

ORIGINAL

NEW APPLICATION



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Arizona Corporation Commission

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AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY

1 FENNEMORE CRAIG
Jay L. Shapiro (No. 014650)
2 Todd C. Wiley (No. 015358)
3 3003 N. Central Ave., Suite 2600
Phoenix, Arizona 85012
4 Attorneys for Strawberry Water Company, Inc.

5 **BEFORE THE ARIZONA CORPORATION COMMISSION**

6 W-03513A-09-0485

7 IN THE MATTER OF THE
8 CONDEMNATION OF
9 STRAWBERRY WATER COMPANY

DOCKET NO.: W-03513A-09-_____

NOTICE OF CONDEMNATION

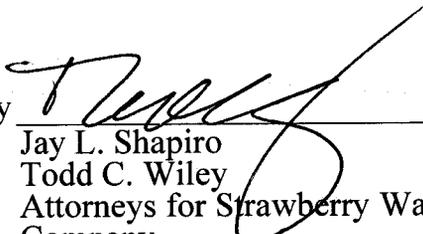
10 Strawberry Water Company ("SWCo") hereby gives notice to the Corporation
11 Commission that all of the assets of SWCo, including its Certificate of Convenience and
12 Necessity ("CC&N"), have been condemned and acquired by the Pine Strawberry Water
13 Improvement District ("the District"). The Final Order of Condemnation was entered by
14 the Yavapai Superior Court in Case No. P1300CV20090785 on October 6, 2009, and
15 SWCo ceased doing business as a public service corporation at that time. A copy of the
16 Final Order of Condemnation is attached as Exhibit A. As set forth in the attached
17 September 30, 2009 letter from the District, SWCo has transferred all meter deposits and
18 security deposits for customers to the District; and, the District has assumed all
19 responsibility for meter deposits, security deposits and line extension agreements relating
20 to customers of SWCo. A copy of the September 30, 2009 letter is attached as Exhibit B.

21 As a result of the condemnation, SWCo is not a public service corporation and it is
22 not conducting any utility related business. For that reason, all open dockets involving
23 SWCo before this Commission should be administratively closed, including the following
24 dockets: W-03513A-01-0727; W-03513A-98-0080; W-03513A-98-0081; W-03513A-98-
25 0082.

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RESPECTFULLY SUBMITTED this 9 day of October, 2009.

FENNEMORE CRAIG

By 
Jay L. Shapiro
Todd C. Wiley
Attorneys for Strawberry Water
Company

ORIGINAL and 17 copies of the foregoing
filed this 9th day of October, 2009 with:

Docket Control
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

COPY of the foregoing hand-delivered
this 9th day of October, 2009 to:

Chairman Kristin Mayes
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

Commissioner Gary Pierce
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

Commissioner Paul Newman
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

Commissioner Sandra Kennedy
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

1 Commissioner Bob Stump
2 Arizona Corporation Commission
3 1200 W. Washington St.
4 Phoenix, AZ 85007
5
6 Steven M. Olea
7 Director, Utilities Division
8 Arizona Corporation Commission
9 1200 W. Washington Street
10 Phoenix, AZ 85007
11
12 Mr. Kevin Torrey, Esq.
13 Legal Division
14 Arizona Corporation Commission
15 1200 West Washington Street
16 Phoenix, Arizona 85007
17
18 **COPY** of the foregoing mailed
19 this 9th day of October, 2009 to:
20 John G. Gliege
21 Gliege Law Offices, PLLC
22 P.O. Box 1388
23 Flagstaff, AZ 86002-1388
24
25 David W. Davis
26 Turley, Swan & Childers, P.C.
3101 N. Central Avenue, Suite 1300
Phoenix, AZ 85012

Robert M. Cassaro
P.O. Box 1522
Pine, AZ 85544

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Barbara Hall
P.O. Box 2198
Pine, AZ 85544

By: Mary L House
2243014

EXHIBIT

A

1 FENNEMORE CRAIG, P.C.
2 Bart S. Wilhoit (No. 020064)
3 Jay L. Shapiro (No. 014650)
4 3003 North Central Avenue
5 Suite 2600
6 Phoenix, AZ 85012-2913
7 Telephone: (602) 916-5000
8 Email: bwilhoit@fclaw.com

g FILED *A*
O'Clock *M*

OCT 07 2009

BY JEANNE H. SHEETZ Clerk
Deputy

9 Attorneys for Defendants
10 Pine Water Co., Inc.; Strawberry Water Co.,
11 Inc.; Brooke Utilities, Inc.

12 SUPERIOR COURT OF ARIZONA
13 YAVAPAI COUNTY

14 PINE STRAWBERRY WATER
15 IMPROVEMENT DISTRICT, a Tax
16 Levying Public Improvement District,
17 Plaintiff,

No. P1300CV20090785
FINAL ORDER OF CONDEMNATION

18 v.

(Assigned to the Honorable David L. Mackey)

19 PINE WATER CO., INC., an Arizona
20 Corporation; STRAWBERRY WATER
21 CO., INC., an Arizona Corporation;
22 BROOKE UTILITIES, INC., an
23 Arizona Corporation; COUNTY OF
24 GILA, a political subdivision of the
25 State of Arizona; JOHN DOES 1
26 through 10; and BLACK AND WHITE
PARTNERSHIPS 1 through 10,
Defendants.

It appearing to the Court that the Final Judgment in Condemnation in the above-entitled action has been fully paid and satisfied;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that sole use, possession and ownership of all of the following be vested in Plaintiff Pine Strawberry Water Improvement District: all real property and any fixtures appurtenant thereto of Pine

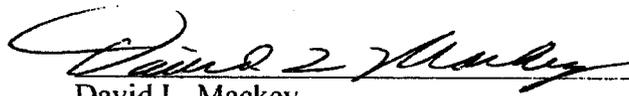
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Fennemore
Shapiro
Wilhoit

1 Water Company, Inc. ("PWCO"), Strawberry Water Company, Inc. ("SWCO"), and
2 Brooke Utilities, Inc. ("BUI") now located within the boundaries of the Certificates of
3 Convenience and Necessity ("CC&Ns") of PWCO and SWCO as shown on the map
4 attached hereto as Exhibit A, including all fee interests, leasehold interests, easements,
5 licenses, permits, franchises, U.S. Forest Service permits, Arizona Department of
6 Transportation encroachment permits, occupancy agreements or other agreements
7 benefiting or used by PWCO and SWCO, including any interests in real property
8 described in Exhibit B attached hereto; all transferable water rights of PWCO and SWCO;
9 any rights to surface water from any source within Pine and Strawberry, Arizona; all of
10 the plants, substations and water distribution systems and all easements, pumps, wells,
11 waterlines, meters, water storage tanks, electrical panels and services and other real
12 property used or useful in the provision of domestic water service to customers located
13 within the CC&Ns of PWCO and SWCO; all rights and duties of PWCO, BUI and SWCO
14 under any contracts attached in Exhibit C attached hereto; intangible rights of PWCO,
15 BUI and SWCO and all other real property or fixtures thereto of PWCO and SWCO used
16 and useful in providing water utility services to the public within and without the area
17 described in the PWCO and SWCO CC&Ns issued by the Arizona Corporation
18 Commission as shown on the map attached hereto as Exhibit A; all rights to any and all
19 property known as the Project Magnolia, the pipeline connecting the PWCO and SWCO
20 water systems, including but not limited to easements, permits and licenses and other
21 agreements for the location of physical facilities, the physical facilities themselves,
22 including pumps, pipelines, valves, and all other appurtenant facilities; and all other assets
23 used and useful to provide domestic water service to each and every customer presently
24 being served or capable of being served by PWCO and SWCO within their respective
25 CC&Ns (collectively, the "Used and Useful Assets") and any going concern value of the
26 business ("Going Concern Value") of PWCO and SWCO.

1 Notwithstanding the foregoing, the Used and Useful Assets do not include: (1) the
2 Central Arizona Project ("CAP") allocation presently held by PWCO which shall be
3 transferred back to Central Arizona Water Conservation District ("CAWCD") in
4 accordance with its contract (with PWCO retaining all rights to its Relinquishment
5 Accounts established and maintained by the CAWCD for the PWCO and PSWID
6 agreeing to cooperate in good faith to assist PWCO in retaining such Relinquishment
7 Accounts); (2) any claims or judgments held by PWCO, SWCO or BUI relating to or
8 affecting PWCO's, SWCO's or BUI's relationship with any third parties, including, but
9 not limited to, those held by SWCO in the matter of Strawberry Water Company v.
10 Paulsen, Maricopa County Superior Court No. CV2001-005988; (3) any real property
11 outside of the CC&Ns of Pine Water Company and Strawberry Water Company held by
12 BUI; and (4) any moveable personal property owned by BUI (including, as examples, but
13 not limited to, tools, inventory, vehicles or other equipment, computers or other office
14 equipment, and any other similar types of personal property). It is the specific intent of
15 PSWID, PWCO, SWCO and BUI that the Used and Useful Assets are the utility assets of
16 PWCO, SWCO in the ground or located on real property in Pine and Strawberry, Arizona,
17 as such real property is specifically described herein, and all other property of PWCO,
18 SWCO specifically described herein within the boundaries of the CC&Ns of PWCO or
19 SWCO.

20 DONE IN OPEN COURT this 6th day of October, 2009.

21
22 
23 David L. Mackey
24 Judge of the Superior Court

25 PHX/2221613.1

EXHIBIT

B

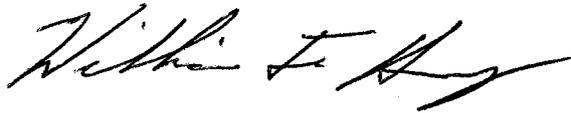
September 30, 2009

Dear Mr. Hardcastle:

This letter is provided on behalf of the Pine Strawberry Water Improvement District ("PSWID") relating to PSWID's acquisition and condemnation of Pine Water Company ("PWCo") and Strawberry Water Company ("SWCo"). In accordance with the Final Judgment of Condemnation entered in Yavapai County Superior Court case no. 2009-0785 on September 25, 2009, PWCo and SWCo have transferred all meter deposits and security deposits for customers to PSWID. By this letter, PSWID acknowledges receipt of \$70,978.61 for such meter deposits and security deposits for customers of PWCo and SWCo.

This letter further warrants and acknowledges that PSWID has assumed all responsibility for meter deposits, security deposits and line extension agreements relating to customers of PWCo and SWCo.

Signed



William F. Haney, P.E.
Chairman, Pine Strawberry Water Improvement District