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Arizona Corporation Commission
DOCKETED
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BEFORE THE ARIZONA CORPORATION COMMISSION

RAYMOND R. PUGEL AND JULIE B. PUGEL, husband and wife as trustees of THE RAYMOND R. PUGEL and JULIE B. PUGEL FAMILY TRUST, and ROBERT RANDALL and SALLY RANDALL, husband and wife Complainants, v. PINE WATER COMPANY, an Arizona Corporation Respondent..	DOCKET NO. W-03512A-06-0407 TESTIMONY OF HARRY JONES
ASSET TRUST MANAGEMENT, CORP. Complainants, v. PINE WATER COMPANY, an Arizona Corporation Respondent.	DOCKET NO.W-03512A-06-0613
JAMES HILL and SIOUX HILL, husband and wife and as trustees of THE HILL FAMILY TRUST, Complainants, v. PINE WATER COMPANY, an Arizona Corporation Respondent.	DOCKET NO. W-03512A-07-0100

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BRENT WEEKES, **Complainants,** **v.** **PINE WATER COMPANY, an Arizona Corporation** **Respondent.**	**DOCKET NO. W-03512A-07-0019**

INTRODUCTION AND QUALIFICATIONS

Q. PLEASE STATE YOUR NAME AND ADDRESS.

A. My name is Harry D. Jones. My business address is HDJ Management, LLC at HC7, Box 363, Payson, AZ 85541.

Q. WHAT IS YOUR PROFESSION AND BACKGROUND?

A. I am a general business consultant with a Ph.D. in Finance and Economics from Arizona State University. I have consulted to many small businesses and have completed a major engagement for a New York Stock Exchange firm, and major assignments for the Gila County, Arizona Board of Supervisors. Assignments have ranged from raising new equity or debt required for growth, to assignment for complete restructuring of business units, usually with an emphasis on financial statement analysis; to product/service costing, contract negotiations, and to analysis and coordination of various matters related to management of water issues. I have been involved in numerous merger and acquisition transactions. Over the last 30 years, I have been president of five manufacturing and service firms (one in prefabricated water pumping systems) with 7-350 employees.

I have been Chairman of the Rim Trail Domestic Water Improvement District located north of Payson Arizona off and on for 27 years. For 15 months in 2003 and 2004 I was engaged by the Board of Supervisors to administer the day-to-day affairs of the Pine/Strawberry Water Improvement District. Since the Pine/Strawberry assignment, I have continued under contract to Gila County to handle various water issues that involve interests of public entities and citizens of Northern Gila

County. As of April 2007, I have been the District Manager of Pine Creek Canyon Domestic Water Improvement District at Portal IV in Pine Arizona, the largest of the five water Districts in Northern Gila County. I currently represent Gil County's interest in the Mogollon Rim Water Resources Management Study (a $600,000 partnership between the County, the Town of Payson, and the Bureau of Reclamation, with assistance from Salt River Project, the Arizona Department of Water Resources, and Tonto National Forest) a project seeking a dependable long-term water supply for Northern Gila County.

Q. ON WHOSE BEHALF ARE TESTIFYING IN THIS PROCEEDING?

A. I am testify in this proceeding at the request of the Gila County Board of Supervisor member from District 1 which includes Pine and Strawberry and the majority of northern Gila County, and in behalf of the property owners, residents, business owners, citizens, and tax payers of Gila County.

Q. WHAT IS THE PURPOSE AND ORGANIZATION OF YOUR DIRECT TESTIMONY?

A. I will testify in support of the facts that (a) Pine Water Co. ("PWCo") is unable to reasonably provide adequate water service at just and reasonable rates to current and potential customers within its Certificate of Convenience and Necessity ("CC&N"), (b) that PWCo has put forth less than adequate and ineffective efforts to locate additional water sources for the CC&N, (c) PWCo has not taken advantage of water resources that are readily available and it is loosing a portion of the water resources previously available under water sharing agreements, (d) that residents, land owners, and business owners within the CC&N are being denied the opportunity to reasonably utilize their properties because of lack of adequate water service, (e) that the citizens, taxpayers, and government of Gila County suffers economically because of the inadequate water service in Pine, (f) the lack of adequate water service with the CC&N is a trend within the other PWCo affiliate companies owned by Brooke Utilities, Inc. and regulated by the ACC, and (g) that I wish to put the ACC on notice that the regulatory decisions made and actions taken in the past are not allowing the PWCo current and

potential customers and property owners the service benefits and fair market costs that are inherent in the issuance of a CC&N.

In addition to above factual points, my testimony will disclose that the following claims of PWCo (made over the years) are false: (1) there is "no more water" to be found under Pine Arizona, and (2) the reason that PWCo has inadequate supplies of water available to is customers is "the formation of domestic water improvement districts in the Pine" by the Gila County Board of Supervisors.

Also, I will testify as to the impact I project will occur to property owners, residents, business owners, and to the complainants if the CC&N is reduced in size by deletion of the territories owned by the Complainants.

Q. WHY DO BELIEVE THAT PWCo IS UNABLE TO PROVIDE ADEQUATE WATER SERVICE AT JUST AND REASONABLE RATES TO CURRENT AND POTENTIAL CUSTOMERS WITH ITS CC&N?

A. The fact that the ACC has had to order moratoriums on new service connections and main extensions for many years is evidence of inadequate service. The most recent moratorium dated 2006, which allowed zero new meters per month, is still in existence, as are the prior moratoriums that prohibited main extensions, both of which apply to all potential customers. In addition, PWCo has nearly every year had numerous days of non-voluntary staged water use restrictions (stage 3 or higher under the ACC approved water use restrictions). During June and July of 2007, there have been numerous days of Stage 3, 4, and 5 restrictions. All stages above Stage 3 requiring complete discontinuance of any outside water use and subjecting current customers to major fines and to significant hauling charges as approved by the ACC. Under the rules of the water augmentation plan, PWCo is required to haul purchased water at a cost many times the price of water produced within Pine.

Q. WHAT SUPPORT DO YOU HAVE FOR YOUR CLAIM THAT PWCO. HAS PUT FORTH LESS THAN ADEQUQATE AND INEFFECTIVE EFFORTS TO LOCATE AND MAKE AVAILBLE ADDITIONAL WATER RESOURCES TO THE CC&N AREA?

A. Historically, over the last 15 years, the four domestic water improvement districts ("DWIDs") within the Pine community have been able to drill productive wells (and in the case of Pine Water Association DWID to tap surface water sources) to provide existing and future customers with adequate water resources to meet virtually all needs, 24 hours per day 365 per year. In fact, one District (Solitude Trails), has historically (until the last few years), supplied excess waters to PWCo that amounts to 14% to 22% of all the water distributed by PWCo. Solitude Trails believes it continues to have the capacity to supply that proportion of the water to PWCo, but for some reason, the Company has the inability (or has refused) to take all the water Solitude Trails can produce, to the point Solitude Trails has shut down its smaller of two wells for lack of use by PWCo.

In addition to all the DWIDs having adequate water from wells historically used over the years, two highly productive new deep wells have been drilled and developed that are in deep aquifers in the Pine area. The first deep well in the Strawberry Hollow DWID (well located less than 50 feet from PWCo mains) was drilled in 2001 to a depth of 1,320 feet, with the District able to produce water for 72 homes at the rate of about 60 gpm. The amount of water found (excess water of 45 gpm at full build out of Strawberry Hollow) is enough to approximately serve 25% or more of the existing PWCo customers. This well has been developed to the point of it being granted a 100 year adequacy designation by ADEQ (one of only two communities in Northern Gila County with such a designation). Within the 100 year adequacy application, Strawberry Hollow DWID had offered to supply up to 25 gpm to the Pine community. The owner/developer of Strawberry Hollow, to be able to serve his own subdivision, had to go through legal proceedings to extract itself from the PWCo CC&N since PWCo could not supply water. The District faced lawsuits from PWCo in 2002-2004but was ultimately allowed to serve all its established geographical areas with adequate water resources, with ¾ of the water available to other water purveyors, none of which have required the resources, and PWCo unable to make an arrangement for use of the water. The Strawberry Hollow

property is legally outside the CC&N and is now highly successful and sold out, partially due to its excellent water service situation.

The second deep well owned by Milk Ranch, LLC (developed in 2005-2006) is within the southern end of the PWCo CC&N. It was drilled into what is believed to be the same deep aquifer as the Strawberry Hollow well, to a depth of 1045 feet, with water available at 150 gpm or more based on similar testing that was done to receive the 100 year adequacy at Strawberry Hollow. The Milk Ranch well site is within about 400' of PWCo distribution mains.

The question is, if four DWIDs and private entrepreneurs that need water can find it within or on lands that abut the CC&N, and at costs and risks they feel are economical and reasonable, why can't PWCo do the same? This lack of effort to explore for new water resources results in significant costs to customers, future customers, and to the businesses in the CC&N.

Q. WHAT SUPPORT DO YOU HAVE FOR YOUR CLAIMS THAT PWCo HAS NOT TAKEN ADVANTAGE OF WATER RESOURCES THAT ARE READILY AVAILABLE AND THAT IT IS LOOSING A PORTION OF THE WATER RESORUCES PREVIOULY AVAIILABLE UNDER WATER SHARING AGREEMENTS?

A. Within the compliant and application of Brent Weeks, as filed in this case on, he has indicated he is not renewing his water sharing agreement with PWCo, under which he has traditionally supplied significant proportions of the total water resources delivered by PWCo to its customers. This reduction in supply is troublesome and may lead to significant additional shortages or use restrictions.

In a conversation with Bill McKnight on July 22, 2007, he indicated he had notified Strawberry Water Co.(a sister company to PWCo that transports water from his well to the Magnolia pipeline for movement to Pine) that effective May of 2007 he was not renewing his well sharing agreement

with the Brooke Utilities, Inc. entities. Historically, for a period of 10 years, he indicates he has provided about 10-12 million gallons per year to the systems of Strawberry and Pine that are connected to each other by the Magnolia pipeline. Total water supplied by PWCo to its customers has been approximately 56 million gallons per year, thus the 10-12 reduction in supplies is significant.

Solitude Trails DWID ("STDWID") provided testimony to the Commissioners at the Town Hall meeting the ACC held in Pine two months ago. Mr. Fumusa, its Chairman has also filed several written complaints with the ACC that indicate that PWCo has gradually reduced the amount of water taken from the Districts wells over the last five years. Recently only about 50% of the production capacity is being delivered to the PWCo distribution system. Under this agreement PWCo operates the wells and delivers water first to the Solitude DWID tanks, and all excess to the PWCo system. Historically, only about 10% of the water goes to the Solitude system to serve about 35 homes. Because complete day-by-day records of pumping are not available to STDWID, the District does not know exactly when water is pumped, although they believe the wells are pumped heavily on weekend high demand days during the summer. The District believes that substantial more pumping could occur if wells were pumped for days ahead of the anticipated demand, with water stored in tanks for days, weeks, or months before the critical high demand weekends. This lack of storage capacity to cover peak demand spikes therefore forces PWCo to haul water to the Pine community, at costs that historically have been many times the cost of water pumped locally.

High water hauling costs do not ultimately land on PWCo, but are passed on directly the following month to the rate-payers of the company. The difference in cost of water locally produced under water sharing agreements has been $.50-$1.00 per 1,000 gallons versus $38-$45/1000 when hauled by truck, thus the non-storage and non use of all locally available low cost water is highly available to the consumers. Commission orders issued in about 2004 required that the company first utilize all the locally available water prior to hauling of any waters into the Pine system.

Q. WHAT SUPPORT DO YOU HAVE THAT THE RESIDENTS, LAND OWNERS, BUSINESS OWNERS, AND CITIZENS WITHIN THE CC&N ARE BEING DENIED THE OPPORTUNITY TO REASONABLY UTILIZE THEIR PROPERTY BECAUSE OF LACK OF ADEQUATE WATER SERVICE?

A. As the water issues point person for Gila County, many concerns, questions, and complaints related to water issues are directed to me each week by numerous concerned parties:

- Many new and long-term vacant lot owners wondering when they might have water available to their existing home sites.
- Lot owners attempting to obtain building permits from Gila County, but being denied because of moratoriums.
- Current full-time and part-time homeowners wanting to know what they can do about lack of adequate water service they actually face, or think they may face if they come for the weekend or for longer periods of time.
- Frustrated residents that want to know how to effectively complain about excessive incidents of broken mains, water outages, low pressure, lack of meter availability, etc. who are completely frustrated by inadequate responses or actions from PWCo.
- Business owners that complain about inadequate water service that causes shut-downs of restaurants, hotel rooms, meeting halls (like at the fire station), etc.
- Parcel owners (2-50 acres) wanting to know about water meter and water main availability to the few undivided parcels left in Pine..
- Current full-time residents that think they are discriminated against by water staging rules that have water stages at 1 or 2 at the start of the weekend, and gradually move to stages 3 as the weekend progresses, and then goes to Stage 4 during the middle of the week, until the whole staging process starts again on Saturdays, greatly inconveniencing full-timers.
- Realtors wanting to know current water situations in specific neighborhoods, or in general, so they know what to advise their clients.
- Potential property owners, mainly referred by real estate agents, wanting to understand the water service problems in the area.
- Media reports related to the above.

In summary, many residents cannot or do not utilize their properties. Businesses loose important revenues and parcel owners loose opportunities for timely development of the limited economic based of the community.

Q. WHY DO YOU FEEL THAT THE LACK OF ADEQUATE WATER SERVICE IN THE PINE AREA COSTS THE CITIZENS AND GILA COUNTY GOVERNMENT TO SUFFER ECONOMICALLY?

A. Over the years, the Pine area has suffered from significant negative publicity related to water problems. Prior to the County's involvement over the last five-six years, the ACC heard and mainly believed what PWCo documented in annual reports and what it presented in oral arguments and the rate application filed in 2003. During this same time period, the citizens and property owners have become more vocal about the limited use of their properties, and more concerned over what Gila County, the Pine/Strawberry Water District, the ACC and the Company could do about the problem. Thus, the County Supervisors have had to help finance major research projects (Strawberry borehole drilling to 1890' and the Mogollon Rim Water Resources Management Study) and to engage a part-time consultant for water issues, a part-time geologist, and a water attorney to help manage day-to-day water related issues, to evaluate what alternatives and directions to move towards in the future, and to establish a legal basis for working on the short- and long-run issues facing the citizens and property owners. The major focus of these consultants and research efforts has been the Pine/Strawberry area.

County management is faced with financing these efforts, which have helped keep the time of other staff and the Supervisors minimized, although the Building Department staff and the permit applicants have to go through many extra hoops to design alternative water systems (usually on-site water tanks that water is hauled to) necessary to get building permits issued. Disgruntled citizens frequently take out their frustration on the County's Building Department counter staff and management.

The County has not pushed for high growth, significant economic development programs, or job creation efforts in the CC&N area, but it does realize the importance of the Pine/Strawberry area in terms of additional tax base (property and sales taxes) needed to help finance day-to-day obligations of the County (mostly for required duplicate facilities in both Globe and Payson). Especially pressing is the ability of the County to finance the approximate $31 million jail and court facilities now being readied for bond and sales tax elections in the fall of 2007. Only ½ of 1% of the land in northern Gila County is private and subject to taxation, the rest being mainly national forest and tribal lands. No longer does a

significant tax base exists in northern Gila County for the timber, ranching, and mining industries, thus tourism and transitional second home resale activities, home remodeling, etc. have become a major economic engine. New home construction is important, but it has been significantly limited by water resources. Only about 10-15 new houses per year were built in the CC&N in the last few years, indicating most of the real estate, surveying, title insurance, home inspection, etc. activities is tied to the high-turnover residential, resale market. Population growth in the area is relatively low, and even in Payson it was recently report by the census to be only one-half of the growth rate of the rest of Arizona.

The limited residential and commercial properties in the Pine area have been underutilized mainly because of the water situation. Being surrounded by national forests creates a natural barrier to excessive long-term growth, however it is important to the County to have adequate water available so as to create a more progressive environment that allows property owners to fully utilize existing homes and to ultimately access commercial properties, already subdivided lands, and the few small tracts of land owned by the complainants. No doubt tourist business in the Pine/Strawberry area (as explained in numerous letters to the editors) is influenced by the lack of adequate water service.

Q. WHY HAVE YOU SUGGESTED THAT SEVERL OTHER COMMUNITIES IN THE RIM COUNTRY THAT TEND TO HAVE SIMILAR PROBEMS (ALL SERVED BY BROOKE UTILITIES) HAS ANYTHING TO DO WITH THE SITUATION IN PINE WATER CO.

A. I believe the problems in the other communities are a reflection of the trend or general policies of Brooke Utilities in terms of how they tend to look at their responsibilities related to development of long-term sustainable water supplies.

Other Brooke served communities with similar problems are:

- Geronimo Estates: This community has been on a full moratorium for 27 years. There are about 252 lots, with about 125 homes, and currently about 87 meters installed, with nine of those meters install under Order #68696 issued

by the ACC on 5-5-06 (reportedly only the one at the new fire station is being used at this time). During the last month parts of the community were completely out of water, and everyone was on Stage 4-5 for many days during June and July, 2007. A 2,000 gallon trailer tank was parked at the community for about two weeks, as the only source of water for people in the upper portions of the community. The company had temporarily used a homeowner's drive way to deliver water, but was blocked off due to unsafe conditions with the 18 wheeler on the step hill, which had to be pulled out by private trucks after unloading. The exact causes of the water shortages are not known to the residents, but many property owners have written and talked to the ACC about their dilemmas. Attempts to get the ACC engineering staff to come review the infrastructure to determine exact causes were unsuccessful.

- Whispering Pines: This community has a long history of marginal water availability. Twice in the last year the system has required boiling of water due to contamination. It has been on stage 4 and 5 during much of June and July 2007, with water hauled many days. Residents don't know exact causes of outages and low pressure other than water was "out". Residents greatly objected to being told by operators to stay at Stage 5, for several days after the tanks were refilled. This community's HOA has been unsuccessfully seeking meaningful responses from Brooke Utilities about future plans to capture some of the C.C. Cragin water for their community.
- Mesa Del Caballo: This community has numerous people upset over downsizing of storage tanks and the fact they were on stage 3-4 many days in June and July. They are upset that one resident was threatened with disconnection for using 35,000 gallons of water (prior to any staging restrictions) to fill his pond that is used for community fire protection.
- Strawberry: Many of these residents, within a separate sister company from Pine Water Co., seem to feel they have been quietly de-watered over the years by Brooke Utilities in order to keep Pine in water. Until water outages occurred from late May until July of 2007, this community was not too concerned, but they have become very active, feeling they have been ignored and their interests not well protected, especially in light of the terms of the May 1, 2007 agreement between Pine/Strawberry Water Improvement District and Pine Water Co. The K2 agreement involves drilling a deep well in Strawberry so as to make more water available to Pine. Strawberry and Pine residents have joined together in order to begin recalling four of the members of PSWID who pushed the most for the K2 agreement.

Q. WHAT DO YOU PROJECT TO BE THE EFFECT ON RATE-PAYERS, RESIDENTS, BUSINESS OWNERS, AND TAXPAYERS IF THE COMMISSION RULES THAT THE COMPLAINTANTS ARE NOT ALLOWED TO BE OUTSIDE THE CC&N OF PWCo?

A. If the complainants are not allowed to withdraw from the CC&N and PWCo is ordered to bring its own proposed solutions to the table, I believe the full-time and Valley based part-time residents will organize themselves to make other complaints and legal runs to the ACC, demanding solid actions be taken by the Commissioners. The newly active landowners will, I believe, continue to apply pressure to the Commissioners seeking to have the Company make required investments or to have its CC&N revoked. I believe disappointment in past actions of the ACC is high and growing day by day. If the situation is allowed to continue as is, I believe we will see falling real estate values and a declining economy in the Pine/Strawberry area. If consumers see no significant changes, I believe they will be subjected to continued inadequate service and to very significant water hauling charges. Many consumers and property owners have no confidence in PWCo, and the confidence in the ACC is dwindling rapidly. Unless the ACC does something to force new water development by PWCo, I believe the current property owners will be far worse off because of loss of water that had come from water sharing agreement wells that are not renewing contracts with PWCo.

Q. WHAT DO YOU THINK WILL BE THE EFFECT ON THE CONSUMERS, RATE-PAYERS, BUSINESSES, TAXPAYERS, AND COMPLAINANTS IF THE COMPLAINANTS ARE ALLOWED OUTSIDE THE CC&N?

A. I would project no negative effects on the public if the Complainants are granted the relief they seek. Because the Complainants are not customers now and will not likely become volunteer customers (because of a complete lack of confidence in PWC), I see their freedom from the CC&N as not deteriorating the current situation. From a positive point of view, if the Complainants are allowed outside the CC&N, I believe the consumers will see modest development take place in Pine and one or more additional deep wells will be drilled to assure the Complainants have the ability to service themselves. The less than 100 homes/units and businesses that possibly may result would likely provide some stability to the economy (even to the PWCo area) even though no new water will end up in the hands of PWCo. Possibly, the Complainants will want to form a new domestic water improvement district to serve themselves, or to join the existing successful DWIDs that would appreciate alternative supplies. .

Q. WHAT CONCLUSIONS DO YOU DRAW ABOUT THE OVERALL SITUATION OF PINE WATER CO.?

A. In conclusion, I believe the statement made by Judge Nodes and the Commissioners within Order 68696 of the Geronimo case, issued May 5, 2006 is directly applicable to

the Pine Water Co. situation. In that case it was stated "We *(the Commission)* are aware that a moratorium creates a disincentive for companies to seek new sources of water and is inconsistent with a public service corporation being required to serve requesting customers in its CC&N area." "However, a public service corporation with an exclusive service area should not be permitted to rely on the existence of a moratorium as a means of avoiding in perpetuity pursuit of new sources of water where additional demand clearly exists." "We recognize that a balancing of interests is necessary to prevent saddling current customers with unreasonable rates while at the same time recognizing the Company's obligation to attempt to serve new customers."

To put the philosophy expressed by the Judge and the Commissioners into effect will take perseverance, teeth within the Orders, and close follow up by the Commission Staff.

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