

**EXCEPTION**



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**ORIGINAL**

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ARIZONA CORPORATION COMMISSION  
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Arizona Corporation Commission

**DOCKETED**

MAR 26 2009

9 Attorneys for Northern Sunrise Water Company  
10 and Southern Sunrise Water Company

DOCKETED BY

**BEFORE THE ARIZONA CORPORATION COMMISSION**

11 IN THE MATTER OF THE APPLICATION OF  
12 NORTHERN SUNRISE WATER COMPANY FOR A  
13 CERTIFICATE OF CONVENIENCE AND  
14 NECESSITY TO PROVIDE WATER UTILITY  
15 SERVICE IN COCHISE COUNTY, ARIZONA.

DOCKET NO. W-20453A-06-0247

16 IN THE MATTER OF THE APPLICATION OF  
17 SOUTHERN SUNRISE WATER COMPANY FOR A  
18 CERTIFICATE OF CONVENIENCE AND  
19 NECESSITY TO PROVIDE WATER UTILITY  
20 SERVICE IN COCHISE COUNTY, ARIZONA.

DOCKET NO. W-20454A-06-0248

21 IN THE MATTER OF THE JOINT APPLICATION  
22 OF NORTHERN SUNRISE WATER COMPANY  
23 AND SOUTHERN SUNRISE WATER COMPANY  
24 FOR THE APPROVAL OF SALE AND TRANSFER  
25 OF WATER UTILITY ASSETS, AND  
26 CANCELLATION OF CERTIFICATES OF  
CONVENIENCE AND NECESSITY, FOR  
MIRACLE VALLEY WATER COMPANY,  
COCHISE WATER COMPANY, HORSESHOE  
RANCH WATER COMPANY, CRYSTAL WATER  
COMPANY, MUSTANG WATER COMPANY,  
CORONADO ESTATES WATER COMPANY, AND  
SIERRA SUNSET WATER COMPANY, LOCATED  
IN COCHISE COUNTY, ARIZONA.

DOCKET NOS. 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

**NORTHERN SUNRISE WATER COMPANY AND  
SOUTHERN SUNRISE WATER COMPANY'S JOINT EXCEPTIONS TO  
RECOMMENDED OPINION AND ORDER**

1 DISCUSSION

2 Pursuant to A.A.C. R14-3-110(B), Northern Sunrise Water Company (“NSWC”)  
3 and Southern Sunrise Water Company (“SSWC”) (together, the “Applicants”) hereby  
4 submit these Joint Exceptions to the Recommended Opinion and Order (“ROO”) filed in  
5 the above-captioned docket on March 17, 2009. The ROO contains recommended  
6 solutions that the Applicants fully support to address issues concerning the extension of  
7 Applicants’ respective certificates of convenience and necessity, and the effect such  
8 extensions might have to area residents and the surrounding environment. Therefore, the  
9 purpose of these Exceptions is to raise two specific issues that Applicants believe require  
10 clarification.

11 Babocomari Development

12 In her ROO, Administrative Law Judge (“ALJ”) Rodda recommends that in order  
13 to resolve issues concerning the availability of water for the Babocomari development,  
14 NSWC should be required to file a copy of the developer’s Approval to Construct  
15 (“ATC”), and a copy of a Physical Availability Determination (“PAD”) or Letter of  
16 Adequate Water Supply (“LAWS”), for the extension area granted to NSWC in Decision  
17 No. 68826 (June 29, 2006) to remain valid, within three (3) years of a Decision in this  
18 matter.

19 The Babocomari development group is comprised of several landowners, each with  
20 separate timetables for the development of their respective properties. The ROO is silent  
21 as to whether the filing of ATCs and a PADs or a LAWS by the deadline for one or more,  
22 but not all, of the associated developments, would qualify as complying with the order and  
23 thus make the entire extension area within NSWC’s existing certificate of convenience  
24 and necessity (“CC&N”) valid, or whether only those properties for which NSWC has  
25 filed ATCs and a PAD or LAWS by the deadline period, would remain in the CC&N,  
26 while the remaining undeveloped properties are deleted. Applicants suggest that, based

1 on Decision No. 62886, it would be more appropriate to keep the entire Babocomari  
2 extension area once development begins.

3 **Waiver of Applicable Off-Site Hook-Up Fee**

4 ALJ Rodda also recommends that in the event a landowner within Applicants'  
5 respective CC&N area, with a well in use prior to the date of the Decision, seeks service  
6 because the well no longer has adequate production, any applicable off-site hook-up fee  
7 shall be waived. Applicants support this recommendation as well, but are unclear whether  
8 they would be able to charge an applicant for service for the cost of a main extension in  
9 the event the construction or extension of facilities are needed to extend water service to a  
10 landowner seeking service under these circumstances. Because the ROO does not provide  
11 a waiver from the Commission's rules and regulations governing main extensions,  
12 Applicants believe that no modification is necessary if the intent is to allow for the proper  
13 application of A.A.C. R14-2-406 in situations where a main extension is necessary.

14 **CONCLUSION**

15 Applicants support the ROO, which is well-written and properly resolves the issues  
16 raised in this proceeding. Except for the two requests for clarification addressed herein,  
17 Applicants respectfully request that the Commission adopt the ROO as currently drafted.

18 RESPECTFULLY SUBMITTED this 26th day of March, 2009.

19 FENNEMORE CRAIG, P.C.

20  
21 By: 

22 Jay L. Shapiro  
23 Patrick J. Black  
24 Attorneys for Northern Sunrise Water Company  
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1 **ORIGINAL and 17 copies filed**  
this 26th day of March, 2009 with:

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