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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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Arizona Corporation Commission

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OCT 29 2008

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7 IN THE MATTER OF THE APPLICATION OF
 8 DEL RIO WATER COMPANY, LLC, FOR A
 9 CERTIFICATE OF CONVENIENCE AND
 NECESSITY TO PROVIDE WATER SERVICE
 IN YAVAPAI COUNTY, ARIZONA.

DOCKET NO. W-04074A-08-0094

PROCEDURAL ORDER

10 **BY THE COMMISSION:**

11 On February 15, 2008, Del Rio Water Company, LLC ("Del Rio" or "Applicant") filed with
 12 the Arizona Corporation Commission ("Commission") an application for a Certificate of
 13 Convenience and Necessity ("Certificate" or "CC&N") to provide water service to approximately
 14 3,000 acres in the Town of Chino Valley in Yavapai County, Arizona.

15 On February 25, 2008, Del Rio docketed Proof of Notice of the Application.

16 On March 5, 2008, the Commission's Utilities Division ("Staff") filed an Insufficiency Letter
 17 indicating that the application had not met the sufficiency requirements of the Arizona Administrative
 18 Code ("A.A.C").

19 On March 21, 2008, Del Rio docketed additional information in support of the application.

20 On April 15, 2008, Del Rio filed supplemental information on the application.

21 On April 21, 2008, Staff filed a Sufficiency Letter in this docket.

22 On April 29, 2008, by Procedural Order, a hearing was set to commence on June 9, 2008, and
 23 other procedural deadlines were established.

24 On May 1, 2008, Staff filed a Request for Extension of Time to file its Staff Report. There
 25 were no objections to Staff's request.

26 On May 12, 2008, by Procedural Order, the June 9, 2008, hearing was rescheduled to July 28,
 27 2008, and the time clock was extended accordingly.

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1 On June 30, 2008, Staff filed a Staff Report recommending approval of Del Rio's application
2 with conditions.

3 On July 18, 2008, Del Rio filed Comments to the Staff Report.

4 On July 28, 2008, a full public hearing was convened before a duly authorized Administrative
5 Law Judge of the Commission at its offices in Phoenix, Arizona. The Applicant and Staff appeared
6 through counsel. At the conclusion of the hearing, Staff was directed to file a late filed exhibit
7 relating to its testimony.

8 Based on the testimony, and evidence presented and the docketed filings, it was determined
9 that additional information was needed and that the matter should be set for an additional day of
10 hearing.

11 On August 8, 2008, by Procedural Order, this matter was set to reconvene on November 14,
12 2008, filing deadlines were established, and the time clock was suspended.

13 On August 8, 2008, Staff filed as a late filed exhibit, amended schedules related to Staff's
14 testimony.

15 On September 3, 2008, Appaloosa Water Company ("Appaloosa") filed a Motion to
16 Intervene, stating that in 2004 Appaloosa provided an Intent to Serve letter to Bond Ranch at Del Rio
17 Springs, LLC ("Bond Ranch"), requesting to be the water provider for Bond Ranch's proposed
18 subdivision, which appears to be the same territory requested in Del Rio's application.

19 On September 12, 2008, Del Rio filed a request to delay the November 14, 2008, hearing date
20 to December 13, 2008, or later. The request stated that pursuant to the Procedural Order dated
21 August 8, 2008, Staff had made additional data requests to the Applicant, and Del Rio needed more
22 time to complete its answers. The request further stated that Del Rio's sole member, Bond Ranch,
23 was involved in a refinancing which would not be completed in time for Del Rio to give Staff
24 complete answers to the additional data requests. Del Rio also requested an extension of time for
25 Staff to file a Supplemental Staff Report and for Del Rio to file its responses to the Supplemental
26 Staff Report. The request stated that Staff does not object to Del Rio's request to extend the time
27 deadlines.

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1 On September 18, 2008, by Procedural Order, Del Rio's request to vacate the November 14,
2 2008, hearing date was granted and a new hearing date was scheduled for December 22, 2008. The
3 Procedural Order also directed Staff to file a Supplemental Staff Report by November 17, 2008, and
4 directed Del Rio to file its response to Staff's Supplemental Staff Report by December 1, 2008. Del
5 Rio and Staff were also directed to file responses to Appaloosa's Motion to Intervention.

6 On September 29, 2008, Staff filed its Response to Appaloosa's Motion to Intervene. Staff
7 recommended that as a pre-condition to intervention that Appaloosa be directed to file a formal
8 application for a CC&N which satisfies the requirements of A.A.C. R14-2-402. Staff further
9 recommended that Appaloosa be instructed to file its application in time to be deemed sufficient on
10 or before October 31, 2008, in order that Appaloosa's intervention will not unduly delay the process.

11 In its Response, Staff also requested that the hearing date be accelerated and rescheduled for
12 December 18, 2008, or sooner, if possible, because Staff's central witness is unavailable for the
13 current hearing date of December 22, 2008.

14 On October 3, 2008, Del Rio filed its Response to Appaloosa's Motion to Intervene and urged
15 denial of Appaloosa's request. As a part of Del Rio's Response, Del Rio attached letters from the
16 two developers in the proposed extension area stating a continuing desire to be served by Del Rio and
17 objecting to being included in Appaloosa's CC&N. Del Rio stated also that it does not object to
18 Staff's Request to have the hearing slightly accelerated.

19 On October 13, 2008, in Docket No. W-03443A-08 -0540, Appaloosa filed an application for
20 an extension of its CC&N to include the proposed extension area in this docket.

21 On October 15, 2008, Appaloosa Water filed its Response to Del Rio's Request to Deny the
22 Motion to Intervene.

23 On October 22, 2008, Del Rio filed a Request for Extension of Time, requesting that the
24 application in this matter be put on hold until June 30, 2009. The request stated that Del Rio's sole
25 member, Bond Ranch, is involved in a refinancing and the instability of the financial markets may
26 influence build out of the development in the proposed extension area. The request further stated that
27 Staff does not oppose Del Rio's request for an extension of time until June 30, 2009.

1 IT IS THEREFORE ORDERED that a **procedural conference shall be held on November**
2 **10, 2008, at 10:00 a.m.**, in the 2nd Floor Commissioner's Conference Room, at the Commission's
3 offices, 1200 West Washington Street, Phoenix, Arizona, to discuss the pending pleadings,
4 procedural posture of this matter and the related application filed in Docket No. W-03443A-08-0540.

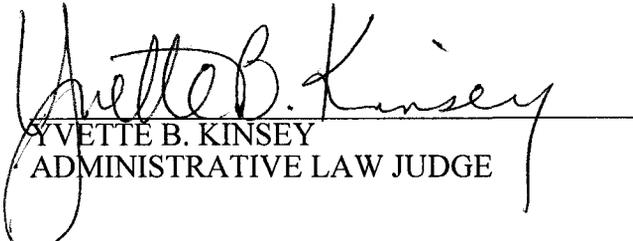
5 IT IS FURTHER ORDERED that the **hearing currently scheduled to reconvene on**
6 **December 22, 2008, is vacated and shall be rescheduled by a subsequent Procedural Order.**

7 IT IS FURTHER ORDERED that the time clock in this matter shall remain suspended.

8 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
9 Communications) continues to apply to this proceeding.

10 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend or waive
11 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

12 Dated this 29th day of October, 2008.

13
14 
15 YVETTE B. KINSEY
16 ADMINISTRATIVE LAW JUDGE

17 Copies of the foregoing mailed/delivered
18 this 29th day of October, 2008 to:

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28 By: 
Debra Broyles
Secretary to Yvette B. Kinsey