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ADMITTED TO PRACTICE IN:
ARIZONA, COLORADO, MONTANA,
NEVADA, TEXAS, WYOMING,
DISTRICT OF COLUMBIA

OF COUNSEL TO
MUNGER CHADWICK, P.L.C.

May 7, 2009

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Re: Red Rock Utilities, L.L.C.
Docket No. WS-04245A-07-0363

To Whom It May Concern:

Enclosed for filing in the above-referenced proceeding are the original and thirteen (13) copies of a Motion For Extension Of Compliance Filing Date Deadline ("Motion") on behalf of Red Rock Utilities, L.L.C.

Also enclosed are two (2) additional copies of the Motion. I would appreciate it if you would "filed" stamp the same and return them to me in the enclosed stamped and addressed envelope.

Thank you for your assistance. Please advise me if you have any questions.

Sincerely,

Angela R. Trujillo
Secretary
Lawrence V. Robertson, Jr.

Arizona Corporation Commission
DOCKETED

MAY -8 2009

DOCKETED BY
NR

ARIZONA CORPORATION
COMMISSION
DOCKET CONTROL

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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

2009 MAY -8 A 9:45

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

ARIZ. CORP. COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF) DOCKET NO. WS-04245A-07-0363
RED ROCK UTILITIES, L.L.C. FOR A)
CERTIFICATE OF CONVENIENCE AND) MOTION FOR EXTENSION OF
NECESSITY TO PROVIDE WATER SERVICE) COMPLIANCE FILING DATE
IN PIMA COUNTY, ARIZONA.) DEADLINE

I.

MOTION FOR EXTENSION OF COMPLIANCE FILING DATE DEADLINE

Pursuant to A.A.C. Rule R14-3-106(K), Red Rock Utilities, L.L.C. ("Red Rock") hereby requests that the Commission enter an appropriate form of order or decision extending from December 4, 2009 to December 4, 2011 the deadline by which Red Rock is required to file an Approval To Construct ("ATC") from the Arizona Department of Environmental Quality ("ADEQ") for the water system facilities needed to serve Phase I of the Verano master-planned community in Pima County, Arizona. The circumstances surrounding the instant Motion are as follows.

II.

CIRCUMSTANCES SURROUNDING MOTION

On December 4, 2007 the Commission issued Decision No. 70030 in the above-captioned and above-docketed proceeding. Therein the Commission granted Red Rock a Certificate of Convenience and Necessity ("CC&N") to provide water service to and within the Verano master-planned community in Pima County, Arizona. As noted in Decision No. 70030, the Verano community is

“. . . a master-planned residential development of over 8,500 residential units and includes parks, schools and mixed use areas, all within Pima County. The development plan includes 3,200

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1 acres south of Tucson, Arizona and envisions construction in eight
2 phases over 19-20 years. [Decision No. 70030 at page 2, lines 23-
3 26]

4 In that regard, in Decision No. 70030, the Commission adopted a Commission Staff
5 recommendation to the effect

6 “That the Commission require Red Rock to file within 24 months
7 of the effective date of this Decision [i.e. December 4, 2007] a
8 copy of the ‘Approval to Construct’ for Phase I [of Verano] issued
9 by the ADEQ.” [see Decision No. 70030 at Finding of Fact No.
10 23(c) at page 6, lines 22-23; at Conclusion of Law No. 6 at page 7,
11 line 27; and, First Ordering Paragraph at page 8, lines 2-5]

12 In addition, the Commission provided that the failure of Red Rock to comply with the aforesaid
13 filing requirement within the specified time frame would render the CC&N being granted to Red
14 Rock

15 “. . . null and void after due process unless the Commission grants
16 an extension of time for compliance with those requirements.”
17 [see Decision No. 70030 at Fourth Ordering Paragraph at page 9,
18 lines 1-4; also, at Finding of Fact No. 25 at page 7, lines 10-15, and
19 at Conclusion of Law No. 6 at page 7, line 27] [emphasis added]

20 As a consequence, Red Rock is currently subject to a compliance condition that it file an ATC
21 from ADEQ for the water system facilities for Phase I of the Verano master-planned community
22 by December 4, 2009.

23 As the Commission is aware, the State has recently experienced a dramatic decrease in
24 the rate of new home construction and the development of residential subdivisions and master-
25 planned communities. Not surprisingly, that decrease has impacted the previously anticipated
26 development timeline for the Verano master-planned community in Pima County. In that regard,
27 attached hereto as Appendix “A,” and incorporated herein by this reference is a letter from South
28 Wilmot Land Investors, L.L.C. (“SWLI”), the master developer of the Verano community.
29 Therein, SWLI generally describes the activities undertaken to date to move the Verano project
30 forward, and it discusses how recent and current national and state economic conditions have
31 occasioned it to revise the previously contemplated development timeline for the Verano
32 community. In addition, SWLI confirms the need for a centralized provider of potable water

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1 service for the Verano community, and reiterates SWLI's desire that that water provider be Red
2 Rock.

3 It is against the foregoing circumstances that Red Rock submits the instant Motion. All
4 that has changed since the Commission's issuance of Decision No. 70030 is SWLI's timeline for
5 development of the Verano community, commencing with Phase I; and, the alteration of that
6 timeline has been occasioned by economic circumstances beyond the control of both SWLI and
7 Red Rock.

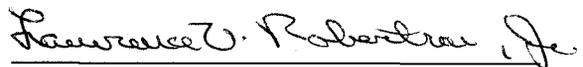
8 **III.**

9 **REQUEST FOR RELIEF**

10 Accordingly, by means of this Motion, Red Rock is requesting that the Commission issue
11 an appropriate order or decision extending the deadline date for filing an ATC from ADEQ for
12 the water system facilities needed to serve Phase I of the Verano master-planned community
13 from December 4, 2009 to December 4, 2011, which reflects the alteration in development
14 timeline discussed in SWLI's May 6, 2009 letter to Red Rock.

15
16 Dated this 7th day of May 2009.

17
18 Respectfully submitted,

19 

20 Lawrence V. Robertson, Jr.
Attorney for Red Rock Utilities, L.L.C.

21 The original and thirteen (13) copies of the
22 foregoing Motion are being mailed this 7th
23 day of May 2009 for filing with:

24 Docket Control
25 Arizona Corporation Commission
26 1200 West Washington
27 Phoenix, Arizona 85007

28 A copy of the foregoing Motion will be
emailed/mailed this same date to:

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ATTORNEY AT LAW
P.O. Box 1448
Tubac, Arizona 85646
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- 1 Ernest Johnson, Director
Utilities Division
- 2 Arizona Corporation Commission
1200 West Washington Street
- 3 Phoenix, Arizona 85007

- 4 Janice Alward, Chief Counsel
Legal Division
- 5 Arizona Corporation Commission
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- 6 Phoenix, Arizona 85007

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- 8 Lyn A. Farmer
Chief Administrative Law Judge
- 9 Hearing Division
Arizona Corporation Commission
1200 West Washington Street
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- 12 Kim Battista, Director
Utilities Division Compliance Section
Arizona Corporation Commission
1200 West Washington Street
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- 14

- 15 Mark Weinberg, Manager
Red Rock Utilities, L.L.C.
2200 East River Road, Suite 115
- 16 Tucson, Arizona 85718

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Appendix “A”

Red Rock Utilities, L.L.C.
Docket No. WS-04245A-07-0363

SOUTH WILMOT LAND INVESTORS, LLC

2200 E RIVER ROAD, SUITE 115
TUCSON, AZ 85718
(520) 577-0200 / (520) 299-5602

May 6, 2009

Mark Weinberg, General Manager
Red Rock Utilities, L.L.C.
2200 East River Road
Tucson, AZ 85718

RE: Verano Master-Planned Community ("Verano")

Dear Mr. Weinberg:

This letter (i) affirms South Wilmot Land Investors, LLC's ("SWLI") continuing desire for Red Rock Utilities L.L.C. ("RRU") to serve as the centralized provider of potable water service to Verano, and (ii) sets forth SWLI's request that RRU request an extension of the Arizona Corporation Commission's current compliance date deadline of December 2009 for filing an ADEQ "Approval to Construct" ("ATC") for the initial development phase of the Verano project.

As you are aware, SWLI has been diligently working through precedent planning and master studies over the past two years to initiate development of the project

Said activities have encompassed the following:

- Completion of the Master Transportation Planning and Financing,
- Completion of the Master Watershed Analysis for eventual adoption by the County Flood Control District
- Completion of the Overall Master Drainage Study for the entire 3200 acres
- Completion of the comprehensive Master Wastewater Plan inclusive of the immediate and beneficial use of effluent.
- Completion of the detailed site specific aerial photography and 1 foot topographic compilation.
- Completion of a Master Water Infrastructure System Report
- Preparation of the Water Reclamation Facility *Design Concept Report* for review and approval by the Pima County Regional Wastewater Reclamation Department.

However, the current real estate market conditions do not enable SWLI to proceed with the originally contemplated project development schedule. Accordingly, we are hereby requesting that RRU request a two (2) year extension of the aforesaid required compliance filing deadline date.

It is our goal that once the appropriate approvals are obtained and the market conditions have sufficiently improved, SWLI will start construction of the first phases of a community that at build out will yield approximately 8000 homes.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Iannarino". The signature is fluid and cursive, with a large initial "R" and "I".

Robert J Iannarino, Vice President, Diamond Ventures
On behalf of South Wilmot Land Investors, LLC

RJI/pjb