Utility of Greater Buckeye, Inc. (Arizona Corporation Commission utility number W-02451A), including its value, if any as a going concern.

EXHIBIT B.

**Delineation of Service Areas and Real Property of
Water Utility of Greater Buckeye, Inc.
(Also reference to Table 1 attached hereto)**

1. Sweetwater II system Table 1, Area 1 MCESD No. 04-07-129
 - A. This system serves approximately 94 connections in a service area covering approximately 120 acres, located in the Town of Goodyear. The service area extends north and south between Yuma and Durango Roads, and east and west between 175th Avenue and Citrus Road (although not all area between these boundaries is in the service area), within the NW quarter, Sec. 14, T1N, R2W, G&SRB&M.
 - B. The system is believed to include one well of about 40 gallons per minute (gpm), four equally sized tanks totaling an estimated 44,000 gallons, plus a 2,000 gallon hydropneumatic tank, booster pump and an unknown footage of polyvinyl chloride (PVC) mains.
 - C. Well-site and appurtenant facilities, located on the property identified as APN 623-34-403-1.

2. Bulfer system Table 1, Area 2 MCESD No. 04-07-114

- A. The Bulfer system serves an estimated 84 connections. The service area, located in the Town of Goodyear, consists of approximately 300 acres bounded generally by 203rd Avenue, Hilton Avenue, Lower Buckeye and Jackrabbit Roads, within the South one-half, Sec. 17, T1N, R2W, G&SRB&M.
- B. The system consists of one groundwater well, reported to be 40 gallons per minute, one booster pump, a 2,000 gallon hydropneumatic tank and one storage tank believed to be of 140,000 gallons, a standby generator, plus an unknown footage of PVC distribution mains.
- C. Well-site and appurtenant facilities, located on the property identified as APN 623-32-508-3.

3. Sonoran Ridge system Table 1, Area 3 MCESD No. 04-07-732

- A. This system serves a recently developed subdivision based on a new well drilled in 1999. The service area is approximately 320 acres (lying between Northern and Olive Avenues, and west of Jackrabbit Trail alignment within the Town of Buckeye), within the Western half, Sec. 33, T3N, R2W, G&SRB&M, and currently contains about 52 connections. Total buildout for the Sonoran Ridge Estates is on the order of 250 connections.
- B. System facilities include a 150 gpm well, one 200,000 gallon tank, a 2,000 gallon pressure tank and booster pumps (2 at 25 horsepower and one at 40 horsepower); plus an unknown footage of PVC pipelines.
- C. Well-site and appurtenant facilities, located on the property identified as APN 502-09-011B-3.

4. Sweetwater I system Table 1, Area 5 MCESD No. 04-07-036
 5. Sun Valley Ranches system Table 1, Area 6 MCESD No. 04-07-195
- A. Service areas 5 and 6 on Table 1 indicate the two systems owned by WUGB known as Sweetwater I (PWS No. 04-07-036) and Sun Valley Ranches (PWS No. 04-07-195). These two systems were merged in 2004 and today operate under the latter water system number referenced above. Together the two systems cover a service area of approximately 1,480 acres and serve an estimated 346 connections. The combined service areas are located within the East one-half of the East one-half, Sec. 5, and Northeast quarter of the northeast quarter, Sec. 8, T1N, R4W, G&SRB&M, and located within Sec. 6, and the Southwest quarter, Sec. 5, T1N, R4W, G&SRB&M, and located within Sec. 1, T1N, R5W, G&SRB&M.
 - B. It is believed facilities at the Sweetwater I well site include a 30 gpm submersible well, four storage tanks totaling 33,000 gallons, two booster pumps (5 and 7.5 horsepower), a 2,000 gallon pressure tank and unknown amount of PVC pipeline. The well site serving the Sun Valley system is relatively new having been constructed in 1997 to serve West Phoenix Estates. Facilities include a 300 gpm submersible well; 130,000 gallon tank, three booster pumps (two at 10 and one 7.5 horsepower), a 3,000 gallon pressure tank, and an unknown amount of PVC water mains. A 3,354 foot 6-inch PVC transmission main (plus 25 feet of 2-inch PVC main) connects the Sweetwater and Sun Valley service areas.
 - C. Well-sites and appurtenant facilities, located on property identified as APN 623-34-900-6 and 623-34-907-7.

6. Other service areas:
- A. Table 1, Area 4, approximately 320 acres, within the Western half, Sec. 33, T2N, R4W, G&SRB&M.
 - B. Table 1, Area 7, approximately 600 acres, within the Northwest quarter, Sec. 17, and located within the Southeast quarter, Sec. 7, and located within the eastern half, Sec. 18, T1N, R4W, G&SRB&M.
 - C. Table 1, Area 8, approximately 160 acres, within the Northwest quarter, Sec. 13, T1N, R5W, G&SRB&M.
 - D. Table 1, Area 9, approximately 960 acres, within Sec. 21, and located within the Northern on-half, Sec. 28, T1N, R4W, G&SRB&M.

NOTE: All of the above information and information on Table 1 are described to the best of the Town's information and belief, based on documents publicly available and other information obtained to-date by or on behalf of the Town. The specification of the information in this Exhibit B, in Table 1 and elsewhere, are for the purpose of providing as much specific notice as possible, but shall not be read as limiting in any manner the taking of all tangible and intangible utility assets of the Water Utility of Greater Buckeye, Inc. (ACC No. W-02451A) as described in Exhibit A. All properties are located within Maricopa County, State of Arizona.

TABLE 1
SERVICE AREA DESCRIPTIONS OF WUGB

Area No.	Township and Range	Section Descriptions	Estimated Acres	Maricopa County Water Sys No
1	T 1N/ R 2W	Within NW quarter of Section 14 (incomplete)	120	04-07-129
2	T 1N/ R 2W	South one-half of Section 17 except for small rectangular area in northeast corner	300	04-07-114
3	T 3N/ R 2W	Western half of Section 33	320	04-07-732
4	T 2N/ R 4W	Northern half of Section 33	320	
5	T 1N/ R 4W	East one-half of east one-half of Section 5; and northeast quarter of northeast quarter of Section 8	200	04-07-036 (combined with 07-195 below)
6	T 1N/ R 4W	All of Section 6 and southwest quarter of Section 5; and, All of Section 1 except northwest one-quarter	1,280	04-07-195
7	T 1N/ R 4W	Northwest quarter of Section 17; southeast quarter of Section 7; and eastern half of Section 18 except for southeast quarter of southeast quarter	600	
8	T 1N/ R 5W	Northwest quarter of Section 13	160	
9	T 1N/ R 4W	All of Section 21 and northern one-half of Section 28	960	
		Total	4,260	

ORDINANCE NO. 04-07.

AN ORDINANCE OF THE TOWN OF BUCKEYE, MARICOPA COUNTY, ARIZONA, RATIFYING ADOPTION OF ORDINANCE 54-06 PURSUANT TO A.R.S. §38-431.05(B), AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY, AND THEIR DESIGNEES, TO ACQUIRE THE WATER UTILITY SYSTEM AND ASSETS OF THE WATER UTILITY OF GREATER BUCKEYE, INC., LOCATED WITHIN AND WITHOUT THE BOUNDARIES OF THE TOWN OF BUCKEYE, BY DONATION, PURCHASE OR THROUGH THE EXERCISE OF THE POWER OF EMINENT DOMAIN; TO APPLY FOR AN OBTAIN IMMEDIATE POSSESSION OF THE SAME AND TO TAKE ALL ACTIONS AND TO POST ALL BONDS NECESSARY THERETO; AND FURTHER AUTHORIZING THE TOWN MANAGER AND THE TOWN'S FINANCIAL OFFICERS TO DISBURSE THE NECESSARY FUNDS FOR THE PURCHASE PRICE, IF AGREED UPON, OR THE AMOUNT OF JUST COMPENSATION IF DETERMINED IN THE MANNER PROVIDED BY LAW, PLUS USUAL AND CUSTOMARY CLOSING COSTS, AND ANY NECESSARY ATTORNEY'S FEES, LEGAL EXPENSES AND COSTS, INCURRED BY THE TOWN, AND TO THE WATER UTILITY OF GREATER BUCKEYE, INC. AND INTEREST AS MAY BE REQUIRED OR PROVIDED BY LAW; FURTHER INCLUDING THE PURPOSE OF MAINTAINING IN EFFECT THE EMINENT DOMAIN ACTION FILED ON BEHALF OF THE TOWN OF BUCKEYE AGAINST THE WATER UTILITY OF GREATER BUCKEYE, INC., MARICOPA COUNTY SUPERIOR COURT NO. CV2006-010954; AUTHORIZING, IF NECESSARY, THE TAKING OF ALL STEPS REQUIRED FOR RE-FILING A NEW EMINENT DOMAIN ACTION FOR THESE PURPOSES; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BUCKEYE, MARICOPA COUNTY, ARIZONA, as follows:

SECTION 1. The purpose and intent of the Town Council of the Town of Buckeye in adopting this Ordinance is to comply with all requirements of A.R.S. §38-431.05(B) to ratify the Town Council's adoption of Ordinance 54-06, on June 29, 2006. The notice and detailed description required by A.R.S. §38-431.05(B), as well as a copy of the appraisal prepared for the Town of the water system and assets of the Water Utility of Greater Buckeye, Inc., as described in Ordinance 54-06 and in Section 3 of this Ordinance and attachments, in the amount of TWO MILLION DOLLARS (\$2,000,000.00), have been made available to the public at least seventy-two (72) hours in advance of the meeting at which adoption of this Ordinance was scheduled to be considered by the Town Council.

SECTION 2. For the purposes stated in Ordinance 54-06 and in this Ordinance, the Town Council of the Town of Buckeye hereby ratifies in full the adoption of Ordinance 54-06 and all actions taken on behalf of the Town pursuant to Ordinance 54-06.

SECTION 3. That it is deemed essential as a matter of public use and necessity that the entire water system and related assets of the Water Utility of Greater Buckeye, Inc., more particularly described but not necessarily limited to the descriptions thereof on the attached Exhibits A and B and Table 1, and located within or without the existing incorporated limits of the Town of Buckeye, be acquired by the Town of Buckeye for the purpose of being incorporated into the Town's water service and delivery system, future water resources and water service planning and development of the Town and its water system, and in order to provide current and future residents and businesses of the Town and others in the vicinity with water service by the Town through its municipal water system, and that the Town obtain immediate possession and use of said water system and related assets in order timely to proceed with such purposes and with incorporation of the acquired water system and assets into the Town's municipal water system.

SECTION 4. That the Town Manager, the Town Attorney, their designees, and the Town's Financial Officers be, and they are hereby, authorized and directed to acquire full title and ownership of the entire water system and related assets of the Water Utility of Greater Buckeye, Inc., more particularly described but not necessarily limited to the descriptions thereof on the attached Exhibits A and B and Table 1, and located within or without the existing incorporated limits of the Town of Buckeye, by donation, purchase, or through the exercise of the power of eminent domain, and the Town Manager and the Town's Financial Officials are further authorized and directed to disburse the necessary funds for the purchase price, if agreed upon, or the amount of just compensation if determined in the manner provided by law, plus usual and customary closing costs, and any necessary attorney's fees, legal expenses and costs, incurred by the Town, and to the Water Utility of Greater Buckeye, Inc. and interest as may be required or provided by law; and to do any and all other things necessary or appropriate toward achieving these purposes.

SECTION 5. That the Town Manager, the Town Attorney, their designees, and the Town's Financial Officers be, and they are hereby, authorized and directed to obtain immediate possession, as provided by law, of the entire water system and related assets of the Water Utility of Greater Buckeye, Inc., as described above, and to take all actions and to post all bonds necessary thereto; and to do any and all other things necessary or appropriate toward achieving these purposes.

SECTION 6. The ratification action taken in adoption of this Ordinance is intended to include the filing of the pending eminent domain action filed on behalf

of the Town of Buckeye against the Water Utility of Greater Buckeye, Inc., Maricopa County Superior Court No. CV2006-010954, including without limitation filing of the Town's Application for Immediate Possession and all proceedings directed to obtaining entry of an Order of Immediate Possession. The purposes of this Ordinance include maintaining the pending condemnation action in effect. In the event that the Court determines that the pending eminent domain action must be dismissed, despite adoption of this ratification Ordinance, this Ordinance shall and does authorize the Town Manager, Town Attorney, other Town Officials, including Financial Officers, and the Town's special legal counsel, to take all steps necessary to re-file a new action in eminent domain for the purposes set forth in ordinance 54-06 and in this Ordinance.

SECTION 7. The Council of the Town of Buckeye hereby determines and declares that, it is necessary that this Ordinance go into immediate effect, to preserve the public peace, health, safety and welfare of the citizens of the Town, and therefore, declares that this Ordinance, if passed by the requisite number of votes of the Town Council, shall be immediately effective as an emergency measure, pursuant to the provisions of A.R.S. title 19, Sec. 19-142(B).

PASSED AND ADOPTED by the Council of the Town of Buckeye this
_____ day of January, 2007.

MAYOR

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

EXHIBIT A.

Water Utility of Greater Buckeye, Inc.

(Also reference to but not limited by Exhibit B and Table 1 attached hereto)

All utility plant; system; property; wells, water sources, resources and water rights; all fee and/or leasehold interests in real property; all easements and rights-of-way; water lines, meters, valves, tanks and all other personal property and/or equipment utilized or which may be utilized to provide water service to the public; as well as the Certificate(s) of Convenience and Necessity, franchise(s), intangible assets and rights; and all other assets of any type or nature owned by and/or associated with the utility operations of the Water Utility of Greater Buckeye, Inc. (Arizona Corporation Commission utility number W-02451A), including its value, if any as a going concern.

EXHIBIT B.

**Delineation of Service Areas and Real Property of
Water Utility of Greater Buckeye, Inc.
(Also reference to Table 1 attached hereto)**

1. Sweetwater II system Table 1, Area 1 MCESD No. 04-07-129
 - A. This system serves approximately 94 connections in a service area covering approximately 120 acres, located in the Town of Goodyear. The service area extends north and south between Yuma and Durango Roads, and east and west between 175th Avenue and Citrus Road (although not all area between these boundaries is in the service area), within the NW quarter, Sec. 14, T1N, R2W, G&SRB&M.
 - B. The system is believed to include one well of about 40 gallons per minute (gpm), four equally sized tanks totaling an estimated 44,000 gallons, plus a 2,000 gallon hydropneumatic tank, booster pump and an unknown footage of polyvinyl chloride (PVC) mains.
 - C. Well-site and appurtenant facilities, located on the property identified as APN 623-34-403-1.

2. Bulfer system Table 1, Area 2 MCESD No. 04-07-114

- A. The Bulfer system serves an estimated 84 connections. The service area, located in the Town of Goodyear, consists of approximately 300 acres bounded generally by 203rd Avenue, Hilton Avenue, Lower Buckeye and Jackrabbit Roads, within the South one-half, Sec. 17, T1N, R2W, G&SRB&M.
- B. The system consists of one groundwater well, reported to be 40 gallons per minute, one booster pump, a 2,000 gallon hydropneumatic tank and one storage tank believed to be of 140,000 gallons, a standby generator, plus an unknown footage of PVC distribution mains.
- C. Well-site and appurtenant facilities, located on the property identified as APN 623-32-508-3.

3. Sonoran Ridge system Table 1, Area 3 MCESD No. 04-07-732

- A. This system serves a recently developed subdivision based on a new well drilled in 1999. The service area is approximately 320 acres (lying between Northern and Olive Avenues, and west of Jackrabbit Trail alignment within the Town of Buckeye), within the Western half, Sec. 33, T3N, R2W, G&SRB&M, and currently contains about 52 connections. Total buildout for the Sonoran Ridge Estates is on the order of 250 connections.
- B. System facilities include a 150 gpm well, one 200,000 gallon tank, a 2,000 gallon pressure tank and booster pumps (2 at 25 horsepower and one at 40 horsepower); plus an unknown footage of PVC pipelines.
- C. Well-site and appurtenant facilities, located on the property identified as APN 502-09-011B-3.

- 4. Sweetwater I system Table 1, Area 5 MCESD No. 04-07-036
- 5. Sun Valley Ranches system Table 1, Area 6 MCESD No. 04-07-195

- A. Service areas 5 and 6 on Table 1 indicate the two systems owned by WUGB known as Sweetwater I (PWS No. 04-07-036) and Sun Valley Ranches (PWS No. 04-07-195). These two systems were merged in 2004 and today operate under the latter water system number referenced above. Together the two systems cover a service area of approximately 1,480 acres and serve an estimated 346 connections. The combined service areas are located within the East one-half of the East one-half, Sec. 5, and Northeast quarter of the northeast quarter, Sec. 8, T1N, R4W, G&SRB&M, and located within Sec. 6, and the Southwest quarter, Sec. 5, T1N, R4W, G&SRB&M, and located within Sec. 1, T1N, R5W, G&SRB&M.
- B. It is believed facilities at the Sweetwater I well site include a 30 gpm submersible well, four storage tanks totaling 33,000 gallons, two booster pumps (5 and 7.5 horsepower), a 2,000 gallon pressure tank and unknown amount of PVC pipeline. The well site serving the Sun Valley system is relatively new having been constructed in 1997 to serve West Phoenix Estates. Facilities include a 300 gpm submersible well; 130,000 gallon tank, three booster pumps (two at 10 and one 7.5 horsepower), a 3,000 gallon pressure tank, and an unknown amount of PVC water mains. A 3,354 foot 6-inch PVC transmission main (plus 25 feet of 2-inch PVC main) connects the Sweetwater and Sun Valley service areas.
- C. Well-sites and appurtenant facilities, located on property identified as APN 623-34-900-6 and 623-34-907-7.

6. Other service areas:
- A. Table 1, Area 4, approximately 320 acres, within the Western half, Sec. 33, T2N, R4W, G&SRB&M.
 - B. Table 1, Area 7, approximately 600 acres, within the Northwest quarter, Sec. 17, and located within the Southeast quarter, Sec. 7, and located within the eastern half, Sec. 18, T1N, R4W, G&SRB&M.
 - C. Table 1, Area 8, approximately 160 acres, within the Northwest quarter, Sec. 13, T1N, R5W, G&SRB&M.
 - D. Table 1, Area 9, approximately 960 acres, within Sec. 21, and located within the Northern on-half, Sec. 28, T1N, R4W, G&SRB&M.

NOTE: All of the above information and information on Table 1 are described to the best of the Town's information and belief, based on documents publicly available and other information obtained to-date by or on behalf of the Town. The specification of the information in this Exhibit B, in Table 1 and elsewhere, are for the purpose of providing as much specific notice as possible, but shall not be read as limiting in any manner the taking of all tangible and intangible utility assets of the Water Utility of Greater Buckeye, Inc. (ACC No. W-02451A) as described in Exhibit A. All properties are located within Maricopa County, State of Arizona.

TABLE 1
SERVICE AREA DESCRIPTIONS OF WUGB

Area No.	Township and Range	Section Descriptions	Estimated Acres	Maricopa County Water Sys No
1	T 1N/ R 2W	Within NW quarter of Section 14 (incomplete)	120	04-07-129
2	T 1N/ R 2W	South one-half of Section 17 except for small rectangular area in northeast corner	300	04-07-114
3	T 3N/ R 2W	Western half of Section 33	320	04-07-732
4	T 2N/ R 4W	Northern half of Section 33	320	
5	T 1N/ R 4W	East one-half of east one-half of Section 5; and northeast quarter of northeast quarter of Section 8	200	04-07-036 (combined with 07-195 below)
6	T 1N/ R 4W	All of Section 6 and southwest quarter of Section 5; and, All of Section 1 except northwest one-quarter	1,280	04-07-195
7	T 1N/ R 4W	Northwest quarter of Section 17; southeast quarter of Section 7; and eastern half of Section 18 except for southeast quarter of southeast quarter	600	
8	T 1N/ R 5W	Northwest quarter of Section 13	160	
9	T 1N/ R 4W	All of Section 21 and northern one-half of Section 28	960	
		Total	4,260	



REQUEST FOR COUNCIL ACTION

1. Agenda Item #:
2. Council Meeting Date:

To: Mayor & Council

3. Date Prepared: 5 January 2007

Through: Town Manager

4. Requesting Department: Public Works

5. SUBJECT: Ratification of the Condemnation of the Water Utility of Greater Buckeye

6. Recommendations: Approve and ratify the condemnation and immediate possession action of the Water Utility of Greater Buckeye by the Town of Buckeye.

7. Historical Background / Discussion: The Water Utility of Greater Buckeye (WUGB) is a subsidiary of Global Water and has its service areas within the Town of Buckeye municipal planning area and in the City of Goodyear municipal planning area. WUGB generally consists of five areas: (1) between the Olive Rd and Northern Rd alignments east of the Jackrabbit Trail alignment in Goodyear; (2) south of Yuma Rd and east of Cotton Rd in Goodyear; (3) south of Yuma Rd and west of Jackrabbit Trail in Buckeye; (4) north of Southern Rd and east of Palo Verde Rd in Buckeye; (5) east of Johnson Rd, south of I-10 and bordering the west side of the Buckeye airport; (6) west of Johnson Rd and south of I-10; (7) two areas just north of I-10 and west of the Sun Valley Parkway; (8) and one area just to the west of the Sun Valley parkway

8. Evaluation Process: As the town works toward integrating its water infrastructure from the west side of the planning area to the east side, south of I-10, it is imperative that the infrastructure is able to traverse the town without obstruction due to the service areas of a private utility. The areas to the north of I-10 are in close proximity to the Tartesso area water campus and though these areas are providing water to customers, they are isolated areas and would be better served by a robust and redundant water service such as the Tartesso water campus. None of the infrastructure that is contained in WUGB appears to be well maintained. In a facility tour of each of the areas there is no evidence of preventive maintenance.

9. Financial Implications: The current appraised value of the WUGB is \$2,000,000 plus \$950K in maint/rpr.

Cost: \$2 million	Savings:	Long Term Cost: \$950K
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Account #:	Fund:	Program Name:
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CIP Funds:	Funds:
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10. Proposed Motion: Propose a motion to approve the condemnation and immediate possession action of the Water Utility of Greater Buckeye by the Town of Buckeye.

Attachment: Discussion paper, maps of the WUGB service areas, legal description and proposed ordinance

APPROVALS

(Requests Must have ALL Approval Signatures PRIOR to being Sent to Town Clerk)

Requesting Department Head:

FINANCE	Date Sent:	Approved	Denied	Other
Approval Signature:		Date Approved:		
Unencumbered Funds Available:		YES	NO	
TOWN ATTORNEY	Date Sent: 11/30/06	Date Approved:		
TOWN MANAGER	Date Sent:	Approved	Denied	
Approval Signature:		Date Approved:		
COUNCIL	Approved	Denied		
	Tabled:	Date:		

Introduction

The Water Utility of Greater Buckeye, Inc. (WUGB) a subsidiary a holding company, West Maricopa Combine, Inc., recently purchased by Global Water and has its service areas within the Town of Buckeye municipal planning area and in the City of Goodyear municipal planning area. WUGB generally consists of five geographic areas (see attached maps): (1) between the Olive Rd and Northern Rd alignments east of the Jackrabbit Trail alignment in Goodyear; (2) south of Yuma Rd and east of Cotton Rd in Goodyear; (3) south of Yuma Rd and west of Jackrabbit Trail in Buckeye; (4) north of Southern Rd and east of Palo Verde Rd in Buckeye; (5) east of Johnson Rd, south of I-10 and bordering the west side of the Buckeye airport; (6) west of Johnson Rd and south of I-10; (7) two areas just north of I-10 and west of the Sun Valley Parkway; (8) and one area just to the west of the Sun Valley parkway.

The areas that are in and around the Buckeye airport and in the vicinity of I-10 are of particular importance since they are located in an area of Buckeye that is currently planned for development of both residential and commercial properties and they are in close proximity to the water wells that the Town utilizes to serve its downtown area (Wells 12 and 14 are located in the general vicinity of the Johnson Rd and Yuma Rd alignments). As the town works toward integrating its water infrastructure from the west side of the planning area to the east side, south of I-10, it is imperative that the infrastructure is able to traverse the town without obstruction due to the service areas of a private utility. The areas to the north of I-10 are in close proximity to the Tartesso area water campus and though these areas are providing water to customers, they are isolated areas and would be better served by a robust and redundant water service such as the Tartesso water campus.

None of the infrastructure that is contained in WUGB appears to be well maintained. In a facility tour of each of the areas there is no evidence of preventive maintenance. In fact it appears as if minor leaks in the systems have gone unnoticed for quite some time due to the extensive turf growth in and around the leak in the water pipe. (This is located in the Goodyear area south of Yuma Rd.)

The two Goodyear parcels will also require arsenic treatment as the latest test results provided by Global indicate that these areas are higher than the prescribed 10 PPB requirements of EPA. If taken over by the Town of Buckeye, we would likely have to provide Point of Use (POS) treatment systems for each of these customers in the form of an under the sink reverse osmosis system, in accordance with ADEQ requirements.

The following discussion highlights some compelling arguments as to why it is in the best interests of the Town of Buckeye to condemn this water system and utility assets and take immediate possession.

Most of the areas currently served by this company are situated in strategic locations for interconnection of existing and planned Town water systems. Through the purchase of this system, the Town will be better able to serve the public and increase overall system reliability by interconnection to the company's systems. The added redundancy and

availability for service and connection options in the future is directly in line with the Town's development goals, planning, and annexation policies. This purchase will also ensure all of these systems, and those planned in the future, will be constructed and operated to Town standards and will be supportive of our Master plan for the Town of Buckeye Municipal Airport.

Financial Implications:

This condemnation does not come without cost. WUGB has been appraised for \$2,000,000. This appraisal is the minimum exposure for the acquisition, plus interest, attorneys' fees, and litigation costs. As mentioned above, there has been an apparent lack of maintenance over the course of time that Global has owned the utility (since July 2006) and by the previous owner of the utility. Based on a one day facility tour, Public Works estimates the following will also be required; however, not all will be required immediately:

• 36 Man Hours of electrical inspection/preventive maint. -	\$20K
• Two water utility mechanics/operators -	\$100K
• Utility Maintenance Vehicle -	\$20K
• Unknown well status, yields, pump info, etc -	\$60K
• Tank maint./ladder cages/inspections/cleaning -	\$50K
• Upgrade and repair Goodyear system -	\$500K
• Misc Demo work at all sites -	\$150K
• Fencing and Security and weed control-	\$19K
• SCADA and Monitoring -	\$15K
• Generators/Maint -	\$8K
• Painting/Gen upkeep/locks -	\$8K
• Grand Total -	\$950K

The anticipation of customer revenues from the 578 customers currently served by WUGB will be used to fund repairs and maintenance to the water system and utility assets. Of the above estimated long term expenses, the most pressing needs will be the POS arsenic treatment systems for the Goodyear parcels which equals 344 connections. Figuring that each POS system will cost approximately \$200 installed, the immediate need will be \$68,800 (included in the Upgrade and repair Goodyear system line item above). The next most pressing need will be the two personnel and vehicle to supplement the current public works utilities division staffing. The remaining cost items will be either worked into next year's budget or brought before Council as individual projects in support of this water system.

Discussion / Support Points:

Some discussion points that support the purchase of water system and utility assets located within the municipal planning area of the Town of Buckeye include:

1. Allows for efficiencies of scale that support the lowest possible water rates to customers by the following means and methods:
 - a. Continuity of water service areas and the interconnection of water system provide for the Town the ability to produce water from areas where the water meets EPA contaminant limits; and blend it with other waters or provide it directly to areas where water does not meet these limits. If the areas of limited water quality are developed separately, the water requires expensive treatment systems that include the need special operations staffing, concentrated waste disposal, and special chemical storage and handling.
 - b. Continuity and interconnection of water systems allows for efficiency of water system operation, maintenance (e.g. repair/spare-parts/interchangeability) and administration (e.g. common billing system for sewage, water and other sanitary services) of water utility services.
2. Allows for sustainability of limited water resources by the following means and methods:
 - a. Groundwater sources of water produced from regional aquifers requires regional and common administration of aquifer withdrawal and aquifer recharge (e.g. sewage effluent) to assure long term sustainability.
 - b. The Town of Buckeye has the municipal authority under specific ordinance (e.g. recharge and conservation), and the resources to direct and sustain management of regional aquifers. A private utility is regulated under the broad laws and rules of Maricopa County and State governments and is motivated by achieving a rate of return under the Arizona Corporation Commission; therefore, not accountable to the local municipality or to its residents for the protection of the municipal water supply.
3. Allows for more reliable service by the following means and methods:
 - a. Municipal management of a contiguous and interconnected water system means that multiple layers of redundant water sources, water distribution, and financial capabilities are available to assure reliability of service.
 - b. Operation and maintenance staffing within a contiguous interconnected system provides for the availability of experienced operation and maintenance staff to respond to unscheduled interruptions, conduct preventative maintenance, and plan for acquisition of large capital cost maintenance equipment (e.g. diesel pumps, electrical generators, tanker-pump trucks, etc.).
4. Provides for increased public safety by the following means and methods:

- a. Larger water systems that are interconnected improved the reliability of water storage and pressure for fire protection.
- b. Larger water systems improve the consistency and reliability of the quality of drinking water.

5. **Perpetuation of County Islands in Municipal Planning Areas presents an unfair burden on neighboring municipalities:**

- a. Isolation of water services perpetuates the isolation of other services such as sewage, police, fire protection, and other social services;
- b. Municipal service providers are often the only means of rescue for problems with water, sewer, police, fire protection and other social services in County Islands and Towns are often compelled to assist without compensation.

6. **Provides for local control and customer accountability on the water quality, water services and water rates by the election of local municipal officials. Under a private utility, the only method for influence is the election of State officials (e.g. Arizona Corporation Commission officials).**

ORDINANCE NO. 04-07.

AN ORDINANCE OF THE TOWN OF BUCKEYE, MARICOPA COUNTY, ARIZONA, RATIFYING ADOPTION OF ORDINANCE 54-06 PURSUANT TO A.R.S. §38-431.05(B), AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY, AND THEIR DESIGNEES, TO ACQUIRE THE WATER UTILITY SYSTEM AND ASSETS OF THE WATER UTILITY OF GREATER BUCKEYE, INC., LOCATED WITHIN AND WITHOUT THE BOUNDARIES OF THE TOWN OF BUCKEYE, BY DONATION, PURCHASE OR THROUGH THE EXERCISE OF THE POWER OF EMINENT DOMAIN; TO APPLY FOR AN OBTAIN IMMEDIATE POSSESSION OF THE SAME AND TO TAKE ALL ACTIONS AND TO POST ALL BONDS NECESSARY THERETO; AND FURTHER AUTHORIZING THE TOWN MANAGER AND THE TOWN'S FINANCIAL OFFICERS TO DISBURSE THE NECESSARY FUNDS FOR THE PURCHASE PRICE, IF AGREED UPON, OR THE AMOUNT OF JUST COMPENSATION IF DETERMINED IN THE MANNER PROVIDED BY LAW, PLUS USUAL AND CUSTOMARY CLOSING COSTS, AND ANY NECESSARY ATTORNEY'S FEES, LEGAL EXENSES AND COSTS, INCURRED BY THE TOWN, AND TO THE WATER UTILITY OF GREATER BUCKEYE, INC. AND INTEREST AS MAY BE REQUIRED OR PROVIDED BY LAW; FURTHER INCLUDING THE PURPOSE OF MAINTAINING IN EFFECT THE EMINENT DOMAIN ACTION FILED ON BEHALF OF THE TOWN OF BUCKEYE AGAINST THE WATER UTILITY OF GREATER BUCKEYE, INC., MARICOPA COUNTY SUPERIOR COURT NO. CV2006-010954; AUTHORIZING, IF NECESSARY, THE TAKING OF ALL STEPS REQUIRED FOR RE-FILEING A NEW EMINENT DOMAIN ACTION FOR THESE PURPOSES; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BUCKEYE, MARICOPA COUNTY, ARIZONA, as follows:

SECTION 1. The purpose and intent of the Town Council of the Town of Buckeye in adopting this Ordinance is to comply with all requirements of A.R.S. §38-431.05(B) to ratify the Town Council's adoption of Ordinance 54-06, on June 29, 2006. The notice and detailed description required by A.R.S. §38-431.05(B), as well as a copy of the appraisal prepared for the Town of the water system and assets of the Water Utility of Greater Buckeye, Inc., as described in Ordinance 54-06 and in Section 3 of this Ordinance and attachments, in the amount of TWO MILLION DOLLARS (\$2,000,000.00), have been made available to the public at least seventy-two (72) hours in advance of the meeting at which adoption of this Ordinance was scheduled to be considered by the Town Council.

SECTION 2. For the purposes stated in Ordinance 54-06 and in this Ordinance, the Town Council of the Town of Buckeye hereby ratifies in full the adoption of Ordinance 54-06 and all actions taken on behalf of the Town pursuant to Ordinance 54-06.

SECTION 3. That it is deemed essential as a matter of public use and necessity that the entire water system and related assets of the Water Utility of Greater Buckeye, Inc., more particularly described but not necessarily limited to the descriptions thereof on the attached Exhibits A and B and Table 1, and located within or without the existing incorporated limits of the Town of Buckeye, be acquired by the Town of Buckeye for the purpose of being incorporated into the Town's water service and delivery system, future water resources and water service planning and development of the Town and its water system, and in order to provide current and future residents and businesses of the Town and others in the vicinity with water service by the Town through its municipal water system, and that the Town obtain immediate possession and use of said water system and related assets in order timely to proceed with such purposes and with incorporation of the acquired water system and assets into the Town's municipal water system.

SECTION 4. That the Town Manager, the Town Attorney, their designees, and the Town's Financial Officers be, and they are hereby, authorized and directed to acquire full title and ownership of the entire water system and related assets of the Water Utility of Greater Buckeye, Inc., more particularly described but not necessarily limited to the descriptions thereof on the attached Exhibits A and B and Table 1, and located within or without the existing incorporated limits of the Town of Buckeye, by donation, purchase, or through the exercise of the power of eminent domain, and the Town Manager and the Town's Financial Officials are further authorized and directed to disburse the necessary funds for the purchase price, if agreed upon, or the amount of just compensation if determined in the manner provided by law, plus usual and customary closing costs, and any necessary attorney's fees, legal expenses and costs, incurred by the Town, and to the Water Utility of Greater Buckeye, Inc. and interest as may be required or provided by law; and to do any and all other things necessary or appropriate toward achieving these purposes.

SECTION 5. That the Town Manager, the Town Attorney, their designees, and the Town's Financial Officers be, and they are hereby, authorized and directed to obtain immediate possession, as provided by law, of the entire water system and related assets of the Water Utility of Greater Buckeye, Inc., as described above, and to take all actions and to post all bonds necessary thereto; and to do any and all other things necessary or appropriate toward achieving these purposes.

SECTION 6. The ratification action taken in adoption of this Ordinance is intended to include the filing of the pending eminent domain action filed on behalf

of the Town of Buckeye against the Water Utility of Greater Buckeye, Inc., Maricopa County Superior Court No. CV2006-010954, including without limitation filing of the Town's Application for Immediate Possession and all proceedings directed to obtaining entry of an Order of Immediate Possession. The purposes of this Ordinance include maintaining the pending condemnation action in effect. In the event that the Court determines that the pending eminent domain action must be dismissed, despite adoption of this ratification Ordinance, this Ordinance shall and does authorize the Town Manager, Town Attorney, other Town Officials, including Financial Officers, and the Town's special legal counsel, to take all steps necessary to re-file a new action in eminent domain for the purposes set forth in ordinance 54-06 and in this Ordinance.

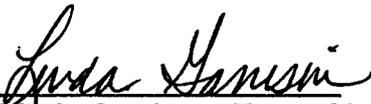
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PASSED AND ADOPTED by the Council of the Town of Buckeye this 11th day of January, 2007.



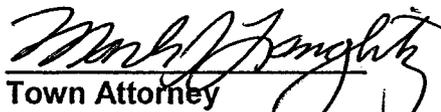
Bobby Bryant, Mayor

ATTEST:



Linda Garrison, Town Clerk

APPROVED AS TO FORM:



Town Attorney
for Scott W. Ruby

EXHIBIT A.

Water Utility of Greater Buckeye, Inc.

(Also reference to but not limited by Exhibit B and Table 1 attached hereto)

All utility plant; system; property; wells, water sources, resources and water rights; all fee and/or leasehold interests in real property; all easements and rights-of-way; water lines, meters, valves, tanks and all other personal property and/or equipment utilized or which may be utilized to provide water service to the public; as well as the Certificate(s) of Convenience and Necessity, franchise(s), intangible assets and rights; and all other assets of any type or nature owned by and/or associated with the utility operations of the Water Utility of Greater Buckeye, Inc. (Arizona Corporation Commission utility number W-02451A), including its value, if any as a going concern.

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 - B. The system is believed to include one well of about 40 gallons per minute (gpm), four equally sized tanks totaling an estimated 44,000 gallons, plus a 2,000 gallon hydropneumatic tank, booster pump and an unknown footage of polyvinyl chloride (PVC) mains.
 - C. Well-site and appurtenant facilities, located on the property identified as APN 623-34-403-1.

2. Bulfer system Table 1, Area 2 MCESD No. 04-07-114

- A. The Bulfer system serves an estimated 84 connections. The service area, located in the Town of Goodyear, consists of approximately 300 acres bounded generally by 203rd Avenue, Hilton Avenue, Lower Buckeye and Jackrabbit Roads, within the South one-half, Sec. 17, T1N, R2W, G&SRB&M.

- B. The system consists of one groundwater well, reported to be 40 gallons per minute, one booster pump, a 2,000 gallon hydropneumatic tank and one storage tank believed to be of 140,000 gallons, a standby generator, plus an unknown footage of PVC distribution mains.

- C. Well-site and appurtenant facilities, located on the property identified as APN 623-32-508-3.

3. Sonoran Ridge system Table 1, Area 3 MCESD No. 04-07-732
- A. This system serves a recently developed subdivision based on a new well drilled in 1999. The service area is approximately 320 acres (lying between Northern and Olive Avenues, and west of Jackrabbit Trail alignment within the Town of Buckeye), within the Western half, Sec. 33, T3N, R2W, G&SRB&M, and currently contains about 52 connections. Total buildout for the Sonoran Ridge Estates is on the order of 250 connections.
 - B. System facilities include a 150 gpm well, one 200,000 gallon tank, a 2,000 gallon pressure tank and booster pumps (2 at 25 horsepower and one at 40 horsepower); plus an unknown footage of PVC pipelines.
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- 4. Sweetwater I system Table 1, Area 5 MCESD No. 04-07-036
- 5. Sun Valley Ranches system Table 1, Area 6 MCESD No. 04-07-195

- A. Service areas 5 and 6 on Table 1 indicate the two systems owned by WUGB known as Sweetwater I (PWS No. 04-07-036) and Sun Valley Ranches (PWS No. 04-07-195). These two systems were merged in 2004 and today operate under the latter water system number referenced above. Together the two systems cover a service area of approximately 1,480 acres and serve an estimated 346 connections. The combined service areas are located within the East one-half of the East one-half, Sec. 5, and Northeast quarter of the northeast quarter, Sec. 8, T1N, R4W, G&SRB&M, and located within Sec. 6, and the Southwest quarter, Sec. 5, T1N, R4W, G&SRB&M, and located within Sec. 1, T1N, R5W, G&SRB&M.
- B. It is believed facilities at the Sweetwater I well site include a 30 gpm submersible well, four storage tanks totaling 33,000 gallons, two booster pumps (5 and 7.5 horsepower), a 2,000 gallon pressure tank and unknown amount of PVC pipeline. The well site serving the Sun Valley system is relatively new having been constructed in 1997 to serve West Phoenix Estates. Facilities include a 300 gpm submersible well; 130,000 gallon tank, three booster pumps (two at 10 and one 7.5 horsepower), a 3,000 gallon pressure tank, and an unknown amount of PVC water mains. A 3,354 foot 6-inch PVC transmission main (plus 25 feet of 2-inch PVC main) connects the Sweetwater and Sun Valley service areas.
- C. Well-sites and appurtenant facilities, located on property identified as APN 623-34-900-6 and 623-34-907-7.

6. Other service areas:

- A. Table 1, Area 4, approximately 320 acres, within the Western half, Sec. 33, T2N, R4W, G&SRB&M.
- B. Table 1, Area 7, approximately 600 acres, within the Northwest quarter, Sec. 17, and located within the Southeast quarter, Sec. 7, and located within the eastern half, Sec. 18, T1N, R4W, G&SRB&M.
- C. Table 1, Area 8, approximately 160 acres, within the Northwest quarter, Sec. 13, T1N, R5W, G&SRB&M.
- D. Table 1, Area 9, approximately 960 acres, within Sec. 21, and located within the Northern on-half, Sec. 28, T1N, R4W, G&SRB&M.

NOTE: All of the above information and information on Table 1 are described to the best of the Town's information and belief, based on documents publicly available and other information obtained to-date by or on behalf of the Town. The specification of the information in this Exhibit B, in Table 1 and elsewhere, are for the purpose of providing as much specific notice as possible, but shall not be read as limiting in any manner the taking of all tangible and intangible utility assets of the Water Utility of Greater Buckeye, Inc. (ACC No. W-02451A) as described in Exhibit A. All properties are located within Maricopa County, State of Arizona.

TABLE 1
SERVICE AREA DESCRIPTIONS OF WUGB

Area No.	Township and Range	Section Descriptions	Estimated Acres	Maricopa County Water Sys No
1	T 1N/ R 2W	Within NW quarter of Section 14 (incomplete)	120	04-07-129
2	T 1N/ R 2W	South one-half of Section 17 except for small rectangular area in northeast corner	300	04-07-114
3	T 3N/ R 2W	Western half of Section 33	320	04-07-732
4	T 2N/ R 4W	Northern half of Section 33	320	
5	T 1N/ R 4W	East one-half of east one-half of Section 5; and northeast quarter of northeast quarter of Section 8	200	04-07-036 (combined with 07-195 below)
6	T 1N/ R 4W	All of Section 6 and southwest quarter of Section 5; and		
	T 1N/ R 5W	All of Section 1 except northwest one-quarter	1,280	04-07-195
7	T 1N/ R 4W	Northwest quarter of Section 17; southeast quarter of Section 7; and eastern half of Section 18 except for southeast quarter of southeast quarter	600	
8	T 1N/ R 5W	Northwest quarter of Section 13	160	
9	T 1N/ R 4W	All of Section 21 and northern one-half of Section 28	960	
		Total	4,260	

Michael K. Jeanes, Clerk of Court
*** Electronically Filed ***
12/25/2006 8:00 AM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2006-010954

12/22/2006

JUDGE ROBERT E. MILES

CLERK OF THE COURT
K. Ballard
Deputy

BUCKEYE TOWN

DAVID A PENNARTZ

v.

WATER UTILITY OF GREATER BUCKEYE
INC, et al.

MARTIN A ARONSON

JOHN W PAULSEN

RECEIVED
DEC 23 2006

HEARING / RULING

10:29 a.m. This is the time set for Oral Argument re: Defendant Water Utility of Greater Buckeye, Inc.'s Motion for Summary Judgment. Plaintiff is represented by counsel, David A. Pennartz and Ian D. Quinn. Defendant Water Utility of Greater Buckeye, Inc. is represented by counsel, Martin A. Aronson and Robert J. Moon.

A record of the proceedings is made by CD (FTR) in lieu of a court reporter.

Oral argument is presented.

Based on the record as presented in this case,

The Court finds a violation of the open-meeting law.

Discussion is held regarding how the case should proceed based on the Court's finding.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2006-010954

12/22/2006

The Court will not enter final judgment at this time. Should Plaintiff take action to ratify pursuant to the statute, the parties will be permitted to brief the issue of whether any attempted ratification is valid.

FILED: June 27, 2006 letter/report of Harold V. Morgan; Ordinance No. 54-06 (signed version); and Harold V. Morgan, Civil Engineer Curriculum Vitae

10:53 a.m. Matter concludes.