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BEFORE THE ARIZONA CORPORATIO.

COMMISSIONERS

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

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DOCKET CONTROL

IN THE MATTER OF THE
APPLICATION OF ICR WATER USERS
ASSOCIATION, INC. FOR
DETERMINATION OF THE CURRENT
FAIR VALUE OF ITS UTILITY PLANT
AND PROPERTY AND FOR INCREASES
IN ITS RATES AND CHARGES FOR
UTILITY SERVICES

DOCKET NO. W-02824A-07-0388

NOTICE OF FILING ADDITIONAL
SUPPLEMENTAL REBUTTAL
TESTIMONY OF THOMAS J.
BOURASSA ON BEHALF OF ICR
WATER USERS ASSOCIATION, INC.
AND ADDITIONAL SUPPLEMENTAL
REBUTTAL TESTIMONY OF ROBERT
M. BUSCH ON BEHALF OF ICR
WATER USERS ASSOCIATION

ICR Water Users Association Inc. ("ICR" or the "Association"), through its undersigned counsel, hereby files Notice of Filing Additional Supplemental Rebuttal Testimony of Thomas J. Bourassa on Behalf of ICR Water Users Associations, Inc. and Additional Supplemental Rebuttal Testimony of Robert M. Busch on Behalf of ICR Water Users Association in connection with the above-captioned matter.

RESPECTFULLY submitted this 21 day of November, 2008.

SNELL & WILMER

Jeffrey W. Crockett
Robert J. Metli
One Arizona Center
Phoenix, Arizona 85004-2202
Attorneys for ICR Water Users Association, Inc.

Arizona Corporation Commission
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NOV 21 2008

Board of Directors
mm

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1 ORIGINAL AND THIRTEEN (13) copies
2 filed this 2nd day of November, 2008, with:

3 Docket Control
4 ARIZONA CORPORATION COMMISSION
5 1200 West Washington
6 Phoenix, Arizona 85007

7 COPY of the foregoing hand-delivered
8 this 2nd day of November, 2008, to:

9 Judge Marc E. Stern
10 ARIZONA CORPORATION COMMISSION
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22 Phoenix, Arizona 85007

23 COPY of the foregoing e-mailed/mailed
24 this 2nd day of November, 2008, to:

25 Mr. Dayne Taylor
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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION
OF ICR WATER USERS ASSOCIATION,
INC. FOR A DETERMINATION OF THE
CURRENT FAIR VALUE OF ITS UTILITY
PLANT AND PROPERTY AND FOR
INCREASES IN ITS RATES AND CHARGES
FOR UTILITY SERVICES

DOCKET NO: W-02824A-07-0388

**ADDITIONAL SUPPLEMENTAL REBUTTAL TESTIMONY
OF THOMAS J. BOURASSA
ON BEHALF OF ICR WATER USERS ASSOCIATION, INC.**

NOVEMBER 21, 2008

1 **I. INTRODUCTION AND PURPOSE OF TESTIMONY.**

2 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

3 A. My name is Thomas J. Bourassa. My business address is 139 W. Wood Drive,
4 Phoenix, Arizona 85029.

5 **Q. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY IN THE INSTANT**
6 **CASE?**

7 A. Yes, my direct, rebuttal, and supplemental testimony has already been submitted in
8 support of the ICRWUA Water Users Association ("ICRWUA").

9 **Q. WHAT IS THE PURPOSE OF THIS TESTIMONY?**

10 A. I will testify on behalf of ICRWUA in response to Mr. Dayne Taylor's additional
11 supplemental testimony dated on November 14, 2008. Specifically, I will respond
12 to Mr. Taylor's comments about the cost of service study I prepared for ICRWUA.

13 **Q. PLEASE COMMENT ON MR. TAYLOR'S TESTIMONY (PAGE 8 AND 9)**
14 **REGARDING HIS COMPUTED COST OF \$2.07 PER 1,000 GALLONS OF**
15 **WATER FOR THE TALKING ROCK SYSTEM.**

16 A. The primary criticism is that Mr. Taylor's computed \$2.07 per 1,000 gallons does
17 not bear any relationship to the cost of service and is not meaningful because it
18 exclusively uses volume (gallons pumped), and does not consider the true
19 relationship of cost and the functional relationship to the cause of the cost such as
20 demand and/or customer counts, as I explain below. Comparison of this cost to
21 the commodity rate set forth in the Water Service Agreement ("WSA") between
22 ICRWUA and Talking Rock Golf Club, LLC ("TRG") or any analysis which
23 makes a claim that the \$2.07 cost per 1,000 gallons is the basis for the cost of
24 service for any particular customer, or customer class, on the Talking Rock system,
25 is invalid and should be disregarded.

26 Let me explain. Assuming for the moment that that the costs Mr. Taylor has
27 set forth for purchased power expense, depreciation expense, and contract
28 operation expense are correct, only one of those costs, purchased power, is directly

1 related to the gallons pumped (or sold). The other two have no direct relationship
2 to gallons pumped or sold. In terms of cost of service, both depreciation and
3 contract operation expense are primarily related to potential demand and not
4 gallons pumped (or sold). By using volume (gallons pumped) as the basis for
5 depreciation and operator costs before first considering the functional relationship
6 to the cause of the cost, Mr. Taylor distorts and misrepresents the true cost of
7 service. For example, consider monthly meter reading costs which are a
8 component of the operator costs. These costs are a function of the number of
9 customers. It costs the same to read the meter of TRG, who uses millions of
10 gallons of water, as it does to read the meter of an average 5/8 inch residential
11 customer, who uses 7,000 gallons per month.

12 To further illustrate, let's assume the annual cost to read meters is \$36,400,
13 there are 364 customers, and the annual gallons sold is 180,000 thousand gallons.
14 Under Mr. Taylor's view, the annual meter reading cost of service per 1,000
15 gallons is \$0.20 (\$36,400 divided by 180,000 thousand gallons) for all customers.
16 However, if the cost is the same to read each customer meter and there are 364
17 customers, then the cost per customer is really \$100 (\$36,400 divided by 364
18 customers). The true cost of service on a per 1,000 gallons basis for any particular
19 customer is then dependent upon how much water that customer uses and can be
20 very different from customer to customer. For example, if it costs \$100 annually
21 per customer to read the customer's meter, the cost per 1,000 gallons for a
22 customer who uses \$125,000 thousand gallons of water annually would be less
23 than 1/10 of a cent (\$100 divided by 125,000 thousand gallons). On the other
24 hand, the cost per 1,000 gallons for an average 5/8 inch meter who uses 84
25 thousand gallons annually (7,000 gallons per month) would be much higher at
26 \$1.19 (\$100 divided by 84 thousand gallons).

27 **Q. PLEASE CONTINUE WITH YOUR EXPLANATION OF THE**
28 **FUNCTIONAL RELATIONSHIP TO THE CAUSE OF THE COST FOR**

1 **DEPRECAITION AND OPERATOR COSTS.**

2 A. Depreciation will be incurred whether 100 gallons or 100 million gallons are
3 pumped (or sold). Depreciation is the direct result of the required system design
4 (the infrastructure necessary to serve customers). The system must be designed
5 and built to meet the potential demand of all customers regardless of the actual
6 water usage and each customer should bear the cost of the portion of the system
7 serving them and necessary to meet their potential demand on the system. In order
8 to attribute the infrastructure costs (depreciation) to a customer, and/or a class of
9 customers, these costs must be allocated in terms of potential demand of the
10 customer, or the customer class, and not gallons pumped (or sold). Only after the
11 costs are allocated can any meaningful analysis take place with respect to a
12 particular customer, or customer class, on a cost per 1,000 gallons basis. Even then
13 one must use caution because customer usage can vary from year to year.

14 Similarly, contract operation expense will be incurred regardless of the
15 quantity of gallons pumped (or sold). The majority of costs of AQuality Water Co.
16 ("AQuality") are based on a fixed monthly fee. Evidence of this can be found in
17 the AQuality Agreement for Operator Services itself (attached hereto at
18 Supplemental Exhibit 1). On page 6, Item 23 of Exhibit A in the Agreement for
19 Operator Services, you will find a monthly fixed rate of \$5,885 for routine services.
20 Even the non-routine services are not based on gallons pumped (or sold) but rather
21 on hourly charges. Again, only after these costs are allocated can any meaningful
22 analysis take place with respect to a particular customer, or customer class, on a
23 cost per 1,000 gallons basis. And, again, even then one must use caution because
24 customer usage can vary from year to year.

25 **Q. PLEASE RESPOND TO MR. TAYLOR'S ASSERTION, THAT**
26 **DEPRECIATION AND OPERATOR COSTS ARE INCORRECTLY**
27 **STATED IN YOUR COST OF SERVICE STUDY.**

28 A. Mr. Taylor testifies to unrecorded plant costs totaling over \$8.85 million (\$6.65

1 million plus \$1.2 million) and asserts that depreciation is understated as a result.
2 See Supplemental Testimony of Dayne Taylor ("Taylor Supp.") at 8. These costs
3 are not relevant for several reasons. First, these costs have not been audited and/or
4 verified, are outside of the test year, and includes plant which will be used to serve
5 future customers, not TRG. Second, the ICRWUA Board has not determined how
6 these costs, once verified, will be funded – either refundable advances-in-aid of
7 construction ("AIAC") and/or non-refundable contributions-in-aid of construction
8 ("CIAC"). Specifically, the WSA provides that ICRWUA may elect in its sole
9 discretion to characterize utility infrastructure provided by the Talking Rock
10 Parties as either advances in aid of construction or contributions in aid of
11 construction, provided that no less than thirty percent (30%) of plant advanced or
12 contributed is characterized as advances in aid of construction. If the plant is
13 treated as funded by AIAC, depreciation expense will be impacted in the future. If
14 the plant is treated as funded by CIAC, there will be no impact on future
15 depreciation expense. However, it would be speculation at this point to make any
16 specific claims about the impact on the future cost of service of TRG without
17 knowing how ICRWUA intends to fund this plant.

18 Third, most of the \$8.85 million of additional plant is for infrastructure
19 unrelated to servicing TRG. Most of this plant is for subdivision infrastructure
20 necessary to serve existing and future ICRWUA customers, not TRG. Only the
21 cost of the wells, chlorination facilities, and off-site main, totaling approximately
22 \$1.33 million, could possibly be considered in the cost of service to TRG in the
23 future. Even if one assumes that the \$1.33 million was recorded during the test
24 year and funded with AIAC, the impact on TRG's cost of service would be small.
25 For example, assuming all of the \$1.33 million was in plant-in-service for the test
26 year, was treated as being funded by AIAC, and the depreciation for this plant
27 allocated following the method used in the cost of service study (90% demand,
28 10% commodity), the depreciation impact to TRG's cost of service would have

1 been less than \$5,300.¹ With consideration of customer growth since the end of the
2 test year, the depreciation impact would likely be less than \$5,300. Putting this
3 aside, under the WSA, even if the additional \$5,300 were to be attributed to TRG's
4 cost of service, the commodity rate alone would still provide for a nearly 8%
5 operating margin. With the system reservation charge the operating margin would
6 be well over 33%. Just as important, however, the ICRWUA 5/8 inch residential
7 class would still have a negative operating margin (even more negative if the
8 depreciation impact on \$1.33 million of plant were considered) and would still be
9 heavily subsidized by TRG. In other words, even if we were to include this
10 additional plant in the analysis, I would not change my conclusions based on the
11 cost of service study or my conclusion about the adequacy of the commodity rate in
12 the WSA because of the minimal potential impact of additional adjustments.

13 Finally, the impact on any future additional infrastructure costs on the cost
14 of service will have to take into consideration the customer growth that has
15 occurred since the end of the test year. Any future cost of service will depend upon
16 numerous factors including additional capital investment, the capital funding mix
17 (AIAC, CIAC, debt, and/or equity), changes in operating expenses, as well as
18 customer growth.

19 Mr. Taylor also asserts that the operator costs are understated in the cost of
20 service study. He claims that instead of \$23,610 of costs used in the cost of service
21 study, the actual cost should have been \$38,154. *See Taylor Supp.* at 9. I am
22 confused by this assertion. In the cost of service study, and based on the adjusted
23 test year, the AQuality costs totaled nearly \$73,000. *See Supplemental Exhibit 1,*
24 Schedule G-7, page 2.1. The \$73,000 was the cost for the entire ICRWUA system.
25 Even if one were to allocate the \$73,000 to the Talking Rock system based on the
26 2006 customer counts, the Talking Rock system AQuality costs would be over

27
28 ¹ Arguably, since the developer of Talking Rock Ranch also owns TRG and has paid for the wells and mains, there
no reason for TRG to also have depreciation associated with this plant included in its cost of service.

1 \$51,000 (approximately 70%² of \$73,000) – significantly higher than the \$38,154
2 Mr. Taylor claims should have been used.

3 **Q. DOESN'T MR. TAYLOR ALSO POINT TO 2009 COSTS FOR AQUALITY**
4 **TOTALING \$62,760?**

5 A. Yes. *See* Taylor Supp. at 9. Again, I am confused and am not sure where this
6 figure comes from. Further, this has to be an estimate because 2009 hasn't
7 occurred yet. I understand the 2009 budgeted cost for AQuality services is \$82,440.
8 Assuming the same customer allocation as above, the Talking Rock system portion
9 would be \$57,780 (\$82,440 times 70%) – lower than Mr. Taylor's figure of
10 \$62,760. More importantly, however, the 2009 cost is well outside the test year
11 and there is a potential matching problem. If there are more customers on the
12 system, the allocation rate may no longer be 70% and, even if the allocated cost is
13 higher, the cost of service to TRG, or any other customer on the Talking Rock
14 system, would not necessarily be higher. It could be lower.

15 Let me illustrate. According the 2007 ICRWUA ACC annual report, the
16 year end number of customers for 2007 was 439. For the test year, the year-end
17 number of customers was 364. So, customer growth of 75 customers has taken
18 place since the end of the test year. Based on the 2006 allocated amount of
19 \$51,000 for the Talking Rock system, as computed above, the cost per customer
20 was approximately \$201 (\$51,000 divided by 254). Assuming that the growth of
21 75 customers occurred exclusively on the Talking Rock system, then the allocation
22 rate would be approximately 75% (329³divided by 439). The allocated portion of
23 the costs would be \$61,830 (\$82,440 times 75%). However, the cost per
24 customer for the Talking Rock system would drop to approximately \$188 (\$61,830
25 divided by 329).

26 **Q. DID YOU ALLOCATE THE AQUALITY CONTRACT COSTS USING A**
27 **CUSTOMER ALLOCATION FACTOR IN YOUR COST OF SERVICE**

28 ² 254 Talking Rock system customers divided by 364 total ICRWUA customers

³ 254 customers on Talking Rock system in 2006 plus 75 additional customers in 2007.

1 **STUDY?**

2 A. In part, yes. I allocated the AQuality construct costs based on a combination of
3 demand, commodity, customer and meter allocation factors. See Supplemental
4 Exhibit 1, Schedule G-7, page 2.1. I did this in order to match as closely as
5 possible the kinds of costs to the appropriate cost function. As I testified above,
6 most of the Aquality costs are fixed and are demand related, not based on gallons
7 pumped (or sold).

8 **Q. IF YOU USED THE SAME ALLOCATION METHOD USED IN THE COST**
9 **OF SERVICE STUDY TO ALLOCATE THE \$82,440 AND CONSIDERED**
10 **THE GROWTH OF 75 CUSTOMERS FOR 2007, WHAT WOULD HAVE**
11 **BEEN THE CHANGE IN TRG'S ALLOCATED PORTION OF THE**
12 **AQUALITY COSTS?**

13 A. TRG's allocated portion of the AQuality costs would have increased by less than
14 \$400. So, while the \$82,440 is nearly \$10,000 higher than the \$73,000 for the test
15 year, the impact on TRG's cost of service for these costs would be than \$400.
16 Remember however, the \$82,440 is the expected 2009 costs. While I have used
17 known growth of 75 customers for 2007, there may also be growth for 2008 and
18 2009 which would potentially further lessen the allocated cost and possibly cause it
19 to lower than the 2006 allocated amount. A better analysis would be to use the
20 actual AQuality expense for 2007 of \$78,207 along with the growth of 75
21 customers in 2007. Under that analysis, the allocated portion of AQuality costs for
22 TRG would have gone down by over \$200. Here again, while the Aquality costs
23 increased from 2006 to 2007 by over \$5,000 (\$78,207 for 2007 less \$73,000 for
24 2006), the allocated portion of TRG's cost would have decreased - primarily
25 because of customer growth on the system.

26 **Q. PLEASE COMMENT ON MR. TAYLOR'S TESTIMONY REGARDING**
27 **PUMPING POWER COSTS?**

28 A. Mr. Taylor testifies to a wide variation in the monthly power costs and that the cost

1 per 1,000 gallons could be as high as \$2.26. See Taylor at 9. In my opinion, this
2 wide variation is simple not credible. The wide variation in the computed costs per
3 1,000 gallons calculated by Mr. Taylor is due to a measurement error on his part.
4 Let me explain. The measurement period for the gallons pumped data used by Mr.
5 Taylor does not correspond to the power provider's billing (or measurement)
6 period. In fact, the TRG meter is typically read towards the end of the month
7 whereas the power provider's typically reads the electric meter around the middle
8 of the month. This difference in measurement periods causes a gross distortion of
9 the cost per 1000 gallons when viewed on a monthly basis. When viewed on an
10 annualized basis, which helps to smooth out variations caused by the different
11 measurement periods, there is very little change in the cost per 1,000 gallons from
12 2006 to 2007 (\$0.53 per 1,000 for 2006 and \$0.54 per thousand for 2007).

13 **Q. PLEASE REpond TO MR. TAYLOR'S TESTIMONY (PAGE 9) THAT**
14 **THE WSA COMMODITY RATE DOES NOT CONSIDER THE EXPENSES**
15 **OF OPERATING, TESTING, INSPECTING, REPAIRING AND**
16 **MAINTAINING ADDITIONAL WELLS AND/OR TRANSMISSION**
17 **FACILITIES OWNED BY THE TRG THAT THE WSA ALLOWS TRG TO**
18 **CONNECT TO ICRWUA'S SYSTEM IN THE FUTURE.**

19 **A.** As set forth in the Supplemental Rebuttal Testimony of Robert M. Busch,
20 additional wells cannot be connected to the ICRWUA Talking Rock system
21 without ICRWUA prior written consent. In addition, each additional well must
22 meet new source approval requirements applicable to ICRWUA's use of that
23 additional well, as codified in Federal, State, and County law. If such additional
24 wells are in fact connected, since TRG will retain ownership of the wells, there will
25 be no issue with respect to depreciation because the well will not be considered an
26 ICRWUA asset and would not record depreciation on its books. Furthermore, any
27 water delivered to TRG from any additional wells will be charged at the
28 commodity rate set forth in the WSA. Based on the test year, the commodity rate

1 should be more than adequate to cover operating and maintenances expenses.
2 After all, the cost of service study demonstrates that the commodity charge
3 adequately covers TRG's portion of the operation, testing, repairs and maintenance
4 costs on the three existing wells. Finally, a future cost of service study,
5 contemplated in the WSA, will provide a means of truing-up the cost of service, if
6 by chance the commodity rate fails to cover the cost of service for the additional
7 wells.

8 **Q. DOES THAT CONCLUDE YOUR ADDITIONAL SUPPLEMENTAL**
9 **TESTIMONY?**

10 A. Yes. However, my silence on anything in Staff's testimony or Mr. Taylor's
11 testimony should not be taken as consent by me or ICRWUA to any position
12 advocated by Staff or Mr. Taylor.

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

IN THE MATTER OF THE APPLICATION
OF ICR WATER USERS ASSOCIATION,
INC. FOR DETERMINATION OF THE
CURRENT FAIR VALUE OF ITS UTILITY
PLANT AND PROPERTY AND FOR
INCREASES IN ITS RATES AND
CHARGES FOR UTILITY SERVICES

DOCKET NO. W-02824A-07-0388

**ADDITIONAL SUPPLEMENTAL REBUTTAL TESTIMONY OF
ROBERT M. BUSCH
ON BEHALF OF ICR WATER USERS ASSOCIATION, INC.**

November 21, 2008

1 **I. INTRODUCTION.**

2 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

3 A. My name is Robert M. Busch. I am the manager of ICR Water Users Association,
4 Inc., (“ICRWUA” or the “Association”). My business address is P. O. Box 5669,
5 Chino Valley, Arizona 86323.

6 **Q. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY IN THIS**
7 **PROCEEDING?**

8 A. Yes, I submitted Rebuttal Testimony on December 14, 2007, Supplemental
9 Rebuttal Testimony on March 14, 2008, and Additional Supplemental Testimony
10 on October 15, 2008.

11 **Q. WHAT IS THE PURPOSE OF THIS SUPPLEMENTAL REBUTTAL**
12 **TESTIMONY?**

13 A. The purpose of this Supplemental Rebuttal Testimony is to address ICRWUA’s
14 concerns resulting from Staff’s recommendation that the Arizona Corporation
15 Commission (“Commission”) deny the Water Service Agreement (“WSA”) dated
16 September 12, 2008, between ICRWUA, Harvard Simon I, LLC, Talking Rock
17 Land, L.L.C., and intervenor Talking Rock Golf Club, L.L.C. (“TRG”).
18 Specifically, without approval of the WSA, many of the outstanding issues in this
19 case will be left unresolved as I describe below.

20
21 In addition, I will address Intervenor Dayne Taylor’s concerns regarding the
22 WSA’s provision, if adopted, to allow the connection of additional wells by TRG
23 and ICRWUA agreement to operate, test, inspect, repair and maintain the wells.

24
25 **II. RAMIFICATIONS OF COMMISSION NOT APPROVING THE WSA AND**
26 **APPROVING STAFF’S RECCOMENDATIONS INSTEAD.**

27
28

1 Q. MR. BUSCH, HAVE YOU REVIEWED THE DIRECT TESTIMONY OF
2 CHARLES R. MYHLHOUSEN ON BEHALF OF STAFF FILED ON
3 NOVEMBER 14, 2008?

4 A. Yes I have.

5 Q. AND WHAT WAS STAFF'S RECOMMENDATIONS?

6 A. Staff recommendations, in part, were as follows:

- 7 • Staff concurs with the Company's supplemental testimony regarding total
8 operating revenue of \$445,855 resulting in operating income of \$49,044 for an
9 11.00 percent operating margin.
- 10 • Staffs supplemental testimony recommended rate design would increase the typical
11 residential 5/8 inch meter customer consuming the median of 4,500 gallons per
12 month, by \$3.40 or 11.41 percent in their monthly bill from \$29.80 to \$33.20.
- 13 • Staff recommends approval of its rates and charges as shown on Schedule CRM-
14 13.
- 15 • Staff recommends that the land for the three wells be transferred and deeded to
16 ICR.
- 17 • Staff recommends that the Commission deny approval of the Water Service
18 Agreement.

19 Q. DO YOU HAVE ANY CONCERNS WITH STAFF'S
20 RECOMMENDATIONS?

21 A. I do. As I indicated in my Additional Supplemental Testimony filed on
22 October 15, 2008, a major benefit of the WSA to ICRWUA and its customers was
23 to have TRG remain on the ICRWUA's water system to produce revenue that
24 would substantially reduce the size of the requested rate increase in this case.
25 Based upon Staff's recommendation, it is doubtful that TRG will in fact remain
26 on ICRWUA's system.

27
28

1 In addition, I identified additional benefits of the WSA as follows:

- 2 • Transfer of Production Well 1.
- 3 • Production Well 2 Pump Motor Replacement.
- 4 • Air Production Warranty.
- 5 • Waiver of Prior Restrictions.
- 6 • Residential Priority.
- 7 • System Reservation Charge.
- 8 • Commodity Charge.
- 9 • Annual Notice Filing.
- 10 • Financial Assistance.
- 11 • Water Conservation.
- 12 • No Right to Challenge Withdrawals of Groundwater by ICRWUA.
- 13 • Golf Club becomes a Special Contract Customer of ICRWUA.

14 ICRWUA worked very diligently to negotiate and secure these beneficial
15 concessions from the Talking Rock Parties, which were conditional on the
16 approval of the WSA. If the WSA is not approved, many of these contractual
17 concessions by the Talking Rock Parties would no longer materialize. In
18 addition, if the WSA is not approved, ICRWUA will still have in place various
19 agreements with the Talking Rock Parties including a Main Extension Agreement
20 (the "MXA") with the property owner and developer of Talking Rock Ranch,
21 Harvard Simon I, L.L.C ("Harvard"), dated March 5, 2001; a First Amendment to
22 the Main Extension Agreement dated February 25, 2003; and a Well Agreement
23 dated February 25, 2003 ("Well Agreement"), which set forth the terms and
24 conditions governing the delivery of water to the Golf Club and entitled the
25 developer to wheel water through ICRWUA's system in exchange for paying
26 ICRWUA a wheeling fee and a percentage of the costs associated with running
27 the water system. The Well Agreement incorporated the provisions of the MXA
28 and the First Amendment. The rights and obligations under these agreements will

1 remain in effect and will conflict with Staff's recommendation to require the
2 Talking Rock Parties to transfer Production Well 1 and have ICRWUA charge the
3 golf course a tariff rate for all water delivered. ICRWUA's concern is that these
4 conflicts are irreconcilable short of possible litigation.

5 **Q. MR. BUSCH, CAN YOU IDENTIFY THOSE PROVISIONS IN THE WSA,**
6 **WHICH IF NOT PROVIDED, WOULD DETRIMENTALLY IMPACT**
7 **ICRWUA?**

8 A. Yes, Section 2(a) of the WSA provided for the immediate transfer of the remaining
9 equipped well owned by the Talking Rock Parties—Production Well 1—to
10 ICRWUA. That meant that ICRWUA would have owned all three of the equipped
11 wells connected to the water system that serves Talking Rock Ranch. In addition,
12 the Talking Rock Parties agreed to warrantee Production Well 1 for a period of one
13 year from the date the well is transferred to ICRWUA.

14 **Q. BUT WAIT A MINUTE MR. BUSCH, DOESN'T STAFF RECOMMEND**
15 **THAT THE COMMISSION ORDER THE TALKING ROCK PARTIES TO**
16 **TRANSFER PRODUCTION WELL 1 IN ANY EVENT?**

17 A. Yes. That is Staff's recommendation. However, ICRWUA is concerned that the
18 Commission does not have the authority to order such a transfer from a private
19 company. As a result, the transfer of Production Well 1 will be left unresolved by
20 Staff's recommendation. In addition, if Staff's recommendation is approved and
21 the Talking Rock Parties do not agree to transfer Production Well 1, ICRWUA is
22 left in the untenable position to decide whether to breach the Well Agreement and
23 only provide water to TRG at the Commission approved tariff rate or not comply
24 with Commission Decision and charge TRG the wheeling rate for water delivered
25 from Production Well 1 as provided by the Well Agreement. Either way,
26 ICRWUA loses.

27 **Q. PLEASE CONTINUE.**

28

1 A. Under Section 2(b) of the WSA, the Talking Rock Parties would have paid the
2 actual cost of purchasing and installing a new pump motor at Production Well 2,
3 up to a maximum cost of \$50,000, and would have warranted the pump motor in
4 Production Well 2 for a period of one year from the date of installation.

5
6 In addition, under Section 2(c)(iii), the Talking Rock Parties agreed to warrantee
7 the maximum allowable air production in water withdrawn from Production Well
8 1 and Production Well 2 (not to exceed 3.5) at the Talking Rock Parties' sole cost
9 and expense.

10 **Q. BUT MR. BUSCH, CAN'T THE COMMISSION ORDER THE TALKING**
11 **ROCK PARTIES TO MAKE THESE REPAIRS?**

12 A. I don't know. As with the transfer of Production Well 1, ICRWUA is concerned
13 that the Commission does not have the authority to order or compel a private
14 company to make these types of repairs.

15 **Q. PLEASE CONTINUE.**

16 A. Under Section 6(a) of the WSA, the Talking Rock Parties also agreed to pay a
17 new charge identified as the "System Reservation Charge" for a period of 10
18 years. This charge would have provided ICRWUA with \$340,000 of guaranteed
19 payments during the first 10 years of the WSA over and above the Commodity
20 Charge (described below) whether or not they receive any water from ICRWUA.

21 **Q. BUT MR. BUSCH, DIDN'T STAFF RECOMMEND INCREASING THE**
22 **COMMODITY CHARGE FROM \$1.00 TO \$1.40 TO COVER REVENUE**
23 **THAT WOULD BE RECOVERED UNDER THE SYSTEM**
24 **RESERVATION CHARGE?**

25 A. Yes, but as I mentioned earlier, keeping the golf course on the system directly
26 benefits our ratepayers. ICRWUA recognizes that the golf course has another
27 option in that they can self-serve from additional water sources that they have
28 procured. The System Reservation Charge was developed to insure that the

1 Water Company would be guaranteed a source of revenue for 10 years, even if
2 the golf course decided to leave the system. Under Staff's recommendation,
3 ICRWUA will only be compensated for that amount of water actually delivered,
4 if any. Once the golf course leaves ICRWUA's system, the water company will
5 not recover any additional funds from them. Under the WSA, a revenue stream is
6 guaranteed for 10 years. And again, the purpose of the System Reservation
7 Charge is to help reverse ICRWUA's deplorable, current financial condition and
8 stabilize its revenues.

9 **Q. MR. BUSCH, DO YOU HAVE ANY OTHER CONCERNS WITH STAFF'S**
10 **RECOMMENDATION?**

11 A. Yes. In order to help defray the cost of negotiating the WSA, the Talking Rock
12 Parties agreed to pay \$30,000 to ICRWUA at the time of execution of the WSA
13 with an additional \$50,000 following the Commission's approval of the WSA. If
14 the Commission does not approve the WSA, the Talking Rock Parties have no
15 obligation to pay the additional \$50,000 in financial assistance to ICRWUA.

16 **III. JUSTIFICATION FOR AGREEING TO ALLOW TALKING ROCK**
17 **PARTIES TO ADD ADDITIONAL WELLS TO THE ICRWUA SYSTEM.**

18 **Q. MR. BUSCH, THERE HAS BEEN CONCERN RAISED FOR THE**
19 **PROVISION IN THE WSA WHICH ALLOWS THE TALKING ROCK**
20 **PARTIES TO INTERCONNECT ADDITIONAL WELLS TO ICRWUA'S**
21 **SYSTEM. CAN YOU ADRESS THIS?**

22 A. Yes. Under Section 8(a) entitled "Additional Wells and Additional Transmission
23 Facilities," upon receipt of the prior written consent of ICRWUA, the Talking
24 Rock Parties may drill, equip and interconnect one or more additional wells to the
25 Talking Rock water system via the existing transmission system, if reasonable
26 and prudent to do so, or via additional transmission facilities constructed by or for
27 the Talking Rock Parties in order to supply water for landscape irrigation, lake
28 fill, construction purposes, and other non-potable purposes in Talking Rock.

1 Q. WHAT IS THE JUSTIFICATION FOR ALLOWING ADDITIONAL
2 WELLS TO BE INTERCONNECTED?

3 A. The assumption was in the event that ICRWUA was unable to serve the golf
4 course with existing well capacity; the Talking Rock Parties would have the
5 option to find additional sources of water to be delivered to their property. To
6 protect ICRWUA customers the WSA required that if the Talking Rock Parties
7 utilize the Talking Rock delivery system, which precludes separation of potable
8 and non-potable water supplies for delivery to Talking Rock, then each additional
9 well must meet new source approval requirements applicable to ICRWUA's use
10 of that additional well, as codified in Federal, State, and County law.

11
12 Because ICRWUA felt that it would be more beneficial to retain the golf course
13 as a customer, various payment options were discussed including having the golf
14 course maintain the wells and pay a wheeling fee and costs similar to the Well
15 Agreement or have the golf course pay the commodity rate for any water
16 delivered from these additional wells. ICRWUA ultimately decided that it would
17 be more beneficial to keep the golf course and recover the commodity charge.

18 Q. WHAT ABOUT CONCERNS RAISED BY THE INTERVENOR THAT
19 ICRWUA IS ASSUMING THE REPONSIBILITY TO OPERATE, TEST,
20 INSPECT, REPAIR, AND MAINTAIN THE WELLS?

21 A. Under the WSA, the commodity rate was designed to cover costs plus margin
22 associated with water delivered to the golf course regardless of which well the
23 water came from. In addition, the commodity charge assessed to these additional
24 wells is subject to the same adjustments in the event that: (1) new Federal, State
25 or County water treatment standards or requirements are adopted which increase
26 ICRWUA's capital and/or operational costs of treating water delivered through
27 the water system; or (2) groundwater withdrawn by ICRWUA from these wells
28 becomes contaminated with any pollutant regulated by Federal, State or County

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entities which increases ICRWUA's capital and/or operational costs of treating water delivered through the water. In addition to these adjustments, there is one other under Section 6(b)(iv) of the WSA, in which on or after the seventh anniversary of the effective date of the WSA, the parties may request a cost of service study to evaluate whether the commodity charge continues to cover ICRWUA's cost of service for supplying water to the Talking Rock Parties.

IV. CONCLUSION.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes. However, my silence on anything in Staff's testimony or Mr. Taylor's testimony should not be taken as consent by me or ICRWUA to any position advocated by Staff or Mr. Taylor.

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