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AZ CORP COMMISSION  
DOCKET CONTROL

Transcript Exhibit(s)

Docket #(s): W-02859A-04-0844

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Exhibit #: A1-A4, 51

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Arizona Corporation Commission  
**DOCKETED**

AUG -8 2007

DOCKETED BY	<u>NR</u>
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1 capability and water demands are reflected in the Water Use Data Sheet attached hereto as  
2 **Exhibit B.**

3           3. To the best of its knowledge and belief, Diversified is currently in  
4 compliance with all regulatory requirements applicable to the provision of domestic water  
5 service within its certificated area.

6           4. Mr. Scott Gray is the Company contact. His business address and  
7 telephone number are:

8                           Diversified Water Utilities, Inc.  
9                           2850 E. Camelback Rd., Ste. 200  
10                           Phoenix, Arizona 85016  
11                           (602) 840-9400

12           5. The operator certified by the Arizona Department of Environmental  
13 Quality for Diversified is Fred T. Wilkinson, Operator ID 02336. He can be reached at:

14                           Fred T. Wilkinson  
15                           First National Management, Inc.  
16                           Post Office Box 1020  
17                           Apache Junction, Arizona 85217  
18                           (480) 677-6080

19           6. Diversified has received requests for inclusion within its certificate of  
20 convenience and necessity from the State Land Department (see, Letter from Mark  
21 Winkleman, State Land Commissioner dated April 26, 2005 attached hereto as **Exhibit C**)  
22 and from Wolfkin Farms L.L.C. (see, Letter from Penny Wolfswinkel dated October 26, 2006  
23 attached hereto as **Exhibit D**).

24           7. A corporate resolution authorizing this Application is attached hereto as  
25 **Exhibit E.**

          8. No public or private utility is authorized to provide domestic water  
service within the Amended Expansion Area.

1           9.     Diversified is a fit and proper entity to provide water service to the  
2 Expansion Area.

3           10.    In prior proceedings before the Arizona Corporation Commission, the  
4 Utility Division and the Administrative Law Judge have found Diversified to be a fit and  
5 proper entity to serve the Amended Expansion Area, as well as other land and recommended  
6 that the land be included within Diversified's Certificate of Convenience and Necessity. See,  
7 Pages 20 and 21 of the Staff Report attached hereto as **Exhibit F** and Pages 27 through 34 of  
8 the Recommended Opinion and Order by Judge Stern dated August 15, 2001 attached hereto  
9 as **Exhibit G**. At the time, the Board of Supervisors of Pinal County (the "Board") had  
10 passed a resolution purporting to create the Skyline Domestic Water Improvement District  
11 encompassing the Amended Expansion Area, as well as other land. "[B]ecause of uncertainty  
12 with respect to the Skyline District and potential litigation in state court," the Commission left  
13 the land uncertificated. See, Decision No. 64062, at page 33, a copy of which is attached  
14 hereto as **Exhibit H**.

15           11.    Diversified filed an action in Superior Court challenging Skyline's  
16 formation and all actions taken in furtherance thereof. See, *Diversified Water Utilities, Inc. v.*  
17 *Pinal County, et al*, Maricopa Superior Court Case No. CV2002-003724.

18           12.    The Board, in furtherance of a Settlement Agreement with Diversified,  
19 subsequently adopted Resolution number 033104-DWU (a copy of which is already a part of  
20 this Docket) rescinding the resolution that formed Skyline and declaring all actions taken on  
21 behalf of or in furtherance of Skyline to be void *ab initio*. Skyline has been dissolved and no  
22 longer exists.

23           13.    Diversified subsequently filed, in this Docket, its APPLICATION TO  
24 EXPAND ITS CERTIFICATE EITHER BY AMENDING DECISION NO. 63960 (as  
25 Amended), OR, ALTERNATIVELY, AS A NEW APPLICATION dated November 24,

1 2004, as corrected by letter dated December 9, 2004, and amended and supplemented  
2 November 30, 2005.

3           **14.** On December 3, 2004, Johnson Utilities Company (“JUC”) filed an  
4 application to expand its Certificate of Convenience and Necessity to a portion of the area  
5 encompassed in Diversified’s Application. See, Docket No. WS-02987A-04-0869.

6           **15.** Diversified and JUC have entered into a Letter of Mutual Understanding,  
7 Cooperation and Settlement dated June 7, 2005 (the “LMU”) and the same was filed in this  
8 docket on June 30, 2005 with the Joint Settlement Statement of JUC and Diversified.  
9 Pursuant to the LMU, JUC does not intend to provide water service and will not otherwise  
10 interfere with Diversified’s effort to expand service within Sections 13, 14, 15 and that  
11 portion of Section 16 East of the Union Pacific Railroad right-of-way, all within T3S, R8E,  
12 Pinal County, Arizona, which includes the Amended Expansion Area.

13           **16.** Pinal County is experiencing phenomenal development. The Amended  
14 Expansion Area is in the direct path of that development. A portion of the Amended  
15 Expansion Area is part of a Master Planned Development approved by the Pinal County  
16 Board of Supervisors as the Bella Vista Farms Development.

17           **17.** The Commission has previously recognized a need for utility service  
18 within all or portions of the Amended Expansion Area with regard to sewer service (Decision  
19 No. 64042, amending Decision No. 63960). It is unfathomable that a need for sewer service  
20 exists in an area, without a concomitant need for water service.

21           **18.** The current balance sheet and profit and loss statement of Diversified for  
22 the period ending December 31, 2006 is attached hereto as **Exhibit I**.

23           **19.** Diversified has secured a determination of physical availability from the  
24 Arizona Department of Water Resources, which includes the Expansion Area. Diversified  
25 believes that it has previously filed with the Commission, a copy of the approved

1 determination of physical availability. In the event it is determined that the approved  
2 determination has not been previously filed, Diversified shall supplement this Amended  
3 Application at that time. The landowners are responsible for securing a Certificate of Assured  
4 Water Supply for their specific developments and subdivision plats.

5           **20.** The Amended Expansion Area is encompassed by Diversified's County  
6 franchise, a copy of which is attached hereto as **Exhibit J**.

7           **21.** The owners of Bella Vista have provided Diversified with the revised  
8 Bella Vista Development Plan attached hereto as **Exhibit K**. Based upon the revised  
9 development plan and discussions with the owner/developer of Section 13 (Wolkin Farms  
10 L.L.C.), Diversified's engineer has developed the projections for customers, water demand,  
11 revenues and expenses, as well as the projected cost of the basic water infrastructure, for  
12 Section 13 for the first five years after water service commences for the development as set  
13 forth in the Preliminary Service Report attached hereto as **Exhibit L**.

14           **22.** The State of Arizona has indicated that it has no objection to having the  
15 lands it owns within the Amended Expansion Area included within a water provider's  
16 Certificate of Convenience and Necessity as reflected in **Exhibit C** attached hereto.

17           **23.** The public interest is served by granting a certificate of convenience and  
18 necessity for the Amended Expansion Area to Diversified.

19           **24.** All correspondence and communications regarding this Application  
20 should be addressed to:

21                           William P. Sullivan  
22                           Larry K. Udall  
23                           Curtis, Goodwin, Sullivan, Udall & Schwab, PLC  
24                           501 East Thomas Road  
25                           Phoenix, Arizona 85012  
                              Phone (602) 393-1700  
                              Facsimile (602) 393-1703  
                              wsullivan@cgsuslaw.com  
                              ludall@cgsuslaw.com

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With copies to:

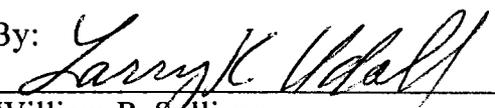
Scott Gray  
Diversified Water Utilities, Inc.  
2850 E. Camelback Rd., Ste. 200  
Phoenix, Arizona 85016

WHEREFORE, Diversified Water Utilities, Inc. respectfully requests the Commission:

1. Issue a procedural order governing the processing of this Second Amended Application.
2. Issue an order either amending Decision No. 64062 or otherwise recognizing Diversified's certificated area as expanded to encompass the Amended Expansion Area as described above; and
3. Granting such further relief as the Commission deems just and proper based upon the record presented.

DATED this 27<sup>th</sup> day of March, 2007.

CURTIS, GOODWIN, SULLIVAN,  
UDALL & SCHWAB, P.L.C.

By:   
William P. Sullivan  
Larry K. Udall  
501 East Thomas Road  
Phoenix, Arizona 85012  
Attorneys for Diversified Water Utilities,  
Inc.

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PROOF OF AND CERTIFICATE OF MAILING

I hereby certify that on this 27th day of March, 2007, I caused the foregoing document to be served on the Arizona Corporation Commission by delivering the original and thirteen (13) copies of the above to:

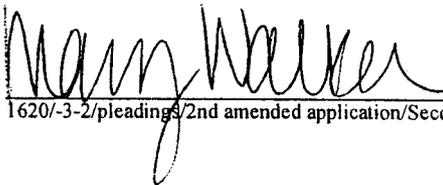
Docket Control  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

Copies of the foregoing hand-delivered this 27<sup>th</sup> day of March, 2007 to:

Dwight D. Nodes, Administrative Law Judge  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Christopher Kempley, Esq.  
Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Ernest Johnson, Director  
Utilities Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007



1620/-3-2/pleadings/2nd amended application/Second Amended App

# EXHIBIT A

# STATE OF ARIZONA



Office of the  
**CORPORATION COMMISSION**  
CERTIFICATE OF GOOD STANDING

To all to whom these presents shall come, greeting:

I, Brian C. McNeil, Executive Director of the Arizona Corporation Commission, do hereby certify that

**\*\*\*DIVERSIFIED WATER UTILITIES, INC.\*\*\***

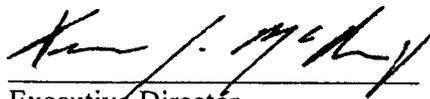
a domestic corporation organized under the laws of the State of Arizona, did incorporate on February 8, 1995.

I further certify that according to the records of the Arizona Corporation Commission, as of the date set forth hereunder, the said corporation is not administratively dissolved for failure to comply with the provisions of the Arizona Business Corporation Act; and that its most recent Annual Report, subject to the provisions of A.R.S. sections 10-122, 10-123, 10-125 & 10-1622, has been delivered to the Arizona Corporation Commission for filing; and that the said corporation has not filed Articles of Dissolution as of the date of this certificate.

This certificate relates only to the legal existence of the above named entity as of the date issued. This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entity's condition or business activities and practices.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Arizona Corporation Commission. Done at Phoenix, the Capital, this 26th Day of March, 2007, A. D.



  
Executive Director

Order Number: 132142

# EXHIBIT B

## WATER USE DATA CHART

<b>NAME OF COMPANY</b>	Diversified Water Utilities, Inc.
<b>ADEQ Public Water System No.</b>	11-043

MONTH/YEAR (Last 13 Months)	NUMBER OF CUSTOMERS	Gallons Sold (Thousands)	
01-2006	430	3,840,700	
02-2006	480	3,647,700	
03-2006	593	4,091,100	
04-2006	623	5,178,800	
05-2006	647	7,132,200	
06-2006	681	8,364,900	
07-2006	664	7,605,300	
08-2006	687	6,246,400	
09-2006	702	6,454,300	
10-2006	742	7,151,600	
11-2006	799	6,389,700	
12-2006	809	6,005,000	
01-2007	883	5,365,700	
<b>Total</b>		<b>77,473,400</b>	
STORAGE TANK CAPACITY (Gallons)	NUMBER OF EACH	ARIZONA DEPT. OF WATER RESOURCES WELL I.D. NUMBER	WELL PRODUCTION (Gallons per Minute)
200,000	1	55-609350	200
20,000	1		
1,000,000	1	55-627093	1,210
1,000,000	1	55-627092*	1,500*
<b>Other Water Sources in Gallons per Minute</b>			<b>GPM None</b>
<b>Fire Hydrants on System</b>			<b>Yes</b>
<b>Total Water Pumped Last 13 Months (Gallons in Thousands)</b>			<b>77,473,400</b>

\*Currently in design.

# EXHIBIT C

Janet Napolitano  
Governor

Mark Winkleman  
State Land  
Commissioner

Arizona  
State Land Department



1616 West Adams Street Phoenix, AZ 85007 www.land.state.az.us

April 26, 2005

Diversified Water Utilities, Inc.  
Attn: Scott W. Gray  
2850 E. Camelback Rd., Suite 200  
Phoenix, AZ 85016-4316

**RE: Request to add State Trust land to a service area**

Dear Mr. Gray:

On March 22, 2005, you notified the Arizona State Land Department of your application to the Arizona Corporation Commission (ACC) to add Section 14, Township 3 South, Range 8 East to your certificated area. A portion of this section is State Trust land, consisting of 325.46 acres.

After considering comments from within the agency, it has been determined it is in the best interest of the State Trust land to be included in a certificated area for water delivery. However, we wish to remain neutral as to who the water provider should be for this land, so we leave the decision on the holder of the certificated area to the ACC.

If you have any questions, please contact Cynthia Stefanovic, Water Rights and Agriculture Section at (602)542-2669.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Winkleman".

Mark Winkleman  
State Land Commissioner

HAK/

**EXHIBIT D**

**WOLFKIN FARMS, L.L.C.**

---

3850 E. Baseline Road, Suite 123  
Mesa, AZ 85206  
Phone (480) 969-8000  
Fax (480) 539-7321

October 24, 2006

Scott W. Gray  
Diversified Water Utilities, Inc.  
2850 East Camelback Road, Suite 200  
Phoenix, AZ 85016

Re: Request for Water Service

Dear Mr. Gray:

Please accept this letter as a formal request for water service from Diversified Water Utilities, Inc. to approximately 640 acres, more particularly described as follows:

Section 13, Township 3 South, Range 8 East, of the Gila and Salt Rivers Base and Meridian, Pinal County, Arizona (the "Property").

Wolfkin Farms, L.L.C., an Arizona limited liability company, is the owner of the Property and has the authority to make this request. The project will consist of approximately 2,100 lots to be developed in multiple phases.

The Property is contiguous to your existing certificated area and outside of any existing water service area. Please take the necessary steps to extend your certificate of convenience and necessity to include the Property.

Sincerely,



Penny Wolfswinkel  
Manager

PW:dt

# EXHIBIT E

**UNANIMOUS CONSENT OF ACTION  
BY THE BOARD OF DIRECTORS OF  
DIVERSIFIED WATER UTILITIES, INC.**

**March 15, 2007**

The Board of Directors of the above-name Corporation intends, by the following preambles and resolutions, to consent to and approve past, present and future actions, either taken by, or to be taken by, the Officers or Directors of this Corporation, as are reflected in the preambles and resolutions contained herein.

The undersigned Director, being the sole Director of this Corporation, by signing this Unanimous Consent waives notice of a Board of Directors' meeting, waives the necessity of having a formal Board of Directors' meeting and unanimously approves and consents to the acts reflected by the preambles and resolutions contained herein.

**EXTENSION OF CERTIFICATE OF  
CONVENIENCE AND NECESSITY**

**WHEREAS**, Diversified Water Utilities, Inc. is a public service corporation subject to the regulation of the Arizona Corporation Commission; and

**WHEREAS**, Diversified Water Utilities, Inc. has received requests that its Certificate of Convenience and Necessity be expanded to encompass Section 13, Township 3 South, Range 8 East; and Eastern One-half of Section 14, Township 3 South, Range 8 East, of the Gila and Salt Rivers Base and Meridian in Pinal County, Arizona, encompassing approximately nine hundred sixty (960) acres contiguous to but outside of the Certificate of Convenience and Necessity described in decisions of the Arizona Corporation Commission.

**THEREFORE BE IT RESOLVED**, that the staff and legal counsel of Diversified Water Utilities, Inc. be and hereby are authorized to take such actions as they deem are necessary and appropriate to extend the Certificate of Convenience and Necessity to encompass Section 13, Township 3 South, Range 8 East; and Eastern One-half of Section 14, Township 3 South, Range 8 East, of the Gila and Salt Rivers Base and Meridian in Pinal

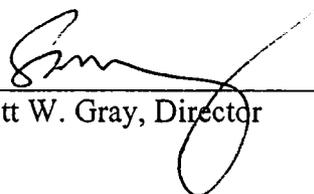
County, Arizona, including, without limitation, the filing of an application with the Arizona Corporation Commission.

**FURTHER RESOLVED**, that Scott W. Gray as President of this Corporation be, and hereby is, authorized and directed to perform such acts and execute and deliver such instruments and documents as may be necessary or appropriate in order to carry out the purpose of the foregoing resolution.

The undersigned Director of the Corporation hereby approves and consents to the acts of the Officer and Director of the Corporation reflected in the preambles and resolutions.

DATED this 15<sup>th</sup> day of March, 2007.

DIRECTOR:

  
\_\_\_\_\_  
Scott W. Gray, Director

# EXHIBIT F

Staff further recommends that Johnson Utilities, Inc. be ordered to charge its existing rates and charges in the approved extension areas.

Diversified Water Utilities

Staff recommends that the water CC&N of Diversified Water Utilities, Inc. be conditionally extended to include Parcels 2 and 24.

Staff further recommends that Diversified Water Utilities file in this docket, within two (2) years from the effective date of this Decision, documentation that indicates that developers have joined the Central Arizona Groundwater Replenishment District.

Staff further recommends that Diversified Water Utilities file in this docket, within two (2) years from the effective date of this Decision, copies of its Approval to Construct.

Staff further recommends Diversified Water Utilities file in this docket, within two (2) years from the effective date of this Decision, a copy of its franchise from Pinal County for the extension areas.

Staff further recommends that within two years from the effective date of this Decision, Diversified Water Utilities file a CC&N review with the Commission containing the following information: a) number of customers being served in the extension areas, b) amount of plant facilities installed to serve extension areas, c) number of gallons sold in the extension areas, d) amount of revenue generated by the extension areas, e) master plan of extension areas showing all plant installed and customer locations and f) any other information Staff deems relevant. At the time of the CC&N review, Staff should have the discretion to perform a physical plant inspection. Should the Staff inspection indicate that no development has commenced at the two year review period or if the information as listed above has not been timely supplied, the conditional CC&N extension granted in this proceeding should become null and void without further order of the Commission, and future CC&N extensions into the areas deemed null and void would require a new CC&N extension filing. Staff should have 120 days from the two-year anniversary date of the Decision to file a report containing one of the following three recommendations:

1. Final approval of the CC&N for all areas requested in this proceeding;
2. Final approval of the CC&N for portions of areas requested in this proceeding with the cancellation of the remainder areas; or
3. Disapproval of the CC&N extension for all areas requested in this proceeding.

Staff further recommends that Diversified Water Utilities file in this docket to the Commission for the next two years, documentation from ADEQ indicating that it has been in full compliance with ADEQ for each year. This documentation must be submitted within 30 days of the anniversary date of this Decision each year.

Staff further recommends that the Commission's Decision covering the extension be considered null and void without further order from the Commission should Diversified Water Utilities fail to meet the above conditions within the time specified.

Staff further recommends that Diversified Water Utilities be ordered to charge its existing rates and charges in the approved extension areas.

Queen Creek Water Company

Staff recommends that Queen Creek Water Company's request to provide water service to Parcels 15, 16, 17, 18, 22 and part of Parcel 11 be denied.

# EXHIBIT G

1 applicants and their continuing to charge their existing rates and charges in their respective extension  
2 areas in the respective parcels as further delineated in Exhibit A. Staff also recommended the denial  
3 of applications for certain parcels.

4 149. However, due to the ongoing nature of these proceedings, Staff amended a number of  
5 its recommendations and, in a post-hearing filing on March 27, 2001, memorialized the amendments  
6 which it made during the actual hearing.

7 150. Staff's witness, Mr. Mark DiNunzio, emphasized that he is not convinced that  
8 development will take place in a timely manner as previously stated because he believes that there  
9 has been a good deal of speculation presented by developers who would be able to capitalize on the  
10 increased value of their property if it is included in a utility's Certificate. Therefore, Mr. DiNunzio  
11 recommends that any Certificate from this proceeding be granted conditionally and subject to a  
12 review after two years to determine the extent of development. As part of the two-year review, Staff  
13 would have an additional period of time to review the development, or lack thereof, and file a report  
14 either recommending final approval of the Certificate as requested, final approval of the Certificate  
15 for the portions of the areas requested where development has taken place with a cancellation of the  
16 remaining areas, and/or disapproval of the Certificate for all areas requested if no development has  
17 taken place.

18 151. Staff indicates that since 1998, JUC has had 15 complaints, H<sub>2</sub>O has had ten  
19 complaints, Diversified has had no complaints and Queen Creek has had four complaints.

20 152. With respect to compliance issues, Staff found that JUC, H<sub>2</sub>O, Diversified and Queen  
21 Creek are current on their property taxes and filings with the Commission and are presently in  
22 compliance with the rules of ADEQ with the exception of securing various approvals and permits to  
23 construct and/or the filing of franchises for the requested parcels herein.

24 JUC

25 153. With respect to JUC's application for the extension of its water and wastewater  
26 Certificate, Staff is recommending the following:

- 27 • that JUC's wastewater Certificate be conditionally extended to include parcels  
28 2, 14, 15, 16, 17, 18, 19, 20, and 22;

- 1 • that JUC's water and wastewater Certificates be conditionally extended to  
2 include parcels 3, 4, 5, 6, 7, 8, 9, 11, 12, 21 and 23;
- 3 • that JUC's application for parcel 1 be denied;
- 4 • that JUC's application with respect to its request to provide service for parcels  
5 10 and 13 be withdrawn as requested by JUC;
- 6 • that JUC file a copy for a request for service to parcel 8 within 90 days of the  
7 effective date of this Decision;
- 8 • that JUC file with the Commission in this Docket; within two years of the  
9 effective date of this Decision, a copy of its franchise from Pinal County for  
10 the extension of its Certificate for the areas authorized herein;
- 11 • that JUC file with the Commission in this Docket, within two years of the  
12 effective date of this Decision, copies of all Certificates of Approval to  
13 Construct ("CAC") and Certificates of Approval of Construction for  
14 development in each of the respective approved parcels as authorized  
15 hereinafter;
- 16 • that JUC file, within two years of the effective date of this Decision, a request  
17 for Certificate review after which, Staff, at its discretion, shall perform a  
18 physical plant inspection to determine the extent to which development has  
19 commenced.<sup>8</sup>

18 After submission of JUC's request for review, Staff shall have 120 days to file a report  
19 containing one of the following three recommendations:

- 20 • final approval of the Certificate for all parcels approved in this proceeding;
- 21 • final approval of the Certificate for portions of the parcels approved in this  
22 proceeding with the cancellation of the undeveloped portions of the parcels; or
- 23 • disapproval of the Certificate for the parcel approved in this proceeding.

24  
25  
26  
27 <sup>8</sup> The Certificate review should include the following data: number of customers in the extended area, amount of  
28 plant installed to serve the extended area, number of gallons sold in the extended area, the amount of revenue generated in  
the extended area, the Master Plan for the parcels showing all plant installed and customer location, and any other  
information Staff deems relevant.

1 154. Staff further recommends that JUC file, within 30 days of the anniversary date of this  
2 Decision each year for the next two years, documentation from ADEQ indicating that JUC has been  
3 in compliance with ADEQ for each year, and that failure to submit this documentation in the Docket  
4 or failure to correct any major or minor violation within 30 days from the date of notice of violation  
5 should result in the Certificate authorized hereinafter becoming null and void without further order of  
6 the Commission.

7 155. Staff further recommends that JUC file, within 30 days from the effective date of this  
8 Decision, an amended waste water tariff schedule which includes language for its wastewater rates  
9 and charges to state that said charges shall not become effective until wastewater first flows into the  
10 collection system.

11 156. Staff further recommends that, if JUC fails to meet any of the aforementioned  
12 conditions within the time specified, the Certificate authorized hereinafter for the respective parcel be  
13 considered null and void without further order by the Commission.

14 H<sub>2</sub>O

15 157. With respect H<sub>2</sub>O's application for the extension of its Certificate to provide public  
16 water service, Staff is recommending the conditional approval of the application to extend service to  
17 that portion of parcel 14 not previously certificated and parcels 15, 16, 17, 18, 22 and Section 13,  
18 Township 2 South, Range 7 East in Maricopa County, Arizona.

19 158. Staff further recommends that H<sub>2</sub>O file, within two years of the effective date of this  
20 Decision, a copy of the developers' Certificates of Assured Water Supply ("CAWS") to be issued by  
21 the Arizona Department of Water Resources ("ADWR") for the respective parcels and sections.

22 159. Staff further recommends that H<sub>2</sub>O file, within two years of the effective date of this  
23 Decision, a copy of its CAC to be issued by the ADWR for the main extension for the Combs School.

24 160. Staff also recommends that H<sub>2</sub>O file, within two years from the effective date of this  
25 Decision, a copy of its franchise from Pinal County for the extension areas represented by the  
26 aforementioned parcels and Section 13.

27 161. Staff is also recommending the following:  
28

- 1 • that H<sub>2</sub>O file with the Commission in this Docket within two years of the effective  
2 date of this Decision, a copy of its franchise from Pinal County for the extension of its  
3 Certificate for the areas authorized hereinafter;
- 4 • that H<sub>2</sub>O file with the Commission in this Docket, within two years of the effective  
5 date of this Decision, copies of all Certificates of Approval to Construct ("CAC") and  
6 Certificates of Approval of Construction for development in each of the respective  
7 approved parcels as authorized hereinafter;
- 8 • that H<sub>2</sub>O file, within two years of the effective date of this Decision, a request for  
9 Certificate review after which, Staff, at its discretion, shall perform a physical plant  
10 inspection to determine the extent to which development has commenced.<sup>9</sup>

11 After submission of H<sub>2</sub>O's request for review, Staff shall have 120 days to file a report  
12 containing one of the following three recommendations:

- 13 ♦ final approval of the Certificate for all parcels approved in this proceeding;
- 14 ♦ final approval of the Certificate for portions of the parcels approved in this proceeding  
15 with the cancellation of the undeveloped portions of the parcels; or
- 16 ♦ disapproval of the Certificate for the parcel approved in this proceeding.

17 162. Staff further recommends that H<sub>2</sub>O file, within 30 days of the anniversary date of this  
18 Decision each year for the next two years, documentation from ADEQ indicating that H<sub>2</sub>O has been  
19 in compliance with ADEQ for each year, and that failure to submit this documentation in the Docket  
20 or failure to correct any major or minor violation within 30 days from the date of notice of violation  
21 should result in the Certificate authorized hereinafter becoming null and void without further order of  
22 the Commission.

23 163. Staff further recommends that, if H<sub>2</sub>O fails to meet any of the aforementioned  
24 conditions within the time specified, the Certificate authorized hereinafter for the respective parcel be  
25 considered null and void without further order by the Commission.

26  
27 <sup>9</sup> The Certificate review should include the following data: number of customers in the extended area, amount of  
28 plant installed to serve the extended area, number of gallons sold in the extended area, the amount of revenue generated in  
the extended area, the Master Plan for the parcels showing all plant installed and customer location, and any other  
information Staff deems relevant.

1 DIVERSIFIED

2 164. With respect to Diversified's application for an extension of its Certificate, Staff is  
3 recommending that the Commission approve the extension of its Certificate to include parcels 2 and  
4 24.

5 165. Staff is further recommending that Diversified file, within two years of the effective  
6 date of this Decision, the following: the developers' CAWS to be issued by ADWR; copies of its  
7 CAC's to be issued by ADEQ; and a copy of its franchise for parcels 2 and 24 which are to be issued  
8 by the Pinal County Board.

9 166. Staff is also recommending the following:

10  
11 • that Diversified file with the Commission in this Docket, within two years of the  
12 effective date of this Decision, copies of all Certificates of Approval to Construct  
13 ("CAC") and Certificates of Approval of Construction for development in each of the  
14 respective approved parcels as authorized hereinafter;

15 • that Diversified file, within two years of the effective date of this Decision, a request  
16 for Certificate review after which, Staff, at its discretion, shall perform a physical  
17 plant inspection to determine the extent to which development has commenced.<sup>10</sup>

18 After submission of Diversified's request for review, Staff file a report containing one of the  
19 following three recommendations:

- 20 ♦ final approval of the Certificate for all parcels approved in this proceeding;
- 21 ♦ final approval of the Certificate for portions of the parcels approved in this proceeding  
22 with the cancellation of the undeveloped portions of the parcels; or
- 23 ♦ disapproval of the Certificate for the parcel approved in this proceeding.

24 167. Staff further recommends that Diversified file, within 30 days of the anniversary date  
25 of this Decision each year for the next two years, documentation from ADEQ indicating that  
26 Diversified has been in compliance with ADEQ for each year and that failure to submit this

27 <sup>10</sup> The Certificate review should include the following data: number of customers in the extended area, amount of  
28 plant installed to serve the extended area, number of gallons sold in the extended area, the amount of revenue generated in  
the extended area, the Master Plan for the parcels showing all plant installed and customer location, and any other  
information Staff deems relevant.

1 documentation in the Docket or failure to correct any major or minor violation within 30 days from  
2 the date of notice of violation should result in the Certificate authorized hereinafter becoming null  
3 and void without further order of the Commission.

4 168. Staff further recommends that, if Diversified fails to meet any of the aforementioned  
5 conditions within the time specified, the Certificate authorized hereinafter for the respective parcel be  
6 considered null and void without further order by the Commission.

7 QUEEN CREEK

8 169. With respect to Queen Creek's application for an extension of its Certificate, Staff is  
9 recommending the approval of Queen Creek's request for the extension of its Certificate to provide  
10 water service to the eastern three-quarters of Section 14, Township 2 South, Range 17 East for which  
11 it is not yet certificated subject only to the condition that Queen Creek files, within 365 days of the  
12 effective date of this Decision, a copy of its Maricopa County franchise issued by the Maricopa  
13 County Board of Supervisors or the approval granted hereinafter will be rendered null and void. Staff  
14 is also recommending that the Country Thunder parcel, located in Section 30, Township 2 South,  
15 Range 3 East, Pinal County, Arizona, be deleted from H<sub>2</sub>O's Certificate and transferred to Queen  
16 Creek's Certificate.

17 170. After reviewing the evidence in its entirety, we commend Staff at the end of this long  
18 and complex proceeding and find the majority of their recommendations are reasonable in light of the  
19 speculative nature of the purported development which is to take place in large undeveloped areas in  
20 Pinal County, Arizona. Based on this speculation, we believe that Staff has made well-reasoned  
21 unbiased recommendations with respect to recommending the issuance of conditional Certificates  
22 which will be subject to further Commission review in the future.

23 171. For the present, we will adopt Staff's recommendations with respect to the approvals  
24 granted hereinafter for the respective parcels as are described in Exhibits A and B attached hereto.  
25 However, with respect to Staff's recommendation that an affected utility (JCU, H<sub>2</sub>O, Queen Creek,  
26 and Diversified) shall cure any minor or major violation of a requirement of ADEQ within 30 days  
27 from the date of notice of violation, thus resulting in the nullification of an extension of that utility's  
28 Certificate, we find Staff's recommendation to be too extreme and will allow the violating utility a

1 period of 90 days from the date of notice of the violation to either cure the violation or to request an  
2 extension of time in which to resolve the problem with ADEQ. We shall also require JUC, H<sub>2</sub>O,  
3 Diversified and Queen Creek to file the correct legal descriptions for the respective parcels within 30  
4 days of the effective date of this Decision.

### 5 CONCLUSIONS OF LAW

6 1. Applicants, JUC, H<sub>2</sub>O, Diversified and Queen Creek are public service corporations  
7 within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-252, 40-281 and 40-  
8 282.

9 2. The Commission has jurisdiction over JUC, H<sub>2</sub>O, Diversified and Queen Creek and of  
10 the subject matter of the applications as amended.

11 3. Notice of the applications as amended and described herein was given in the manner  
12 prescribed by law.

13 4. The public convenience and necessity require the public would benefit by the  
14 amendment of the Certificates of JUC, H<sub>2</sub>O, Diversified and Queen Creek so that their certificated  
15 service areas include the parcels and sections more fully described in Exhibits A and B.

16 5. JUC, H<sub>2</sub>O, Diversified and Queen Creek are fit and proper entities to receive amended  
17 Certificates which encompass the areas more fully described in Exhibits A and B.

18 6. Staff's recommendations with respect to the applications of JUC, H<sub>2</sub>O, Diversified and  
19 Queen Creek, as set forth in Findings of Fact Nos. 153, 154, 155, 156, 157, 158, 159, 160, 161, 162,  
20 163, 164, 165, 166, 167, 168, 169, and 171 for the amendment of their respective Certificates, should  
21 be approved subject to the recommendations of Staff with the exception that a utility cited for either a  
22 minor or major violation by ADEQ within the two year period of review following the effective date  
23 of this Decision should have 90 days from the date of the notice of violation to cure the defect or  
24 request an extension from the Commission in order to remedy the violation.

### 25 ORDER

26 IT IS THEREFORE ORDERED that the applications of Johnson Utilities, L.L.C., dba  
27 Johnson Utilities Company, H<sub>2</sub>O, Inc., Diversified Water Utilities, Inc., and Queen Creek Water  
28 Company for amendment of their Certificates of Convenience and Necessity for the operation of the

1 applicable water and/or waste water facilities in the areas more fully described in the parcels as set  
 2 forth in Exhibits A and B attached hereto be, and are hereby, conditionally approved subject to the  
 3 respective utilities meeting the applicable conditions as set forth in Findings of Fact Nos. 153, 154,  
 4 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, and 171 and Conclusions  
 5 of Law Nos. 4, 5 and 6 above.

6 IT IS FURTHER ORDERED that in the event Johnson Utilities, L.L.C. dba Johnson Utilities  
 7 Company, H<sub>2</sub>O, Inc., Diversified Water Utilities, Inc. and Queen Creek Water Company do not  
 8 timely meet the requirements according to Staff's recommendations as set forth in Findings of Fact  
 9 Nos. 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, and 171, or  
 10 fail to cure any major or minor violations cited by ADEQ within 90 days from the date of notice or  
 11 request an extension therefrom, then such conditional Certificate granted herein for the respective  
 12 parcel shall be rendered null and void without further order of the Commission.

13 IT IS FURTHER ORDERED that Johnson Utilities, L.L.C. dba Johnson Utilities Company,  
 14 H<sub>2</sub>O, Inc., Diversified Water Utilities, Inc. and Queen Creek Water Company shall file, if not  
 15 previously filed, correct legal descriptions for the parcels and/or sections amending their Certificates  
 16 of Convenience and Necessity as described herein.

17 IT IS FURTHER ORDERED that Johnson Utilities, L.L.C. dba Johnson Utilities Company,  
 18 H<sub>2</sub>O, Inc., Diversified Water Utilities, Inc. and Queen Creek Water Company shall charge those  
 19 customers in the areas more fully described in Exhibits A and B their existing rates and charges until  
 20 further Order of the Commission:

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

# EXHIBIT H



# EXHIBIT I

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03/21/07

Accrual Basis

**Diversified Water Utilities, Inc.**  
**Profit & Loss**  
January through December 2006

	<u>Jan - Dec 06</u>
<b>Income</b>	
461.00 · Water Revenue	449,219.41
461.50 · Sales Tax	-25,032.93
474.00 · Other Revenue	16,355.21
419.00 · Interest Income	6,141.21
<b>Total Income</b>	<u>446,682.90</u>
<b>Expense</b>	
403.00 · Depreciation Expense	54,170.00
408.10 · Property Taxes	14,764.61
408.50 · Payroll Taxes	21,434.05
427.00 · Interest Expense	72.10
601.00 · Salaries & Wages	55,007.27
603.00 · Officer Salaries	59,328.00
615.00 · Purchased Power	27,619.23
618.00 · Chemicals	4,307.75
619.00 · Repairs & Maintenance	32,962.27
630.00 · Billing Fees	34,835.00
631.00 · Legal & Professional	63,003.76
635.00 · Testing	7,944.79
640.00 · Rents	23,259.57
650.00 · Transportation	17,072.52
655.00 · Insurance	10,803.80
659.00 · Insurance - Medical	28,475.95
675.05 · Bank Charges	1,305.58
675.10 · Miscellaneous	3,893.22
675.15 · Office Expense	2,757.48
675.20 · Telephone	5,533.88
675.25 · Licenses & Fees	865.26
675.35 · Publications	347.78
<b>Total Expense</b>	<u>469,763.87</u>
<b>Net Income</b>	<u><u>-23,080.97</u></u>

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03/22/07

Accrual Basis

**Diversified Water Utilities, Inc.**

**Balance Sheet**

As of December 31, 2006

	<u>Dec 31, 06</u>
<b>Equity</b>	
201.00 · Common Stock	2,000.00
211.00 · Additional Paid in Capital	198,260.79
215.00 · Retained Earnings	1,625.20
Net Income	-23,080.97
<b>Total Equity</b>	<u>178,805.02</u>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<u><u>3,256,442.18</u></u>

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03/22/07

Accrual Basis

Diversified Water Utilities, Inc.

**Balance Sheet**

As of December 31, 2006

	<u>Dec 31, 06</u>
Equity	
201.00 · Common Stock	2,000.00
211.00 · Additional Paid in Capital	198,260.79
215.00 · Retained Earnings	1,625.20
Net Income	-23,080.97
Total Equity	<u>178,805.02</u>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b><u><u>3,256,442.18</u></u></b>

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03/22/07

Accrual Basis

## Diversified Water Utilities, Inc.

## Balance Sheet

As of December 31, 2006

	<u>Dec 31, 06</u>
<b>ASSETS</b>	
<b>Current Assets</b>	
Checking/Savings	
131.10 · Cash - Checking	82,990.77
131.20 · Capital Improvement Account	266,969.45
<b>Total Checking/Savings</b>	<u>349,960.22</u>
Other Current Assets	
141.00 · Accounts Receivable	5,583.07
<b>Total Other Current Assets</b>	<u>5,583.07</u>
<b>Total Current Assets</b>	355,543.29
<b>Fixed Assets</b>	
Plant in Service	
303.00 · Land	6,444.24
304.00 · Structures & Improvements	47,954.95
307.00 · Wells & Springs	223,829.73
311.00 · Pumping Equipment	592,271.79
330.00 · Distribution Reservoirs	163,037.82
331.00 · T&D Mains	1,146,988.38
333.00 · Services	98,403.09
334.00 · Meters	159,627.14
340.00 · Office Furniture & Equipment	10,235.28
348.00 · Other Plant	48,178.33
<b>Total Plant in Service</b>	<u>2,496,970.75</u>
108.00 · Accumulated Depreciation	-315,575.39
<b>Total Fixed Assets</b>	<u>2,181,395.36</u>
<b>Other Assets</b>	
105 · Construction Work in Progress	719,503.53
<b>Total Other Assets</b>	<u>719,503.53</u>
<b>TOTAL ASSETS</b>	<u><u>3,256,442.18</u></u>
<b>LIABILITIES &amp; EQUITY</b>	
<b>Liabilities</b>	
<b>Current Liabilities</b>	
Other Current Liabilities	
232.00 · Current Portion of L/T Debt	56,000.00
235.00 · Customer Deposits	26,109.93
236.20 · Sales Tax Payable	-3,263.00
236.30 · Property Tax Payable	6,379.64
<b>Total Other Current Liabilities</b>	<u>85,226.57</u>
<b>Total Current Liabilities</b>	85,226.57
<b>Long Term Liabilities</b>	
224.20 · Note Payable - WIFA	230,004.97
<b>AIAC</b>	
252.00 · Advances in aid of Constr.	1,038,876.10
252.10 · AIAC in Progress	74,745.42
252.50 · Refundable Meter Deposits	590,471.00
<b>Total AIAC</b>	<u>1,704,092.52</u>
<b>CIAC</b>	
271.00 · Contributions in aid of Constr	1,134,844.10
272.00 · Accum. Amort. - CIAC	-20,531.00
<b>Total CIAC</b>	<u>1,114,313.10</u>
290.00 · Less Current Portion L/T Debt	-56,000.00
<b>Total Long Term Liabilities</b>	<u>2,992,410.59</u>
<b>Total Liabilities</b>	3,077,637.16

**EXHIBIT J**

*Clerk of Court Office*  
- PO Box 827  
Florence, Az  
85232



OFFICIAL RECORDS OF  
PINAL COUNTY RECORDER  
LAURA DEAN-LYTTLE

DATE/TIME: 04/03/06 1534  
FEE: \$0.00  
PAGES: 45  
FEE NUMBER: 2006-047527

**Expansion and Amendment Of The Diversified  
Water Utilities Water Franchise**

**WHEREAS**, Diversified Water Utilities, Inc., had received a water franchise from Pinal County to establish and maintain domestic water services on October 26, 1995, a copy of which is attached as Exhibit "A" (hereinafter "Original Franchise"); and

**WHEREAS**, Diversified Water Utilities, Inc., an Arizona corporation, is duly authorized to conduct business in the State of Arizona, has filed and presented to the Board of Supervisors of the County of Pinal, State of Arizona, its application for expansion of the Original Franchise for the purpose of constructing, operating and maintaining domestic water system lines and related appurtenances along, under and across the public streets, alleys and highways, except federal and state highways, within the unincorporated area of Pinal County, Arizona, as described in Exhibit "B" attached hereto (hereinafter "Expansion").

**WHEREAS**, upon filing of Diversified Water Utilities' application for the Expansion, the Board of Supervisors of Pinal County ordered a public notice of its intent to consider the granting of the Expansion to be published in a newspaper of general circulation, in Pinal County, Arizona, stating the time and place for consideration of the Expansion was set for 9:30 a.m. on March 29, 2006, at the Pinal County Board of Supervisors' Hearing Room, Administration Building A, Florence, Arizona.

**WHEREAS**, said application for the Expansion and Amendment having come on regularly for hearing at 9:30 a.m. on March 29, 2006; and it appearing from the affidavit of the publisher of the Florence Reminder & Blade-Tribune that due and regular notice of said time and place set for the consideration of such action has been published for at least once a week for three consecutive weeks prior to said hearing date, to-wit: in the issues of the Florence Reminder & Blade-Tribune published on March 9, 2006, March 16, 2006, and March 23, 2006, and the matter being called for hearing at 9:30 a.m. on March 29, 2006, an opportunity having been given to all interested parties to be heard.

**WHEREAS**, the Board of Supervisors of Pinal County has the power to amend an existing franchise under its general police powers in such matters.

**NOW, THEREFORE,**

First Amended  
Diversified Water Utilities, Inc. Franchise1

45

## Section 1: DEFINITIONS

The following terms used in this expansion and amendment of the Original Franchise shall have the following meanings:

- A. County: Pinal County, Arizona
- B. Board: Board of Supervisors of Pinal County, Arizona.
- C. Grantor: Pinal County, by and through its Board of Supervisors
- D. Grantee: Diversified Water Utilities, Inc., an Arizona corporation, its successors and assigns
- E. Grantee's Facilities: domestic water lines and related appurtenances

## Section 2: GRANT

A. Grantor, on March 29, 2006, hereby grants to Grantee, for a period of time not to exceed the Original Franchise, this expanded and amended franchise (hereinafter "First Amended Franchise") for the purpose of constructing, operating and maintaining domestic water system lines and related appurtenances along, under and across public streets, alleys and highways, except federal and state highways, under the terms and conditions set forth herein within the unincorporated area of Pinal County, Arizona, as described in the Expansion and the Original Franchise (hereinafter "Franchise Area").

B. Nonexclusive Franchise.

(1) The First Amended Franchise granted hereby shall not be exclusive and shall not restrict in any manner the right of County in the exercise of any regulatory power which it now has or which may hereafter be authorized or permitted by the laws of the State of Arizona. Nothing herein shall be construed to prevent County from granting other like or similar franchises to any other person, firm or corporation. County retains and shall ever be considered as having and retaining the right and power to allow and to grant to any other person, firm, corporation or other companies, franchise rights and privileges to be exercised in and upon its public streets, alleys, highways and public places, and such of the same and parts thereof as County may deem best or choose to allow, permit, give or grant.

(2) Nothing herein shall be construed to prevent County and its proper authorities from constructing and installing sewers, gutters, or improvements to its public highways,

First Amended  
Diversified Water Utilities, Inc. Franchise2

streets and alleys, and for that purpose, to require the Grantee at Grantee's own expense to remove Grantee's facilities to conform thereto and facilitate the same.

C. Reservation of Rights.

(1) County reserves the right to alter and amend the First Amended Franchise at any time and in any manner necessary for the safety or welfare of the public or to protect the public interests, and County reserves the right to impose at any time restrictions and limitations upon the use of the public streets, alleys and highways as County deems best for the public safety or welfare.

(2) County expressly reserves the right, after due notice to grantee, to modify, amend, alter, change or eliminate any of the provisions of the First Amended Franchise which may become obsolete or impractical; and to impose such additional conditions upon the grantee as may be just and reasonable, such conditions to be those deemed necessary for the purpose of insuring adequate service to the public; provided however, County shall not modify, amend, alter, change or eliminate any of said provisions until after a public hearing, if such is legally required or requested by grantee.

**Section 3: RENEWAL/SUBSEQUENT APPLICATION/REMOVAL OF SYSTEM**

A. The First Amended Franchise herein granted shall expire on the date provided for in the Original Franchise, or upon any prior forfeiture; and upon its termination, Grantee shall cease to exercise under the terms of the First Amended Franchise the privileges herein granted. In the event Grantee desires a renewal of the First Amended Franchise herein granted, or a new franchise for a subsequent period, Grantee shall apply to and open negotiations with County for that purpose at least six (6) months before the expiration of the First Amended Franchise herein granted; but nothing herein shall be construed to bind County to grant such renewal or subsequent franchise.

B. Upon termination of the First Amended Franchise, or any renewal thereof, the grantee shall remove its facilities from the streets, alleys, ways, highways and bridges within the Franchise Area and shall restore the areas to their original condition. If such removal is not completed within six months of such termination, County may deem any property not removed as having been abandoned.

**Section 4: REGULATION**

Grantee, its successors and assigns shall be subject to reasonable regulations for the maintenance by grantee, its successors and assigns, of such portion of the public streets, alleys and highways used for the purpose of the First Amended Franchise now in force or that may hereafter be enacted and inconsistent herewith.

## **Section 5: CONSTRUCTION, INSTALLATION AND REPAIRS**

A. Prior to the beginning of any construction for installation of water lines and related appurtenances, the Grantee, its successors and assigns will submit a plan of proposed construction to the Pinal County Engineer and will not commence any construction until the plan of construction is approved by the County Engineer or his designate.

B. All work performed by Grantee under the First Amended Franchise shall be done in the manner prescribed by County and subject to the supervision of County, and in strict compliance with all laws, ordinances, rules and regulations of federal, state and local governments.

C. No construction, reconstruction, repair, or relocation under the First Amended Franchise shall be commenced until written permits have been obtained from the proper county officials. In any permit so issued, such officials may impose such conditions and regulations as a condition of the granting of the same as are necessary for the purpose of protecting any structures in the highways or streets and for the proper restoration of such highways, streets and structures, and for the protection of the public and the continuity of pedestrian and vehicular traffic.

D. No construction under the First Amended Franchise by grantee shall impose upon County the duty to maintain any public street, alley or highway unless County accepts said public street, alley or highway into the county maintenance system as provided by law.

## **Section 6: INSPECTION**

County shall, if it deems it necessary, have the right to inspect the construction, operation and maintenance of Grantee's facilities to insure the proper performance of the terms of the First Amended Franchise granted herein.

## **Section 7: SUFFICIENCY, LOCATION AND MAINTENANCE**

All of Grantee's Facilities shall be in all respects adequate, efficient, substantial and permanent in design and workmanship, and shall be so located, erected and maintained so as not to interfere with the use and enjoyment of the public streets, alleys and highways. All of Grantee's Facilities erected by Grantee shall be maintained in a safe, suitable, substantial condition and in good order and repair.

## **Section 8: EXPANSION**

Grantee will, from time to time, during the term of the First Amended Franchise make such enlargements and extensions of its water system as are necessary to adequately provide for the requirements of County and the inhabitants of the Franchise Area; provided that nothing herein shall compel Grantee to expand or enlarge its system beyond the economic and operating limits thereof. Such enlargements and extensions shall be made in accordance with company rules and regulations.

## **Section 9: RELOCATION**

A. During the term of the First Amended Franchise whenever County or any qualified authority having jurisdiction in the Franchise Area alters, repairs, improves, or changes the grade of, any public streets, alleys and highways in the Franchise Area during the term of the First Amended Franchise, then and in such event, Grantee, its successors or assigns, at its own expense, shall promptly, upon reasonable notice, make such changes in the location, structure or alignment of its water lines and related appurtenances as the public officials in charge of such work may deem necessary.

B. After thirty (30) days notice to Grantee, of needed changes or corrections and upon the failure of Grantee, to make such changes set forth in Section 9(A) above or to correct any damage to the right-of-way of any public street, alley or highway within the Franchise Area caused directly or indirectly by Grantee, its agents, successors or assigns, County or its successors shall have the right to make such changes or corrections at the expense of said Grantee, its successors or assigns, and such expenses shall be due and payable upon written demand by County or its successors to Grantee, its successors or assigns.

## **Section 10: LIABILITY**

A. If any streets, highways, alleys, ways, bridges, sidewalks, public place, or other public facility should be disturbed, altered, damaged or destroyed by Grantee, its employees, contractors, subcontractors or agents in the construction, installation, operation and maintenance of Grantee's Facilities under the First Amended Franchise, the same shall be promptly repaired, reconstructed, replaced or restored by Grantee, without cost to County, as soon as practicable and in as good condition as before Grantee's entry and to the satisfaction of County. If Grantee fails to make such restoration and repairs within a reasonable time as determined by County, then County may fix a reasonable time for such restoration and repairs and shall notify Grantee in writing of the restoration and repairs required and the time fixed for the performance thereof. Upon failure of Grantee to comply within the time specified, County may cause proper restoration and repairs to be made, and the expense of such work shall be paid by Grantee upon demand by County.

B. Grantee shall be responsible to every owner of property which shall be injured by the work of construction, installation, operation or maintenance of Grantee's Facilities under the First Amended Franchise, all physical damage which shall be done to such injured property through any act or omission of Grantee, its employees, contractors, subcontractors or agents arising out of said construction, installation, operation or maintenance.

C. It is a condition of the First Amended Franchise that County shall not and does not by reason of the First Amended Franchise assume any liability of the Grantee whatsoever for injury to persons or damage to property.

#### **Section 11: INDEMNIFICATION**

Grantee by its acceptance of the First Amended Franchise agrees for itself, its successors and assigns that throughout the entire term of this franchise, Grantee, its successors and assigns, at its sole cost and expense, shall indemnify, defend, save and hold harmless Pinal County, its elected officers, employees and agents from any and all lawsuits, judgments and claims for injury, death and damage to persons and property, both real and personal, caused by the construction, design, installation, operation or maintenance of any structure, equipment, water lines or related appurtenances by Grantee within the Franchise Area. Indemnified expenses shall include, but not be limited to, litigation and arbitration expenses, and attorneys' fees.

#### **Section 12: ACCEPTANCE BY GRANTEE / EFFECTIVE DATE FRANCHISE**

The First Amended Franchise shall be accepted by Grantee by written instrument in the form attached hereto as Exhibit "C" (hereinafter "Acceptance"), executed and acknowledged by it as a deed is required to be, and filed with the Clerk of the Pinal County Board of Supervisors within thirty days after the date this First Amended Franchise is accepted by County. This First Amended Franchise shall be effective upon delivery of the Acceptance to the Clerk of the Pinal County Board of Supervisors in the form required and within the time specified above.

#### **Section 13: LIMITS ON GRANTEE'S RECOURSE**

A. Grantee by its acceptance of the First Amended Franchise acknowledges such acceptance relies upon grantee's own investigation and understanding of the power and authority of the County to grant said franchise. Grantee by its acceptance of the First Amended Franchise accepts the validity of the terms and conditions of the First Amended Franchise in their entirety and agrees it will not, at any time, proceed against County in any claim or proceeding challenging any term or provision of the First Amended Franchise as unreasonable, arbitrary or void, or that County did not have the authority to impose such term or condition.

B. Grantee by accepting the First Amended Franchise acknowledges that it has not been induced to accept the same by any promise, verbal or written, by or on behalf of County or by any third person regarding any term or condition of the First Amended Franchise not expressed therein. Grantee by its acceptance of the First Amended Franchise further pledges that no promise or inducement, oral or written, has been made to any employee or official of County regarding receipt of the First Amended Franchise.

C. Grantee by its acceptance of the First Amended Franchise further acknowledges that it has carefully read the terms and conditions of the First Amended Franchise and accepts without reservation the obligations imposed by the terms and conditions herein.

D. In case of conflict or ambiguity between the First Amended Franchise and the Original Franchise, the provision which provides the greatest benefit to County, as determined solely by County, shall prevail.

E. The Board's decision concerning its selection and awarding of the First Amended Franchise shall be final.

#### **Section 14: FAILURE TO ENFORCE FRANCHISE**

Grantee shall not be excused from complying with any of the terms and conditions of the First Amended Franchise by any failure of County, upon any one or more occasions, to insist upon the Grantee's performance or to seek Grantee's compliance with any one or more of such terms or conditions.

#### **Section 15: COMPLIANCE WITH THE LAW**

Grantee shall at all times, conduct its business under the First Amended Franchise in accordance with all federal, state and local laws, rules and regulations, as amended, including any future amendments thereto as may, from time to time, be adopted.

#### **Section 16: INTERPRETATION/GOVERNING LAW**

The interpretation and performance of the First Amended Franchise and of the general terms and conditions shall be in accordance with and governed by the laws of the State of Arizona.

#### **Section 17: VENUE**

Exclusive venue for any legal action to enforce the provisions, terms and conditions of the First Amended Franchise shall be the Superior Court of the State of Arizona in and for the County of Pinal, Florence, Arizona.

## **Section 18: SEVERABILITY**

If any section, provision, term or covenant or any portion of any section, provision, term or covenant of the First Amended Franchise is determined to be illegal, invalid or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory agency having jurisdiction thereof, such determination shall have no effect on any remaining portion of such section, provision, term or covenant or the remaining sections, provisions, terms or covenants of the First Amended Franchise, all of which will remain in full force and effect for the term of the First Amended Franchise or any renewal or renewals thereof.

## **Section 19: FORFEITURE**

A. If Grantee fails to comply with any of the provisions of this agreement or defaults in any of its obligations hereunder, except for causes beyond the reasonable control of Grantee; and shall fail within thirty (30) days after written notice from County to commence, and within a reasonable time, complete the correction of such default or noncompliance, County shall have the right to revoke this agreement and all rights of Grantee hereunder. In the event Grantee makes a general assignment or general arrangement for the benefit of creditors; or a trustee or receiver is appointed to take possession of substantially all of Grantee's Facilities within the Franchise Area or of Grantee's interest in this First Amended Franchise, where possession is not restored to Grantee within thirty (30) days; or Grantee's Facilities within the Franchise Area are subject to an attachment, execution or other seizure of substantially all of the Grantee's Facilities within the Franchise Area or this First Amended Franchise, where such seizure is not discharged within thirty (30) days, County may declare the First Amended Franchise, along with the Original Franchise, forfeited and terminated.

B. Nothing herein contained shall limit or restrict any other legal rights that County may possess arising from such violations.

## **Section 20: REVOCATION OF FRANCHISE**

The First Amended Franchise, along with the Original Franchise, may, after due notice and hearing, be revoked by County for any of the following reasons:

- A. For material false or misleading statements in, or material omissions from the application for and the hearing for the granting of the First Amended Franchise.
- B. For any transfer or assignment of the First Amended Franchise or control thereof without County's written consent.
- C. For failure to comply with any of the terms and conditions of the First Amended Franchise, except as provided in Section 19 above, and after written notice to

Grantee from County of the default and Grantee's fails to correct such default within the time period and procedures as set forth in Section 19 above.

#### **Section 21: ASSIGNMENT/TRANSFER**

Grantee shall not assign or transfer any interest in the First Amended Franchise without the prior written consent of County. Said Board shall not unreasonably withhold its consent to a proposed transfer.

#### **Section 22: NOTICE**

Notices required under the First Amended Franchise shall be delivered or sent by certified mail, postage prepaid to:

Grantor:

Clerk of the Pinal County Board of Supervisors  
P.O. Box 827  
31 N. Pinal Street  
Florence, Arizona 85232

Grantee:

Diversified Water Utilities, Inc.  
2850 E. Camelback Rd., Suite 200  
Phoenix, Arizona 85016-4316

The delivery or mailing of such notice shall be equivalent to direct personal notice and shall be deemed to have been given at the time of delivery. Either party may change its address under this section by written notice to the other party.

#### **Section 23: REMEDIES**

Rights and remedies reserved to the parties by the First Amended Franchise are cumulative and shall be in addition to and not in derogation of any other rights or remedies which the parties may have with respect to the subject matter of the First Amended Franchise and a waiver thereof at any time shall not affect any other time.

#### **Section 24: RIGHT OF INTERVENTION**

County hereby reserves to itself, and Grantee hereby grants to County, the right to intervene in any suit, action or proceeding involving any provision in the First Amended Franchise.

First Amended  
Diversified Water Utilities, Inc. Franchise9

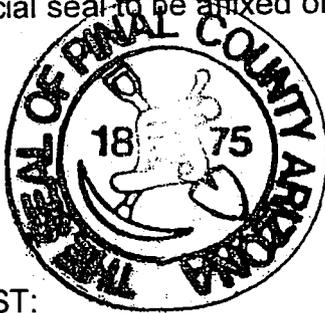
**Section 25: BOOKS AND RECORDS**

Grantee shall maintain books and records that identify all of Grantee's underground facilities by type and location within the Franchise Area. Grantee will make such books and records available to County upon County's request and without cost to County.

**Section 26: AD VALOREM TAXES**

Grantee shall pay its ad valorem taxes before they become delinquent.

IN WITNESS WHEREOF, the Board of Supervisors of Pinal County, Arizona, by its Chairman and its Clerk, thereunto duly authorized, has hereunto set its hand and cause its official seal to be affixed on this 29<sup>th</sup> day of March, 2006.



PINAL COUNTY BOARD OF SUPERVISORS

Sandie Smith  
Sandie Smith, Chairman

ATTEST:

Sheri Cluff  
Sheri Cluff, Deputy Clerk of the Board

APPROVED AS TO FORM:

ROBERT CARTER OLSON  
PINAL COUNTY ATTORNEY

Rick V. Husk  
Rick V. Husk  
Deputy County Attorney

**Exhibit A**

Transfer Of The Quail Hollow Water Distribution System Franchise

**WHEREAS**, Quail Hollow Water Company had received a water distribution system franchise from Pinal County to establish and maintain water distribution system services on February 23, 1987, a copy of which is attached as Exhibit "A" (hereinafter "Franchise").

**WHEREAS**, Quail Hollow Water Company, an Arizona corporation, duly authorized to conduct business in the State of Arizona, has duly filed and presented to the Board of Supervisors of the County of Pinal, State of Arizona, its application for transfer of the Franchise to Diversified Water Utilities, Inc., f.k.a. Quail Hollow Water Company, Inc., pursuant to a(n) Bill of Sale and Deed attached hereto as Exhibit B.

**WHEREAS**, Quail Hollow Water Company, Inc. merged with Diversified Water Utilities, Inc., an Arizona corporation, on August 28, 1995 with Quail Hollow Water Company, Inc. being the surviving corporation.

**WHEREAS**, Quail Hollow Water Company, Inc. changed its corporate name to Diversified Water Utilities, Inc. as a part of the merger.

**WHEREAS**, upon filing of Quail Hollow Water Company's application for the transfer of the Franchise, the Board of Supervisors of Pinal County ordered a public notice of its intent to consider the granting of the Transfer to be published in a newspaper of general circulation, in Pinal County, Arizona, stating the time and place for consideration of the transfer was set for 10:00 a.m. on October 26, 1995, at the Pinal County Board of Supervisors' Hearing Room, Administration Building No. 1, Florence, Arizona.

**WHEREAS**, said application for the transfer of the Franchise having come on regularly for hearing at 10:00 a.m. on October 26, 1995; and it appearing from the affidavit of the publisher of the Independent Newspapers, Inc. that due and regular notice of said time and place set for the consideration of such action has been published for at least once a week for three consecutive weeks prior to said hearing date, to-wit: in the issues of the Apache Junction Independent published on October 4, 1995, October 11, 1995, and October 18, 1995; and the matter being called for hearing at 10:00 a.m., and an opportunity having been given to all interested parties to be heard.

**WHEREAS**, the Board of Supervisors of Pinal County has the power to transfer an existing franchise under its general police powers in such matters.

Quail Hollow Water Company to Diversified Water Utilities, Inc. Transfer  
Quail Hollow Water Distribution System Franchise

NOW, THEREFORE,

**Section 1: DEFINITIONS**

The following terms used in this transfer of the Franchise shall have the following meanings:

- A. County: Pinal County, Arizona
- B. Board: Board of Supervisors of Pinal County, Arizona.
- C. Grantor: Pinal County, by and through its Board of Supervisors
- D. Grantee: Diversified Water Utilities, Inc., f.k.a. Quail Hollow Water Company, Inc., its successors and assigns
- E. Grantee's Facilities: Water distribution system lines and related appurtenances

**Section 2: GRANT**

A. Grantor, on October 26, 1995, hereby grants to Grantee, for a period of time not to exceed the Franchise, this transferred franchise (hereinafter "Transferred Franchise") for the purpose of constructing, operating and maintaining water distribution system lines and related appurtenances along, under and across public streets, alleys and highways, except federal and state highways, under the terms and conditions set forth herein within the unincorporated area of Pinal County, Arizona, as described in the Franchise (hereinafter "Franchise Area").

B. Nonexclusive Franchise.

(1) The Transferred Franchise granted hereby shall not be exclusive and shall not restrict in any manner the right of County in the exercise of any regulatory power which it now has or which may hereafter be authorized or permitted by the laws of the State of Arizona. Nothing herein shall be construed to prevent County from granting other like or similar franchises to any other person, firm or corporation. County retains and shall ever be considered as having and retaining the right and power to allow and to grant to any other person, firm, corporation or other companies, franchise rights and privileges to be exercised in and upon its public streets, alleys, highways and public places, and such of the same and parts thereof as County may deem best or choose to allow, permit, give or grant.

(2) Nothing herein shall be construed to prevent County and its proper authorities from constructing and installing water distribution system lines, gutters, or improvements to its public highways, streets and alleys, and for that purpose, to require the Grantee at Grantee's own expense to remove Grantee's facilities to conform thereto and facilitate the same.

Quail Hollow Water Company to Diversified Water Utilities, Inc. Transfer  
Quail Hollow Water Distribution System Franchise

C. Reservation of Rights. County reserves the right to impose at any time restrictions and limitations upon the use of the public streets, alleys and highways as County deems best for the public safety or welfare and does not conflict with regulations of the Arizona Corporation Commission.

### **Section 3: RENEWAL/SUBSEQUENT APPLICATION/REMOVAL OF SYSTEM**

A. The Transferred Franchise herein granted shall expire on the date provided for in the Franchise, or upon any prior forfeiture; and upon its termination, Grantee shall cease to exercise under the terms of the Transferred Franchise the privileges herein granted. In the event Grantee desires a renewal of the Transferred Franchise herein granted, or a new franchise for a subsequent period, Grantee shall apply to and open negotiations with County for that purpose at least six (6) months before the expiration of the Transferred Franchise herein granted; but nothing herein shall be construed to bind County to grant such renewal or subsequent franchise.

B. Upon termination of the Transferred Franchise, or any renewal thereof, the grantee shall remove its facilities from the streets, alleys, ways, highways and bridges within the Franchise Area and shall restore the areas to their original condition. If such removal is not completed within six months of such termination, County may deem any property not removed as having been abandoned.

### **Section 4: REGULATION**

Grantee, its successors and assigns shall be subject to reasonable regulations for the maintenance by grantee, its successors and assigns, of such portion of the public streets, alleys and highways used for the purpose of the Transferred Franchise now in force or that may hereafter be enacted and inconsistent herewith.

### **Section 5: CONSTRUCTION, INSTALLATION AND REPAIRS**

A. Prior to the beginning of any construction for installation of water distribution system lines and related appurtenances, the Grantee, its successors and assigns will submit a plan of proposed construction to the Pinal County Engineer and will not commence any construction until the plan of construction is approved by the County Engineer or his designate.

B. All work performed by Grantee under the Transferred Franchise shall be done in strict compliance with all laws, ordinances, rules and regulations of federal, state and local governments.

C. No construction, reconstruction, repair, or relocation under the Transferred Franchise shall be commenced until written permits have been obtained from the proper county officials. In any permit so issued, such officials may impose such conditions and regulations as a condition of the granting of the same as are necessary for the purpose of protecting any structures in the highways or streets and for the proper restoration of such highways, streets

and structures, and for the protection of the public and the continuity of pedestrian and vehicular traffic.

D. No construction under the Transferred Franchise by grantee shall impose upon County the duty to maintain any public street, alley or highway unless County accepts said public street, alley or highway into the county maintenance system as provided by law.

#### **Section 6: INSPECTION**

County shall, if it deems it necessary, have the right to inspect the construction, operation and maintenance of Grantee's facilities to insure the proper performance of the terms of the Transferred Franchise granted herein.

#### **Section 7: SUFFICIENCY, LOCATION AND MAINTENANCE**

All of Grantee's Facilities shall be in all respects adequate, efficient and substantial and shall be so located, erected and maintained so as not to interfere with the use and enjoyment of the public streets, alleys and highways. All of Grantee's Facilities erected by Grantee shall be maintained in a safe, suitable, substantial condition and in good order and repair.

#### **Section 8: EXPANSION**

Grantee will, from time to time, during the term of the Transferred Franchise make such enlargements and extensions of its water distribution system as are necessary to adequately provide for the requirements of County and the inhabitants of the Franchise Area; provided that nothing herein shall compel Grantee to expand or enlarge its system beyond the economic and operating limits thereof. Such enlargements and extensions shall be made in accordance with company rules and regulations.

#### **Section 9: RELOCATION**

A. During the term of the Transferred Franchise whenever County or any qualified authority having jurisdiction in the Franchise Area alters, repairs, improves, or changes the grade of, any public streets, alleys and highways in the Franchise Area during the term of the Transferred Franchise, then and in such event, Grantee, its successors or assigns, at its own expense, shall promptly, upon reasonable notice, make such changes in the location, structure or alignment of its water distribution system lines and related appurtenances as the public officials in charge of such work may deem necessary.

B. After thirty (30) days notice to Grantee, of needed changes or corrections and upon the failure of Grantee, to make such changes set forth in Section 9(A) above or to correct any damage to the right-of-way of any public street, alley or highway within the Franchise Area caused directly or indirectly by Grantee, its agents, successors or assigns, County or its successors shall have the right to make such changes or corrections at the expense of said Grantee, its successors or assigns, and such expenses shall be due and payable upon written demand by County or its successors to Grantee, its successors or assigns.

Quail Hollow Water Company to Diversified Water Utilities, Inc. Transfer  
Quail Hollow Water Distribution System Franchise

## **Section 10: LIABILITY**

A. If any streets, highways, alleys, ways, bridges, sidewalks, public place, or other public facility should be disturbed, altered, damaged or destroyed by Grantee, its employees, contractors, subcontractors or agents in the construction, installation, operation and maintenance of Grantee's Facilities under the Transferred Franchise, the same shall be promptly repaired, reconstructed, replaced or restored by Grantee, without cost to County, as soon as practicable and in as good condition as before Grantee's entry and to the satisfaction of County. If Grantee fails to make such restoration and repairs within a reasonable time as determined by County, then County may fix a reasonable time for such restoration and repairs and shall notify Grantee in writing of the restoration and repairs required and the time fixed for the performance thereof. Upon failure of Grantee to comply within the time specified, County may cause proper restoration and repairs to be made, and the expense of such work shall be paid by Grantee upon demand by County.

B. Grantee shall be responsible to every owner of property which shall be injured by the work of construction, installation, operation or maintenance of Grantee's Facilities under the Transferred Franchise, all physical damage which shall be done to such injured property through any act or omission of Grantee, its employees, contractors, subcontractors or agents arising out of said construction, installation, operation or maintenance.

C. It is a condition of the Transferred Franchise that County shall not and does not by reason of the Transferred Franchise assume any liability of the Grantee whatsoever for injury to persons or damage to property.

## **Section 11: INDEMNIFICATION**

Grantee by its acceptance of the Transferred Franchise agrees for itself, its successors and assigns that throughout the entire term of this franchise, Grantee, its successors and assigns, at its sole cost and expense, shall indemnify, defend, save and hold harmless Pinal County, its elected officers, employees and agents from any and all lawsuits, judgments and claims for injury, death and damage to persons and property, both real and personal, caused by the construction, design, installation, operation or maintenance of any structure, equipment, water distribution system lines or related appurtenances by Grantee within the Franchise Area. Indemnified expenses shall include, but not be limited to, litigation and arbitration expenses, and attorneys' fees.

## **Section 12: ACCEPTANCE BY GRANTEE / EFFECTIVE DATE FRANCHISE**

The Transferred Franchise shall be accepted by Grantee by written instrument in the form attached hereto as Exhibit "C" (hereinafter "Acceptance"), executed and acknowledged by it as a deed is required to be, and filed with the Clerk of the Pinal County Board of Supervisors within thirty days after the date this Transferred Franchise is accepted by County. This Transferred Franchise shall be effective upon delivery of the Acceptance to the Clerk of the Pinal County Board of Supervisors in the form required and within the time specified above.

### **Section 13: LIMITS ON GRANTEE'S RECOURSE**

A. Grantee by its acceptance of the Transferred Franchise acknowledges such acceptance relies upon grantee's own investigation and understanding of the power and authority of the County to grant said franchise. Grantee by its acceptance of the Transferred Franchise accepts the validity of the terms and conditions of the Transferred Franchise in their entirety and agrees it will not, at any time, proceed against County in any claim or proceeding challenging any term or provision of the Transferred Franchise as unreasonable, arbitrary or void, or that County did not have the authority to impose such term or condition.

B. Grantee by accepting the Transferred Franchise acknowledges that it has not been induced to accept the same by any promise, verbal or written, by or on behalf of County or by any third person regarding any term or condition of the Transferred Franchise not expressed therein. Grantee by its acceptance of the Transferred Franchise further pledges that no promise or inducement, oral or written, has been made to any employee or official of County regarding receipt of the Transferred Franchise.

C. Grantee by its acceptance of the Transferred Franchise further acknowledges that it has carefully read the terms and conditions of the Transferred Franchise and accepts without reservation the obligations imposed by the terms and conditions herein.

D. In case of conflict or ambiguity between the Transferred Franchise and the Franchise, the provision which provides the greatest benefit to County, as determined solely by County, shall prevail.

E. The Board's decision concerning its selection and awarding of the Transferred Franchise shall be final.

### **Section 14: FAILURE TO ENFORCE FRANCHISE**

Grantee shall not be excused from complying with any of the terms and conditions of the Transferred Franchise by any failure of County, upon any one or more occasions, to insist upon the Grantee's performance or to seek Grantee's compliance with any one or more of such terms or conditions.

### **Section 15: COMPLIANCE WITH THE LAW**

Grantee shall at all times, conduct its business under the Transferred Franchise in accordance with all federal, state and local laws, rules and regulations, as amended, including any future amendments thereto as may, from time to time, be adopted.

### **Section 16: INTERPRETATION/GOVERNING LAW**

The interpretation and performance of the Transferred Franchise and of the general terms and conditions shall be in accordance with and governed by the laws of the State of Arizona.

Quail Hollow Water Company to Diversified Water Utilities, Inc. Transfer  
Quail Hollow Water Distribution System Franchise

## **Section 17: VENUE**

Exclusive venue for any legal action to enforce the provisions, terms and conditions of the Transferred Franchise shall be the Superior Court of the State of Arizona in and for the County of Pinal, Florence, Arizona..

## **Section 18: SEVERABILITY**

If any section, provision, term or covenant or any portion of any section, provision, term or covenant of the Transferred Franchise is determined to be illegal, invalid or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory agency having jurisdiction thereof, such determination shall have no effect on any remaining portion of such section, provision, term or covenant or the remaining sections, provisions, terms or covenants of the Transferred Franchise, all of which will remain in full force and effect for the term of the Transferred Franchise or any renewal or renewals thereof.

## **Section 19: FORFEITURE**

A. If Grantee fails to comply with any of the provisions of this agreement or defaults in any of its obligations hereunder, except for causes beyond the reasonable control of Grantee; and shall fail within thirty (30) days after written notice from County to commence, and within a reasonable time, complete the correction of such default or noncompliance, County shall have the right to revoke this agreement and all rights of Grantee hereunder. In the event Grantee makes a general assignment or general arrangement for the benefit of creditors; or a trustee or receiver is appointed to take possession of substantially all of Grantee's Facilities within the Franchise Area or of Grantee's interest in this Transferred Franchise, where possession is not restored to Grantee within thirty (30) days; or Grantee's Facilities within the Franchise Area are subject to an attachment, execution or other seizure of substantially all of the Grantee's Facilities within the Franchise Area or this Transferred Franchise, where such seizure is not discharged within thirty (30) days, County may declare the Transferred Franchise, along with the Franchise, forfeited and terminated.

B. Nothing herein contained shall limit or restrict any other legal rights that County may possess arising from such violations.

## **Section 20: REVOCATION OF FRANCHISE**

A. The Transferred Franchise, along with the Franchise, may after due written notice specifying any deficiencies and hearing, be revoked by County for any of the following reasons:

1. For material detrimental false or misleading statements in, or material adverse omissions from the application for the Transferred Franchise which are not cured within thirty (30) days of any finding of such hearing.

2. For failure to comply with any of the material terms and conditions of the Transferred Franchise which result in material and adverse consequence to the County that are not cured within thirty (30) days of any finding of such hearing.

B. Nothing herein contained shall limit or restrict any other legal rights that County may possess arising from such violations.

#### **Section 21: ASSIGNMENT/TRANSFER/MERGER**

A. Transferred Franchise may be assigned or transferred in whole, but not partially, subject to the approval of the County.

B. Grantee shall notify County of any intent to assign or transfer this Transferred Franchise prior to any hearings before the Arizona Corporation Commission.

C. Assignee or transferee is required to file with the Clerk of the Pinal County Board of Supervisors a writing acknowledging their unconditionally acceptance of the Transferred Franchise and any other expansion or amendments, and a covenant to faithfully comply with and perform all the provisions, terms and conditions of said franchise.

D. County shall be notified of any merger by Grantee to enable County to update its records.

#### **Section 22: NOTICE**

Notices required under the Transferred Franchise shall be delivered or sent by certified mail, postage prepaid to:

Grantor:

Clerk of the Pinal County Board of Supervisors  
P.O. Box 827  
31 N. Pinal  
Florence, Arizona 85232

Grantee:

Diversified Water Utilities, Inc.  
P.O. Box 17357  
Phoenix, AZ 85011

The delivery or mailing of such notice shall be equivalent to direct personal notice and shall be deemed to have been given at the time of delivery. Either party may change its address under this section by written notice to the other party.

Quail Hollow Water Company to Diversified Water Utilities, Inc. Transfer  
Quail Hollow Water Distribution System Franchise

**Section 23: REMEDIES**

Rights and remedies reserved to the parties by the Transferred Franchise are cumulative and shall be in addition to and not in derogation of any other rights or remedies which the parties may have with respect to the subject matter of the Transferred Franchise and a waiver thereof at any time shall not affect any other time.

**Section 24: RIGHT OF INTERVENTION**

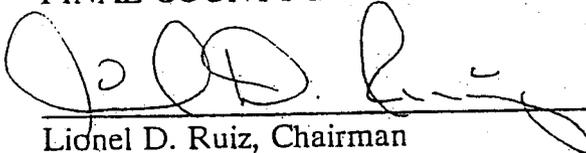
County hereby reserves to itself, and Grantee hereby grants to County, the right to intervene in any suit, action or proceeding involving any provision in the Transferred Franchise.

**Section 25: BOOKS AND RECORDS**

Grantee shall maintain books and records that identify all of Grantee's underground facilities by type and location within the Franchise Area. Grantee will make such books and records available to County upon County's request and without cost to County.

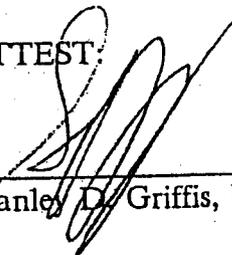
IN WITNESS WHEREOF, the Board of Supervisors of Pinal County, Arizona, by its Chairman and its Clerk, thereunto duly authorized, has hereunto set its hand and cause its official seal to be affixed on October 26, 1995.

PINAL COUNTY BOARD OF SUPERVISORS



Lionel D. Ruiz, Chairman

ATTEST:



Stanley D. Griffis, Ph.D., Clerk of the Board

APPROVED AS TO FORM:

GILBERTO V. FIGUEROA  
PINAL COUNTY ATTORNEY



Eric L. Walberg, Deputy County Attorney

**Exhibit A**

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LAW OFFICES  
MARTINEZ & CURTIS, P. C.  
2712 NORTH 7TH STREET  
PHOENIX, ARIZONA 85006-1003  
TELEPHONE (602) 248-0372 ✓

Attorneys for Applicant

COPY

COPY

BEFORE THE BOARD OF SUPERVISORS  
OF PINAL COUNTY, STATE OF ARIZONA

In the Matter of the Application ) FRANCHISE  
of Quail Hollow Water Company, )  
an Arizona corporation, for ) *Resolution 22387-QHW*  
a Franchise. )  
\_\_\_\_\_ )

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF PINAL  
COUNTY, STATE OF ARIZONA, THAT:

WHEREAS, QUAIL HOLLOW WATER COMPANY, hereinafter  
designed as the Grantee, doing business in Pinal County, Arizona,  
has filed an Application with the Board of Supervisors of Pinal  
County, Arizona, bearing date of December 19, 1986, praying  
for the right, privilege, license and franchise to construct,  
maintain and operate a domestic water distribution system for a  
period of twenty-five (25) years for the transmission and delivery  
of water for domestic use along, upon, under and across public  
highways, roads, alleys and thoroughfares (excepting State

...  
...

1 Highways), within that portion of Pinal County, Arizona, known and  
2 described as follows, to-wit:

3 Sections 27, 34, and 35 in Township 2 South, Range  
4 8 East, and Sections 2, 3, 4, 9, 10, 11, and 12 in  
5 Township 3 South, Range 8 East, Gila and Salt River  
6 Base and Meridian, Pinal County, Arizona, except  
7 for that land known as Sun Valley Farms Unit 6,  
8 consisting generally of the South half of Section  
9 34, Township 2 South, Range 8 East, and the North  
10 half of Section 3, Township 3 South, Range 8 East,  
11 Gila and Salt River Base and Meridian, Pinal  
12 County, Arizona; Section 13; Section 14; Section  
13 15; the South half of Section 17; Section 18,  
14 except the North half of the North half thereof;  
15 the East half and the NE quarter of the NW quarter  
16 of Section 19; Section 20; Section 21 except for  
17 the railroad right-of-way of approximately 1.84  
18 acres crossing the NE corner thereof; Section 22  
19 except for the railroad right-of-way crossing the  
20 Western and Southern halves thereof; Section 23;  
21 Section 27, except: (a) the railroad right-of-way  
22 crossing the NE quarter thereof consisting of  
23 approximately 11.95 acres; (b) tract A consisting  
24 of 69.28 acres; and (c) tract B consisting of 9.72  
25 acres; Section 28; Section 29; the East half of  
26 Section 30; East half of the NE quarter of the NW  
quarter and the NE quarter of the NE quarter of  
Section 32; and a 5.28 acre parcel located in the  
West half of the West half of the SW quarter of the  
SW quarter of Section 33. All parcels included  
herein are located in Township 3 South, Range 8  
East of the Gila and Salt River Base and Meridian  
situated in Pinal County, Arizona.

19 and not within the confines of any incorporated city or town, and  
20 under such restriction and limitations and upon such terms as the  
21 Board of Supervisors may provide, not inconsistent with the laws  
22 of the State of Arizona, or the orders and rules of the  
23 Corporation Commission of the State of Arizona, and that the Board  
24 take such proceedings herein as is provided by laws of the State  
25 of Arizona; and  
26

1                   WHEREAS, upon filing said Application, the Board of  
2 Supervisors on the 7<sup>th</sup> day of January, 1987, ordered that  
3 public notice of the intention of said Board to make such grants  
4 be given by publishing a Notice in the Home Rounder Blvd. Journal,  
5 a newspaper of general circulation, published in the County of  
6 Pinal, State of Arizona, and that 11:00 A.m. on the 23<sup>rd</sup> day  
7 of February, 1987, at the meeting room of said Board of  
8 Supervisors located in the City of Florence, Arizona, be set as  
9 the time and place of hearing the said Application; and

10                   WHEREAS, the said Application coming on regularly for  
11 hearing on said day, and it appearing by the Affidavit of the duly  
12 authorized agent of the said time and place set for the  
13 consideration of such Application has been published for at least  
14 once a week for the three (3) week period prior to said date set  
15 forth herein, to-wit:

16                   In the issues of the said paper on the 5 day of  
17 February, the 12<sup>th</sup> day of February, and the 19 day  
18 of February, and it appearing that no sufficient protest has  
19 been filed by the qualified electors of the said County  
20 petitioning said Board of Supervisors to deny such license and  
21 franchise and it further appearing the best interest of Pinal  
22 County will be served by the granting of said Application and the  
23 franchise referred to therein;

24                   NOW, THEREFORE, the Board of Supervisors of Pinal  
25 County, State of Arizona, acting on behalf of said County does  
26

1 hereby grant unto Quail Hollow Water Company, doing business in  
2 Pinal County, Arizona, subject to the terms, conditions and  
3 limitations hereinafter contained, the right, privilege, license  
4 and franchise to construct, maintain and operate a domestic water  
5 distribution system, for a period of twenty-five (25) years,  
6 unless earlier terminated, for the supplying of this service  
7 along, upon, under and across the public highways, roads, alleys  
8 and throughfares (excepting State Highways) within that portion of  
9 Pinal, Arizona, hereinabove described above and not within the  
10 confines of any incorporated city or town, under such restrictions  
11 and limitations, and upon such terms as this Board at any time may  
12 provide, not inconsistent with the laws of the State of Arizona,  
13 or orders and rules of the Corporation Commission of the State of  
14 Arizona, specifically providing, however, that

15 (1) All rights hereunder are granted under the express  
16 condition that the Board of Supervisors of said Pinal County shall  
17 have the power at any time to impose such restrictions and  
18 limitations and to make such regulations on such highways, roads,  
19 and thoroughfares as may be deemed best for the public safety,  
20 health, welfare and convenience.

21 (2) All rights hereby granted shall be exercised so as  
22 to not interfere or conflict with any easements or rights-of-way  
23 heretofore granted by said Board of Supervisors and now in force.

24 (3) All rights hereby granted shall be exercised so as  
25 not to interfere or conflict with any easement, either public or  
26

1 private, of whatsoever nature, which has been acquired in or to  
2 the proper use of said highway, roads, and thoroughfares, or any  
3 portion thereof.

4 (4) All rights hereby granted shall be exercised so as  
5 not to interfere or conflict with or endanger in any way the  
6 proper use by the public of said highways, roads, and  
7 throughfares, or any portion thereof.

8 (5) That the said Grantee shall bear all expenses  
9 incurred, including damages and compensation for the alteration of  
10 the course, direction, surface, grade or alignment of any of the  
11 said highways, roads and thoroughfares necessarily made by the  
12 said Grantee for the purpose of this Franchise; that said Grantee  
13 will maintain his equipment at his own cost and expense and will  
14 make all necessary repairs from time to time as the same may be  
15 needed, without the necessity of notice from Pinal County. In the  
16 event the said Grantee shall fail to make any repairs within ten  
17 (10) days from the time same becomes necessary, then Pinal County  
18 may cause the same to be made, and said Grantee agrees to pay  
19 Pinal County the cost thereof.

20 (6) That all property of the Franchise be installed and  
21 operated by the said Grantee and shall be placed, removed or  
22 relocated, initially and throughout the term of this Franchise,  
23 along, in, over, under and across the said highways, roads and  
24 thoroughfares, in such a manner and location as the Board of  
25 Supervisors or its duly authorized agents may designate. Such  
26

1 placement, removal or relocation shall be done at the sole expense  
2 of the Grantee upon a determination by the Board of Supervisors of  
3 Pinal County that such placement, removal or relocation is  
4 necessary.

5  
6 If Grantee fails or refuses to so remove or relocate,  
7 Pinal County may so remove or relocate, at the sole expense of  
8 Grantee, such expense to include any and all damages and  
9 compensation of whatsoever nature arising therefrom.

10 In this section the term "property" includes conduits,  
11 pipe, wires, poles, or other structures and appliances used to  
12 supply or deal in gas, electricity, lights, water, heat,  
13 refrigeration, power, telephones, telegraph, television and other  
14 public utilities.

15 Any finding or determination made by the Board of  
16 Supervisors pursuant hereto shall be final and binding upon the  
17 Grantee whether or not such findings or determinations relates to  
18 the requirements of public safety or welfare, the use of public  
19 roads or the need for proposed improvements, and whether or not  
20 the function to be served by such removal or relocation is of a  
21 governmental or proprietary nature.

22 (7) That said Grantee shall indemnify and save  
23 harmless, the said County of Pinal from all costs, expenses and  
24 liabilities in connection with the granting of this Franchise and  
25 exercise of the same by them.

26 (8) That the rights of any person claiming to be

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injured in any manner by the maintenance of said projects and equipment shall not be affected hereby.

(9) That the terms and conditions of this Franchise shall inure to the benefit of, and be binding upon, all the heirs and assigns of the said Grantee.

(10) That the Franchise and privilege herein granted shall not be deemed to be exclusive and the said Board of Supervisors hereby expressly reserves the right and power to grant from time to time similar franchises and privileges over the same territory and highways, roads and thoroughfares.

(11) This Franchise is granted upon the express condition that the Certificate of Convenience and Necessity be procured from the Corporation Commission of the State of Arizona within six (6) months from the date of granting of this Franchise; and if such Certificate is not granted within six months from said date, then this Franchise to be void, otherwise to be in full force and effect for the time herein specified.

(12) All materials and construction methods used within the public right-of-way shall conform to the applicable standards, specifications and special provisions currently in effect in Pinal County.

(13) The Franchise holder shall obtain a construction permit from the office of the County Engineer prior to construction of any facilities in the public right-of-way.

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DATED this 23<sup>rd</sup> day of February, 1957.

John Malhieson  
Chairman, Board of Supervisors  
Pinal County, Arizona

ATTEST:

Charles R. Quinn  
Clerk, Board of Supervisors  
Pinal County, Arizona

C O P Y

**Exhibit B**



OFFICIAL RECORDS OF  
PINAL COUNTY RECORDER  
ATHLEEN C. FELIX

When recorded, return to:

Scott W. Gray, Esq.  
Jones, Skelton & Hochuli  
2901 North Central Avenue, Suite 800  
Phoenix, Arizona 85012

DATE: 08/24/95      TIME: 1047  
FEE:                    13.00  
PAGES:                6  
FEE NO: 1995-026273

QUIT CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS THAT:

QUAIL HOLLOW WATER COMPANY, an Arizona corporation (the "Grantor"), for and in good, valuable and received consideration to the Grantor, by these presents does hereby remise, release and forever quit claim unto QUAIL HOLLOW WATER COMPANY, INC., an Arizona corporation ("Grantee"), the real property (the "Property") located in Pinal County, Arizona, and being more particularly described in Exhibit "I" attached hereto and incorporated herein, together with all improvements located thereon and all rights, privileges, easements, tenements, hereditaments and appurtenances pertaining thereto, including all right, title and interest of the Grantor in and to all adjacent streets, roads, alleys and rights-of-way of the subdivision known as Quail Hollow Amended attached as Exhibit "II."

DATED this 31<sup>st</sup> day of March, 1995.

QUAIL HOLLOW WATER COMPANY,  
an Arizona corporation

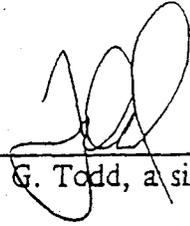
By: *Robert B. Medland*

Its: *Agent*

The shareholders of Grantor approve this Deed, and transfer all of their interest in the Property to Grantee.

*Robert B. Medland*

Robert B. Medland, a married man  
dealing with his sole and separate  
property

  
\_\_\_\_\_  
Ronald G. Todd, a single man

*Denise T. O'Connell*  
\_\_\_\_\_  
FORMERLY Denise Ricketts, a single woman  
PRESENTLY *Denise T. O'Connell*  
a married woman

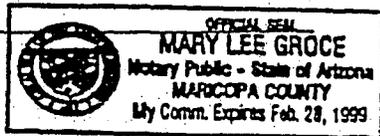
STATE OF ARIZONA     )  
  ) ss.  
County of Maricopa     )

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of ~~March~~ April, 1995, by Robert B. Medland, President of QUAIL HOLLOW WATER COMPANY, an Arizona corporation, on behalf of the corporation.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

*Mary Lee Groce*  
\_\_\_\_\_  
Notary Public

My commission expires:

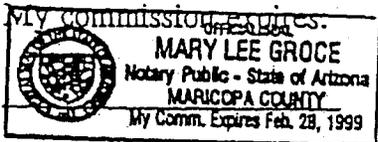


STATE OF ARIZONA )  
 ) ss.  
County of Maricopa )

The foregoing instrument was acknowledged before me this 18 day of <sup>April</sup>~~March~~, 1995, by Robert B. Medland.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Mary Lee Groce  
Notary Public



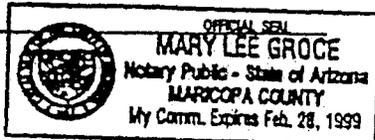
STATE OF ARIZONA )  
 ) ss.  
County of Maricopa )

The foregoing instrument was acknowledged before me this 18 day of <sup>April</sup>~~March~~, 1995, by Ronald G. Todd.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Mary Lee Groce  
Notary Public

My commission expires:



Commonwealth of  
STATE OF Massachusetts ) ss.  
County of Middlesex )

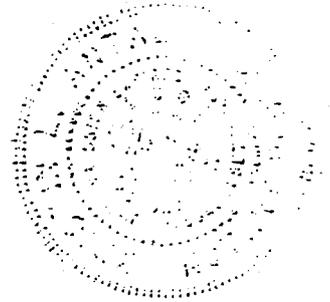
The foregoing instrument was acknowledged before me this 31 day of March, 1995, by Denise Ricketts.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Kristin L. Antall  
Notary Public  
Kristin L. Antall

My commission expires:

8/24/01



1995-026273

EXHIBIT "I"

Legal Description

Lot 119, of QUAIL HOLLOW AMENDED, according to the plat of record in the office of the County Recorder of Pinal County, Arizona, in Book 10 of Maps, page 12.

# QUAIL HOLLOW AMENDED

A SUBDIVISION OF SCS SECTION 2, T.15, S.14, E.10, R.10C  
GILBERT, MARICOPA COUNTY, ARIZONA  
AMERICAN ENGINEERING CO.

ALL LOTS ARE TO BE CONVEYED TO THE BUYER BY DEED AND THE BUYER SHALL BE RESPONSIBLE FOR THE PAYMENT OF ALL TAXES AND FEES DUE ON THE PROPERTY.

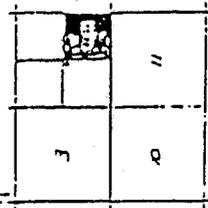
THE BUYER SHALL BE RESPONSIBLE FOR THE PAYMENT OF ALL TAXES AND FEES DUE ON THE PROPERTY.

THE BUYER SHALL BE RESPONSIBLE FOR THE PAYMENT OF ALL TAXES AND FEES DUE ON THE PROPERTY.

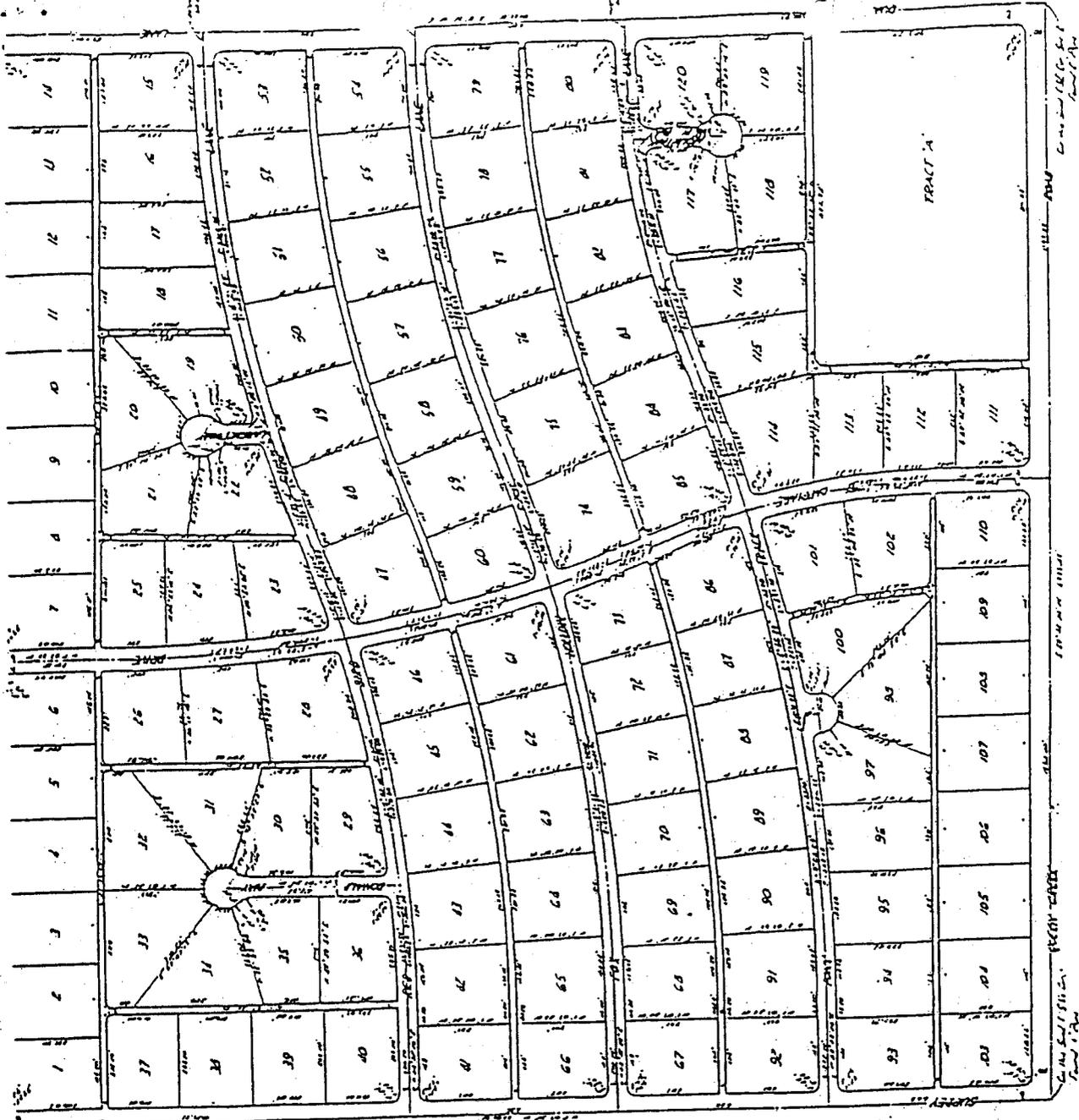
THE BUYER SHALL BE RESPONSIBLE FOR THE PAYMENT OF ALL TAXES AND FEES DUE ON THE PROPERTY.

THE BUYER SHALL BE RESPONSIBLE FOR THE PAYMENT OF ALL TAXES AND FEES DUE ON THE PROPERTY.

THE BUYER SHALL BE RESPONSIBLE FOR THE PAYMENT OF ALL TAXES AND FEES DUE ON THE PROPERTY.



LOCATION ALSO  
SEE P. 1



ALL LOTS ARE TO BE CONVEYED TO THE BUYER BY DEED AND THE BUYER SHALL BE RESPONSIBLE FOR THE PAYMENT OF ALL TAXES AND FEES DUE ON THE PROPERTY.

## BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS:

That QUAIL HOLLOW WATER COMPANY, an Arizona corporation ("Transferor") for and in the consideration of the transfer to Robert B. Medland, Ronald G. Todd and Denise Ricketts of the total sum of 1,000 shares of voting common stock from Quail Hollow Water Company, Inc., an Arizona corporation ("Transferee"), the receipt, adequacy and sufficiency of which are hereby acknowledged and confessed has assigned, transferred and set over and does hereby grant, bargain, transfer, set over and deliver unto Transferee, its successors, transferees and assigns, the assets ("Assets") free and clear of any liens or encumbrances, as follows:

A. All franchise rights and service area rights including, but not limited to, the Certificate of Convenience and Necessity issued to Seller by the Arizona Corporation Commission and the Franchise granted by Pinal County, Arizona for the territory specified on as Exhibit A attached hereto.

B. All water rights and wells, including any water rights with the Arizona Department of Water Resources.

C. The water system, including any transmission, distribution and service lines, hydrants, meters, water storage facilities, water pressure tanks, well pump motors, and any and all personal property utilized for the water distribution system.

D. All real property owned by Seller utilized for the water system, including present or future use and any easements or rights of way within the franchised area.

E. Any and all other property utilized by Seller in its water utility operations, including books and records, engineering drawings, customer accounts, and reports filed by Seller in connection with its utility operations.

Transferor hereby binds itself and its successors to warrant and defend the title to such Assets as against the acts of all parties.

IN WITNESS WHEREOF, Transferor has executed, conveyed and delivered this bill of sale on 31<sup>st</sup> day of March, 1995.

QUAIL HOLLOW WATER  
COMPANY, an Arizona corporation

By: *Robert B. Medland*

Its: *President*

The shareholders set forth below warrant to Transferee that they are the only shareholders of Transferor, approve this Bill of Sale, and transfer all of their interest in the Assets to Transferee.

*Robert B. Medland*  
Robert B. Medland

*R. G. Todd*  
Ronald G. Todd

*Formerly* → *Denise I. O'Connor*  
Denise Ricketts  
*Denise I. O'Connor*





# Diversified Water Utilities, Inc.

Office  
(602) 840-9400 2850 E. Camelback Rd., Suite 200  
fax (602) 840-6030 Phoenix, AZ 85016-4316

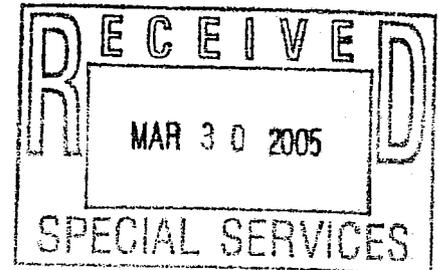
Customer Service Office  
(480) 677-6080 3880 S. De Niza  
fax (480) 677-6082 Apache Junction, AZ 85219-7357

Quality Water  
Quality Service

March 25, 2005

Member, AWWA  
AWPCA  
WUAA  
EVWF

VIA CERTIFIED MAIL - 7004 0750 0000 8115 2950



Gary Medina  
Special Services  
Pinal County Government  
P.O. Box 827  
Florence, AZ 85232

Re: Amended Request for Expansion of Pinal County Franchise

Dear Mr. Medina:

This letter amends the request from Diversified Water Utilities, Inc. ("Diversified") for an extension of its franchised area for water service in Pinal County, Arizona. You have correctly informed us that we currently have a portion of the requested area within the existing Franchise Agreement with Pinal County, dated February 23, 1987, as amended by the Transfer of the Quail Hollow Water Distribution System Franchise dated October 26, 1995 ("Agreement"). Accordingly, we are revising our prior request and now request that the current franchise from Pinal County be expanded to add Sections 16, 24, 25 and 26 of Range 8 East, Township 3 South in Pinal County ("Expansion Area") to the existing areas covered by our Agreement. A Pinal County franchise for Sections 13, 14, 15 and 22 of Range 8 East, Township 3 South in Pinal County requested in our prior letter are already within our existing Agreement.

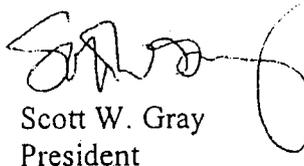
To further assist in this request, we are enclosing for the franchise amendment Arizona Corporation Commission ("ACC") Map No. 11 showing (i) the relevant portion of the current ACC certificated area for Diversified, (ii) the existing Pinal County franchise locations within Range 8 East Township 3 South and (iii) the Expansion Area.

Please prepare a proposed amendment for the revised Expansion Area to accomplish the requested franchise extension for our review and provide it to me at the above address.

Gary Medina  
March 25, 2005  
Page 2

Thank you for bring this matter to our attention. If you require any additional information or materials or if you anticipate any delay, please contact me immediately. Please do not hesitate to contact me with any questions you might have.

Very truly yours,

  
Scott W. Gray  
President

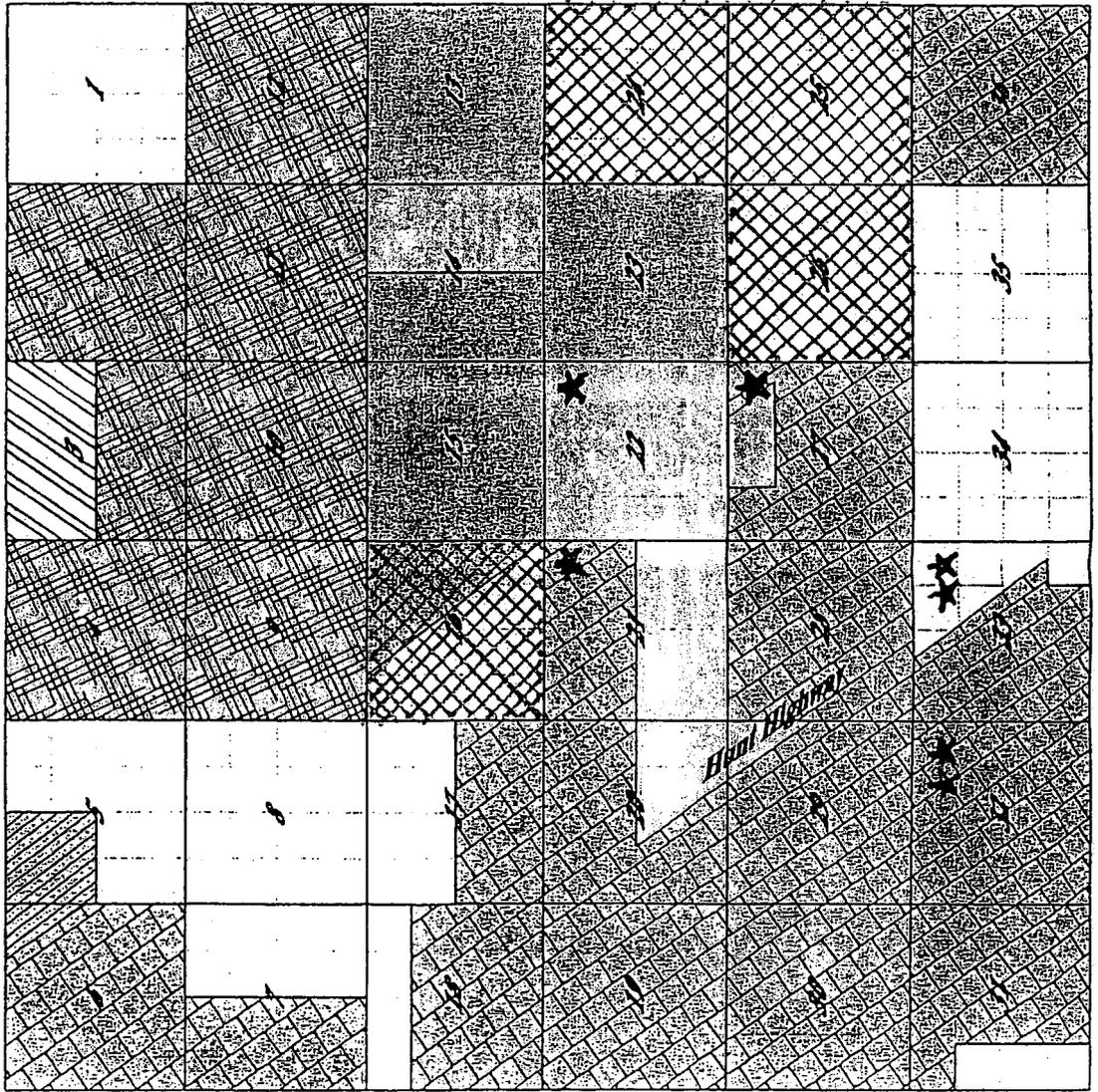
SWG:tld  
Enclosures

cc: William Sullivan, Esq. (with enclosures)

**COUINITY of Pinal**

**RANGE 8 East**

**TOWNSHIP 3 South**



-  W-2859 (3)  
Diversified Water Utilities, Inc. (Current Franchise Area)
-  W-2234 (2)  
H<sub>2</sub>O, Inc.
-  WS-2987 (6)  
Johnson Utilities Company
-  W-2425 (2)  
Sun Valley Farms Unit VI Water Company
-  Requested Pinal County Franchise Extension Area

\* Railroad right-of-way location within this Section excluded from Franchise by Pinal County Franchise Resolution 22387-QHW, dated February 23, 1987 (page 2 of Resolution attached hereto).

\*\* Diversified has received a franchise from Pinal County for a portion of this Section as set forth in Pinal County Franchise Resolution 22387-QHW, dated February 23, 1987 (page 2 of Resolution attached hereto).

**Exhibit B**

ACCEPTANCE OF EXPANDED AND AMENDED FRANCHISE

To: Board of Supervisors Pinal County, Arizona

Grantee, Diversified Water Utilities, Inc., a(n) Arizona corporation, does hereby accept the March 29, 2006 grant of a First Amended Franchise from Pinal County, Arizona, to construct, operate, and maintain domestic water system, lines and related fixtures along, under and across present and future public streets, alleys and highways, except state highways, within the unincorporated area of Pinal County, Arizona, as described in the Application, which is made a part hereof.

Grantee unconditionally accepts the franchise and covenants to faithfully comply with, abide by, to observe and perform all the provisions, terms and conditions of the First Amended Franchise. Grantee accepts such provisions, terms and conditions and expressly waives any and all objections to the reasonableness or legality of any provisions of the same or any part thereof, or as to the legal right or authority of the County of Pinal to impose the same.

Grantee declares that the statements and recitals in said First Amended Franchise are correct, and Grantee declares it has made and does make the agreement, statements and admissions in said First Amended Franchise recited to have been or to be made by Grantee.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2006.

Diversified Water Utilities, Inc.

By: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF ARIZONA        )  
  ) ss.  
County of                    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2006, by \_\_\_\_\_ of \_\_\_\_\_, a(n) Arizona corporation, and being authorized to do so, executed the foregoing instrument on behalf of the corporation for the purposes therein stated.

Notary Public

My Commission Expires:

\_\_\_\_\_

## Exhibit C

### SAMPLE ACCEPTANCE OF EXPANDED AND AMENDED FRANCHISE

To: Board of Supervisors Pinal County, Arizona

Grantee, Diversified Water Utilities, Inc., a(n) Arizona corporation, does hereby accept the March 29, 2006 grant of a First Amended Franchise from Pinal County, Arizona, to construct, operate, and maintain water lines and related fixtures along, under and across present and future public streets, alleys and highways, except state highways, within the unincorporated area of Pinal County, Arizona, as described in the Application, which is made a part hereof.

Grantee unconditionally accepts the franchise and covenants to faithfully comply with, abide by, to observe and perform all the provisions, terms and conditions of the First Amended Franchise. Grantee accepts such provisions, terms and conditions and expressly waives any and all objections to the reasonableness or legality of any provisions of the same or any part thereof, or as to the legal right or authority of the County of Pinal to impose the same.

Grantee declares that the statements and recitals in said First Amended Franchise are correct, and Grantee declares it has made and does make the agreement, statements and admissions in said First Amended Franchise recited to have been or to be made by Grantee.



OFFICIAL RECORDS OF  
PINAL COUNTY RECORDER  
LAURA DEAN-LYTTLE

When recorded mail to:

3  
Clerk of the Board Office  
P.O. Box 827  
Florence, Arizona 85232

DATE/TIME: 04/03/06 1534  
FEE: \$0.00  
PAGES: 2  
FEE NUMBER: 2006-047528

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(The above space reserved for recording information)

**CAPTION HEADING**

Acceptance by Diversified Water Utilities of their expanded and amended franchise.

---

ACCEPTANCE OF EXPANDED AND AMENDED FRANCHISE

To: Board of Supervisors Pinal County, Arizona

Grantee, Diversified Water Utilities, Inc., a(n) Arizona corporation, does hereby accept the March 29, 2006 grant of a First Amended Franchise from Pinal County, Arizona, to construct, operate, and maintain domestic water system, lines and related fixtures along, under and across present and future public streets, alleys and highways, except state highways, within the unincorporated area of Pinal County, Arizona, as described in the Application, which is made a part hereof.

Grantee unconditionally accepts the franchise and covenants to faithfully comply with, abide by, to observe and perform all the provisions, terms and conditions of the First Amended Franchise. Grantee accepts such provisions, terms and conditions and expressly waives any and all objections to the reasonableness or legality of any provisions of the same or any part thereof, or as to the legal right or authority of the County of Pinal to impose the same.

Grantee declares that the statements and recitals in said First Amended Franchise are correct, and Grantee declares it has made and does make the agreement, statements and admissions in said First Amended Franchise recited to have been or to be made by Grantee.

Dated this 29<sup>th</sup> day of March, 2006.

Diversified Water Utilities, Inc.

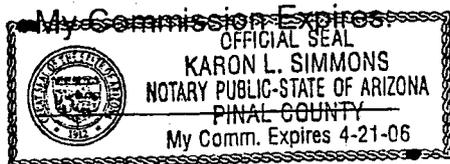
By: [Signature]

Title: President

STATE OF ARIZONA )  
 ) ss.  
County of )

The foregoing instrument was acknowledged before me this 29 day of March 2006, by Scott Wingfield Grant of Diversified Water Utilities a(n) Arizona corporation, and being authorized to do so, executed the foregoing instrument on behalf of the corporation for the purposes therein stated.

Notary Public  
[Signature: Karon L. Simmons]



# EXHIBIT K

# Bella Vista

## REVISED DEVELOPMENT PLAN

**LAND USE DATA SUMMARY**

Proposed Zoning	Land Use	Area, Acres
CR-2	Commercial	37.1
CR-3	Single Family	481.8
CR-3	School Site	16.0
CR-3	Open Space	93.3
Roads		31.0
	<b>Total</b>	<b>699.1</b>

### DENSITY CALCULATIONS

CR-3  
Total Units  
+/- 2,167 Units  
2,167 Units

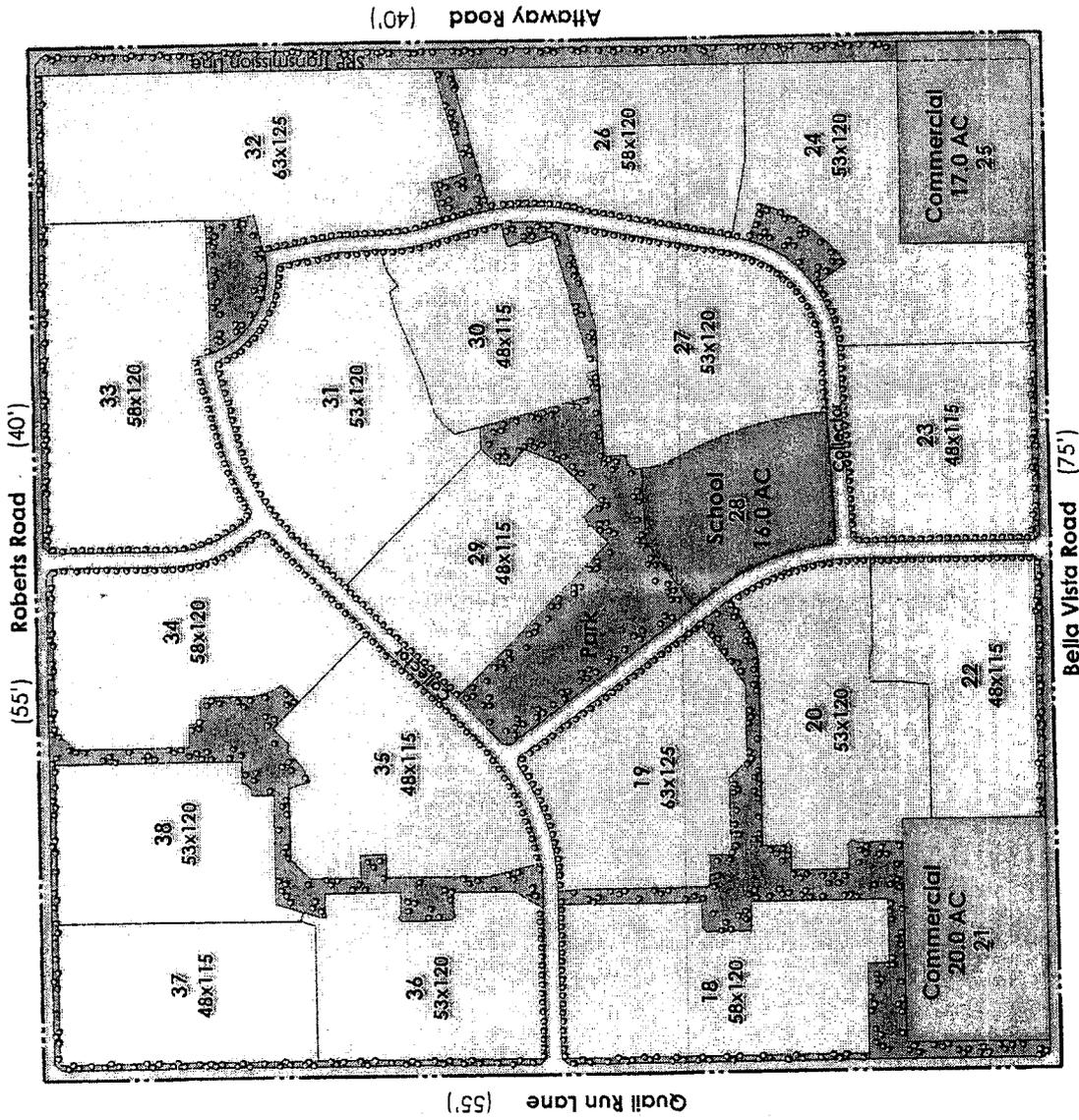
2,167 (total units)  
622.1 (total Res. area)  
= 3.48 DU/AC

### OPEN SPACE CALCULATIONS

Total Required = 15% of total Residential Area  
= (0.15)(622.1)ac  
Total Open Space Provided: 93.3 AC

### LEGEND

- Single Family
- Commercial
- School Site
- Open Space
- Roads



# EXHIBIT L

March 20, 2007

Scott W. Gray  
President  
Diversified Water Utilities, Inc.  
2850 E. Camelback Rd., Suite 200  
Phoenix, AZ 85016  
Transmitted via Email

**RE: Bella Vista Section 13 Development – CC&N Expansion Application Support**

Dear Mr. Gray:

Enclosed are the following documents for your review and approval. These documents are being forwarded to Bill Sullivan for his use in preparing the CC&N Expansion Application for the ACC. The documents include:

- An engineering report discussing the plans for service
- A summary of projected expenses
- A summary of projected revenue
- A depreciation calculation
- An estimate of on-site expenses

Please contact me with questions or concerns at (480) 252-2189.

Sincerely,

Jason Bethke, PE  
Bethke Engineering, LLC

Diversified Water Utilities, Inc. Bella Vista Section 13 Development						
Net Income	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	
Description						
Revenue	\$63,579.20	\$188,685.00	\$320,488.20	\$484,081.00	\$674,463.40	
Expenses	\$129,612.67	\$202,352.83	\$298,677.47	\$335,552.68	\$372,342.22	
EBITDA-AIAC	-\$66,033.47	-\$13,667.83	\$21,810.74	\$148,528.32	\$302,121.18	
Less AIAC Refunds@10%	\$6,357.92	\$18,868.50	\$32,048.82	\$48,408.10	\$67,446.34	
EBITDA	-\$72,391.39	-\$32,536.33	-\$10,238.09	\$100,120.22	\$234,674.84	
Less Depreciation	\$66,275.33	\$138,558.17	\$153,658.50	\$171,428.83	\$188,783.83	
EBIT	-\$138,666.72	-\$171,094.50	-\$163,896.59	-\$71,308.61	\$45,891.01	
Income Taxes at 42%	\$0.00	\$0.00	\$0.00	\$0.00	\$19,274.22	
Net Income	-\$138,666.72	-\$171,094.50	-\$163,896.59	-\$71,308.61	\$26,616.78	

Diversified Water Utilities, Inc.  
 Bella Vista Section 13 Development  
 Estimated Revenue

Description	Unit	Unit Cost	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
Base Charge 5/8 x 3/4	\$/EDU/month	\$27.50	\$33,000.00	\$103,125.00	\$177,375.00	\$268,125.00	\$375,375.00
Water Usage	\$/1000 Gal of avg day/2	\$3.65	\$25,579.20	\$79,935.00	\$137,488.20	\$207,831.00	\$290,963.40
One-Time Establishment	\$/EDU	\$25.00	\$5,000.00	\$5,625.00	\$5,625.00	\$8,125.00	\$8,125.00
Meter Reread	\$/15/occurrence	\$15.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Meter Retest	\$/25/occurrence	\$25.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Late Fees	\$/1.50/month	\$1.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Estimated Revenue			\$63,579.20	\$188,685.00	\$320,488.20	\$484,081.00	\$674,463.40

Diversified Water Utilities, Inc.  
 Bella Vista Section 13 Development  
 Estimated Expenses

Description	Unit	Unit Cost	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
Power	\$/1000 Gal	\$0.20	\$15,360.00	\$32,640.00	\$49,920.00	\$74,880.00	\$99,840.00
Wages	Employee	\$50,000.00	\$50,000.00	\$86,500.00	\$139,095.00	\$143,267.85	\$147,565.89
Payroll Burden	0.33 x wages	\$16,666.67	\$16,666.67	\$28,833.33	\$46,365.00	\$47,755.95	\$49,188.63
Non-Capitalized Permits	DWU estimate	\$2,000.00	\$2,000.00	\$2,060.00	\$2,121.80	\$2,185.45	\$2,251.02
Non-Capitalized Engineering	DWU estimate	\$5,000.00	\$5,000.00	\$5,150.00	\$5,304.50	\$5,463.64	\$5,627.54
Chlorination Chemicals	\$/1000 gal	\$0.02	\$1,536.00	\$3,264.00	\$4,992.00	\$7,488.00	\$9,984.00
Supplies	DWU estimate	\$2,750.00	\$2,750.00	\$2,832.50	\$2,917.48	\$3,005.00	\$3,095.15
Repairs	DWU estimate	\$1,000.00	\$1,000.00	\$2,000.00	\$3,000.00	\$4,000.00	\$5,000.00
Insurance	DWU estimate	\$3,500.00	\$3,500.00	\$3,605.00	\$4,213.15	\$4,339.54	\$4,469.73
Office Expense	DWU estimate	\$2,000.00	\$2,000.00	\$4,060.00	\$4,181.80	\$4,307.25	\$4,436.47
Billing	\$/EDU	\$3.00	\$600.00	\$1,275.00	\$1,950.00	\$2,925.00	\$3,900.00
Contract Labor and/or Rentals	DWU estimate	\$5,000.00	\$600.00	\$675.00	\$675.00	\$975.00	\$975.00
Vehicles	\$/employee	\$3,600.00	\$3,600.00	\$3,708.00	\$7,419.24	\$7,641.82	\$7,871.07
Water Quality Testing	Well	\$12,000.00	\$24,000.00	\$24,720.00	\$25,461.60	\$26,225.45	\$27,012.21
Other Expenses	DWU estimate	\$1,000.00	\$1,000.00	\$1,030.00	\$1,060.90	\$1,092.73	\$1,125.51
Estimated Expenses (not including taxes, depreciation or AIAC refunds)			\$129,612.67	\$202,352.83	\$298,677.47	\$335,552.68	\$372,342.22







In-Parcel Distribution (AIAC)

DU's 90000 ft/sq.mi.  
 3.75 DU's/acre  
 \$40.00

	Year 1	Year 2	Year 3
	200 \$ 300,000.00	225 \$ 337,500.00	225
<b>Sub-Total</b>	<b>\$ 300,000.00</b>	<b>\$ 337,500.00</b>	

	Year 4	Year 5
\$ 337,500.00	325 \$ 487,500.00	325 \$ 487,500.00
<u>\$ 337,500.00</u>	<u>\$ 487,500.00</u>	<u>\$ 487,500.00</u>

**Diversified Water Utilities, Inc.**

**Bella Vista Section 13 Development  
Preliminary Service Report in Support of  
Docket No. W-02859A-04-0844**

*Prepared for:*

**Diversified Water Utilities, Inc.  
2850 E. Camelback Road, Suite 200  
Phoenix, AZ 85016**

*Submitted to:*

**Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, AZ 85007  
Docket No. W-02859A-04-0844**

*Prepared by:*

**Jason Bethke, PE  
Bethke Engineering, LLC  
4120 E. Earll Drive  
Phoenix, AZ 85018**

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- Figure 1 – Conceptual Land Use Plan for Bella Vista Section 13 Development**

## A. INTRODUCTION

Wolfkin Farms, LLC has requested that Diversified Water Utilities, Inc. (DWU) extend its existing Certificate of Convenience and Necessity to incorporate the adjacent section 13 for its Bella Vista Development. Because Wolfkin Farms, LLC intends to wholesale the land to builders, they have requested that DWU estimate the infrastructure costs required to provide water service to the development.

DWU is in the process of developing a regional water master plan for its service area. Because the plan is not yet available, it is expected that the Bella Vista Section 13 Development will be served by wells and distribution and storage infrastructure to be developed for the property.

## B. DEVELOPMENT PROJECTIONS

Development projections are based on estimates reviewed with Wolfkin Farms, LLC, developers of the Bella Vista Section 13 Development. The development will be primarily comprised of single-family residences, with 37 acres of commercial development and one school. It is expected that neither the school nor the commercial development will be constructed within the first five years of the development. The estimated equivalent dwelling units (EDUs) to be constructed within the Bella Vista Section 13 Development are presented in **Table 1 – EDU Estimates for Bella Vista Section 13 Development**. The table includes EDU projections for the first five years and the build-out.

Table 1 – EDU Estimates for Bella Vista Section 13 Development						
Cumulative						
Description	Year 1	Year 2	Year 3	Year 4	Year 5	Buildout
EDU Estimates for Bella Vista Section 13 Development	200	425	650	975	1300	2167

## C. INFRASTRUCTURE REQUIRED TO SERVE BELLA VISTA SECTION 13 DEVELOPMENT

The primary infrastructure required to serve the development will include wells, storage reservoirs, booster stations and treatment systems. The design conditions for these facilities were developed using the following assumptions:

- Average Water Usage 120 gallons (gal) per capita, per day
- Population per EDU 3.2 individuals
- Maximum Day Demand Factor 2
- Peak Hour Water Demand Factor 3.4
- Fire Flow 1,500 gallons per minute (gpm)

**Table 2 – Cumulative Water Requirements for Bella Vista Section 13 Development** presents water requirements based on the EDU and design assumptions identified above.

Table 2 – Cumulative Water Requirements for Bella Vista Section 13 Development					
Description	Year 1	Year 2	Year 3	Year 4	Year 5
Average Day Water Demand (gpd)	76,800	163,200	249,600	374,400	499,200
Maximum Day Water Demand (gpd)	153,600	326,400	499,200	748,800	998,400
Peak Hour Water Demand (gpd)	261,120	554,880	848,640	1,272,960	1,697,280

Using these water requirements, infrastructure requirements were developed for the first five years of the Bella Vista Section 13 Development as presented in **Table 3 – Cumulative Infrastructure Requirements for Bella Vista Section 13 Development**. Storage requirements were based on providing storage for average day, peak month and an 80 percent service factor. It is important to note that the first phase of reservoir construction is expected to exceed this projection. Booster station pumping requirements were based on meeting maximum day plus fire flow or peak hour, whichever was greater.

Table 3 – Cumulative Infrastructure Requirements for Bella Vista Section 13 Development					
Description	Year 1	Year 2	Year 3	Year 4	Year 5
Wells (500 gpm estimated production)	2	2	2	2	2
Storage Requirement (MG)	0.1	0.3	0.4	0.6	0.8
Booster Station Capacity (gpm)	1,607	1,727	1,847	2,020	2,193

**Table 4 – Unit Costs to Provide Service to Bella Vista Section 13 Development** estimates the cost of providing service to the Bella Vista Section 13 Development. Please note that no treatment other than chlorination is expected.

Table 4 - Unit Costs to Provide Service to Bella Vista Section 13 Development		
Description	Unit	Unit Cost
Wells	gpm	\$1,500.00
Storage Reservoirs	Gal	\$1.00
Booster Stations	gpm	\$500.00

Compiling the data from tables 3 and 4 produces **Table 5 - Infrastructure Costs for Bella Vista Section 13 Development**. This cost estimate is representative of the five-year planning window. As such, the wells and a 1-million gallon storage reservoir will be installed during the first year of construction, while expandable systems (booster stations) will be initially built in year one and expanded in year three.

Table 5 - Infrastructure Costs for Bella Vista Section 13 Development						
Description	Year 1	Year 2	Year 3	Year 4	Year 5	Total Years 1-5
Wells	\$1,500,000	\$0	\$0	\$0	\$0	\$1,500,000
Storage Reservoirs	\$1,000,000	\$0	\$0	\$0	\$0	\$1,000,000
Booster Stations	\$923,333	\$0	\$173,333	\$0	\$0	\$1,096,667
Totals	\$3,423,333	\$0	\$173,333	\$0	\$0	\$3,596,667

#### **D. CONCEPTUAL PLAN FOR PROVIDING SERVICE TO BELLA VISTA SECTION 13 DEVELOPMENT**

**Figure 1 – Conceptual Land Use Plan for Bella Vista Section 13 Development** (provided by CVL Associates, Inc.) identifies the land uses proposed for the development. The water distribution facility will be located within section 13. DWU will request that the water distribution facility be located near the intersection of Quail Run Lane and Roberts Road.

##### Implementation

A master planning effort is currently underway to develop regionalized water distribution facilities within the DWU service area. Recognizing that the final master plan must adjust to development activities, it will be updated as development occurs. A five-year service plan is currently being developed for the Bella Vista Section 13 Development. The major components of the service plan are presented below.

Prior to construction of housing units within the Bella Vista Section 13 Development, the following facilities will be constructed on the proposed water distribution facility site:

- A 1-million gallon storage reservoir, with additional space for a second reservoir
- A 5000-gallon pressure tank to provide for surge protection
- A booster station with a firm capacity of 1874 gpm complete with variable speed drives. The booster station will initially be constructed to provide the capacity projected at year three. Phase 2 of the booster station will increase the firm capacity to 2193 gpm, plus any increase in fire flow required due to commercial development
- Two wells estimated to produce 500 gpm each for a total of 1000 gpm

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION  
RECEIVED

04P

COMMISSIONERS

MIKE GLEASON, CHAIRMAN  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
KRISTEN K. MAYES  
GARY PIERCE

2007 JUN 26 P 4: 37

AZ CORP COMMISSION  
DOCKET CONTROL

IN THE MATTER OF DIVERSIFIED  
WATER UTILITIES, INC. TO EXTEND ITS  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY IN PINAL COUNTY,  
ARIZONA

DOCKET NO. W-02859A-04-0844

PROOFS OF PUBLICATION AND  
CERTIFICATION OF MAILING TO  
PROPERTY OWNERS

Pursuant to the April 30, 2007 Procedural Order, Diversified Water Utilities, Inc., an Arizona public service corporation ("Applicant"), hereby submits this Proof of Publication and Certification of Mailing in the above-captioned matter.

Applicant hereby certifies and avows that on May 16, 2007, the required Public Notice of Hearing was published in East Valley and Scottsdale editions of The Tribune as required by the Procedural Order. The Affidavit of Publication for the Public Notice of Hearing, signed by Sharon Grzyb of The Tribune, is attached hereto as Exhibit 1. Applicant further certifies and avows that on May 25, 2007, a Revised Public Notice of Hearing was published in East Valley and Scottsdale editions of The Tribune, for this matter to reflect the revised caption from WS-02859A-04-9844 to W-02859A-04-0844. The Affidavit of Publication for the Revised Public Notice of Hearing, signed by Sharon Grzyb of The Tribune, is attached hereto as Exhibit 2. Publications were made in accordance with the time requirements of the Procedural Order. Applicant further certifies and avows that it also served both the Notice of Public Hearing and the Revised Notice of Public Hearing to the two (2) property owners within the requested extension area on May 24, 2007, by Certified Mail/Return Receipt Requested. Copies of signed Return Receipts are attached hereto as Exhibit 3.

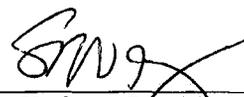
DATED this 26th day of June, 2007.

Arizona Corporation Commission  
DOCKETED

DIVERSIFIED WATER UTILITIES, INC.

JUN 26 2007

By:



Scott W. Gray, President  
4700 East Thomas Road, Suite 203  
Phoenix, Arizona 85018-7703

DOCKETED BY ne

EXHIBIT  
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admitted

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PROOFS OF AND CERTIFICATE OF MAILING

I hereby certify that on this 26<sup>th</sup> day of June, 2007, I caused the foregoing document to be served on the Arizona Corporation Commission by delivering the original and thirteen (13) copies of the above to:

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

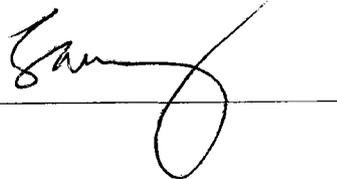
Copies of the foregoing hand-delivered/mailed this 26<sup>th</sup> day of June, 2007, to:

Dwight Nodes  
Assistant Chief Administrative Law Judge  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

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

Christopher Kempley  
Chief Counsel, Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

William P. Sullivan, Esq.  
Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.  
501 East Thomas Road  
Phoenix, Arizona 85012  
Attorneys for Diversified Water Utilities, Inc.



# **Tribune**

**EAST VALLEY • SCOTTSDALE**

Legal Advertising  
120 W. First Avenue Mesa, Arizona 85210  
Phone (480) 898-6371, Fax (480) 898-6463  
**Affidavit of Publication**

**Account Number: 0213107**

**P.O. Number: PUBLIC NOTICE OF HEARING (WS-02859A-04-0844)**

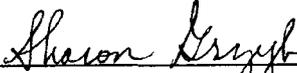
**Invoice Number: 1860005**

**Price: \$ 158.50**

**STATE OF ARIZONA  
County of Maricopa**

**I, Sharon Grzyb, Legal Representative, acknowledge that the attached ad was published in a newspaper of general circulation. The dates of the publication are as follows: MAY 16, 2007**

**The Tribune (East Valley & Scottsdale Editions)**

  
\_\_\_\_\_  
**Sharon Grzyb, Legal Representative**

**STATE OF ARIZONA  
COUNTY OF MARICOPA**

**On MAY 16, 2007 Sharon Grzyb personally appeared before me, whom I know personally to be the person who signed the above document and he/she proved he/she signed it**

  
\_\_\_\_\_  
**NOTARY PUBLIC**



**PUBLIC NOTICE OF HEARING ON THE  
APPLICATION OF DIVERSIFIED WATER UTILITIES, INC.  
FOR AN EXTENSION OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO PROVIDE WATER SERVICE  
(WS-02859A-04-0844)**

On November 24, 2004, as subsequently modified, Diversified Water Utilities, Inc. ("Diversified"), filed an application with the Arizona Corporation Commission ("Commission") for an extension of its Certificate of Convenience and Necessity ("CC&N") to provide water service to an area in Pinal County, Arizona further described in the application. If the application is granted, Diversified would be the exclusive provider of water service to the proposed area, and would be required by the Commission to provide service under rates and charges and terms and conditions established by the Commission. The application is available for inspection during regular business hours at the offices of the Commission in Phoenix, at 1200 West Washington Street, Phoenix, Arizona, and at the offices of Diversified, at 2850 East Camelback Road, Suite 203, Phoenix, Arizona 85016 through May 31, 2007, and beginning June 1, 2007, at the new offices of Diversified, at 4700 East Thomas Road, Suite 203, Phoenix, Arizona 85018.

The Commission will hold a hearing on this matter beginning on July 30, 2007, at 10:00 a.m., at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona. Public comment will be taken on the first day of the hearing.

The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. Intervention shall be permitted to any person entitled by law to intervene and having a direct and substantial interest in the matter. Persons desiring to intervene must file a written motion to intervene with the Commission, which motion should be sent to Diversified or its counsel and to all parties of record, and which, at the minimum, shall contain the following:

1. The name, address, and telephone number of the proposed intervenor and of any party upon whom service of documents is to be made if different than the intervenor.
2. A short statement of the proposed intervenor's interest in the proceeding (e.g., a customer of Diversified, a shareholder of Diversified, etc.).
3. A statement certifying that a copy of the motion to intervene has been mailed to the Applicant or its counsel and to all parties of record in the case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before June 29, 2007. The granting of intervention, among other things, entitles a party to present sworn evidence at hearing and to cross-examine other witnesses. Failure to intervene will not preclude any potential customer from appearing at the hearing and making a statement on such person's own behalf. You will not, however, receive any further notice of the proceeding unless requested by you.

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Linda Hogan, ADA Coordinator, voice phone number 602/942-3831, E-mail Lhogan@admin.cc.state.az.us. Requests should be made as early as possible to allow time to arrange the accommodation.

May 18, 2007/1860005

# **Tribune**

**EAST VALLEY • SCOTTSDALE**

Legal Advertising  
120 W. First Avenue Mesa, Arizona 85210  
Phone (480) 898-6371, Fax (480) 898-6463  
**Affidavit of Publication**

**Account Number: 0213107**

**P.O. Number: REVISED PUBLIC NOTICE**

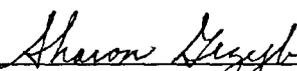
**Invoice Number: 1874119**

**Price: \$ 161.49**

**STATE OF ARIZONA**  
**County of Maricopa**

I, Sharon Grzyb, Legal Representative, acknowledge that the attached ad was published in a newspaper of general circulation. The dates of the publication are as follows: **MAY 25, 2007**

**The Tribune (East Valley & Scottsdale Editions)**

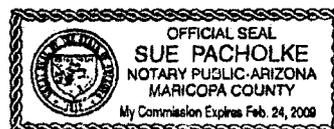
  
\_\_\_\_\_  
**Sharon Grzyb, Legal Representative**

**STATE OF ARIZONA**  
**COUNTY OF MARICOPA**

On **MAY 25, 2007** Sharon Grzyb personally appeared before me, whom I know personally to be the person who signed the above document and he/she proved he/she signed it

  
\_\_\_\_\_  
**NOTARY PUBLIC**

Exhibit 2  
Page 1 of 2



**REVISED PUBLIC NOTICE OF HEARING ON THE  
APPLICATION OF DIVERSIFIED WATER UTILITIES, INC.  
FOR AN EXTENSION OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO PROVIDE WATER SERVICE  
(W 02850-08 0844)**

On September 21, 2004, the aforementioned Diversified Water Utilities, Inc. ("Diversified") filed an application with the Arizona Corporation Commission ("Commission") for an extension of its Certificate of Convenience and Necessity ("CC&N") to provide water service to an area in Pinal County, Arizona further described in the application. If the application is granted, Diversified would be the exclusive provider of water service to the proposed area, and would be required by the Commission to provide service under rates and charges and terms and conditions established by the Commission. The application is available for inspection during regular business hours at the office of the Commission in Phoenix, at 1200 West Washington Street, Phoenix, Arizona, and at the office of Diversified, at 2850 East Camelback Road, Suite 200, Phoenix, Arizona 85016 through May 31, 2007, and beginning June 1, 2007, at the new office of Diversified, at 4700 East Thomas Road, Suite 205, Phoenix, Arizona 85018.

The Commission will hold a hearing on this matter beginning on July 30, 2007, at 10:00 a.m. at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona. Public comment will be taken on the first day of the hearing.

The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. Intervention shall be permitted to any person entitled by law to intervene and having a direct and substantial interest in the matter. Persons desiring to intervene must file a written motion to intervene with the Commission, which motion should be sent to Diversified or its counsel and to all parties of record, and which, at the minimum, shall contain the following:

1. The name, address and telephone number of the proposed intervenor and of any party to whom copies of documents is to be made if different than the intervenor.
2. A short statement of the proposed intervenor's interest in the proceeding (e.g., a statement of the proposed intervenor as a shareholder of Diversified, etc.).
3. A statement certifying that a copy of the motion to intervene has been mailed to the Applicant, its counsel and to all parties of record in the case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene shall be filed on or before June 29, 2007. The granting of intervention to a party who is not a party to the proceeding, entitles a party to present sworn evidence at the hearing and to call other witnesses. Failure to intervene will not preclude a party from appearing at the hearing and making a statement on any matter that is not before the Commission. You will not, however, receive any further notice of the proceeding unless requested by you.

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternate format by contacting Linda Hogan, ADA Coordinator, voice phone number 602/542-3501, E-mail: lhogan@admin.cc.state.az.us. Requests should be made as early as possible to allow time to arrange the accommodation.

May 23, 2007/1074419

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:  
 Mark Winkler  
 State Land Commissioner  
 Arizona State Land Dept.  
 1616 W. Adams Street  
 Phoenix, Az 85001

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee  
*M. Schroeck*

B. Received by (Printed Name) C. Date of Delivery  
*SCHROECK* *MAY 24 2007*

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

Article Number (Transfer from service label) **7006 2760 0005 6048 7909**

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:  
 Penny Wolfswinkel  
 Manager  
 Wolfkin Farms, L.L.C.  
 3850 E. Baseline Rd.  
 Suite 123  
 Mesa, Az 85206

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee  
*Patricia Lynch*

B. Received by (Printed Name) C. Date of Delivery  
*Patricia Lynch* *5-24-07*

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

Article Number (Transfer from service label) **7006 2760 0005 6048 7787**

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:  
 Kathy Aleman  
 Wolfkin Farms L.L.C.  
 c/o Southwest Properties, Inc  
 3850 E. Baseline Rd.  
 Suite 123  
 Mesa, Az 85206

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee  
*Patricia Lynch*

B. Received by (Printed Name) C. Date of Delivery  
*Patricia Lynch* *5-24-07*

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

Article Number (Transfer from service label) **7006 2760 0005 6048 7794**

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540



Janet Napolitano  
Governor

## ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007  
(602) 771-2300 • www.azdeq.gov



Stephen A. Owens  
Director

May 25, 2007

Diversified Water Utilities, Inc.  
Attn: Scott Grey  
2850 East Camelback Road  
Suite 200  
Phoenix, Arizona 85016

**Re: Compliance Inspection of the Diversified Water Utilities, Inc  
Public Water System (PWS) 11-043  
ICE Database Inspection Identification Number 102744**

Dear Mr. Grey:

The Water Quality Field Services Unit (WQFSU) of the Arizona Department of Environmental Quality (ADEQ) has enclosed an inspection report regarding the inspection conducted at the above referenced facility on April 17, 2007. The inspection was conducted to determine compliance with Arizona Revised Statute (A.R.S.) §49-351 et seq. and Arizona Administrative Code A.A.C. R18-4-101 et seq. Based upon the inspection, ADEQ has determined that the operation, maintenance, monitoring and reporting of the referenced water system is in compliance with respect to the ADEQ Safe Drinking Water Rules.

As indicated in the enclosed "Summary of Inspection," no deficiencies were observed during the inspection and during the review of ADEQ records by WQFSU staff. No ADEQ action will result from this inspection.

ADEQ thanks you for your efforts in protecting the public health and the environment. If you have any questions regarding this letter, or if I can be of any assistance, please feel free to contact me at (602) 771-4441 or 1-800-234-5677 extension 771-4441.

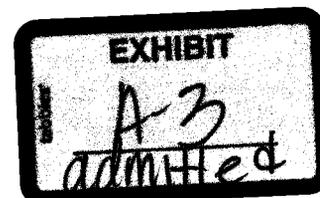
Sincerely,  
*Cynthia S. Campbell / for*  
Karen Berry  
Environmental Engineering Specialist  
Water Quality Field Services Unit

cc: Pinal County Health Department, P.O. Box 2517, Florence, Arizona 85232  
John Calkins, Drinking Water Section Manager, ADEQ Water Quality Division

Northern Regional Office  
1801 W. Route 66 • Suite 117 • Flagstaff, AZ 86001  
(928) 779-0313

Southern Regional Office  
400 West Congress Street • Suite 433 • Tucson, AZ 85701  
(520) 628-6733

Printed on recycled paper



Diversified Water Utilities, Inc, PWS AZ0411043  
 May , 2007  
 Page 2 of 3

**ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**WATER QUALITY DIVISION - WATER QUALITY COMPLIANCE SECTION**  
 Field Services Unit  
**SUMMARY OF INSPECTION - WATER**

**Facility:** Diversified Water Utilities, Inc      **System No:** 11-043  
**Inspected By:** Karen Berry      **Inspection Date:** April 17, 2007  
**Accompanied By:** Scott Grey, David Dickinson      **County:** Pinal  
**Number of Plants/Wells:** 2/2      **System Grade:** Grade 2 Distribution, Grade 1 Treatment  
**Certified Operator:** David Dickinson      **Operator Grade:** Grade 1 Treatment, Grade 3 Distribution  
**Population/Service Connections:** 2160/805

The system is in compliance with the following ADEQ requirements:

		<u>YES</u>	<u>NO</u>	<u>N/A</u>	UNKNOWN
1.	A certified operator is employed by the owner per ADEQ regulations.	X			
2.	The system meets ADEQ monitoring and reporting requirements.	X			
3.	This system meets ADEQ requirements for operation and maintenance of the physical facilities.	X			

**Inspection Purpose and Scope:**

This was an announced routine inspection to determine the facilities compliance status under Arizona Administrative Code (A.C.C.) R18-4-101 et seq.

**Facility Description:**

This is a community water system serving an area east of Queen Creek, Arizona. The water system consists of two wells, liquid and gas chlorination, three storage tanks, hydropneumatic pressure tanks, booster pumps, and a distribution system.

Diversified Water Utilities, Inc, PWS AZ0411043  
May , 2007  
Page 3 of 3

### Physical Inspection.

#### Plant 1 (Quail Hollow)

Plant 1 consists of one well (55-609350), liquid chlorination system, hydropneumatic pressure tank, two storage tanks (total storage 220,000 gallons). Inspection of the components of the plant found all in good condition, and well maintained.

#### Plant 2 (Sierra Vista)

Plant 2 consists of well 55-627093, one 1,000,000 storage tank, gas chlorination, hydropneumatic pressure tank, and booster pumps. Inspection of the plant found all components in good condition, and well maintained. This plant was brought on line in 2006.

The gas chlorination unit is located within a containment building equipped with an alarm unit. Proper safety equipment (SCBA, tools) were located at site.

### Monitoring and Reporting

Review of the facility file and the ADEQ database has found that the system has no significant deficiencies. Maximum residual chlorine levels were provided after the inspection for all four quarters of 2006, and 1<sup>st</sup> quarter 2007. A copy of the 2005 Consumer Confidence Report (CCR) and the delivery certification was also provided.

### Compliance Summary

1. **Monitoring and Reporting Requirements.** The facility is in compliance with monitoring and reporting requirements.
2. **Operator Certification Requirements.** The facility is classified as a Grade treatment and distribution system, and the facilities operator, David Dickinson, is a Grade 1 Treatment and Grade 3 Distribution system Certified Operator.
3. **Operation & Maintenance (O&M) Requirements.** The facility was in compliance with the operation and maintenance requirements of the system.

ARIZONA DEPARTMENT OF WATER RESOURCES

Hydrology Division

500 North Third Street, Phoenix, Arizona 85004

Telephone 602 417-2448

Fax 602 417-2425

October 26, 2004



JANET NAPOLITANO  
Governor

HERB GUENTHER  
Director

Mr. Scott W. Gray  
Diversified Water Utilities, Inc.  
2850 E. Camelback Road, Suite 200  
Phoenix, Arizona 85016

RE: **Diversified Water Utilities, Inc.**  
**Application for Physical Availability Demonstration #20-401345**

Dear Mr. Gray:

The Department has completed review of the report entitled *Hydrogeologic Investigation, Diversified Water Utilities Franchise Area* by Southwest Ground-water Consultants, Inc., April 28, 2004 as well as analysis of additional available hydrologic information. The area of review is limited to the existing and proposed expansion area of Diversified Water Utilities CC&N. The area consists of about 10,028 acres in Sections 26 and 27, Township 2 South, Range 8 East, Sections 1-4, 9-16, and 23, Township 3 South, Range 8 East, and Section 18, Township 3 South, Range 9 East, Gila and Salt River baseline and meridian in Pinal County within the East Salt River Valley sub-basin of the Phoenix Active Management Area.

In accordance with A.A.C. R-12-15-702(C), we have determined that 36,141 acre-feet per year of water is physically available for 100 years under A.A.C. R-12-15-703(B) for assured water supply purposes in the subject area. This water is also of adequate quality for purposes of A.A.C. R-12-15-704. This amount of 36,141 acre-feet per year includes the amount of groundwater required to meet the current and committed demands of the existing Diversified Water Utilities certificated area. According to available information, the current and committed demand is estimated at about 23,066 acre-feet per year. It is the Department's conclusion that, pumping the projected demand of 36,141 acre-feet per year for 100 years will take the depth-to-static water level to approximately 820 feet below land surface, above the maximum depth of 1000 feet allowed by A.A.C. R-12-15-703(B).

The results of the Department's hydrologic review fulfill the requirements of R12-15-702 (C) and can be cited in applications for a Certificates of Assured Water Supply or for Designation of Assured Water Supply. These applications have certain additional requirements based on the assured water supply criteria referenced in A.R.S. 45-576 and Rule R-12-15-701 et. seq. For further information on these requirements, please contact the Office of Assured and Adequate Water Supply Certification at (602)417-2460. **If the Department finds that the groundwater supply is not available because the assumptions and information used in determining the physical availability under the current criteria prove incorrect, the Department will modify the availability of groundwater accordingly.**

The Department's determination is an appealable agency action. In order to appeal this decision, you must request an appeal within thirty (30) days from receipt of this letter. I have enclosed a summary of the appeals process and an appeal form should you wish to pursue this option.

If you have any questions regarding the physical availability review, please contact me at (602) 417-2448.

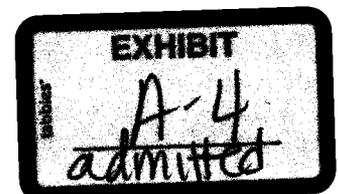
Sincerely,

Frank Putman  
Chief Hydrologist

FP/KM/rd  
202458

Enclosure

cc: Doug Dunham, Office of Assured & Adequate Water Supply  
Steve Noel, Southwest Ground-water Consultants, Inc.



*Jare ss*

MEMORANDUM

RECEIVED

2007 JUN 29 P 12:18

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

RECEIVED

JUN 29 2007

AZ CORP COMMISSION  
DOCKET CONTROL

DATE: June 29, 2007

AZ CORP COMM  
Director Utilities

RE: STAFF REPORT FOR DIVERSIFIED WATER UTILITIES, INC. SECOND AMENDED APPLICATION FOR AN EXTENSION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY DOCKET NO. W-02859A-04-0844

Attached is the Staff Report for the above referenced application. Staff recommends approval of the application with conditions.

EGJ:LAJ:red

Originator: Linda Jaress

Attachment: Original and Thirteen Copies



Service List for: Diversified Water Utilities, Inc.  
Docket No. W-02859A-04-0844

Mr. William P. Sullivan  
Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.  
501 East Thomas Road  
Phoenix, Arizona 85012-3205

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

Mr. Ernest G. Johnson  
Director, Utilities 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

DIVERSIFIED WATER UTILITIES, INC.

DOCKET NO. W-02859A-04-0844

SECOND AMENDED APPLICATION FOR AN EXTENSION OF A  
CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE  
WATER IN PINAL COUNTY, ARIZONA

June 29, 2007

## STAFF ACKNOWLEDGEMENT

The Staff Report for Diversified Water Company (Docket No. W-02859A-04-0844) was prepared by the Staff members listed below. Linda Jaress prepared the Staff Report. Marlin Scott, Jr. prepared the Engineering Report.

Contributing Staff:



---

Linda A. Jaress  
Executive Consultant III



---

Marlin Scott, Jr.  
Utilities Engineer

**EXECUTIVE SUMMARY  
DIVERSIFIED WATER COMPANY  
DOCKET NO. W-04316A-04-0844**

On March 27, 2007, Diversified Water Company filed a Second Amended Application for approval to extend its Certificate of Convenience and Necessity ("CC&N") into one and one-half sections of land in Pinal County near the town of Queen Creek. The Company expects to serve approximately 2,100 customers in the extension area by the end of five years. The Company is proposing to construct an independent water system in the requested extension area costing an estimated \$5.6 million through the use of advances in aid of construction and hook-up fees.

Staff concludes that the Company's proposed water system will have adequate well production and storage capacity to serve the proposed CC&N extension area within a conventional five year planning period and the Company can reasonably be expected to develop additional well production and storage capacities as required in the future. Staff also concludes that the estimated \$5.6 million costs of the plant to serve the extension area are reasonable.

Staff believes that based upon the request for service from Wolfkin Farms, L.L.C. and the letter from the Land Department, there is a need for service. Diversified is in compliance with the relevant public agencies and has experience operating a water utility. Staff believes that Diversified is fit and proper to provide service to the proposed extension area. Staff recommends approval.

Staff recommends that the Company file with Docket Control, as a compliance item in this docket within two years of the effective date of an order in this proceeding, a copy of the Approval to Construct for the water facilities needed to serve the first development in requested area.

Staff also recommends that Diversified file with Docket Control, as a compliance item in this docket within two years of the effective date of an order in this proceeding, a copy of the developer's Certificate of Assured Water Supply for the first subdivision.

Finally, Staff recommends that the Commission's Decision granting this extension be considered null and void after due process should Diversified fail to meet conditions listed above within the time specified.

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Conclusions and Recommendations .....	3

ATTACHMENT(S)

ENGINEERING MAP .....	1
ENGINEERS REPORT .....	2

## History

On October 2, 2000, Diversified Water Utilities, Inc. ("Diversified") filed an application requesting approval to extend its Certificate of Convenience and Necessity ("CC&N") into areas in Pinal County referred to as parcels 2, 14, 15, 16, 17, 18 and 24. The application was consolidated with the applications of Johnson Utilities, L.L.C., H2O Water Company and Queen Creek Water Company due to competing requests for some of the same parcels.

Decision No. 63960, dated September 4, 2001, granted Diversified approval to extend its CC&N only into Parcel 24. The Decision ordered that Parcel 2 not be awarded to any applicant "because of uncertainty with respect to Skyline District and potential litigation." Since the Decision, the Skyline District has been dissolved.

The Decision "...conditionally approved..." the extension "...subject to the respective utilities meeting the applications conditions as set forth in Findings of Facts...and Conclusions of Law." The Decision further concluded that "...if Diversified fails to meet any of the aforementioned conditions within the time specified, the Certificate authorized hereinafter for the respective parcel be considered null and void without further order of the Commission."

On February 15, 2005, Staff sent Diversified a letter indicating that Diversified had not complied with Decision No. 63960, and therefore its CC&N extension into Parcel 24 was void. On February 22, 2005, Diversified responded with a letter indicating agreement that the CC&N extension approved in Decision No. 63960 was "automatically rendered of no force or effect." Therefore, the Utilities Division Compliance Section indicates Diversified is in compliance with Commission decisions.

## Application at Issue

On November 24, 2004, Diversified filed an application to extend its CC&N into Sections 13, 14, 15 and 23 and a portion of Section 16, all Sections previously denied Diversified in Decision No. 63960. On December 3, 2004, Johnson Utilities, L.L.C. filed an application to extend its CC&N into areas overlapping the areas included in Diversified's November 24<sup>th</sup> application. By June 24, 2005, Johnson Utilities, L.L.C. and Diversified came to an agreement regarding potential service territory. Pursuant to that agreement, on November 30, 2005, Diversified filed an Amended Application excluding Section 23 from its requested extension area.

Finally, on March 27, 2007, Diversified filed a Second Amended Application reducing the area of expansion to only the area for which the landowner had submitted a written request for inclusion and to serve the one-half section of State Land. Thus the Company's current and final application requests an extension of its CC&N only into the entire Section 13 and the eastern one-half of Section 14 of Township 3 South, Range 8 East in Pinal County. (See Exhibit 1 for a map and legal description of the extension area requested.) This area is the former parcel 2 which was denied Diversified in Decision No. 63960.

## **Requests for Service**

Diversified provided a letter from Wolfkin Farms, L.L.C. requesting service to a 640-acre area (Section 13) which it plans to develop into 2,100 lots in multiple phases. The area is contiguous to Diversified's current service territory. The eastern half of Section 14 is Arizona State Trust land. Although there is no request for service from the Arizona State Land Department ("Land Department"), the Land Department sent Diversified a letter dated April 26, 2005, saying:

"...it has been determined it is in the best interest of the State Trust land to be included in a certificated area for water delivery. However, we wish to remain neutral as to who the water provider should be for this land, so we leave the decision on the holder of the certificate area to the ACC."

## **The Existing and Proposed Facilities**

The Company's existing water system consists of two wells, three storage tanks, and a distribution system serving 883 service connections as of January 2007. This existing water system is approximately one mile from the requested extension area and could be interconnected at some point in the future. Further description of the current and proposed systems is found in Staff's Engineering Report attached as Exhibit 2.

The Company is proposing to construct an independent water system in the requested extension area costing an estimated \$5.6 million through the use of advances in aid of construction and hook-up fees. Diversified expects to serve 200 customers in the first year and 1,300 customers by the fifth year by adding plant including two wells and a storage tank. Staff concludes that the Company's proposed water system will have adequate well production and storage capacity to serve the proposed CC&N extension area within a conventional five year planning period and can reasonably be expected to develop additional well production and storage capacities as required in the future. Staff also concludes that the estimated costs of the plant are reasonable.

## **Arizona Department of Environmental Quality**

According to an Arizona Department of Environmental Quality ("ADEQ") compliance inspection report dated May 25, 2007, the Company's water system has no deficiencies and is in compliance with the Safe Drinking Water Rules.

For its existing water system, the Company indicated its arsenic levels from the two wells are 2 parts per billion ("ppb") and 3.3 ppb. Based on these arsenic levels, the Company is in compliance with the new arsenic standard of 10 ppb. The requested area will be served by constructing new well sources the arsenic levels of which are currently not known. However, the Company has represented that if arsenic treatment is required, the required plant will be funded by the developer.

Staff recommends that Diversified file with Docket Control, as a compliance item in this docket, within two years of the effective date of an order in this proceeding, a copy of the Certificate of Approval to Construct for the water facilities needed to serve the requested area.

### **Arizona Department of Water Resources**

The Company is located within the Phoenix Active Management Area. It is in compliance with the Arizona Department of Water Resources reporting and conservation requirements.

The Company has secured a "Physical Availability Demonstration" for its existing service area. Staff recommends that the Company file with Docket Control, as a compliance item in this docket within two years of the effective date of an order in this proceeding, a copy of the developer's Certificate of Assured Water Supply for the first subdivision.

### **Conclusions and Recommendations**

Staff believes that based upon the request for service from Wolfkin Farms, L.L.C. and the letter from the Land Department, that there is a need for service. Diversified is in compliance with the relevant public agencies. Staff believes that Diversified is fit and proper to provide service to the proposed extension area. Staff recommends approval.

Staff recommends that the Company file with Docket Control, as a compliance item in this docket within two years of the effective date of an order in this proceeding, a copy of the Approval to Construct for the water facilities needed to serve the first development in requested area.

Staff also recommends that Diversified file with Docket Control, as a compliance item in this docket within two years of the effective date of an order in this proceeding, a copy of the developer's Certificate of Assured Water Supply for the first subdivision.

Finally, Staff recommends that the Commission's Decision granting this extension be considered null and void after due process should Diversified fail to meet conditions listed above within the time specified.

**MEMORANDUM**

RECEIVED

TO: Linda Jaress  
Executive Consultant III  
Utilities Division

2007 APR 11 P 2:01

FROM: Barb Wells  
Information Technology Specialist  
Utilities Division

AZ CORP COMMISSION  
DOCUMENT CONTROL

RECEIVED

APR 11 2007

THRU: Del Smith  
Engineering Supervisor  
Utilities Division

AZ CORP COMM  
Director Utilities

DATE: April 11, 2007

RE: **DIVERSIFIED WATER UTILITIES, INC. (DOCKET NO. W-02859A-04-0844)**  
**THIRD AMENDED LEGAL DESCRIPTION**

Diversified has filed a second amended legal description which is attached and should be used in place of all previous descriptions submitted to docket control for this application.

On December 14, 2004, I issued a memo using an amended legal description; on December 21, 2005, I issued a memo using a second amended legal description; therefore, I am calling this the third amended legal description, even though it was filed as a second amendment.

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

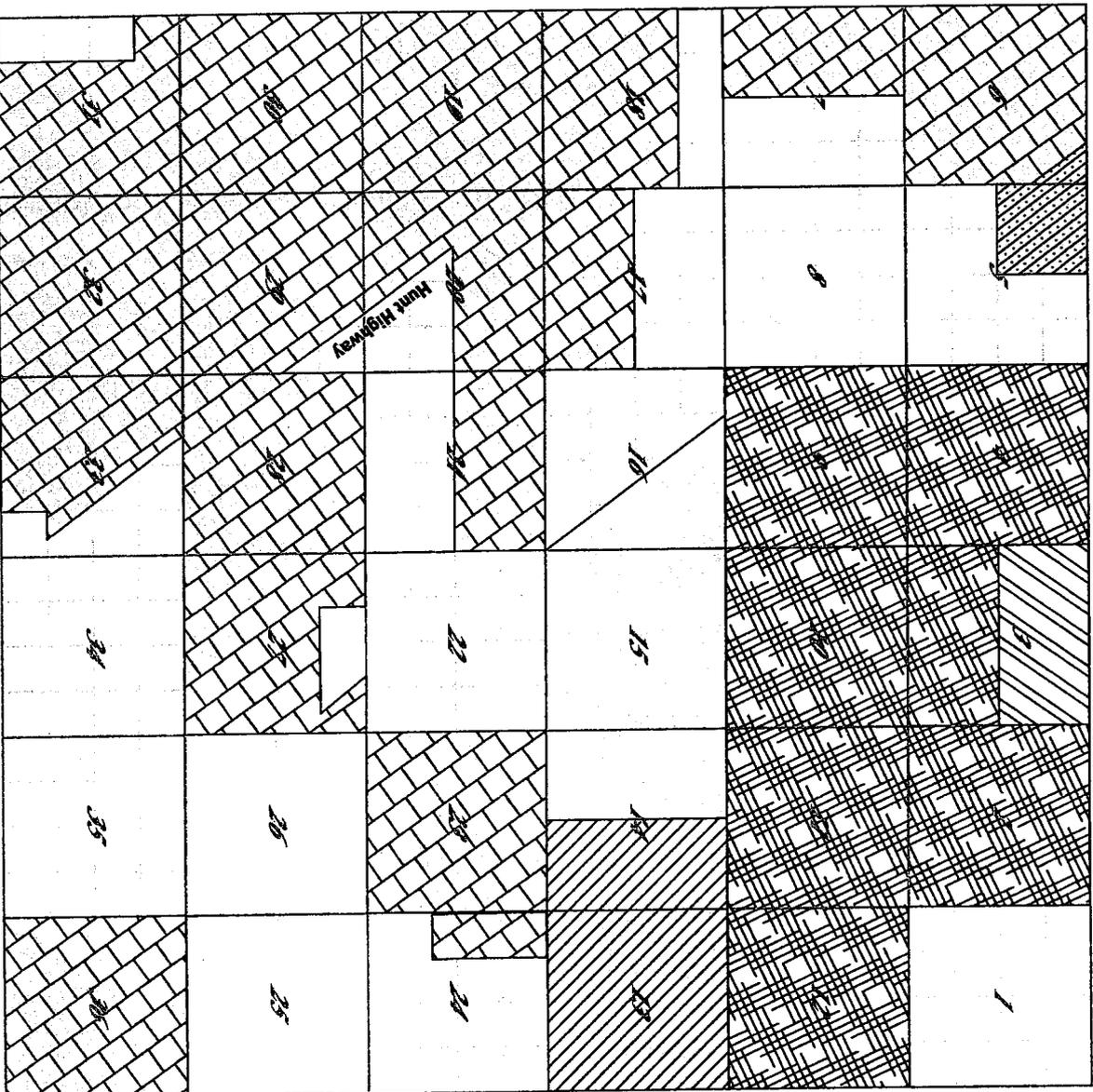
:bsw

Attachments

cc: Docket Control  
Mr. William Sullivan  
Ms. Deb Person (Hand Carried)  
File

# COUNTY OF Pinal

## RANGE 8 East



## TOWNSHIP 3 South

-  W-2859 (3)  
Diversified Water Utilities, Inc.
-  W-2234 (2)  
H<sub>2</sub>O, Inc.
-  WS-2987 (6)  
Johnson Utilities Company
-  W-2425 (2)  
Sun Valley Farms Unit VI Water Company
-  Diversified Water Utilities, Inc.  
Docket No. W-02859A-04-0844  
Second Amended Application for Extension
-  Sewer

www

BEFORE THE ARIZONA CORPORATION COMMISSION

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

2007 MAR 27 P 2:43  
AZ CORP COMMISSION  
DOCUMENT CONTROL

RECEIVED

MAR 27 2007

AZ CORP COMM  
Director Utilities

IN THE MATTER OF DIVERSIFIED  
WATER UTILITIES, INC. TO EXPAND ITS  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY

DOCKET NO.: W-02859A-04-0844

DIVERSIFIED WATER UTILITIES, INC.  
SECOND AMENDED APPLICATION

Diversified Water Utilities, Inc., ("Diversified"), by and through its attorneys, in accordance with its Statement of Intent filed November 15, 2006 and the Procedural Order dated December 28, 2006, hereby files its Second Amended Application to expand its Certificate of Convenience and Necessity. This Second Amended Application reduces the area of expansion to those areas where the landowner has made a written request for inclusion. In particular, Diversified, by this Second Amended Application, requests its Certificate of Convenience and Necessity be expanded to encompass Section 13, Township 3 South, Range 8 East; and the Eastern One-half of Section 14, Township 3 South, Range 8 East, of the Gila and Salt Rivers Base and Meridian in Pinal County, Arizona (the "Amended Expansion Area"). This Second Amended Application is supported by the following:

1. Diversified is an Arizona corporation, in good standing as reflected by the Certificate of Good Standing attached hereto as Exhibit A.
2. Diversified is authorized by the Arizona Corporation Commission (the "Commission") to provide domestic water service in nine sections of Pinal County, Arizona and presently serves approximately 927 service connections. Its current water production

## MEMORANDUM

DATE: June 6, 2007

TO: Linda Jaress  
Executive Consultant III

FROM: Marlin Scott, Jr.   
Utilities Engineer

RE: Diversified Water Utilities, Inc.  
Docket No. W-02859A-04-0844 (CC&N Extension – Second Amended Application)

---

### **Introduction**

Diversified Water Utilities, Inc (“Company”) has applied to extend its Certificate of Convenience and Necessity (“CC&N”) for its water system. The requested extension area will add 1-1/2 square-miles to the Company’s existing nine square-miles of certificated area to provide service to two parcels; 1) a proposed development known as the Belle Vista Section 13 Development and 2) land held by the Arizona State Land Department. The Company serves a community 10 miles south of Apache Junction in Pinal County.

### **Capacity**

#### Existing Water System

The Company’s existing water system has two wells (one at 200 gallons per minute (“GPM”) and another at 1,200 GPM), three storage tanks (total capacity of 1.22 million gallons), and distribution system serving 883 service connections as of January 2007. This existing water system is approximately one mile from the requested extension area and could be interconnected at some point in the future.

#### Proposed New Water System

The Company is proposing to construct a new independent water system in the requested extension area through the use of advances in aid of construction and hook-up fees. According to the Company’s Preliminary Service Report prepared by Bethke Engineering, LLC, the Company is projecting to serve 200 customers in the first year and 1,300 customers by the fifth year with the following proposed plant facilities:

Table 1. Proposed Plant Facilities

Plant	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Wells & Springs						
2 @ 500 gpm	1,500,000					1,500,000
Booster Pumps	923,333		173,333			1,096,666
Storage Tank						
1.0 MG	1,000,000					1,000,000
Water Mains	255,000	286,875	286,875	414,375	414,375	1,657,500
Services						
200 each	15,000					
225 each		16,875				
225 each			16,875			
325 each				24,375		
325 each					24,375	97,500
Meters						
200 each	15,000					
225 each		16,875				
225 each			16,875			
325 each				24,375		
325 each					24,375	97,500
Hydrants	15,000	16,875	16,875	24,375	24,375	97,500
Totals:	\$3,723,333	\$337,500	\$510,833	\$487,500	\$487,500	\$5,546,666

Capacity Conclusions

Staff concludes that the Company's proposed water system will have adequate well production and storage capacities to serve the proposed CC&N extension area within a conventional five year planning period and can reasonably be expected to develop additional well production and storage capacities as required in the future.

Staff concludes that the proposed water plant facilities for the proposed development and its cost estimate totaling \$5,546,666 appear reasonable. However, no "used and useful" determination of the proposed water plant facilities was made and no particular treatment should be inferred for rate making or rate base purposes.

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

Compliance Status

According to an ADEQ compliance inspection report, dated May 25, 2007, the Company's water system, PWS #11-043, has no deficiencies and ADEQ has determined that this water system is in compliance with the Safe Drinking Water Rules.

### Certificate of Approval to Construct

The ADEQ Certificate of Approval to Construct ("ATC") for water facilities needed to serve the requested area has not been submitted by the Company. Staff recommends that the Company file with Docket Control, as a compliance item in this docket within two years of the effective date of an order in this proceeding, a copy of the ATC for the water facilities needed to serve the first development in requested area.

### Arsenic

For its existing water system, the Company indicated its arsenic levels from the two wells are 2 parts per billion ("ppb") and 3.3 ppb. Based on these arsenic levels, the Company is in compliance with the new arsenic standard of 10 ppb.

The requested area will be served by constructing new well sources and, at this time, the arsenic levels in the new wells are not known. Arsenic levels in this region have shown levels of 3.3 ppb for Sun Valley Farms Unit VI Water Company, a range from 2 to 3 ppb for H2O, Inc., and a range from 2 to 7 ppb for Johnson Utilities Company which are all below 10 ppb. However, according to the Company, if arsenic treatment is required, the developer will be responsible for funding the required treatment.

### **Arizona Department of Water Resources ("ADWR") Compliance**

#### Compliance Status

The Company is located within the Phoenix Active Management Area ("AMA") and is in compliance with ADWR's reporting and conservation requirements.

#### Certificate of Assured Water Supply

According to the Company, the Company has secured a "Physical Availability Demonstration" for its existing service area. Staff recommends that the Company file with Docket Control, as a compliance item in this docket within two years of the effective date of an order in this proceeding, a copy of the developer's Certificate of Assured Water Supply for the first subdivision in the requested area.

### **Arizona Corporation Commission Compliance**

A check with the Utilities Division Compliance Section showed no delinquent compliance items for the Company.

### **Curtailment Tariff**

The Company has an approved curtailment tariff that became effective on October 22, 2004.

## **Backflow Prevention Tariff**

The Company has an approved backflow prevention tariff that became effective on March 29, 1997.

### **Summary**

#### Conclusions

- A. Staff concludes that the Company's proposed water system will have adequate well production and storage capacities to serve the proposed CC&N extension area within a conventional five year planning period and can reasonably be expected to develop additional well production and storage capacities as required in the future.
- B. Staff concludes that the proposed water plant facilities for the proposed development and its cost estimate totaling \$5,546,666 appear reasonable. However, no "used and useful" determination of the proposed water plant facilities was made and no particular treatment should be inferred for rate making or rate base purposes.
- C. According to an ADEQ compliance inspection report, dated May 25, 2007, the Company's water system, PWS #11-043, has no deficiencies and ADEQ has determined that this water system is in compliance with the Safe Drinking Water Rules.
- D. For its existing water system, the Company indicated its arsenic levels from the two wells are 2 ppb and 3.3 ppb. Based on these arsenic levels, the Company is in compliance with the new arsenic standard of 10 ppb.

The requested area will be served by constructing new well sources and, at this time, the arsenic levels in the new wells are not known. Arsenic levels in this region have shown levels of 3.3 ppb for Sun Valley Farms Unit VI Water Company, a range from 2 to 3 ppb for H2O, Inc., and a range from 2 to 7 ppb for Johnson Utilities Company which are all below 10 ppb. However, according to the Company, if arsenic treatment is required, the developer will be responsible for funding the required treatment.

- E. The Company is located within the Phoenix AMA and is in compliance with ADWR's reporting and conservation requirements.
- F. A check with the Utilities Division Compliance Section showed no delinquent compliance items for the Company.

Linda Jaress  
June 6, 2007  
Page 5

- G. The Company has an approved curtailment tariff that became effective on October 22, 2004.
- H. The Company has an approved backflow prevention tariff that became effective on March 29, 1997.

Recommendations

1. Staff recommends that the Company file with Docket Control, as a compliance item in this docket within two years of the effective date of an order in this proceeding, a copy of the ATC for the water facilities needed to serve the first development in requested area.
2. Staff recommends that the Company file with Docket Control, as a compliance item in this docket within two years of the effective date of an order in this proceeding, a copy of the developer's Certificate of Assured Water Supply for the first subdivision.