



**ORIGINAL**

**MEMORANDUM**

*Let  
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TO: Docket Control Center *2008 OCT -2 P 3: 50*  
FROM: Ernest G. Johnson *EJ* AZ CORP COMMISSION  
Director DOCKET CONTROL  
Utilities Division

Arizona Corporation Commission  
**DOCKETED**  
OCT -2 2008

DATE: October 2, 2008

ESSENTIAL *MM*

RE: WATER UTILITY OF GREATER TONOPAH, INC. - MOTION FOR EXTENSION OF TIME (DOCKET NO. W-02450A-04-0837)

On November 14, 2005, in Decision No. 68307, the Arizona Corporation Commission ("Commission") approved the application of the Water Utility of Greater Tonopah, Inc ("WUGT" or "the Company") to extend its Certificate of Convenience and Necessity ("CC&N") to approximately 2,066 acres. WUGT received a request to provide water service from Hassayampa Ranch Ventures, L.L.C. which planned to subdivide the extension area into approximately 5,000 residential lots to be developed in four phases.

At the time the Company received the Commission's approval, it was owned by West Maricopa Combine, Inc. In June 2006, West Maricopa Combine, Inc. was purchased by Global Water Resources, L.L.C. ("Global").

The Decision approving the CC&N extension set forth seven requirements. The Company is in compliance with six of the seven requirements. The remaining requirement is as follows:

The Company file before November 14, 2006, a copy of the developer's Certificate of Assured Water Supply ("CAWS") or Designation of Assured Water Supply ("DAWS") issued by the Arizona Department of Water Resources ("ADWR") "where applicable or when required by statute".

On March 27, 2007, the Company filed a motion for extension of time to file the above requirement. Per Procedural Order dated May 3, 2007, the time extension was granted and the Company was given until September 23, 2008 to file the required documents.

On September 12, 2008, the Company filed a motion with the Commission regarding the above compliance item. The motion requests the Commission extend until May 16, 2010 the date of compliance with the requirement to file a CAWS or DAWS.

ADWR is currently conducting a region-wide study of water availability in the Hassayampa Sub-basin. The Company has responded to several requests for additional

information and is working in full cooperation from ADWR. At this time, it does not appear that a DAWS will be issued by the current deadline in this case.

On May 16, 2008, in Decision No. 70357, the Company was granted an extension of its CC&N. Decision No. 70357 requires the Company to file a DAWS for the extension area granted. The Company's pending DAWS application on file with ADWR covers the areas granted in this docket and the areas granted by Decision No. 70357. As a result, the Company is requesting that the deadline in this case be extended to match the deadline in Decision No. 70357. Therefore, the requested deadline to provide the DAWS would be extended to May 16, 2010.

Staff concludes that the Company has made much progress in this case and has filed all of the required compliance items other than the DAWS. The Company is working diligently with ADWR and responding to its requests for more information. Therefore, Staff does not oppose the Company's request to extend the deadline for filing the DAWS to the same date as that required by Decision No. 70357, May 16, 2010.

This is the second request for extension of time from the Company for this item. Staff recommends that no further extensions of time be granted.

EGJ:KDB:lhv

Originator: Kimberly Battista

SERVICE LIST FOR: WATER UTILITY OF GREATER TONOPAH, INC.  
DOCKET NO.: W-02450A-04-0837

Mr. Timothy J. Sabo  
Roshka Dewulf & Patten PLC  
One Arizona Center  
400 East Van Buren Street, Suite 800  
Phoenix Arizona 85004

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

Ms. Janice M. Alward  
Chief Counsel, Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Ms. Lyn Farmer  
Chief Administrative Law Judge  
Hearing Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION  
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**COMMISSIONERS**

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

2008 SEP 12 P 3:45  
AZ CORP COMMISSION  
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF  
WATER UTILITY OF GREATER TONOPAH,  
INC., AND ARIZONA CORPORATION, FOR  
AN EXTENSION OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO  
ENCOMPASS ALL OR PORTIONS OF  
SECTIONS 15, 17 AND 22, T2N, R52,  
G&SRB&M, MARICOPA COUNTY,  
ARIZONA (AKA THE HASSAYAMPA  
RANCH DEVELOPMENT)

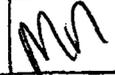
DOCKET NO. W-02450A-04-0837

**MOTION FOR  
EXTENSION OF TIME**

Arizona Corporation Commission

**DOCKETED**

SEP 12 2008

DOCKETED BY 

Water Utility of Greater Tonopah ("Global Tonopah") respectfully requests an extension of time to file the Certificate of Assured Water Supply ("CAWS") or Designation of Assured Water Supply ("DAWS") for the Hassayampa Ranch subdivision. Global Tonopah is currently required to file a CAWS "where applicable or when required by statute" by September 23, 2008.<sup>1</sup> Global Tonopah requests that this deadline be extended to May 16, 2010 to match the deadline established in Decision No. 70357. A recent, renewed request for service from Harvard Investments, the developers of Hassayampa Ranch, is attached as Exhibit A.

**I. The purchase of Global Tonopah.**

In November 2004, the prior owners of Global Tonopah filed an Application for this CC&N Extension, which led to the Commission's decision in this docket to add a little over three square miles to Global Tonopah's CC&N to serve the Hassayampa Ranch subdivision. Global Tonopah is a subsidiary of West Maricopa Combine, Inc. ("WMC"). The WMC utilities were small and poorly capitalized. They faced numerous challenges, including meeting the new arsenic

<sup>1</sup> See Decision No. 68307 (Nov. 14, 2005) and Procedural Order dated April 25, 2008.

1 standards. They lacked any ties to wastewater providers, and therefore they could not provide  
2 recycled (reclaimed) water. They did not have a regional plan for sustainably managing water  
3 resources.

4 Global Water acquired Global Tonopah as part of its acquisition of WMC in 2006. After  
5 its purchase of WMC and its five utilities, Global Water has endeavored to do three things:

- 6 1. Understand the operational decisions and infrastructure challenges throughout  
7 the WMC utilities, with priority given to those related to Safe Drinking Water  
8 Act compliance issues;
- 9 2. Achieve positive control over the numerous conditions and deadlines that  
10 existed throughout the many decisions affecting WMC utilities; and
- 11 3. Put the WMC utilities into a regional, sustainable, long-term water resource  
12 plan.

13 This motion reflects all three of those efforts. Global Water regrets that it continues to  
14 seek extensions for some of the WMC utilities' compliance conditions and deadlines – but it is  
15 important to understand that those extension requests are part of our three-prong approach to  
16 gaining positive control over the utilities and assuring that utility service throughout each meets or  
17 exceeds all standards for quality, compliance, and capacity.

18 The Global Tonopah system has had challenges in each of those areas, as the Commission  
19 is well aware. Global Water believes however that the progress made in the past two years needs  
20 to be continued, rather than abandoned, and therefore requests this Commission grant the  
21 necessary extensions.

22 **II. Progress towards assured water supply.**

23 Global Tonopah has diligently pursued obtaining an assured water supply for Hassayampa  
24 Ranch. An Analysis of Assured Water Supply (“AAWS”) for Hassayampa Ranch is attached as  
25 Exhibit B. The AAWS is a determination by ADWR regarding the physical availability of water  
26 for Hassayampa Ranch, and it is a key step towards obtaining the CAWS or DAWS. The AAWS  
27 is specific to the Hassayampa Ranch subdivision that is the subject of this docket. The AAWS

1 specifically concludes that there is enough water to meet the projected demands of the  
2 Hassayampa Ranch subdivision.

3 Global Tonopah has requested a DAWS from ADWR. If a DAWS is issued, no CAWS is  
4 necessary, and therefore a CAWS would not be “applicable” or “required by statute” as specified  
5 in Decision No. 68307. Generally, a DAWS is considered superior to a CAWS because a DAWS  
6 is subject to on-going supervision and re-assessment by ADWR. In contrast, once a CAWS is  
7 issued, and at least one home is sold, a CAWS is final and cannot be revoked or altered even if  
8 problems develop later.

9 **II. ADWR’s regional approach.**

10 Numerous applications for AAWS, CAWS or DAWS are pending for lands within the  
11 Lower Hassayampa Sub-basin. ADWR ultimately requested that the developers, cities and water  
12 companies develop a regional model of groundwater in the Lower Hassayampa Sub-basin to  
13 facilitate ADWR’s analysis of groundwater resources in that area. ADWR strongly preferred a  
14 region-wide approach, rather than trying to determine water availability on a parcel-by-parcel  
15 basis. Accordingly, a coalition of developers and the Town of Buckeye began the expensive and  
16 difficult process of preparing the model. Mike Pearce, former Chief Counsel of ADWR and a  
17 noted expert on water law and policy in Arizona, was closely involved in coordinating this study,  
18 and he previously testified about the study. Mr. Pearce testified that this regional study was the  
19 “most sophisticated” he had been involved with in his many years of experience, and that  
20 preparing the study was an extensive, two-year process.<sup>2</sup> A copy of Mr. Pearce’s testimony is  
21 attached as Exhibit C.<sup>3</sup>

22 This study, known as the Lower Hassayampa Sub-basin Hydrologic Study and Computer  
23 Model (“Sub-basin Study”) was prepared by Brown and Caldwell and submitted to ADWR for  
24 review and approval in November 2006. The Lower Hassayampa Sub-basin itself and the sub-  
25 basin study cover all of Global Tonopah’s service area, as well as significant additional areas in  
26

27 <sup>2</sup> Hearing Tr. December 17, 2007 in Docket Nos. W-02450A-06-0626 et al. at page 96

<sup>3</sup> Id., at 90-102.

1 the Western portion of Maricopa County. Attached as Exhibit D is a map showing the area  
2 covered by the study.

3 ADWR is carefully considering the water resources issues for the Lower Hassayampa Sub-  
4 basin on a regional basis, and it has wisely required all affected parties to continue to provide  
5 assessments and information in its review. In fact, ADWR has worked with local governments  
6 and developers and it has been reviewing the Sub-basin Study for almost two years. ADWR  
7 continues to require more time to analyze the water supply issues and to revise and/or approve the  
8 Sub-basin Study. Global Water fully supports ADWR's desire to carefully, methodically, and if  
9 need be, slowly evaluate the complex interplay of growth and water supply in this sub-basin.

10 Global Tonopah's DAWS application is dependent on the Sub-basin Study which serves as  
11 its technical basis. ADWR would not support development or use of any other technical basis for  
12 Hassayampa Ranch's Assured Water Supply. Thus, Global Tonopah supports ADWR's regional  
13 approach, and its vigilance to "get the job done right." Accordingly, Global Tonopah requests an  
14 extension of time.

15 Mr. Pearce testified that relying only on groundwater to serve the sub-basin would be  
16 problematic, and that therefore the use of recycled (reclaimed) water is critical for this area.<sup>4</sup> At  
17 the time the CC&N in this docket was issued in 2005, no plans for use of recycled water were in  
18 place, and there was no wastewater utility with a certificate for Hassayampa Ranch. However, in  
19 2006, Global Tonopah was purchased by Global Water, a company dedicated to the use of  
20 recycled water. Also in 2006, an affiliated wastewater utility, Hassayampa Utilities Company,  
21 was granted a CC&N for Hassayampa Ranch. As a result, Global Tonopah now has plans in place  
22 to provide recycled water service to Hassayampa Ranch and the other new developments in this  
23 region – an outcome which the study shows is critically important.

24 After the study was submitted to ADWR, Global Tonopah submitted an application for a  
25 DAWS based on the study. Due to the regional nature of the study, the application covered all of  
26

27 \_\_\_\_\_  
<sup>4</sup> Id. at 99-100.

1 Global Tonopah's CC&N area, not just the relatively small area covered by this docket. After the  
2 application was submitted, Global Tonopah has maintained an on-going dialogue with ADWR  
3 regarding the application. Global Tonopah has responded to several requests for additional  
4 information, and on August 22, 2008, ADWR sent a letter requesting even more information. The  
5 August 22 letter notes that ADWR is continuing to review water availability issues in the Lower  
6 Hassayampa Sub-basin. Based on the August 22 letter, it does not appear that a DAWS will be  
7 issued on or before the September 23, 2008 deadline in this case.

8 At this time, ADWR simply needs more time to fully analyze the regional supply and  
9 demands for water in the Hassayampa Sub-basin. Global Tonopah believes that it is entirely  
10 appropriate for ADWR to closely review the regional situation. It is critical that ADWR makes a  
11 fully informed and well-considered decision. Global Tonopah, the Developers, the Town and  
12 others remain in on-going communication with ADWR and they continue to provide additional  
13 information to ADWR.

14 Global Tonopah and the other participants in the sub-basin study have been working with  
15 ADWR for a long period of time; and substantial resources have been devoted to pursuing the  
16 study and the designation application. However, at this point, Global Tonopah, ADWR and the  
17 other participants in this regional process simply need more time to complete the process.

18 **III. The deadline should be extended to match the deadline in Decision No. 70357.**

19 In this docket, the current deadline to obtain a CAWS (or a DAWS which would make the  
20 CAWS unnecessary) is September 23, 2008. Under Decision No. 70357 (May 16, 2008), Global  
21 Tonopah is required to obtain a DAWS on or before May 16, 2010. Global Tonopah's pending  
22 DAWS application covers the areas granted in this docket and the areas granted by Decision No.  
23 70357. Again, this was a result of ADWR's request for a region-wide study of water availability  
24 in the Hassayampa Sub-basin. Global Tonopah requests that the deadline in this case be extended  
25 to match the deadline in Decision No. 70357. At the time Decision 68307 was issued (prior to  
26 Global's ownership of Water Utility of Greater Tonopah), it was contemplated that the developer  
27 would obtain a CAWS for Hassayampa Ranch based on a water resource analysis for that

ROSKA DEWULF & PATTEN, PLC  
ONE ARIZONA CENTER  
400 EAST VAN BUREN STREET - SUITE 800  
PHOENIX, ARIZONA 85004  
TELEPHONE NO 602-256-6100  
FACSIMILE 602-256-6800

1 subdivision only. Because Hassayampa Ranch has become part of this regional Sub-Basin Study  
2 from ADWR's perspective, having a separate deadline applicable only to that one subdivision no  
3 longer makes sense. Instead, Global Tonopah requests that the Commission establish May 16,  
4 2010 as the unified deadline for the regional DAWS pending before ADWR.

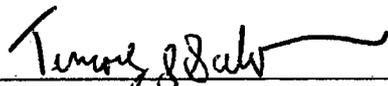
5 **IV. Conclusion.**

6 Global Tonopah has shown reasonable diligence in attempting to meet the current deadline  
7 by obtaining the Analysis of Assured Water Supply, by participating in the unprecedented and  
8 extensive regional modeling effort, and by pursuing its DAWS application. ADWR's regional  
9 approach to water supply is vitally important to protecting not only the water resources of the  
10 Lower Hassayampa Sub-basin, but the homeowners of today and the future who would be  
11 dramatically and irreparably harmed by a "rush to judgment." Global fully supports ADWR's  
12 regional, deliberate, and inclusive approach to evaluating this sub-basin. Under current  
13 circumstances, it is impossible for Global Tonopah to comply with the original deadline while at  
14 the same time cooperate with ADWR's regional approach.

15 Global Tonopah's pending DAWS application follows the ADWR approach. In this  
16 context, a separate deadline for only one subdivision is no longer the best approach. ADWR  
17 should take as much time as needed to complete its review, and the deadline should be extended to  
18 May 16, 2010 to match the deadline in Decision No. 70357.

19 RESPECTFULLY SUBMITTED this 12<sup>th</sup> day of September 2008.

20 ROSKA, DEWULF & PATTEN, PLC

21  
22 By   
23 Michael W. Patten  
24 Timothy J. Sabo  
25 One Arizona Center  
26 400 East Van Buren Street, Suite 800  
27 Phoenix, Arizona 85004

ROSHKA DEWULF & PATTEN, PLC  
ONE ARIZONA CENTER  
400 EAST VAN BUREN STREET - SUITE 800  
PHOENIX, ARIZONA 85004  
TELEPHONE NO. 602-256-6100  
FACSIMILE 602-256-6800

1 Original and 13 copies of the foregoing  
2 filed this 12<sup>th</sup> day of September 2008 with:

3 Docket Control  
4 Arizona Corporation Commission  
5 1200 West Washington Street  
6 Phoenix, Arizona 85007

7 Copy of the foregoing hand-delivered/mailed  
8 this 12<sup>th</sup> day of September 2008 to:

9 Lyn A. Farmer, Esq.  
10 Chief Administrative Law Judge  
11 Hearing Division  
12 Arizona Corporation Commission  
13 1200 West Washington Street  
14 Phoenix, Arizona 85007

15 Janice Alward, Esq.  
16 Chief Counsel, Legal Division  
17 Arizona Corporation Commission  
18 1200 West Washington Street  
19 Phoenix, Arizona 85007

20 Ernest G. Johnson, Esq.  
21 Director, Utilities Division  
22 Arizona Corporation Commission  
23 1200 West Washington Street  
24 Phoenix, Arizona 85007

25 Brian Bozzo  
26 Compliance Manager, Utilities Division  
27 Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, AZ 85007

By Debbie Amund

# EXHIBIT

"A"



HARVARD INVESTMENTS  
A HILL COMPANY

August 7, 2008

VIA E-MAIL and  
REGULAR MAIL

Ms. Cindy Liles  
GLOBAL WATER RESOURCES  
21410 N. 19<sup>th</sup> Avenue  
Suite 201  
Phoenix, AZ 85027

RE: *Approximately 2,077 Acres Located 2.5 Miles North  
of Interstate 10 on the 339<sup>th</sup> Avenue Alignment  
Known As Hassayampa Ranch  
Request For Service*

Dear Cindy:

This letter serves as a request for service to Hassayampa Ranch as follows:

Water Service from Water Utility of Greater Tonopah; and  
Recycled Water and Wastewater Service from Hassayampa Utility Company

We look forward to working with you.

Thank you.

Sincerely,  
HASSAYAMPA RANCH VENTURES, L.L.C.  
By: Hassayampa Ranch Partners, L.L.C.,  
Its Member,  
By: Harvard Investments, Inc.,  
Its Manager

  
\_\_\_\_\_  
Christopher J. Cacheris  
Vice President

# EXHIBIT

"B"

ARIZONA DEPARTMENT OF WATER RESOURCES  
Office of Assured and Adequate Water Supply  
500 North Third Street, Phoenix, Arizona 85004  
Telephone (602) 417-2465  
Fax (602) 417-2467



JANET NAPOLITANO  
Governor

HERB GUENTHER  
Director

**ANALYSIS OF ASSURED WATER SUPPLY**

February 28, 2005

**File Number:** 28-401585.0000  
**Development:** Hassayampa Ranch  
**Location:** Township 2 North, Range 5 West, Sections 15-17 and 22  
Maricopa County, Arizona  
Phoenix AMA  
**Land Owner:** Algene Venture, an Arizona Joint Venture and PNR Southwest Partnership, an  
Illinois General Partnership

The Arizona Department of Water Resources has evaluated the Analysis of Assured Water Supply application for Hassayampa Ranch pursuant to A.A.C. R12-15-712. The proposed development includes 5,707 single-family residential lots and 740 non-residential acres containing commercial and open space areas, schools, and rights-of-way. The water provider will be Water Utility of Greater Tonopah. Conclusions of the review are indicated below based on the assured water supply criteria referenced in A.R.S. § 45-576 and A.A.C. R12-15-701 *et seq.*

- **Physical, Continuous, and Legal Availability of Water for 100 Years**  
On the basis of the hydrologic study submitted and the Department's review, the Department has determined that 3,742 acre-feet per year of groundwater will be physically and continuously available, which equals the applicant's projected demands for the development of 3,742 acre-feet per year. The legal availability of the water is not proven at this time. The development is not located within the current service area of the Water Utility of Greater Tonopah. The development is outside the Certificate of Convenience and Necessity boundary of the Water Utility of Greater Tonopah. Applications for Certificates of Assured Water Supply that follow the Analysis of Assured Water Supply will need to provide a detailed plan of how water service will be established. This may include use of Type 1 or Type 2 water rights or recovery of long term storage credits to create a new or satellite service area, or extension of existing service area lines to include the proposed development. The CC&N will need to be extended to encompass the development area. Individual Notices of Intent to Serve will be required for each application for a Certificate of Assured Water Supply.
- **Adequate Water Quality**  
Adequate water quality has not been demonstrated at this time. The proposed development lies outside the provider's current service area, therefore, no drinking water compliance data are available. No water quality data was submitted with the application.

To provide service in this area, a provider will likely have to construct new wells. The Arizona Department of Environmental Quality will require water quality analyses for new source approval for each well. This requirement of an Analysis of Assured Water Supply will be reevaluated for each application for a Certificate of Assured Water Supply.

- **Consistency with Management Plan for the Phoenix Active Management Area**  
The projected demand for the development is consistent with the Third Management Plan for the Phoenix AMA. Hassayampa Ranch will use low water use landscaping and plumbing fixtures will comply with the statewide Low Flow Plumbing Code.
- **Consistency with Management Goal of the Phoenix Active Management Area**  
The Assured and Adequate Water Supply Rules (A.A.C. § R12-15-705) allocate a volume of groundwater to each new subdivision in an AMA to allow for the phasing in of renewable supplies. This groundwater allowance may be increased by extinguishing irrigation grandfathered groundwater rights (IGFR). Any groundwater delivery in excess of the groundwater allowance must be met through the direct or indirect use of renewable water supplies (surface water or effluent). Options for demonstrating "consistency with management goal" include: 1) direct use of surface water or effluent; 2) recharge and recovery of surface water or effluent; or 3) membership in the Central Arizona Groundwater Replenishment District (CAGRDR).

The application indicates that the proposed development will enroll the lands of the entire development, including the commercial and open space areas, schools, and other non-residential areas, in the CAGRDR to meet this requirement. The membership documents must be executed and recorded before a Certificate of Assured Water Supply will be issued.

Prior to preparing an application for a Certificate of Assured Water Supply for an individual subdivision plat, the Phoenix AMA Office or the Office of Assured Water Supply may be contacted for further guidance.

- **Financial Capability of the Owner to Construct the Necessary Distribution System**  
Pursuant to A.A.C. R12-15-707, financial capability will be evaluated by the local platting authority as a part of the process for obtaining a Certificate of Assured Water Supply for each subdivision. The application for a Certificate of Assured Water Supply includes a Verification of Construction Assurance for a Proposed Subdivision form. This form should be signed by the appropriate platting entity to provide evidence of financial capability. This requirement of an assured water supply will be evaluated upon application for a Certificate of Assured Water Supply.

The term of this Analysis of Assured Water Supply is ten years from the date of this letter and may be renewed upon request, subject to approval by the Department. Throughout the term of this determination, the projected demand of this development will be considered when reviewing other requests for assured water supply in the area.

**Prior to obtaining plat approval by the local platting authority and approval of the public report by the Department of Real Estate, a Certificate of Assured Water Supply must be obtained for each subdivision plat. The findings of this Analysis of Assured Water Supply may be used to demonstrate that certain requirements for a Certificate have been met. This determination may be invalidated if the development plan or other conditions change prior to filing for a Certificate of Assured Water Supply.**

Questions may be directed to the Office of Assured Water Supply at (602) 417-2465.

*Mark Frank*

Mark Frank, Acting Assistant Director  
Water Management Division

cc: Phoenix Active Management Area

# EXHIBIT

"C"

1 A. Yes, that's correct. And also once filed the  
2 physical availability determination can be used by others  
3 to demonstrate their physical supply.

4 Q. And can you tell us what an analysis of assured  
5 water supply is?

6 A. An analysis is a level higher, if you will, of  
7 the proceedings before the Department. When you have a  
8 development that is still in the early planning stages,  
9 you could apply for a determination by the Department that  
10 you have demonstrated a component of the assured water  
11 supply and for physical availability.

12 For example, you could get what is called an  
13 analysis of assured water supply from the Department that  
14 will say that there is indeed a physical supply available  
15 for your development. And it has the unique component of  
16 now reserving that water supply to your development  
17 because once issued by the Department an analysis is  
18 treated as if that water has been physically removed from  
19 the basin.

20 Q. And what then is a certificate of assured water  
21 supply?

22 A. A certificate is the ultimate determination of  
23 assured water supply specific to a particular subdivision.  
24 A developer of a master-planned community will come into  
25 the Department, demonstrate a proposed plat design and

1 demonstrate all five of the components of assured water  
2 supply in order to get a certificate of assured water  
3 supply issued.

4 They are specific to the subdivision to which  
5 they are issued and specific to the developer to which  
6 they are issued.

7 Q. And you mentioned the five components.

8 What are those?

9 A. Physical availability for the 100-year term;  
10 legal availability of the groundwater that you propose to  
11 use; adequate quality of the water that you propose to  
12 use; a continuous availability, which is a criteria more  
13 relevant to surface water; and finally financial  
14 capabilities, that you have the financial wherewithal to  
15 build the infrastructure necessary to provide the water.

16 Q. And could you tell us then what is a designation  
17 of assured water supply?

18 A. Yes. The other alternative in assured water  
19 supply is to have a municipal water provider -- and that  
20 term was defined in the groundwater code -- provide water  
21 under a designation of assured watered supply.

22 There the Department does not look at one  
23 specific subdivision and issue a certificate for one  
24 specific subdivision; it looks to the service area and  
25 contemplated service area of the municipal provider and

1 applies the assured water supply principles to that  
2 provider to make sure that they can demonstrate physical,  
3 continuous, legal, availability, financial capability and  
4 adequate quality.

5 Q. And you mentioned municipal provider.

6 In DWR talk, does that include a private water  
7 company?

8 A. Yes, it does. The definition includes private  
9 water companies.

10 Q. And from a regulatory perspective, is a  
11 designation better than a certificate or the other way  
12 around?

13 A. Yes -- well, they are different animals, but from  
14 a water management perspective, the Department and my  
15 years at the Department, I was part of this philosophy,  
16 and it continues today, the designation is a better water  
17 management tool because it is under constant review.

18 Every year the designated provider must report to  
19 the Department how much water they are using, how much  
20 they are going to use in the upcoming years and  
21 specifically how much water they are going to use in the  
22 next two ensuing years. And the Department takes a very  
23 critical look to make sure that that provider can still  
24 meet all of the criteria of assured water supply for that  
25 two-year-projected demand, covering, of course, all of

1 their current and committed demands.

2 So the Department of Water Resources gets to have  
3 the continued ability to look closely at the provider,  
4 examine their designated water portfolio and make sure  
5 that they have an assured water supply.

6 Whereas a certificate is issued as a one-time  
7 snapshot. Say a certificate is issued in December of  
8 2007, that means that as of today the Department has  
9 concluded that a assured water supply exists. And once  
10 that certificate is issued and one house is sold, it is  
11 irrevocable. So that subdivision can be built to its  
12 entire build out without any opportunity for the  
13 Department to ever second-guess the physical availability  
14 of the water.

15 Q. And, Mr. Pearce, at a recent open meeting the  
16 commissioners had some questions about the Hassayampa  
17 sub-basin study, so let's talk a little bit about that.

18 What was the drive of that study?

19 A. About five years ago the Department of Water  
20 Resources was seeing a significant increase in application  
21 for analyses in the greater Buckeye area and to the west  
22 to the point where the requests for analyses, which again,  
23 tie up blocks of water in the basin, were exceeding the  
24 comfort level of the Department as to how much water they  
25 believed or they knew was in storage in this particular

1 sub-basin.

2 They began to express those concerns to the  
3 various applicants and suggested that they would refuse to  
4 issue analyses at the level of the applications unless  
5 those developers could prove the quantities of water in  
6 storage. And that was the beginning of the Hassayampa  
7 sub-basin model.

8 Q. And could you describe the process of preparing  
9 this study?

10 A. Yes. In fact, I was involved from the outset.  
11 Myself and Jim Johnson went together to the director of  
12 Water Resources, Mr. Hurb Guenther, G-u-e-n-t-h-e-r,  
13 discussed the concept with him, received his advice and  
14 tentative approval.

15 We then committed the partnership to writing  
16 among the developers who funded the study. We selected as  
17 the landowners to use the Town of Buckeye as a willing  
18 manager of the project so long as the contracts were led  
19 by the Town of Buckeye.

20 The Department of Water Resources dedicated and  
21 we helped fund a specific employee to act as liaison to  
22 the process so that DWR would have input into the model  
23 creation from the outset. And the process was undertaken.

24 The Town the Buckeye led the contract after  
25 evaluation to the consulting firm of Brown & Coldwell.

1 They did all of the scientific and technical work and they  
2 produced a final product.

3 Q. And you got into this a little bit, but could you  
4 describe your involvement in the study?

5 A. I was one of a group of probably five or six  
6 attorneys that were imminently involved in the model  
7 development, not on the technical side but more to ensure  
8 that the model complied with concepts and principles of  
9 Arizona groundwater law and effluent law and other aspects  
10 of Arizona groundwater management practice.

11 Because we wanted the model to be a practical  
12 tool that could be used by the Department of Water  
13 Resource and its assured water supply analyses and by the  
14 Town of Buckeye and its planning and by the planning areas  
15 outside of Buckeye so that they could use this as a tool  
16 to develop their master-planned communities.

17 Q. And how was the Department of Water Resources  
18 involved?

19 A. They had a technical liaison, as I said, to  
20 Brown & Coldwell who provided advice and insight into what  
21 the Department would be looking for. The Department did  
22 not actually prepare the model because in their regulatory  
23 capacity it was believed that they would be better off  
24 reviewing it as a completed project than undertaking their  
25 own scientific analysis.

1 Q. And can you prepare this model to other models  
2 that you have seen used in the state or elsewhere?

3 A. Yes. This is a what is called a numeric model or  
4 a computer numeric model. It's the most sophisticated  
5 type of model that is currently available. In years past  
6 many simpler models have been used to demonstrate assured  
7 water supplies, physical availability, but the computer  
8 numeric model is state-of-the-art.

9 It's a very lengthy process to develop one. This  
10 one took approximately two years to develop. They are  
11 tested repeatedly and calibrated so they can produce  
12 accurate results. And I have been exposed to many  
13 different types of models and many different qualities of  
14 models, even in a litigation context, and this is probably  
15 the best model I have ever been a part of. It's very,  
16 very well done and very, very accurate.

17 Q. And could you summarize the results that the  
18 model produced?

19 A. The model produced -- first of all, let me say  
20 that the model is constructed by attempting to determine  
21 the physical characteristics of the aquifer and to  
22 determine how much groundwater is in storage in that  
23 aquifer. And then it applies demands, pumping demands to  
24 that aquifer and attempts to determine how much water  
25 could be pumped before the aquifer drops to a level of

1 1,000 feet below land surface, which is the maximum drop  
2 allowed under assured water supply principles over the  
3 100-year term.

4 So the purpose of the model was to show that,  
5 given the projected demands of the various developments,  
6 how long it would take before the basin began to reach  
7 those critical groundwater levels. And in order to do  
8 that we set up ten different scenarios of how development  
9 may occur in the basin; what water supplies might be used  
10 in the basin; how much groundwater would be used versus  
11 reclaimed, recycled or effluent-type water, Central  
12 Arizona Project waters.

13 All of those types of management assumptions were  
14 depicted by running a range of these ten different  
15 scenarios. From the extreme, which I believe was scenario  
16 No. 10, of using only groundwater as the sole source of  
17 supply, to what we call the assured water supply model,  
18 which was a mix that we developed thinking it was  
19 realistic, to even more liberal models that showed more  
20 renewable supplies, more effluent reuse and things.

21 So it developed a range of results, each depicted  
22 in one of these ten scenarios.

23 Q. And you mentioned one of those scenarios was the  
24 one you called the assured or realistic one.

25 What did that show?

1 A. That showed that there would be sufficient water  
2 to cover all of the projected demands of all of the  
3 participants in the model study plus all the current  
4 committed demand in the entire basin.

5 Q. And, Mr. Pearce, could you explain how recycled  
6 water relates to this study?

7 A. Yes. Recycled water was a component in the  
8 assured water supply scenario. We used an assumption of a  
9 30 percent return on total water delivered to either be  
10 reused or recharged. When we constructed the model  
11 assumptions, we meant to recharge that water into the  
12 aquifer rather than try to deal with the more difficult  
13 concepts of reuse.

14 So the model, assured water supply model, is  
15 constructed using groundwater as the principal source of  
16 supply, Central Arizona Project water delivered to those  
17 that have Central Arizona Water Project capability, and  
18 effluent reclaim/recycled claim water for the balance.

19 Q. And when was this study delivered to the  
20 Department of Water Resources?

21 A. November 2006.

22 Q. And what are they doing to it?

23 A. They are evaluating it on two levels. They are  
24 evaluating it in the hydrology division to make sure that  
25 the science is correct and that the model has corrective

1 assumptions built into it to defining the aquifer  
2 parameters and that it will accurately predict current  
3 conditions and then, by the same token, accurately predict  
4 future conditions.

5 Q. And how does all this relate to the proposed  
6 designation of assured water supply for Water Utility of  
7 Greater Tonopah?

8 A. I'm sorry. I will answer your question, but I  
9 forgot the second half of the analysis.

10 If it is to look at it from a water management  
11 perspective and decide what -- which of the ten scenarios  
12 is best suited to determine whether or not these  
13 developments have assured water supply.

14 And the Department is leaning towards a scenario  
15 that would be based solely on groundwater with some  
16 component of recycled water, and that is where it is right  
17 now. We are discussing with them how to properly  
18 incorporate recycled water into the overall results. It's  
19 extremely critical for the Water Utility of Greater  
20 Tonopah in this sense:

21 The scenario, No. 10, which you might consider  
22 the worst-case scenario in this model, shows that there  
23 are indeed challenges to providing enough water to service  
24 all of the projected demands in the Hassayampa sub-basin.

25 In fact, if you used groundwater only for the

1 support of all of those projected demands, there would be  
2 times when certain wells would not be able to produce  
3 assured water supply water.

4 It's particularly true in some of the areas being  
5 contemplated within the CC&N, and so it's absolutely  
6 critical that a water provider in this area that is trying  
7 to serve these uses depicted on this map be able to  
8 maximize the use of recycled or recycled water within  
9 these developments to ensure that they will have the  
10 100-year assured water supply.

11 Q. And will the study be used as part of the  
12 application process for the designation?

13 A. Yes. I am preparing a designation application,  
14 or at least I'm supervising it. We will rely on this  
15 model as our hydrologic proof of physical availability.  
16 Together with a showing, we will be able to recapture and  
17 recycle a large quantity of that water. And then between  
18 the two, we will definitely meet the assured water supply  
19 standards for a designation provided, not only in the near  
20 term, but for perpetuity.

21 Q. And, Mr. Pearce, the time frame that is in the  
22 Staff report of two years to obtain the designation, does  
23 that seem feasible to you?

24 A. It is because with this study already under  
25 consideration by the Department, preliminary feedback from

1 the Department that the science here is good, knowing what  
2 the overall strategy and plans for this particular water  
3 provider are in this sub-basin, it should be a very  
4 straightforward application with a lot of proof already in  
5 place. We think that two years is a very reasonable time  
6 and certainly hope we can do it in less.

7 Q. And earlier you had mentioned that in analysis  
8 reserves, the water supply is listed in the analysis.

9 Do any of the developers on the map or that are  
10 involved in this case have an existing analysis of assured  
11 water supply?

12 A. Yes, they do. Several of them do.

13 And even among the ones that we discussed here  
14 today, the only one that does not is the 339th Avenue  
15 project. All of the other ones discussed today have  
16 analyses that were issued by the Department of Water  
17 Resources.

18 And that is a critical feature in the designation  
19 because with that water being deemed to be removed from  
20 the basin under the analysis, there would not be a  
21 physical supply out here for Water Utility of Greater  
22 Tonopah.

23 So our plan is to work with those individual  
24 developments, whereby they would pledge that analysis to  
25 us and transfer that determination of physical

1 availability to Water Utility of Greater Tonopah in  
2 exchange for contractual commitments from the utility to  
3 serve back that water as assured water supply water under  
4 the designation. And we are well under that process and  
5 have been quite successful so far in getting those  
6 contracts in place.

7 Q. Thank you, Mr. Pearce.

8 Let's ask the bottom-line question: Based on  
9 what you feel to be a realistic scenario, will there be  
10 enough water to serve this extension area?

11 A. Yes. Yes. We have met now with the Department  
12 of Water Resources on multiple occasions. Like I said, we  
13 have received feedback on the model. We received feedback  
14 on the designation model. We believe that the Department  
15 of Water Resources will conclude and we are very confident  
16 ourselves that there will be enough water to serve all the  
17 development contemplated in this CC&N extension.

18 MR. SABO: And, Your Honor, thank you for your  
19 patience with that. It did go a little longer than I was  
20 thinking. And Mr. Pearce is available for  
21 cross-examination.

22 ALJ KINSEY: Thank you, Mr. Sabo.

23 Mr. Wiley, any questions?

24 MR. WILEY: I have no questions, Judge.

25 ALJ KINSEY: And, Staff, any questions for this

# EXHIBIT

"D"



0 1 2 3 4 5 Miles  
30

**EXPLANATION**

-  Property Boundaries
-  Township and Range Boundaries
-  Sections
-  Groundwater Basins



**FIGURE 2-1**  
**GENERALIZED STUDY AREA**  
 LOWER HASSAYAMPA SUB-BASIN COMPUTER MODEL  
 TOWN OF BUCKEYE, ARIZONA