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KRISTIN K. MAYES
GARY PIERCE



BRIAN C. McNEIL
Executive Director

ARIZONA CORPORATION COMMISSION

DATE: OCTOBER 27, 2008

DOCKET NO: W-02033A-06-0262

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:

VALLEY PIONEERS WATER COMPANY, INC.
(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 thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

NOVEMBER 5, 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:

NOVEMBER 12, 2008 AND NOVEMBER 13, 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 VALLEY PIONEERS WATER COMPANY, INC.
10 FOR AN EXTENSION OF ITS EXISTING
11 CERTIFICATE OF CONVENIENCE AND
12 NECESSITY TO PROVIDE WATER UTILITY
13 SERVICES IN MOHAVE COUNTY.

DOCKET NO. W-02033A-06-0262

DECISION NO. _____

14 OPINION AND ORDER

11 DATE OF HEARING: August 18, 2008

12 PLACE OF HEARING: Phoenix, Arizona

13 ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey

14 APPEARANCES: Mr. Steve Wene, MOYES SELLERS & SIMS, on
15 behalf of Valley Pioneers Water Company, Inc.; and

16 Mr. Kevin Torrey, Staff Attorney, Legal Division on
17 behalf of Utilities Division of the Arizona Corporation
18 Commission.

18 **BY THE COMMISSION:**

19 On April 20, 2006, Valley Pioneers Water Company, Inc. ("Valley Pioneers," "Applicant" or
20 "Company") filed with the Arizona Corporation Commission ("Commission") an application for an
21 extension of its existing Certificate of Convenience and Necessity ("Certificate" or "CC&N") to
22 provide water utility services ("Application"). The Application states that Valley Pioneers is seeking
23 approval to provide water service to an area where potable water is almost exclusively being hauled to
24 residents, in Mohave County.

25 On May 19, 2006, the Commission's Utilities Division ("Staff") filed an Insufficiency Letter
26 in this docket stating that Valley Pioneers' Application had not meet the sufficiency requirements as
27 outlined in the Arizona Administrative Code ("A.A.C.").
28

1 On July 18, 2006, Applicant filed its Response to Staff's Insufficiency Letter.

2 On August 16, 2006, Staff filed a second Insufficiency Letter in this docket.

3 On December 14, 2007, Staff filed a reminder letter to the Applicant that it had not responded
4 to Staff's second Insufficiency Letter.

5 On January 14, 2008, Applicant filed a letter in this docket, stating that Valley Pioneers'
6 management had changed and that the Applicant anticipated filing a Response to Staff's second
7 Insufficiency Letter within 30 days.

8 On February 14, 2008, Applicant filed its Response to Staff's second Insufficiency Letter.

9 On March 13, 2008, Staff filed a third Insufficiency Letter.

10 On April 4, 2008, Valley Pioneers file its Response to Staff's third Insufficiency Letter.

11 On June 10, 2008, Staff filed a Sufficiency Letter in this docket indicating Valley Pioneers'
12 Application had met the sufficiency requirements as outlined in the A.A.C.

13 On June 21, 2008, by Procedural Order, a hearing was set to commence on August 18, 2008,
14 and other procedural deadlines were established.

15 On July 21, 2008, Valley Pioneers filed an Affidavit of Publication and Certification of
16 mailing, stating that notice of the hearing date had been published on July 11, 2008 in the *Kingman*
17 *Daily Miner*, a newspaper of general circulation, and that notice of the application had been sent to
18 each of the property owners in the proposed extension area on July 14, 2008, via First Class
19 U.S. Mail.

20 On August 18, 2008, a full public hearing was convened before a duly authorized
21 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Applicant and
22 Staff appeared through counsel and presented evidence and testimony. Two members of the public
23 appeared at the hearing to give public comments. At the conclusion of the hearing, the parties were
24 directed to file late-filed exhibits relating to the testimony and evidence presented at the hearing.

25 On August 19, 2008, Staff filed a late-filed exhibit which included Decision No. 51496,
26 showing the portions of land that were included in Valley Pioneers' CC&N.

27 On September 22, 2008, a Procedural Order was issued directing Staff and the Applicant to
28

1 make a joint filing with a revised legal description and map for the requested extension areas, as well
 2 as the legal description and map for the areas Staff was recommending the Commission grant to
 3 Valley Pioneers.

4 On October 14, 2008, Staff and the Applicant jointly filed a late-filed exhibit, which included
 5 a revised legal description and maps.

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

8 * * * * *

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

11 **FINDINGS OF FACT**

12 1. Valley Pioneers is a non-profit Arizona Corporation, engaged in the business of
 13 providing water service to portions of Mohave County, Arizona.

14 2. The Commission granted Valley Pioneers' initial CC&N in Decision No. 39272
 15 (December 26, 1967).

16 3. Valley Pioneers is in good standing with the Corporations Division of the
 17 Commission.

18 4. Valley Pioneers currently serves 1,909 active connections, with 2,055 total
 19 connections within a 25-square mile area.¹

20 5. Based on the Company's Annual Report for 2007, Valley Pioneers reported revenues
 21 of \$1,263,608, expenses of \$1,216,318, and a net income of \$117,369.

22 6. On April 20, 2006, Valley Pioneers filed an Application in the above-captioned docket
 23 seeking to extend its CC&N to add approximately 13.77 square miles or 8,814 acres, adjacent to its
 24 existing 25 square mile CC&N service area.² The proposed extension area is located in Golden
 25 Valley, an area located between Kingman and Bullhead City, Arizona, in Mohave County and is
 26

27 ¹ Application pg. 1.

28 ² Valley Pioneers' Application stated that its current CC&N service area includes 22 square miles, but Staff's research indicated that Valley Pioneers' service area encompasses 25 square miles.

1 more fully described in Exhibit A, attached hereto and incorporated herein by reference.

2 7. Valley Pioneers states that the purpose of the Application is “to provide water service
3 to an area where residents currently depend almost exclusively on hauling water for potable water
4 supplies, and to improve resource management.”³

5 8. According to Valley Pioneers’ Application, the Company anticipates serving an
6 additional 75 residential customers at the end of five years in the proposed extension area.⁴

7 9. On July 21, 2008, Staff filed a Staff Report recommending that the Commission issue
8 an Order Preliminary to Valley Pioneers for the extension of its CC&N to include the eight
9 properties, or 218 acres, where Valley Pioneers has received requests for service and that the
10 Commission deny Valley Pioneers’ request to extend its CC&N into the areas outside the boundaries
11 of the eight properties for which Staff has recommended an Order Preliminary.

12 10. Staff recommends that the issuance of the Order Preliminary to Valley Pioneers be
13 subject to compliance with the following conditions:

- 14 1) That Valley Pioneers charge its authorized rates and charges in the extension area.
15 2) That Valley Pioneers file with Docket Control, as a compliance item in this docket,
16 a copy of Arizona Department of Environmental Quality (“ADEQ”) Certificate of
17 Approval To Construct (“ATC”) for the distribution system to serve each of the
18 properties, within three years of the effective date of the order granting the Order
19 Preliminary.
20 3) That Valley Pioneers file with Docket Control, as a compliance item in this docket,
21 a copy of the Arizona Department of Water Resources (“ADWR”) Analysis of
22 Adequate Water Supply or Physical Availability Determination for each of the eight
23 properties demonstrating that there is adequate water, within three years of the
24 effective date of the order granting the Order Preliminary.
25 4) That Valley Pioneers file with Docket Control, as a compliance item in this docket,
26 a legal description for the eight properties identified in Exhibit A, no later than one
27

28 ³ Application pg 1.

⁴ Application pg. 3.

1 year after the effective date of the order granting the Order Preliminary.

2 5) That Valley Pioneers reduce its water loss to less than 10 percent within three years
3 of the effective date of the order granting the Order Preliminary.

4 6) That after Valley Pioneers complies with Requirements Nos. 2, 3, 4, and 5, Valley
5 Pioneers shall make a filing stating so. Within 30 days of such filing, Staff shall file a
6 response. The Commission should schedule this item for a vote to grant the CC&N as
7 soon as possible after Staff's filing that confirms Valley Pioneers' compliance with
8 Requirements Nos. 2, 3, 4, and 5. If Valley Pioneers does not comply with any one of
9 Requirements Nos. 2, 3, 4, and 5 within the time specified, the Order Preliminary shall
10 be null and void, and this docket shall be closed.

11 7) That Valley Pioneers file with Docket Control, as a compliance item in this docket,
12 a copy of the Arizona Department of Water Resources ("ADWR") Letter of Adequate
13 Water Supply (Water Adequacy Report) for every subdivision in each of the eight
14 properties, when received by the Company, but no later than 30 days after its receipt.

15 **Requests for Service**

16 11. On May 19, 2006, Staff issued a Data Request which directed Valley Pioneers to
17 provide the requests for service from all the property owners in the proposed extension area. In its
18 Response, dated July 18, 2006, Valley Pioneers stated that "because the Company is nonprofit. . . it
19 cannot spend significant amounts of money to provide Staff with engineering plans, regulatory
20 approvals and service requests from all landowners in the Extension Area." The response further
21 stated that "documenting service requests from every landowner within the Extension Area is
22 impossible;" however, "the Company would supplement its Application with requests for service by
23 landowners within the Extension Area as the process moves forward."

24 12. Again, on August 16, 2006, Staff submitted a Data Request directing Valley Pioneers
25 to provide requests for service from the landowners in the proposed extension area.

26 13. On December 14, 2007, Staff filed a letter reminding Valley Pioneers that it had not
27 filed a response to Staff's August 16, 2006, Data Request and that if the Company was still interested
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1 in pursuing the Application to file a response by January 15, 2008 or Staff may request that the
2 docket be administratively closed.

3 14. On January 14, 2008, Valley Pioneers docketed a letter stating that it was still
4 interested in pursuing the Application, but that the management of the Company had changed and the
5 Company would file its responses to Staff's August 16, 2006, Data Request within 30 days of the
6 letter.

7 15. On February 14, 2008, Valley Pioneers filed its response to Staff's August 16, 2006,
8 Data Requests and provided seven requests for service from property owners who own eight
9 properties within the proposed extension area.

10 16. At the hearing, two members of the public presented public comments. Mr. Ray
11 Segerman presented public comments in support of the Application. Prior to the hearing Mr.
12 Segerman submitted a written request for service to Valley Pioneers. He stated that he is a developer
13 and owns approximately 160 acres, and intends to develop 440 residential lots and some commercial
14 property in the proposed extension area. (Tr. at 6) He stated that he has filed applications with
15 Mohave County to begin the development process, he has received the red lines back from the
16 County on his proposed design and that the granting of the CC&N extension will help him satisfy the
17 County requirement that he obtain a water provider for the development. (Tr. at 7) Mr. Segerman
18 also stated that he will be working with the County to meet the conservation requirements mandated
19 for the subdivision. (Tr. at 7) Mr. Segerman also testified that four and a half acres have been set
20 aside in the proposed subdivision to locate a package wastewater treatment facility. (Tr. at 53)

21 17. Mr. Segerman testified that he believed it would take approximately two years to
22 complete all of the County and State requirements for the proposed development. (Tr. at 55)

23 18. Mr. Greg Lowther also presented public comments at the hearing. Mr. Lowther stated
24 that he owns 40 acres in the proposed extension area and desires to have his property included in
25 Valley Pioneers' proposed CC&N extension. He further stated that he intends to develop 35-40
26 residential lots and that his property borders Valley Pioneers' service area. He stated that if he does
27 not receive water service from Valley Pioneers, his only option would be to drill 40 wells and that is
28

1 a very expensive proposition. (Tr. at 9)

2 19. Mr. Lowther stated that he anticipates beginning development around May of 2009.
3 He stated that he is at the very beginning stages of development, and has not begun the application
4 process, or had any kind of architecture or engineering type plans drawn up for the development.
5 (Tr. at 12)

6 20. Post hearing, Mr. Lowther docketed a letter requesting service from Valley Pioneers
7 and provided a legal description for his property.

8 21. During the hearing, Ms. Bobbi Wood, General Manager for Valley Pioneers, testified
9 that the Company gets weekly requests from property owners to have water service and that there are
10 about 25 water haulers that are elderly, who could be eligible for community block grants to bring
11 water to their properties and the Company wants to help them get water service. (Tr. at 22)

12 22. Ms. Wood testified that she used the Mohave County website to find the names and
13 addresses of the property owners located in the proposed extension area and sent out 330 letters to the
14 property owners describing the Company's pending application before the Commission. She further
15 testified she received several phone calls related to her mailing, but that she did not request that the
16 property owners submit a written statement or request for service. (Tr. at 34)

17 23. Ms. Wood testified that out of the seven requests for service approximately half of
18 those are from developers and the remainders are individual property owners. (Tr. at 32)

19 24. Ms. Wood testified that Valley Pioneers understands that if the Commission grants the
20 entire 8,814 acres the Company is requesting, Valley Pioneers would be required to serve anyone
21 within the area that requested service, whether it was economically feasible or convenient to do so.
22 (Tr. at 34) She further stated that all line extensions would be paid for through main extension
23 agreements with property owners or developers and that without an extension of Valley Pioneers'
24 CC&N the alternative is for property owners to drill a well or haul water and she believed service
25 from Valley Pioneers was a better option. (Tr. at 35)

26 25. Staff's witness, Ms. Blessing Chukwu, Executive Consultant III of the Utilities
27 Division, testified that it is the Commission's policy to require requests for service in a CC&N
28

1 extension application to establish whether there is a public need for the requested service and to show
 2 that the intent of filing the application is not just "a land grab." (Tr. at 81) Ms. Chukwu further
 3 testified that it is Staff's belief that Valley Pioneers has not established there is a need for water
 4 service in the areas without requests for service at this time. (Tr. at 83) Ms. Chukwu used as an
 5 example, Valley Pioneers' Application which states its purpose is to supply water service to the many
 6 water haulers located in the proposed extension area, but Valley Pioneers provided only two requests
 7 for service from water haulers. (Tr. at 81)

8 26. Staff has previously testified that in reviewing CC&N extension applications, Staff
 9 looks to see if there are requests for service for the area that the Company wants to serve.
 10 Staff testified that:

11 . . . the standard, if there is any, for an extension of a CC&N would be the
 12 convenience and necessity standard, if there is a need for service. Staff
 13 also testified that the Commission doesn't have a policy as to what the
 request for service document has to say or who the document has to be
 from.⁵

14 27. Staff has also articulated nine factors that it considers in deciding whether to
 15 recommend approval of a CC&N extension into areas for which there are no requests for service.
 16 Those factors are:

- 17 a. Whether inclusion of the area could reasonably be expected to contribute to
 operational efficiencies.
- 18 b. Whether exclusion of the area could reasonably be expected to result in
 operational inefficiencies.
- 19 c. Whether there is a competing application for the area.
- 20 d. Whether a customer in the area requests to be excluded and the nature of the
 request.
- 21 e. Whether the area is contiguous to the Company's current service territory.
- 22 f. Whether the requested area "squares off" the service territory or fills in holes in
 the service territory.
- 23 g. Whether the Company at issue is financially sound.
- 24 h. Whether the Company at issue is in compliance with Commission decisions,
 ADEQ and ADWR.
- 25 i. Other showing by the Company at issue that it is in the public interest to
 26 approve the extension.⁶

27 _____
 28 ⁵ See Commission Decision No. 70381 (June 13, 2008), Finding of Fact 31.

⁶ See Commission Decision No. 69163 (December 5, 2006), Finding of Fact 17.

1 28. In a prior Commission Decision, the Commission found that where the Applicant has
2 demonstrated that there is a need for service in a proposed extension area by providing requests for
3 service from 100 percent of the property owners, the Applicant's request to extend its CC&N into
4 those areas should be granted.⁷

5 29. In contrast, the Commission has found that where no requests for service exist for a
6 specific area, the Applicant's request to extend its CC&N into those areas should not be granted.⁸

7 30. In the instant case, Valley Pioneers' Application states it wants to improve water
8 resource management in the proposed extension area. Valley Pioneers did not conduct a preliminary
9 engineering plan to determine how best to serve the proposed extension area. (Tr. at 45) In Valley
10 Pioneers' response to Staff's Data Request (dated July 18, 2006), the response stated that the
11 "Company does not intend to make to a substantial investment on speculative engineering plans to
12 serve the Extension Area at this time, especially when the Commission has not approved the
13 application." Further, Valley Pioneers application states that extension of the main transmission lines
14 would be extended at a cost of \$26 per linear foot.

15 31. Here, Valley Pioneers' is requesting to serve 8,814 acres, but has only submitted
16 requests for service covering 218 acres. Valley Pioneers' had more than two years, during the
17 pendency of the Application, to gather requests for service within the proposed extension area.
18 Valley Pioneers' did not provide sufficient requests for service in most of the proposed extension area
19 and therefore no determination can be made as to whether there is a need for service in areas where
20 there are no requests for service.

21 32. Valley Pioneers choose not to conduct a preliminary engineering plan, which would
22 have provided a master plan that could be used to improve resource management and help to
23 contribute to operational efficiencies in the proposed extension area. Under Valley Pioneers'
24 proposed plan to have landowners pay for line extensions,⁹ in conjunction with the expansive area
25 being requested and the location of its existing water infrastructure, it can reasonably be expected that
26

27 ⁷ See Commission Decision No.70381 June 13, 2008).

28 ⁸ See Commission Decision No. 69163 (December 5, 2006).

⁹ Data Response dated July 18, 2006, pg. 4.

1 transmission lines, in some instances, would have to be extended over several miles to provide
2 customers with service that may turn out to be cost prohibitive and will leave customers with the
3 same options they currently have to either drill a well or haul water.

4 33. Staff's witness testified that another water company, with a pending application before
5 the Commission, is seeking to serve an area south of the proposed extension area requested in this
6 docket.¹⁰ Staff's witness stated that the other water company also has facilities located within the
7 requested CC&N area. According to Staff's witness, the other utility company has two wells, a 1-
8 million gallon storage tank and 25,000 feet of transmission main installed within the proposed CC&N
9 area. (Tr. at 76-78) Although there is not a competing application in this matter, it is not in the
10 public interest to grant such an expansive area to Valley Pioneers at this time because there are not
11 sufficient requests for service to demonstrate a need for service in those areas and it may be more
12 efficient and beneficial to customers for another water company to provide water service to those
13 areas in the future.

14 **Order Preliminary**

15 34. Staff is recommending the issuance of an Order Preliminary for the eight properties
16 for which Valley Pioneers has requests for service, subject to compliance with the items
17 outlined above.

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

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

¹⁰ See Docket No. SW-20379A-05-0489.

1 36. Staff's witness testified that the main reason Staff is recommending an Order
2 Preliminary is because the requested area is outside an AMA and Valley Pioneers has not proven that
3 there is adequate water to serve the proposed extension area. (Tr. at 68)

4 37. Staff's Report stated that "due to the magnitude of the requested area, the current
5 economic conditions, and the fact that the build out period for the entire requested area is unknown,
6 Staff believes it is not in the public interest to grant the CC&N as requested by the Company."

7 38. Valley Pioneers filed objections to Staff's recommendation for an Order Preliminary.
8 Valley Pioneers' response to the Staff Report stated that Staff's proposed "parcel-by-parcel"
9 approach would require the Company to file an application for a CC&N extension each time there
10 was a request for service. The response stated that under Staff's approach the Company would have
11 to expend money and time to file individual applications to extend its CC&N and would limit Valley
12 Pioneers' ability to adequately plan its water infrastructure in the proposed extension area.

13 39. We find that the lack of requests for service in the proposed extension area, the lack of
14 development time frames, and the lack of proof that there is adequate water to serve the requested
15 CC&N area are compelling reasons in favor of granting the Order Preliminary. Here, Valley Pioneers
16 has not shown through its requests for service that there is a need for service for the vast portion of
17 the area it has requested. In addition, Valley Pioneers had two years to actively pursue requests for
18 serve in the requested area and although the Company has stated that obtaining 330 landowner
19 requests for service is impossible, it could have, at a minimum, obtained requests for service from the
20 customers it planned to serve in the first five years in the requested area. The Order Preliminary
21 gives the utility, landowners and/or developers an assurance that a final CC&N will be granted if the
22 conditions are met within the required timeframes; while making it clear that if the Applicant fails to
23 act diligently in pursuing its rights under its Franchise, the Order Preliminary will become null and
24 void. We find Staff's recommendation that an Order Preliminary be issued prior to the final CC&N in
25 this matter reasonable.

26 40. We further find Staff's recommendation that Valley Pioneers' Order Preliminary
27 should be limited to the eight properties where there are requests for service reasonable; except we
28

1 find that Mr. Lowther's request to receive service from Valley Pioneers and to have his property
2 included in the Order Preliminary reasonable and the property should be included.

3 **Existing/Proposed Water System**

4 41. Valley Pioneers' current water system consists of four drinking water wells, with a
5 production rate of 2,140 gallons per minute ("GPM"); and six storage tanks, with a combined
6 capacity of 2,188,000 gallons.

7 42. Staff's Report stated that Valley Pioneers has experienced an annual average growth
8 rate of 63 connections over the past eight years.

9 43. Valley Pioneers has a daily average consumption of 299 gallons per day ("GPD"),
10 based on its water usage data for the year 2007.

11 44. Staff's Report indicated that Valley Pioneers non-account water loss was 13 percent
12 for the year 2007, and exceeds Staff's recommended non-account water loss of no more than
13 10 percent.

14 45. Valley Pioneers' witness testified that the Company has taken steps towards correcting
15 its water loss situation. She stated that the Company has changed out meters on the wells that were
16 not adequately measuring water flow and the Company has implemented a program to test meters on
17 a random basis. (Tr. at 42)

18 46. Valley Pioneers proposes to extend its existing 6-inch mains along section lines to
19 serve the requested area. Staff concluded that the proposed system will have adequate capacity to
20 serve customers in the proposed extension area and Valley Pioneers can be reasonably expected to
21 develop the additional capacity to meet future growth as needed.

22 47. According to Valley Pioneers' Application, the Company estimates that the unit cost
23 to install the 6-inch mains needed to serve the proposed extension area will be approximately \$26 per
24 linear foot. Staff concluded that the Company's cost estimate to serve the extension area is
25 reasonable. However, Staff made no "used and useful" determination as to the proposed plant and no
26 conclusions should be inferred for future rate making or rate base purposes.

27 48. ADEQ has determined that Valley Pioneers is delivering water that meets water
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1 quality standards required by the A.A.C and that Valley Pioneers is in compliance with ADEQ
2 requirements.

3 49. Valley Pioneers is not located within any ADWR designated Active Management
4 Area ("AMA") and therefore is not subject to AMA reporting and conservation rules.

5 50. Valley Pioneers is currently in compliance with ADWR requirements governing water
6 providers and/or community water systems.

7 51. Valley Pioneers has not demonstrated there is adequate water for the nine properties
8 described herein and therefore should be required to provide a copy of the ADWR Analysis of
9 Adequate Water Supply or Physical Availability Determination for each of the nine properties
10 described in this Order, within three years of the effective date of an Order in this matter.

11 52. Valley Pioneers has no outstanding ACC compliance issues.

12 53. Valley Pioneers has a Commission approved curtailment tariff.

13 54. Valley Pioneers has an approved backflow prevention tariff on file with
14 the Commission.

15 55. Valley Pioneers has a Mohave County Franchise Agreement that encompasses the
16 proposed CC&N area.

17 56. Valley Pioneers' witness testified that there are no proposed golf courses or
18 ornamental lakes planned for the proposed extension area. (Tr. at 43)

19 57. Because an allowance for property tax expense is included in Valley Pioneers' rates
20 and collected from its customers, the Commission seeks assurances from Valley Pioneers that any
21 taxes collected from ratepayers have been remitted to the appropriate taxing authority. It has come to
22 the Commission's attention that a number of water and wastewater companies have been unwilling
23 or 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 Valley Pioneers shall
25 annually file, as part of its annual report, an affidavit with the Utilities Division attesting that the
26 Company is current in paying its property taxes in Arizona.

27 58. The Commission has become increasingly concerned with the need to conserve
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1 groundwater in Arizona. Therefore, we believe Valley Pioneers should be required to conserve
2 groundwater and that Valley Pioneers should be prohibited from selling groundwater for the purpose
3 of irrigating any future golf courses or any ornamental lakes or water features located in the common
4 areas of the proposed new developments, within the proposed expansion area.

5 CONCLUSIONS OF LAW

6 1. Valley Pioneers is a non-profit Arizona Corporation, and a public service corporation
7 within the meaning of Article XV of the Arizona Constitution and A.R.S. §§40-281 and 40-282.

8 2. The Commission has jurisdiction over Valley Pioneers and the subject matter of the
9 Application.

10 3. Notice of the Application was provided in accordance with the law.

11 4. There is a public need and necessity for water utility service in the proposed extension
12 area for the nine properties for which Valley Pioneers received requests for service.

13 5. Valley Pioneers is in compliance with the Arizona Department of Environmental
14 Quality requirements and is currently delivering water that meets the standards required
15 by the A.A.C.

16 6. Staff's recommendations, as modified herein, are reasonable and should be adopted.

17 7. Valley Pioneers is a fit and proper entity to receive an Order Preliminary to the
18 issuance of the final CC&N for the nine properties described herein.

19 ORDER

20 IT IS THEREFORE ORDERED that pursuant to A.R.S. § 40-282 (D), this Order Preliminary
21 to the issuance of the final Certificate of Convenience and Necessity is hereby granted to Valley
22 Pioneers Water Company, Inc., for the nine properties discussed herein.

23 IT IS FURTHER ORDERED denying Valley Pioneers Water Company, Inc's., request to
24 extend its Certificate of Convenience and Necessity to the areas located outside the boundaries of the
25 nine properties granted in this Order Preliminary.

26 IT IS FURTHER ORDERED that Valley Pioneers Water Company, Inc., shall file with
27 Docket Control as a compliance item in this docket, a copy of the Arizona Department of
28

1 Environmental Quality Certificate of Approval to Construct for the distribution system to serve each
2 of the nine properties, within three years of the effective date of this Order Preliminary.

3 IT IS FURTHER ORDERED that Valley Pioneers Water Company, Inc., shall file with
4 Docket Control, as a compliance item in this docket, a copy of the Arizona Department of Water
5 Resources Analysis of Adequate Water Supply or Physical Availability Determination demonstrating
6 there is adequate water for each of the nine properties, within three years of the effective date of this
7 Order Preliminary.

8 IT IS FURTHER ORDERED that Valley Pioneers Water Company, Inc., shall with Docket
9 Control, as a compliance item in this docket, a legal description for each of the nine properties, no
10 later than one year after the effective date of this Order Preliminary.

11 IT IS FURTHER ORDERED that Valley Pioneers Water Company, Inc., shall reduce its non-
12 account water loss to less than 10 percent, within three years of the effective date of this Order
13 Preliminary.

14 IT IS FURTHER ORDERED that if Valley Pioneers Water Company, Inc., fails to comply
15 with any one of the above stated conditions within the timeframes specified, the Order Preliminary
16 granted herein shall be null and void, and this docket shall be closed.

17 IT IS FURTHER ORDERED that after Valley Pioneers Water Company, Inc., has complied
18 with the above stated conditions it shall docket a filing stating its compliance and requesting the
19 Commission issue the final Certificate of Convenience and Necessity for the nine properties
20 described herein. Within 30 days of such filing, Staff shall file a response confirming Valley Pioneers
21 Water Company's compliance and requesting the Commission schedule the time for a vote to grant
22 the final Certificate of Convenience and Necessity.

23 IT IS FURTHER ORDERED that Valley Pioneers Water Company, Inc., shall charge its
24 authorized rates and charges in the extension area.

25 IT IS FURTHER ORDERED that Valley Pioneers Water Company, Inc., shall file with
26 Docket Control, as a compliance item in this docket, a copy of the Arizona Department of Water
27 Resources Letter of Adequate Water Supply (Water Adequacy Report) for every subdivision in each
28

1 of the nine properties described herein, when it is received, but no later than 30 days after its receipt.

2 IT IS FURTHER ORDERED that Valley Pioneers Water Company, Inc., shall annually file
3 as part of its annual report, an affidavit with the Utilities Division attesting that it is current on
4 paying its property taxes in Arizona.

5 IT IS FURTHER ORDERED that in light of the need to conserve groundwater in Arizona,
6 Valley Pioneers Water Company, Inc., is prohibited from selling groundwater for the purpose of
7 irrigating any future golf courses or any ornamental lakes or water features located in the common
8 areas of the proposed new developments within the nine properties described in this Order
9 Preliminary.

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

11 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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14 CHAIRMAN

COMMISSIONER

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16 COMMISSIONER

COMMISSIONER

COMMISSIONER

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24 DISSENT _____

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26 DISSENT _____

YBK:db

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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

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SERVICE LIST FOR:

VALLEY PIONEERS WATER COMPANY, INC.

DOCKET NO.:

W-02033A-06-0262

Steven L. Wene
MOYES SELLERS & SIMMS
Viad Corporate Center
1850 North Central Avenue, Suite 1100
Phoenix, Arizona 85004-4541
Attorney for Valley Pioneers Water Company

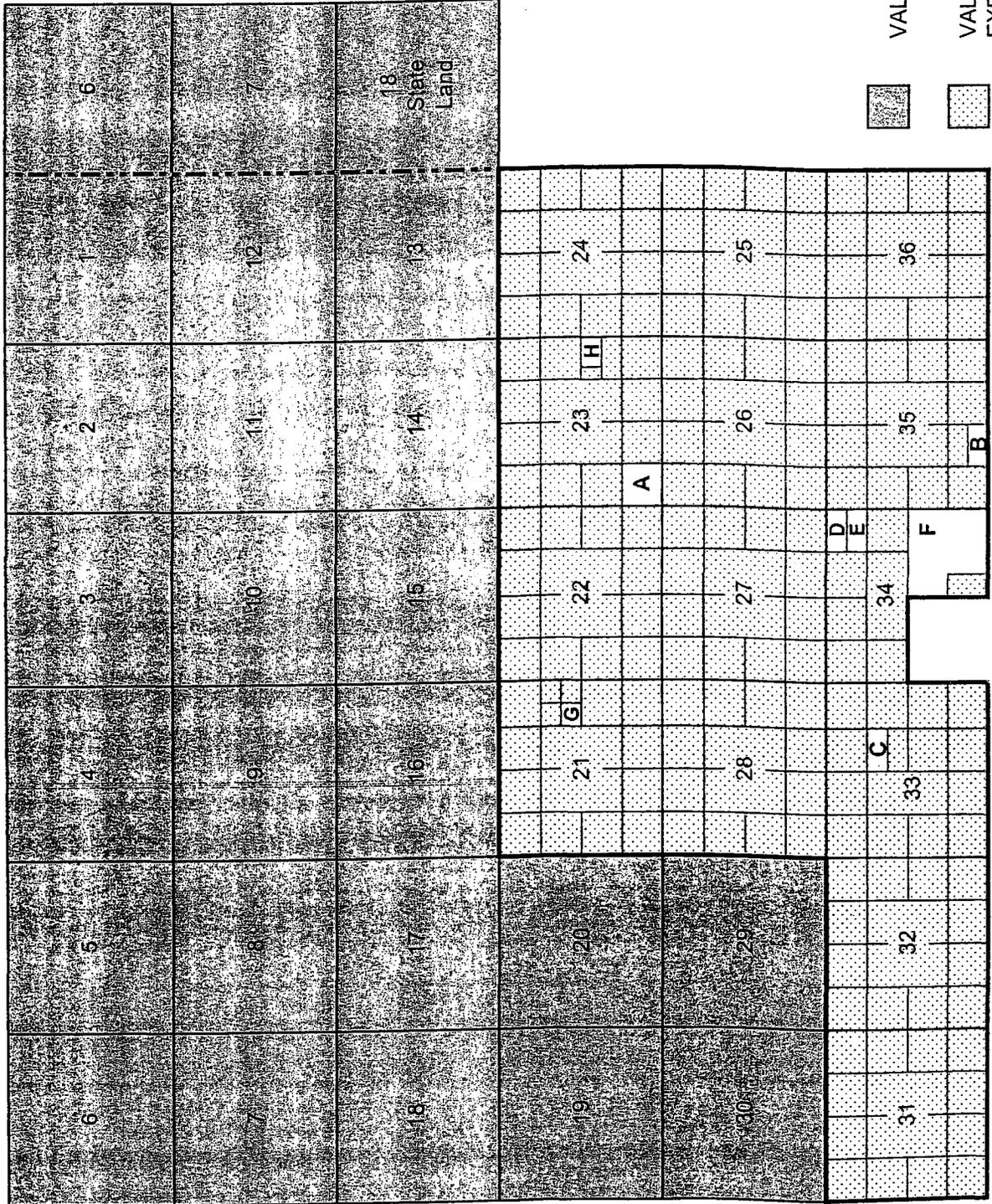
Janice Alward, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

Ernest G. Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

VALLEY PIONEERS WATER COMPANY, INCORPORATED STAFF RECOMMENDATION

TOWNSHIP 21 N, RANGE 18 W

TOWNSHIP 21 N, RANGE 17 W



**LEGAL DESCRIPTIONS
FOR EIGHT (8) PROPERTIES REQUESTING
SERVICE FROM VALLEY PIONEERS**

I. 21 N., R. 18 W.

- A** SW 1/4, SW 1/4 of Section 23
Westar Development
306-30-013
- B** S 1/2, SE 1/4, SW 1/4 OF Section 35
Khalisa Investments, LLC
306-24-172
- C** N 1/2, SW 1/4, NE 1/4 OF SECT. 33
Feldman, Gary
306-24-194
- D** N 1/2, NE 1/4, NE 1/4 of Sect. 34
Segerman, Ray
306-63-024
- E** S 1/2, NE 1/4, NE 1/4 of Sec. 34
Segerman, Ray
306-63-025
- F** S 1/2, SE 1/4, EXCEPT W 1/2, SW 1/4,
SW 1/4, SE 1/4 OF SECT. 34
Segerman, Ray
306-63-020
- G** SW 1/4, SE 1/4, NE 1/4 of Sec. 21
Newman (Leitz), Margaret
306-24-004C
- H** N 235 FT., NE 1/4, SE 1/4, SE 1/4,
EXCEPT W 168 FT, AND
EXCEPT W. NEWGARD DR. OF SEC 23
Thomas, Harvey
306-30-016J



VALLEY PIONEERS EXISTING CC&N

VALLEY PIONEERS REQUESTED CC&N
EXPANSION AREA