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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

IN THE MATTER OF THE APPLICATION OF
KACY PARKER DBA ARROYO WATER, CO.
FOR A CERTIFICATE OF CONVENIENCE
AND NECESSITY TO PROVIDE WATER
SERVICES; AND FOR APPROVAL OF THE
SALE OF ASSETS TO KACY PARKER.

DOCKET NO. W-04286A-04-0774

**NOTICE OF FILING
DIRECT TESTIMONY**

Staff of the Arizona Corporation Commission hereby files the Direct Testimony of Blessing Nkiruka Chukwu, of the Utilities Division, in the above-referenced matter.

RESPECTFULLY SUBMITTED this 14th day of May 2007.

Kevin O. Torrey by Janice Alwara
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DIRECT

TESTIMONY

OF

BLESSING NKIRUKA CHUKWU

DOCKET NO. W-04286A-04-0774

**IN THE MATTER OF THE APPLICATION OF
KACY PARKER DBA ARROYO WATER
COMPANY FOR A CERTIFICATE
OF CONVENIENCE AND NECESSITY TO
PROVIDE WATER SERVICE AND FOR
APPROVAL OF THE SALE OF ASSETS
TO KACY PARKER**

MAY 14, 2007

BEFORE THE ARIZONA CORPORATION COMMISSION

MIKE GLEASON
Chairman
WILLIAM A. MUNDELL
Commissioner
JEFF HATCH-MILLER
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KRISTIN K. MAYES
Commissioner
GARY PIERCE
Commissioner

IN THE MATTER OF THE APPLICATION OF) DOCKET NO. W-04286A-04-0774
KACY PARKER dba ARROYO WATER)
COMPANY FOR A CERTIFICATE)
OF CONVENIENCE AND NECESSITY TO)
PROVIDE WATER SERVICE AND FOR)
APPROVAL OF THE SALE OF ASSETS)
TO KACY PARKER)

DIRECT
TESTIMONY
OF
BLESSING NKIRUKA CHUKWU
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

MAY 14, 2007

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EXECUTIVE SUMMARY
KACY PAKER DBA ARROYO WATER COMPANY
DOCKET NO. W-04286A-04-0774

This testimony provides Utilities Division Staff's ("Staff") analysis and recommendation regarding Kacy Parker dba Arroyo Water Company's application for a Certificate of Convenience and Necessity ("CC&N") to provide water service and for approval of the sale of assets to Kacy Parker.

The Company's well production is adequate to serve the existing base of customers plus some growth. However, the system currently has inadequate storage capacity. Arroyo Water's proposed storage additions will be sufficient to meet the needs of the existing customer base and five years of growth using the growth projections provided in the application. The arsenic levels reported by the Company for the Arroyo Water system comply with the new arsenic standard of 10 micrograms per liter. The Company has failed to achieve compliance with Arizona Department of Environmental Quality's ("ADEQ") water storage and proper facility maintenance requirements. Arroyo Water Company is not in an Arizona Department of Water Resources ("ADWR") Active Management Area. Therefore, the Company is not required to comply with ADWR monitoring and reporting requirements.

Staff recommends the Commission deny Kacy Parker dba Arroyo Water Company, Inc.'s application for issuance of a new CC&N to provide water service in a portion of Gila County, Arizona, and for approval of the sale of assets to Kacy Parker. Mr. Kacy Parker is out of compliance with Commission rules and regulations due to Mr. Parker's failure to comply with prior Commission Order in Decision No. 67231. The Company is out of compliance with the rules and regulations of ADEQ regarding monitoring and reporting. Staff believes it is not in the public interest to grant the relief requested until the Company and Mr. Kacy Parker are in compliance with ADEQ and the Commission.

However, Staff will reconsider its denial recommendation if, by the date of the hearing in this matter, Mr. Kacy Parker files documentation demonstrating that it has filed an administratively complete Approval to Construct ("ATC") application with ADEQ for Jakes Corner for increasing its water storage capacity; and Arroyo Water files ADEQ documentation demonstrating that PWS ID #04-083 is delivering water that meets the water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

In the alternative, should the Commission decide to grant the CC&N and approve the sale of assets to Kacy Parker, Staff recommends:

1. That the Company be required to charge the rates and charges noted in Attachment A. In addition to collection of its regular rates and charges, the Company may collect from its customers a proportionate share of any privilege, sales or use tax pursuant to A.A.C. R14-2-409.D5.
2. That the Company be required to file with Docket Control, as a compliance item in this docket, a schedule of its approved rates and charges using the name Arroyo Water Company, Inc., within 30 days from the date of the Decision issued in this matter.

3. That the Company be required to file a general rate application, if it wishes to increase its rates, using the most recent 12 month period for its test period.
4. That the Company be required to maintain its books and records in accordance with the NARUC Uniform System of Accounts and file an affidavit attesting to such by December 31, 2007.
5. That the Company be required to file with Docket Control, as compliance item in this docket, a copy of the ADEQ Approval of Construction ("AOC") for the storage additions and other improvements by December 31, 2007.
6. That the Company be required to install a well meter on its well and demonstrate compliance with this requirement by September 30, 2007.
7. That beginning in October 2007 the Company be required to record the water pumped each month to determine the level of water loss. If after twelve months the Company determines that the level of water loss is exceeding 10 percent then the Company shall take immediate action to reduce the level to 10 percent or less. The Company shall report the results of its water loss determination by filing a report with Docket Control in November 2008. Staff will file a response to this report along with any recommendations by December 31, 2008.
8. That the Company file with Docket Control, as a compliance item in this docket, for a period of twelve months following the decision in this docket, documentation showing that the monthly monitoring required by ADEQ to determine compliance with the maximum contaminant level for total coliform bacteria has been conducted and that the Company's water quality is in compliance with ADEQ rules.
9. That the Company be required to make all corrections to ADWR registration records to reflect Arroyo Water's ownership of the Arroyo system well and also demonstrate compliance with this requirement by December 31, 2007.
10. That the Company be required to file a curtailment tariff within 45 days of the effective date of the Commission's Decision in this matter. The tariff shall be docketed as a compliance item under this docket number for the review and certification of Staff. Staff further recommends that the tariff shall generally conform to the sample tariff found on the Commission's website at www.azcc.gov/divisions/util/forms/Curtailment-std.pdf. Staff recognizes that Arroyo Water may need to make minor modifications to the sample tariff according to their specific management, operational, and design requirements as necessary and appropriate.
11. That the Company be required to file a backflow prevention tariff within 45 days of the effective date of the Commission's Decision in this matter. The tariff shall be docketed as a compliance item under this docket number for the review and certification of Staff. Staff further recommends that the tariff shall generally conform to the sample tariff found on the Commission's website at www.azcc.gov/divisions/util/forms/Cross_c.pdf.
12. That the Company be required to file with Docket Control, as a compliance item in this docket, a certification, receipt and/or cancelled check from Gila County Treasurer's

Office that all liens have been paid, within 45 days of the effective date of an order in this proceeding.

Staff further recommends that the Commission's Decision granting the relief requested be considered null and void, after due process, should Arroyo Water fail to meet Condition Nos. 2, 4, 5, 6, 7, 8, 9, 10, 11, and 12 listed above within the time specified.

1 **I. Introduction**

2 **Q. Please state your name, business address, by whom and where you are employed and**
3 **in what capacity.**

4 A. My name is Blessing Nkiruka Chukwu. My business address is 1200 West Washington
5 Street, Phoenix, Arizona 85007. I am employed by the Utilities Division ("Staff") of the
6 Arizona Corporation Commission ("ACC" or "Commission") as an Executive Consultant
7 III.

8
9 **Q. Please describe your educational and professional background.**

10 A. I received a B.S. in Accounting and a M.B.A. in Finance from the University of Central
11 Oklahoma. I was employed for over eight years by The City of Oklahoma City ("City") in
12 various capacities. For approximately eight years of my employment with the City, I was
13 an Administrative Aide with the responsibility of overseeing the various Environmental
14 Protection Agency's mandates on Stormwater Quality within the Corporate City limits.
15 Prior to being an Administrative Aide, I was a Budget Technician where I was responsible
16 for reviewing, analyzing, and recommending budget requests and/or proposed budget,
17 fund transfers, appropriations and/or any other budget related issues proposed by assigned
18 departments. Prior to joining the Commission, I was employed by the Oklahoma
19 Corporation Commission ("OCC") for five years in the Public Utility Division, where I
20 held various Public Utility Regulatory Analyst positions of increasing responsibilities.
21 My responsibilities at the OCC included processing of applications consisting of rates and
22 charges, streamline tariff revisions and requests for Certificates of Convenience and
23 Necessity ("CC&N") filed by local exchange telecommunications companies, payphone
24 providers, resellers, and operator service providers. I also reviewed mergers and
25 acquisitions, Interconnection Agreements (including Arbitrations), and performed special
26 projects as requested by the Director of Public Utility Division and/or the Commissioners.

1 **Q. How long have you been employed with the ACC?**

2 A. I have been employed with the ACC since May 27, 2003.

3
4 **Q. What are your responsibilities as an Executive Consultant III?**

5 A. I perform special projects for the Director's Office which include, but are not limited to,
6 serving on the case teams; development of policies and procedures for appropriate
7 regulatory oversight of public utilities; review applications for CC&N, and writing Staff
8 Reports and Testimony.

9
10 **Q. Have you testified previously before this Commission?**

11 A. Yes, I have testified before this Commission.

12
13 **II. Purpose of Testimony**

14 **Q. What is the purpose of your testimony?**

15 A. The purpose of my testimony is to provide Utilities Division Staff's ("Staff") analysis and
16 recommendation regarding Kacy Parker dba Arroyo Water Company's application for a
17 CC&N to provide water service and for approval of the sale of assets to Kacy Parker.

18
19 **III. Staff Report**

20 **Q. Please describe the attached Staff Report, Exhibit BNC-1.**

21 A. Exhibit BNC-1 presents the details of Staff's analysis and findings and is attached to this
22 direct testimony. Exhibit BNC-1 contains the following major topics: (1) Introduction,
23 (2) Background, (3) The Water System, (4) The Transaction, (5) Arizona Department of
24 Environmental Quality ("ADEQ") Compliance, (6) ADEQ Notice of Violation ("NOV")
25 (7) Arizona Department of Water Resources ("ADWR") Compliance, Arizona
26 Corporation Commission Compliance, (5) Arsenic, (6) Curtailment Plan Tariff, and (7)

1 Backflow Prevention Tariff, (8) Rates and Charges, (9) County Franchise, (10) Other
2 Relevant Information regarding Arroyo Water.

3

4 Staff's conclusions and recommendations from this Staff's report are contained in the
5 "EXECUTIVE SUMMARY" above.

6

7 **Q. Does this conclude your direct testimony?**

8 **A.** Yes, it does.

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

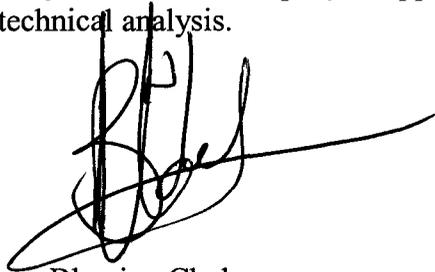
ARROYO WATER COMPANY, INC.
DOCKET NO. W-04286A-04-0774

APPLICATION FOR CERTIFICATE OF
CONVENIENCE AND NECESSITY AND FOR APPROVAL OF SALE OF ASSETS TO
KACY PARKER DBA ARROYO WATER COMPANY, INC.

MAY 14, 2007

STAFF ACKNOWLEDGMENT

The Staff Report for Kacy Parker dba Arroyo Water Company (Docket No. W-04286A-04-0774) was the responsibility of the Staff members signed below. Blessing Chukwu was responsible for the review and analysis of the Company's application. Del Smith was responsible for the engineering and technical analysis.

A handwritten signature in black ink, appearing to be 'Blessing Chukwu', with a long horizontal stroke extending to the right.

Blessing Chukwu
Executive Consultant

A handwritten signature in black ink, appearing to be 'Del Smith', with a long horizontal stroke extending to the right.

Del Smith
Engineering Supervisor

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Introduction

On September 13, 2004, a Procedural Order was issued, in Docket No. W-03672A-01-0474, directing Kyle and Kacy Parker (“the Parkers”) to file an application for sale of assets and for transfer of the current Certificate of Convenience and Necessity (“CC&N”) for Arroyo Water Company, Inc.

On October 19, 2004, Kacy Parker dba Arroyo Water Company, Inc (“Arroyo Water” or “Company”) filed an application with the Arizona Corporation Commission (“ACC” or “Commission”) for issuance of a new CC&N to provide water service in a portion of Gila County, Arizona, and for approval of the sale of assets to Kacy Parker.

On April 19, 2005, Staff was directed by Procedural Order to file a Staff Report addressing the ownership and operational status of Arroyo Water, as well as any ongoing issues with respect to Arizona Department of Environmental Quality (“ADEQ”) compliance issues and Staff’s recommendation regarding the proposed transfer of assets and issuance of a CC&N to Kacy Parker dba Arroyo Water Company.

On June 24, 2005, Staff filed its Staff Report stating additional information was needed from the Company before Staff could complete its review and issue a recommendation regarding the application. The Company failed to respond to the Staff Report as ordered.

On February 10, 2006, a Procedural Order was issued again ordering Arroyo Water to file a response to the Staff Report, no later than February 24, 2006. The Company again failed to respond as ordered.

On May 17, 2006, a Procedural Order was issued directing Staff to file a recommendation for appropriate action to be taken in this matter including, but not limited to, pursuing an Order to Show Cause against the Company.

On November 15, 2006, December 22, 2006, February 7, 2007, and February 15, 2007, the Company provided additional documentation to support the relief requested.

On March 16, 2007, Staff filed a Sufficiency Letter indicating that the application had met the sufficiency requirements of A.A.C. R14-2-402.

Background

Kacy Parker dba Arroyo Water Company, Inc. is an Arizona public service corporation, in good standing with the Commission’s Corporations Division and is engaged in providing water utility service to approximately 86 customers in a portion of Gila County, Arizona.¹ The Company is the successor-in-interest to the assets of Arroyo Water Company, Inc., dba Tonto

¹ Customer count per water use data sheet filed on February 7, 2007.

Basin Water Company ("Tonto Basin"), a defunct public service corporation owned and operated by Mr. Richard Williamson. Tonto Basin was fined and sanctioned by the ACC for failure to comply with Arizona Law, Commission Rule and Commission Order. (See Decision Nos. 61149 and 61892.)

According to the Commission Record (Decision No. 61149, issued on October 7, 1998), Tonto Basin was ordered by the Commission to resolve certain problems within 60 days. In addition, Tonto Basin was ordered to file within 30 days of the date of Decision No. 61149, evidence that it had submitted all required water samples to the appropriate entities. In Decision No. 61892, issued on August 27, 1999, the Commission concluded and found that Tonto Basin failed to resolve all the problems listed in Decision No. 61149. As a result, the Commission ordered Tonto Basin to pay within 90 days of the date of Decision No. 61892, the \$2,300 administrative fine assessed in Decision No. 61149. Also, in Decision No. 61892, the Commission encouraged Tonto Basin to sell the water company "for the long-term good of the CC&N area as well as the area surrounding the CC&N area." Decision No. 61892 states "...the \$2,300 fine shall be waived if Tonto Basin.....sells the water utility stock or assets to a certified operator approved by the Commission within 90 days of the date of this Order." Further, Decision No. 61892 states "that failure of Tonto Basin.... to either sell the water utility or resolve the problems.....shall be a violation of Commission Order and will result in a fine of \$100 per day effective 91 days after the date of this Order and continuing until the problems are resolved."

On or about May 5, 2003, Staff received information from a customer contact that led Staff to believe that an ownership change had occurred for Tonto Basin via a flyer that accompanied the customer's bill. The only information that was available to contact the new owners was a P.O. Box address. On May 14, 2003, Staff sent a letter to the address requesting information relating to the new owner. The letter raised questions about the validity of the Company's CC&N and requested the docket number of any existing application for approval of a sale of assets. On May 20, 2003, and June 24, 2003, Staff received responses from Mr. Kyle Parker who indicated that he and his son, Mr. Kacy Parker, had purchased the outstanding shares of stock in Tonto Basin from Mr. Richard Williamson, and that the Parkers would be filing a CC&N application.

On September 13, 2004, a Procedural Order was issued, in Docket No. W-03672A-01-0474, requiring Kyle and Kacy Parker to file, by no later than October 15, 2004, an application for sale of assets and for transfer of the current CC&N for Arroyo Water Company, Inc. Also, the Procedural Order required Staff to provide appropriate guidance to the Parkers to assist in filing the application, and that the Parkers cooperate fully with Staff's requests for information related to the application. Further, the Procedural Order required Mr. Richard Williamson, on behalf of Arroyo Water Company, Inc., to cooperate fully with Staff's requests for information given his status as the owner of record of Arroyo Water Company, Inc., which holds the CC&N, and as the Certified Operator of Arroyo Water system. Finally, the Procedural Order ordered that Docket No. W-03672A-01-0474 remain open until further order of the Commission and if the Parkers and/or Mr. Williamson fail to cooperate fully with Staff's information requests, or

fail to comply with the directive to file an application for sale or transfer of assets and transfer of CC&N, that Staff file a motion to renew its Complaint in Docket No. W-03672A-01-0474 and seek any and all appropriate remedies to ensure protection of the health, safety and welfare of Arroyo Water's customers.

On October 19, 2004, Kacy Parker dba Arroyo Water Company, Inc. filed this instant application with the Commission for issuance of a new CC&N to provide water service in a portion of Gila County, Arizona, and for approval of the sale of assets to Kacy Parker. The Company is requesting approval for a service area much larger than was previously approved for Sheer Speed, Inc. dba Tonto Basin Water Co.² The Company has received many requests for service and have filed the requests for service in the docket.

The Water System

Arroyo Water's system consists of one well, Arizona Department of Water Resources ("ADWR") Identification No. 55-805621, one 11,000 gallon storage tank, one 2,500 gallon pressure tank, a booster pump and distribution system serving 86 customers.³ Fire protection is not provided. According to the Company, the well will produce 90 gallons per minute which is adequate to serve the existing base of customers plus some growth. However, the system currently has inadequate storage capacity. Apparently, the Company has added minimal new customers, if any, since filing its application in 2004.

The Company has indicated that as soon as the transfer is approved by the Commission, it plans to make the following plant additions to address its deficiencies: (1) add 24,000 gallons of additional storage at the well site; (2) add 24,000 gallons of storage and booster pump at a new site on the system's east side; and (3) replace the existing pressure tank at the well site with a new 2,000 gallon pressure tank. By adding the two new storage tanks, the Company will increase its water system's total storage capacity to 59,000 gallons.

Staff concludes that the Company's proposed storage additions will be sufficient to meet the needs of the existing customer base and five years of growth using the growth projections provided in the application. Staff recommends that Arroyo Water be required to file with Docket Control, as compliance item in this docket, a copy of the ADEQ Approval of Construction ("AOC") for the storage additions and other improvements by December 31, 2007.

Non-account Water

Non-account water should be 10 percent or less and never more than 15 percent. It is important to be able to reconcile the difference between water sold and the water produced by

² Sheer Speed, Inc. was the predecessor to Arroyo Water Company, Inc., dba Tonto Basin Water Company. Sheer Speed, Inc.'s was granted a CC&N by Decision No. 49584 (January 5, 1979) and the CC&N was revoked by Decision No. 62949 (October 10, 2000).

³ The Water Company Plant Description information filed on February 7, 2007 failed to provide the quantity of metered connections.

the source. A water balance will allow a water company to identify water and revenue losses due to leakage, theft, and flushing. Non-account water for the Company could not be determined because the Arroyo Water system's well is not equipped with a well meter which records the water pumped.

Staff recommends that the Company be required to install a well meter on its well and demonstrate compliance with this requirement by September 30, 2007.

Staff further recommends that beginning in October 2007 the Company be required to record the water pumped each month to determine the level of water loss. If after twelve months the Company determines that the level of water loss is exceeding 10 percent then the Company shall take immediate action to reduce the level to 10 percent or less. The Company shall report the results of its water loss determination by filing a report with Docket Control in November 2008. Staff will file a response to this report along with any recommendations by December 31, 2008.

The Transaction

The Company was purchased from Mr. Richard Williamson for \$45,000 on March 25, 2003. See the "Addendum to Purchase Agreement for All Assets of Arroyo Water Company, Inc." ("Addendum") attached to Staff's May 24, 2004 Memorandum filed in Docket No. W-03672A-01-0474. According to the Addendum, \$40,000 of the payment was in Cashiers Check # 0629004058 whereas \$5,000 was in exchange for already completed labor and material. The Addendum listed Kyle and Kacy Parker as the Buyer. The sale was conditional on ACC's approval and that all fines or levies be removed by Mr. Richard Williamson prior to final transfer. A copy of the "Certificate for 1,000 shares of the Capital Stock of Arroyo Water Company, Inc." ("Certificate"), issued to Mr. Richard S. Williamson and Ms. Jill R. Williamson on March 15, 1991, was attached to the instant application for CC&N and for approval of sale of assets. The Certificate signed by Mr. Richard S. Williamson and Ms. Jill R. Williamson on March 25, 2003, states: "For Value Received, we hereby sell, assign and transfer unto Kyle Parker and Kacy Parker 1,000 Shares of the Capital Stock represented by the within Certificate and do hereby irrevocably constitute and appoint Jill R. Williamson to transfer the said Stock..."

The Company still operates under the corporate name "Arroyo Water Company, Inc.". Mr. Kacy Parker serves as the President of the Company while his father, Mr. Kyle Parker, serves as the Vice President. Each of the Parkers owns 50 percent of the 1,000 shares of the Company.⁴ According to Ms. Nancy Moreno, Mr. Kyle Parker serves primarily as an investor in the Company and is not involved in the day-to-day operations of the Company.⁵ Mr. Kyle Parker's involvement is limited to advice when it is requested.⁶

⁴ On May 3, 2007, Ms. Blessing Chukwu of the ACC Utilities Division had a Telephone Conference call with Ms. Nancy Moreno and discussed ownership and operational status of Arroyo Water Company, Inc.

⁵ Id.

⁶ Id.

Arroyo Water system is located near the Town of Punkin Center, Arizona, approximately 43 miles from Payson, Arizona, in Gila County. The system has 86 customers. Approximately 85 percent of the customers are full-time residential customers and 15 percent are seasonal customers. Mr. John Otten is the on-site manager and Mr. James R. Harrell is the Certified Operator.

According to the Addendum mentioned above, "Rich Williamson will remain on staff as a Registered Water Operator and Professional Engineer for a period of 4 years from the transfer date." According to Ms. Moreno, Mr. Williamson has not been involved in the operation of the company.

According to the application, all customer security deposits will be transferred to the Company and there are no refunds due on meter and line installations or any main extension agreements.

Arizona Department of Environmental Quality ("ADEQ") Compliance

ADEQ regulates the Arroyo Water system under ADEQ Public Water System Identification No. ("PWS ID #") 04-083. ADEQ cannot determine if this system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.⁷ ADEQ reported that this system has major monitoring and reporting deficiencies because its data base: (1) shows that the calendar years 2002 through 2005 consumer confidence reports are missing; (2) does not show that the required baseline lead and copper monitoring has been completed; and (3) does not show that the required annual nitrate analyses have been done for 2004 and 2005.

ADEQ also reported that this system has a major operation and maintenance deficiency for inadequate storage.

Staff recommends that the requested relief be denied due to the Company's failure to comply with the rules and regulations of ADEQ regarding monitoring and reporting. Staff will reassess this recommendation if by the date of the hearing in this matter Staff has received ADEQ documentation demonstrating that PWS ID #04-083 is delivering water that meets the water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

ADEQ Notice of Violation ("NOV")

On November 3, 2006, the Arroyo Water system was inspected by ADEQ. As a result of that inspection ADEQ issued an NOV to Arroyo Water on December 15, 2006. The NOV is an informal compliance assurance tool used by ADEQ to put the responsible party, in this case Arroyo Water, on notice that ADEQ believes a violation of an environmental requirement has occurred. The NOV was issued to Arroyo Water for failing to have adequate water storage,

⁷ ADEQ Drinking Water Compliance Status Report dated 7-14-06.

failing to have a certified operator and failing to maintain the pressure tank. In addition to the monitoring and reporting deficiencies listed in the preceding section, the NOV listed a deficiency for failing to monitor for coliform during the months of December 2005 and January 2006. The Company also failed to take repeat coliform samples in July and August 2006 after receiving positive results for coliform. In addition to these violations, the ADEQ inspector recommended that Arroyo Water address several other conditions identified during the November 3, 2006, inspection.

On March 7, 2007, ADEQ filed its response to Arroyo Water's submittals that addressed the NOV issued to Arroyo Water on December 15, 2006. In its response, ADEQ reported that compliance had been achieved for all of the monitoring and reporting deficiencies listed in the NOV. ADEQ also reported that Arroyo Water was in compliance with the requirement that it employ a certified operator (according to information submitted by the Company James Harrell is the certified operator for Arroyo Water). ADEQ reported that Arroyo Water had failed to achieve compliance with water storage and proper facility maintenance requirements.

Staff recommends that Arroyo Water file with Docket Control, as a compliance item in this docket, for a period of twelve months following the decision in this docket, documentation showing that the monthly monitoring required by ADEQ to determine compliance with the maximum contaminant level for total coliform bacteria has been conducted and that the Company's water quality is in compliance with ADEQ rules.

ADWR Compliance

Arroyo Water is not in an ADWR Active Management Area ("AMA"). Therefore, the Company is not required to comply with ADWR monitoring and reporting requirements.

ADWR well registration records still reflect the previous owner as owning the Arroyo system well (ADWR Identification No. 55-805621). Staff recommends that the Company be required to make all corrections to ADWR registration records to reflect Arroyo Water's ownership of the Arroyo system well and also demonstrate compliance with this requirement by December 31, 2007.

ACC Compliance

A check of the Utilities Division's Compliance Section database on May 2, 2007, indicated there were no past due compliance items for Arroyo Water.

A Complaint and Petition For Order to Show Cause against Kacy J. Parker dba Jake's Corner Water system ("Jake's Corner") was filed by Staff on April 17, 2007. Jake's Corner and Arroyo Water share common ownership. Jake's Corner has failed to comply with Decision No. 67231 which approved the Jake's Corner transfer of Assets and CC&N to Kacy Parker subject to the timely filing of several compliance items one of which included the installation of a storage tank by June 2005. In a March 26, 2007 letter to the Compliance Section, Mr. Kyle Parker

indicated that Jake's Corner would only install the storage tank contingent upon a rate case. On April 18, 2007, Messer Kyle Parker and Kacy Parker wrote an apology letter to the Commission retracting their comments in the March 26, 2007 letter regarding the installation of the storage tank. Messer Parker and Parker stated that they intend to install a storage tank, which they have acquired and is on hand, within the next three months.

Staff recommends that the proposed transfer be denied due to Mr. Kacy Parker's failure to comply with prior Commission Order, in Decision No. 67231. Staff will reassess this recommendation if by the date of the hearing in this matter Jakes Corner has filed documentation demonstrating that it has filed an administratively complete Approval to Construct ("ATC") application with ADEQ for increasing its water storage capacity.

Arsenic

The U.S. Environmental Protection Agency ("EPA") has reduced the arsenic maximum contaminant level ("MCL") in drinking water from 50 micrograms per liter (" $\mu\text{g/l}$ ") or parts per billion ("ppb") to 10 $\mu\text{g/l}$. The arsenic levels reported by the Company for the Arroyo Water system comply with the new arsenic standard of 10 $\mu\text{g/l}$.⁸

Curtailement Plan Tariff

A Curtailement Plan Tariff ("CPT") is an effective tool to allow a water company to manage its resources during periods of shortages due to pump breakdowns, droughts, or other unforeseeable events.

Arroyo Water does not have a CPT. Therefore, Staff recommends that the Arroyo Water file a curtailement tariff within 45 days of the effective date of the Commission's Decision in this matter. The tariff shall be docketed as a compliance item under this docket number for the review and certification of Staff. Staff further recommends that the tariff shall generally conform to the sample tariff found on the Commission's website at www.azcc.gov/divisions/util/forms/Curtailement-std.pdf. Staff recognizes that Arroyo Water may need to make minor modifications to the sample tariff according to their specific management, operational, and design requirements as necessary and appropriate.

Backflow Prevention Tariff

Arroyo Water does not have a backflow prevention tariff. Therefore, Staff recommends that Arroyo Water file a backflow prevention tariff within 45 days of the effective date of the Commission's Decision in this matter. The tariff shall be docketed as a compliance item under this docket number for the review and certification of Staff. Staff further recommends that the tariff shall generally conform to the sample tariff found on the Commission's website at www.azcc.gov/divisions/util/forms/Cross_c.pdf.

⁸ Information contained in Company response filed on November 15, 2006.

Rates and Charges

The Company's current rates and charges were approved in Decision No. 57512 (August 14, 1991) and became effective on September 1, 1991. These rates and charges are noted at Attachment A. At that time, the Company was owned by Sheer Speed, Inc. dba Tonto Basin Water Co.⁹ The Company changed its name to Arroyo Water Company, Inc. on February 1, 1994.

In the instant CC&N application, the Company has proposed that new rates go into effect. Staff is recommending that if the Company wishes to increase its rates, it should submit a general rate filing using the most recent 12 month period for its test period. Staff will then be able to review the actual costs being experienced by the Company and properly evaluate the rate increase request.

County Franchise

Every applicant for a CC&N and/or CC&N Transfer is required to submit to the Commission evidence showing that the applicant has received the required consent, franchise or permit from the proper authority. If the applicant operates in an unincorporated area, the company has to obtain the franchise from the County. If the applicant operates in an incorporated area of the County, the applicant has to obtain the franchise from the City/Town.

On February 15, 2007, Arroyo Water filed, in the docket, a copy of its Gila County franchise agreement. According to the franchise agreement, the franchise was granted upon the express condition that a CC&N be acquired from the ACC within 12 months of the date of the franchise (February 6, 2007) and that all delinquent property taxes are paid to the Gila County Treasurer within 30 days of receiving the CC&N; and if the CC&N is not acquired within 12 months from February 6, 2007 and all the property taxes are not paid within the required time frame, this franchise will be null and void.

According to Ms. Terri Towell of the Gila County Treasurer's Office, as of May 4, 2007, there is an outstanding tax lien certificate with Gila County for property taxes of \$12,799.23.¹⁰ Mr. Kacy Parker had informed Staff during a June 8, 2005 site inspection, that there was an outstanding lien with Gila County for property taxes of over \$9,000. As part of the sale agreement, in addition to the \$45,000, the Parkers gave Mr. Williamson a cashier's check for \$2,000 of the \$9,000 tax lien. According to the Parkers, Mr. Williamson was to pay off the lien, but has never done so. Had Mr. Richard Williamson paid the property tax on March 26, 2003, he would have been responsible for \$5,600.83. \$7,198.40 is the amount of property tax that has accrued since Arroyo Water Company, Inc. was acquired by the Parkers. The Parkers reached an

⁹ Sheer Speed, Inc. was the predecessor to Arroyo Water Company, Inc., dba Tonto Basin Water Company. Sheer Speed, Inc.'s was granted a CC&N by Decision No. 49584 (January 5, 1979) and the CC&N was revoked by Decision No. 62949 (October 10, 2000).

¹⁰ On May 4, 2007, Ms. Blessing Chukwu of the ACC Utilities Division had a Telephone Conference call with Ms. Terri Towell of the Gila County Treasurer's Office the outstanding tax lien.

agreement with Gila County and plan to pay all delinquent property taxes within 30 days of receiving a CC&N. Therefore, Staff recommends that the Company be required to file with Docket Control, as a compliance item in this docket, a certification, receipt and/or cancelled check from Gila County Treasurer's Office that all liens have been paid, within 45 days of the effective date of an order in this proceeding.

Other Relevant Information regarding Arroyo Water

Decision No. 61149 required Arroyo Water Co. dba Tonto Basin Water Co., Sheer Speed, Inc. ("Tonto Basin") to file certain test results relating to ADEQ and assessed a \$2,300 administrative fine if problems not resolved within a certain timeframe. The Decision ordered further proceedings in this matter to determine if the fine could be reduced based on the ability of Tonto Basin to resolve those issues. In Decision No. 61892, issued August 27, 1999, it was determined that Tonto Basin had failed to satisfy or resolve all the problems listed in Decision No. 61149. As a result, the \$2,300 fine was not reduced. Other compliance requirements in Decision No. 61149 were superseded by Decision No. 61892. The Compliance database indicates that the \$2,300 fine was paid by Mr. Richard Williamson on November 29, 1999.

Decision No. 61892, required Tonto Basin to sell the utility within 90 days or correct certain problems. The problems to be resolved were the continued billing problem; complaints that customers were unable to contact Tonto Basin; and the refund of \$8,250 to JKM Investments for the main extension or resolution of the storage/water supply issue to the satisfaction of the Commission. Decision No. 61892 clearly indicated that if the problems were not resolved or the water utility was not sold within the 90 day period, the utility would be fined \$100 per day thereafter. In June of 2000, Staff filed a memorandum in the docket indicating that it had not received evidence from Tonto Basin which would indicate that steps were taken to comply with Commission Decision Nos. 61149 and 61892 and requested the Hearing Division to issue an Enforcement Order against Tonto Basin assessing a penalty of \$100 a day as Ordered in Decision No. 61892. An Enforcement Order was issued June 16, 2000 finding that Tonto Basin had failed to comply within 90 days of Decision No. 61892, and a penalty was due to date for Tonto Basin being 203 days past the compliance date of November 26, 1999. Tonto Basin was ordered to pay a penalty of \$20,300 as of the date of the Enforcement Order. It was further ordered that financial penalties would continue to accrue against Arroyo Water Co., Inc., dba Tonto Basin Water Co., Sheer Speed, Inc. as previously ordered in Decision No. 61892. On July 6, 2000, Richard Williamson, on behalf of Tonto Basin, filed an application for reconsideration and hearing to demonstrate information on compliance. Although the docketed request shows a stamped re-hearing date of July 26, 2000, no further activity is documented in the docket. Tonto Basin was subsequently sold to the Parkers on March 25, 2003.

Staff believes that the record should reflect that there is an issue as to whether the \$100 per day fine that was ordered by the Commission in Decision No. 61892 (August 27, 1999) stopped on March 25, 2003, once Mr. Williamson sold the Company to the Parkers or continues to accrue until the Commission approves the instant application. As of May 4, 2007, the fine is estimated at approximately \$276,500. If the fine stopped on March 25, 2003, then Mr.

Williamson is obligated to pay approximately \$130,500, pursuant to Decision No. 61892. Staff believes that the Parkers should not be liable for any accrued fines under Decision No. 61892 since the Decision is only applicable to Mr. Richard Williamson, the prior owner of the Company.

Recommendation

Staff recommends the Commission deny Kacy Parker dba Arroyo Water Company, Inc.'s application for issuance of a new CC&N to provide water service in a portion of Gila County, Arizona, and for approval of the sale of assets to Kacy Parker. Mr. Kacy Parker is out of compliance with Commission rules and regulations due to Mr. Parker's failure to comply with prior Commission Order in Decision No. 67231. The Company is out of compliance with the rules and regulations of ADEQ regarding monitoring and reporting. Staff believes it is not in the public interest to grant the relief requested until the Company and Mr. Kacy Parker are in compliance with ADEQ and the Commission.

However, Staff will reconsider its denial recommendation if, by the date of the hearing in this matter, Mr. Kacy Parker files documentation demonstrating that it has filed an administratively complete Approval to Construct ("ATC") application with ADEQ for Jakes Corner for increasing its water storage capacity; and the Arroyo Water files ADEQ documentation demonstrating that PWS ID #04-083 is delivering water that meets the water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

In the alternative, should the Commission decide to grant the CC&N and approve the sale of assets to Kacy Parker, Staff recommends:

1. That the Company be required to charge the rates and charges noted in Attachment A. In addition to collection of its regular rates and charges, the Company may collect from its customers a proportionate share of any privilege, sales or use tax pursuant to A.A.C. R14-2-409.D5.
2. That the Company be required to file with Docket Control, as a compliance item in this docket, a schedule of its approved rates and charges using the name Arroyo Water Company, Inc., within 30 days from the date of the Decision issued in this matter.
3. That the Company be required to file a general rate application, if it wishes to increase its rates, using the most recent 12 month period for its test period.
4. That the Company be required to maintain its books and records in accordance with the NARUC Uniform System of Accounts and file an affidavit attesting to such by December 31, 2007.

5. That the Company be required to file with Docket Control, as compliance item in this docket, a copy of the ADEQ Approval of Construction ("AOC") for the storage additions and other improvements by December 31, 2007.
6. That the Company be required to install a well meter on its well and demonstrate compliance with this requirement by September 30, 2007.
7. That beginning in October 2007 the Company be required to record the water pumped each month to determine the level of water loss. If after twelve months the Company determines that the level of water loss is exceeding 10 percent then the Company shall take immediate action to reduce the level to 10 percent or less. The Company shall report the results of its water loss determination by filing a report with Docket Control in November 2008. Staff will file a response to this report along with any recommendations by December 31, 2008.
8. That the Company file with Docket Control, as a compliance item in this docket, for a period of twelve months following the decision in this docket, documentation showing that the monthly monitoring required by ADEQ to determine compliance with the maximum contaminant level for total coliform bacteria has been conducted and that the Company's water quality is in compliance with ADEQ rules.
9. That the Company be required to make all corrections to ADWR registration records to reflect Arroyo Water's ownership of the Arroyo system well and also demonstrate compliance with this requirement by December 31, 2007.
10. That the Company be required to file a curtailment tariff within 45 days of the effective date of the Commission's Decision in this matter. The tariff shall be docketed as a compliance item under this docket number for the review and certification of Staff. Staff further recommends that the tariff shall generally conform to the sample tariff found on the Commission's website at www.azcc.gov/divisions/util/forms/Curtailment-std.pdf. Staff recognizes that Arroyo Water may need to make minor modifications to the sample tariff according to their specific management, operational, and design requirements as necessary and appropriate.
11. That the Company be required to file a backflow prevention tariff within 45 days of the effective date of the Commission's Decision in this matter. The tariff shall be docketed as a compliance item under this docket number for the review and certification of Staff. Staff further recommends that the tariff shall generally conform to the sample tariff found on the Commission's website at www.azcc.gov/divisions/util/forms/Cross_c.pdf.
12. That the Company be required to file with Docket Control, as a compliance item in this docket, a certification, receipt and/or cancelled check from Gila County Treasurer's Office that all liens have been paid, within 45 days of the effective date of an order in this proceeding.

Arroyo Water Company, Inc.
Docket No. W-04286A-04-0774
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Staff further recommends that the Commission's Decision granting the relief requested be considered null and void, after due process, should Arroyo Water fail to meet Condition Nos. 2, 4, 5, 6, 7, 8, 9, 10, 11, and 12 listed above within the time specified.

TARIFF SCHEDULE

UTILITY: TONTO BASIN WATER CO.
DOCKET NO: U-2337-91-052

PAGE 1 OF 2
DECISION NO. 57512
EFFECTIVE: SEPT. 1, 1991

RATES AND CHARGESCUSTOMER/MINIMUM CHARGE
PER MONTH

<u>METER</u>	<u>CHARGE</u>	<u>GALLONS</u>
5/8 X 3/4"	\$ 16.00	FOR 1,000
3/4"	\$ 16.00	FOR 1,000
1"	\$ 20.00	FOR 1,000
1 1/2"	\$ 75.00	FOR 1,000
2"	\$120.00	FOR 1,000
3"	\$225.00	FOR 1,000
4"	\$375.00	FOR 1,000
5"	\$562.50	FOR 1,000
6"	\$750.00	FOR 1,000

SERVICE LINE & METER
INSTALLATION CHARGES

<u>METER</u>	<u>CHARGE</u>
5/8 X 3/4"	\$ 265.00
3/4"	\$ 295.00
1"	\$ 345.00
1 1/2"	\$ 520.00
2"	\$ 725.00
3"	\$ 975.00
4"	\$1550.00
5"	\$2338.00
6"	\$3125.00

COMMODITY CHARGE (EXCESS OF MINIMUM):

\$0.75 PER 1,000 GALLONS

SERVICE CHARGES:

1. ESTABLISHMENT (R14-2-403.D.1)	\$15.00
2. ESTABLISHMENT/AFTER HOURS (R14-2-403.D.2)	\$30.00
3. RECONNECTION/DELINQUENT (R14-2-403.D.1)	\$15.00
4. NSF CHECK (R14-2-409)	\$10.00
5. METER REREAD/IF CORRECT (R14-2-408.C.2)	\$10.00
6. METER TEST/IF CORRECT (R14-2-408.F.1)	\$25.00
7. DEFERRED PAYMENT (R14-2-409.G.6)	1% PER MONTH
8. DEPOSIT INTEREST (R14-2-403.B.3)	PER RULE
9. DEPOSIT (R14-2-403.B.7)	PER RULE
10. LATE FEE (\$0-\$30) 15+ DAYS POST BILLING	1.5% PER MONTH
11. LATE FEE (\$30.01-\$60) 15+ DAYS POST BILLING	1.5% PER MONTH
12. TEMPORARY TURNOFF	1.5% PER MONTH
13. REESTABLISHMENT W/N 12 MOS (R14-2-403.D.1)	MONTHS OFF THE SYSTEM TIMES THE MINIMUM

OTHER RATES AND CHARGES APPROVED BY ORDER:

IN ADDITION TO THE COLLECTION OF ITS REGULAR RATES AND CHARGES, THE COMPANY SHALL COLLECT FROM ITS CUSTOMERS THEIR PROPORTIONATE SHARE OF ANY PRIVILEGE, SALES OR USE TAX IN ACCORDANCE WITH R14-2-409.D.5.

TARIFF SCHEDULE

TONTO BASIN WATER CO.
DECISION #57512
EFFECTIVE SEPT. 1, 1991
PAGE 2

MONTHLY SERVICE CHARGE FOR FIRE SPRINKLERS:

4" OR SMALLER	\$ 16.00
6"	20.00
8"	75.00
10"	120.00
LARGER THAN 10"	225.00

MEMORANDUM

DATE: May 4, 2007

TO: Blessing Chukwu

FROM: Del Smith *DS*

RE: KACY PARKER DBA ARROYO WATER COMPANY, INC. – APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY AND FOR THE APPROVAL OF SALE OF ASSETS (DOCKET NO. W-04286A-04-0774)

Introduction and Background

On October 19, 2004, Kacy Parker dba Arroyo Water Company, Inc (“Arroyo Water” or “Company”) filed an application with the Arizona Corporation Commission (“ACC” or “Commission”) for issuance of a new CC&N to provide water service in a portion of Gila County, Arizona, and for approval of the sale of assets to Kacy Parker.

Kacy Parker dba Arroyo Water Company, Inc. is providing water utility service to approximately 86 customers in a portion of Gila County, Arizona.¹ The Company is the successor-in-interest to the assets of Arroyo Water Company, Inc., dba Tonto Basin Water Company, a defunct public service corporation. Mr. Kacy Parker is the President of the Company. Mr. John Otten is the on-site manager.

On April 19, 2005, Staff was directed by Procedural Order to file a Staff Report addressing the ownership and operational status of Arroyo Water, as well as any ongoing issues with respect to Arizona Department of Environmental Quality (“ADEQ”) compliance issues and Staff’s recommendation regarding the proposed transfer of assets and issuance of a CC&N to Kacy Parker.

On June 2, 2005, Staff was granted an extension of time to file its Staff Report until June 24, 2005. Arroyo Water was ordered to file a response to the Staff Report by July 11, 2005.

On June 24, 2005 Staff filed its Staff Report stating that in order for it to determine whether or not to support the relief requested by Arroyo Water, that it needed additional information. There were eight items Staff listed as information it needed to complete its review and analysis of Arroyo Water’s application. With regard to engineering items Staff recommended:

- That the Company be required to provide its water use data sheet.

¹ Customer count per water use data sheet filed on February 7, 2007.

- That the Company be required to provide to Staff information about the proposed new well and the proposed additional storage. In addition, the Company should be required to provide a description of what the Company plans to do to meet production and storage needs and the time table for completion. The information should include information such as well ID number, production capacity and water quality of the well, location of proposed storage tank, size and how it will be tied to the system.
- That the Company be required to provide arsenic concentration levels for the existing well and the proposed well. If either well has an arsenic concentration higher than 10 ppb, the Company shall also submit an arsenic treatment plan.

On February 10, 2006, Arroyo Water was ordered to file a response to the Staff Report by February 24, 2006.

On May 17, 2006, Staff was directed by Procedural Order to file by June 1, 2006, a recommendation for appropriate action to be taken, including but not limited to, pursuit of an Order to Show Cause for failure of Arroyo Water to provide the additional information requested by Staff and failure to comply with the previous Procedural Order directives to respond to the Staff Report.

On December 6, 2006, Staff filed an Insufficiency Letter setting forth the specific areas in which Staff deemed Arroyo Water's application to be deficient.

On March 16, 2007, Staff filed a Sufficiency Letter indicating that Arroyo Water's application met the sufficiency requirements in the Arizona Administrative Code.

Arroyo Water System

The Company's system consists of one well, Arizona Department of Water Resources ("ADWR") Identification No. 55-805621, one 11,000 gallon storage tank, one 2,500 gallon pressure tank, a booster pump and distribution system serving 86 customers.² Fire protection is not provided. According to the Company, the well will produce 90 gallons per minute which is adequate to serve the existing base of customers plus some growth. However, the system currently has inadequate storage capacity. Apparently, the Company has added minimal new customers, if any, since filing its application in 2004.

² The Water Company Plant Description information filed on February 7, 2007 failed to provide the quantity of metered connections.

Arroyo Water System Proposed Additions

The Company has indicated that as soon as the transfer has been approved by the Commission that it plans to make the following plant additions to address its deficiencies:

- Add 24,000 gallons of additional storage at the well site.
- Add 24,000 gallons of storage and booster pump at a new site on the system's east side.

Adding these two new storage tanks will increase total storage capacity to 59,000 gallons.

- Replace the existing pressure tank at the well site with a new 2,000 gallon pressure tank.

Staff concludes that the Company's proposed storage additions will be sufficient to meet the needs of the existing customer base and five years of growth using the growth projections provided in the application. Staff recommends that Arroyo Water be required to file in Docket Control as compliance its Approval of Construction ("AOC") issued by ADEQ for the storage additions and other improvements by December 31, 2007.

Non-account Water

Non-account water should be 10 percent or less and never more than 15 percent. It is important to be able to reconcile the difference between water sold and the water produced by the source. A water balance will allow a water company to identify water and revenue losses due to leakage, theft, and flushing. Non-account water for the Company could not be determined because the Arroyo Water system well is not equipped with a well meter which records the water pumped. Staff recommends that Arroyo Water be required to install a well meter on its well and demonstrate compliance with this requirement by September 30, 2007. Staff further recommends that beginning in October 2007 the Company be required to record the water pumped each month to determine the level of water loss. If after twelve months the Company determines that the level of water loss is exceeding 10 percent then the Company shall take immediate action to reduce the level to 10 percent or less. The Company shall report the results of its water loss determination by filing a report with Docket Control in November 2008. Staff will file a response to this report along with any recommendations by December 31, 2008.

ADEQ Compliance

ADEQ regulates the Arroyo water system under ADEQ Public Water System Identification No. ("PWS ID #") 04-083. ADEQ cannot determine if this system is currently delivering water that meets water quality standards required by Arizona Administrative Code,

Title 18, Chapter 4.³ ADEQ reported that this system has major monitoring and reporting deficiencies because its data base:

- Shows that the calendar years 2002 through 2005 consumer confidence reports are missing.
- Does not show that the required baseline lead and copper monitoring has been completed.
- Does not show that the required annual nitrate analyses have been done for 2004 and 2005.

ADEQ also reported that this system has a major operation and maintenance deficiency for inadequate storage.

Staff recommends that the proposed transfer be denied. Staff will reassess this recommendation if by the date of the hearing in this matter Staff has received ADEQ documentation demonstrating that PWS ID #04-083 is delivering water that meets the water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.

Arsenic levels reported by the Company for the Arroyo water system comply with the new arsenic standard of 10 micrograms per liter that became effective on January 23, 2006.⁴

ADEQ Notice of Violation ("NOV")

On November 3, 2006, the Arroyo Water system was inspected by ADEQ. As a result of that inspection ADEQ issued an NOV to Arroyo Water on December 15, 2006. The NOV is an informal compliance assurance tool used by ADEQ to put the responsible party, in this case Arroyo Water, on notice that ADEQ believes a violation of an environmental requirement has occurred. The NOV was issued to Arroyo Water for failing to have adequate water storage, failing to have a certified operator and failing to maintain the pressure tank. In addition to the monitoring and reporting deficiencies listed in the preceding section, the NOV listed a deficiency for failing to monitor for coliform during the months of December 2005 and January 2006. The Company also failed to take repeat coliform samples in July and August 2006 after receiving positive results for coliform. In addition to these violations, the ADEQ inspector recommended that Arroyo Water address several other conditions identified during the November 3, 2006, inspection.

On March 7, 2007, ADEQ filed its response to Arroyo Water's submittals that addressed the NOV issued to Arroyo Water on December 15, 2006. In its response ADEQ reported that compliance had been achieved for all of the monitoring and reporting deficiencies listed in the

³ ADEQ Drinking Water Compliance Status Report dated 7-14-06.

⁴ Information contained in Company response filed on November 15, 2006.

NOV. ADEQ also reported that Arroyo Water was in compliance with the requirement that it employ a certified operator (according to information submitted by the Company James Harrell is the certified operator for Arroyo Water). ADEQ reported that Arroyo Water had failed to achieve compliance with water storage and proper facility maintenance requirements.

Staff recommends that Arroyo Water file in Docket Control as a compliance matter, for a period of twelve months following the decision in this docket, documentation showing that the monthly monitoring required by ADEQ to determine compliance with the maximum contaminant level for total coliform bacteria has been conducted and that the Company's water quality is in compliance with ADEQ rules.

ADWR Compliance

Arroyo Water is not in an ADWR Active Management Area. Therefore, the Company is not required to comply with ADWR monitoring and reporting requirements.

ADWR well registration records still reflect the previous owner as owning the Arroyo system well (ADWR Identification No. 55-805621). Staff recommends that the Company be required to make all corrections to ADWR registration records to reflect Arroyo Water's ownership of the Arroyo system well and also demonstrate compliance with this requirement by December 31, 2007.

ACC Compliance

A Complaint and Petition For Order to Show Cause against Kacy J. Parker dba Jake's Corner Water system ("Jake's Corner") was filed by Staff on April 17, 2007. Jake's Corner and Arroyo Water are owned by the same individuals. Jake's Corner has failed to comply with Commission Decision No. 67231 which approved the Jake's Corner transfer of Assets and CC&N to Kacy Parker subject to the timely filing of several compliance items one of which included the installation of a storage tank by June 2005. In a letter to the Compliance Section Mr. Parker indicated that Jake's Corner would only install the storage tank contingent upon a rate case.

Staff recommends that the proposed transfer be denied. Staff will reassess this recommendation if by the date of the hearing in this matter Jakes Corner has filed documentation demonstrating that it has filed an administratively complete Approval to Construct ("ATC") application with ADEQ for increasing its water storage capacity.

Curtailment Tariff

A curtailment tariff is an effective tool to allow a water company to manage its resources during periods of shortages due to pump breakdowns, droughts, or other unforeseeable events. Since Arroyo Water does not have a curtailment tariff, Staff recommends that Arroyo Water file a curtailment tariff within 45 days of the effective date of the Commission's Decision in this

matter. The tariff shall be docketed as a compliance item under this docket number for the review and certification of Staff. Staff further recommends that the tariff shall generally conform to the sample tariff found on the Commission's website at www.azcc.gov/divisions/util/forms/Curtailment-std.pdf. Staff recognizes that the Company may need to make minor modifications to the sample tariff according to their specific management, operational, and design requirements as necessary and appropriate.

Backflow Prevention Tariff

Since Arroyo Water does not have a backflow prevention tariff, Staff recommends that Arroyo Water file a backflow prevention tariff within 45 days of the effective date of the Commission's Decision in this matter. The tariff shall be docketed as a compliance item under this docket number for the review and certification of Staff. Staff further recommends that the tariff shall generally conform to the sample tariff found on the Commission's website at www.azcc.gov/divisions/util/forms/Cross_c.pdf.

Summary

Conclusions

1. Arroyo Water's well production is adequate to serve the existing base of customers plus some growth. However, the system currently has inadequate storage capacity.
2. Arroyo Water's proposed storage additions will be sufficient to meet the needs of the existing customer base and five years of growth using the growth projections provided in the application.
3. Arsenic levels reported by the Company for the Arroyo water system comply with the new arsenic standard of 10 micrograms per liter.
4. James Harrell is the certified operator for the Arroyo Water system.
5. Arroyo Water has failed to achieve compliance with ADEQ's water storage and proper facility maintenance requirements.
6. Arroyo Water is not in an ADWR Active Management Area. Therefore, the Company is not required to comply with ADWR monitoring and reporting requirements.

Recommendations

1. Staff recommends that Arroyo Water be required to file in Docket Control as compliance its AOC issued by ADEQ for the proposed storage additions and other

improvements within six months of the effective date of the Commission's order in this matter.

2. Non-account water should be 10 percent or less and never more than 15 percent. It is important to be able to reconcile the difference between water sold and the water produced by the source. A water balance will allow a water company to identify water and revenue losses due to leakage, theft, and flushing. Non-account water for the Company could not be determined because the Arroyo Water system well is not equipped with a well meter which records the water pumped. Staff recommends that Arroyo Water be required to install a well meter on its well and demonstrate compliance with this requirement by September 30, 2007. Staff further recommends that beginning in October 2007 the Company be required to record the water pumped each month to determine the level of water loss. If after twelve months the Company determines that the level of water loss is exceeding 10 percent then the Company shall take immediate action to reduce the level to 10 percent or less. The Company shall report the results of its water loss determination by filing a report with Docket Control in November 2008. Staff will file a response to this report along with any recommendations by December 31, 2008.
3. ADEQ cannot determine if this system is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.⁵ ADEQ reported that this system has major monitoring and reporting deficiencies and major operation and maintenance deficiencies. Staff recommends that the proposed transfer be denied. Staff will reassess this recommendation if by the date of the hearing in this matter Staff has received ADEQ documentation demonstrating that PWS ID #04-083 is delivering water that meets the water quality standards required by Arizona Administrative Code, Title 18, Chapter 4.
4. Staff recommends that Arroyo Water file in Docket Control as a compliance matter, for a period of twelve months following the decision in this docket, documentation showing that the monthly monitoring required by ADEQ to determine compliance with the maximum contaminant level for total coliform bacteria has been conducted and that the Company's water quality is in compliance with ADEQ rules.
5. Staff recommends that the Company be required to make all corrections to ADWR registration records to reflect Arroyo Water's ownership of the Arroyo system well and also demonstrate compliance by December 31, 2007.

⁵ ADEQ Drinking Water Compliance Status Report dated 7-14-06.

6. A Complaint and Petition For Order to Show Cause against Kacy J. Parker dba Jake's Corner Water system was filed by Staff on April 17, 2007, for non-compliance with Decision No. 67231. Staff recommends that the proposed transfer be denied. Staff will reassess its recommendation if by the date of the hearing in this matter Jakes Corner has filed documentation demonstrating that it has filed an administratively complete Approval to Construct ("ATC") application with ADEQ for increasing its water storage capacity.
7. Staff recommends that Arroyo Water file a curtailment tariff within 45 days of the effective date of the Commission's Decision in this matter. The tariff shall be docketed as a compliance item under this docket number for the review and certification of Staff. Staff further recommends that the tariff shall generally conform to the sample tariff found on the Commission's website at www.azcc.gov/divisions/util/forms/Curtailment-std.pdf.
8. Staff recommends that Arroyo Water file a backflow prevention tariff within 45 days of the effective date of the Commission's Decision in this matter. The tariff shall be docketed as a compliance item under this docket number for the review and certification of Staff. Staff further recommends that the tariff shall generally conform to the sample tariff found on the Commission's website at www.azcc.gov/divisions/util/forms/Cross_c.pdf.

MEMORANDUM

TO: Blessing Chukwu
Executive Consultant III
Utilities Division

FROM: Barb Wells
Information Technology Specialist
Utilities Division

THRU: Del Smith
Engineering Supervisor
Utilities Division

DATE: June 13, 2005

RE: **ARROYO WATER COMPANY, INC. (DOCKET NO. W-04286A-04-0774)**

The area requested by Arroyo for a CC#N has been plotted with no complications using the legal description provided with the application (a copy of which is attached).

Also attached is a copy of the map for your files.

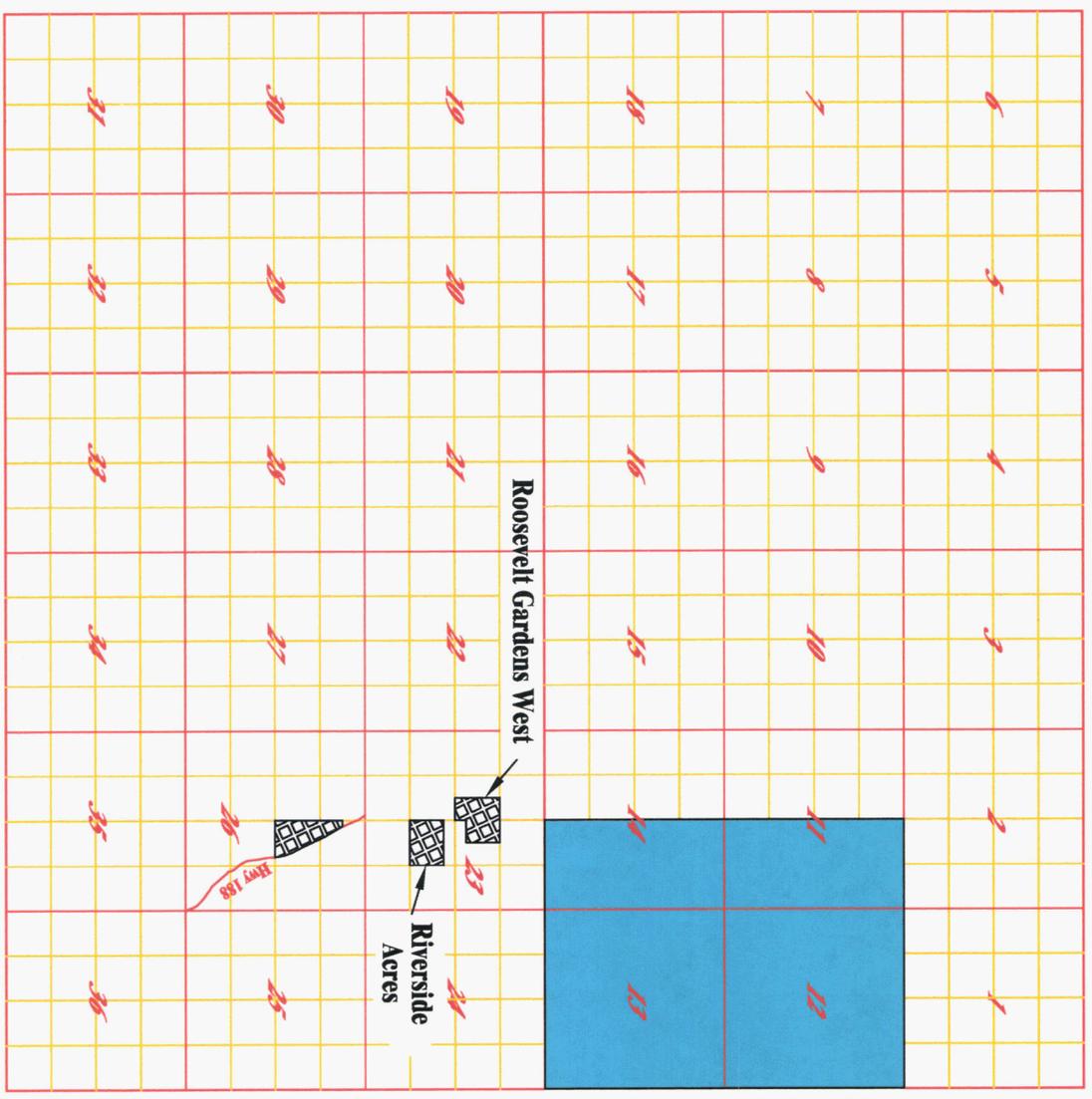
:bsw

Attachments

cc: Docket Control
Arroyo Water Company, Inc.
Mr. John Chelus
Ms. Deb Person (Hand Carried)
File

GILA COUNTY

RANGE 10 East



TOWNSHIP 6 North



W-3515 (4)
Tonto Basin Water Company, Inc.



Arroyo Water Company, Inc.
Docket No. W-4286-04-774
Application for CC&N

**PROPOSED CCN AREA
FOR
ARROYO WATER COMPANY, INC.**

JUNE, 2003

**The East half of Section 11, all of Section 12, all of Section 13 and the East half of
Section 14 of Township 6 North, Range 10 East, Gila and Salt River Base Meridian.**