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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED

MAR 23 2010

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF)
OF WILLOW VALLEY WATER COMPANY, INC.)
FOR AN EXTENSION OF ITS CERTIFICATE OF)
CONVENIENCE AND NECESSITY.)

DOCKET NO. W-01732A-05-0532

**McKELLIPS LAND
CORPORATIONS' MOTION
FOR EXTENSION OF TIME**

McKellips Land Corporation ("MLC") respectfully requests that the Commission extend the LAWS deadline in Decision No. 68610 (March 23, 2006) by an additional year, to March 23, 2011. MLC was granted intervention in this docket by Decision No. 71174 (June 30, 2009).

Decision No. 68610 granted a CC&N extension to Willow Valley Water Co., Inc. ("Willow Valley") for three parcels (A, B and C) owned by MLC, which were specifically described in Exhibit "A" attached to that Decision. Willow Valley had initially received a request to serve the extension area from MLC which was developing three subdivisions within the area, Willow Valley Estates 20, Tracts A, B and C (Tract C has now has been renamed Willow Valley Estates 21, but will continue to be referred to herein as Tract C for convenience). Decision No. 68610 requires Willow Valley to obtain and file with Docket Control, as a compliance item, copies of the Developer's Letter of Water Adequacy Supply ("LAWS") stating that there is adequate water, no later than one year after the decision. MLC obtained, and Willow Valley submitted to the Commission, the LAWS for Tracts A and B. Those tracts have been platted, developed and sold and all homes built within Tracts A and B are being served by Willow Valley. However, MLC has encountered several unexpected difficulties in obtaining the LAWS for Tract C. In Decision No. 71174 (June 30, 2009), the Commission extended the deadline for obtaining the LAWS for Tract C until March 23, 2010.

1 Water for Tract C is supplied from the Colorado River, the water rights to which are
2 allocated by the Mohave Valley Irrigation & Drainage District ("District") pursuant to a contract
3 with the United States Bureau of Reclamation. At the time MLC first attempted to obtain a water
4 allocation for Tract C, the District was barely functioning. Following a recall election, a new Board
5 of Directors had been elected which granted the necessary water allocation. However, a lawsuit
6 brought by one of the former directors, which ultimately reached the Arizona Supreme Court,
7 resulted in disqualification of the board and nullification of its acts, which required MLC to reapply
8 to obtain its water allocation. MLC reapplied and ultimately obtained its allocation of Colorado
9 River water for Tract C. Moreover, Tract C was initiated under Mohave County's former
subdivision ordinance and was grandfathered in after a new ordinance was adopted.

10 As a result of these delays and others, MLC was not able to complete Tract C within the
11 required time, and was unable to obtain an extension, which resulted in the county requiring MLC to
12 commence the subdivision process all over again for this Tract under the new ordinance. This
13 resulted in Tract C being renamed Willow Valley Estates 21. The preliminary plat for this
14 subdivision was submitted and resubmitted multiple times and each time the county has been slow
15 and unresponsive and continued to demand additional requirements that were not required for the
16 previous approvals of Tracts A and B. The most time consuming demand has been the county's
17 requirement for the filing of a parcel plat defining the retention basin which receives the storm
18 drainage from Tracts A, B and C. In order to provide the required plat MLC was required to
19 complete a process with the Assessor's office of combining two parcels with different Assessor
20 parcel numbers. As it happened the parcels were held in two different names, MLC and Lawyers
21 Title of Arizona, as trustee for MLC. That circumstance required MLC to obtain a deed back from
22 the title company. Unfortunately, the parent company of the title company had gone into
23 reorganization and all of its trusts had been assigned to another title company for administration that
24 was unfamiliar with the property and the trust. The deed was finally obtained and the engineer for
the company began the tedious task of preparing the parcel plat which involved a complicated
analysis of the riparian boundaries of the MLC property including accretion issues which arose
subsequent to a quiet title action completed by MLC in 1976. The MLC property is all located in

1 partial Section 21, Township 18 North, Range 22 West, G.&S.R.B.&M. The survey and engineering
2 required for the parcel plat was further complicated by the fact that the Bureau of Indian Affairs had
3 some time before resurveyed the north line of Section 21, which is also the south line of Section
4 included in the Mojave Indian Reservation and (in violation of federal law) moved the Section
5 corners which, of course, required a complicated reconciliation of the north boundary of Section 21
6 by the MLC engineer. Multiple versions of the parcel plat have been prepared and presented to the
7 county and rejected by various departments including the cartography office for a number of issues.
8 It is believed that those issues have recently all been resolved and what is expected to be the final
9 version has been mailed to MLC for signature. Once the county receives this parcel plat it is
10 expected that the subdivision process which has been stalled can resume. The developer has
11 arranged the financing to complete the subdivision and has performed the rough grading. The
12 preliminary plat is completed as has the final plat and drafts of some of the improvements plans have
13 been completed. This should permit MLC to obtain the required LAWS for this subdivision within
14 the extension time requested.

15 Section 21 is bounded on the West by the Colorado River and on the North and South by the
16 Mojave Indian Reservation. The MLC property, including Tract C, is bounded on the East by other
17 subdivisions served by Willow Valley. Not only is Willow Valley the only feasible service provider
18 for any expansion within this area, it is already providing water to homes within subdivision Tracts
19 A and B, and no purpose would be served in revoking the CC&N extension. Further, there is no
20 question that adequate water will be available for Willow Valley to serve Tract C, which has been
21 previously demonstrated by the allocation of Colorado River surface water for that Tract by the
22 Mohave Valley Irrigation & Drainage District pursuant to its contract with the Secretary of Interior.¹
23 Extension of that allocation is on the Docket and is expected to be granted at the next irrigation
24 district meeting in April.

Moreover, MLC is concerned that revocation of the CC&N extension would result in more
expense and delay and would leave customers of Willow Valley in Tracts A and B outside the

¹ See, Exhibit "B" to MLC's previous Conditional Motion for Extension of Time

1 certified area of the company. MLC has diligently pursued the LAWS, and the delays it has
2 encountered are primarily the fault of others and not that of MLC or Willow Valley. It is expected
3 that the last major hurdle for proceeding with the Tract C subdivision has been overcome and that
4 processing should be capable of being expedited. MLC has been involved in developing this area
5 since 1959, and has successfully completed numerous lots in many subdivision phases, creating a
6 small community extending from the Colorado River to Highway 95 and to areas two miles further
7 to the east. The entire community which receives water from a utility is serviced by Willow Valley.

8 We have conferred with counsel for Willow Valley, and can report that Willow Valley does
9 not oppose this extension of time and would concur in the request. Accordingly, MLC respectfully
10 requests that the Commission extend the LAWS deadline for an additional year, until March 23,
11 2011.

12 RESPECTFULLY SUBMITTED this 23rd day of March 2010.

13 CARSON MESSINGER ELLIOTT LAUGHLIN & RAGAN PLLC

14 By 

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1 Original and 13 copies of the foregoing
filed this 23rd day of March, 2010 with:

2 Docket Control
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5 Copy of the foregoing hand-delivered/mailed
this 23rd day of March, 2010

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