



0000070392



**RECEIVED ACTION BY UNANIMOUS WRITTEN CONSENT  
BY THE MEMBERS OF  
SUNRISE WELL ASSOCIATION, INC.**

2003 DEC -3 P 4:01

We the undersigned, constituting all of the members of Sunrise Well Association, Inc., an Arizona non-profit corporation (the "Association"), acting in accordance with Section 9 of Article IV of the Association's Bylaw, hereby state as follows:

PURSUANT TO Arizona Revised Statutes Section 10-11023, we hereby ratify and confirm the actions of the members of the Board of Directors of the Association, as set forth in the attached certificate of Action By Unanimous Written Consent By the Directors of Sunrise Well Association, Inc., which such actions were taken pursuant to Arizona Revised Statutes Section 10-11021 and Article XX of the Bylaws.

EFFECTIVE this \_\_ day of October, 2003.

Thomas Benefield

Lewis Peterson

Blaine Richan

Deforest Rall

Helen Richan

Maria K. Bryant

Dale P. Nash, as trustee of the R&M Family Trust

Barbara Loudon

Phyllis C. Nash, as trustee of the R&M Family Trust

**ACTION BY UNANIMOUS WRITTEN CONSENT  
BY THE DIRECTORS OF  
SUNRISE WELL ASSOCIATION, INC.**

The undersigned, constituting all of the members of the Board of Directors of Sunrise Well Association, Inc., an Arizona non-profit corporation (the "Association"), hereby adopt the following resolutions by unanimous written consent pursuant to Section 4 of Article VII of the Association's Bylaws:

RESOLVED, that in accordance with Arizona Revised Statutes Section 10-11021, the Bylaws of the Association be amended by the addition of the following provisions to Article III:

**Section 4. Category of Membership**

Every person or entity who is a record owner of a fee or undivided fee interest in a designated parcel may become a member of the Association. One membership is available for each of the 15 designated one-acre parcels within the service area, and a person or entity may hold multiple memberships in the Association. There are two categories of memberships available in the Association: Active Memberships and Dormant Memberships. Active Memberships shall have right to vote on any Association matters, as set forth in Article III Section 6, and in Article IV herein. Dormant Memberships shall not have any voting rights. The category of membership associated with each designated parcel shall be noted on the books of the Association.

All memberships in the Association associated with each individual designated parcel shall be Dormant Memberships until such time as the owner of the designated parcel obtains an active water line connection from the designated parcel to the Association's water system for the purpose of taking delivery of water for use on such designated parcel. Once an active water connection has been established for a particular designated parcel, and the owner becomes a paying water customer of the Association for the designated parcel, the membership associated with that particular designated parcel shall automatically become an Active Membership, with all of the benefits as set forth herein.

Notwithstanding anything herein to the contrary, assessments levied pursuant to Article XVI herein shall be levied equally as to all members of the Association, without regard to the category of membership associated with any particular designated parcel.

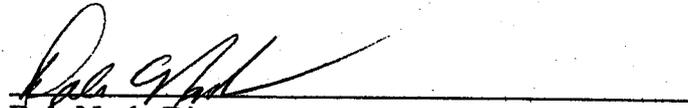
**Section 5. Voting Rights of Members**

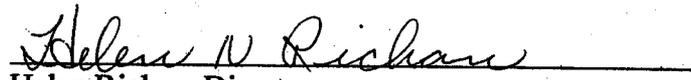
An owner of one or more designated parcels within the service area may cast one vote for each Active Membership such owner holds in the Association, on any matter for which members may allowed to take action, as set forth in Article IV herein.

RESOLVED FURTHER, that the foregoing amendments are made pursuant to the powers granted to the undersigned pursuant to Article XX of the Bylaws of the Association.

IN WITNESS WHEREOF, the undersigned has executed this Action by Unanimous Written Consent as of and the above resolutions, unless otherwise indicated herein, shall be effective as of October \_\_, 2003.

  
Lewis Peterson, Director

  
Dale Nash, Director

  
Helen Richan, Director

P/E  
EX

ATTN: D. Caletory  
SNOW NUFFER  
PO Box 400  
St George, UT 84771

INDEXED

2002074660 BK 4255 PG 631  
OFFICIAL RECORDS OF MOHAVE COUNTY  
JOAN MC CALL, MOHAVE COUNTY RECORDER  
11/01/2002 10:38A PAGE 1 OF 1  
SNOW NUFFER ENGSTROM ET AL  
RECORDING FEE 14.00

**EASEMENT**

RECEIVED

KNOW ALL MEN BY THESE PRESENTS:

MICROFILMED

That I Dale P. Nash and Phyllis C. Nash as Trustees of the R&M Family Trust, do hereby grant to the Sunrise Well Association, Inc., an Arizona non-profit corporation:

AZ CORP COMMISSION  
DOCUMENT CONTROL

- a) A twenty-five (25) foot non-exclusive easement appurtenant, along the West and South sides of Parcel #402-24-122 Section 16, T39N, R16W in Mohave County, Arizona for a water line; and
- b) A fifty-one (51) by fifty-four (54) foot square easement containing 2,754 square feet in the southwest corner of Parcel #402-24-122, Section 16, T39N, R16W, Mohave County Arizona for the Well, Well-house and storage tanks; and
- c) A twenty-five (25) non-exclusive easement for a water line across the south 25 feet of the N 1/2 SE 1/4 SE 1/4 Section 16, T39N, R16W, Mohave County Arizona as reserved in prior deeds.



Nothing contained herein shall constitute or be deemed to constitute a gift or dedication of any portion of this lot to the general public or for the benefit of the general public or for any public purpose whatsoever. There are no third party beneficiaries to this agreement.

DATED this 5<sup>th</sup> day of September, 2002.

R&M Family Trust

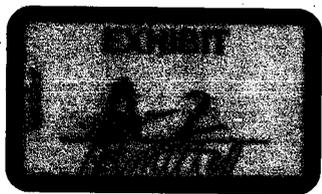
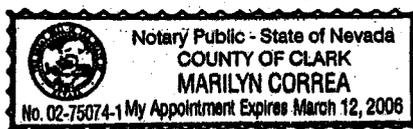
By Dale P. Nash  
Dale P. Nash, Trustee

By Phyllis C. Nash  
Phyllis C. Nash, Trustee

STATE OF Nevada )  
COUNTY OF Clark ) ss.

On this 5<sup>th</sup> day of September, 2002, before me personally appeared Dale P. Nash and Phyllis C. Nash, whose identities are by me duly sworn (or affirmed), did say that they are Trustees of the R&M Family Trust and that the foregoing instrument was signed by proper authority, and acknowledged before me that they executed the document in the capacity and for the purposes stated in it.

Marilyn Correa  
NOTARY PUBLIC  
Address: Mojave, NV  
My Commission Expires: 3/12/06







RECEIVED NEW APPLICATION COPY

RECEIVED NOV 14 2002

RECEIVED

LEGAL DIV. 2002 NOV 14 A 10: 37  
 ARIZONA CORPORATION COMMISSION  
 ARIZONA CORPORATION COMMISSION  
 AZ CORP COMMISSION DOCUMENT CONTROL  
 AZ CORP COMMISSION DOCUMENT CONTROL  
 APPLICATION FOR AN ADJUDICATION  
 "NOT A PUBLIC SERVICE CORPORATION"  
WATER AND/OR SEWER W-04154A-02-0848

A. The name, address and telephone number of the Applicant is:

Sunrise Well Association, Inc.  
PO Box 2638  
Mesquite, Nevada 89024

B. The Applicant is a:

Non-Profit Corporation,  
 Unincorporated Homeowners/Property Owners Association.

C. If Applicant is a non-profit corporation:

1. List names of officers:

Lewis Peterson - President; Dale Nash - Vice President  
Helen Richan - Secretary/Treasurer

2. List name, address and telephone number of management contact:

Lewis Peterson, PO Box 2638, Mesquite, NV 89024 Street address: 900 E  
Rain bow Rd. Scenic AZ. 928-347-5812

D. If Applicant is a unincorporated homeowners/property owners association, attach a list homeowners/property owners. N/S

- E. Attach the following exhibit(s):
1. Articles of Incorporation (if corporation).
  2. By-Laws (if incorporated or unincorporated).
  3. Certificate of Good Standing (if corporation).
  4. Corporate Resolution authorizing this application.
  5. Subdivisions "conditions of covenants and restrictions".
  6. List of utility facilities.
  7. Proof of ownership of utility facilities
  8. Legal Description of area to be adjudicated, using a metes and bounds survey or CADASTRAL (quarter section) descriptions.
  10. A detailed map of the area requested using the form provided as Attachment "B".
  11. Signed petition in support of the application by at least 51% of the Homeowners/Property Owners.

F. Attach the following permits:

1. City or County Franchise if any public rights of way will be used to construct utility facilities. N/A
2. Department of Environmental Quality, or designee, "Approval to Construct" utility facilities. N/A

G. How many lots are there within the subdivision? up to 15

H. What size are the lots? One Acre to five acres

I. Can these lots be further subdivided? Yes,  No

J. How many lots within the area are occupied? 8

K. Is the Applicant presently providing service to anyone?  Yes,  No

L. List the name, address and telephone number of the attorney for the Applicant.

David Nuffer, SNOW NUFFER, PO Box 400, St. George, UT 84771

435-674-0400

M. Attach an affidavit indicating that notice of this application has been made to all homeowners/property owners at least thirty (30) days prior to filing this application. (Please use the form of notice provided as Attachment "C", unless another form is approved by the Utilities Division prior to the filing of this application).

DATED the 8 day of Sept, ~~19~~ 2001

Lewis Peterson  
(Signature of authorized representative of Applicant)

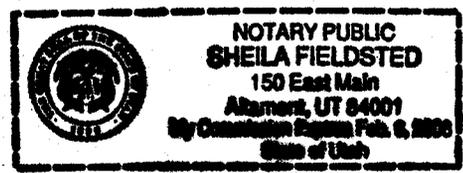
Sunrise Well Association, Inc.  
(Type or Print Name Here)

Lewis Peterson, President  
(Title)

SUBSCRIBED AND SWORN to before me on this 6<sup>th</sup> day of September, ~~19~~ 2001.

Sheila Fieldsted  
NOTARY PUBLIC

My Commission Expires 2-6-06



**ARTICLES OF INCORPORATION**

AZ. CORP. COMMISSION  
FILED

JUL 22 2002

APPR.  
TERM  
DATE

*Samuel R. Kelly*  
8-2-2002

ARTICLES OF INCORPORATION

FOR

SUNRISE WELL ASSOCIATION, INC.

- 1028747-8

2002 APR 31 A 1:58

**ARTICLES OF INCORPORATION  
OF  
SUNRISE WELL ASSOCIATION, INC.**

APPR: \_\_\_\_\_  
DATE APPR \_\_\_\_\_  
TERM \_\_\_\_\_  
DATE 6-29-2002

I, the undersigned, for the purpose of forming a corporation pursuant to the Arizona Non-Profit Corporation Act, A.R.S. §10-3101 et. seq., in the capacity of incorporator, adopt the following Articles of Incorporation.

**ARTICLE I**

**NAME**

The name of the corporation is SUNRISE WELL ASSOCIATION, INC. For convenience, the corporation shall be referred to in this instrument as the "Association."

**ARTICLE II**

**PURPOSES**

This Association does not contemplate pecuniary gain or profit to the members thereof. No part of the income of the Association will be distributable to individuals employed by the Association. No part of its earnings may inure to the benefit of any individual and all income collected shall be used solely to meet its losses and operating expenses, including those expenses incurred in the employment of individuals on behalf of the Association.

The specific purposes for which this Association is formed are:

- (a) to maintain, furnish, provide or otherwise contract utility services to its members, including but not limited to, the distribution of culinary water.
- (b) to construct, own or lease, and maintain pipe lines and other water ways for culinary purposes.
- (c) to own, lease, or otherwise contract for and maintain equipment, property and facilities that shall become necessary to provide water utility services.

(d) to carry on any and all activities legal for companies providing such services as shall be necessary for the use and benefit of its members.

(e) to carry on any other lawful purpose not for profit.

### ARTICLE III

#### MEMBERSHIP

This Association shall have members, qualifications for which are designated in the Bylaws.

### ARTICLE IV

#### CERTIFICATES

The total number of membership certificates the Association has authority to issue is fifteen (15), or such other number as stated in the Bylaws. A certificate shall also entitle the member to culinary water on terms set forth in the Bylaws, Rules of Operation and User Agreement.

Membership in the Association is assessable under A.R.S. §10-3613. Assessments may be made for all water used as well as for capital improvements, maintenance and repair. All assessments, charges and fees shall be assessments against the stock of a member. The amount of such assessments shall be determined by the Board and shall be levied and collected as more particularly set forth in the Bylaws.

### ARTICLE V

#### GOVERNING BOARD

The affairs of this Association shall be managed by a Governing Board of three (3) Directors. The number of Directors may be changed by amendment of the Bylaws of the Association.

The names and addresses of the persons who are to act in the capacity of Directors until the selection of their successors are:

<u>NAME</u>	<u>ADDRESS</u>
Lewis Peterson	PO Box 2638, Mesquite, NV 89024
Dale Nash	PO Box 2802, Mesquite, NV 89024
Helen Richan	1155 East Main, American Fork UT 84003

ARTICLE VI  
INCORPORATOR

The name and address of the incorporator is:

<u>Name</u>	<u>Street Address</u>	<u>City &amp; State</u>
David Nuffer	192 East 200 North	St. George, UT 84770

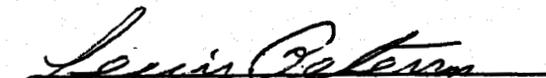
ARTICLE VII

KNOWN PLACE OF BUSINESS AND STATUTORY AGENT

The address of the Association's known place of business and the name of its initial statutory agent at that address are:

<u>NAME</u>	<u>ADDRESS</u>
Lewis Peterson	Rainbow Road <sup>and</sup> Elbow Canyon Road Intersection Scenic, Arizona PO Box 2638 Mesquite, NV 89024

I, Lewis Peterson, hereby acknowledge and accept appointment as the statutory agent of tes Association this 19 day of APRIL, 2002.

  
LEWIS PETERSON

IN WITNESS WHEREOF, for the purposes of forming this Association under the laws of the State of Arizona, the undersigned, being the incorporator has executed these Articles of Incorporation this 26th day of April, 2002.



---

DAVID NUFFER

P:\Nash Sunrise Well-Sharing 893205\articles 120401 8932.05 dc.doc

**BYLAWS**

**BYLAWS  
OF  
SUNRISE WELL ASSOCIATION, INC.**

**ARTICLE I**

**OFFICES**

The known place of business of the corporation shall be located at 900 East Rainbow Road, Scenic, Arizona. The corporation may have such other offices, either within or without the State of Arizona, as the Board of Directors may determine from time to time.

**ARTICLE II**

**DURATION**

The existence of this Association shall be perpetual.

**ARTICLE III**

**MEMBERS**

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any designated parcel may be a member of the Water Company (the "Association"). The designated parcels are:

The East 396 feet of the South half of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter of Section 16 T39 N, R16 W of the Gila and Salt River Base and Meridian, Mohave County, Arizona  
5 SHARES (1 per acre)

North half of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter of Section 16 T39N, R16W of the Gila and Salt River Base and Meridian, Mohave County Arizona.  
4 SHARES (1 per acre excluding tax number 402-24-133)

South half of the Northwest Quarter of the Southeast Quarter of the Southeast Quarter of Section 16 T39N, R16W of the Gila and Salt River Base and Meridian, Mohave County, Arizona.  
1 SHARE

North half of the Northwest Quarter of the Southeast Quarter of the Southeast Quarter of Section 16 T39N, R16W of the Gila and Salt River Base and Meridian, Mohave County, Arizona.

1 SHARE

North half of the Northeast Quarter of the Southwest Quarter of the Southeast Quarter of Section 16 T39N, R16W of the Gila and Salt River Base and Meridian, Mohave County, Arizona.

4 SHARES (1 per each 1.25 acre parcel)

Every owner of a designated parcel within the service area may be a member of the Association. Stock certificates, as hereinafter set forth, may be issued to members as evidence of membership. Said stock certificate(s) shall be appurtenant to and may not be separated from any parcel and may not be transferred to any person, firm or corporation who does not own the parcel to which the certificate is appurtenant, unless it is transferred to the Association. Each membership shall be associated with a parcel of not less than one acre.

The right to the use of water as evidenced by a stock certificate shall not be transferred to one other than a transferee of the member's fee or undivided interest in the designated parcel appurtenant thereto. In the event an owner/member transfers all right, title or interest in a parcel to a third party, the member's membership in the Association shall terminate and the stock certificate shall be automatically transferred to the third party.

The term "owner" does not include persons who hold an interest merely as security for the performance of an obligation unless and until title is acquired by foreclosure or similar proceedings. Membership is appurtenant to and may not be separated from parcel ownership. Shares may not be split. Membership in the Association automatically transfers upon transfer of title of the parcel by the record owner to another person or entity, subject to compliance with the Articles, Bylaws, Rules, Regulations and resolutions of the Association. A member is entitled to receive

water service upon compliance with the Articles, Bylaws, Rules, Regulations and resolutions of the Association.

Section 2. Qualification for Membership. No person, persons, entity or entities shall exercise the rights of membership until satisfactory proof has been furnished to the secretary of the Association of qualification as a member, or nominee of a member. Such proof may consist of a copy of a duly executed and acknowledged warranty deed or title insurance policy showing such person, persons, entity or entities, or the person nominating him qualified in accordance therewith, in which event the deed or title insurance policy shall be deemed conclusive in the absence of a conflicting claim based upon a later deed or title insurance policy.

Section 3. Suspension of Membership. The rights of membership are subject to the payment of annual and special assessments levied by the Association. The obligation for payment of assessments becomes a lien upon the stock as provided herein. If a member fails to make payment of any annual or special assessment levied by the Association within thirty (30) days after the same shall become due and payable, the voting rights of such member may be suspended by the Board of Directors and such member's right to use water may be suspended by the Board of Directors until such assessment has been paid. Such rights of a member also may be suspended after notice and hearing, for violation of these Bylaws, the Rules of Operation established by the Board of Directors governing the use of the services, facilities or equipment of the Association and for violation of the User Agreement.

#### ARTICLE IV

##### MEETINGS OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the members for the election of Directors, the presentation of the annual financial report of the Association and for the transaction of such other business as the Board of Directors may determine, shall be held at such time and place as may be designated by the Board of Directors

within one year from the date of incorporation of the Association and each subsequent annual meeting of the members shall be held on the first \_\_\_\_\_ in \_\_\_\_\_, at the hour of \_\_\_\_:\_\_\_\_ \_\_.m., unless the Directors, by resolution, direct otherwise.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the President or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least thirty (30) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association. Such notice shall specify the place, date and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Waiver of Notice. The notice provided for hereinabove is not indispensable and any meeting of the members shall be deemed validly called for all purposes if all members are represented thereat in person or by proxy, or if a quorum is present and waivers of notice of time, place and purpose of such meeting shall be duly executed in writing either before or after said meeting by those members not so represented or not given such notice. The attendance of any member at a meeting in person or by proxy, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by him.

Section 5. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, fifty percent (50%) of the votes of the membership shall constitute a quorum for any action. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to

adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or be represented.

Section 6. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary prior to the meeting for which the proxy is valid. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his parcel.

Section 7. Voting. If a quorum is present, the affirmative majority vote of the membership represented at the meeting shall be the act of all the members, unless the act of a greater number is expressly required by law, by the Articles of Incorporation, or these Bylaws. Upon direction of the presiding officer or upon demand of a member, the vote upon any business before a meeting shall be by ballot, but otherwise any such vote need not be by ballot.

Section 8. Procedure. The order of business and all other matters of procedure at every meeting of members shall be determined by the presiding officer.

Section 9. Action Without a Meeting. Whenever members are required or permitted to take any action by vote, such action may be taken without a meeting on written consent, setting forth the action so taken, signed by all members entitled to vote thereon.

Section 10. Voting by Mail. Whenever members are required or permitted to take any action by vote, such action may be handled by mail voting in the following manner, which may be, at the determination of the Board, the sole method of voting or used in conjunction with in-person voting. Ballots setting forth matters to be voted upon shall be sent to each member by the corporate secretary not more than sixty (60) days and not fewer than thirty (30) days before the date set for the vote. Ballots shall instruct members to seal their ballot in a ballot envelope and then place the sealed envelope into a larger envelope along with a signed paper, provided by the secretary, identifying the member whose vote is contained in the inner envelope. Ballots may be delivered to

the secretary in person or by mail. Upon receiving the ballots, the corporate secretary shall open the outer envelope, remove the identification paper and record which members have voted. The identification paper and outer envelope shall then be separated from the ballot envelope. The ballot envelope shall be retained by the secretary until opened on the date of the vote.

## ARTICLE V

### BOARD OF DIRECTORS

Section 1. General Powers. The affairs of the corporation shall be managed by its board of Directors. Directors need not be residents of the State of Arizona.

Section 2. Number, Tenure, and Qualifications. The number of Directors shall be three (3). Directors shall be elected at the annual meeting for terms of two (2) years and until the election and qualification of his successor, with an odd number of Directors elected in odd-numbered years and an even number of Directors elected in even-numbered years.

Section 3. Removal. Any Director may be removed from the Board with or without cause, by a majority vote of the members of the Association and any Director who shall be absent from three (3) consecutive Board meetings shall be automatically removed from the Board unless determined otherwise by the Board. In the event of death, resignation or removal of a Director, a temporary successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No Director shall receive compensation for any service he may render as Director to the Association.

Section 5. Vacancies. Any vacancy occurring in the Board of Directors and any Directorship to be filled by reason of an increase in the number of Directors, shall be filled by the Board of Directors. A Director appointed to fill a vacancy shall serve for the unexpired term of his predecessor in office.

## ARTICLE VI

### NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more members of the Association, who may or may not be Directors. The Nominating Committee shall be appointed by the Board of Directors at least sixty (60) days prior to each annual meeting of the members, to serve through such annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2. Election. Election to the Board of Directors shall be conducted by secret written ballot.

## ARTICLE VII

### MEETINGS OF DIRECTORS

Section 1. Regular Meetings. The first meeting of the Board of Directors will follow the annual meeting of the members. Thereafter, regular meetings of the Board of Directors shall be held at such date, time and place as may be determined from time to time by resolution of the Board of Directors, without other notice than such resolution. Additional regular meetings shall be held at the principal office of the corporation in the absence of any designation in the resolution.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association or by any two (2) Directors, after not less than seven (7) days' notice to each Director.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business.

Section 4. Action Without a Meeting. Whenever the Directors are required or permitted to take any action by vote, such action may be taken without a meeting on written consent, setting forth the action so taken, signed by all Directors. Such documents may be executed in counterpart.

Section 5. Board Decisions. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by these Bylaws.

## ARTICLE VIII

### POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of water and the roads, the equipment and facilities of the Association and to establish penalties for the infraction thereof;

(b) suspend the voting rights, rights to use of water, and any other rights of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended for a period of not to exceed sixty (60) days, after notice and hearing, for infraction of any published rules and regulations;

(c) enter into contracts, employ a watermaster, manager, an independent contractor or such other employees as they deem necessary, and to prescribe their duties;

(d) exercise all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, or by the Articles of Incorporation.

(e) own, operate and maintain a culinary water system for the designated parcels described in Article III above. Such powers shall include but not be limited to the following:

(i) to make and collect annual assessments and special assessments when required against all members of the Association in order to pay costs and expenses of ownership, operation and maintenance of the water system.

(ii) to use the proceeds and assessments in the exercise of its powers and duties.

(iii) to maintain, repair, replace, and operate the water system.

(iv) to reconstruct improvements after any loss or casualty.

(v) to make and amend reasonable rules and regulations regulating the use of the water system.

(vi) to enforce by legal means provisions of the Articles and the Bylaws pertaining to the operation and maintenance of the water system.

(vii) to contract for the maintenance and operation of the water system, including but not limited to the purchase of water rights or water supply.

(viii) to employ personnel to perform the services required for proper maintenance and operation of the water system.

(ix) to exchange water in times of equipment failure with other water companies.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) cause the property, equipment and facilities of the Association to be maintained;

(b) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-half (1/2) of the members who are entitled to vote;

(c) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(d) fix the amount of the annual assessment against each parcel;

- (e) send written notice of each assessment to every owner subject thereto;
- (f) Bring an action at law for unpaid assessments against the owner personally obligated to pay the same, or foreclose the lien against the membership stock, or take other action to collect unpaid assessments.
- (g) furnish a certificate upon demand, and for a reasonable charge, signed by an officer of the Association setting forth whether the assessment on a specified parcel has been paid;
- (h) procure and maintain adequate liability and hazard insurance on property owned by the Association;
- (i) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.

## ARTICLE IX

### OFFICERS

Section 1. Officers. The officers of the corporation shall be a president, one or more vice-presidents (the number thereof to be determined by the Board of Directors), a secretary, a treasurer, and such other officers as may be elected in accordance with the provisions of this article. The Board of Directors may elect or appoint such other officers, including one or more assistant secretaries and one or more assistant treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed, from time to time, by the Board of Directors. Any two or more offices may be held by the same person, except the offices of president and secretary.

Section 2. Election and Term of Office. The officers of the corporation shall be elected annually by the Board of Directors at the regular annual meeting of the Board of Directors. If the election of officers is not held at such meeting, such election shall be held as soon thereafter as is convenient. New offices may be created and

filled at any meeting of the Board of Directors. Each officer shall hold office until his successor has been duly elected and qualified.

Section 3. Removal. Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed.

Section 4. Resignation. Any officer may resign at any time by submitting a written resignation to the Board of Directors.

Section 5. Vacancies. A vacancy in any office, because of death, resignation, removal, disqualification, or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

Section 6. Powers and Duties. The several officers shall have such powers and shall perform such duties as may from time to time be specified in resolutions or other directives of the Board of Directors. In the absence of such specifications, each officer shall have the powers and authority and shall perform and discharge the duties of officers of the same title serving in non-profit corporations having the same or similar general purposes and objectives as this corporation.

Section 7. Compensation. No salary or other compensation for services shall be paid to any officer of the Association for services rendered by such officer.

## ARTICLE X

### CONTRACTS, CHECKS, DEPOSITS AND GIFTS

Section 1. Contracts. The Board of Directors may authorize any officer or officers or agent or agents of the corporation, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or may be confined to specific instances.

Section 2. Checks, Drafts, or Orders. All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the corporation, shall be signed and countersigned by persons specified by resolution of the Board of Directors. In the absence of such determination by the board, such instruments shall be signed by the treasurer or an assistant treasurer and countersigned by the president or a vice president of the corporation.

Section 3. Deposits. All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the Board of Directors may select.

Section 4. Annual Report. The Board of Directors shall present at the annual meeting of the members the report of the treasurer, giving the annual budget and a statement of income and expenses, and a report of other affairs of the Association during the preceding year. The Board of Directors shall provide all members, at the expense of the Association copies of said annual budget and statement of income and expenses.

## ARTICLE XI

### BOOKS AND RECORDS

The corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its board of Directors having and exercising any of the authority of the Board of Directors, and shall keep at the principal office a record giving the names and addresses of the members entitled to vote. All books and records of the corporation may be inspected at the principal office of the Association by any member, for any proper purpose at any reasonable time.

## ARTICLE XII

### FISCAL YEAR

The fiscal year of the corporation shall be the calendar year.

ARTICLE XIII  
WATERMASTER

If deemed necessary by the Board, it shall appoint a Watermaster. The duties of the Watermaster shall be to repair the water system, or cause the same to be done when so authorized and directed by the Board and to maintain the system and attend to such other duties as shall be assigned by the Board. Subject to the approval of the President or the Board, the Watermaster may employ any necessary assistants and labor, and discharge any person so employed. The Watermaster shall act as such only so long as the Board may designate and may be removed by the Board at any time, with or without cause. The Watermaster shall, as may be required by the Board at any time, or by the President, file a report in writing or make a report orally, whichever is requested, of the activities of the Watermaster and the condition of the water system, or such other matters concerning the system as may be requested, and shall perform such other duties as the President or the Board may require.

ARTICLE XIV  
INDEMNIFICATION OF DIRECTORS AND OFFICERS

Each Director and officer of the Association now or hereafter serving as such shall be indemnified by the Association against any and all claims and liabilities to which he has or shall become subject while or after serving by reason of serving as Director or officer, or by reason of any action alleged to have been taken, omitted, or neglected by him as such Director or officer; and the Association shall reimburse each such person for all legal expenses reasonably incurred by him in connection with any such claim or liability to the full extent allowed in the Arizona Non-Profit Corporation Act.

The right of indemnification hereinabove provided for shall not be exclusive of any rights to which any Director or officer of the Association may otherwise be entitled by law.

## ARTICLE XV

### WATER REGULATIONS

Section 1. Use of Water. All water furnished shall be used in reasonable quantities, and water shall not be permitted to be wasted.

Section 2 Inspections. The Association, or its authorized representative, will have the right upon reasonable notice, or in the event of an emergency without notice, to inspect the water system within any parcel or dwelling or other structure, to determine the condition of the same to prevent waste of water through leaking pipes, faucets or taps.

Section 3. Equal Rights. All members shall have equal rights to the use of water, upon compliance with the Articles of Incorporation, these Bylaws, and Board resolutions and regulations.

Section 4. Control of Water System and Distribution. The Board, through its duly authorized agents and employees, shall have exclusive control over the water system.

Section 5. Meters. Meters are required for each connection to the water system. Meters will be installed at the direction of the board, at the expense of the land owner or owners.

Section 6. Watermaster to Read Meters. The Watermaster shall have the right, at reasonable times and intervals, to go upon the lots and/or into any buildings where water meters are installed for the purpose of checking and reading the same.

Section 7. Water Rates. Water rates may be established, amended and repealed from time to time by resolution of the Board.

Section 8. Enforcement. Water service may be terminated for any member in violation of these Bylaws or any rule or regulation of the Association.

ARTICLE XVI  
ASSESSMENTS

Section 1. Annual and Special Assessments. Each member is obligated to pay to the Association an annual assessment, and all members are obligated to pay special assessments. Assessments are secured by a continuing lien upon the stock, as provided in these Bylaws. No member may waive or otherwise escape liability for the assessments provided for herein by non-use of the facilities of the Association or abandonment of a parcel.

Section 2. Creation of the Lien and Personal Obligation of Assessments. Every member and each subsequent owner of any land by acceptance of a deed therefor, a share of stock therefor, or by acceptance of water service, covenants and agrees to pay to the Association (1) annual assessments or charges, including standby fees and user fees; (2) hook up and extension fees; (3) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided; and (4) interest, costs of collection and a reasonable attorney's fee, as hereinafter provided. All such amounts shall be a charge on the stock or membership of the owner or user. Such assessments and other amounts shall be the personal obligation of the person who was the owner of such property at the time when the assessment fell due.

Section 3. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purposes set forth in the Articles of Incorporation and in particular for the improvement and maintenance of the property and services of the Association, including the establishment of a cash reserve for repair, maintenance, taxes and other charges.

Section 4. Annual Assessments. After consideration of the financial needs of the Association, the Board shall fix the annual assessment and pass a resolution levying the assessments. The resolution will specify the amount(s) of the assessments,

and fix a day subsequent to the full term of the notice of assessment on which the unpaid assessment shall be delinquent, not less than thirty days from the time of making the order levying. A day for the sale of delinquent stock not less than fifteen nor more than sixty days from the day the assessments are declared delinquent may be set. The annual assessment shall commence as to a parcel on the first day of the month following when the member becomes such by ownership of land (in the case of standby fees), or obtains a connection to the water system (in the case of user fees). At least twenty (20) days prior to the commencement of each new year or adjusted assessment, the Directors shall send or cause to be sent a written notice of the rate of the annual assessments for the coming year to each owner subject thereto. Receipt of notice shall not be a pre-requisite to validity of the assessment.

Annual assessments designated standby fees shall be levied against all members who are not connected to the water system, for costs of general maintenance and improvement to the system and anticipated capital improvements and replacements. Members who are connected to the water system or who use the water of the Association, shall pay annual assessments designated user fees, to cover the cost of supply of water and current operations and maintenance. The reasonable determination of the Board on the designation of expenses into these categories and the establishment of the annual assessments shall be final.

Section 6. Hook Up and Extension Fees. The Association shall charge fees for hook up and extension, and meter installation or replacement, directly to a member, prior to initiation of water service, which shall be reasonably calculated to recover costs of extension, installation, hook up and initiation of services, as well as a representation of a capital contribution to the system to allow for system expansion to serve a growing base of users.

Section 7. Special Assessments for Capital Improvements. In addition to the annual assessments, the Association may levy in any assessment year against all

members, a special assessment, applicable to that year only. Special assessments may only be levied to defray, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement of the Association. Special assessments must have the assent of one-half (1/2) of the votes of the members authorized to vote who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting for the purpose of the meeting.

Section 8. Nondiscriminatory Rate of Assessment. Annual and special assessments must be fixed at a uniform rate per parcel or connection, for each member to whom the assessment in question applies.

Section 9. Time and Record of Assessments

The assessment due dates shall be established by the Directors. The Directors may provide for the payment of annual and special assessments in equal installments throughout the assessment year.

The Directors shall prepare a roster of the members and the assessments applicable to them at the same time that it shall fix the amount of the annual assessment, which roster shall be kept by the Treasurer of the Association, who shall record payments of assessments and shall allow inspection of the roster by any member at reasonable times.

Section 10. Effect of Non-Payment of Assessment - Remedies of the Association. Any assessment or installment thereof not paid within thirty (30) days after the due date therefor shall be delinquent and shall bear interest from the due date at fifteen percent (15%) until paid. In addition, the Directors may assess a late fee for each delinquent installment which shall not exceed twenty per cent (20%) of the installment.

The Directors may, in the name of the Association, (a) bring an action at law against the owner personally obligated to pay any such delinquent assessment without waiving the lien of assessment, or (b) may foreclose the lien against the stock in any manner permitted by law, and/or (c) may restrict, limit, or totally terminate any or all services performed or provided by the Association in behalf of the delinquent member.

There shall be added to the amount of any delinquent assessment the costs and expenses of any action, sale or foreclosure, and a reasonable attorney's fee.

#### ARTICLE XVII

##### RULES AND REGULATIONS

The members shall at all times obey such rules and regulations passed by the Board of Directors, and shall use their best efforts to see that they are faithfully observed by their lessees, invitees and the persons over whom they have or may exercise control or supervision, it being clearly understood that the rules and regulations apply and are binding upon all the owners.

#### ARTICLE XVIII

##### DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of the Members. Upon dissolution of the Association, the distribution of assets shall proceed as provided in the Arizona Non-Profit Corporation Act.

#### ARTICLE XIX

##### ANCCAA AND BYLAWS

The affairs of this Association shall be conducted in accordance with the Arizona Non-Profit Corporation Act and the Bylaws as adopted and amended from time to time by its Directors.



**CERTIFICATE OF GOOD STANDING**

# STATE OF ARIZONA



Office of the  
**CORPORATION COMMISSION**

**CERTIFICATE OF GOOD STANDING**

To all to whom these presents shall come, greeting:

I, Brian C. McNeil, Executive Secretary of the Arizona Corporation Commission, do hereby certify that

**\*\*\*SUNRISE WELL ASSOCIATION, INC.\*\*\***

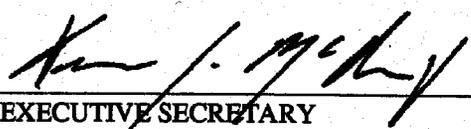
a domestic nonprofit corporation organized under the laws of the State of Arizona, did incorporate on July 22, 2002.

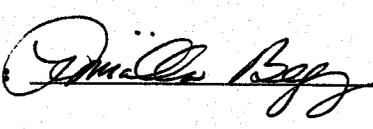
I further certify that according to the records of the Arizona Corporation Commission, as of the date set forth hereunder, the said corporation is not administratively dissolved for failure to comply with the provisions of the Arizona Nonprofit Corporation Act; that its most recent Annual Report, subject to the provisions of A.R.S. sections 10-3122, 10-3123, 10-3125, & 10-11622, has been delivered to the Arizona Corporation Commission for filing; and that the said corporation has not filed Articles of Dissolution as of the date of this certificate.

This certificate relates only to the legal existence of the above named entity as of the date issued. This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entity's condition or business activities and practices.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission. Done at Phoenix, the Capitol, this 24th Day of September, 2002, A. D.



  
EXECUTIVE SECRETARY

BY: 

**CORPORATE RESOLUTION**

**CONSENT IN LIEU OF ORGANIZATION MEETING  
OF GOVERNING BOARD OF  
SUNRISE WELL ASSOCIATION, INC.**

The following consent is executed to fulfill the requirements of the organization meeting of the Governing Board of Sunrise Well Association, Inc.

The undersigned constitute all the Directors and a quorum.

Articles of Incorporation of the Corporation were filed with the Arizona Corporation Commission on the 2<sup>nd</sup> day of August, 2002. The Certificate of Incorporation and a copy of said Articles of Incorporation were ordered to be inserted in the corporate records.

Proposed Bylaws were prepared by Snow Nuffer. It is hereby

RESOLVED that the Bylaws presented to this meeting are adopted and the Secretary is directed to certify such Bylaws and place them in the minute book.

Corporate officers are required for operation of the Association. It is hereby

RESOLVED that the following are elected President, Vice-President, and a Secretary-Treasurer to serve for a term of one year, as provided in the Bylaws.

President                      Lewis Peterson

Vice-President                Dale Nash

Secretary/Treasurer        Helen Richan

Membership certificates have been made available for the Association. It is hereby

RESOLVED that the form of the certificate presented to this meeting be and is approved and adopted, and the Secretary is instructed to insert a specimen of such in the minute book.

The opening of a corporate bank account to serve as a depository for the funds of the Corporation is necessary. It is hereby

RESOLVED that the Treasurer be authorized, empowered and directed to open an account with a federally insured financial institution, to deposit to said account all funds received by the Corporation, and to sign all checks and drafts drawn on said account.

It is hereby

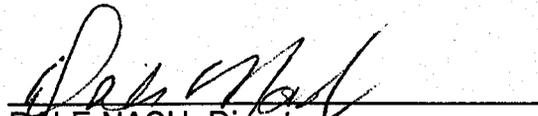
RESOLVED that the Treasurer be and hereby is authorized to pay all fees and expenses incident to and necessary for the organization of this Corporation.

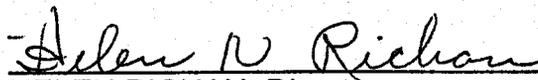
It is necessary to file with the Arizona Corporation Commission a Petition for an adjudication as "Not a Public Service Corporation." It is hereby

RESOLVED THAT the Governing Board proceed with filing of an application for adjudication as "not a public service corporation" and the President of the corporation is authorized to execute all documents necessary to accomplish such filing.

DATED this 10 day of Sept, 2002.

  
LEWIS PETERSON, Director

  
DALE NASH, Director

  
HELEN RICHAN, Director

NUMBER

1

SHARES \_\_\_\_\_

INCORPORATED UNDER THE LAWS OF THE STATE OF ARIZONA

# SUNRISE WELL ASSOCIATION, INC.

The Corporation is authorized to issue fifteen (15) Shares

This Certifies that \_\_\_\_\_ is the owner of \_\_\_\_\_ fully paid Shares of the above Corporation transferable only on the books of the Corporation by the holder hereof in person or by duly authorized Attorney upon surrender of this Certificate properly endorsed.

The shares represented by this certificate have not been registered under the Securities Act of 1933 or any federal or state securities law. They have been acquired for investment and not with a view to distribution or resale, and may not be assigned, sold, mortgaged, pledged, hypothecated, or otherwise transferred without an effective registration statement for such shares under appropriate federal and state laws or an opinion of legal counsel satisfactory to the Corporation that registration is not required.

Membership is appurtenant to and may not be separated from lot ownership. Membership in the Association automatically transfers upon transfer of title by the record owner to another person or entity.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers.

Dated \_\_\_\_\_, 200\_\_\_\_\_

Secretary \_\_\_\_\_

President \_\_\_\_\_

**RESOLUTION OF BOARD OF DIRECTORS  
OF  
Sunrise Well Association, Inc.**

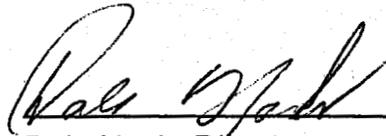
The undersigned, being all of the Directors of **Sunrise Well Association, Inc.**, an Arizona corporation (the Corporation), acting without a meeting, hereby consent to, approve and adopt the following resolution:

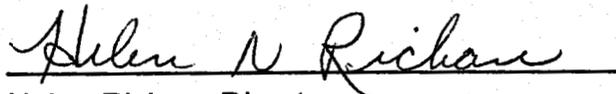
RESOVLED THAT the Company proceed with filing with the Arizona Corporation Commission, an Application for an Adjudication "Not a Public Service Corporation"; and

RESOLVED, FURTHER, THAT the President of the corporation is authorized to execute all documents necessary to proceed with the filing with the Arizona Corporation Commission.

DATED THIS 18 day of September, 2002.

  
\_\_\_\_\_  
Lewis Peterson, Director

  
\_\_\_\_\_  
Dale Nash, Director

  
\_\_\_\_\_  
Helen Richan, Director

**LIST OF UTILITY FACILITIES**

LIST OF INVENTORY AND FACILITIES  
OF  
SUNRISE WELL ASSOCIATION, INC.

1. An Easement for the area which is 51'x54' in dimensions in the southwest corner of Lot 402-24-122, as shown on the attached map, for the well site, tanks and well pump house.
2. 1,500 feet of two inch (2") water lines.

**PROOF OF OWNERSHIP OF UTILITY FACILITIES**



**LEGAL DESCRIPTION**

LEGAL DESCRIPTION OF AREA TO BE ADJUDICATED

The East 396 feet of the South half of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter of Section 16 T39 N, R16 W of the Gila and Salt River Base and Meridian, Mohave County, Arizona

North half of the Southeast Quarter of the Southeast Quarter of the Southeast Quarter of Section 16 T39N, R16W of the Gila and Salt River Base and Meridian, Mohave County Arizona.

South half of the Northwest Quarter of the Southeast Quarter of the Southeast Quarter of Section 16 T39N, R16W of the Gila and Salt River Base and Meridian, Mohave County, Arizona.

North half of the Northwest Quarter of the Southeast Quarter of the Southeast Quarter of Section 16 T39N, R16W of the Gila and Salt River Base and Meridian, Mohave County, Arizona.

North half of the Northeast Quarter of the Southwest Quarter of the Southeast Quarter of Section 16 T39N, R16W of the Gila and Salt River Base and Meridian, Mohave County, Arizona.

**MAP OF AREA**

**ATTACHMENT "B"**

Mohave	16	39 North	16 West
<b>COUNTY</b>	<b>SECTION</b>	<b>TOWNSHIP</b>	<b>RANGE</b>


SE 1/4 Sec 16

SW 1/4 Sec 16

N 1/2 NE 1/4 SW 1/4 SE 1/4 8 shares	N 1/2 NW 1/4 SE 1/4 1 share Archon
	S 1/2 NW 1/4 SE 1/4 1 Share Peterson

N 1/2 SE 1/4 Nash*	Louden* 1/4 Bryant	SE 1/4 1/25	FHM* 1/25
	Benfield* 1/3 1/96	SE 1/4 1/11	Balance* 1/25
		SE 1/4	Rail* 1/25

\* = 1 share each

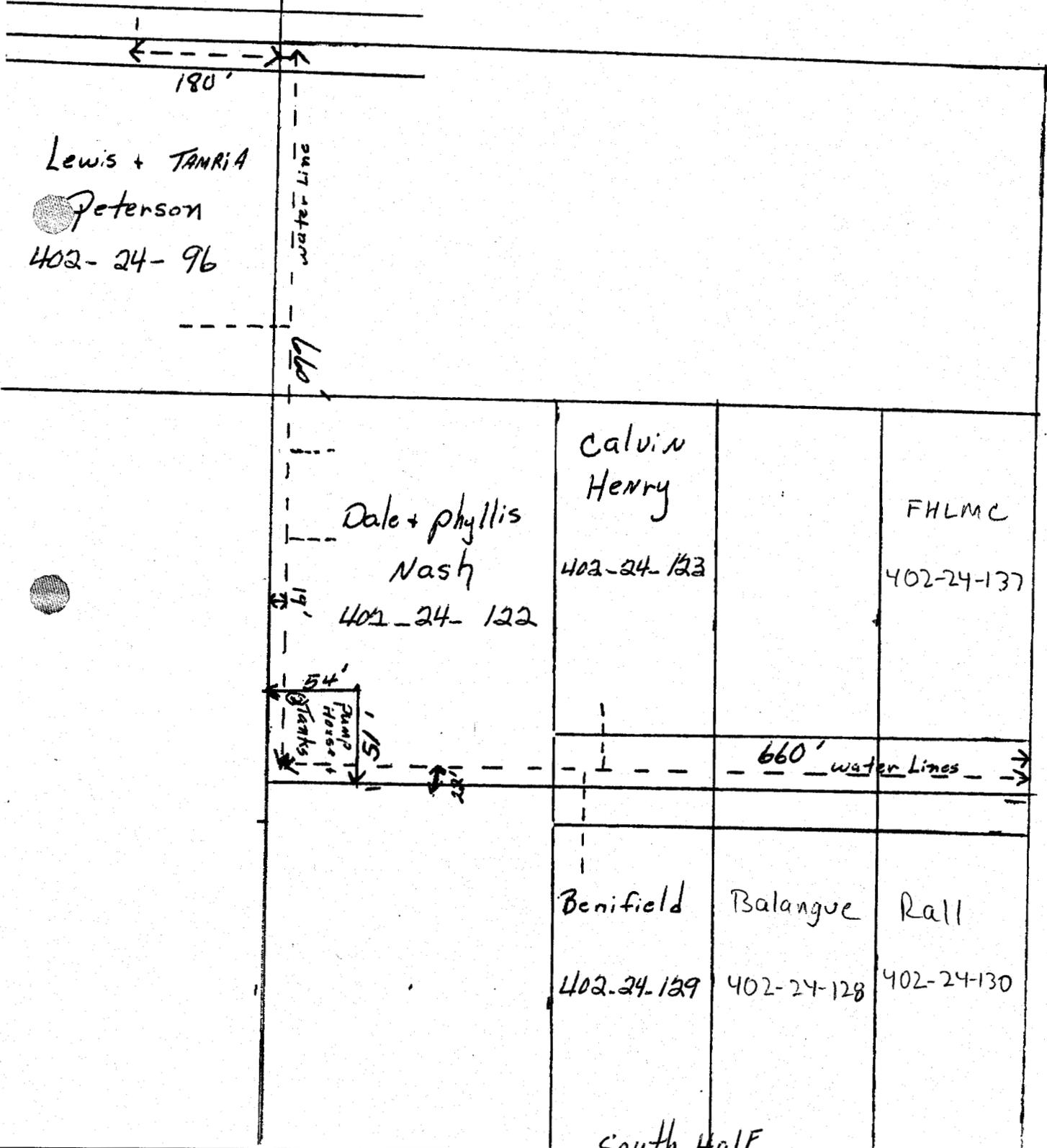
Blaine + Helen  
Richard  
402-24-97

N

"2" Water Line"

1500 Ft  
of water  
Lines

Cost of Water Lines: \$ 7500.00



264'

Well site on Dale Maske  
Property.

51'

Well

Well  
Pump  
House

Water  
Tank  
4000 Gal's

Water Tank  
28000 Gal's

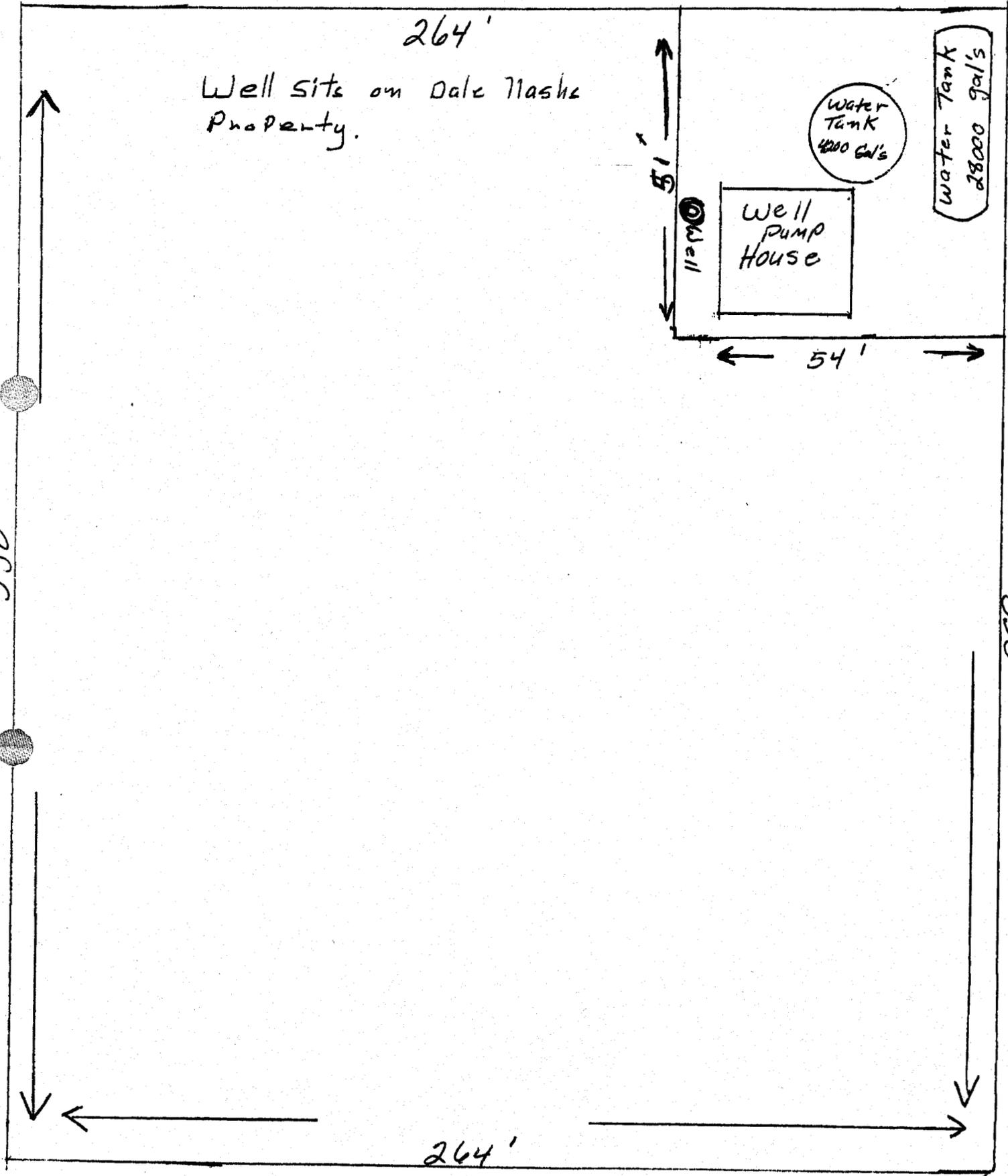
54'

330'

330'

264'

N



**PETITION IN SUPPORT OF APPLICATION**

PETITION  
IN SUPPORT OF APPLICATION FOR AN ADJUDICATION  
"NOT A PUBLIC SERVICE CORPORATION"

The undersigned, who represent at least fifty-one percent (51%) of the owners in the area proposed for water service by Sunrise Well Association, Inc., hereby show their support for the Sunrise Well Association, Inc., to proceed with an Application for Adjudication "Not a Public Service Corporation" with the Arizona Corporation Commission.

DATED THIS 10 day of September, 2002.

R & M Family Trust

By Dale P. Nash  
Dale P. Nash, Trustee

R & M Family Trust

By Phyllis C. Nash  
Phyllis Nash, Trustee

Blaine Richan  
Blaine Richan

Helen N. Richan  
Helen Richan

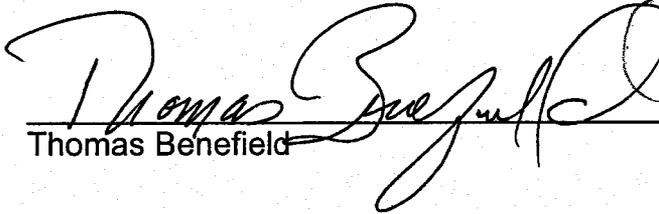
Lewis Peterson Trust

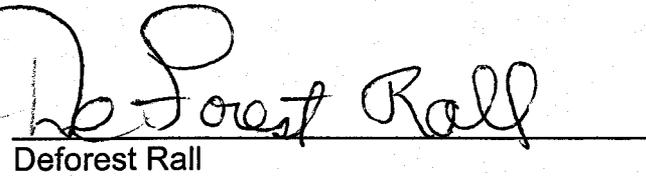
By Lewis Peterson  
Lewis Peterson, Trustee

**PETITION  
IN SUPPORT OF APPLICATION FOR AN ADJUDICATION  
"NOT A PUBLIC SERVICE CORPORATION"**

The undersigned, who represent at least fifty-one percent (51%) of the owners in the area proposed for water service by Sunrise Well Association, Inc., hereby show their support for the Sunrise Well Association, Inc., to proceed with an Application for Adjudication "Not a Public Service Corporation" with the Arizona Corporation Commission.

DATED THIS 8 day of October, 2002.

  
Thomas Benefield

  
Deforest Rall



Federal Home Loan Mortgage Corp.  
8200 Jones Branch Drive  
McClean, VA 22102

Maria K. Bryant  
Barbara Louden  
308 Colleen Court A  
Mesquite, Nevada 89027

Carl and Louise Preston  
PO Box 1450  
Mesquite, NV 89024

FURTHER AFFIANT SAITH NAUGHT.

DATED this 14th day of October, 2002.

Helen N Richan  
HELEN RICHAN

SUBSCRIBED AND SWORN TO before me this 14th day of  
October, 2002.

My Commission Expires:  
1-25-2004

April J Carley  
NOTARY PUBLIC  
Residing at: 955 W 810 N. P6, LT 84062

APRIL J. CARLEY  
Notary Public • State of Utah  
955 West 810 North  
Pleasant Grove, Utah 84062  
Comm. Expires 1-25-2004

## NOTICE

Sunrise Well Association, Inc., has applied to the Arizona Corporation Commission for an adjudication that it is not a public service corporation (public utility) and therefore is not under their jurisdiction. If the application is approved, the Commission will not regulate the rates it charges the members. All complaints concerning rates and service will be handled by the board of directors elected by the members.

If you have any questions about this application or have any objections to its approval, you may contact the Arizona Corporation Commission's Utilities Division at 1-800-222-7000, or write at 1200 W. Washington, Phoenix, Arizona 85007



RECEIVED

MEMORANDUM

RECEIVED

2003 DEC -3 P 4: 01

RECEIVED

2003 SEP 29 P 1: 36

TO: Docket Control  
AZ CORP COMMISSION  
DOCUMENT CONTROL  
FROM: Ernest G. Johnson  
Director  
Utilities Division

SEP 29 2003  
LEGAL DIV.  
ARIZ CORPORATION COMMISSION

AZ CORP COMMISSION  
DOCUMENT CONTROL

DATE: September 29, 2003

RE: STAFF REPORT FOR SUNRISE WELL ASSOCIATION, INC., AN ARIZONA  
NON-PROFIT CORPORATION, FOR ADJUDICATION NOT A PUBLIC  
SERVICE CORPORATION (DOCKET NO. W-04154A-02-0848)

Attached is the Staff Report for Sunrise Well Association, Inc., application for adjudication not a public service corporation. Staff recommends the Commission deny unless certain conditions are met.

EGJ:JEF:hml

Originator: Jim Fisher

Service List for: Sunrise Well Association, Inc.  
Docket No. W-04154A-02-0848

Mr. Lewis Peterson  
President  
Sunrise Well Association, Inc.  
Post Office Box 2638  
Mesquite, Nevada 89024

Mr. Christopher C. Kempley  
Chief, Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Mr. Ernest G. Johnson  
Director, Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Mr. Lyn Farmer  
Chief, Hearing Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

**STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION**

**SUNRISE WELL ASSOCIATION, INC  
AN ARIZONA NON-PROFIT CORPORATION**

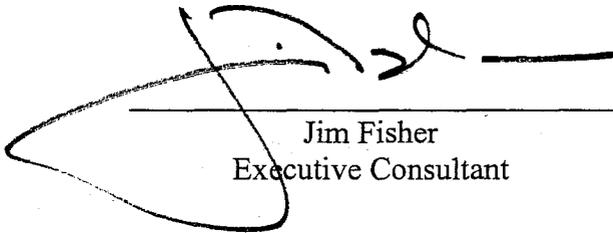
**DOCKET NO. W-04154A-02-0848**

**APPLICATION FOR ADJUDICATION  
NOT A PUBLIC SERVICE CORPORATION**

**SEPTEMBER 2003**

## STAFF ACKNOWLEDGMENT

The Staff Report for Sunrise Well Association, Inc. (Docket No. W-04154A-02-0848) was the responsibility of Jim Fisher. Jim Fisher was responsible for the review and analyses of the Company's application.



Jim Fisher  
Executive Consultant

**EXECUTIVE SUMMARY**  
**SUNRISE WELL ASSOCIATION, INC.**  
**(DOCKET NO. W-04154A-02-0848)**

On November 14, 2002, Sunrise Well Association, Inc. ("Sunrise") an Arizona Non-Profit Corporation, which provides potable water service to seven residents in remote Mohave County, filed an Application for an Adjudication Not a Public Service Corporation with the Arizona Corporation Commission ("ACC" or "Commission").

The criteria to determine that a provider is not a public service corporation within the meaning of Article XV, Section 2, of the Arizona Constitution was reviewed by the Arizona Supreme Court in Natural Gas Service Company v. Serv-U Cooperative, Inc. The Court provided eight review criteria for the Commission to review. The Commission issued a policy directive for the evaluation of applications for adjudication not a public service corporation on May 7, 1987, in Decision No. 55568. The Utilities Division was directed to ensure that all such applications complied with the following seven criteria.

Sunrise is incorporated as an Arizona nonprofit corporation and submitted the application, based on a resolution by the Governing Board of Sunrise. Sunrise has also provided a petition signed by all members of Sunrise requesting it be adjudicated not a public service company. The members of Sunrise are the customers of Sunrise. Sunrise has identified a 15 acre parcel to serve, which is not within the service area of a municipal or ACC regulated water provider. Membership in Sunrise is restricted to 15 total shareholders and the Sunrise Corporate By-laws preclude any further subdivision of existing properties.

Sunrise does not, however, provide clear evidence that the required utility facilities will be owned by the association. Sunrise also provides voting rights in the association based on acres owned. As such, the 15 votes available in Sunrise are currently held by seven members, which does not ensure one vote per member.

Staff recommends the Commission deny the Sunrise Well Association, Inc., application for adjudication that it is not a public service corporation. However, if certain conditions are met, Staff believes that Sunrise may be adjudicated not a public service corporation.

Therefore, Staff further recommends that the Commission deny adjudication of the Sunrise Well Association, Inc. not a public service corporation unless the following conditions are met:

1. That Sunrise Well Association, Inc. provide evidence that each member/customer of has equal voting rights in the association.
2. That Sunrise Well Association, Inc. provide evidence that the association retains direct ownership of the water production, storage and distribution assets necessary to serve the customers/members.
3. That the Sunrise Well Association, Inc. file for a Certificate of Convenience and Necessity in the event the association fails to comply with the above conditions.

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## **Introduction**

On November 14, 2002, Sunrise Well Association, Inc. ("Sunrise") an Arizona Non-Profit Corporation, filed an Application for an Adjudication Not a Public Service Corporation with the Arizona Corporation Commission ("ACC" or "Commission"). Sunrise is a non-profit association providing potable water service to seven residents in a small portion of Mohave County. Sunrise is requesting a determination that it is not a public service corporation for purposes of utility regulation by the ACC.

## **Background**

Sunrise is seeking ACC adjudication that its water service to eight connections, with a possible expansion of a maximum of 15 residential properties, is not a public service corporation for purposes of utility regulation by the ACC. Sunrise is serving its members/customers within a 15 acre parcel in northwestern Mohave County.

The criteria to determine that a provider is not a public service corporation within the meaning of Article XV, Section 2, of the Arizona Constitution was reviewed by the Arizona Supreme Court in Natural Gas Service Company v. Serv-U Cooperative, Inc. The Court provided eight review criteria for the Commission to review.

1. What the corporation actually does.
2. Whether the service is dedicated to a public use.
3. That the articles of incorporation evidence authorization and purposes.
4. Whether the corporation is dealing with the service of a commodity in which the public has been generally held to have an interest.
5. Whether the corporation is monopolizing or intending to monopolize a territory with a public service commodity.
6. Whether the corporation is accepting of substantially all requests for service.
7. That service is under contract and reserving the right to discriminate is not always controlling.
8. Whether the corporation will have actual or potential competition with other corporations whose business is clothed with the public interest.

The Commission issued a policy directive for the evaluation of applications for adjudication not a public service corporation on May 7, 1987, in Decision No. 55568. The Utilities Division was directed to ensure that all such applications complied with the following seven criteria.

1. Adjudication applications must be submitted by a non-profit homeowners association.
2. The application for adjudication not a public service corporation is a bona fide request by a majority of the membership of the association through a petition signed by 51 percent or more of the then existing members.
3. That all such associations making such application have complete ownership of the system and necessary assets.
4. That every customer is a member/owner with equal voting rights and that each member is or will be a customer.
5. That the service area involved encompasses a fixed territory, which is not within the service area of a municipal utility or public service corporation; or if in such territory, that municipal utility or public service corporation is unable to serve.
6. That there is a prohibition against further sub-division evidenced by deed restrictions, zoning, water restrictions or other enforceable governmental regulations.
7. That the membership is restricted to a fixed number of customers actual or potential.

Sunrise incorporated as an Arizona nonprofit corporation on July 22, 2002. Sunrise, as a non-profit homeowners' association submitted the application. The members of Sunrise comprise the current membership of Sunrise. On September 10, 2002, the Governing Board of Sunrise adopted corporate resolution authorizing this application for adjudication. Also on September 10, 2002, all of the members of Sunrise signed a petition supporting the request to the ACC that Sunrise be adjudicated not a public service company. (See Guideline #1 and #2 above)

Sunrise has provided a copy of the proposed By-laws of the association. The Sunrise Articles of Incorporation identify the specific purpose of the Association is "to maintain, furnish, provide or otherwise contract utility services to its members" and "to construct, own or lease, and maintain pipe lines and other water ways for culinary purposes." The Articles also state: "to own, lease or otherwise contract for and maintain equipment, property and facilities that shall

become necessary to provide water utility services.” Sunrise has not demonstrated that the association retains “complete ownership of the water production and distribution assets. (See Guideline #3 above)

Sunrise does not have equal voting rights for the members. Sunrise has apportioned the voting rights of the Association based on one vote per acre, with 15 acres specifically identified as the service area. As such, seven members control the 15 votes based on current land ownership ratios, not at one member, one vote. The Sunrise By-laws ensure all members are customers, and that all customers are members by requiring that membership in the association automatically transfers upon the transfer of title of the parcel. The by-laws also require that “a member is entitled to receive water service.” (See Guideline #4)

Sunrise has identified a small fixed territory to provide service, which is not within the service area of a municipal or ACC regulated water provider. (See Guideline #5)

The Sunrise Corporate By-laws preclude any further subdivision of existing properties. Article III, Section 1. Membership specifically designates the affected parcels, assigns the number of shares based on acreage, and requires that “Each membership shall be associated with a parcel of not less than one acre. (See Guideline #6 above.)

Membership in Sunrise is restricted to 15 total shareholders per Article IV of the Articles of Incorporation. Membership is further restricted by the Bylaws of the Sunrise Well Association, Inc., Article III, Section 1, which provides a legal description of the affected parcels. Membership in the association is appurtenant to the parcel and may not be separated from the parcel, nor may it be split. (See Guideline #7 above)

### Summary

Sunrise has properly filed for and met the majority of criteria for adjudication not a public service corporation. Sunrise is a non profit corporation, with a resolution to request the adjudication, and petitions signed by more than 51 percent of the members requesting the adjudication. Water service will be from a non-profit organization whose customers are its members. No municipal or private utility is seeking to serve the area, and the association will not be in competition with any provider. Additionally, property owners are prohibited from any further subdivision of the existing parcels.

However, the application does not demonstrate that Sunrise retains complete ownership of the water production, storage and distribution necessary to serve the members. The application also does not demonstrate that all members have equal voting rights. Staff recommends that the Commission require Sunrise to evidence equal voting rights and ownership of the water production and distribution assets before granting Sunrise’s request for adjudication.

**Recommendations**

Staff recommends the Commission deny the Sunrise Well Association, Inc., application for adjudication that it is not a public service corporation. However, if certain conditions are met, Staff believes that Sunrise may be adjudicated not a public service corporation. These conditions are:

1. That Sunrise Well Association, Inc. provide evidence that each member/customer of has equal voting rights in the association.
2. That Sunrise Well Association, Inc. provide evidence that the association retains direct ownership of the water production, storage and distribution assets necessary to serve the customers/members.
3. That the Sunrise Well Association, Inc. file for a Certificate of Convenience and Necessity in the event the association fails to comply with the above conditions.