



1 Richard L. Sallquist
 2 Sallquist, Drummond & O'Connor, P.C.
 3 4500 S. Lakeshore Drive, Suite 339
 4 Tempe, Arizona 85282
 5 Phone: (480) 839-5202
 6 Fax: (480) 345-0412
 7 Attorneys for Applicant

RECEIVED

2007 JUN -7 P 4: 23

AZ CORP COMMISSION
DOCKET CONTROL

19

BEFORE THE ARIZONA CORPORATION COMMISSION

6	IN THE MATTER OF THE APPLICATION OF)	
7	JOHNSON UTILITIES COMPANY, LLC dba)	DOCKET NO. WS-02987A-06-0667
8	JOHNSON UTILITIES, FOR APPROVAL TO)	
9	EXTEND ITS EXISTING CERTIFICATE OF)	REQUEST FOR CONTINUANCE
10	CONVENIENCE AND NECESSITY.)	
11)	

1. On October 16, 2006 Johnson Utilities, L.L.C. dba Johnson Utilities, (the "Company") filed an Application in the subject Docket.

2. The Procedural Order dated May 14, 2007 set the controlling dates for this matter, including the due date for the Staff Report and Hearing date.

3. Staff has advised the Company that they have received a copy of a letter to the Company from the Arizona Department of Water Resources ("ADWR") pertaining to certain compliance matters. A copy of that letter is attached hereto as Exhibit A.

4. Staff has been advised that this is procedural in nature, dealing with a Central Arizona Groundwater Replenishment District ("CAGR") contract amendment supporting the Company's Designation of Assured Water Supply. A copy of the response to ADWR by the Company's water rights lawyer is attached as Exhibit 2. The Company is uncertain of the timing necessary to obtain the amended contract.

Arizona Corporation Commission
DOCKETED

JUN -7 2007

DOCKETED BY	nr
-------------	----

1 5. Because Staff prefers to have all water availability issues resolved before issuing a Staff
2 Report and any hearing on a matter, the Company believes it would be in the interest of all
3 parties to continue this matter until the ADWR / CAGR D matters are resolved.

4 6. The Company hereby waives the time clock provisions under ACCR-14-2 3-312E in this
5 matter.

6 WHEREFORE, the Company requests that this matter be continued indefinitely until the
7 above reference matters is settled, at which time the Company will file the appropriate
8 documents with the Staff and request that the Hearing Division issue a Revised Procedural Order
9 setting the controlling dates.

10 RESPECTFULLY submitted this 7th day of June 2007.

12 SALLQUIST, DRUMMOND & O'CONNOR, PC

13 By: 

14 Richard L. Sallquist
15 4500 S. Lakeshore Drive, Suite 339
16 Tempe, Arizona 85282
17 Phone: (480) 839-5202
18 Fax: (480) 345-0412
19 Email: dick@sd-law.com

18 Original and fifteen copies of the
19 foregoing filed this 7th day
of June 2007 with:

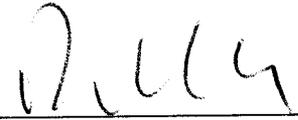
20 Docket Control
21 Arizona Corporation Commission
22 1200 West Washington
Phoenix, Arizona 85007

23 A copy of the foregoing filed
this 7th day of June 2007 to:

1 Hearing Division
2 Arizona Corporation Commission
1200 W. Washington
3 Phoenix, Arizona 85007

4 Utilities Division
Arizona Corporation Commission
5 1200 West Washington
Phoenix, Arizona 85007

6 Legal Division
7 Arizona Corporation Commission
1200 West Washington
8 Phoenix, Arizona 85007

9 
10 _____

- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

MAY 25 2007

ARIZONA DEPARTMENT OF WATER RESOURCES
Office of Assured and Adequate Water Supply
3550 North Central Avenue, Phoenix, Arizona 85012
Telephone 602 771-8585
Fax 602 771-8689



JANET NAPOLITANO
Governor

HERB GUENTHER
Director

May 23, 2007

Johnson Utilities Company
Brian Tompsett
5230 E Shea Blvd
Scottsdale, AZ 85254

Re: Status and Review of the Designation of Assured Water Supply for
the Johnson Utilities (DWR No. 26-401382)

Dear Mr. Tompsett:

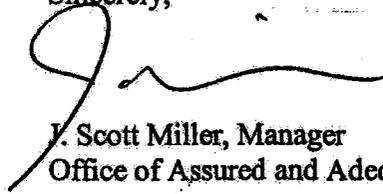
Upon initial review of the Johnson Utilities' Assured Water Supply Supplement to the Annual Water Use Report for 2006, it appears that Johnson Utilities has less water, according to the criteria in A.A.C. R12-15-710(E), than the amount required for a 100-year supply for Johnson Utilities' current, committed and projected demand during the next two calendar years. The Department compared Johnson Utilities' current and committed demand to the amount of water determined to be physically, legally, and continuously available consistent with the management goal for the Pinal AMA in the Decision and Order issued by the Director on October 14, 2005. Johnson Utilities was found to have exceeded their available supplies by 204.36 acre-feet in 2006. Assuming no additional water service commitments are made, this translates into a deficit of at least 20,436 acre-feet over one hundred years.

The Department requires that Johnson Utilities rectify this deficit as soon as possible and prevent a further exacerbation of the deficit. This means that no further subdivision plats can be approved or recorded. To rectify the deficit and regain the ability to approve and record subdivision plats, Johnson Utilities will need to immediately submit an application to modify its designation of assured water supply. If Johnson Utilities does not remedy this deficit in a timely manner, the Department will take immediate administrative action to revoke Johnson Utilities status as designated as having an assured water supply.

As part of the Department's formal review of Johnson Utilities' designation status, the Department requests a meeting to discuss how this matter will be resolved. Please contact Carlane Stephan at 602-771-8599 before May 31, 2007 to set up a meeting. If you have any additional questions regarding Johnson Utilities' designation status, please contact me at (602) 771-8604. The Department appreciates your cooperation in correcting this situation.

EXHIBIT A

Sincerely,



J. Scott Miller, Manager
Office of Assured and Adequate Water Supply

cc: Michael J. Pearce, Maguire & Pearce PLLC
Roy Tanney, Director, Development Services Division, Department of Real Estate
Steve Olea, Assistant Director, Utilities Division, Arizona Corporation Commission
Sandra Fabritz-Whitney, Assistant Director, ADWR
Randy Edmond, Pinal AMA Director, ADWR
Nicole Swindle, Deputy Council, ADWR

MAGUIRE & PEARCE

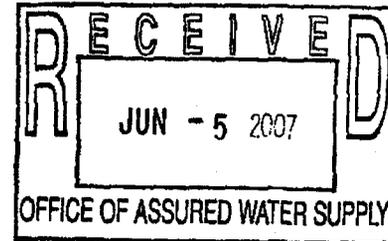
ATTORNEYS AT LAW
A PROFESSIONAL LIMITED LIABILITY COMPANY

Rita P. Maguire
Admitted in Arizona
rماغuire@mpwaterlaw.com

2999 North 44th Street
Suite 630
Phoenix, Arizona 85018
Phone: (602) 277-2195
Fax: (602) 277-2199

Michael J. Pearce
Admitted in Arizona & California
mpearce@mpwaterlaw.com

June 5, 2007



J. Scott Miller
Manager
Office of Assured Water Supply
Arizona Department of Water Resources
3550 North Central Avenue, 2nd Floor
Phoenix, Arizona 85012

**Re: Status and Review of the Designation of Assured Water Supply for
Johnson Utilities (ADWR No. 26-401382)**

Dear Scott:

We have received and reviewed your letter of May 23, 2007 concerning the initial review of the status of the designation of assured water supply for the Johnson Utilities, LLC operations in the Pinal Active Management Area (Johnson Utilities Pinal) by the Arizona Department of Water Resources (ADWR). As you know, we also met with you and Doug Dunham on Thursday, May 31, 2007 to discuss the issues and select the best means by which to remedy the problem. This letter will summarize where we are in the process, and how we intend to bring the matter to conclusion.

The limitations in the order of designation dated October 15, 2005 for the Johnson Utilities Pinal system (ADWR No. 26-401382.0000) referred to in your letter were based on the limits of our existing Member Service Area Agreement with the Central Arizona Groundwater Replenishment District (CAGR). That contract was issued for the Johnson Utilities operations in both the Phoenix and the Pinal Active Management Areas. Rapid growth in the Phoenix Active Management Area has pressed that contract to its limits, and we acknowledge that it must be amended.

EXHIBIT B

MAGUIRE & PEARCE

June 5, 2007

Page 2

Meanwhile, in the Pinal Active Management Area, our physical availability under the October 14, 2005 order is 1,595 acre feet per year, which is more than our current, committed and projected demand through 2011, and we have already established legal availability through the creation of the service area for this system (ADWR No. 56-001538.0000) within our existing Certificate of Convenience & Necessity (and proposed expansions thereto). Thus, the limitations on our ability to serve water in the Pinal Active Management Area are not based on a lack of physical supply or an inability to serve customers on demand, but rather on a limitation of our ability to obtain replenishment services from CAGR D under the existing agreement.

We had begun working with ADWR and CAGR D last year to revise the existing CAGR D contract to expand our replenishment coverage and alleviate the problem referenced in your letter. As you know, we had approached CAGR D to amend that existing contract for two purposes. First, at the request of both CAGR D and ADWR, we had asked CAGR D to split the CAGR D replenishment contract into two new contracts, one for the Pinal Active Management Area and one for the Phoenix Active Management Area. Second, we had intended to expand our CAGR D coverage in both Active Management Areas. Our discussions with CAGR D on that topic were very favorable, but we had to develop the overall demand projections for the Johnson Utilities Pinal operations.

While we were developing those projections, ADWR undertook to revise the Pinal AMA assured water supply rules to alter the groundwater allowance available for designated providers such as Johnson Utilities Pinal. These rule revisions led to a series of discussions with ADWR about Johnson Utilities Pinal dividing its Pinal Active Management Area operations into two distinct service areas—one designated and one not designated.

Under this approach, Johnson Utilities Pinal would continue as a designated provider for a very limited area, thereby greatly reducing the projected demand for that service area as a Member Service Area within the CAGR D, while at the same time increasing CAGR D's replenishment obligations for the remaining new subdivisions, which would be receiving certificates of assured water supply by enrolling in CAGR D as member lands. Both CAGR D and ADWR accepted this approach, although we all understood that it is logistically difficult. We have spent this entire year to date working through those issues and, based on our discussion on May 31, 2007, still do not see an easy solution using this approach.

Therefore, we have decided to continue on in the current status, with one designated service area that will continue to be a Member Service Area within CAGR D. This will require us to obtain a new CAGR D contract for the Johnson Utilities Pinal operations, as we had contemplated earlier. We will file the application for that contract forthwith, and we should be able to obtain approval by CAGR D this summer. We will also simultaneously file an application with ADWR for modification of the October 14, 2005 order of designation, based solely on the anticipated new CAGR D contract (i.e. utilizing our current physical availability and legal

MAGUIRE & PEARCE

June 5, 2007

Page 3

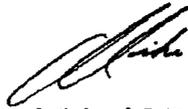
availability status from the existing order of designation). This will allow us to expeditiously demonstrate consistency with the management goal, and physical, continuous and legal availability for the Johnson Utilities Pinal projected demand through 2011.

Once that is established, we will turn our attention to another application for modification, wherein we will increase our demonstration of physical availability within the Pinal Active Management Area (based on our expanded, existing water production capacity), that will allow us to expand the order of designation to cover projected demand for the entire proposed service area.

Although we understand and appreciate the significance of the problem outlined in your letter, we hope that you also appreciate the fact that we have been working with ADWR consistently throughout the year to address this issue and find a solution. Now that we have settled on a course of action which, by our telephone conversation yesterday, June 4, 2007, appears agreeable to ADWR, we will move diligently to see it through to conclusion.

Sincerely,

MAGUIRE & PEARCE PLLC



Michael J. Pearce

MJP
encl.

c: Mr. Roy Tanney, Director, Development Services Division, Department of Real Estate
Mr. Steve Olea, Assistant Director, Utilities Division, Arizona Corporation Commission
Sandra Fabritz-Whitney, Assistant Director, ADWR
Randy Edmond, Pinal AMA Director, ADWR
Nicole Swindle, Deputy Counsel, ADWR