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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

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

2008 DEC -5 P 1:12

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

DEC -5 2008

DOCKETED BY

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

DOCKET NO. W-04074A-08-0094

PROCEDURAL ORDER

**BY THE COMMISSION:**

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

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

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

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

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

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

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

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

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

1 On June 17, 2008, Del Rio docketed its Certification of Mailing and Publication, stating that  
2 notice of the application and hearing date had been mailed to property owners in the requested area  
3 and published in the *Courier*, a daily newspaper of general circulation in the City of Prescott, on June  
4 2, 2008.

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

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

8 On July 28, 2008, a full public hearing was convened before a duly authorized Administrative  
9 Law Judge ("ALJ") of the Commission at its offices in Phoenix, Arizona. The Applicant and Staff  
10 appeared through counsel. At the conclusion of the hearing, Staff was directed to file a late filed  
11 exhibit relating to its testimony.

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

15 On August 8, 2008, by Procedural Order, this matter was set to reconvene on November 14,  
16 2008, filing deadlines were established, and the time clock was suspended.

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

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

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

1 Staff to file a Supplemental Staff Report and for Del Rio to file its responses to the Supplemental  
2 Staff Report. The request stated that Staff does not object to Del Rio's request to extend the time  
3 deadlines.

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

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

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

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

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

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

26 On October 22, 2008, Del Rio filed a Request for Extension of Time, requesting that the  
27 application in this matter be put on hold until June 30, 2009. The request stated that Del Rio's sole  
28 member, Bond Ranch, is involved in a refinancing and the instability of the financial markets may

1 influence build out of the development in the proposed extension area. The request further stated that  
2 Staff does not oppose Del Rio's request for an extension of time until June 30, 2009.

3 On October 29, 2008, by Procedural Order, the hearing scheduled to reconvene on December  
4 22, 2008 was vacated. The Procedural Order also set a procedural conference for November 10,  
5 2008, to discuss the pending pleadings, procedural posture of this matter and the related application  
6 filed in Docket No. W-03443A-08-0540.

7 On November 10, 2008, the procedural conference was convened as scheduled before a duly  
8 authorized ALJ of the Commission at its offices in Phoenix, Arizona. Del Rio and Staff were present  
9 through counsel. Mr. Joe Cordovana appeared on behalf of Appaloosa. During the procedural  
10 conference, the ALJ ruled on several issues pending in this matter. Those rulings are memorialized  
11 in the following Ordering Paragraphs.

12 IT IS THEREFORE ORDERED that Appaloosa's Motion to Intervene in this proceeding is  
13 hereby granted.

14 IT IS FURTHER ORDERED that Del Rio's Request for Extension of Time, until June 30,  
15 2009, is hereby granted.

16 IT IS FURTHER ORDERED that Del Rio shall file in this docket, on or before June 30,  
17 2009, a document discussing the status of the Bond Ranch refinancing and stating Del Rio's intent  
18 regarding its application in this matter.

19 IT IS FURTHER ORDERED that Del Rio shall be on notice that based on the above-ordered  
20 filing, this docket may be administratively closed.

21 IT IS FURTHER ORDERED that the time clock in this matter is suspended indefinitely.

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

24 ...  
25 ...  
26 ...  
27 ...  
28 ...

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

3 Dated this 5<sup>th</sup> day of December, 2008.

4  
5   
6 YVETTE B. KINSEY  
7 ADMINISTRATIVE LAW JUDGE

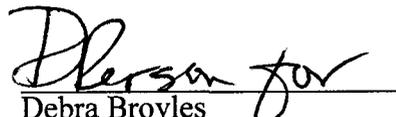
8 Copies of the foregoing mailed/delivered  
9 this 5<sup>th</sup> day of December, 2008 to:

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22 By:   
23 Debra Broyles  
24 Secretary to Yvette B. Kinsey