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BEFORE THE ARIZONA CORPORATION C



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COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
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BOB STUMP

2009 JUL 13 P 1:54

AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF
WICKENBURG RANCH WATER, LLC
(FORMERLY CDC WICKENBURG WATER,
LLC) FOR APPROVAL OF A RATE
ADJUSTMENT.

DOCKET NO. W-03994A-07-0657

STAFF'S NOTICE OF FILING
LATE FILED EXHIBITS

In the course of proceedings in the above captioned matter, Staff was directed to provide late filed exhibits for two items. The first was a copy of the most recent drought declaration for Arizona. Staff hereby provides notice of filing the most recent continuation of drought declaration by Governor Napolitano, Executive Order 2007-10, attached as Attachment 1. In addition, Staff has included the original drought declaration executed by Governor Hull in 1999.

The second item was a clarification as to who Staff witness Mr. Steve Olea spoke to at Arizona Department of Water Resources ("ADWR") regarding ADWR's position that implementation of ADWR's rainwater catchment Best Management Practice ("BMP") would not conflict with Arizona surface water appropriation laws. In response, Mr. Olea spoke with two persons regarding the issue. Several weeks prior to the June 29, 2009 hearing, Mr. Olea spoke with Ms. Sandra L. House, a Water Resources Specialist. On June 29, 2009, Mr. Olea spoke with Janet L. Ronald, deputy counsel for ADWR who indicated that she is the ADWR attorney chiefly responsible for the Gila River Adjudication. Per Mr. Olea, Ms. House stated that rainwater catchments, unless implemented inside a wash, stream, creek, river or some other waterway, would not conflict with Arizona regulations regarding surface water diversion. Likewise, Mr. Olea was told by Ms. Ronald that implementation of ADWR's rainwater catchment BMP would not produce legal issues with the Gila River Adjudication. Mr. Olea's affidavit is provided as Attachment 2.

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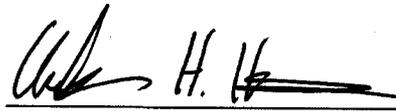
Arizona Corporation Commission
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RESPECTFULLY submitted this 13th day of July, 2009.


Charles H. Hains, Attorney
Kevin O. Torrey, Attorney
Legal Division
1200 West Washington Street
Phoenix, Arizona 85007
(602) 542-3402

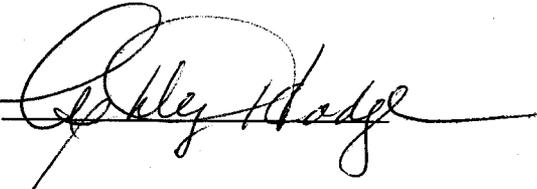
Original and thirteen (13) copies
of the foregoing were filed this
13th day of July, 2009 with:

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

Copy of the foregoing mailed
this 13th day of July, 2009 to:

Steve Wene, Esq.
MOYES STOREY LAW OFFICES
1850 North Central Avenue, Suite 1100
Phoenix, Arizona 85004-4541
Attorney for Wickenburg Ranch Water, LLC

David Green
WICKENBURG RANCH WATER, LLC
c/o M3 Builders
4222 East Camelback, H100
Phoenix, Arizona 86018-2721



ATTACHMENT 1

99004

June 23 1999

IN ACCORDANCE WITH ESTABLISHED EMERGENCY PROCEDURES

WHEREAS, precipitation throughout the State of Arizona during the past several months has been significantly below normal; and

WHEREAS, the lack of precipitation has significantly reduced stream flows in the State's interior basins and reduced surface and groundwater supplies upon which citizens and commerce of the State are dependent; and

WHEREAS, the lack of precipitation has created drought conditions throughout rural areas of the State with no near-term relief; and

WHEREAS, the drought endangers the crops, property, and livestock of a considerable number of the citizens throughout the State of Arizona; and

NOW, THEREFORE I, Jane Dee Hull, Governor of the State of Arizona, by virtue of the authority vested in me by the Constitution and Laws of the State, do hereby determine that the lack of precipitation has and will continue to have an adverse impact on the citizens of the State and that a declaration of drought emergency is justified, and I hereby:

- a. **Activate the State of Arizona Emergency Response and Recovery Plan**
- b. **Invoke A.R.S. § 26-309 to provide mutual aid assistance to stricken areas of the State**

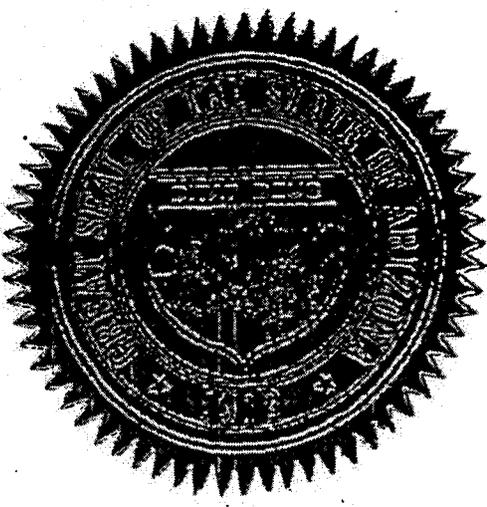
IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona

Jane Dee Hull
GOVERNOR

DONE at the Capitol in Phoenix on this twenty-third day of June in the Year One Thousand Nine Hundred and Ninety-nine and of the independence of the United States of America the Two Hundred and Twenty-third.

ATTEST:

Letroy Bayless
Secretary of State



**Executive Order 2007-10
Drought Declaration For The State of Arizona**

WHEREAS, Arizona is entering its second decade of a statewide drought due to long-term precipitation deficits and increased demand for water; and

WHEREAS, on June 23, 1999, Governor Hull declared a drought emergency (PCA 99006), which remains in effect today; and

WHEREAS, drought conditions continue to stress Arizona's resources and have had significant impacts on the citizens and commerce of the state, including increases in wild land fires, water supply shortages, vegetation and wildlife mortality, and economic losses in the ranching, agriculture and tourism sectors; and

WHEREAS, climate research has shown that although droughts lasting multiple decades are common in Arizona, they may be intensified by the effects of global climate change;

NOW, THEREFORE I, Governor Janet Napolitano, Governor of the State of Arizona, by virtue of the authority vested in me by the Constitution and laws of the state, do hereby determine that a continued declaration of drought is justified, and I hereby:

- A. Order continued implementation of the *Arizona Drought Preparedness Plan* and *State of Arizona Emergency Response and Recovery Plan*;
- B. Order the continued invocation of A.R.S. § 26-309 to provide mutual aid assistance to stricken areas of the state;
- C. Request assistance from the federal government for the appropriate federal disaster programs;
- D. Order state agencies to implement their water use reduction plans and assist in drought planning efforts across the state;
- E. Urge water facilities to develop and implement more aggressive drought and conservation plans and monitor water use; and
- F. Call upon citizens, businesses, schools, institutions of higher learning, local governments and federal agencies to increase water conservation efforts.

THIS ORDER supplements the directives in PCA 99006, which remains in effect. This Executive Order shall take effect immediately and shall remain in effect until such time as the Governor rescinds it.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.


GOVERNOR

DONE at the Capitol in Phoenix on this *31st* day of May in the Year Two Thousand and Seven and of the Independence of the United States of America the Two Hundred and Thirty-First.

ATTEST:


SECRETARY OF STATE



ATTACHMENT 2

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 KRISTIN K. MAYES - Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION OF
9 WICKENBURG RANCH WATER, LLC
10 (FORMERLY CDC WICKENBURG WATER,
11 LLC) FOR APPROVAL OF A RATE
12 ADJUSTMENT.

DOCKET NO. W-03994A-07-0657

AFFIDAVIT OF STEVE OLEA

13 Steve Olea, being first duly sworn upon his oath, states as follows:

14 1. I am employed by the Arizona Corporation Commission ("Commission") as an
15 Assistant Director of the Utilities Division. I have personal knowledge of the facts expressed herein.

16 2. In the course of this proceeding I have spoken with two persons at Arizona
17 Department of Water Resources ("ADWR") about the issue of rain catchments. The first person was
18 Sandra L. House, a Water Resources Specialist with ADWR. I spoke with her several weeks before
19 the June 29, 2009 hearing. I asked Ms. House if Rain Catchments were illegal in Arizona because
20 they would be diverting surface water and/or because they would interfere with the water rights of
21 persons downstream. Ms. House told me that no, it would only be a problem if the rain catchments
22 were placed in a wash, stream, creek, river, or some other waterway. Ms. House further explained
23 that rain catchments that are as contemplated by ADWR's Best Management Practices ("BMP")
24 would not be a problem.

25 3. The second person I spoke to about rain catchments was Janet L. Ronald, deputy
26 counsel for ADWR. I spoke with her on the afternoon of June 29, 2009. Ms. Ronald informed me
27 that she is an ADWR attorney familiar with the Gila River Adjudication. I asked her if rain
28 catchments as outlined in ADWR's BMPs would violate some aspect of the Gila River Adjudication.
She said no.

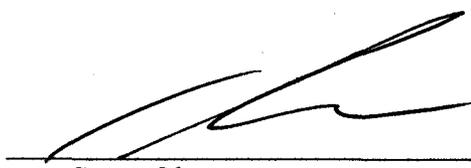
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4. Further, affiant sayeth not.



Steve Olea
Assistant Director, Utilities Division

SUBSCRIBED AND SWORN TO before me this 13th day of July, 2009, by
Steve Olea.



By Monica A. Martinez
Notary Public