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1 ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP. COMMISSION
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Arizona Corporation Commission

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12 IN THE MATTER OF THE APPLICATION
13 OF DEL RIO WATER COMPANY, LLC, FOR
14 A CERTIFICATE OF CONVENIENCE AND
15 NECESSITY TO PROVIDE WATER
16 SERVICE IN YAVAPAI COUNTY,
17 ARIZONA.

Docket No. W-04074A-08-0094

COMPANY'S RESPONSE TO
APPALOOSA'S MOTION TO INTERVENE

18 Del Rio Water Company ("Company") hereby responds to Appaloosa Water Company's
19 ("Appaloosa") request to intervene in this matter and urges that it be denied.

20 An essential part of the process of applying for a certificate of convenience and necessity
21 or extension is a showing that the owners of land within the proposed service territory want
22 service from the applicant. In this case, there are only two owners of land in the proposed
23 service territory, The Bond Ranch at Del Rio Springs, LLC, which owns approximately 3,055
24 acres, and Del Rio Apartments, LLC, which owns approximately 24.82 acres. Both owners have
25 flatly rejected water service from Appaloosa. See the attached landowner letters. This means
26 that no landowner in the proposed service territory wants service from Appaloosa. But both
27 owners have requested service from Del Rio Water Company. The preferences of the
28 landowners should be respected. Allowing intervention by Appaloosa would be a waste of time
and money for all parties under these circumstances.

1 In addition to the preferences of the landowners:

2 1. Appaloosa has missed the deadline for intervention. The Procedural Order dated May
3 12, 2008, provided that all motions to intervene must be filed on or before July 7, 2008.

4 Appaloosa's request, two months late, gives no justification for its failure to timely move to
5 intervene. The mere fact that it now asks to join in this proceeding should be held insufficient to
6 justify it.

7 2. Allowing intervention by Appaloosa would unduly broaden the issues in this matter as
8 prohibited by A.A.C. R14-3-105(B). Staff has already found Del Rio Water Company to be a fit
9 and proper entity to serve the requested territory and the primary hearing in this matter has
10 already been held. Since only a brief hearing on limited factual topics remains, intervention
11 unduly broadens the issues.

12 3. Appaloosa's system is tiny (about 200 connections currently) and it is located
13 approximately two and one-half miles from Del Rio East-Alpha. The current system, designed to
14 serve Appaloosa Meadows development, does not have the production, transmission or treatment
15 facilities to serve a development like the almost-5-square mile Del Rio project. An entire new
16 satellite water production and distribution system would need to be built at Del Rio. There is no
17 advantage to having Appaloosa serve.

18 4. The Company believes that Appaloosa does not have the physical facility resources to
19 serve Del Rio or the financial resources to construct a satellite water production, transmission
20 and distribution system on the Del Rio development. The owners of Del Rio believe that they
21 would end up having to construct the entire Del Rio water system at their own expense and
22 donate it to Appaloosa. This would result in expanding the financial returns to the Appaloosa
23 system by approximately 500% at the expense of Del Rio. In addition, this contribution appears
24 to result in an equity ratio far less than the Company plans if the Company builds the system, a
25 parameter staff has said is important to the long term viability of the system.

26 5. Appaloosa's ADEQ compliance status is poor. The current Drinking Water
27 Compliance Status Report from ADEQ (copy attached) shows "major deficiencies" for both
28

1 overall compliance status and monitoring and reporting status. It also shows that ADEQ cannot
2 determine whether Appaloosa is serving water that meets the water quality standards.

3 6. Appaloosa's lack of arsenic compliance demonstrated in the Compliance Status
4 Report from ADEQ has also been the subject of public meetings and concerns expressed to
5 Appaloosa by the Town of Chino Valley. Ron Grittman, the Town Engineer for Chino Valley,
6 can be contacted for information.

7 7. Appaloosa has a new owner as of approximately 2 or 3 years ago, which the Company
8 believes had no previous experience in water system operations. In the last 2 annual reports for
9 2006 and 2007, Appaloosa reported to the Commission that the water system is not in an active
10 management area. Appaloosa is, in fact, in the Prescott active management area. Unlike the Del
11 Rio Water Company, Appaloosa's owner has not hired a highly experienced operations team to
12 prevent errors like this.

13 8. Since Appaloosa's current system is out of compliance for arsenic, the future rate
14 payers of Del Rio may be forced to contribute toward fixing that existing problem. Del Rio rate
15 payers will be better served with a new, state of the art system that can serve them at lowest cost
16 without the added costs of upgrading an older system.

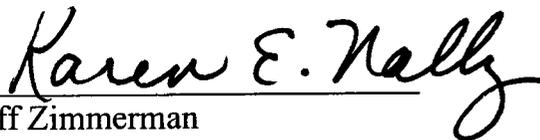
17 9. The mere fact of Appaloosa providing the owners of Del Rio with a notice of intent to
18 serve in 2004 does not have any relevance to whether Appaloosa is a fit and proper provider.
19 The 2007 list of potential customers and map attached to Appaloosa's request to intervene is
20 irrelevant for an additional reason. The map does not include any of the Del Rio property and
21 does not even constitute notice that Appaloosa wanted to serve.

22 10. If Appaloosa is allowed to intervene, the Company agrees with Staff that, as a
23 precondition to intervention, Appaloosa should be required to submit a full and complete
24 application for a CC&N no later than October 15, and that its intervention should not unduly
25 delay the process. Appaloosa should be made to work within the existing deadlines for this
26 matter, especially considering that its request to intervene is months late. The Company will be
27 disadvantaged unfairly if its request is delayed or Staff has insufficient time to fully evaluate
28 Appaloosa's application.

1 Finally, the Company does not object to Staff's request to have the hearing slightly
2 accelerated.

3 RESPECTFULLY SUBMITTED this 3rd day of October, 2008.

4 MOYES SELLERS & SIMS LTD.

5 

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7 Karen E. Nally

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9 Phoenix, AZ 85004

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12 Attorneys for Del Rio Water Company, LLC

13 Original and 15 copies of the foregoing
14 filed this 3rd day of October, 2008, with:

15 Docket Control

16 Arizona Corporation Commission

17 1200 West Washington

18 Phoenix, Arizona 85007

19 Copy of the foregoing mailed this
20 3rd day of October, 2008, to:

21 Janice Alward, Chief Counsel

22 Legal Division

23 Arizona Corporation Commission

24 1200 West Washington Street

25 Phoenix, Arizona 85007

26 Ernest Johnson, Director

27 Utilities Division

28 Arizona Corporation Commission

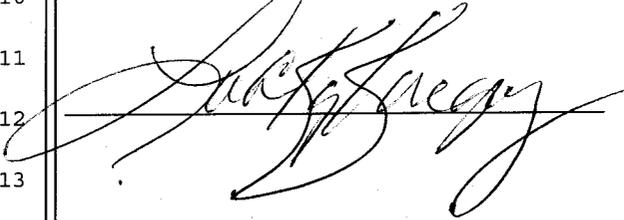
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October 1, 2008

Ms. Blessing Chukwu
Utilities Division
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Re: *Refusal* to Have Property Included in CC&N of Appaloosa Water Company

Dear Ms. Chukwu:

As you know, we recently gave Del Rio Water Company, LLC, a letter requesting water service for all of our property located in the Town of Chino Valley, Yavapai County, Arizona, and consenting to the inclusion of our property within the Certificate of Convenience & Necessity service territory of Del Rio Water Company.

We *do not want* to be included in the CC&N service territory of Appaloosa Water Company and we *will not accept* water service from Appaloosa Water Company. We have had discussions with the owner of Appaloosa in the past and concluded that it is not in the best interests of our company as the owner of the property or of the future residents of the property to have water service from Appaloosa.

Please let me know if you need anything further from us.

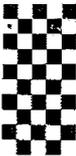
Sincerely,

The Bond Ranch at Del Rio Springs, LLC

By: 

Duncan A. Wallace
Its Manager

cc: Joe Cordovana, Appaloosa Water Company



October 1, 2008

Ms. Blessing Chukwu
Utilities Division
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Re: *Refusal* to Have Property Included in CC&N of Appaloosa Water Company

Dear Ms. Chukwu:

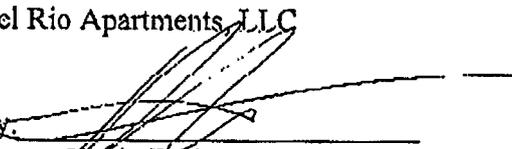
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Please let me know if you need anything further from us.

Sincerely,

Del Rio Apartments, LLC

By: 

Kevin Rudeen
Its Manager

cc: Joe Cordovana, Appaloosa Water Company