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2007 JUN 27 A 9:31 Transcript Exhibit(s)

AZ CORP COMMISSION  
DOCKET CONTROL

Docket#(s): W-04286A-04-0774

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Exhibit #: A1, A2, S1, S2

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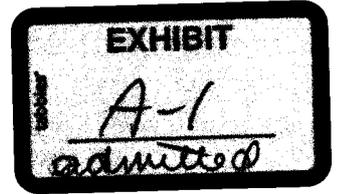


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Arizona Corporation Commission  
DOCKETED

JUN 27 2007

DOCKETED BY	<u>MP</u>
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**ARROYO WATER COMPANY, INC.**  
HC 6 BOX 1048 L  
PAYSON, ARIZONA 85541

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November 13, 2006

Docket No. W-04286A-04-0774

Docket Control  
Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, Arizona 850007

Attached is an application by Arroyo Water Company, for approval of a Cross-Connection Tariff. The purpose of this tariff is to protect Arroyo Water Company water from the possibility of contamination caused by the backflow of contaminants that may be present on the customer's premises.

Sincerely,

A handwritten signature in black ink, appearing to be "Kyle Parker". The signature is stylized with a long horizontal stroke and a loop at the end.

Kyle Parker

Company Name: ARROYO WATER COMPANY, INC. Page 1 of 2

## CROSS-CONNECTION OR BACKFLOW TARIFF

### PURPOSE:

The purpose of this tariff is to protect ARROYO WATER COMPANY, INC. ("Company") water from the possibility of contamination caused by the backflow of contaminants that may be present on the customer's premises by requiring the installation and periodic testing of backflow-prevention assemblies pursuant to the provisions of the Arizona Administrative Code ("A.A.C.") R14-2-405.B.6 and A.A.C. R18-4-115.

### REQUIREMENTS:

In compliance with the Rules of the Arizona Corporation Commission ("Commission") and the Arizona Department of Environmental Quality ("ADEQ"), specifically A.A.C. R14-2-405.B.6 and A.A.C. R18-4-115 relating to backflow prevention:

1. The Company may require a customer to pay for and to have installed a backflow-prevention assembly if A.A.C. R18-4-115.B or C applies.
2. A backflow-prevention assembly required to be installed by the customer under Paragraph 1 of this tariff shall comply with the requirements set forth in A.A.C. R18-4-115.D and E.
3. Subject to the provisions of A.A.C. R14-2-407 and 410, and in accordance with Paragraphs 1 and 7 of this tariff, the Company may terminate service or may deny service to a customer who fails to install a backflow-prevention assembly as required by this tariff
4. The Company shall give any existing customer who is required to install a backflow-prevention assembly written notice of said requirement. If A.A.C. R14-2-410.B.1.a. is **not** applicable, the customer shall be given thirty (30) days from the time such written notice is received in which to comply with this notice. If the customer can show good cause as to why he cannot install the device within thirty (30) days, the Company or Commission Staff may suspend this requirement for a reasonable period of time.

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**\*\*FOR OFFICIAL USE ONLY\*\***

Effective Date: \_\_\_\_\_

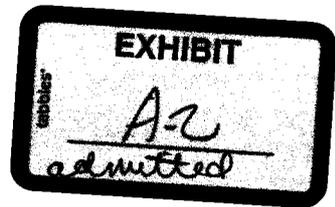
Company Name: ARROYO WATER COMPANY, INC. Page 2 of 2

5. Testing shall be in conformance with the requirements of A.A.C. R18-4-115.F. The Company may require the customer to pay to have the backflow-prevention assembly tested as long as the Company does not require an unreasonable number of tests.
6. The customer shall provide the Company with records of installation and testing. For each backflow-prevention assembly, these records shall include:
  - a. assembly identification number and description;
  - b. location
  - c. date(s) of test(s);
  - d. description of repairs and recommendations for repairs made by tester; and
  - e. the tester's name and certificate number.
7. In the event the backflow-prevention assembly does not function properly or fails any test, and an obvious hazard as contemplated under A.A.C. R14-2-410.B.1.a. exists, the Company may terminate service immediately and without notice. The backflow-prevention assembly shall be repaired or replaced by the customer and retested.
8. In the event the backflow-prevention assembly does not function properly or fails any test, or in the event that a customer fails to comply with the testing requirement, and A.A.C. R14-2-410.B.1.a. is **not** applicable, the backflow-prevention assembly shall be repaired or replaced within fourteen (14) days of the initial discovery of the deficiency in the assembly or its function. Failure to remedy the deficiency or dysfunction of the assembly, or failure to retest, shall be grounds for termination of water service in accordance with A.A.C. R14-2-410.

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**\*\*FOR OFFICIAL USE ONLY\*\***

Effective Date: \_\_\_\_\_



Cover Sheet  
Arizona Corporation Commission  
Docket Control Center

Company/Case Name ARROYO WATER Co., Inc  
Doing Business As (d/b/a) \_\_\_\_\_  
Docket Number (s) W-04286A-04-0774

Description of Document or Nature of Action  
Please choose the item that best describes the nature of the case/filing.

UTILITIES - NEW APPLICATION

- |   |   |
|---|---|
| <input type="checkbox"/> New CC&N   | <input type="checkbox"/> Main Extension                         |
| <input type="checkbox"/> Rates  | <input type="checkbox"/> Contract/Agreements                    |
| <input type="checkbox"/> Interim Rates  | <input type="checkbox"/> Formal Complaint                       |
| <input type="checkbox"/> Cancellation of CC&N   | <input type="checkbox"/> Waiver/Rule Variance                   |
| <input type="checkbox"/> Deletion of CC&N   | <input type="checkbox"/> Line Siting Committee Case             |
| <input type="checkbox"/> Extension of CC&N  | <input type="checkbox"/> Small Water Company - Surcharge        |
| <input type="checkbox"/> Tariff (NEW)   | <input type="checkbox"/> Sale of Assets & Transfer of Ownership |
| <input type="checkbox"/> Request for Arbitration  | <input type="checkbox"/> Sale of Assets & Cancellation of CC&N  |
| <input type="checkbox"/> Full or Partially Arbitrated                                       | <input type="checkbox"/> Fuel Adjuster/PGA                      |
| <input type="checkbox"/> Interconnection Agreement  | <input type="checkbox"/> Merger                                 |
| <input type="checkbox"/> Voluntary Interconnection Agreement                                | <input type="checkbox"/> Financing                              |
| <input checked="" type="checkbox"/> Miscellaneous - Specify: <u>FRANCHISE - GILA COUNTY</u> |   |

UTILITIES - REVISIONS/AMENDMENTS TO PENDING OR APPROVED MATTERS

Application: \_\_\_\_\_  Tariff: (Promotional or Compliance)  
(Circle One)  
Company \_\_\_\_\_ Decision No. \_\_\_\_\_  
Docket Number \_\_\_\_\_ Docket No: \_\_\_\_\_

SECURITIES or MISCELLANEOUS FILINGS

- |   |   |
|---|---|
| <input type="checkbox"/> Affidavit (Publication, Public Notice) | <input type="checkbox"/> Request/Motion for Extension of Time |
| <input type="checkbox"/> Comments                               | <input type="checkbox"/> Request/Motion for a Hearing         |
| <input type="checkbox"/> Exception                              | <input type="checkbox"/> Request/Motion for an Intervention   |
| <input type="checkbox"/> Exhibit(s)                             | <input type="checkbox"/> Miscellaneous Request/Motion         |
| <input type="checkbox"/> Notice of Appearance/Intent            | <input type="checkbox"/> Request/Motion for a Re-hearing      |
| <input type="checkbox"/> Notice of Errata                       | <input type="checkbox"/> Request/Motion to Continue Hearing   |
| <input type="checkbox"/> Opposition                             | <input type="checkbox"/> Request/Motion to Strike             |
| <input type="checkbox"/> Petition                               | <input type="checkbox"/> Response                             |
|   | <input type="checkbox"/> Testimony                            |
|   | <input type="checkbox"/> Waiver                               |
|   | <input type="checkbox"/> Witness List                         |
|   | <input type="checkbox"/> Intervention                         |

OTHER: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2-15-07  
Date

KACY TARKER  
Print the name of the person whose signature appears on the filing  
(i.e. Contact Person, Respondent, Attorney, Applicant, etc.)



**WHEREAS**, the proposed water service area is legally described as 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; and,

**WHEREAS**, the above named petitioner is an Arizona public service corporation that will operate its water utility service in Gila County pursuant to a Certificate of Convenience and Necessity granted by the Arizona Corporation Commission; and,

**WHEREAS**, upon filing of said application, the Board of Supervisors ordered the public notice of the intention of the Board to make such a grant by publication in the *Arizona Silver Belt*, once a week, three times consecutively on January 17, 2007, January 24, 2007, and January 31, 2007, and noticing that on Tuesday, February 6, 2007, the Gila County Board of Supervisors would consider the application at the courthouse at 1400 E. Ash Street in Globe; and,

**WHEREAS**, the *Arizona Silver Belt* has provided the Gila County Board of Supervisors with an affidavit that the notice had been published at least once a week for three consecutive weeks in the newspaper; and,

**WHEREAS**, notice was also regularly given pursuant to A.R.S. §38-431; and,

**WHEREAS**, this matter appeared before the Gila County Board of Supervisors on February 6, 2007, and no one appeared in opposition thereto; and,

**WHEREAS**, it appears that it will benefit the public safety, health or welfare in the granting of this franchise and that the Franchisee has complied with all necessary laws to enable it to receive such a franchise.

**NOW, THEREFORE, IT IS RESOLVED** that a franchise be granted to ARROYO WATER COMPANY, INC. for the purpose of entering all present and future

public highways, roads, streets, alleys, thoroughfares (except state highways and except within the present confines of any incorporated city or town) for the period of fifteen (15) years, unless earlier terminated, to construct, operate and maintain water service facilities within the unincorporated areas of Gila County, specifically providing, however, that:

1. All rights hereunder are granted under the express condition that the Board of Supervisors of Gila County shall have the power at any time to impose such restrictions and limitations and to make such regulations on such highways, roads, streets, alleys and thoroughfares as may be deemed best for the public safety, welfare and convenience.

2. All rights hereunder are granted on the express condition that the Franchisee shall bear all expenses, including damage and compensation, for any alteration of the direction, surface grade or alignment of a county road or any other such highway, road, street, alley, or thoroughfare occasioned by the exercise of its franchise rights. If such road improvements are necessary and the Franchisee fails to make such improvements or bear all expenses necessary within 45 days after notification by Gila County, this grant shall be immediately rescinded and without any force or effect. Franchisee shall erect and maintain all necessary safety precautions throughout the period of the improvements.

3. All rights hereby granted shall be exercised so as not to interfere or conflict with any easement or right-of-way heretofore granted by said Board of Supervisors. Before Franchisee enters upon any highway, road, street, alley or thoroughfare that requires a right-of-way permit from the Gila County Public Works

Division pursuant to Ordinance 97-3, Franchisee shall apply for and receive such a permit.

4. All water system facilities constructed, operated and maintained pursuant to this franchise shall be placed, removed or relocated, initially and throughout the term of this franchise, along, in, or, under, over and across the said highways, roads and thoroughfares in such manner and location as the Board of Supervisors or its duly authorized agents may approve. Such placement, removal or relocation shall be done at the sole expense of the Franchisee upon a determination by the Board of Supervisors of Gila County that such facilities interfere unduly with vehicular traffic over any such highway, road, street, alley, or thoroughfare. In all other instances, the costs incurred in relocating such facilities shall be borne by and added to the costs of the public or private improvement causing or resulting in such relocation.

5. Franchisee shall indemnify, defend, and save harmless Gila County from all costs, expenses and liabilities in connection with the grant of this franchise and exercise of the same by Franchisee.

6. The franchise granted herein shall not be deemed exclusive and the Board of Supervisors expressly reserves the right to grant from time to time similar franchises over the same territory, highways, roads, streets, alleys and thoroughfares.

7. The right, privilege and franchise granted herein shall be binding upon and inure to the benefit of Franchisee, its successors and assigns; provided, however, that no transfer or assignment shall be made without prior written notice to the Board of Supervisors.

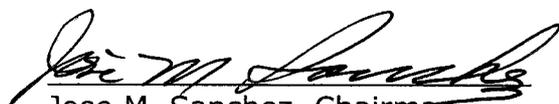
8. In the event Gila County takes action to dispose of unnecessary public roadways in accordance with the provisions of Arizona Revised Statutes 28-7201, et seq., Gila County shall recognize and preserve each of Grantee's prior rights-of-way, easements, and rights under this Franchise which are affected thereby, as they existed prior to such disposition.

9. This franchise is granted upon the express condition that a Certificate of Convenience and Necessity be acquired from the Arizona Corporation Commission within twelve (12) months of the date of this franchise and all delinquent property taxes are paid to the Gila County Treasurer within 30 days of receiving the Certificate of Convenience and Necessity; and if such Certificate is not acquired within twelve (12) months from this date and the property taxes are not paid within the required time frame, this franchise shall be null and void.

10. A copy of the Certificate of Convenience and Necessity must be submitted to the Clerk of the Board of Supervisors within the twelve (12) month period along with proof of payment of the delinquent property taxes.

11. This franchise supercedes and revokes any other existing franchise between Gila County and Arroyo Water Company, Inc.

**IN WITNESS THEREOF** the Board of Supervisors of Gila County, State of Arizona, by its chairman and clerk, have hereunto set their hand and caused its official seal to be affixed this 6<sup>th</sup> day of February 2007.

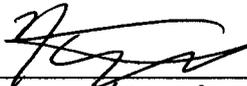
  
Jose M. Sanchez, Chairman  
Gila County Board of Supervisors

  
Steven L. Besich, Clerk  
Gila County Board of Supervisors

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Bryan Chambers  
Chief Deputy County Attorney

The foregoing terms and conditions are hereby accepted by the Franchisee.

By  \_\_\_\_\_  
Rylee PARKER

Title owner

Date 2-6-07

JUN-13-2003 13:49

TUCSON WATER MAPPING/GIS

520 791 5200 P.09/09

**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, G11a and Salt River Base Meridian.**

TOTAL P.09

**KYLE PARKER**  
HC 6 BOX 1048 H  
PAYSON, ARIZONA 85541  
928-474-1766  
FAX: 928-474-7812

November 22, 2006

**Marian Sheppard**

**Gila County Board of Supervisors**

1400 E. Ash

Globe, Arizona 85501

Phone: 928-402-8757

Fax: 928-402-8755

**Re: Arroyo Water Company, Inc.  
Franchise**

Dear Ms. Sheppard;

In response to our phone conversation and your letter written November 22, 2006, received via fax, we are attempting to provide you with the following request information.

It is the full intention of Kyle Parker upon receipt of the CC&N, granted by the Arizona Corporation Commission and Franchise issued by Gila County to within the 30 days to bring current the property taxes owed to Gila County Treasurer by Arroyo Water Company Inc.  
(Approximately \$10,000)

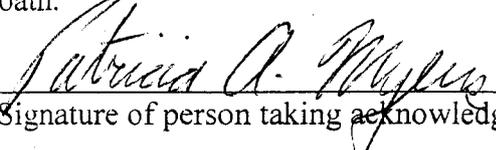
Sincerely,

  
Kyle Parker

Copy: Arizona Corporation Commission

**Notary:**

The foregoing instrument was acknowledged before me this 24th November day of 2006; By Kyle Parker, who is personally known by me or has produced AZID 001467541 x none, as identification and who did/did not take an oath.

  
Signature of person taking acknowledgement

 PATRICIA A MYERS  
NOTARY PUBLIC - ARIZONA  
GILA COUNTY  
My Commission Expires  
May 7, 2009  
Printed or stamped name of per taking  
acknowledgement

**Tommie C. Martin, District I**  
 P.O. Box 2297, Payson 85547  
 (928) 474-2029  
 tmartin@co.gila.az.us

**José M. Sanchez, District II**  
 (928) 402-8753  
 jsanchez@co.gila.az.us

**Shirley L. Dawson, District III**  
 (928) 402-8511  
 sdawson@co.gila.az.us



**Steven L. Besich, County Manager/  
 Clerk of the Board of Supervisors**  
 (928) 402-8761  
 sbesich@co.gila.az.us

**John F. Nelson, Deputy County Manager**  
 (928) 402-8754  
 jnelson@co.gila.az.us

**GILA COUNTY**  
**BOARD OF SUPERVISORS**  
 1400 E. Ash  
 Globe, Arizona 85501

November 22, 2006

via facsimile transmission to 928-474-7812

Mr. Kyle Parker  
 Arroyo Water Company  
 HC 6 Box 1048 L  
 Payson, Arizona 85541

Re: Arroyo Water Company

Dear Mr. Parker:

In order that you, the Arizona Corporation Commission (ACC) and I are all on the same page with regard to Arroyo Water Company (Arroyo), I will recap the conversation I had with Brian Bozzo of the ACC and the verbal agreement you and I made on the phone earlier today, as follows:

- ❖ 11/20/06 – I spoke with Mr. Bozzo regarding the issues pertaining to Arroyo. Mr. Bozzo and I agreed that the ACC and Gila County are both in a “catch 22” situation with regard to Arroyo. The ACC is requesting that Arroyo meet 8 requirements before the ACC will issue Arroyo a Certificate of Convenience and Necessity (CC&N). One of the 8 requirements is that Arroyo must obtain a franchise license from the Gila County Board of Supervisors (BOS). The BOS will not issue a franchise license until the issue of ownership has been confirmed by the ACC and an agreement has been made regarding payment of back property taxes owed to Gila County in the amount of approximately \$10,000.

I presented Mr. Bozzo with a possible resolution to the situation. If the ACC concurs with me on the next step in the process, I will process the franchise license application for Arroyo with the condition that BOS approval is contingent upon: 1) Arroyo presenting a copy of the CC&N issued by the ACC within a certain period of time (6 months or 1 year as recommended by the ACC); and, 2) the back taxes are paid to the Gila County Treasurer within 30 days from the time the BOS issues the franchise license.

- ❖ 11/20/06 – After our phone conversation, Mr. Bozzo sent me an email stating that he will talk with the ACC analyst assigned to the case (Ms. Blessing Chukwu) and the ACC engineer assigned to the case (Mr. Del Smith) regarding my proposal. We agreed that I will not proceed further with the application until I hear back from Mr. Bozzo.

Mr. Kyle Parker  
November 22, 2006  
Page Two

❖ 11/21/06 – You and I agreed as follows:

1. You will fax me a copy of the purchase agreement between Kyle and Kacy Parker and Rich Williamson. (I received the Addendum to Purchase Agreement; however, I would also like you to send the Purchase Agreement.)
2. You will send me the most current financial statements for Arroyo to process with the franchise license application.
3. You will send me a letter advising of the situation with the ACC and where you stand to date with the application you submitted to Gila County. This will letter will help the BOS and the County Attorney's Office review the application. (You may want to start your letter by explaining the initial purchase transaction and that unbeknownst to you at the time of purchase Mr. Williamson should have contacted the ACC before he sold the company to you, as it is a requirement of the ACC to be informed. From there I would list the ACC's 8 issues of concern and where you stand to date on those issues and that you and I working together with the ACC to resolve all of the problems. Please also state that you intend to pay the back taxes owed to Gila County within 30 days from the time the BOS issues the franchise license.)

I will let you know when I hear back from Mr. Bozzo. Please don't hesitate to call if you have any questions or concerns at 928-402-8757.

Sincerely,



Marian Sheppard  
Chief Deputy Clerk of the Board

/ms

Brian Bozzo via email

**L. A. P. CONTRACTING**  
**DBA/ PARKER EXCAVATING**  
**HC 6 BOX 1048 H**  
**PAYSON, ARIZONA 85541**  
**928-474-1766**  
**FAX: 928-474-7812**

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December 28, 2006

Ms. Marian Sheppard  
Gila County Board of Supervisors  
1400 E. Ash  
Globe, Arizona 85501  
Phone: 928-402-8757  
Fax: 928-402-8755

RE: Arroyo Water Company  
Application for Franchise

Dear Ms. Sheppard;

On behalf of Arroyo Water Company, L.A.P. Contracting dba/Parker Excavating, wish to submit our most current financial statement for the year 2005. The purpose of L.A.P. submitting financials is due to it being the financial support for Arroyo Water Company until the CC& N is approved. At this time, Arroyo has not generated enough revenue to pay monthly expenses.

We have submitted to the Arizona Corporation Commission the requested items with exception to our Annual Reports and this franchise which we are working on at this time.

Thank you for your efforts on our behalf. It is advantageous to our customers and all involved to expedite the CC&N.

Sincerely,

Kacy Parker  
Kyle Parker

Enclosure: Financial Report for L.A.P. Contracting

S-1

ORIGINAL

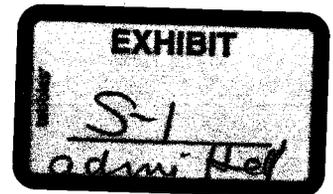
MEMORANDUM RECEIVED

30

2005 JUN 24 P 12:41

TO: Docket Control  
FROM: Ernest G. Johnson  
Director  
Utilities Division

AZ CORP COMMISSION  
DOCUMENT CONTROL



Date: June 24, 2005

RE: STAFF REPORT FOR 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)

Attached is the Staff Report for Kacy Parker dba Arroyo Water Company, Inc.'s application for Certificate of Convenience and Necessity and for the approval of sale of assets. Staff recommends that the Company provide additional information to Staff.

EGJ:BNC:lmh

Originator: Blessing Chukwu

Arizona Corporation Commission  
**DOCKETED**

JUN 24 2005

DOCKETED BY

Service List for: Arroyo Water Company, Inc.  
Docket Nos. W-04286A-04-0774

Mr. Kacy Parker, President  
Arroyo Water Company, Inc.  
HC6 Box 1048-H  
Payson, Arizona 85541

Mr. Richard Williamson  
Arroyo Water Company, Inc.  
Post Office Box 231  
Young, Arizona 85554

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

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

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

STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION

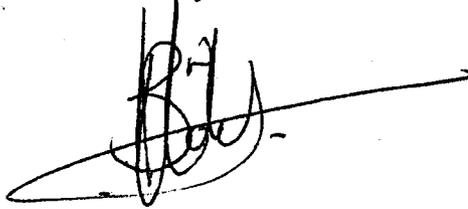
ARROYO WATER COMPANY, INC.  
DOCKET NO. W-04286A-04-0774

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

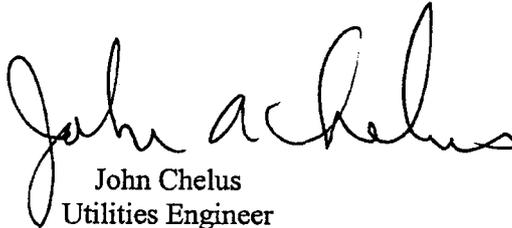
JUNE 2005

## STAFF ACKNOWLEDGMENT

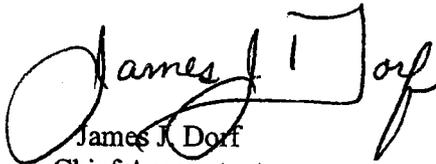
The Staff Report for Kacy Parker dba Arroyo Water Company (Docket No. W-04286A-04-0774) was the responsibility of the Staff members signed below. Blessing Chukwu was responsible for the review and analysis of the Company's application. John Chelus was responsible for the engineering and technical analysis.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



Blessing Chukwu  
Executive Consultant



John Chelus  
Utilities Engineer



James J. Dorf  
Chief Accountant

**EXECUTIVE SUMMARY**  
**ARROYO WATER COMPANY, INC.**  
**APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY AND**  
**FOR APPROVAL OF SALE OF ASSETS**  
**DOCKET NO. W-04286A-04-0774**

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 the instant 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 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, Inc.

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 91 customers in a portion of Gila County, Arizona. The Company is the successor-in-interest to the assets of Arroyo Water Company, Inc., dba Tonto 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.)

Mr. Kacy Parker and Mr. Kyle Parker purchased the Company from Mr. Richard Williamson for \$45,000 on March 25, 2003. Mr. Kacy Parker is the President of the Company, whereas his father Mr. Kyle Parker is the Vice President. Mr. John Otten is the on-site manager.

According to the Arizona Department of Environmental Quality ("ADEQ"), Arroyo Water has no major deficiencies and is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4. However, the ADEQ indicated in its report that "[i]t appears as though this system does not have the minimum storage capacity that is equal to its population's average daily water."

In order for Staff to determine whether or not to support the relief requested by Arroyo Water, Staff needs additional information in order to complete its review and analysis. As such, Staff recommends:

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

2. That the Company be required to provide the requests for service from property owners in the service territory that is covered by the CC&N application that are outside the original Sheer Speed CC&N area.
3. That the Company be required to provide evidence or an affidavit that proper notice was provided to the affected customers regarding the application for CC&N and for approval of sale of assets.
4. That the Company be required to file its annual reports for the years 2003 and 2004.
5. 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.
6. 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.
7. That the Company be required to provide the Gila County franchise approval for the area being requested.
8. That the Company be required to provide a certification, receipt and/or cancelled check from Gila County Treasurer's Office that all liens have been paid.

With regards to the proposed rates and charges, Staff recommends:

1. That the Company be required to charge the rates and charges noted at Exhibit I. 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 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.
4. That the Company be required to maintain its books and records in accordance with the NARUC Uniform System of Accounts.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION.....	1
BACKGROUND.....	1
THE WATER SYSTEM.....	2
OWNERSHIP STATUS.....	3
OPERATIONAL STATUS.....	3
ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY COMPLIANCE ISSUES .....	4
ACC COMPLIANCE ISSUES.....	5
RATES AND CHARGES .....	5
OTHER RELEVANT INFORMATION REGARDING ARROYO WATER.....	5
RECOMMENDATION .....	6

EXHIBIT(S)

TARIFF SCHEDULE.....	I
ENGINEERING MAP.....	II

## 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 the instant 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 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.

## 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 91 customers in a portion of Gila County, Arizona. The Company is the successor-in-interest to the assets of Arroyo Water Company, Inc., dba Tonto 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 "[f]or 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, Utilities Division Consumer Services Staff (“Consumer Services”) received information from a customer contact that led Consumer Services 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, Consumer Services 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 an 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 Water System**

Arroyo Water system’s assets consist of a Main Well that pumps 90 gallons per minute, a 12,000 gallon storage tank, a 1,000 gallon pressure tank, a 5 hp well pump, a 3 hp well pump, a 3 hp booster pump, controls and electrical service at well site, 91 metered connections, and assorted pipe valves and service lines.

### Ownership Status

On June 8, 2005, Staff met with Mr. Kacy Parker for a site inspection of the Arroyo Water system.<sup>1</sup> During the site inspection, Mr. Kacy Parker informed Staff that the Company was purchased from Mr. Richard Williamson for \$45,000 on March 25, 2003. 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 supports the assertion. 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.<sup>2</sup> According to Mr. Kacy Parker, Mr. Kyle Parker serves primarily as an investor in the Company and is not involved in the day-to-day operations of the Company.<sup>3</sup> Mr. Kyle Parker's involvement is limited to advice when it is requested.<sup>4</sup>

### Operational Status

Arroyo Water system is located near the Town of Punkin Center, Arizona, approximately 43 miles from Payson, Arizona, in Gila County. The system had 84 customers two years ago when it was bought from Mr. Williamson and currently has 91 customers. Approximately 85 percent of the customers are full-time residential customers and 15 percent are seasonal customers. Arroyo Water currently has one employee, Mr. John Otten, who is the on-site manager. According to Mr. Kacy Parker, Mr. Otten serves as the 24 hour contact and provides basic maintenance to the system (including new meter installation, collecting and delivering samples to Flagstaff, cleaning and weed eating the system and fixing small system problems

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<sup>1</sup> Mr. John Chelus, ACC Utilities Engineer, conducted a site inspection of the Arroyo Water system on June 8, 2005.

<sup>2</sup> On June 13, 2005, Mr. Brian Bozzo, Manager of the ACC Utilities Division Compliance and Enforcement Section, had a Telephone Conference call with Mr. Kacy Parker and discussed ownership and operational status of Arroyo Water Company, Inc.

<sup>3</sup> Id.

<sup>4</sup> Id.

such as faulty float switch or hole in the pressure tank).<sup>5</sup> Mr. Parker and Mr. Otten conduct the testing of the system.<sup>6</sup>

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 Mr. Kacy Parker, although the contract provides for Mr. Williamson to provide professional engineering services to Arroyo Water, Mr. Williamson has not been involved in the operation of the company in approximately two years.<sup>7</sup> However, Mr. Kacy Parker stated that Mr. Williamson could potentially be involved in any larger projects that might be required such as main line extensions and a storage tank.<sup>8</sup>

#### **Arizona Department of Environmental Quality ("ADEQ") Compliance Issues**

Staff contacted the ADEQ to determine the status of Arroyo Water's compliance with ADEQ. In response to Staff's request, ADEQ provided a Drinking Water Compliance Report. The report indicates that Arroyo Water has no major deficiencies and that the Company is currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4. However, the ADEQ indicated in the report that "[i]t appears as though this system does not have the minimum storage capacity that is equal to its population's average daily water demand."

According to Staff's July 30, 2004 Memorandum filed in Docket No. W-03672A-01-0474, Mr. Pat Finton of ADEQ informed Mr. Kacy Parker on July 29, 2004, during a meeting between Staff, Mr. Parker and Mr. Finton that a Notice of Violation would be issued for lack of storage during the next ADEQ inspection. According to the Drinking Water Compliance Report, the last ADEQ inspection was done on February 22, 2000. During the June 13, 2005 Telephone Conference Call between Staff and Mr. Kacy Parker, Mr. Parker acknowledged that he was aware that the system has storage and pressure problems and that ADEQ had told the Company not to hook-up new customers until the storage/pressure issue is addressed.

During the June 8, 2005 site inspection, Staff noted that the Company has not yet added any storage to the system, but is in the process of acquiring additional wells that will be added to the system as soon as the Commission issues a CC&N to the Company. The Company has a site available to install a storage tank, pressure tanks, and booster pumps and has purchased another well which will become part of the system once the ownership transfer is approved. The water system at times experiences low pressure problems. Staff believes that the low pressure problems would be solved if the storage and booster facilities were installed.

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<sup>5</sup> June 13, 2005, Telephone Conference Call between Mr. Bozzo and Mr. Kacy Parker.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id.

### **ACC Compliance Issues**

Decision No. 61149 required Arroyo Water Co. dba Tonto Basin Water Co., Sheer Speed, Inc. 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 the Company to resolve those issues. In Decision No. 61892 issued August 27, 1999, it was determined that the Company 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.

Under the dba name Tonto Basin Water Company, Sheer Speed, Inc., a check of the Compliance database indicates that there were three delinquent compliance items. The three compliance items relate to Decision No. 61892 ordering the Company 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 the Company; 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 the Company 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 the Company assessing a penalty of \$100 a day as Ordered in Decision No. 61892. An Enforcement Order was issued June 16, 2000 finding that the Company had failed to comply within 90 days of Decision No. 61892, and a penalty was due to date for the Company being 203 days past the compliance date of November 26, 1999. The Company 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 the Company, 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. The Company was subsequently sold to the Parkers on March 25, 2003.

### **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 Exhibit I. At that time the Company was owned by Sheer Speed, Inc. dba Tonto Basin

Water Co.<sup>9</sup> 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.

#### **Other Relevant Information regarding Arroyo Water**

- Although not specifically requested as part of the update, 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 June 15, 2005, the fine is estimated at approximately \$201,400. If the fine stopped on March 25, 2003, then Mr. Williamson is obligated to pay approximately \$121,600, 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.
- During the June 8, 2005 site inspection, Mr. Kacy Parker informed Staff that there is still 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, Mr. Kacy Parker alleged 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.<sup>10</sup>
- The Company is requesting approval for a service area much larger than was previously approved for Sheer Speed, Inc. The area is growing very fast and according to the Company, there have been many requests for service.
- The Company has not filed an annual report.
- The Company has not provided the arsenic concentration level for its well.

<sup>9</sup> 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).

<sup>10</sup> On June 13, 2005, at 4:45pm, Blessing Chukwu called the Gila County Treasurer's Office (928-402-8703) to verify the outstanding property tax owed by Arroyo Water Company, Inc. According to Ms. Terri Towell of the Gila County Treasurer's Office, the outstanding amount as of June 13, 2005, is \$8,886.53. After June 27, 2005, the amount will increase. Ms. Towell, also stated that had Mr. Richard Williamson paid the property tax on March 26, 2003, he would have been responsible for \$5,600.83. \$3,285.70 is the amount of property tax that has accrued since Arroyo Water Company, Inc. was acquired by the Parkers.

- According to Utilities Division's Consumer Services Database, there were eight complaints, inquiries and/or opinions received from 2003 through June 14, 2005. They include one billing address inquiry, one no bill received, two billing disputes, two outages (one low pressure and one interruption – no water), and two inquiries on CC&N.

### **Recommendation**

In order for Staff to determine whether or not to support the relief requested by the Arroyo Water, Staff needs additional information in order to complete its review and analysis. As such, Staff recommends:

1. That the Company be required to provide its water use data sheet.
2. That the Company be required to provide the requests for service from property owners in the service territory that is covered by the CC&N application that are outside the original Sheer Speed CC&N area.
3. That the Company be required to provide evidence or an affidavit that proper notice was provided to the affected customers regarding the application for CC&N and for approval of sale of assets.
4. That the Company be required to file its annual reports for the years 2003 and 2004.
5. 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.
6. 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.
7. That the Company be required to provide the Gila County franchise approval for the area being requested.
8. That the Company be required to provide a certification, receipt and/or cancelled check from Gila County Treasurer's Office that all liens have been paid.

With regards to the proposed rates and charges, Staff recommends:

1. That the Company be required to charge the rates and charges noted at Exhibit I. 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 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.
4. That the Company be required to maintain its books and records in accordance with the NARUC Uniform System of Accounts.

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 CHARGES

CUSTOMER/MINIMUM CHARGE  
PER MONTH

METER	CHARGE	GALLONS
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

METER	CHARGE
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**

TO: Blessing Chukwu  
Executive Consultant III  
Utilities Division

FROM: Barb Wells *bw*  
Information Technology Specialist  
Utilities Division

THRU: Del Smith *DS*  
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.

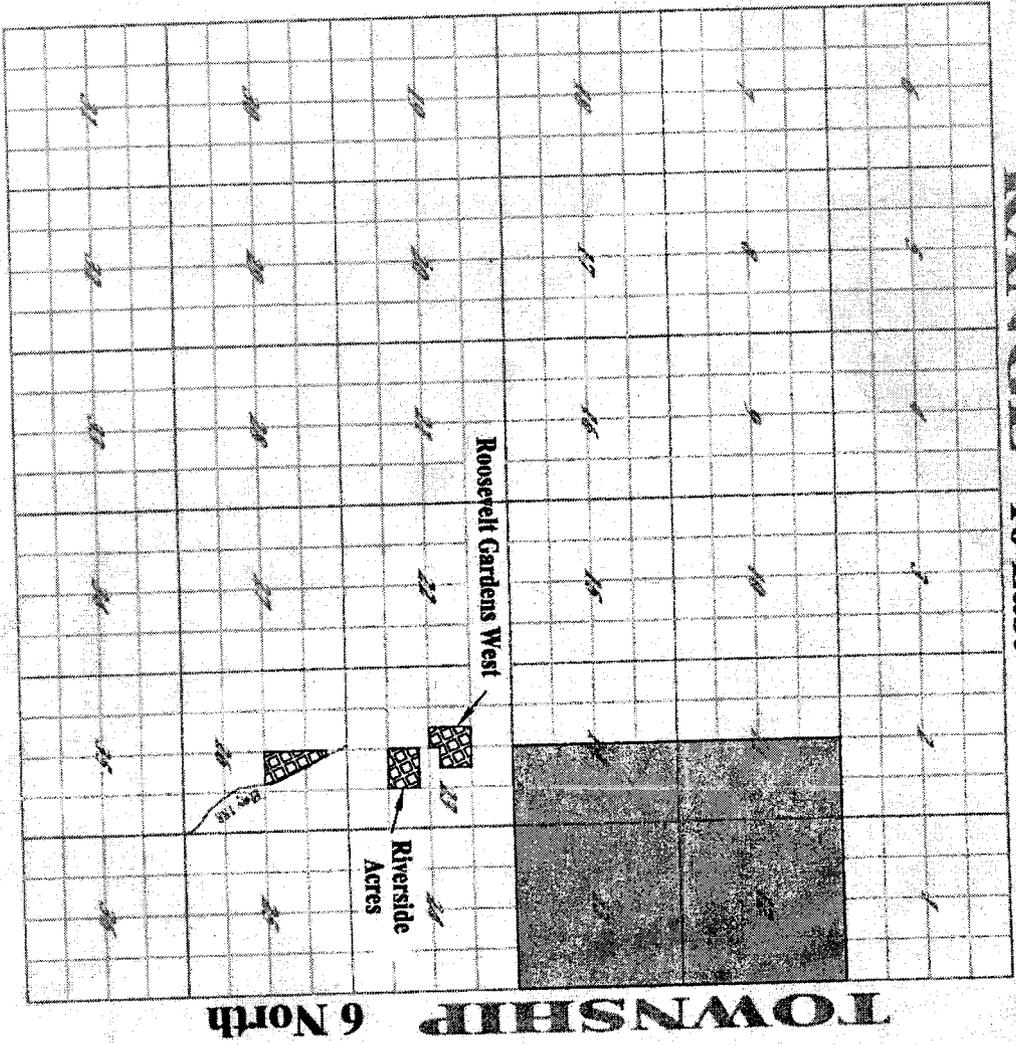
:bsw

Attachments

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

# COUNTY: Gila

## RANGE 10 East



Map No. 6



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.**

Chukwu

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

RECEIVED  
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 AZ CORP COMMISSION MAY 14 2007  
 DOCUMENT CONTROL  
 AZ CORP COMM  
 Director Utilities

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 14<sup>th</sup> day of May 2007.

*Kevin Torrey by Jamie Alward*  
 Kevin O. Torrey  
 Attorney, Legal Division  
 Arizona Corporation Commission  
 1200 West Washington Street  
 Phoenix, Arizona 85007  
 (602) 542-3402



Original and thirteen (13) copies  
 of the foregoing were filed this  
14<sup>th</sup> day of May 2007 with:

Docket Control  
 Arizona Corporation Commission  
 1200 West Washington Street  
 Phoenix, Arizona 85007

Copy of the foregoing mailed this  
14<sup>th</sup> day of May 2007 to:

1 Kacy Parker d/b/a Arroyo Water Company  
HC 6  
2 Box 1048-H  
Payson, Arizona 85541  
3 **(VIA CERTIFIED AND REGULAR  
MAIL)**

4 Richard W. Williamson  
5 Arroyo Water Company, Inc.  
Post Office Box 231  
6 Young, Arizona 85554  
7 **(VIA CERTIFIED AND REGULAR  
MAIL)**

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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  
Commissioner  
KRISTIN K. MAYES  
Commissioner  
GARY PIERCE  
Commissioner

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 )

DOCKET NO. W-04286A-04-0774

DIRECT

TESTIMONY

OF

BLESSING NKIRUKA CHUKWU

UTILITIES DIVISION

ARIZONA CORPORATION COMMISSION

MAY 14, 2007

**TABLE OF CONTENTS**

	<u>Page</u>
EXECUTIVE SUMMARY .....	i
I. INTRODUCTION .....	1
II. PURPOSE OF TESTIMONY .....	2
III. STAFF REPORT .....	2
 EXHIBIT BNC-1 Staff Report	
A. INTRODUCTION.....	1
B. BACKGROUND.....	1
C. THE WATER SYSTEM .....	3
D. THE TRANSACTION.....	4
E. ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (“ADEQ”) COMPLIANCE .....	5
F. ACC COMPLIANCE.....	6
G. ARSENIC.....	7
H. CURTAILMENT PLAN TARIFF .....	7
I. BACKFLOW PREVENTION TARIFF .....	7
J. RATES AND CHARGES .....	8
K. COUNTY FRANCHISE .....	8
L. OTHER RELEVANT INFORMATION REGARDING ARROYO WATER.....	9
M. RECOMMENDATION.....	10

**ATTACHMENTS**

N. TARIFF SCHEDULE .....	A
O. ENGINEERING REPORT.....	B
P. ENGINEERING MAP .....	C

**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](http://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](http://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 provides. 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

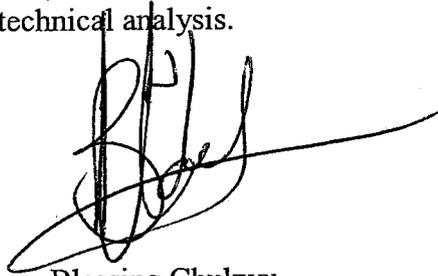
ARROYO WATER COMPANY, INC.  
DOCKET NO. W-04286A-04-0774

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 'B. 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

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION .....	1
BACKGROUND .....	1
THE WATER SYSTEM .....	3
THE TRANSACTION .....	4
ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (“ADEQ”) COMPLIANCE .....	5
ACC COMPLIANCE .....	6
ARSENIC .....	7
CURTAILMENT PLAN TARIFF .....	7
BACKFLOW PREVENTION TARIFF .....	7
RATES AND CHARGES .....	8
COUNTY FRANCHISE .....	8
OTHER RELEVANT INFORMATION REGARDING ARROYO WATER .....	9
RECOMMENDATION .....	10

ATTACHMENTS

TARIFF SCHEDULE .....	A
ENGINEERING REPORT .....	B
ENGINEERING MAP .....	C

## **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.<sup>1</sup> The Company is the successor-in-interest to the assets of Arroyo Water Company, Inc., dba Tonto

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<sup>1</sup> 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.<sup>2</sup> 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.<sup>3</sup> 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

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<sup>2</sup> 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).

<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> Mr. Kyle Parker's involvement is limited to advice when it is requested.<sup>6</sup>

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<sup>4</sup> 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.

<sup>5</sup> Id.

<sup>6</sup> 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.<sup>7</sup> 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,

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<sup>7</sup> 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 (" $\mu\text{g}/\text{l}$ ") or parts per billion ("ppb") to 10  $\mu\text{g}/\text{l}$ . The arsenic levels reported by the Company for the Arroyo Water system comply with the new arsenic standard of 10  $\mu\text{g}/\text{l}$ .<sup>8</sup>

### **Curtailment Plan Tariff**

A Curtailment 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 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](http://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.

### **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](http://www.azcc.gov/divisions/util/forms/Cross_c.pdf).

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<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup> 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

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<sup>9</sup> 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).

<sup>10</sup> 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](http://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](http://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  
Page 12

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 

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)

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### **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.<sup>1</sup> 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.

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<sup>1</sup> 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.<sup>2</sup> 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.

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<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup>

#### **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

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<sup>3</sup> ADEQ Drinking Water Compliance Status Report dated 7-14-06.

<sup>4</sup> 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](http://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](http://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.<sup>5</sup> 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.

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<sup>5</sup> 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](http://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](http://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.

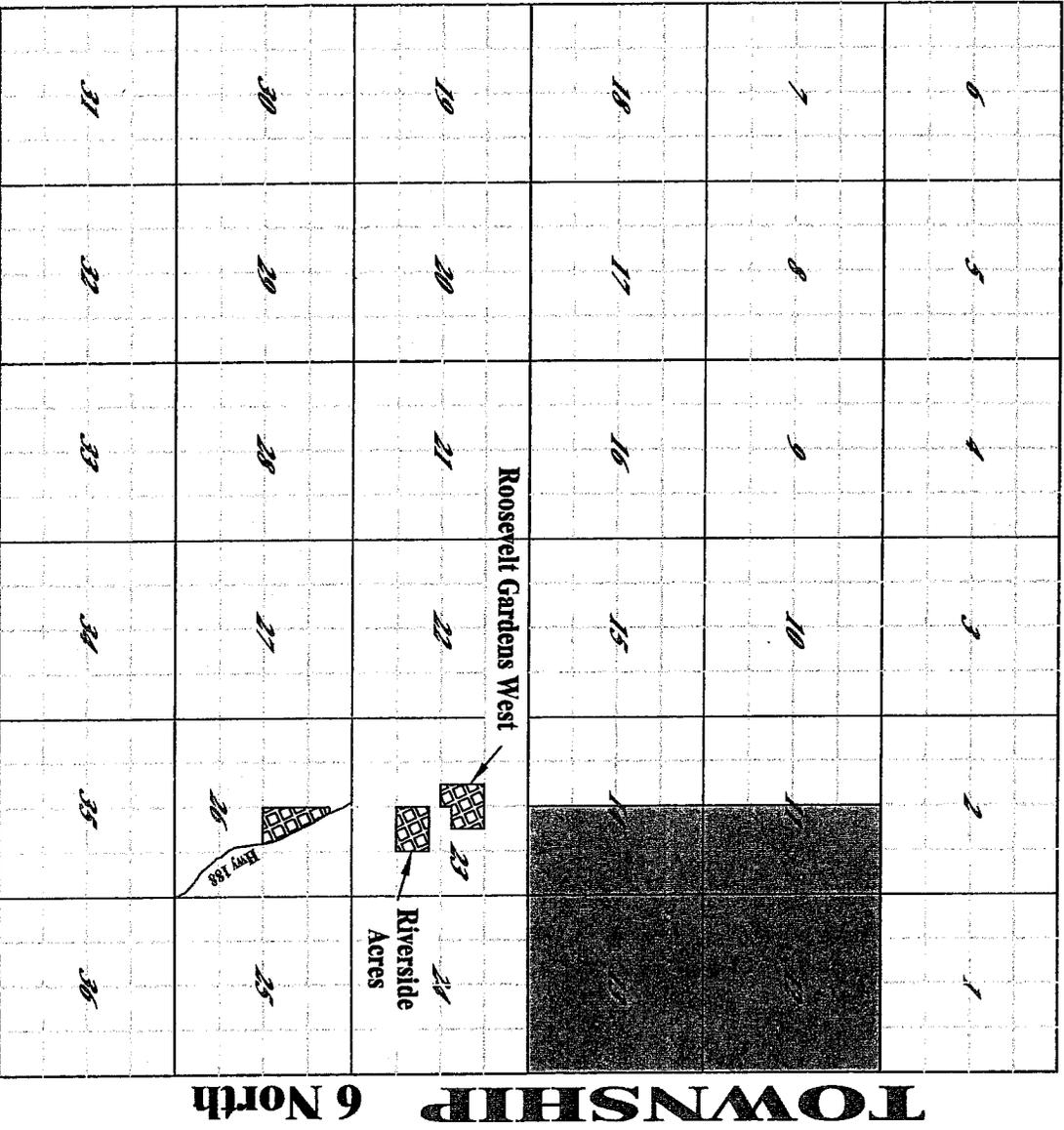
:bsw

Attachments

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

# COUNTY: Gila

## RANGE 10 East



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.**