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BEFORE THE ARIZONA CORPORATION COMMISSION
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COMMISSIONERS

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AZ CORP COMMISSION
NET CONTROL

Arizona Corporation Commission
DOCKETED

OCT - 9 2009

USE NUMBER [Signature]

IN THE MATTER OF THE APPLICATION
OF KEATON DEVELOPMENT
COMPANY FOR AN EXTENSION OF ITS
CERTIFICATE OF CONVENIENCE AND
NECESSITY FOR THE PROVISION OF
WATER SERVICE IN PORTIONS OF LA
PAZ COUNTY, ARIZONA

DOCKET NO. W-02169A-07-0098

**MOTION TO AMEND
DECISION NO. 70172**

Pursuant to A.R.S. § 40-252, Keaton Development Company ("Company") moves the Arizona Corporation Commission ("Commission") to amend Decision No. 70172 ("Decision") to delete all references to the Salome Heights subdivision and its legal description. The Decision grants the Company until February 27, 2011, to file documentation establishing that it has received a La Paz County franchise extension, ADEQ Approval to Construct, and the Arizona Department of Water Resources ("ADWR") adequate water supply determination with respect to two subdivisions known as Sunshine Acres and Salome Heights.

The Company has received all such approvals with respect to Sunshine Acres and is filing them simultaneously herewith in a Notice of Compliance with Decision No. 70172. The developer of Salome Heights has informed the Company that, due to the

1 downturns in the economy and real estate markets, it will not be prepared to proceed with
2 development of the Salome Heights property within the time limits imposed in the
3 Decision and that the timetable for development of Salome Heights is currently unknown.
4 Under these circumstances, it will not be possible to file similar compliance documents
5 with respect to Salome Heights within the time allowed by the Decision and the
6 Company. The Company therefore requests that the Decision be amended to strike all
7 references to Salome Heights so that the Company's CC&N can be extended to include
8 Sunshine Acres at this time.
9
10

11 A.R.S. § 40-252 states "[t]he commission may at any time ... rescind, alter or
12 amend any order or decision made by it." When considering whether or not to amend a
13 decision, the Commission should base its decision on the public interest. *Arizona Corp.*
14 *Comm. v. Tucson Ins. and Bonding Agency*, 3 Ariz. App. 458 (App. 1966). The
15 Company believes it is in the public interest to amend the Decision to eliminate the
16 CC&N extension to Salome Heights. The changed circumstances concerning Salome
17 Heights are outside the control of both the Company and the developer. It is important to
18 the public and the developer of Sunshine Acres, which is ready for development and now
19 has the approvals required by the Decision, that the CC&N extension to Sunshine Acres
20 becomes final as soon as possible. Thus, the Company moves the Commission amend
21 the Decision as follows in paragraphs **A through E**:
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23
24
25

26 **A.**

27 4. With its application, the Company is seeking an extension of its
28 Certificate to provide public water service to approximately [37 72] acres
of land which are being developed as [a] residential subdivision[s],

1 Sunshine Acres, a 37 acre parcel being developed as a 107 lot
2 subdivision[, and Salome Heights, a 35 acre parcel which is being
3 developed as a 29 lot subdivision].

4 5. The [two] subdivision[s] [~~is are owned by the same owners and are~~
5 ~~adjacent to one another,~~] approximately one-half mile east of the
6 Company's existing certificated service area.

7 *See* Decision No. 70172, p. 2, line 25 through page 3, line 5 (proposed amendment
8 language in brackets and "strikethrough" to remove and "underline" to add).

9 **B.**

10 8. The developers will fund the cost of the transmission facilities for
11 the Company with advances in aid of construction totaling approximately
12 \$[168,000 ~~264,500~~] through main extension agreements which are
13 approved by the Commission.

14 *See id.*, p. 3, lines 12 - 14 (proposed amendment language in brackets and
15 "strikethrough" to remove and "underline" to add).

16 **C.**

17 • [~~that the Company file, within three years of the effective date of this~~
18 ~~Decision, with the Commission's Docket Control, as a compliance item in this~~
19 ~~docket, a copy of the ATC for Salome Heights which is to be issued by ADEQ;~~]

20 *See id.*, p. 4, lines 21 - 23 (proposed amendment language in brackets and
21 "strikethrough" to remove).

22 **D.**

23 • that the Company file, within three years of the effective date of this
24 Decision, with the Commission's Docket Control, as a compliance item in
25 this docket, a copy of the letter of Adequate Water Supply which is to be
26 issued by ADWR which demonstrates the availability of adequate water for
27 the Sunshine Acres [~~and Salome Heights~~] subdivision[s]; and
28

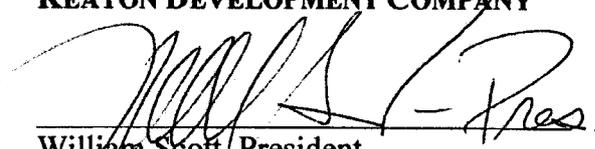
1 See *id.*, p. 4, lines 23 through 25 (proposed amendment language in brackets and
2 “strikethrough” to remove).
3

4 E.

5 Attachment 1 set forth in this Motion is substituted for the original Exhibit A
6 attached to the Decision. Further, a map of the revised requested extension area is set
7 forth in Attachment 2.
8

9 RESPECTFULLY SUBMITTED this 8 day of October, 2009.

10 KEATON DEVELOPMENT COMPANY

11 
12
13 William Scott, President
14

15 Original and 13 copies of the foregoing
16 filed this 8th day of October, 2009, with:

17 Docket Control
18 Arizona Corporation Commission
19 1200 West Washington
20 Phoenix, Arizona 85007
21

22 Donnelly Herbert
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ATTACHMENT 1

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LEGAL DESCRIPTION

The South 613.77 feet of the North 913.77 feet of the
Northeast Quarter of Section 27, Township 5 North, Range
13 West of the G&SRB&M, La Paz, Arizona

ATTACHMENT 2

