

OPEN MEETING ITEM



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ORIGINAL

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



BRIAN C. McNEIL
Executive Director

ARIZONA CORPORATION COMMISSION

DATE: SEPTEMBER 9, 2008

DOCKET NO: W-02259A-07-0434

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Opinion and Order on:

NORTH MOHAVE VALLEY CORPORATION
(CC&N EXTENSION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

SEPTEMBER 18, 2008

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

SEPTEMBER 23, 2008 AND SEPTEMBER 24, 2008

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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BRIAN C. McNEIL
EXECUTIVE DIRECTOR

Arizona Corporation Commission
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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 MIKE GLEASON - Chairman
4 WILLIAM A. MUNDELL
5 JEFF HATCH-MILLER
6 KRISTIN K. MAYES
7 GARY PIERCE

8 IN THE MATTER OF THE APPLICATION OF
9 NORTH MOHAVE VALLEY CORPORATION
10 FOR AN EXTENSION OF ITS CERTIFICATE
11 OF CONVENIENCE AND NECESSITY TO
12 PROVIDE WATER SERVICE IN MOHAVE
13 COUNTY, ARIZONA.

DOCKET NO. W-02259A-07-0434

DECISION NO. _____

14 OPINION AND ORDER

15 DATE OF HEARING: December 13, 2007 (Public Comment)
January 31, 2008 (Evidentiary Hearing)

16 PLACE OF HEARING: Phoenix, Arizona

17 ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey

18 APPEARANCES: Mr. Terrence S. Leek, Terrence S. Leek, P.C., on behalf
of North Mohave Valley Corporation; and

19 Ms. Robin Mitchell, Staff Attorney, Legal Division, on
20 behalf of the Utilities Division of the Arizona
21 Corporation Commission.

22 **BY THE COMMISSION:**

23 On July 23, 2007, North Mohave Valley Corporation ("NMVC" or "Applicant") filed with the
24 Arizona Corporation Commission ("Commission") an application for an extension of its Certificate
25 of Convenience and Necessity ("CC&N") to provide water service in Mohave County, Arizona.

26 On August 22, 2007, Staff filed a Letter of Insufficiency in this docket indicating that NMVC
27 had not met the sufficiency requirements as outlined in the Arizona Administrative Code ("A.A.C.").

28 On August 27, 2007, NMVC filed an amended legal description.

On August 30, 2007, NMVC filed Proof of Publication.

On September 19, 2007, NMVC filed its Response to Staff's Insufficiency Letter.

On October 16, 2007, Staff filed a Sufficiency Letter in this docket, indicating NMVC's
application had met the sufficiency requirements set forth in the A.A.C.

1 On October 30, 2007, by Procedural Order, a hearing was scheduled for December 13, 2007,
2 public notice ordered, and other filing dates established.

3 On October 30, 2007, Staff filed a Motion to extend the deadline from November 16, 2007 to
4 December 17, 2007, to file a Staff Report. Staff's request for additional time stated Staff needed
5 more time to evaluate the issues raised in this proceeding.

6 On November 16, 2007, by Procedural Order, Staff's Motion to extend the deadline for filing
7 its Staff Report was granted and the Procedural Order stated that other procedural deadlines would be
8 reset in a subsequent Procedural Order.

9 On November 30, 2007, NMVC informed the Hearing Division that Notice of the December
10 13, 2007 hearing date had been mailed to the property owners in the proposed extension area and
11 published in a newspaper of general circulation.

12 On November 30, 2007, by Amended Procedural Order, the hearing originally set for
13 December 13, 2007, was reset to commence on January 31, 2008, and the timeclock was extended.
14 The December 13, 2007, hearing date was reserved for public comment.

15 On December 5, 2007, NMVC filed proof of publication in accordance with the Amended
16 Procedural Order dated November 30, 2007. Applicant also certified that a copy of the Public Notice
17 of Hearing was mailed to each property owner or property owner representative.

18 On December 13, 2007, a public comment session was held. No members of the public
19 appeared to give comments.

20 On December 17, 2007, Staff filed a Staff Report recommending that the Commission
21 approve NMVC's application for extension of its current CC&N, subject to certain conditions.

22 On January 31, 2008, the evidentiary portion of the hearing was held. The Applicant
23 appeared through counsel and presented testimony. Staff appeared through counsel and presented
24 evidence and testimony at the hearing. No members of the public appeared to give public comment.
25 At the conclusion of the hearing, the parties were directed to file late-filed exhibits regarding
26 testimony given during the hearing.

27 On February 5, 2008, by Procedural Order, Staff was ordered to docket a copy of the
28 Approval of Construction ("AOC") issued by the Arizona Department of Environmental Quality

1 (“ADEQ”) that was previously submitted by NMVC as well as a copy of the Commission Decision
2 granting NMVC an extension of its CC&N to include Section 33. The Applicant was ordered to file
3 its most recent Compliance Status Report from ADEQ and documentation from Bullhead City
4 (“City”) showing the City will provide sewer service.

5 On February 19, 2008, Staff filed a copy of Commission Decision No. 57989 (August 26,
6 1992), which granted NMVC an extension of its CC&N to include Section 33. Staff stated that a
7 review of the Company’s compliance history indicated that it is in compliance with Decision No.
8 57989. Staff also attached the AOC from ADEQ.

9 On March 4, 2008, Staff filed, on behalf of the Applicant, an ADEQ Compliance Status
10 Report dated June 22, 2004, showing NMVC was in compliance. Staff also docketed on the same
11 date, a letter from Bullhead City showing the City will provide sewer service in the proposed
12 extension areas.

13 On May 15, 2008, by Procedural Order, NMVC was directed to file, as a late-filed exhibit, a
14 sworn and notarized document from the developers detailing the developers’ plans for the proposed
15 extension area, including a description of the various stages of development, and the timing and size
16 of each development phase.

17 On June 5, 2008, Staff filed a Notice of Filing which included NMVC’s most recent ADEQ
18 Drinking Water Compliance Status Report, showing that ADEQ had determined NMVC had major
19 deficiencies for monitoring and reporting.

20 On June 11, 2008, NMVC filed a letter in response to the May 15, 2008 Procedural Order,
21 stating that the developers in the proposed extension areas have no plans for development under the
22 current market conditions and that the State Trust Land Department’s development plans will depend
23 on market recovery.

24 On June 23, 2008, by Procedural Order, Staff was directed to file a Supplemental Staff Report
25 addressing NMVC’s non-compliance with ADEQ, and the lack of development timeframes for the
26 proposed extension area, on or before July 21, 2008. Additionally, NMVC was directed to file a
27 Response to the Supplemental Staff Report on or before August 1, 2008, and the timeclock was
28 extended accordingly.

1 On July 17, 2008, NMVC filed a letter in response to the June 23, 2008, Procedural Order,
2 stating that there are no major deficiencies for its water system and that the ADEQ non-compliance
3 issues are administrative in nature.

4 On July 21, 2008, Staff filed a Supplemental Staff Report revising its original
5 recommendation for approval of NMVC's application to recommending either denial of the
6 application or the issuance of an Order Preliminary.

7 On September 4, 2008, Staff docketed a Notice of Filing containing an ADEQ Compliance
8 Status Report dated for the same date, showing NMVC's water system has no major deficiencies and
9 is currently delivering water that meets the water quality standards required by A.A.C.

10 After receipt of the late-filed exhibits, the matter was taken under advisement pending
11 submission of a Recommended Opinion and Order to the Commission.

12 * * * * *

13 Having considered the entire record herein and being fully advised in the premises, the
14 Commission finds, concludes, and orders that:

15 **FINDINGS OF FACT**

16 1. NMVC is a public service corporation, authorized to provide water utility service
17 within Bullhead City, Arizona.

18 2. NMVC is in good standing with the Corporations Division of the Commission.

19 3. NMVC currently serves approximately 2,000 customers within its existing six square
20 miles of Certificated area.

21 4. On July 23, 2007, NMVC filed an application with the Commission for an extension
22 of its water CC&N to serve an additional two-square mile area.

23 5. NMVC's application initially requested to extend its CC&N to include parcels in
24 Section 16, Section 28 and Section 33, in Township 21 North, Range 21 West, in Mohave County,
25 Arizona.

26 6. In reviewing the application, Staff determined that Section 33 had previously been
27
28

1 granted to NMVC in Commission Decision No. 57989 (August 26, 1992).¹ Therefore, Section 33
2 is not the subject of this application.

3 7. The proposed extension area consists of two parcels located in Sections 16 and 28,
4 Township 21 North, Range 21 West, in Mohave County, Arizona, and is more fully described in
5 Exhibit A, attached hereto and incorporated herein by reference.

6 8. NMVC has received requests for service from two developers in Section 16. The State
7 Trust Land Department owns Section 28 and has requested to be included in NMVC's proposed
8 extension area.

9 9. NMVC's witness testified that Section 28 is planned residential and will be developed
10 under a "suburban overlay." He testified a suburban overlay means that Bullhead City has required
11 that the area be a minimum of 160 acres with minimum lot sizes of one acre. (Tr. Pg. 18, lines 12-25)
12 According to NMVC's witness, Section 28 will include a small amount of commercial property and
13 some multi-family development, but 70-80 percent will be single family units.
14 (Tr. Pg. 19, lines 16-25)

15 10. NMVC's witness stated that Section 16 is planned to be used for low density
16 residential use, with approximately one home per one and a half acres. (Tr. Pg. 19, lines 1-15)

17 11. NMVC anticipates it will serve 600 to 700 new customers in the first five years in the
18 proposed extension area. (Tr. Pg. 9, lines 1-4)

19 12. Staff initially recommended approval of NMVC's application, subject to certain
20 conditions.

21 13. On June 11, 2008, NMVC filed a letter as a late-filed exhibit explaining that the two
22 developers in Section 16 "have no plans at this time to move forward with development due to the
23 current market conditions." The letter further stated that "the best guess" for development in Section
24 16 is early 2009 and that the State Trust Land Department's plans for development for Section 28 will
25 also "depend on market recovery."

26 14. On July 21, 2008, Staff filed a Supplemental Staff Report and revised its original
27

28 ¹ Docket No. U-2259-90-239

1 recommendation for approval of the application. Staff now recommends that the Commission either
 2 deny NMVC's application or issue an Order Preliminary for the CC&N extension area, subject to the
 3 following conditions:

- 4 1. That NMVC file with the Commission's Docket Control, as a compliance item
 5 in this docket, a copy of the ADEQ Approval of Construction for the new well
 6 to serve the proposed extension area, no later than December 31, 2008.
- 7 2. That NMVC file with Docket Control, as a compliance item in this docket,
 8 documentation from ADEQ that NMVC is in full compliance with ADEQ and
 9 is delivering water that meets all safe drinking water standards, no later than
 10 December 31, 2008.
- 11 3. That NMVC file with the Commission's Docket Control, the ADEQ ATC for
 12 the first subdivision in each of the areas owned by the two individuals
 13 requesting service as part of this application.
- 14 4. That after NMVC complies with Requirement Nos. 1, 2, and 3, NMVC shall
 15 make a filing with Docket Control stating it has complied. Within 30 days of
 16 such filing, Staff shall file a response. The Commission should schedule this
 17 item for a vote to grant the CC&N as soon as possible after Staff's filing that
 18 confirms NMVC's compliance with Requirement Nos. 1, 2, and 3. If NMVC
 19 does not comply with any one of the requirements listed above within the time
 20 specified, the Order Preliminary shall be null and void, and this docket shall be
 21 closed.
- 22 5. That once the final CC&N has been granted, NMVC shall file a copy of the
 23 Arizona Department of Water Resources' ("ADWR") Water Adequacy Report,
 24 i.e., Letter of Adequate Water Supply, for each subdivision in the requested
 25 areas, when received by NMVC, but no later than 30 days after the issuance by
 26 ADWR.

27 Existing Water System

28 15. NMVC's current water system is comprised of seven drinking water wells, with a
 29 combined production capacity of 1,098 gallons per minute ("GPM"); seven storage tanks, with a
 30 combined capacity of 2.5 million gallons; a booster pump station and distribution system serving
 31 2,000 customers.²

32 16. NMVC has experienced an annual growth rate of over 112 connections in the past
 33 eight years.³

34 17. Based on the water usage data submitted by NMVC for the time period of

² Engineering Report dated November 8, 2007.

³ Ibid.

1 June 2006 through June 2007, the daily average consumption in peak months was approximately
2 605 gallons per day ("GPD").⁴

3 18. Staff concluded that NMVC's existing system does not have adequate capacity to
4 serve its existing customers.

5 19. NMVC's witness testified that subsequent to filling the application in this matter,
6 NMVC received the ATC and the AOC for Well No. 10. Well No. 10 will have a 500 GPM
7 production capacity. Staff concluded that with the addition of Well No. 10, NMVC will have
8 adequate production capacity to serve both existing customers and those in the proposed extension
9 area.⁵

10 20. NMVC's witness testified that Well No. 10 has been constructed and paid for by
11 NMVC. (Tr. Pg. 27, lines 5-8)

12 21. Staff concluded that NMVC can be reasonably expected to develop the additional
13 capacity needed to meet future growth.

14 22. NMVC submitted costs of approximately \$300,000 to construct Well No. 10 and 650
15 feet of 20-inch casing.

16 23. Staff reviewed the costs for the construction of Well No. 10 and concluded the costs
17 were reasonable and appropriate, but that no "used and useful" determination of the plant was made
18 and no conclusions should be inferred for future rate making or rate base purposes.

19 24. NMVC's witness testified that NMVC has received the Approval to Construct
20 ("ATC") as well as the AOC issued by the ADEQ for Well No. 10.⁶ (Tr. Pg. 10, lines 1-7)

21 25. On February 19, 2008, Staff filed on behalf of NMVC, the AOC issued by ADEQ for
22 Well No. 10.⁷

23 26. NMVC has satisfied Staff's requirement that NMVC file a copy of the AOC for
24 Well No. 10.

25 27. NMVC proposes to extend its water lines to serve Section 16 and Section 28. (Staff's
26

27 ⁴ Engineering Report dated November 8, 2007.

⁵ Ibid.

⁶ ADEQ issued the ATC for Well No. 10 on October 15, 2007, and the AOC on January 25, 2008.

28 ⁷ Staff's Notice of Filing dated February 19, 2008.

1 Engineering Report, Pg. 2)

2 28. NMVC is not located in any Active Management Area ("AMA") and has no
3 compliance requirements as designated by ADWR.

4 29. The proposed extension area is located within the city limits of Bullhead City. ADWR
5 has determined that the proposed extension area is within Bullhead City's Designation of Adequate
6 Water Supply.

7 30. On January 23, 2006, the U.S. Environmental Protection Agency ("EPA") reduced the
8 arsenic maximum containment level ("MCL") from 50 parts per billion ("ppb") to 10 ppb.

9 31. Two of NMVC's existing wells (Well No. 4, DWR #55-0507876 and Well No. 7,
10 DWR #55-0805519) exceed the new arsenic and fluoride MCLs.⁸

11 32. On July 27, 2005, ADEQ issued an approval for the Applicant's blending plan for
12 arsenic and fluoride that includes using water from Well No. 10.

13 33. Staff believes the arsenic and fluoride levels in Well No. 10 do not exceed EPA's
14 MCLs.⁹

15 34. The Utilities Division Compliance Section found no outstanding ACC compliance
16 issues for NMVC.

17 35. NMVC has an approved curtailment tariff on file with the Commission.

18 36. NMVC has a Franchise from the City of Bullhead to construct, operate and maintain
19 systems for collection and transmission of water within the city limits.

20 37. NMVC's witness testified that NMVC has a service agreement with the City of
21 Bullhead whereby the City will provide sewer service in the proposed extension areas.
22 (Tr. Pg. 11, lines 15-25)

23 38. On March 4, 2008, Staff filed on behalf of NMVC, the letter from Bullhead City
24 showing that the City will provide sewer service in the proposed extension areas.

25 39. NMVC's witness stated that there are no proposed golf courses or water features in the
26 requested extension areas. (Tr. Pg. 14, lines 1-3)

27 ⁸ According to Staff's Engineering Report, Well No. 4 contains 89 ppb for arsenic and 5.5 mg/l for fluoride. Well No. 7
28 contains 20 ppb for arsenic and 4.3 mg/l for fluoride. Staff testified that the MCL for fluoride is 4 mg/l.

⁹ Staff's Engineering Report, Pg. 3.

1 40. NMVC's witness testified that no new facilities will be added to serve the requested
2 extension areas. (Tr. Pg. 14, lines 4-6)

3 **Analysis**

4 41. Staff revised its original recommendation for approval of NMVC's application to
5 recommending either denial of NMVC's application or the issuance of an Order Preliminary prior to
6 granting the CC&N for the requested extension areas due to NMVC's lack of compliance with ADEQ
7 requirements and the lack of development timeframes for the proposed extension areas.

8 42. NMVC did not file objections to Staff's revised recommendations or request an
9 additional hearing on the information contained in Staff's Supplemental Staff Report.

10 43. Pursuant to A.R.S. §40-282 (D), an Order Preliminary may be issued by the
11 Commission:

12 If a public service corporation desires to exercise a right or privilege under a franchise
13 or permit which it contemplates securing, but which has not yet been granted to it, the
14 corporation may apply to the commission for an *order preliminary* to the issue of the
15 certificate. The Commission may make an order declaring that it will thereafter, upon
16 application, under rules it prescribes, issue the desired certificate, upon terms and
17 conditions it designates, after the corporation has obtained the contemplated franchise
18 or permit or may make an order issuing a certificate on the condition that the
19 contemplated franchise or permit is obtained and on other terms and conditions it
20 designates. If the commission makes an order preliminary to the issuance of the
21 certificate, upon presentation to the commission of evidence that the franchise or
22 permit has been secured by the corporation, the commission shall issue the certificate.
23 (emphasis added)

24 44. Further, A.R.S. § 40-282 (C), provides that:

25 the Commission may, after a hearing, issue the certificate or refuse to issue it, or issue
26 it for the construction of only a proportion of the contemplated street railroad, line,
27 plant or system, or extension thereof, or for the partial exercise only of the right or
28 privilege, and may attach to the exercise of rights granted by the certificate terms and
conditions it deems that the public convenience and necessity require.

45. NMVC was directed, by Procedural Order, to docket as a late-filed exhibit, its most
recent ADEQ Compliance Report showing the arsenic, fluoride and nitrates levels for its water
system.¹⁰ Staff docketed on behalf of NMVC, an ADEQ Drinking Water Compliance Status Report

¹⁰ Staff's Engineering Report showed Staff had received an ADEQ Compliance Status Report dated August 2007, on which ADEQ had determined NMVC was delivering water that met water quality standards as determined by the A.A.C.

1 dated February 25, 2008, which showed that NMVC's Water system has major deficiencies for
2 monitoring and reporting lead and copper samples. The ADEQ report also showed that based on the
3 lack of reporting, ADEQ was unable to determine if NMVC's water system is currently delivering
4 water that meets water quality standards as required by the A.A.C.

5 46. NMVC filed a late-filed exhibit addressing the ADEQ Compliance Status Report and
6 explained that the ADEQ non-compliance items were administrative in nature and that the
7 deficiencies do not affect the integrity or quality of the water that is being delivered to NMVC
8 customers. The late-filed exhibit also stated that NMVC missed the deadline for taking the required
9 lead and copper samples, which resulted in the non-compliance, but that the required samples have
10 since been taken and submitted to ADEQ for review and the results should be available around the
11 third week of July. Per ADEQ requirements, NMVC provided notice of the non-compliance to its
12 customers through publication. NMVC believes the ADEQ compliance issues can be resolved in the
13 near future.

14 47. In Staff's Supplemental Staff Report, Staff agreed that NMVC should be able to
15 resolve its ADEQ deficiencies in the near future, but Staff concluded that NMVC is currently not in
16 full compliance with ADEQ rules.

17 48. On September 4, 2008, Staff docketed an ADEQ Compliance Status Report, dated
18 September 4, 2008, showing NMVC's water system is in compliance with ADEQ and that ADEQ has
19 determined NMVC's water system is currently delivering water that meets water quality standards as
20 required by the A.A.C.

21 49. NMVC is currently in compliance with ADEQ rules and regulations.

22 50. NMVC has received requests for service from two individual developers/landowners
23 in Section 16 and the State Trust Land Department in Section 28.

24 51. At the time of the hearing, NMVC's witness testified that development in Section 16
25 was progressing and that the two developers were seeking financing to begin development, and the
26 developers already had approvals from the City of Bullhead, ADEQ and ADWR. (Tr. Pg. 12, lines
27 17-23 and Pg. 23, lines 17-25) The witness further testified that he believed the developers in Section
28 16 were "staged and ready to go." (Tr. Pg. 23, lines 17-25)

1 52. In regards to Section 28, NMVC's witness testified that the State Land was
2 "negotiating and working with the City to extend [the] roads and land" in the proposed extension area
3 and that he believed the negotiations would "trigger some interest in development."
4 (Tr. Pg. 12, lines 24-25 and Pg. 13, lines 4-7)

5 53. NMVC did not present a developer witness at the hearing. At the conclusion of the
6 hearing, it was determined that additional information was needed on the development timeframes in
7 the proposed extension areas.

8 54. On May 15, 2008, by Procedural Order, NMVC was directed to file as a late-filed
9 exhibit, a sworn document from the developers detailing the developers' plans for the proposed
10 extension areas, including, but not limited to, a status report on where the developers are in meeting
11 State and County agency requirements, as well as the timeframes for building in the proposed
12 developments. The late-filed exhibit was also to include a detailed description of the developers'
13 plans for the various phases of development, and the timing and size of each proposed phase.

14 55. On June 10, 2008, NMVC filed a letter stating NMVC had contacted the property
15 owners/developers and that they have no plans "to move forward with the development process under
16 the current market conditions." The letter further stated that the "best guess for Section 16 is early
17 2009." In regards to Section 28, the letter stated that the State Trust Land Department plans for
18 development depend on market recovery and that there are no development plans at this time.

19 56. Staff recommends that the Commission either deny NMVC's extension application or
20 issue an Order Preliminary, subject to various conditions.

21 57. The issuance of an Order Preliminary as stated in A.R.S. §40-282, turns on granting it
22 if the public service corporation "contemplates securing" a right or privilege under a franchise
23 or permit.

24 58. Prior Commission decisions have found the issuance of an Order Preliminary
25 appropriate in circumstances where it lends a degree of certainty in anticipation of future events and
26 where the circumstances are beyond the Applicant's control.¹¹ In Commission Decision No. 68498,
27

28 ¹¹ Commission Decision No. 68498 (February 23, 2006)

1 the Commission found it appropriate to issue an Order Preliminary where pending legal issues were
2 beyond the Applicants' control, the Order Preliminary created a degree of certainty that the final
3 CC&N would be issued and offered some certainty that the Applicants' investments in the extension
4 areas would be protected. Further, the Commission found that there was a public need for service in
5 the proposed extension areas.

6 59. Here, the current market conditions are beyond NMVC's control; however, NMVC
7 has no reasonable expectation that it will be able to exercise a right under its Franchise because the
8 developers in the proposed extension areas have no intent to develop under the current economic
9 conditions. Further, because it is unclear how long the current market conditions will continue, there
10 is no existing need for service in the proposed extension areas.

11 60. Therefore, we find that granting an Order Preliminary would not be in the public
12 interest at this time. We agree with Staff's revised recommendation that NMVC's application should
13 be denied without prejudice.

14 61. Staff has concluded that NMVC's current water system does not have adequate
15 capacity to serve its existing customers. Therefore, NMVC should be required to bring Well No. 10
16 on-line by December 31, 2008, to correct the system's capacity issues and to implement the blending
17 plan approved by ADEQ to bring the system's arsenic and fluoride levels for Wells No. 4 and No. 7
18 into compliance with the EPA's MCLs.

19 62. Because an allowance for property tax expense is included in NMVC's rates and
20 collected from its customers, the Commission seeks assurances from NMVC that any taxes collected
21 from ratepayers have been remitted to the appropriate taxing authority. It has come to the
22 Commission's attention that a number of water and wastewater companies have been unwilling or
23 unable to fulfill their obligation to pay the taxes that were collected from ratepayers, some for as
24 many as twenty years. It is reasonable, therefore, that as a preventive measure NMVC shall annually
25 file, as part of its annual report, an affidavit with the Utilities Division attesting that the Company is
26 current in paying its property taxes in Arizona.

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CONCLUSIONS OF LAW

- 1. North Mohave Valley Corporation is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. § 40-281.
- 2. The Commission has jurisdiction over North Mohave Valley Corporation and the subject matter of the application.
- 3. Notice of the application was provided in accordance with the law.
- 4. At this time, there is no a public need and necessity for water utility service in the proposed extension areas.
- 5. North Mohave Valley Corporation is in compliance with Arizona Department of Environmental Quality requirements and is currently delivering water that meets the standards required by the A.A.C.
- 6. North Mohave Valley Corporation is not in compliance with the new Environmental Protection Agency's maximum containment levels for arsenic and fluoride.
- 7. The application in this matter should be denied without prejudice.

ORDER

IT IS THEREFORE ORDERED that the application of North Mohave Valley Corporation for an extension of its Certificate of Convenience and Necessity to provide water service to the extension area described in Exhibit A, attached hereto and incorporated herein by reference, is hereby denied without prejudice.

IT IS FURTHER ORDERED that North Mohave Valley Corporation shall bring Well No. 10 on line by December 31, 2008, to correct the system's capacity issues and to implement the blending plan approved by the Arizona Department of Environmental Quality to bring the system's arsenic and fluoride levels for Well No. 4 (DWR #55-507876) and Well No. 7 (DWR #55-805519) in compliance with the Environmental Protection Agency's maximum containment levels.

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IT IS FURTHER ORDERED that North Mohave Valley Corporation shall annually file as part of its annual report, an affidavit with the Utilities Division attesting that it is current on paying its property taxes in Arizona.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN _____ COMMISSIONER _____

COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER _____

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2008.

BRIAN C. McNEIL
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

YBK:db

1 SERVICE LIST FOR: W-02259A-07-0434
2 DOCKET NO.: NORTH MOHAVE VALLEY CORPORATION

3
4 John McCormick
5 Secretary-Treasurer/Manager
6 NORTH MOHAVE VALLEY CORPORATION
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27
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EXHIBIT "A"

Mohave County, Sections 16 and 28, Township 21N, Range 21W.

EXHIBIT "A"

DECISION NO. _____