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1 FENNEMORE CRAIG, P.C.  
 Jay L. Shapiro (No. 014650)  
 2 Todd C. Wiley (No. 015358)  
 Patrick J. Black (No. 017141)  
 3 3003 North Central Avenue, Suite 2600  
 Phoenix, Arizona 85012  
 4 Telephone (602)916-5000  
 Attorneys for Pine Water Company  
 5

2007 JUN 22 P 2:07  
 AZ CORP COMMISSION  
 DOCKET CONTROL

BEFORE THE ARIZONA CORPORATION COMMISSION

7 RAYMOND R. PUGEL AND JULIE B.  
 PUGEL AS TRUSTEES OF THE RAYMOND  
 8 R. PUGEL AND JULIE B. PUGEL FAMILY  
 TRUST, and ROBERT RANDALL AND  
 9 SALLY RANDALL  
 10 Complainant,

11 v.  
 12 PINE WATER COMPANY,  
 Respondent.

DOCKET NO: W-03512A-06-0407

Arizona Corporation Commission  
**DOCKETED**  
 JUN 22 2007

DOCKETED BY	me
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13 ASSET TRUST MANAGEMENT, CORP.,  
 14 Complainant,

15 v.  
 16 PINE WATER COMPANY,  
 Respondent.

DOCKET NO: W-03512A-06-0613

17 JAMES HILL and SIOUX HILL, husband and  
 18 wife as trustees of THE HILL FAMILY TRUST,  
 19 Complainant,

20 v.  
 21 PINE WATER COMPANY,  
 Respondent.

DOCKET NO: W-03512A-07-0100

22 BRENT WEEKES,  
 23 Complainant,

24 v.  
 25 PINE WATER COMPANY,  
 Respondent.

DOCKET NO: W-03512A-07-0019

(Consolidated)

**PINE WATER COMPANY'S RESPONSE TO MOTION FOR PROCEDURAL HEARING ON MOTION IN LIMINE**

26

1 Pine Water Company (“PWCo”) agrees that a hearing on Complainants’ motion in  
2 limine should be held as soon as possible. Complainants have delayed requesting a  
3 hearing, and have informed PWCo that the lack of a ruling on the motion in limine  
4 precludes Complainants from addressing other unresolved prehearing issues. To aid in  
5 scheduling such hearing, undersigned counsel states that he would be available to  
6 participate on Monday, June 25; Monday, July 2 (before Noon); Tuesday, July 3 (before  
7 Noon); Thursday, July 5 (after 11:00 am); Friday, July 6; Monday, July 9; or Wednesday,  
8 July 11. To the extent possible, PWCo asks that the hearing be scheduled consistent with  
9 such availability.

10 Additionally, PWCo notes the impropriety of Complainants’ reference to  
11 Commissioner Mayes’ June 12, 2007 letter to PWCo and its affiliate, Strawberry Water  
12 Co (“SWCo”). Reply at 2, n. 1 and 7. Ironically, throughout its reply, Complainants  
13 repeatedly rebuke PWCo for referring to evidence that would be precluded if the motion  
14 in limine is granted. Yet, Complainants are now seeking to use Commissioner Mayes’  
15 letter as evidence that its underlying claims are valid. Reply at 6 (arguing that the letter  
16 shows that PWCo cannot adequately serve its customers). This effort is not only  
17 improper, it is unsupported. The letter from Commissioner Mayes isn’t an act or order of  
18 the Commission; it isn’t evidence of anything. The fact that a newspaper published the  
19 letter proves nothing. Put bluntly, Complainants have no basis to bring the letter up at this  
20 time, except in an effort to prejudice PWCo. PWCo certainly would hope that the  
21 Commission has not prejudged this matter as suggested by Complainants.

22 Further, Complainants fail to mention PWCo’s June 18, 2007 response to  
23 Commissioner Mayes letter (copy of that letter is attached hereto as Exhibit 1), which  
24 shows that all of Commissioner Mayes’ “inquiries” of PWCo and SWCo have been  
25 addressed and the requested assurances have been given. PWCo’s response has also been  
26 provided to The Payson Roundup.

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RESPECTFULLY SUBMITTED this 22nd day of June, 2007.

FENNEMORE CRAIG, P.C.

By  \_\_\_\_\_  
Ray L. Shapiro  
Todd C. Wiley  
Patrick J. Black  
3003 North Central Avenue, Suite 2600  
Phoenix, Arizona 85012  
Attorneys for Pine Water Company

ORIGINAL and nineteen (19) copies of the foregoing filed this 22nd day of June, 2007:

Docket Control  
Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, AZ 85007

Copy of the foregoing hand delivered this 22nd day of June, 2007 to:

Dwight D. Nodes  
Assistant Chief Administrative Law Judge  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, AZ 85007

Kevin Torrey  
Legal Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

1 Ernest Johnson, Director  
2 Utilities Division  
3 Arizona Corporation Commission  
4 1200 West Washington Street  
5 Phoenix, Arizona 85007

6 **COPIES mailed and emailed**  
7 this 22nd day of June, 2007 to:

8 John G. Gliege  
9 Stephanie J. Gliege  
10 Gliege Law Offices, PLLC  
11 P.O. Box 1388  
12 Flagstaff, AZ 86002-1388

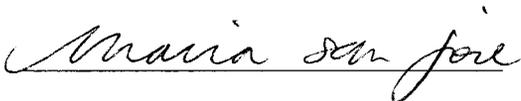
13 David W. Davis  
14 Turley, Swan & Childers, P.C.  
15 3101 N. Central Avenue, Suite 1300  
16 Phoenix, AZ 85012

17 **COPIES mailed**  
18 this 22nd day of June, 2007 to:

19 Robert M. Cassaro  
20 P.O. Box 1522  
21 Pine, AZ 85544

22 Barbara Hall  
23 P.O. Box 2198  
24 Pine, AZ 85544

25 William F. Haney  
26 3018 E. Mallory Street  
Mesa, AZ 85213



1928406.1/75206.010

# **Exhibit 1**

# **Brooke Utilities, Inc.**

P. O. Box 82218 • Bakersfield, California 93380-2218  
Customer Call Center • P.O. Box 9005 • San Dimas, California 91773-9016 • (800) 270-6084

ROBERT T. HARDCASTLE  
(661) 633-7526  
Fax (781) 823-3070  
RTH@brookeutilities.com

June 18, 2007

Commissioner Kristin K. Mayes  
Arizona Corporation Commission  
1200 West Washington St.  
Phoenix, AZ 85007-2996

Re: **Recent Pine Water Co. and Strawberry Water Co. Service Interruptions; Reply to Your Correspondence of June 12, 2007**

Dear Commissioner Mayes:

Thank you for your recent correspondence regarding water service interruptions. It is always appreciated when we have a chance to set the record straight and provide facts and explanations to issues like these. I can assure you that, under the best of circumstances, managing the water systems in Pine and Strawberry during peak demand summer months is a challenging endeavor and one that requires the patience and skill of all of our operations and management team. We appropriately call it the "100 Day War" for good reason.

Specifically, let me first address your concern over water service interruptions in Pine and Strawberry for the period March 1 through June 11, 2007. In 2007, a total of seven service interruptions were reported in Strawberry as compared to eight in 2006 and seven in 2005. In Pine, a total of eight service interruptions were reported for this period in 2007 as compared to six in 2006 and nine in 2005. This data reflects that there is nothing unusual about the frequency of service interruptions during the period of 2007 referenced in your letter. Most importantly, looking at just the number of service interruptions during any period is a very simplistic approach and requires further analysis. For example, many of the interruptions you raised concern over were managed for the purposes of repair and maintenance on the two water systems.

Unfortunately, though so interruptions do occur in an older pipeline system like the ones owned and operated in Pine. On May 18, 2007 a serious main line leak was reported under Hwy. 87 in Pine. This problem affected a large number of customers in Pine during that night and the early morning hours of the next day. Fortunately, our operations people were able to timely close control valves so that only 90,000 gallons of water were lost. This leak resulted from an installation of inferior materials installed many years before Brooke Utilities ownership of this system. Even worse, these inferior materials were installed under a State highway in a manner that should never have been allowed or approved, seriously exaggerating the nature of the problem.

*Brooke Water L.L.C. Circle City Water Co. L.L.C. Strawberry Water Co., Inc. Pine Water Co., Inc.  
Payson Water Co., Inc. Navajo Water Co., Inc. Tonto Basin Water Co., Inc.*

Commissioner Kristin K. Mayes  
Arizona Corporation Commission  
June 18, 2007

None of these conditions were previously known to Brooke's operations staff as there is no easy or low cost way of predicting where line breaks might occur.

In any case, once this event came to our attention, our operations people worked through the night of May 18 and nearly around the clock until May 22 when repairs were complete. I further note that, in order to not inconvenience our customers any more than necessary, we completed these repairs in phases at greater expense to Pine Water Co. It should also be noted that this event caused Stage 4 water conservation rules to go into effect and required water hauling in accordance with Pine Water Co.'s Curtailment Tariff. However, Pine Water Co. hauled more water to Pine than the amount required to address the line break event, yet, out of fairness to customers and because of the circumstances related to the leak, Pine Water Co. absorbed all of these costs. Finally, I also note that four of the eight service interruptions referenced in your letter related to this one single event and the associated repairs.

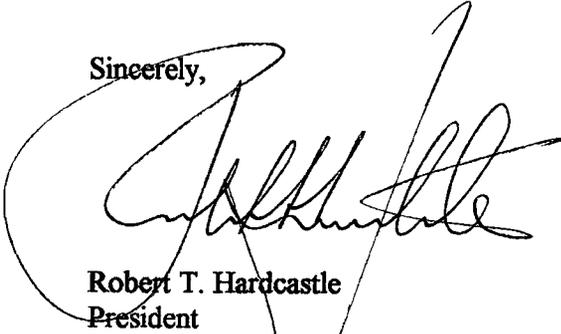
I must respectfully disagree with your assertion that customers were subjected to Stage 4 water curtailment restrictions earlier in the year than usual because of increased water system leaks. I have previously explained the water loss reported by Pine Water Co. during the May 18 - May 22 period. This condition is unfortunate but occasionally unavoidable when water systems of this nature are operated. Brooke Utilities is keenly aware of the Commission's emphasis on water loss reduction over the last few years, and we believe we have been very successful in meeting the Commission's wishes. Pine Water Co.'s reported water loss was 10.3% in 2005 and 9.2% in 2006. Further, Strawberry Water Co.'s reported water loss was 9.7% in 2006. We understand the importance of water conservation and the avoidance of water loss. That is one of the reasons why we schedule more frequent, but far less severe, water service interruptions than are possible - because it inconveniences fewer customers and reduces the amount of water lost during repairs. Much to Brooke Utilities chagrin it appears, however, that we are criticized if water loss is too high and also criticized when service interruptions are more frequent but with less water lost.

I assure you and the other Commissioners that Pine Water Co. and Strawberry Water Co. are doing everything reasonably possible to provide our customers with safe water service and to keep service interruptions to a minimum. We are doing that, despite our operations and management staff working practically continuously, contracting as many as three water hauling transports at one time, application of technology and reporting mechanisms, absorbing some water hauling costs, continuous improvements in infrastructure and water production sources, and engaging the cooperation of public water districts with new committed investment in deep aquifer water resources. In other words, I assure you we are doing our best under very demanding circumstances while, at the same time, combating public criticism from numerous venues, criticism I simply do not feel is warranted once the facts are brought to light..

Thank you for your interest in this matter. Please advise if I may be of further assistance.

Commissioner Kristin K. Mayes  
Arizona Corporation Commission  
June 18, 2007

Sincerely,



Robert T. Hardcastle  
President

cc:

RTH correspondence file  
MJ, DA, MB  
Chairman Mike Gleason  
Commission William A. Mundell  
Commissioner Jeff Hatch-Miller  
Commissioner Gary Pierce  
Ernest Johnson  
Brian McNeil  
Heather Murphy  
Jay Shapiro, Esq.