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AZ CORP COMMISSION  
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November 28, 2008

Arizona Corporation Commission  
DOCKETED

NOV 28 2008

BY HAND DELIVERY

Kristin K. Mayes, Commissioner  
Arizona Corporation Commission  
1200 W. Washington St.  
Phoenix, Arizona 85007

DOCKETED BY 

Re: Northern Sunrise Water Company's and Southern Sunrise Water Company Compliance with Decision No. 68826; Docket Nos: W-020453A-06-0247, W-20454A-06-0248, W-20453A-06-0251, W-20454A-06-0251, W-01646A-06-0251, W-01868A-06-0251, W-02235A-06-0251, W-02316A-06-0251, W-02230A-06-0251, W-01629A-06-0251, W-02240A-06-0251; Response to Letter of November 7, 2008

Dear Commissioner Mayes:

Please accept this correspondence on behalf of Northern Sunrise Water Company and Southern Sunrise Water Company in response to your letter to the parties dated November 7, 2008. Our clients appreciate this opportunity to address the issues you have raised with respect to water supply. The Companies have heard the same concerns at the public comment sessions, and have no intention of infringing on any landowner's lawful rights to water. All of us share your desire to protect the state's limited water resources.

Briefly, by way of background, in Decision No. 68826 (June 29, 2006), the Commission established the Companies' respective certificates of convenience and necessity ("CC&Ns"). The seven separate water systems owned and operated by Johnny McLain were bankrupt, non-compliant and no longer provided adequate or reliable water service. At the time of acquisition, the Companies' shareholder, Algonquin Water Resources, Inc., agreed to make substantial investment in system repairs and improvements in conjunction with the purchase of the water system assets from the bankruptcy trustee.

Mr. McLain also hooked up numerous customers outside the CC&Ns without required approvals. There were no records of most of these customers at the time of our clients' acquisition, leaving the Companies, Staff and the Commission uncertain of true service area boundaries. As a result, our clients asked for an administrative-type proceeding to report back and include the newly-discovered "customers" within the CC&Ns. We believe this proceeding is that process. Our clients initially determined that 71 customers were connected to the 7 different

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systems but located outside the CC&Ns. Staff's analysis shows 189 customers included in this "clean-up" extension. The requested expansion would include these customers, as well as areas that appear logical and reasonable based on their location and the location of existing system facilities.

To date, there have been two public comment sessions and multiple forms of customer notice have been sent out. Nevertheless, there have been numerous misconceptions about the filing. This compliance filing does not involve service extensions to new, additional customers, nor is a developer requesting service. The Companies do not intend to build new infrastructure – including new water source facilities – as a result of the extension. The Companies merely sought, and continue to seek, to comply with Decision No. 68826 fixing another problem created by the previous owner, Mr. McLain, in the manner least costly to the Companies' ratepayers and its shareholder.

Specifically, you have requested that the Companies: (1) provide a well impact analysis addressing the predicted or potential impact of the proposed service expansion; (2) identify remedial measures or other provisions that could be proposed or considered to address this issue; (3) address the impact of commercial well activities on the Babocomari River; and (4) address the need for documentation from the Arizona Department of Water Resources identifying adequate water supplies for a certificated area.<sup>1</sup> Unfortunately, the additional analysis you have requested in this proceeding at this time would take several months to conclude and cost hundreds of thousands of dollars.

According to Errol L. Montgomery and Associates, Inc., several test wells would need to be drilled in order to obtain adequate and correct data. The estimated cost to prepare the required hydrological well impact studies concerning the effects of commercial groundwater use on private wells, or the San Pedro River riparian system, is approximately \$200,000 to \$500,000 per well, as well as additional contractor and analytical costs. Please see the attached letter dated November 26, 2008. This letter explains the complex nature of the requested analysis. Larger issues concerning the effect of commercial well activity along the Babocomari River on individual private wells, or the San Pedro River riparian system – and any potential remedial measures to alleviate potential harms – involves complex matters of water law that is more appropriate for a broader forum where all interested stakeholders can participate. The Companies' customers can ill-afford to pay a return on such a substantial investment on top of the significant cost increases due to Mr. McLain's plunder and neglect of these water systems.

We can assure the Commission that the Companies are not aware of any law, rule or regulation in Arizona that would be violated as a result of any planned groundwater pumping

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<sup>1</sup> The Companies will address Staff's recommendation regarding future CC&N expansions in its Response to the June 27, 2008 Staff Report on or before December 19, 2008.

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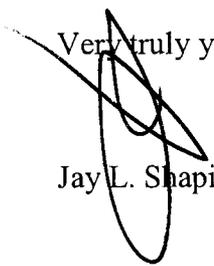
Commissioner Kristin Mayes  
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from its existing or planned wells. We also wish to note that the proposed Babocomari first-phase project, which is currently designed to include a 370 gallon-per-minute well, is located within Northern Sunrise Water Company's existing CC&N. We do not believe that this well should be an issue in this proceeding because approval of the Companies' CC&N extension requests would not result in the drilling of wells or the construction of new facilities to serve additional customers.

If these analyses are going to be needed for the Commission to grant the necessary relief, then given the substantial cost and issues surrounding the "used and usefulness" of the results of the requested studies, we respectfully suggest that it would be more appropriate if the Commission ordered this investment as prudent and necessary for service to the ratepayers before they are incurred. As you are aware, the Companies were also ordered to file a rate case in 2009, so a mechanism for recovery can be approved. Again, however, our clients are concerned that the cost of the analyses you would like conducted will increase the rate beyond those increases that will likely need to be approved.

Again, thank you for the opportunity to provide these comments and clarify the Companies' position on the purpose of these proceedings. We would be happy to participate in a procedural conference with you, the ALJ and other parties to further discuss your request.

Very truly yours,



Jay L. Shapiro

### Enclosure

cc: Chairman Mike Gleason  
Commissioner William A. Mundell  
Commissioner Jeff Hatch-Miller  
Commissioner Gary Pierce  
Jane Rodda  
Ernest Johnson  
Janice Alward  
Brian McNeil  
Greg Sorensen  
Docket Control  
All Parties of Record

**ERROL L. MONTGOMERY & ASSOCIATES, INC.**



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November 26, 2008

Bradley Jordan  
Sr. Project Manager  
ALGONQUIN WATER SERVICES, L.L.C.  
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**SUBJECT: REVIEW OF ARIZONA CORPORATION COMMISSION REQUEST  
FOR IMPACT ANALYSIS FOR NORTHERN AND SOUTHERN  
SUNRISE WATER COMPANIES**

Dear Mr. Jordan:

We have reviewed the letter from Commissioner Kristin K. Mayes dated November 7, 2008, regarding the request for expansion of the CC&N for Northern and Southern Sunrise Water Companies. In order to accurately satisfy Commissioner Mayes' requested impact analysis, a water adequacy investigation and subsequent report to Arizona Department of Water Resources will need to be completed.

It is not realistic to conduct an impact analysis at this time because the data needed to prepare an accurate analysis are not available. To prepare an impact analysis, we need to know: the current, committed, and projected water demand; the thickness of the aquifer; and aquifer parameters including transmissivity and hydraulic conductivity. Because there are no deep wells (more than 400 feet deep) in the area, the USGS has modeled this area assuming the bottom of the basin-fill deposits aquifer is about 400 feet below land surface. We have previously demonstrated via drilling a test hole that in the area of Northern Sunrise Water Company the basin-fill deposits aquifer is more than 700 feet thick. If we were to use the USGS data for projecting impact, the results would be much larger than we would expect real impact to be.

ADWR presently requires a numerical model be used to project drawdown impact when reviewing applications for water adequacy. In order to comply with the Commissioner's request for analysis, we believe that you need to complete water adequacy investigation and applications that would include the requested impact analysis. Water adequacy investigations for both Northern and Southern Sunrise Water Companies would include:



- Obtain and analyze available construction, pumping, water level, and water quality data for wells in the study area
- Prepare proposal to ADWR
- Design, install, and test at least one production water well in the study area
- Prepare hydrology report in accordance with ADWR regulations for demonstrating water adequacy

Total time to complete the adequacy investigation and submit a water adequacy application to ADWR usually takes 6 to 9 months.

Until the water demand is quantified, it is not possible to give good estimates for cost of well construction and testing. However, depending on the water demand requirements, we would estimate contractor costs to be between \$200,000 and \$500,000 per well, depending on the diameter required to supply the water needed. Cost for professional hydrogeologic services for water adequacy investigations, including data compilation and analysis, designing new production water well, overseeing well construction and testing, and preparation of the hydrology report for ADWR (including impact analysis) are estimated to be about \$60,000 for each water company. A New Source water sample is also required for each new production well. Cost for laboratory chemical analyses for new source samples is about \$3,000 per well.

If it is determined that you wish to proceed with water adequacy investigations for either or both water companies, we will be happy to prepare a formal cost proposal.

If you have questions or require further discussion, please contact us.

Very truly yours,

ERROL L. MONTGOMERY & ASSOCIATES, INC.

Ronald H. DeWitt