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MEMORANDUM

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TO: Docket Control Center

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Arizona Corporation Commission

DOCKETED

FROM: Ernest G. Johnson  
Director  
Utilities Division

2007 OCT 15 P 4: 02

OCT 15 2007

*EGJ*

AZ CORP COMMISSION  
DOCKET CONTROL

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DATE: October 15, 2007

RE: WILLOW SPRINGS UTILITIES, L.L.C. - REQUEST FOR EXTENSION OF COMPLIANCE DEADLINES (DOCKET NO. WS-20432A-05-0874)

History

In Decision No. 68963 dated September 21, 2006, the Arizona Corporation Commission ("ACC" or "Commission") approved the application of Willow Springs Utilities, L.L.C. ("Willow Springs" or "Company") for a Certificate of Convenience and Necessity ("CC&N") to provide wastewater service in Pinal County, Arizona.

Amongst other requirements in Decision No. 68963, the Company was ordered to file the following from the Arizona Department of Environmental Quality ("ADEQ") and the Department of Water Resources ("ADWR"):

- A) "file, not later than December 30, 2007, with the Commission's Docket Control, as a compliance item in this docket, a copy of the Certificate of Approval to Construct issued by ADEQ for the proposed Phase One water source/treatment and distribution system."
- B) "file, not later than December 31, 2008, with the Commission's Docket Control, as a compliance item in this docket, a copy of the Certificate of Approval of Construction issued by ADEQ for the proposed Phase One water source/treatment and distribution system."
- C) "file, within one year of the effective date of this Decision, with the Commission's Docket Control, as a compliance item in this docket, a copy of the Designation or Certificate of Assured Water Supply issued by ADWR."

On August 15, 2007, Willow Springs docketed a "request for extension" which discussed each of the items outlined above. The application stated that the Company expected to see the ADWR Assured Water Supply Certificate issued by the end of October 2007. However, it further stated the following:

"with the "slowdown in the real estate marked and the re-thinking of certain densities within the development, the developer, Willow Springs

Properties, L.L.C. delayed starting the well drilling and the final plating of the project.”

Based on this real estate slowdown and subsequent re-thinking, the Company requested that the Commission grant a one-year extension of time to both the ATC and AOC requirements. As proposed, the requested extension would therefore move the original ATC due date of December 30, 2007 to December 30, 2008 and the original AOC due date of December 31, 2008 to December 31, 2009.

On September 19, 2007, Willow Springs docketed a “supplement to request for extension” which supplemented the original application of August 15, 2007. In this filing, the Company referred to its expectation in its August 15, 2007 application that the ADWR Assured Water Supply Certificate would be issued by the end of October. The Company stated that the ADWR process is “ongoing” and that the paperwork is a “little more burdensome” as they are seeking the company wide Designation of Assured Water Supply (“DAWS”) approval rather than the subdivision based Certificate of Assured Water Supply (“CAWS”) approval.

The purpose of the September 19, 2007 letter was to supplement the Company’s application with a request for “an extension of time to docket the ADWR approval, as well as those previously requested items.” In this letter, the Company did not propose a specific due date for the requested extension. Staff, therefore, contacted Mr. Richard L. Sallquist, Company counsel, to seek clarification. In a September 28, 2007 verbal discussion, Mr. Sallquist stated that the Company’s intent was that the DAWS extension period would match the one year requests for the ATC and AOC requirements. Based on that, Staff accepted his discussion as an addendum to the application clarifying that the Company is requesting an extension on the DAWS from September 21, 2007 to September 21, 2008.

Finally, on October 5, 2007, the Company docketed a letter from the developer reiterating the need for service from the Company.

#### Staff Review

The Company position that the ATC and AOC extensions are fundamentally connected with the slowdown in the real estate market does not appear to be unreasonable. This slowing has been discussed in previous cases and in business and media circles. In addition, the original decision that ordered these requirements is but one year old and the Company’s one year requests for ATC and AOC extension are not unreasonably long. Staff therefore does not object to the Company requests that the due dates for the ATC and AOC be extended until December 30, 2008 and December 31, 2009, respectively.

Further, the Company statement that the ADWR DAWS process is ongoing is correct and has been verified. Staff contacted ADWR to confirm if Willow Springs had an application for DAWS pending at ADWR. Staff was able to locate the Licensing Timeframe Report (“LTF Report”), a public report on the ADWR website, which provides information on the status of pending applications before the agency. This report shows that Willow Springs filed an

application with ADWR on July 6, 2006, several months *prior* to the issuance of Decision No. 68963. The application is through the administrative completeness stage, is pending the second review stage and remains an ongoing case item. As of October 9, 2007, the Willow Springs application for DAWS had been on the ADWR clock for 230 days. Based on this, Staff does not object to the Company request that the due date for the DAWS be extended from the original September 21, 2007 timeframe to September 21, 2008.

There is a need for service, as evidenced by an October 5, 2007 letter from the developer which was provided by Mr. Sallquist and required by Staff.

Staff Recommendation

Based on the application and all of the above, Staff does not object to the Company's request for extension on the ATC, AOC and DAWS requirements. Staff therefore recommends that the Commission grant Willow Springs application to extend the compliance due dates as follows:

<u>Requirement</u>	<u>Original Due Date</u>	<u>Extended Due Date</u>
Approval to Construct	December 30, 2007	December 30, 2008
Approval of Construction	December 31, 2008	December 31, 2009
Designation of Assured Water Supply	September 21, 2007	September 21, 2008

EGJ:BKB:lhm

Originator: Brian K. Bozzo

Attachment

SERVICE LIST FOR: WILLOW SPRINGS UTILITIES, L.L.C.  
DOCKET NO. WS-20432A-05-0874

Mr. Richard L. Sallquist  
SALLQUIST, DRUMMOND & O'CONNOR  
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Mr. Christopher C. Kempley  
Chief Counsel, 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  
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Ms. Lyn Farmer  
Chief Administrative Law Judge  
Hearing Division  
Arizona Corporation Commission  
1200 West Washington Street  
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August 15, 2007

Arizona Corporation Commission  
DOCKETED

AUG 15 2007

**HAND DELIVERY**

Ernest Johnson, Director  
Arizona Corporation Commission  
Utilities Division  
1200 W. Washington  
Phoenix, AZ 85007

DOCKETED BY [Signature]

Re: Willow Springs Utilities, L.L.C.; Certificate of Convenience and Necessity; Docket No. WS-20432A-05-0874; Decision No. 68963; Request for Extension of Compliance Filing Dates.

Dear Mr. Johnson:

Willow Springs Utilities, L.L.C., (the "Company") continues to pursue the Compliance Item requirements set forth in the subject Decision. As you are aware, the required Tariff filings and the CAAG 208 Amendment have been docketed with the Commission. The Arizona Department of Water Resources Assured Water Supply Certificate is expected to be issued by the end of October 2007.

Although not a Compliance Item specified in the Decision, the Company anticipates receiving the County Franchise at a September, 2007 meeting of the Pinal County Board of Supervisors, and will docket that Franchise as indicated in Finding of Fact No. 21 in the Decision.

The next chronological Compliance Items are the water Approval to Construct ("ATC"), and Approval of Construction ("AOC") from the Arizona Department of Environmental Quality ("ADEQ"), which are due December 30, 2007 and December 31, 2008, respectively. The Company is hereby requesting a one-year extension to both of those required filing dates.

With the slowdown in the real estate market and the re-thinking of certain densities within the development, the developer, Willow Springs Properties, L.L.C., delayed starting the well drilling and the final platting of the project. The Developer's consultant, Westland Resources, will complete the design work for submittal to ADEQ when the well is developed, expected to be within the next few months. With that timetable, the ATC for the water plant, i.e. the tanks, booster facilities and transmission mains, cannot be obtained by December 30, 2007,

Ernest Johnson  
August 15, 2007  
Page 2

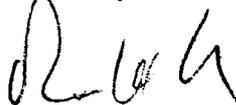
nor can we obtain the AOC which naturally follows at the one-year interval contemplated in the Decision.

The Company is advised that the Developer is presently of the opinion that the Aquifer Protection Permit ("APP") and the Arizona Pollutant Discharge and Elimination System permit ("AZPDES") required by December 31, 2008 can be timely obtained. In the event that timetable slows, the Company will certainly advise the Commission.

The Developer still anticipates development of the entire community and making the substantial investment in the infrastructure as testified to in the hearing on this matter, it is has merely adjusted the start date in response to the market conditions. Therefore, the Company is hereby requesting that the Compliance Date for the water ATC be extended to December 31, 2008, and that the AOC filing date be extended to December 31, 2009.

In the event you have any questions regarding these matters, please do not hesitate to call the undersigned.

Sincerely,



Richard L. Sallquist

cc: Docket Control (15 copies)  
Judge Marc Stern  
Legal Division  
Alex Agenta  
Kevin Tarbox  
Kristen Whatley

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September 19, 2007

**HAND DELIVERY**

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Arizona Corporation Commission  
Utilities Division  
1200 W. Washington  
Phoenix, AZ 85007

Arizona Corporation Commission  
**DOCKETED**

SEP 19 2007

DOCKETED BY  
KK

Re: Willow Springs Utilities, L.L.C.; Certificate of Convenience and Necessity; Docket No. WS-20432A-05-0874; Decision No. 68963; Supplement to Request for Extension of Compliance Filing Dates.

Dear Mr. Johnson:

On August 15, 2007, I corresponded with you on behalf of Willow Springs Utilities, L.L.C., (the "Company") regarding its pursuit of the Compliance Item requirements set forth in the subject Decision. We would like to supplement that Request regarding two items.

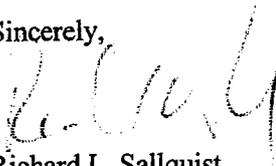
First, the Pinal County Board of Supervisors approved the Company's Utility Franchise at its meeting on September 19, 2007. We expect the formal paperwork for that Franchise to be available next week. Although not required by the Decision, the Company will docket that Franchise upon receipt.

Secondly, we indicated in our August 15 letter that we anticipated receiving the Certificate of Assured Water Supply from the Arizona Department of Water Resources ("ADWR") by the end of October. The process at ADWR is ongoing. Please recall that the Company received a Physical Availability Determination ("PAD") from ADEQ in May, 2001, but it is now seeking a Designation of Assured Water Supply, which as you know, is a company-wide approval, as opposed to the Certificate of Assured Water Supplied which is approval subdivision by subdivision. Therefore, the required paperwork is a little more burdensome. We are advised that there are no technical problems with the pending application; it is merely the required documentation. Therefore, by this letter we supplement our request for an extension of time to docket the ADWR approval, as well as those previously requested items.

Ernest Johnson  
August 19, 2007  
Page 2

In the event you have any questions regarding these matters, please do not hesitate to call the undersigned.

Sincerely,



Richard L. Sallquist

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Judge Marc Stern  
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