

ORIGINAL



0000105347

MEMORANDUM

TO: Docket Control

FROM: Steven M. Olea
Director
Utilities Division

DATE November 24, 2009

RE: **AMENDED** STAFF REPORT FOR THE APPLICATION OF TONTO CREEK UTILITY COMPANY FOR APPROVAL OF THE SALE OF ASSETS AND TRANSFER OF CERTIFICATE OF CONVENIENCE AND NECESSITY (DOCKET NOS. W-02784A-09-0276 AND W-20682A-09-0276)

Attached is the Amended Staff Report, as requested by the Hearing Division, for Tonto Creek Utility Company's application for approval of the sale of assets and transfer of its certificate of convenience and necessity to Tonto Creek Water Utility, L.L.C. Staff recommends approval of the sale and transfer with conditions.

SMO:VW:tdp

Originator: Vicki Wallace

Arizona Corporation Commission
DOCKETED

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AZ CORP COMMISSION
DOCKET CONTROL

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Service List for: Tonto Creek Utility Company, et al
Docket Nos. W-02784A-09-0276, et al

Mr. James Rea
4486 East Ford Avenue
Gilbert, Arizona 85234

Mr. Jerry Fisher
President
Tonto Creek Utility Co.
HC 2, Box 94G
Payson, Arizona 85541

Mr. Steven M. Olea
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Janice M. Alward
Chief Counsel, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer,
Chief, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

**AMENDED STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION**

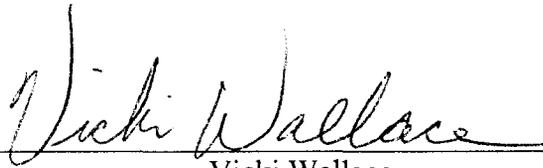
**TONTO CREEK UTILITY COMPANY AND
TONTO CREEK WATER COMPANY, LLC
DOCKET NOS. W-02784A-09-0276 AND W-20682-09-0276**

**APPLICATION
FOR APPROVAL OF THE
SALE OF ASSETS AND TRANSFER OF
CERTIFICATE OF CONVENIENCE AND NECESSITY
TO TONTO CREEK WATER COMPANY, L.L.C.**

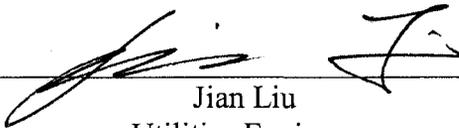
NOVEMBER 24, 2009

STAFF ACKNOWLEDGMENT

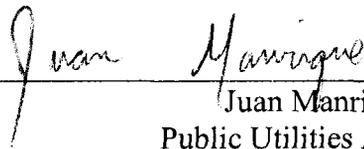
The Staff Report for Tonto Creek Utility Company (Docket Nos. W-02784A-09-0276 and W-20682A-09-0276) was prepared by the Staff members listed below:



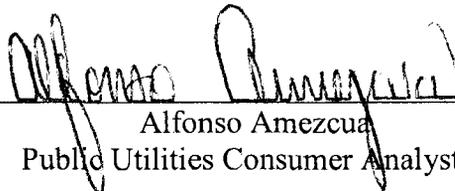
Vicki Wallace
Executive Consultant



Jian Liu
Utilities Engineer



Juan Manrique
Public Utilities Analyst I



Alfonso Amezcua
Public Utilities Consumer Analyst II

**EXECUTIVE SUMMARY OF
TONTO CREEK UTILITY COMPANY
DOCKET NOS. W-02784A-09-0276 AND W-20682A-09-0276**

Tonto Creek Utility Company ("TCUC" or "Tonto Creek Utility") is a class E, for-profit Arizona Public Service Corporation that provides potable water service to 73 metered residential customers. The Company is located about 14 miles east of Payson and two and one-half miles north of Kohl's Ranch in Gila County.

Due to health and other issues, Tonto Creek Utility is seeking to sell and transfer the water utility to Tonto Creek Water Company, L.L.C. ("TCWC" or "Tonto Creek Water") which is a limited liability corporation in good standing with the Commission's Corporation Division.

STAFF CONCLUSIONS AND RECOMMENDATIONS:

The transferee has public utility experience and will retain the current Certified Operator for operations and maintenance. The transferee will not incur any debt to acquire Tonto Creek Utility's assets and appears to be in good financial condition.

All Tonto Creek Utility's obligations under mainline extension agreements will be paid by transferor at closing. There are no customer deposit obligations.

The existing water system has adequate well production and storage capacity to serve the existing connections.

Arizona Department of Environmental Quality ("ADEQ") reported that the Tonto Creek Utility (PWS Number 04-021) is in compliance with ADEQ requirements and is currently delivering water that meets State and Federal drinking water quality standards required by the Arizona Administrative Code, Title 18, Chapter 4. (ADEQ report dated July 7, 2009).

A check with the Utilities Division Compliance Section showed no delinquent compliance items for Tonto Creek Utility.

Tonto Creek Utility is not located in any Active Management Area ("AMA") and is not subject to any AMA reporting and conservation requirements. Staff received an Arizona Department of Water Resources ("ADWR") compliance status report, dated July 7, 2009. ADWR reported that Tonto Creek Utility is currently in compliance with departmental requirements governing water providers and/or community water systems.

Staff recommends approval of the transfer of the assets of Tonto Creek Utility to the Tonto Creek Water Company, L.L.C with the following conditions:

1. That the applicants file the finalized contract within 30 days after closing with the Commission in this docket.
2. That Tonto Creek Water advise customers, through individual notice, of the completion of the transfer and provide all contact information for the new owners.

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INTRODUCTION

On June 1, 2009, Tonto Creek Utility Company ("Tonto Creek Utility", "Applicant", or "Seller") filed an application with the Arizona Corporation Commission ("Commission" or "ACC") for approval of the sale of its assets and transfer of its Certificate and Convenience and Necessity ("CC&N") to the Tonto Creek Water Company, L.L.C. ("Tonto Creek Water" or "Buyer").

On July 1, 2009, the ACC Utilities Division ("Staff") filed an Insufficiency Letter indicating that the Company's application did not meet the sufficiency requirements of the Arizona Administrative Code ("A.A.C."). A copy of the Insufficiency Letter was sent to the Company via U. S. certified mail. In that letter, Staff listed the deficiencies to be cured for administrative purposes.

On July 23, 2009, Tonto Creek Utility filed its response to Staff's Insufficiency Letter and provided additional documentation to support its application. On August 21, 2009, Staff filed a Sufficiency Letter indicating that the application had met the sufficiency requirements of the A.A.C. Pursuant to a Procedural Order, a Staff Report was initially filed on October 8, 2009. An evidentiary hearing commenced on October 27, 2009, during which new information was revealed by the Applicant that was contrary to information in the Staff Report. As a result, the hearing was continued, and Staff was requested to gather further information and file an amended Staff Report by November 24, 2009.

BACKGROUND

Tonto Creek Utility is a Class E, for-profit Arizona public service corporation, in good standing with the Commission's Corporation Division, certificated to provide water utility services in Gila County about 14 miles east of Payson and two and one-half miles north of Kohl's Ranch. Tonto Creek Utility provides water service to 73 customers, and its current rates were set pursuant to Decision No. 70707 issued January 20, 2009. The CC&N includes an area totaling approximately 76 acres. Staff's legal description and engineering map of the service area is attached as Exhibit 1.

Due to health and other issues of the owners, Tonto Creek Utility is seeking to sell and transfer the water utility to Tonto Creek Water, which is a limited liability corporation in good standing with the Commission's Corporation Division.

PURCHASE AGREEMENT

A purchase agreement between Tonto Creek Utility and Tonto Creek Water was initially executed on May 28, 2009. The purchase agreement is attached as Exhibit 2. This initial agreement provided that Tonto Creek Water would be purchasing Tonto Creek Utility's assets for \$15,000 and that Lot 23 (which was also owned by Tonto Creek Utility) was to be purchased in a separate contract for \$5,000, so the new owner could obtain clear title to the property. See

Exhibit 3 for the detailed explanation of Tonto Creek Water about why Lot 23 was to be purchased separately.

Through data requests and discussions with the seller and buyer, it was Staff's understanding that Lot 23 is a half lot and someone other than Tonto Creek Utility owned the other half lot. It was also Staff's understanding that the half lot did not contain any plant or any structures that were used by Tonto Creek Utility for provision of service. Thus, Staff determined that the lot would be considered an asset, but it would not be included in rate base for ratemaking purposes. Hence, Staff did not oppose the separate purchase in its initial Staff Report.

At the evidentiary hearing, it was revealed through oral testimony of Tonto Creek Utility that plant used in the provision of water service was indeed located on Lot 23. After the hearing was continued, Staff issued follow-up data requests on October 30, 2009, which is attached as Exhibit 4. Discussions ensued between Staff and the Applicant regarding the best course of action to pursue since it is standard public utility practice to own not only the infrastructure of the utility, i.e., well(s) storage facilities, etc., but also the land on which the infrastructure is located. Subsequently, Staff was verbally advised by the seller and the buyer that Tonto Creek Water was planning to purchase Tonto Creek Utility's assets for \$20,000 (including Lot 23) as a single transaction, and a new purchase agreement would be executed and filed in the docket. A letter dated November 5, 2009, memorializing this decision was submitted to Staff and is attached as Exhibit 5.

On November 16, 2009, the Applicant filed an amended application attaching the new purchase agreement executed on November 12, 2009 (Exhibit 5). The only change in the purchase agreement from the one initially executed was the buyer agreed to assume ownership and pay \$20,000 for all of the assets of Tonto Creek Utility including Lot 23.

The main provisions of the purchase agreement are as follows:

1. Tonto Creek Water will acquire all the assets of Tonto Creek Utility including Lot 23. Although Tonto Creek Water indicated that no liens have been assessed against it or the purchaser, the agreement states that Tonto Creek Utility will assume responsibility for any existing taxes liens, encumbrances, or any other issues prior to the finalized contract date.
2. Tonto Creek Water is purchasing Tonto Creek Utility's assets for \$20,000, and Tonto Creek Utility will make a full refund of all obligations associated with mainline extension agreements at closing. The closing will take place as of the date of approval by the ACC

PURCHASE ANALYSIS

Attached as Exhibit 7 is the Finance and Regulatory Analysis ("FRA") Report wherein Staff performed an analysis of the book value of the assets being transferred as illustrated in Schedule JCM-1 of the Report. Column (A) reflects Tonto Creek Utility's historical financial information for the year ended December 31, 2008. Staff's analysis shows the book value of the assets to be transferred as \$15,986. Since the difference between the book value and the transfer price is nominal, Staff concludes that the sale price agreed to buy the parties is reasonable.

THE EXISTING WATER SYSTEM

The Tonto Creek Utility water system consists of a well producing approximately 16 gallons per minute ("GPM"), two 15,000 gallon storage tanks, a 2,000 gallon pressure tank and a distribution system serving 73 connections as of the date of this Staff Report. (See Exhibit 8, Staff Engineering Report.)

CAPACITY OF EXISTING WATER SYSTEM

The Tonto Creek Utility water system has adequate well production and storage capacity to serve the existing connections. Tonto Creek Utility's service area is surrounded by the Tonto National Forest; therefore, very little if any growth is expected to occur in the next five years.

ORGANIZATION, OPERATION, AND FINANCIAL CONDITION

Tonto Creek Utility Company is currently solely owned by Jerry Fisher (President) and Pam Fisher (Secretary/Treasurer). As stated above, due to health and other issues of the current owner(s), they are seeking to sell and transfer the water system to Tonto Creek Water Company, L.L.C. which consists of two members, Julie A. Rea (President/General Manager) and James C. Rea (Vice President). The limited liability company was formed on April 21, 2009; approved by the ACC Corporations Division on April 23, 2009; and is in good standing. The Articles of Organization are attached as Exhibit 9.

In response to Staff's questions in the Insufficiency Letter, the applicant indicates the transferee has 26 years of public utility experience at Salt River Project and has acted as a General Contractor in the construction of several residential projects. The President/General Manager will manage all office operations including billing, mailings and reporting. The Vice President will provide monthly reads of the meters, support the General Manager, and eventually act as the Certified Operator upon completion of necessary requirements. In the meantime, the current Certified Operator (Jerry Fisher) will continue to operate the system.

The Applicant also indicates the transferee will provide full payment at closing and not incur any debt. According to the Applicant, benefits of the transfer to customers will include: (1) transferee maintains a residence in the service area (which the current owners do not); and (2) transferee is financially sound, is planning improvements to the well site, and is planning on

adding storage capacity in the future. Also, there are no planned changes to the operation and maintenance of the system.

Transferee intends to charge the same rates and is not currently planning any future rate increases.

CONSUMER SERVICES

The Utilities Division's Consumer Services database shows no complaints from customers for the last three years.

CUSTOMER NOTICE

Notice of the transfer and hearing in this matter was inserted in each customer bill mailed by first class on September 1, 2009, and is attached as Exhibit 10.

COUNTY FRANCHISE

The Gila County Board of Supervisors approved the transfer of the franchise from Tonto Creek Utility to Tonto Creek Water on August 17, 2009.

COMPLIANCE

ACC

The Utilities Division Compliance Database does not indicate that Tonto Creek Utility has any ACC compliance delinquencies.

Arizona Department of Environmental Quality ("ADEQ")

ADEQ reported that Tonto Creek Utility water system (Public Water System Number 04-021) is in compliance with ADEQ requirements and is currently delivering water that meets State and Federal drinking water quality standards required by the Arizona Administrative Code, Title 18, Chapter 4, on July 7, 2009.

Arizona Department of Water Resources ("ADWR")

Tonto Creek Utility is not located in any ADWR Active Management Area ("AMA") and is not subject to any AMA reporting and conservation requirements. Staff received an ADWR compliance status report dated July 7, 2009. ADWR reported that Tonto Creek Utility is currently in compliance with departmental requirements governing water providers and/or community water systems.

CONCLUSIONS AND RECOMMENDATIONS

The transferee has public utility experience and will retain the current Certified Operator for operations and maintenance. The transferee will not incur any debt to acquire Tonto Creek Utility's assets and appears to be in good financial condition.

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A check with the Utilities Division Compliance Section showed no delinquent compliance items for Tonto Creek Utility.

Tonto Creek Utility is not located in any Active Management Area ("AMA") and is not subject to any AMA reporting and conservation requirements. Staff received an ADWR compliance status report dated July 7, 2009. ADWR reported that Tonto Creek Utility is currently in compliance with departmental requirements governing water providers and/or community water systems.

Staff recommends approval of the transfer of the assets of Tonto Creek Utility to the Tonto Creek Water Company, L.L.C with the following conditions:

1. That the applicants file the finalized contract within 30 days after closing with the Commission in this docket.
2. That Tonto Creek Water advise customers, through individual notice, of the completion of the transfer and provide all contact information for the new owners.

MEMORANDUM

TO: Vicki Wallace
Chief, Consumer Services & Special Projects
Utilities Division

FROM: Barb Wells
Information Technology Specialist
Utilities Division

THRU: Del Smith
Engineering Supervisor
Utilities Division

DATE: July 23, 2009

RE: **TONTO CREEK UTILITY COMPANY (DOCKET NO. W-02784A-09-0276)**
TONTO CREEK WATER COMPANY, LLC (DOCKET NO. W-20682A-09-0276)

Tonto Creek has filed an application to transfer its CC&N and sell its assets to Tonto Creek Water Company, LLC.

Attached is a copy of the map for your files.

:bsw

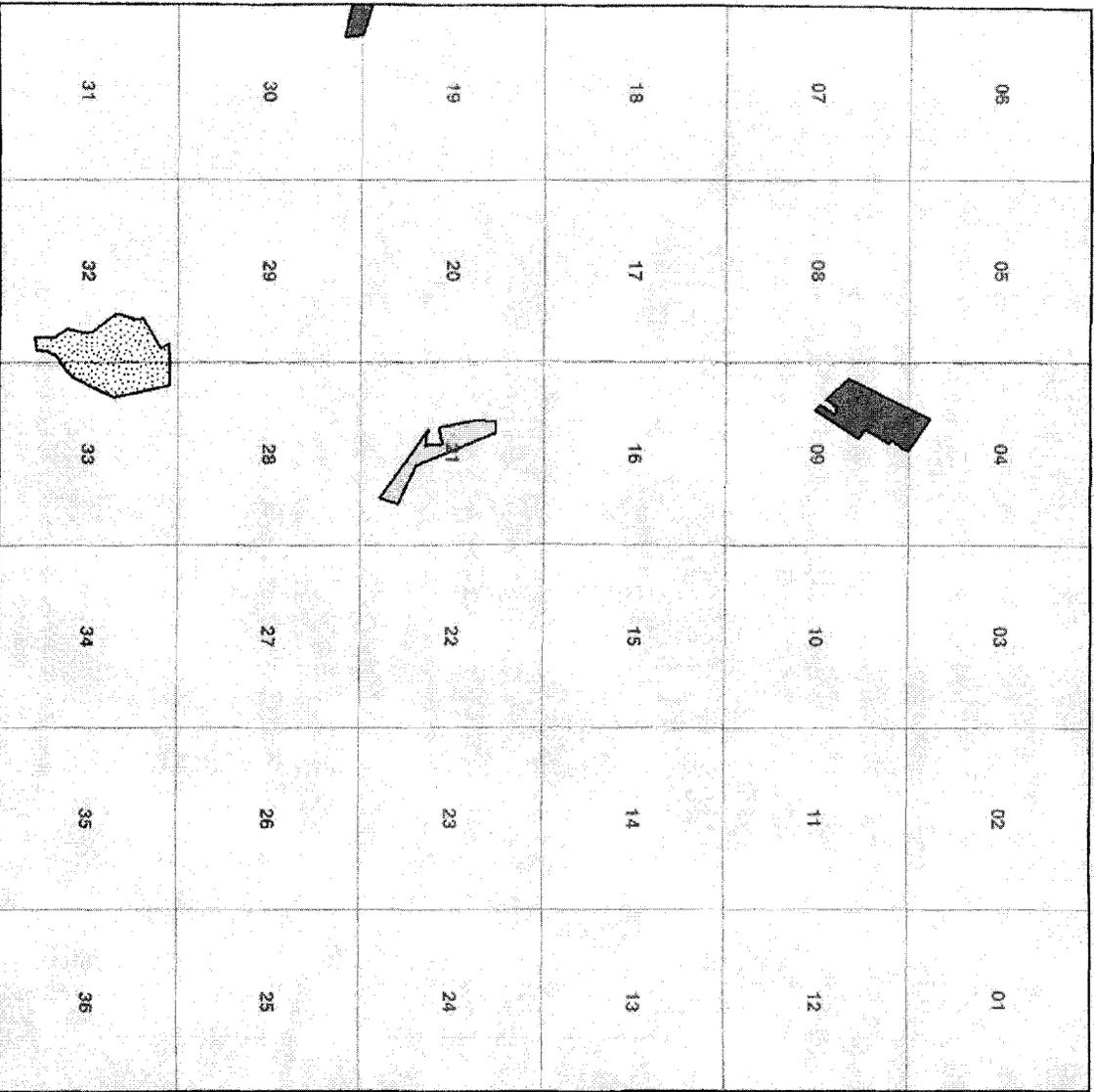
Attachments

cc: Ms. Pam Fisher
Ms. Julie A. Rea
Ms. Deb Person (Hand Carried)
Mr. Jian Liu

GILIA COUNTY

Map No. 15

RANGE 12 East



TOWNSHIP 11 North



W-2886 (1)

Kohl's Ranch Water Company



SW-3962 (3)

Pine Meadows Utilities, LLC



W-2784 (1)

Tonto Creek Utility Company



W-1580 (2)

Tonto Village Water Company, Inc.

Tonto Creek Utility Company
 Docket No. W-02784A-09-0276
 Application to Transfer to
 Tonto Creek Water Company LLC
 Docket No. W-20682A-09-0276

AGREEMENT

This agreement (the "Agreement") is entered into as of the 1st of June, 2009, by and between Tonto Creek Utility Co. ("Party One") and Tonto Creek Water Co. LLC ("Party Two") (collectively the "Parties"). This agreement is contingent on the approval of application to the Arizona Corporation Commission for a Transfer of Assets and a transfer of Certificate of Convenience and Necessity. The closing will take place as of the date of approval by the Arizona Corporation Commission.

NOW, THEREFORE, in consideration of the mutual premises and covenants contained in this Agreement, it is hereby agreed by and between the Parties as follows:

1) PARTY ONE OBLIGATIONS.

Party One does hereby covenant and agree that it shall:

Transfer ownership of all the assets of the "Tonto Creek Utility Co." including, but not limited to, structures, improvements, wells, springs, pumping equipment, distribution reservoirs and standpipes, distribution mains, services, meters, tools, and miscellaneous equipment. Transfer ownership of Lot 23 (Parcel Identification 927-21-001 7 APN #303-03-24A) located in Tonto Creek Estates in a separate contract. Assume responsibility for any existing taxes, liens, encumbrances, or any other issues prior to the finalized contract date.

2) PARTY TWO OBLIGATIONS.

Party Two does hereby covenant and agree that it shall:

Assume ownership, and pay \$15,000, for all of the above mentioned items under "Tonto Creek Water Co. LLC". Purchase Lot 23 (Parcel Identification 927-21-001 1 APN #303-03-24A) located in Tonto Creek Estates in a separate contract. Assume responsibility for any future taxes, liens, encumbrances or any other issues after the finalized contract date.

3) REPRESENTATIONS AND WARRANTIES OF THE PARTIES.

A. Party One hereby represents and warrants:

There are no outstanding issues concerning "Tonto Creek Utility Co.", are in compliance with all county and state ordinances, and in good standing with the Arizona Corporation Commission. Party One has a good and marketable title to the assets being sold. The assets will be free from encumbrances at closing. There are no Judgments, claims, liens or proceedings pending against Party One, the business or the assets being sold, and none will be pending at closing. Party One transfers property "as is and where is".

Party One will make a full refund of all Main Extension Agreements, and meter and service line installation deposits due at closing.

- B. Party Two has inspected the tangible assets that Party Two is purchasing and the premises covered by the purchase and is satisfied with their condition.

4) ARBITRATION.

The Parties agree that any dispute or controversy arising out of this Agreement shall be settled by Arbitration to be held in Gila county, state of Arizona, in accordance with the rules then in effect of the American Arbitration Association. The arbitrator may grant injunctions or other relief in such dispute or controversy. The decision of the arbitrator shall be final, conclusive and binding on the Parties. Judgment may be entered on the arbitrator's decision in any court having jurisdiction. The Parties shall each pay one-half of the costs and expenses of such arbitration, and each of the parties shall separately pay counsel fees and expenses.

5) GENERAL PROVISIONS.

A. Notices. Any notice or other communication provided for herein or given hereunder to a party hereto shall be in writing and shall be given by delivery, by facsimile or by mail (registered or certified mail, postage prepaid, return receipt requested) to the respective party as follows:

If to Party One:
Tonto Creek Utility Co.
HC 2 Box 94-G
Payson, Arizona 85541

If to Party Two:
Tonto Creek Water Co. LLC
4486 E. Ford Ave.
Gilbert, Arizona 85234

B. Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by the Parties, and their respective successors, assigns, heirs, executors and administrators; provided, that neither party may assign any duties or her rights hereunder without the written consent of the other party.

C. Waiver and Amendment. Neither party may waive any of the terms or conditions of this Agreement, nor may this Agreement be amended or modified, except by a duly signed writing referring to the specific provision to be waived, amended or modified.

D. Entire Agreement. This Agreement constitutes the entire agreement with respect to the subject matter hereof, and supersedes all other prior agreements and understandings, both written and oral, among the parties hereto and their affiliates.

E. Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provisions had never been contained herein.

F. Governing Law. This Agreement shall be governed by the laws of the state of Arizona, without regard to its conflicts of law provisions.

G. Voluntary Execution of Agreement. This Agreement is executed voluntarily and without any duress or undue influence on the part or behalf of the Parties, with the full intent of releasing all claims. The Parties acknowledge that:

- (i) they have read this Agreement;
- (ii) they have been represented, or, in the alternative, have had the opportunity to obtain representation, in the preparation, negotiation, and execution of this Agreement by legal counsel of their own choice;
- (iii) they understand the terms and consequences of this Agreement and of the releases it contains; and
- (iv) they are fully aware of the legal and binding effect of this Agreement.

H. Counterparts/Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. For purposes of this Agreement, use of a facsimile, e-mail or other electronic medium shall have the same force and effect as an original signature.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

PARTY ONE:

Tonto Creek Utility Co.
Pam Fisher
Pam Fisher (Secretary/Treasurer)
Jerry Fisher
Jerry Fisher (President)

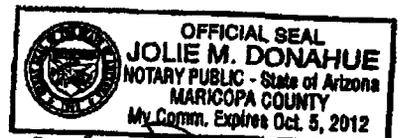
State of Arizona
County of Gila

Acknowledged before me this 28th
day of May, 2009.
My Commission Expires March 16, 2013

Angela Parker
Notary Public

PARTY TWO:

Tonto Creek Water Co. LLC
Julie A. Rea
Julie A. Rea (President/General Manager)
James C. Rea
James C. Rea (Vice President)



Jolie M. Donahue June 1, 2009
Angela Parker for Pam Fisher
and Jerry Fisher

James and Julie Rea
4486 E. Ford Ave
Gilbert, AZ 85234
October 6, 2009

Ms. Vicki Wallace
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007

Re: Tonto Creek Utility Land Sale

Background: Tonto Creek Estates is a very small subdivision (85 lots) located 20 miles east of Payson. The subdivision is surrounded by the national forest and cannot develop/add any lots. The HOA developed the water system (pumps, tanks, delivery pipes, etc) and charged a flat monthly fee. Several years later, the meters were added. Since then, Jerry Fisher, a resident of Tonto Creek Estates, has operated the system for the last sixteen years. Mr. Fisher decided to sell the water company and approached various residents concerning the purchase. There was not any interest from any of the residents of the subdivision so my wife and I decided to purchase the company and maintain "local ownership". We agreed to pay \$20,000.00 for the company, \$15,000.00 for the system and \$5,000.00 for one half of lot 23. The land purchase would take place upon the sale of the water company.

Issue: The subject parcel, lot 23A, cannot have a residential structure constructed on it due to the CC&R's and the small size of the lot. There are a total of 4 ½ lots located within Tonto Creek Estates. The "half lots" are due to family members that inherited three or more lots and required one of the lots to be split. The lot owners are required to pay bridge assessments, HOA fees, irrigation fees and HOA management fees; lot 23A has never paid these fees which had caused concerns among the other residents of TCE. The current owner did not believe the payment of these fees and assessments was warranted because of the "utility" status of Tonto Creek Utility Company. We would like to be a good neighbor and, as owners of a residence in TCE, would like to take ownership of lot 23A as individuals and pay the bridge assessments and all future fees. We feel it would be in the best interest of the water company and the community for the following reasons:

- No residence can be constructed on lot 23A
- The owners of lot 23B are in agreement with the proposed ownership
- We would pay the existing bridge agreement from personal funds (not from water company assets)

- We would purchase title insurance from personal funds (not from water company assets); we have already contacted First American Title to prepare the insurance policy. There has never been a title insurance policy issued to the property.
- This ownership position would be identical for all TCE residents, which own "half lots" and pay "half" the assessments due for "whole" lots. This would definitely resource concerns of the residents of TCE.

Closing: We never had any intention of owning and operating a water company. We agreed to purchase it after it had been offered to several residents. The goal was to keep "local" ownership and not have it sold to a large corporation. Tonto Creek Utility has not made a profit for the last two years. We are willing to pay for the bridge assessments, future HOA assessments and title insurance from personal funds and not from Tonto Creek Water Company's limited financial resources. We believe these actions are in the best interest of the community and the successful operation of the Tonto Creek Water Company. Thank you for your consideration of this matter and please contact us if you have any further questions or concerns.

Sincerely,



James C. Rea
Vice President of Tonto Creek Water Company

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



ARIZONA CORPORATION COMMISSION

ERNEST G. JOHNSON
 Executive Director

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 BOOKLET CONTROL

October 30, 2009

Jerry and Pam Fisher
 Tonto Creek Utility Company
 HC 2 Box 94 G
 Payson, AZ 85541

OCT 30 2009

James and Julie Rea
 Tonto Creek Water Company, L.L.C.
 4486 E. Ford Avenue
 Gilbert, AZ 85234

RE: Staff's Follow-up Data Requests
 Tonto Creek Utility Company - Dockets No. W-02784A-09-0276 & W-20682A-09-0276

Dear Mr. and Mrs. Fisher and Mr. and Mrs. Rea:

Staff is in need of the following information to make a determination regarding the above-referenced pending sale and transfer dockets:

1. Provide the purchase agreement for Lot 23A between the buyer and the seller.
2. It is standard public utility practice to own not only the infrastructure of the utility, i.e., well(s), storage facilities, etc., but also the land on which the infrastructure is located. Please explain in detail all of the reasons why Tonto Creek Water Company, L.L.C. is not planning to purchase Lot 23A.
3. Does Mr. or Mrs. Rea intend to charge the Tonto Creek Water Company, L.L.C. or any previous utility company, homeowners association, or utility cooperative for use of the land in Lot 23A in the form of rent or any other additional charge at any point in the future?
4. Does Mr. or Mrs. Rea intend to sell Lot 23A at any point in the future?

Please provide the above information to me by close of business next Friday, November 6, 2009.
If you have any questions, you can contact me at 602-542-0818.

Sincerely,

A handwritten signature in cursive script that reads "Vicki Wallace". The signature is written in black ink and is positioned above the printed name.

Vicki Wallace
Executive Consultant
Utilities Division

Cc: Docket Control
Jian Liu
Juan Manrique
Ayesha Vohra
Al Amezcua
Barbara Wells

TONGO CREEK UTILITY

HC 2 BOX 94-G
Payson, Arizona 85541
928-478-4384

November 5, 2009

Vicki Wallace
Executive Consultant
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007-2927

NOV 06 2009

Re: Staff's Follow-up Data Requests
Tonto Creek Utility Company – Dockets No. W-02784A-09 & W-20682A-09-276

Ms. Wallace:

Thank you for allowing me to respond to Staff by email to be able to make Staff's deadline of close of business Friday, November 6, 2009. We only received your letter yesterday.

As I told you yesterday in our telephone conversation, Tonto Creek Water Company L.L.C. has decided to purchase Tonto Creek Utility as one transaction. Lot 23A will not be purchased separately by James and Julie Rea.

We are in the process of each signing the new contract that will reflect the purchase of Tonto Creek Utility in its entirety including, Lot 23A (Parcel Identification 927-21-001 7 APN #303-03-24A) located in Tonto Creek Estates by Tonto Creek Water Company L.L.C. As soon as all parties have signed the contract, we will provide a copy. Would you like us to docket it in, or just provide a copy to you?

I am going to send a hard copy of this letter to you by mail today and per our conversation, you are not requiring this answer to the Staff Data Request to be docketed in.

Thank you for all you help in this matter.

Sincerely,

Pam Fisher, Secretary/Treasurer
Tonto Creek Utility

W 02784A-09-0276
W-20682A-09-0276

EXHIBIT 6

RECEIVED

Tonto Creek Utility

NOV 16 P 2:24

HC 2 Box 94 G
Payson, Arizona 85541
928-478-4384

ARIZONA CORPORATION
COMMISSION
DOCKET CONTROL

RECEIVED

November 11, 2009

NOV 18 2009

ARIZONA CORPORATION
COMMISSION
Director Utilities

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

Attached is an amended application by Tonto Creek Utility for Approval of the Sale of Assets AND Transfer of Certificate of Convenience and Necessity.

This amended application is provided at the request of Arizona Corporation Commission staff.



Pam Fisher

Secretary/Treasurer

W-02 784A-09-0276
W-20682A-09-0276

AMENDED

<p>ARIZONA CORPORATION COMMISSION</p> <p>APPLICATION FOR APPROVAL OF THE SALE OF ASSETS AND/OR TRANSFER OF</p> <p>CERTIFICATE OF CONVENIENCE AND NECESSITY</p> <p><u>WATER AND/OR SEWER</u></p>

A. The name, address and telephone number of the Transferor (Company) is:

TONTD CREEK UTILITY Co. 928-478-4384

HC2 BOX 94G

PAYSON, AZ 85541

B. If doing business under a name other than the Transferor (Company) name, specify:

N/A

C. The Transferor is a:

<input type="checkbox"/> Corporation: <input checked="" type="checkbox"/> "C", <input type="checkbox"/> "S", <input type="checkbox"/> Non-Profit <input type="checkbox"/> Arizona, <input type="checkbox"/> Foreign	<input type="checkbox"/> Partnership <input type="checkbox"/> Limited, <input type="checkbox"/> General <input type="checkbox"/> Arizona, <input type="checkbox"/> Foreign
<input type="checkbox"/> Sole Proprietorship	<input type="checkbox"/> Limited Liability Company
<input type="checkbox"/> Other (Specify)	

D. List the name, address and telephone number of the attorney for the Transferor.

N/A

E. List the name, address and telephone number of management contact:

JERRY FISHER

928-478-4384

HC 2 BOX 946

PAYSON, AZ 85341

F. The name, address and telephone number of the Transferee (Company) is:

TONTO CREEK WATER CO. LLC

4486 E. FORD AVE GILBERT AZ 85234

480-664-0220

G. If doing business under a name other than the Transferee (Company) name, specify:

N/A

H. List the name, address and telephone number of the attorney for the Transferee.

N/A

I. List the name, address and telephone number of management contact:

JULIE A. REA

4486 E. FORD AVE GILBERT, AZ 85234

480-664-0220

J. (Transferee) List the name, address and telephone number of the on-site manager of the utility:

JERRY FISHER

HC2 Box 94

928-478-4384

PAYSON, AZ 85341

K.(Transferee) List the name, address and telephone number of the certified operator as authorized by the Arizona Department of Environmental Quality:

JERRY FISHER

928-478-4384

HC2 Box 94

PAYSON, AZ 85341

L. The Transferee is a:

<input type="checkbox"/> Corporation: <input type="checkbox"/> "C", <input type="checkbox"/> "S", <input type="checkbox"/> Non-Profit <input type="checkbox"/> Arizona, <input type="checkbox"/> Foreign	<input type="checkbox"/> Partnership <input type="checkbox"/> Limited, <input type="checkbox"/> General <input type="checkbox"/> Arizona, <input type="checkbox"/> Foreign
<input type="checkbox"/> Sole Proprietorship	<input checked="" type="checkbox"/> Limited Liability Company
<input type="checkbox"/> Other (Specify)	

M. If Transferee is a corporation:

1. List names of Officers and Directors:

Officers

Directors

2. Indicate the number of shares of stock authorized to issue:

3. If stock has been issued, indicate the number of shares issued and the date of issue:

N. If Transferee is a partnership:

1. List the names of general partners:

JULIE A. REA _____

JAMES C. REA _____

2. List name, address and telephone number of managing partner:

JULIE A. REA _____

4486 E. FORD AVE 480-664-0220 _____

GILBERT, AZ 85234 _____

◆ If Applicant is a foreign limited partnership, provide a copy of the Partnership's "Certificate of Registration" with the Arizona Secretary of State

O. If Transferee is a sole proprietor, list name, address and telephone number of individual:

P. Have all customer security deposits been refunded? Yes ___ No ___. If no, mark the block below which describes the proposed disposition of security deposits.

___ All security deposits will be refunded at time of closing.

___ All security deposits will be transferred to the Transferee.

Other (explain).

NA

Q. Are there any refunds due on Main Extension Agreements? Yes No ___. If Yes, mark the block below which describes the proposed disposition of the refunds.

___ Transferor will continue to refund after the transfer.

___ Transferee will assume the refunding obligations.

A full refund will be made at closing by Transferor.

___ Other (explain).

R. (WATER ONLY) Are there any refunds due on meter and service line installations?

Yes No . If Yes, mark the block below that describes the proposed disposition of refunds.

___ Transferor will continue to refund after the transfer.

___ Transferee will assume the refunding obligations.

A full refund will be made at closing by Transferor.

___ Other (explain).

S. (Transferee) Attach the following exhibit(s):

1. Copy of bill of sale, purchase contract or other instrument, which conveys the assets to the transferee.
2. Articles of Incorporation (if corporation)
3. By-Laws (if corporation)
4. Certificate of Good Standing (if corporation)
5. Articles of Partnership (if partnership)
6. Articles of Organization (if limited liability company)
7. Corporate Resolution if required by Articles of Incorporation
8. Attach a copy of the transfer of City or County Franchise from the Transferor to Transferee.

T. List names and addresses of any other public utility interest Transferee has:

1. NONE
2. _____

U. Indicate the date that notice of the application was sent, or will be sent to the customers.

JUNE 2, 2009.

DATED the 12 day of NOVEMBER 2009

Pam Fisher

(Signature of Authorized Representative of Transferor)

PAM FISHER

(Type Name Here)

SEC/TRES

(Title)

SUBSCRIBED AND SWORN to before me on this 12 day of NOVEMBER 2009



Angela Parker

NOTARY PUBLIC

My Commission Expires 3-16-2013

James C. Trea

(Signature of Authorized Representative of Transferee)

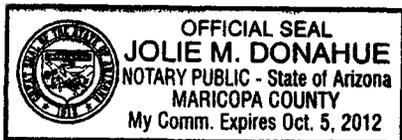
JAMES C. TREA

(Type Name Here)

VICE PRESIDENT

(Title)

SUBSCRIBED AND SWORN to before me on this 16 day of November 2009



Jolie M Donahue

NOTARY PUBLIC

My Commission Expires Oct 5, 2012

Wallace

W-02784A-09-0276
W-20682A-09-0276

AGREEMENT

This agreement (the "Agreement") is entered into as of the 1st of June, 2009, by and between Tonto Creek Utility Co. ("Party One") and Tonto Creek Water Co. LLC ("Party Two") (collectively the "Parties"). This agreement is contingent on the approval of application to the Arizona Corporation Commission for a Transfer of Assets and a transfer of Certificate of Convenience and Necessity. The closing will take place as of the date of approval by the Arizona Corporation Commission.

NOW, THEREFORE, in consideration of the mutual premises and covenants contained in this Agreement, it is hereby agreed by and between the Parties as follows:

1) PARTY ONE OBLIGATIONS.

Party One does hereby covenant and agree that it shall:

Transfer ownership of all the assets of the "Tonto Creek Utility Co." including, but not limited to, structures, improvements, wells, springs, pumping equipment, distribution reservoirs and standpipes, distribution mains, services, meters, tools, and miscellaneous equipment. Transfer ownership of Lot 23A (Parcel Identification 927-21-001 7 APN #303-03-24A) located in Tonto Creek Estates. Assume responsibility for any existing taxes, liens, encumbrances, or any other issues prior to the finalized contract date.

2) PARTY TWO OBLIGATIONS.

Party Two does hereby covenant and agree that it shall:

Assume ownership, and pay \$20,000, for all of the above mentioned items under "Tonto Creek Water Co. LLC" including the purchase Lot 23A (Parcel Identification 927-21-001 1 APN #303-03-24A) located in Tonto Creek Estates. Assume responsibility for any future taxes, liens, encumbrances or any other issues after the finalized contract date.

3) REPRESENTATIONS AND WARRANTIES OF THE PARTIES.

A. Party One hereby represents and warrants:

There are no outstanding issues concerning "Tonto Creek Utility Co.", are in compliance with all county and state ordinances, and in good standing with the Arizona Corporation Commission. Party One has a good and marketable title to the assets being sold. The assets will be free from encumbrances at closing. There are no judgments claims, liens or proceedings pending against Party One, the business or the assets being sold, and none will be pending at closing. Party One transfers property "as is and where is".

Party One will make a full refund of all Main Extension Agreements, and meter and service line installation deposits due at closing.

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AZ CORP COMM
Director Utilities

- B. Party Two has inspected the tangible assets that Party Two is purchasing and the premises covered by the purchase and is satisfied with their condition.

4) ARBITRATION.

The Parties agree that any dispute or controversy arising out of this Agreement shall be settled by Arbitration to be held in Gila county, state of Arizona, in accordance with the rules then in effect of the American Arbitration Association. The arbitrator may grant injunctions or other relief in such dispute or controversy. The decision of the arbitrator shall be final, conclusive and binding on the Parties. Judgment may be entered on the arbitrator's decision in any court having jurisdiction. The Parties shall each pay one-half of the costs and expenses of such arbitration, and each of the parties shall separately pay counsel fees and expenses.

5) GENERAL PROVISIONS.

A. Notices. Any notice or other communication provided for herein or given hereunder to a party hereto shall be in writing and shall be given by delivery, by facsimile or by mail (registered or certified mail, postage prepaid, return receipt requested) to the respective party as follows:

If to Party One:
Tonto Creek Utility Co.
HC 2 Box 94-G
Payson, Arizona 85541

If to Party Two:
Tonto Creek Water Co. LLC
4486 E. Ford Ave.
Gilbert, Arizona 85234

B. Successors and Assigns. This Agreement is intended to bind and inure to the benefit of and be enforceable by the Parties, and their respective successors, assigns, heirs, executors and administrators; provided, that neither party may assign any duties or her rights hereunder without the written consent of the other party.

C. Waiver and Amendment. Neither party may waive any of the terms or conditions of this Agreement, nor may this Agreement be amended or modified, except by a duly signed writing referring to the specific provision to be waived, amended or modified.

D. Entire Agreement. This Agreement constitutes the entire agreement with respect to the subject matter hereof, and supersedes all other prior agreements and understandings, both written and oral, among the parties hereto and their affiliates.

E. Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provisions had never been contained herein.

F. Governing Law. This Agreement shall be governed by the laws of the state of Arizona, without regard to its conflicts of law provisions.

G. Voluntary Execution of Agreement. This Agreement is executed voluntarily and without any duress or undue influence on the part or behalf of the Parties, with the full intent of releasing all claims. The Parties acknowledge that:

- (i) they have read this Agreement;
- (ii) they have been represented, or, in the alternative, have had the opportunity to obtain representation, in the preparation, negotiation, and execution of this Agreement by legal counsel of their own choice;
- (iii) they understand the terms and consequences of this Agreement and of the releases it contains; and
- (iv) they are fully aware of the legal and binding effect of this Agreement.

H. Counterparts/Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. For purposes of this Agreement, use of a facsimile, e-mail or other electronic medium shall have the same force and effect as an original signature.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

PARTY ONE:

Tonto Creek Utility Co.

Pam Fisher
Pam Fisher (Secretary/Treasurer)

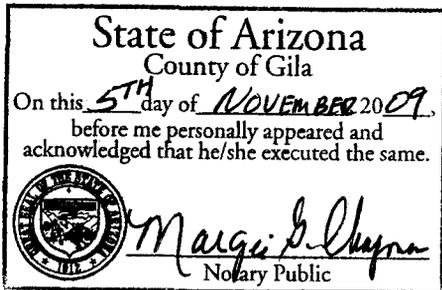
Jerry Fisher
Jerry Fisher (President)

PARTY TWO:

Tonto Creek Water Co. LLC

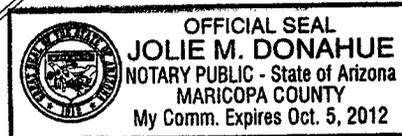
Julie A. Rea
Julie A. Rea (President/General Manager)

James C. Rea
James C. Rea (Vice President)



11/12/09 For James and Julie Rea only

Jolie M. Donahue



In Jerry & Pam Fisher only



MEMORANDUM

TO: Vicki Wallace
Executive Consultant
Utilities Division

FROM: Juan Manrique
Public Utilities Analyst I
Utilities Division

DATE: November 19, 2009

RE: APPLICATION BY TONTO CREEK UTILITY FOR APPROVAL OF THE SALE OF ASSETS AND TRANSFER OF CERTIFICATE OF CONVENIENCE AND NECESSITY TO TONTO CREEK WATER COMPANY, LLC. (DOCKET NOS. W-02784A-09-0276 AND W-20682A-09-0276)

On June 1, 2009, Tonto Creek Utility filed an application for authority to sell the Company's assets and transfer its Certificate of Convenience and Necessity before the Arizona Corporation Commission to Tonto Creek Water Company, LLC.

Tonto Creek Water Company, LLC has agreed to purchase Tonto Creek Utility's assets for \$20,000 which includes the adjacent lot 23A. Staff performed an analysis of the book value of the assets being transferred, as illustrated in Schedule JCM-1. Column [A] reflects The Company's historical financial information for the year ended December 31, 2008. Staff's analysis shows that the book value of the assets to be transferred is \$20,986 including the aforementioned lot 23A. Since the difference between the book value and the transfer price is nominal, Staff concludes that the sale price agreed to by the parties is reasonable.

SO:JCM

Originator: Juan C. Manrique

FINANCIAL ANALYSIS

	[A] ¹
	<u>12/31/2008</u>
1 Original Cost of Plant	\$83,150
2 Less	
3 Accumulated Depreciation	<u>\$64,414</u>
4 Net Plant in Service	<u>\$18,736</u>
5 Less	
6 Unamortized Premium on Debt	<u>\$2,750</u>
7 Net Value	<u>\$15,986</u>
8 Add	
9 Cost of Lot 23A	<u>\$5,000</u>
10 Net Plant Value including Lot 23A	\$ 20,986
11 ¹ Column [A] is based on the Company's Financial Statements for the year ended December 31, 2008.	
12	
13	
14	
15	
16	

MEMORANDUM

TO: Vicki Wallace
Chief, Consumer Services

FROM: Jian W. Liu 
Utilities Engineer

DATE: October 5, 2009

RE: In the matter of the application of Tonto Creek Utility Company for approval of the Sale of its Assets and transfer of its Certificate of Convenience and Necessity to Tonto Creek Water Company, LLC
Docket Nos. W-02784A-09-0276 and W-20682A-09-0276

Introduction

Tonto Creek Utility Company ("Tonto Creek Utility" or "Company") has filed an application with the Arizona Corporation Commission ("ACC") for approval of the sale of its assets and transfer of its Certificate of Convenience and Necessity ("CC&N") to Tonto Creek Water Company, LLC ("Tonto Creek Water"). Tonto Creek Utility provides water service to approximately 70 customers in an area located northeast of Payson below the Mogollon Rim in Gila County. The Company's existing CC&N includes an area totaling approximately 76 acres. Because of age and health issues, the existing owner would like to sell the Company.

Existing Water System Description

The Tonto Creek Utility water system consists of a well producing approximately 16 gallons per minute ("GPM"), two 15,000 gallon storage tanks, a 2,000 gallon pressure tank and a distribution system serving 73 connections as of December 2008.

According to the Company the new owner maintains a residence in the service area, and is financially sound. The new owner plans to make improvements to the well site and add additional storage capacity when needed in the future. The Company's current certified operator will continue to operate the water system until a new certified operator can be hired.

Capacity of Existing Water System

The Tonto Creek Utility water system has adequate well production and storage capacity to serve the existing connections. The Company's service area is surrounded by the Tonto National Forest; therefore, very little if any growth is expected to occur in the next 5 years.

Arizona Department of Environmental Quality ("ADEQ") Compliance

ADEQ reported that the Tonto Creek Utility water system (Public Water System (PWS) Number 04-021) is in compliance with ADEQ requirements and is currently delivering water that meets State and Federal drinking water quality standards required by the Arizona Administrative Code, Title 18, Chapter 4. (ADEQ report dated July 7, 2009).

ACC Compliance

A check with the Utilities Division Compliance Section showed no delinquent compliance items for Tonto Creek Utility.

Arizona Department of Water Resources ("ADWR") Compliance

Tonto Creek Utility is not located in any ADWR Active Management Area ("AMA") and is not subject to any AMA reporting and conservation requirements. Staff received an ADWR compliance status report dated July 7, 2009. ADWR reported that Tonto Creek Utility is currently in compliance with departmental requirements governing water providers and/or community water systems.

Conclusions

- A. The Tonto Creek Utility water system has adequate well production and storage capacity to serve the existing connections.
- B. ADEQ reported that the Tonto Creek Utility water system (PWS Number 04-021) is in compliance with ADEQ requirements and is currently delivering water that meets State and Federal drinking water quality standards required by the Arizona Administrative Code, Title 18, Chapter 4.
- C. A check with the ACC Utilities Division Compliance Section showed no delinquent compliance items for Tonto Creek Utility.
- D. Tonto Creek Utility is not located in any ADWR AMA and is not subject to any AMA reporting and conservation requirements. ADWR reported that Tonto Creek Utility is currently in compliance with departmental requirements governing water providers and/or community water systems.

AZ CORPORATION COMMISSION
FILED

APR 21 2009

FILE NO. L-1520843-5

DO NOT WRITE ABOVE THIS LINE, FOR ACC USE ONLY

ARTICLES OF ORGANIZATION

DO NOT PUBLISH THIS SECTION

NOTE: A professional limited liability company is an LLC organized for the purpose of rendering one or more categories of professional service. Professional service is defined as a service that may be lawfully rendered only by a person licensed in this state to render the service.

1. The LLC name must contain the words "limited liability company" or "limited company" or the abbreviations "L.L.C.", "L.C.", "LLC", or "LC". The Professional LLC must contain the words "professional limited liability company" or the abbreviations "P.L.L.C.", "P.L.C.", "PLLC", or "PLC."

2. Must be an Arizona address. DO NOT LEAVE THIS SECTION BLANK

3. If the statutory agent has a PO BOX then they must also provide a physical address or description of the location.

The agent must sign the articles or provide written consent to acceptance of the appointment.

Select one. This form may be used for:

- ARIZONA LIMITED LIABILITY COMPANY (A.R.S. §29-632)
- ARIZONA PROFESSIONAL LIMITED LIABILITY COMPANY (A.R.S. §29-841.01)

1. The name of the organization:

A. _____
 LLC Name Reservation File Number (if one has been obtained). If not, leave this line blank

B. Tonto Creek Water Company LLC
 Limited Liability Company Name

2. Known place of business in Arizona (if address is the same as the street address of the statutory agent, write "same as statutory agent". DO NOT LEAVE THIS SECTION BLANK)

Address 4486 E. Ford Ave.

City Gilbert State Arizona Zip 85234

3. The name and street address of the statutory agent in Arizona

Name Alpha Legal Forms & More, Inc.

Address 4500 E. Speedway Blvd., Suite 31

City Tucson State AZ Zip 85712

Acceptance of Appointment by Statutory Agent:

I Alpha Legal Forms & More, Inc., having been designated to act as
 (Print Name of the Statutory Agent)
 Statutory Agent, hereby consent to act in that capacity until removed or resignation
 is submitted in accordance with the Arizona Revised Statute.

Agent Signature: [Signature]
 Alpha Legal Forms & More, Inc.

By: Kermit Burton, President

If signing on behalf of a company, please print the company name here.

DO NOT PUBLISH SECTION

4. Any required for professional limited liability company. The purpose must state the professional service or services that the company is organized to perform. Professional service is defined as a service that may be lawfully rendered only by a person licensed in this state to render the service.

5. The latest date, if any, on which the Company must dissolve. If a dissolution date should include the month, day and year. Perpetual means continuing forever or indefinitely

6. Check which management structure will be applicable to your company. Provide name, title and address for each person.

6A. If reserved to the member(s), check the member's box and provide the name(s) and address (es) of each member. NOTE: If reserved to the member(s) you cannot list any manager.

6B. If vested in manager(s) check the manager's box and provide the name(s) and address (es) of each manager and each member who owns a twenty (20%) percent or greater interest in the capital or profits of the LLC/ PLLC.

The person (s) executing this document need not be a manager or member of the company.

4. Purpose of this (Professional) Limited Liability Company is to provide the following (professional) service(s): (Only required for a Professional LLC Company)

5. Dissolution: The latest date of Dissolution

The latest date to dissolve ___ / ___ / ___ (Please enter month, day and four digit year)
 The Limited Liability Company is Perpetual

6. Management Structure: (Check one box only) A.R.S. §29-632(5)

<p>A. <input checked="" type="checkbox"/> RESERVED TO THE MEMBER(S) IF RESERVED TO THE MEMBER(S), YOU MAY SELECT ONLY THE MEMBER BOX FOR EACH MEMBER LISTED.</p>	
<p>B. <input type="checkbox"/> VESTED IN MANAGER(S) IF VESTED IN THE MANAGER(S), AT LEAST ONE ENTRY BELOW MUST HAVE THE MANAGER BOX CHECKED.</p>	
<p>Name <u>Julie A. Rea</u></p> <p><input checked="" type="checkbox"/> Member <input type="checkbox"/> Manager (only if "B" is selected above)</p> <p>Address: <u>4486 E. Ford Ave.</u></p> <p>City, <u>Gilbert</u> State, <u>Arizona</u> Zip: <u>85234</u></p> <p>Name _____</p> <p><input type="checkbox"/> Member <input type="checkbox"/> Manager (only if "B" is selected above)</p> <p>Address: _____</p> <p>City, _____ State, _____ Zip: _____</p>	<p>Name <u>James C Rea</u></p> <p><input checked="" type="checkbox"/> Member <input type="checkbox"/> Manager (only if "B" is selected above)</p> <p>Address: <u>4486 E. Ford Ave.</u></p> <p>City, <u>Gilbert</u> State, <u>Arizona</u> Zip: <u>85234</u></p> <p>Name _____</p> <p><input type="checkbox"/> Member <input type="checkbox"/> Manager (only if "B" is selected above)</p> <p>Address: _____</p> <p>City, _____ State, _____ Zip: _____</p>
<p>IF YOU NEED MORE SPACE FOR LISTING MEMBERS / MANAGERS PLEASE ATTACH THE ADDITIONAL PAGE TO THE ARTICLES OF ORGANIZATION.</p>	

Executed this 20th day of April, 2009

Executed by: _____ Print Name _____

LegalZoom.com, Inc., a California corporation, Organizer
By: Imelda Vasquez, Assistant Secretary

If signing on behalf of a company, please print the company name here.

Phone Number: (323) 962-8600 X. 529 Fax Number: (323) 962-8300

W-02784A-09-276
W-20288A-09-0276

²²
CERTIFICATION

ORIGINAL

I, Pam Fisher, do solemnly swear that I am the Sec/Tres of Tonto Creek Utility and that the attached notice was inserted in each customer bill mailed by first class mail on September 1, 2009.

Pam Fisher
PAM FISHER

State of Arizona)

County of Gila

On this 9th day of September, 2009, before me personally appeared Pam Fisher, whose identity was proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this document, and he/she voluntarily signed the above/attached document.

Subscribed and signed before me this 9th day September 2009.



Angela Parker
Notary Public

My commission expires 08/18/2013

Arizona Corporation Commission

DOCKETED

SEP 11 2009

DOCKETED BY *MM*

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

2009 SEP 11 A 9:08

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**IN THE MATTER OF THE APPLICATION OF TONTO CREEK UTILITY CO. FOR APPROVAL OF THE
SALE OF ITS ASSETS AND TRANSFER OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO
TONTO CREEK WATER COMPANY LLC
Docket No.W-02784A-09-0276 et al.)**

Summary

On June 2, 2009, Tonto Creek Utility Co. ("TCUC") filed with the Arizona Corporation Commission ("Commission") an application for approval of the sale of its assets and the transfer of its Certificate of Convenience and Necessity ("CC&N") to Tonto Creek Water Company LLC ("TCWC"). Per the application, TCUC and TCWC entered into an agreement on June 1, 2009, under which TCUC will transfer all of its assets to TCWC in return for \$15,000. The agreement states that there is a separate agreement for the transfer of ownership of Lot 23 in Tonto Creek Estates. The agreement states that, at closing on the transaction, TCUC will pay all main extension agreement refunds due and all meter and service line installation charge refunds due. TCUC has asserted that TCWC will charge customers the same rates and charges currently assessed by TCUC, that the current Certified Operator will continue to operate the system, and that TCWC currently plans no changes to the operation and maintenance of the system.

The Commission's Utilities Division Staff ("Staff") is in the process of analyzing the application and has not yet made any recommendations in this matter. The Commission is not bound by the proposals made by TCUC, TCWC, Staff, or any intervenors. The Commission will determine whether to approve the sale of assets and CC&N transfer based on the evidence received through an evidentiary hearing in this matter.

If You Are a TCUC Customer

If the sale of assets and CC&N transfer are approved, TCWC will be the exclusive provider of water utility service to your area. TCWC is under the jurisdiction of the Commission. TCWC's address is 4486 East Ford Avenue, Gilbert, AZ 85234. Phone: 478-664-220.

If you have a claim against TCUC, such as a claim for refund of a security deposit or service line and meter installation charges or for refund on a main extension agreement, and you have not been contacted by TCUC regarding your claim, you must present your claim to TCUC by October 15, 2009. Direct your claim to TCUC at HC 2 Box 94G, Payson, AZ 85541. Phone: 928-478-4384.

How You Can View or Obtain a Copy of the Application and Other Documents

Copies of the application and the other documents filed in this matter are available at TCUC's offices 227 North Tonto Rim Ranch Road, Payson, Arizona 85541; at the Commission's Docket Control Center at 1200 West Washington, Phoenix, Arizona, for public inspection during regular business hours; and on the Internet via the Commission's website (www.azcc.gov) using the e-Docket function.

Arizona Corporation Commission Public Hearing Information

The Commission will hold a hearing in this matter beginning on October 27, 2009, at 10:00 a.m. in Hearing Room #1 at the Commission's offices, 1200 West Washington Street, Phoenix, Arizona. Public Comments will be taken on the first day of the hearing. Written public comments may be submitted by mailing a letter referencing Docket No. W-02784A-09-0276 et al. to Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007, or by e-mail. For a form to use and instructions on how to e-mail comments to the Commission, go to http://www.azcc.gov/divisions/utilities/forms/public_comments.pdf. If you require assistance, you may contact the Consumer Services Section at 1-800-222-7000 or 602-542-4251.

About Intervention

Any person or entity entitled by law to intervene and having a direct and substantial interest in the matter will be permitted to intervene. If you desire to intervene, you must file a written motion to intervene with the Commission no later than October 15, 2009. You must send a copy of the motion to TCUC and TCWC, or to their counsel, and to all parties of record. Your motion to intervene must contain the following:

1. Your name, address, and telephone number and the name, address, and telephone number of any person upon whom service of documents is to be made, if not yourself;
2. A short statement of your interest in the proceeding (e.g., a customer of TCUC, etc.); and
3. A statement certifying that you have mailed a copy of the motion to intervene to TCUC and TCWC, or their counsel, and to all parties of record in the case.

The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before October 15, 2009. If representation by counsel is required by Rule 31 of the Rules of the Arizona Supreme Court, intervention will be conditioned upon the intervenor's obtaining counsel to represent the intervenor. For information about requesting intervention, visit the Commission's website at <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>. The granting of intervention, among other things, entitles a party to present sworn evidence at hearing and to cross-examine other witnesses. However, failure to intervene will not preclude any interested person or entity from appearing at the hearing and providing public comment on the application or from filing written comments in the docket for the case.

ADA/Equal Access Information

The Commission does not discriminate on the basis of disability in admission to its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter and request this document in an alternative format by contacting the ADA Coordinator, Shaylin Bernal, at sabernal@azcc.gov, voice phone number (602)542-3931. Requests should be made as early as possible to allow time to arrange the accommodation.