

ORIGINAL

NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

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AUG 29 2007

AZ CORP COMMISSION
DOCKET CONTROL

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COMMISSIONERS

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

APPLICATION OF ARIZONA-AMERICAN
WATER COMPANY, AN ARIZONA
CORPORATION, TO ADJUST THE
CERTIFICATE OF CONVENIENCE AND
NECESSITY BOUNDARIES FOR ITS
MOHAVE WATER DISTRICT

DOCKET NO. W-01303A-07-___

W-01303A-07-0498

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**ARIZONA-AMERICAN WATER COMPANY
MOHAVE WATER DISTRICT
APPLICATION TO ADJUST CC&N BOUNDARY NUNC PRO TUNC**

Pursuant to A.R.S. § 40-252, Arizona-American Water Company ("Arizona-American") hereby applies to adjust the boundaries of the Certificate of Convenience ("CC&N") for its Mohave Water District, as set forth below. Because Arizona-American believes that the CC&N boundaries were inadvertently drawn to exclude 160 acres that should have been included in the original CC&N grant, Arizona-American asks that an order be issued *nunc pro tunc* to adjust these CC&N boundaries.

DISCUSSION

In Decision No. 38330, dated January 27, 1966, the Commission approved the application of Camp Mohave Water Company for a CC&N to form and operate a domestic water utility in Mohave County, Arizona.¹ Exhibit A is a copy of Decision No. 38330. In Decision No. 38330, Camp Mohave Water Company's new CC&N was described as:

The East Half of Section 22 and the East Half of Section 23, Township 19 North, Range 22 West, [Illegible], Mohave County, Arizona.

¹ Special thanks to Barbara Wells of the Commission's Utility Division for obtaining copies of this and other decisions discussed in this Application.

1 No map was attached to the copy of Decision No. 38330 that Arizona-American obtained from
2 the Commission's records. This application seeks to resolve the ambiguous property description
3 in Decision No. 38330—*East Half of Section 22*—which is susceptible to two interpretations.

4 In Decision No. 40702, dated June 22, 1970, the Commission issued final approval of the
5 transfer to United Utilities of the CC&N granted to Camp Mohave Water Company in Decision
6 No. 38330. Exhibit B is a copy of Decision No. 40702.

7 In Decision No. 41557, dated August 16, 1971, the Commission approved the application
8 of Citizens Utilities to acquire the water utility assets and CC&N of United Utilities located in
9 Mohave County, Arizona. Exhibit C is a copy of Decision No. 41577. Arizona-American
10 acquired all of Citizens Utilities Arizona water and wastewater assets and CC&Ns under
11 authority of Decision No. 63594, dated April 14, 2001. Arizona-American provides water-utility
12 service in this area of Mohave County as part of its Mohave Water District. The CC&N for the
13 Mohave Water District has been expanded from time to time by the Commission.²

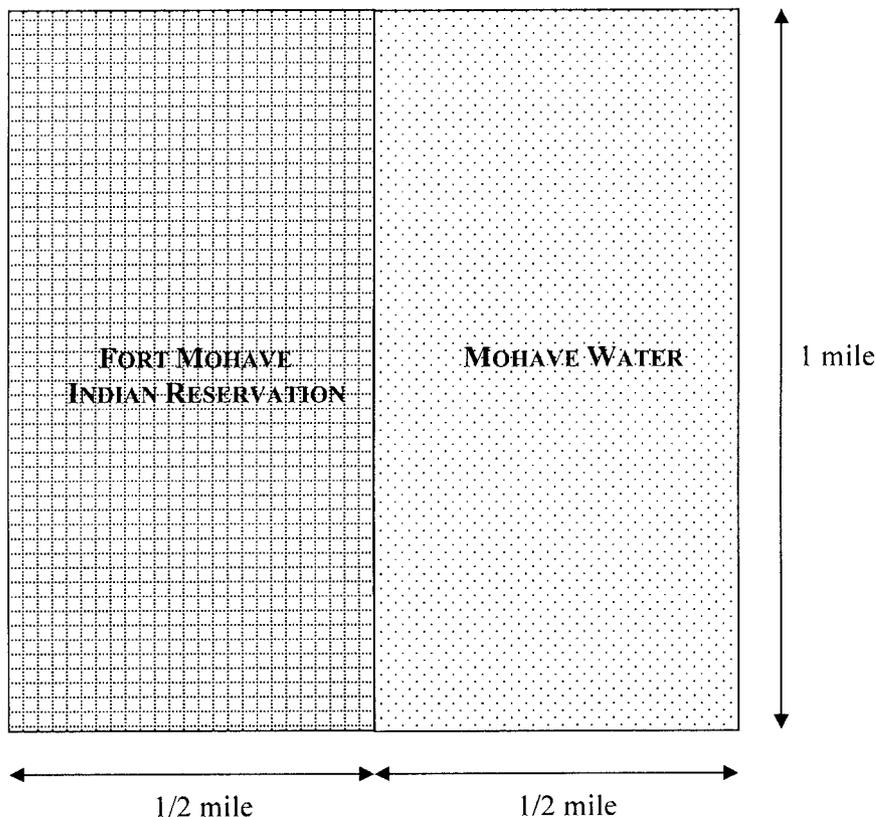
14 Exhibit D is a copy of the Commission's water CC&N map for Mohave County,
15 Township 22 West, Range 19 North. In this township, many of the sections are somewhat
16 ambiguously identified, because of the territory occupied by the Fort Mojave Indian Reservation.
17 Of particular interest are Section 21 and Section 22. Section 21 to the west is shown on the map
18 with a dotted-line boundary within the Reservation and is depicted as a full 640-acre section.
19 Section 22 is also shown on the map with full 640 acre, one-by-one-mile, section boundaries,
20 partially dotted and partially fully lined. The eastern 320 acres of Section 22 are outside the
21 Reservation boundary and the western 320 acres of Section 22 are within the Reservation.

22 As discussed above, in Decision No. 38330, the Commission awarded Arizona-
23 American's predecessor a CC&N that included "The East Half of Section 22 and the East Half of
24 Section 23, Township 19 North, Range 22 West, [Illegible], Mohave County, Arizona."
25 However, because of the split of this section between private land and Reservation land, it is

² See, e.g., Decision No. 58639, dated May 27, 1994.

1 unclear whether Section 22 should be considered a full 640-acre section or a 320-acre half
2 section. Arizona-American's property records for its CC&N, inherited from Citizens Utilities,
3 include the entire 320-acre eastern one-half of Section 22. Arizona-American's CC&N map for
4 Section 22 extends to the eastern edge of the reservation as depicted below:

5 **Section 22 (Arizona-American's Records)**

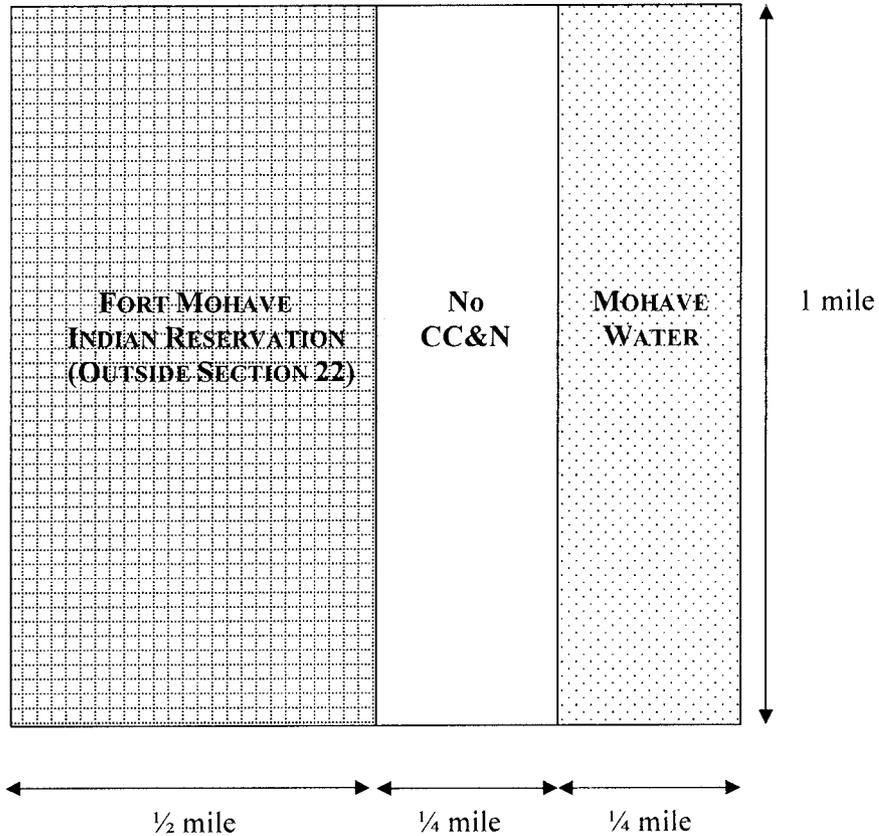


30 The Commission's map for Section 22 also provides Arizona-American a CC&N for the
31 eastern one-half of Section 22. But because Section 22 is treated as only consisting of a 320-acre
32 half section, the CC&N is mapped as follows:

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Section 22 (Commission's Records)

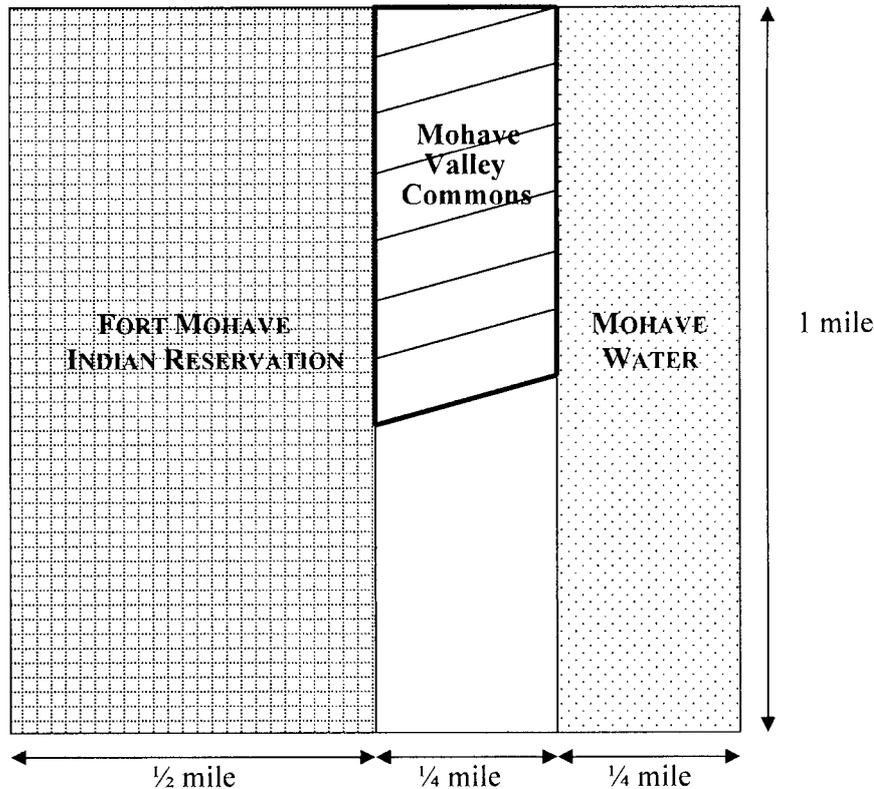


This would leave an unallocated 160-acre strip between the Reservation and the western edge of Arizona-American's water CC&N in Section 22.

Arizona-American believes that the Commission's map is contrary to what the Commission intended to award in the initial CC&N grant. Certainly, it is reasonable to assume that by granting the CC&N over the eastern one-half of Section 22, the Commission did not intend to leave a 160-acre strip between the CC&N and the reservation. Arizona-American and its predecessors believed that the entire 320 acres were included in the CC&N. In fact, based on this good-faith belief, Arizona-American has actually installed a well, water line, storage tank, and other infrastructure in the west half of the east 320 acres of Section 22.

1 Arizona-American is filing this application at the request of a developer Ft. Mojave -
2 Aztec, LLC, an affiliate of The Montecito Companies ("Ft. Mojave - Aztec"). Ft. Mojave -
3 Aztec, proposes to develop a 90-acre piece of property located in Section 22, Township 22 West,
4 Range 19 North in Mohave County (the "property") into a residential subdivision having 402 lots
5 to be known as Mohave Valley Commons. Ft. Mojave - Aztec approached Arizona-American
6 and requested water utility service. Arizona-American believed that the property was in its
7 existing Mohave Water District's CC&N, but, after review of the Commission's records, realized
8 that CC&N map did not agree. Therefore, the area to be developed is immediately adjacent to,
9 but outside of the Commission's map of Arizona-American's CC&N in Section 22 as depicted
10 below.

11 **Section 22 (with Mohave Valley Commons)**



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28 Representatives of Arizona-American and Ft. Mojave - Aztec met with Commission
29 Utilities Division Staff—including Assistant Director Stephen M. Olea, Del Smith from

1 Engineering, and Charles Hains from Legal Division—and discussed how to expeditiously
2 resolve the discrepancy between Arizona-American’s and the Commission’s records. Staff
3 suggested that Arizona-American file an application to clear up the ambiguity.

4 This application is being filed in accordance with Staff’s suggestion and at the request of
5 Ft. Mojave - Aztec. Exhibit E is a copy of Ft. Mojave - Aztec’s request for water service and for
6 Arizona-American to file an application to adjust the boundaries of its CC&N. After the
7 Commission approves adjusting the map of the CC&N boundaries, Arizona-American and Ft.
8 Mojave – Aztec will execute a line extension agreement. Arizona-American will then file the
9 line extension agreement with the Commission.

10 Granting the application is in the public interest. The 90-acre development is
11 immediately adjacent to the area shown on the Commission records as Arizona-American’s
12 existing CC&N in Section 22. No other utility is adjacent to the area. Fort Mojave - Aztec has
13 asked Arizona-American for service and Arizona-American is willing and able to provide water
14 utility service. Both parties believed that the area was already in Arizona-American’s CC&N.

15 **REQUESTED RELIEF**

16 Arizona-American asks the Commission to expeditiously adjust the CC&N boundaries
17 for Arizona-American’s Mohave Water District to include the entire 320 acres of what is shown
18 on the Commission’s CC&N map as Section 22 of Township 19 North, Range 22 West. As
19 Exhibit E shows, Ft. Mohave - Aztec must have this application approved so that it can obtain
20 final plat approval and a Water Adequacy Report.

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Respectfully submitted on August 29, 2007, by:



Craig A. Marks
Craig A. Marks, PLC
3420 E. Shea Blvd
Suite 200
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(602) 953-5260
Craig.Marks@azbar.org
Attorney for Arizona-American Water Company

Original and 13 copies filed
on August 29, 2007, with:

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

Copies of the foregoing mailed on
August 29, 2007, to:

Charles Hains
Legal Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Stephen M. Olea
Assistant Director - Utilities Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

By: 

Courtney Appelhaus

10/1/65

BEFORE THE ARIZONA CORPORATION COMMISSION

ARIZONA CORPORATION COMMISSION

MILTON J. HUSKY
Chairman
E. T. "EDDIE" WILLIAMS, JR.
Commissioner
DICK HENNING
Commissioner

10/1/65
12

IN THE MATTER OF THE APPLICATION OF CANTONVILLE WATER CO.,
INC., AN ARIZONA CORPORATION, FOR A CERTIFICATE OF CONVEN-
IENCE AND NECESSITY AUTHORIZING SAID COMPANY TO FORM AND
OPERATE A DOMESTIC WATER UTILITY IN THE E $\frac{1}{2}$ OF SECTION 22,
AND THE E $\frac{1}{2}$ OF SECTION 23, ALL IN TOWNSHIP 19 NORTH, RANGE
22 WEST, GAVARAH, MOHAVE COUNTY, ARIZONA.

DOCKET NO. U-1987

DECISION NO. 38330

OPINION AND ORDER

BY THE COMMISSION:

Notice having been given as provided by law, the
above entitled matter came on for hearing before the Com-
mission sitting at Phoenix, Arizona, on November 16th, 1965.

Applicant appeared by Chester Peterson, attorney,
and no appearance was entered in opposition to the granting
of the rights applied for.

Evidence was adduced upon the application, and
from that evidence the Commission is of the opinion that
the applicant has complied with the laws of the State of
Arizona, and the Rules, Regulations and Orders of the Com-
mission, for the issuance of a certificate of public conven-
ience and necessity for the operation of a public water system.

WHEREFORE, IT IS ORDERED that the application here-
in be, and it hereby is, approved; and this order shall
constitute a certificate of public convenience and necessity
within the provisions of Title 40, Section 281, of the Arizona
Revised Statutes, authorizing applicant to construct, operate
and maintain, in conformity with the laws of this State, and
the Rules, Regulations and Orders of the Commission, as each
may now or in the future be, a public water system within
the area described as:

H.H. The East Half of Section 22, and the East Half
of Section 23, Township 19 North, Range 22 West,
GAVARAH, Mohave County, Arizona.

DOCKET NO. U-1987

DECISION NO. 38330

IT IS FURTHER ORDERED that the rates and charges authorized within the above described areas shall be as follows:

For the initial 5,000 gallons provided at each meter during each monthly billing period.....\$5.00

For each additional 1,000 gallons provided during each monthly billing period.....\$1.00

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

IN WITNESS WHEREOF, I, GEORGE S. LIVERMORE, Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of this Commission, to be affixed at the Capital in the City of Phoenix, this 27th day of January 1966.


GEORGE S. LIVERMORE
SECRETARY


COMMISSIONER


COMMISSIONER

EL

Exhibit B

Arizona Corporation Commission
BEFORE THE ARIZONA CORPORATION COMMISSION

DICK HUBERT
Chairman
CHARLES H. GARLAND
Commissioner
RUSSELL WILLIAMS
Commissioner

JUN 22 1970

DOCKETED BY [Signature]

IN THE MATTER OF THE APPLICATION OF CAMP MOHAVE WATER COMPANY,
IN. FOR AUTHORITY TO SELL THE PHYSICAL ASSETS AND TRANSFER
THE CERTIFICATE OF CONVENIENCE AND NECESSITY TO UNITED
UTILITIES, AN ARIZONA CORPORATION.

U-1987
DOCKET NO. U-1993

DECISION NO. 40702

OPINION AND ORDER

BY THE COMMISSION:

On October 14, 1969 this Commission issued Decision NO. 40251 withholding the approval of the transfer of Camp Mohave Water Company, Inc. to United Utilities, an Arizona corporation, pending the payment of any and all assessments, fees and a fine of \$100, which was imposed by this Commission.

On September 9, 1969, the final annual reports, fees and fine were paid. Receipt No. 5041 was issued therefore.

WHEREFORE IT IS ORDERED that approval is hereby granted for Camp Mohave Water Company, Inc. to sell the physical assets and transfer the certificate of convenience and necessity to United Utilities, an Arizona corporation.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

[Signature] CHAIRMAN [Signature] COMMISSIONER [Signature] COMMISSIONER

IN WITNESS WHEREOF, I, CHARLES D. HADLEY, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of this Commission to be affixed, at the Capitol in the City of Phoenix, this 22 day of June, 1970.

[Signature]
CHARLES D. HADLEY
EXECUTIVE SECRETARY

BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

AUG 16 1971

RUSSELL WILLIAMS
Chairman
CHARLES H. GARLAND
Commissioner
AL FARON
Commissioner

DOCKETED BY	
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IN THE MATTER OF THE APPLICATION OF UNITED UTILITIES, A CORPORATION, FOR AN ORDER APPROVING THE TRANSFERRED AND ASSIGNMENT TO CITIZENS UTILITIES COMPANY ALL CERTIFICATES OF THE UNITED UTILITIES AUTHORIZING THE OPERATION OF A PUBLIC WATER UTILITY WITHIN AREAS IN MOHAVE COUNTY, ARIZONA.

D-1993
DOCKETS NO. 9562-E-1032

DECISION NO. 41557

AMENDED OPINION AND ORDER

BY THE COMMISSION:

The above entitled matter came on for hearing before the Commission sitting in Phoenix, Arizona on July 6, 1971.

United Utilities was represented by its General Manager, Mike Lampka, and Citizens Utilities Company was represented by its attorney, Earl H. Carroll.

From the testimony presented, the Commission is of the opinion that the granting of the application would be in the public interest subject to the settlement or repayment of outstanding line extension agreements, Mortgage Note held by William A. Snyder and Marian A. Snyder, as joint tenants, meter refunds and security deposits.

WHEREFORE, IT IS ORDERED that authority is hereby granted for United Utilities to sell the physical assets and transfer the certificates of convenience and necessity of its public water utility within areas in Mohave County, Arizona to Citizens Utilities Company.

IT IS FURTHER ORDERED that the line extension agreements, Mortgage Note held by William A. Snyder and Marian A. Snyder, as joint tenants, meter refunds and security deposits and all accumulated interest on meter refunds and security

deposits, shall be paid or assumed by Citizens Utilities Company.

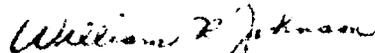
IT IS FURTHER ORDERED that the remainder of the certificates of convenience and necessity heretofore issued by this Commission to United Utilities, a corporation, shall remain in force and effect as issued.

IT IS FURTHER ORDERED that the rates which were approved by this Commission for United Utilities for the Bullhead City area and Camp Mohave area shall remain in force and effect and shall be charged by Citizens Utilities Company.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.


CHAIRMAN COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, WILLIAM R. JOHNSON, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of this Commission to be affixed, at the Capitol in the City of Phoenix, this 16th day of August, 1971.


WILLIAM R. JOHNSON
EXECUTIVE SECRETARY

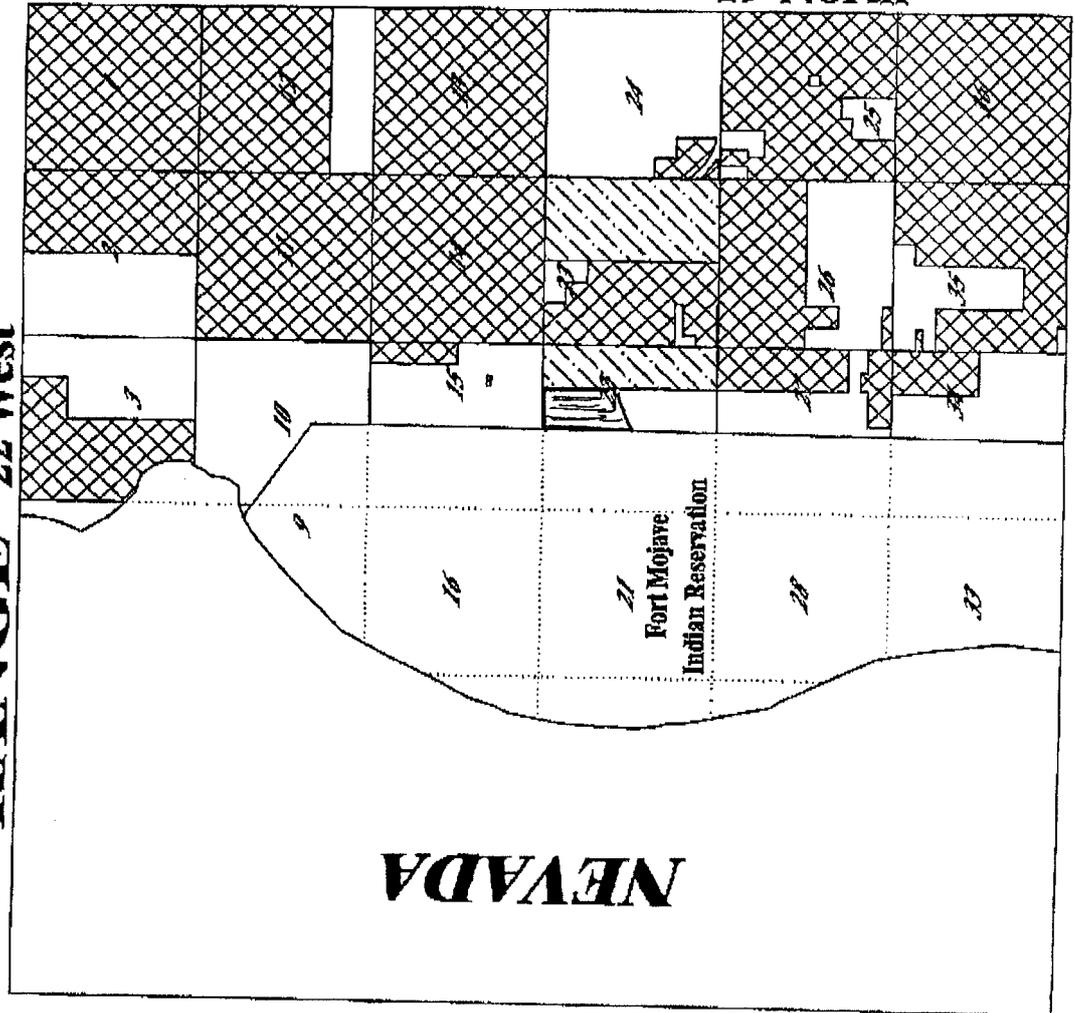
Map No. 11

COUNTY: Mohave

RANGE 22 West

TOWNSHIP 19 North

 WS-1303 (8)
 Arizona-American Water Company
 W-1812 (5)
 Bermuda Water Company, Inc.



MONTECITO
COMPANIES

Thomas W. Williams, P.E.
Development Services Manager
American Water – Western Region
19820 N. 7th Street
Suite 201
Phoenix, Arizona 85024-1689

May 2, 2007

Re: Correction of CC&N Boundary to Mohave Valley Commons

Dear Mr. Williams:

As you are aware, Ft. Mojave – Aztec, LLC, an affiliate of The Montecito Companies, is developing a 90-acre piece of property located in Section 22, Township 22 West, Range 19 North in Mohave County (the “Property”) into a residential subdivision having 402 lots known as Mohave Valley Commons. A map depicting Mohave Valley Commons is attached to this letter. As part of the platting process, Mohave County requires proof, prior to submittal of the final plat, that Mohave Valley Commons is within the CC&N of a water provider. In addition, the Arizona Department of Water Resources (ADWR) requires proof that Mohave Valley Commons is within the CC&N of American Water before ADWR will issue a Water Adequacy Report for this Property.

With regard to the CC&N for this project, there is some confusion between American Water’s records and those of the ACC. Your records indicate that the property is within the CC&N of American Water. The records of the ACC, however, indicate that the property is just outside the CC&N of American Water. We believe that this confusion likely arose because Section 22 is not a full 640-acre section. Instead, it is 320 acres in size, being one mile from north to south, but only one-half mile from east to west. The ACC decision on the CC&N includes a legal description of the east one-half of Section 22. Because the section is only a half mile wide, the ACC apparently understands this legal description to refer to the east one-half mile of the Section. Unfortunately, the Property is located outside this area.

These conflicting records need to be corrected so that the ACC includes the Property within American Water’s CC&N. Towards that end, we ask that American Water file an application with the ACC requesting an amendment to the decision establishing the CC&N, so that the CC&N includes the Property. Such an amendment is allowed under A.R.S. Section § 40-252. To avoid delay in the platting process, we request that American Water file the application to amend as soon as possible. As stated above, correcting this CC&N issue is critical to obtaining final plat approval from the County and to obtaining a Water Adequacy Report for the Property. In order to submit the final plat for the Property by our deadline of August 31, 2007, the ACC records have to be corrected as soon as possible. The deadline of August 31, 2007 will allow recordation of the final plat by our deadline of December 31, 2007. This December 31, 2007 deadline is tied to our water allocation from Mohave Valley Irrigation & Drainage District (MVIDD), which expires on January 3, 2008. MVIDD requires we have final plat approval by this date. Please feel free to call me if you have any questions.

Sincerely,



Mark Sokolowski, Project Manager

6600 W Charleston Blvd, Suite 120
Las Vegas, NV 89146
Office (702) 798-5111 Facsimile (702) 892-7784
www.montecitocompanies.com



Scale: 1" = 100'

Notes:
1. All utilities shown are to be installed by the owner...
2. Easements are shown in black...
3. The owner shall be responsible for the installation of all utilities...

Notes:
1. The owner shall be responsible for the installation of all utilities...
2. The owner shall be responsible for the installation of all utilities...

Flood Plain Data
The Flood Plain Data was obtained from the Utah Department of Natural Resources...
Fort Mohave Indian Reservation

Easements:
1. Easement for Utility Lines
2. Easement for Access
3. Easement for Egress

Total Net Area = 89.23 acres
Open Space = 3.396 acres
Total Lots = 402
Overall Density = 4.51 units per acre
Current Zoning = AR
Proposed Zoning = R-1

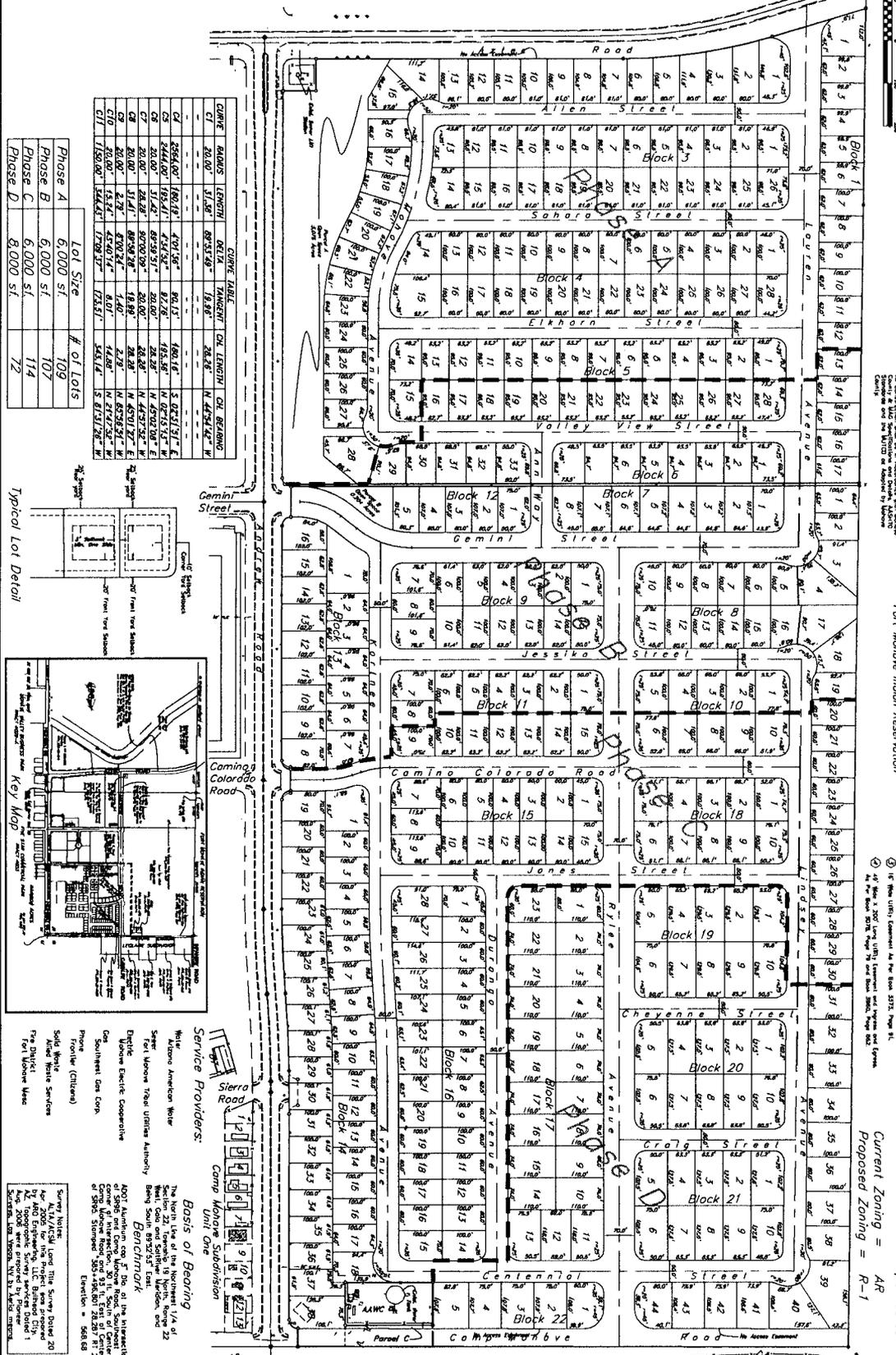
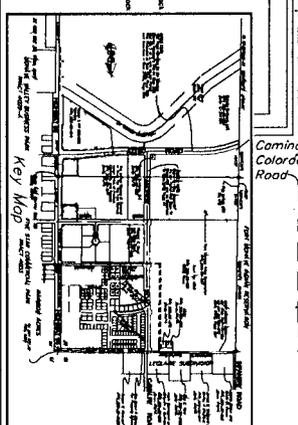


Table with columns: CURVE RADIUS, CURVE LENGTH, DELTA, TANGENT, CH. LENGTH, CH. BEARING. Lists curve data for various points in the plan.

Table with columns: Phase, Lot Size, # of Lots. Lists lot sizes and counts for Phases A, B, C, and D.



Service Providers:
Basis of Bearing:
Survey Notes:
1. All measurements are in feet and inches...
2. The survey was conducted on 10/15/2007...

Preliminary Plot
Mohave Valley Commons, Tract 4212
NWC Aztec Road & Andrew Road
Mohave County, AZ
APN 228-02-081

GREAT BASIN ENGINEERING - SOUTH
CONSULTING ENGINEERS and LAND SURVEYORS
2010 North Redwood Road, P.O. Box 18747
Salt Lake City, Utah 84116

Table with columns: DATE, DESCRIPTION. Includes a signature line and date.

Mohave Valley Irrigation & Drainage District

P.O. Box 5813 • Mohave Valley, AZ 86446 ◊ 7231 Highway 95 • Mohave Valley, AZ 86440
Phone: 928-768-3325 ◊ Fax: 928-768-5239 ◊ Email: MVIDD@citlink.net

April 5, 2007

Mr. Mark Sokolowski
Montecito Companies
660 W. Charleston Blvd.
Suite 120
Las Vegas, NV 89146

RE: Mohave Valley Commons, Tract 4212

PRELIMINARY ALLOCATION

Dear Mr. Sokolowski:

At the **April 3, 2007**, Regular Board Meeting of the MVIDD, your request for a **preliminary water allocation of 165.08 AFT for Mohave Valley Commons, Tract 4212 (T19N, R22W, Sec 22)** was approved. We have received payment of the non-refundable deposit in the amount of \$120,600.00 which is 1/3 of the current fees. **This preliminary allocation will expire on January 3, 2008.**

A nine (9) month extension may be requested but must be accompanied by proof of forward progress in obtaining the approvals required for the development of this property as well as the 2nd 1/3 of your fees in the amount of \$120,600.00 which are non-refundable. This request must be made in writing 30 days prior to the expiration date of **January 3, 2008** or the water allocation will revert back to the District upon expiration. A 2nd extension of 6 months may be requested but must be accompanied by proof of forward progress in obtaining the approvals required for the development of this property as well as the final 1/3 of your fees in the amount of \$120,600.00 which are non-refundable. This request must be made in writing 30 days prior to the expiration date of the first extension.

When your project is ready to be submitted to the Board of Supervisors for final approval you may request your Conditional Final Allocation from the MVIDD. The only conditions will be proof of Board of Supervisors final plat approval and proof that the final plat has been recorded. In order to be placed on the MVIDD agenda you will be required to submit a final allocation request letter, a copy of the plat plan you are submitting to the Board of Supervisors (11 X 14 is sufficient) and a check for any outstanding fees. Upon receipt of these items and the approval of the MVIDD board, a letter of conditional final allocation will be submitted to you and your final ADWR letter will be issued.

April 5, 2007

● Page 2
Mohave Valley Commons, Tract 4212

Upon expiration of the nine (9) month period from the date of preliminary allocation, and without request for extension, this preliminary allocation will expire. The current date of expiration for this subdivision is **January 3, 2008**. Upon expiration, the District will be relieved from any commitment there under. Should this happen you will be required to reapply for another preliminary allocation.

The district guarantees delivery of such water to the 402 lots in the development subject to the availability of such water in the District and the terms and conditions of the November 14, 1968 contract between the District and the United States of America providing to the District 41,000 acre feet of Colorado River water.

Should you require any further information please feel free to contact me.

Sincerely,



Theresa M. Currie
Manager
MVIDD