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BEFORE THE ARIZONA CORPORATION COMMISSION

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2010 JUN 22 P 3: 51

AZ CORP COMMISSION  
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Arizona Corporation Commission

DOCKETED

JUN 22 2010

DOCKETED BY

7  
8 IN THE MATTER OF THE APPLICATION OF  
9 CHAPARRAL CITY WATER COMPANY,  
10 INC., AN ARIZONA CORPORATION, FOR A  
11 DETERMINATION OF THE FAIR VALUE OF  
ITS UTILITY PLANT AND PROPERTY AND  
FOR INCREASES IN ITS RATES AND  
CHARGES FOR UTILITY SERVICE BASED  
THEREON.

Docket No. W-02113A-07-0551

12 RUCO'S REHEARING REPLY BRIEF

13 The Residential Utility Consumer Office ("RUCO") offers this Rehearing Reply Brief on  
14 the matters raised at Chaparral Water Company Inc.'s ("Chaparral's") recent rehearing and  
15 requests that the Commission reaffirm its prior Decision and deny the relief requested by the  
16 Company.

- 17  
18 1. Decision No. 66849 is not dispositive because the Company failed to  
acquire replacement wells in the Settlement Agreement.

19  
20 The Company claims that consistent with Decision No. 66849, the Commission should  
21 allocate 50 percent of the Settlement Proceeds to the shareholders.<sup>1</sup> Although both this matter  
22 and the *Arizona Water* case involve distribution of settlement proceeds to compensate for the

23  
24 <sup>1</sup> See *In the Matter of Arizona Water Eastern Group*, Docket No. W-01445A-02-0619, Decision No. 66849 (May 19, 2004).

1 contamination of wells, they are factually distinguishable. In Decision No. 66849, Arizona  
2 Water received replacement wells which produced water equal to or above the amount of the  
3 water produced by the wells lost to contamination in addition to financial compensation.  
4 Accordingly, in that case, ratepayers were not required to use the settlement proceeds to  
5 procure new water sources or build new infrastructure. The agreement itself provided the  
6 replacement water and infrastructure at no additional cost to Arizona Water ratepayers.  
7 Furthermore, the Arizona Water ratepayers did not have to pay higher rates to compensate for  
8 revenues lost from the sale of non-potable water. In Arizona Water the Commission did not  
9 have to consider the cost of replacement water and infrastructure and its burden to ratepayers  
10 in determining how to balance ratepayer and shareholder interests.

11 The Commission must balance different interests in this case. Here, the Company  
12 entered into a settlement agreement ("Settlement Agreement") with Fountain Hills Sanitation  
13 District ("FHSD") regarding the contamination of Wells Nos. 8 and 9. (Settlement Agreement  
14 attached hereto and Exhibit 1). Pursuant to the Settlement Agreement, the Company received  
15 \$1.52 million ("Settlement Proceeds"), agreed to give FHSD a 15-year option to purchase Well  
16 No. 8 for no additional compensation and gave up the use of Well No. 9.<sup>2</sup> The Company  
17 received no replacement water or wells to compensate for the loss of use of Wells Nos. 8 and  
18 9 or the loss of revenue generated therefrom. Although FHSD initially built a replacement  
19 well, known as the Community Center Well as a substitute for Wells Nos. 8 and 9, as part of  
20 the Settlement Agreement, FHSD retained the well as a recharge and recovery well to secure

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21  
22 <sup>2</sup> According to the Registration of Existing Wells filed by the Company with the Department of Water Resources  
23 on March 15, 1982, Well no. 8 was completed on October 4, 1967 and had a pumping capacity of 640 gpm. In  
24 1988, the Company applied for a recovery well permit to use the wells site as a recovery well and indicated that  
the water from the well would be used for irrigation purposes. (Attached as Exhibit 2.) According to the  
Registration of Existing Wells, Well No. 9 was completed on February 12, 1970 with a maximum pumping  
capacity of 2,020 gpm.(Attached as Exhibit 3).

1 its final APP to expand the plant. See Exhibit 1 at 2. Essentially, in negotiating the Settlement  
2 Agreement, the Company gave up all interest in the replacement well.

3         Consequently, Chaparral ratepayers have lost the use of the potable water previously  
4 provided by Wells No. 9 and the replacement well and water intended as its substitute.  
5 Moreover, ratepayers have lost the revenue from the sale of non-potable water from Well No. 8  
6 to the park at Fountain Hills which would otherwise mitigate residential rates increases.  
7 Because Chaparral's ratepayers did not receive replacement wells and lost a source of  
8 revenue, they will be subject to rate increases due to a loss of revenue and the expense of  
9 replacement water and infrastructure. By its current ruling, the Commission has mitigated the  
10 potential rate increase by allocating 100 percent of the Settlement Proceeds to ratepayers.  
11 The Commission should not apply the policy of Decision No. 66849 or disturb its current ruling.

12                 **2. The Commission should weigh the costs to ratepayers over the windfall for**  
13                 **shareholders.**

14         RUCO does not believe the public's interest is fairly served by allocating 50 percent of  
15 the \$1.52 million to shareholders when the ratepayers have lost the use of Wells 8 and 9,  
16 relinquished the use of the Community Center Replacement Well, are incurring 100 percent of  
17 the costs of replacement water and infrastructure and have lost revenue from non-potable  
18 water sources which would have otherwise mitigated rates. The Company argues that if  
19 shareholders routinely recover 50 percent of Settlement Proceeds they will more likely pursue  
20 recovery against parties who damage or contaminate assets. However, RUCO disagrees that  
21 adopting a policy to pander to that self-interest should be the only consideration. The  
22 Commission should also weigh and balance the public interests of ratepayers, and in doing so,  
23 reaffirm its decision to allocate 100 percent of the settlement proceeds to ratepayers. The  
24

1 policy consideration suggested by the Company places the interest of shareholders' rewards  
2 above all others and should be rejected.

3 **3. The Company is not entitled to a 2,533%+ windfall on Settlement Proceeds**

4 The Company claims that the \$1.52 million constitutes a "utility generated gain." The  
5 Company is wrong. The Settlement Agreement clearly identifies the proceeds as  
6 compensation for the contamination and loss of use of Wells Nos. 8 and 9, relinquishment of  
7 the Community Center Well and replacement water. Nonetheless, even if the Commission  
8 viewed the Settlement Proceeds as a "utility generated gain," the Company is still not entitled  
9 to a windfall. The Company claims to have spent \$30,000 in attorneys' fees and costs in  
10 negotiating the agreement. The current Commission order grants the Company 100 percent of  
11 its attorney fees and expenses incurred in the negotiation of the agreement. What the  
12 Company would like is 50 percent of the Settlement Proceeds or a \$760,000 windfall on its  
13 \$30,000 expenditure.

14 In the Bluefield and Hope decisions, the Supreme Court held a public utility that is  
15 efficiently and economically managed is entitled to recover the cost of its investment and the  
16 opportunity to earn a reasonable return thereon.<sup>3</sup> The Supreme Court has held that a rate of  
17 return adopted for a utility should also be comparable to a return that investors would expect to  
18 receive from investments with similar risk.<sup>4</sup> Excluding the costs of the wells and the fact that  
19 the Settlement Agreement was compensation for the loss of use of Wells Nos. 8 and 9 and  
20 relinquishment of the Community Center Well and water, the Company is seeking essentially a  
21 2,533 percent return on the \$30,000 investment of its purported "utility generated gain." The  
22

23 <sup>3</sup> Bluefield Water Works & Improvement Co. v. Public Service Commission of West Virginia, 262 U.S. 679(1923)  
and Federal Power Commission v. Hope Natural Gas Company 320 U.S. 391(1944).

24 <sup>4</sup> Id.

1 Company's position is simply absurd.<sup>5</sup> The Company has already received all recovery to  
2 which it is entitled. Granting further relief would result in excessive returns, creating a windfall  
3 for shareholders at the expense of ratepayers. Accordingly, RUCO recommends the  
4 Commission affirm its prior position and allocate 100 percent of the Settlement Proceeds to the  
5 ratepayers.

6  
7 **4. The Company's interests in facilitating development should not outweigh the interests of ratepayers.**

8 The Company was previously owned by MCO Properties. MCO Properties was also the  
9 prior owner of Fountain Hills Sanitation District. In order to develop its land in Fountain Hills,  
10 MCO needed to expand the size of FHSD. To secure its Aquifer Protection Permit for its  
11 Recharge system, FHSD needed to use Well No. 8 to recharge treated effluent through  
12 multiple aquifer storage and recovery wells.<sup>6</sup> Thereafter, FHSD built a well previously  
13 identified as the Community Center Well as a possible replacement for Well No. 8 and 9. *Id.*  
14 Instead, of providing Chaparral ratepayers with a replacement well, by terms of the Settlement  
15 Agreement, FHSD retained the Community Center Well for aquifer storage and recovery in  
16 order to complete its final phased expansion of its FHSD plant and enabling yet more  
17 development.<sup>7</sup> As part of the Settlement Agreement, FHSD paid the Company \$1.52 million.  
18 *Id.* By the terms of the agreement, the proceeds would be used by the Company to fund  
19 projects "to improve its water production, treatment and distribution system." *Id.*

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21  
22  
23 <sup>5</sup>  $760,000/30,000=25.33 \times 100 = 2,533\%$

24 <sup>6</sup> See Exhibit 1 attached hereto at 2 and Application for Recovery Well Permit no. 55-522513.

<sup>7</sup> See Exhibit 1 attached hereto at 2.

1 In the underlying case, the Company successfully argued for the inclusion of a \$1.28  
2 million additional CAP allocation in rate base.<sup>8</sup> The Company claimed additional water was  
3 needed to serve the needs of current customers. RUCO maintained and continues to maintain  
4 that the purpose of the additional CAP allocation is to provide water necessary for Ellman  
5 Holdings to develop land purchased from the State Land Department.<sup>9</sup> RUCO further asserts  
6 that regardless of the purpose of the additional allocation, ratepayers should not be required to  
7 pay for an additional CAP allocation and at the same time be denied the full mitigation benefit  
8 of the Settlement Proceeds. Because the Company asserts that the Settlement Proceeds  
9 were for replacement water, the Settlement Proceeds should be used to mitigate the cost of  
10 replacement water.<sup>10</sup> RUCO requests the Commission affirm its prior order and allocate 100  
11 percent of the Settlement Proceeds to ratepayers.

12  
13 **5. Ratepayers should not be forced to accept 50 percent of the sales**  
14 **proceeds of nominally valued, fully depreciated, 40-year old plant at some**  
15 **unknown future date in lieu of a 100 percent allocation of Settlement**  
16 **Proceeds, today.**

17 In the underlying case, Staff proffered one expert witness on the issue of the FHSD  
18 settlement proceeds, Marvin Millsap, a certified public accountant.<sup>11</sup> Mr. Millsap testified in  
19 direct and surrebuttal that the compensation for Wells Nos. 8 and 9 should be allocated 100  
20 percent to ratepayers.<sup>12</sup> He correctly pointed out that the assets are fully depreciated; the  
21 shareholders have already recovered the full cost of their investment through depreciation

22 <sup>8</sup> *In the Matter of Chaparral City Water Co.*, Docket No. W-02113A-07-0551, Decision No. 71308.  
23 <sup>9</sup> *See* RUCO Original Closing and Reply Briefs. *See also In the Matter of Chaparral*, Docket No. W-02113A-05-  
24 0178 (the Company's application to expand its CC&N to include Ellman Holdings' parcel).  
<sup>10</sup> *See* A-1, Hanford's Direct Testimony.  
<sup>11</sup> *See* Rehearing Exhibit R-1 Direct Testimony of William Risgby, Attachment A at 5-6 and 11-15. *See also*  
<sup>12</sup> *Id.* Exhibit S-3 to the Original Proceeding, Surrebuttal Testimony of Marvin Millsap at 3-4.

1 expense and received a full return on their investment.<sup>13</sup> He testified that shareholders are  
2 entitled to no more under the law. During the course of testifying, Mr. Millsap indicated that  
3 Staff's Utility Division wanted to withdraw its objection to the Company's treatment of the  
4 Settlement Proceeds. However, neither Mr. Millsap nor the Utilities Division offered any  
5 rationale at that time for its change in position that the Company should receive 50 percent of  
6 the proceeds.<sup>14</sup>

7 On rehearing, Staff's witness, Elijah Abinah affirmed the accuracy of Mr. Millsap's  
8 original opinion, but testified that Staff believes the ratepayers will benefit from the sale of  
9 Wells Nos. 8 and 9 and the land associated therewith.<sup>15</sup> Based on the belief that Well Nos. 8  
10 and 9 have value, Staff offered as an option, the possibility of splitting the settlement proceeds  
11 if the Company would agree to split the proceeds from any future sale of Wells Nos. 8 and 9.  
12 The Company has agreed to do so.

13 RUCO respectfully disagrees with Staff's alternative position because Wells Nos. 8 and  
14 9 have no value. The Company has admitted that the Wells have no or nominal value.<sup>16</sup> The  
15 future value of Wells No. 8 is \$0 if FHSD exercises its option to purchase.<sup>17</sup> The Settlement  
16 Agreement states that FHSD has a 15-year option to buy Well No. 8 from the Company at no  
17 further cost.<sup>18</sup> Is it fair to expect ratepayers to forego 50 percent or \$760,000 of the Settlement  
18 Proceeds meant to mitigate the cost of replacement water in exchange for 50 percent of a  
19 nominal or \$0 payment in the future? RUCO does not believe it is. RUCO respectfully  
20 requests that the Commission reaffirm its prior decision and deny the recommendation to split

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22 <sup>13</sup> OT: 416-417. See also Rehearing Exhibit R-1 which includes as Attachment A, Exhibit S-2 to the Original  
Proceeding, Millsap Direct Testimony at 13. See also, Rehearing Exhibit R-3 Company response to MEM DR 7.3.

<sup>14</sup> Id.

23 <sup>15</sup> See Exhibit S-1 Abinah Rehearing Direct at 3.

<sup>16</sup> See Exhibit A-2 to the Original Proceeding, Hanford Rebuttal Testimony at 3-4.

24 <sup>17</sup> See Settlement Agreement at 3 para. 5.

<sup>18</sup> Id. at 2, para.1(c).

1 proceeds of the Settlement Agreement because Wells No. 8 and 9 have no or nominal future  
2 sales value.

3 Last, the Staff's alternative recommendation ignores Arizona's constitutional limits on  
4 the Commission's authority. The Commission must determine rates based on a finding of the  
5 current fair value of the Company's assets.<sup>19</sup> A water utility is entitled a fair return on fair value  
6 of its properties devoted to public use, no more and no less.<sup>20</sup> The Company has already  
7 received full recovery of its investment in Well Nos. 8 and 9.<sup>21</sup> Using Staff's or the Company's  
8 recommendations would result in returns in excess of 700 percent of the cost of the Wells or  
9 2,533 percent of the litigation expense. Such returns are not reasonable, particularly when  
10 one considers the Company has already received a full recovery of its investment in the Wells  
11 and 100 percent recovery of its litigation expense. Considering these facts, and that the future  
12 sales of Wells Nos. 8 and 9 would provide no or nominal recovery to mitigate the cost of  
13 replacement water, RUCO requests that the Commission reject the Staff's alternate  
14 recommendation to split the Settlement Proceeds in exchange for 50 percent of the future sale  
15 proceeds and adopt its original position as set forth by Mr. Millsap.

16  
17 **6. The Commission should not compel ratepayers to pay for the**  
**shareholders' appeal and subsequent remand proceeding.**

18 The Company seeks \$100,000 in compensation for attorney's fees and costs for both  
19 the appellate and remand proceedings. Staff agrees. In support of its position, Staff relies on  
20 the Florida PUC case, In the Matter of Central Florida.<sup>22</sup> In Central Florida, the utility appealed  
21

22 <sup>19</sup> Arizona Constitution, Article 15 §§ 3 and 14. Arizona Corp. Commission v. Arizona Water Co. 85 Ariz.  
23 198(1959).

24 <sup>20</sup> Id.

<sup>21</sup> See A-1, Hanford's Direct Testimony. See also R-3 Company's Response to MEM DR7.3.

<sup>22</sup> Staff's Closing Brief at 4, citing In re Central Florida, 1994 WL 328163 (Fla. P.S.C.).

1 a rate order and prevailed on several issues on appeal. The Florida Commission allowed  
2 partial recovery of appellate rate case expense. *Id.* The Commission should not rely on  
3 Central Florida because the case is factually and legally distinguishable. Arizona and Florida  
4 follow the American rule. Under the American Rule, each side bears their own attorney's fees  
5 and costs unless specific statute permits otherwise.<sup>23</sup> Florida law Section 367.081(7)  
6 specifically authorizes rate case expense.<sup>24</sup> The Florida PUC interpreted the provision of  
7 Section 367.081(7) to include reasonable appellate rate case expense. However, Arizona law  
8 specifically prohibits the award of attorney's fees and costs in appeals from Commission  
9 decisions.<sup>25</sup>

10 In Central Florida, the Company appealed and prevailed on the merits of three of its  
11 claims. In this case, the Court of Appeals remanded the matter. RUCO submits that the  
12 remand decision does not constitute "prevailing" on the merits.<sup>26</sup> The Florida utility sought a  
13 total of \$36,579 for its appeal and remand proceedings. The Florida PUC determined the  
14 "reasonableness" of the Florida utility's request based on a "lodestar" analysis and granted  
15 \$21,947. In doing so, the Florida PUC reviewed the specific evidence of number of hours  
16 expended on the litigation related to the issues upon which Central Florida succeeded on the  
17 merits and determined the reasonableness of those fees using a lodestar test set forth in the  
18 Florida Bar Code of Professional Responsibility DR2-106(b). *Id.* The Florida Commission  
19 stated that "to accurately assess the labor involved the attorney fee applicant should present  
20 records detailing the amount of work performed...[i]dentifying the number of hours billed to

21  
22 <sup>23</sup> *Id.* at 11.

<sup>24</sup> *Id.* at 11-12.

<sup>25</sup> Although A.R.S. §12-348A permits the award of attorney's fees and cost to any party other than the state, city town or county with prevails in a civil action, but A.R.S. §12-348(H) provides in pertinent part: "This section does not: (1) Apply to an action arising from a proceeding before this state...in which the role of this state...was to...establish or fix a rate."

<sup>26</sup> Columbia Parcar Corp. v. Arizona Depart. Of Transportation, 193 Ariz. 181, 971 P. 2d 1042 (1999).

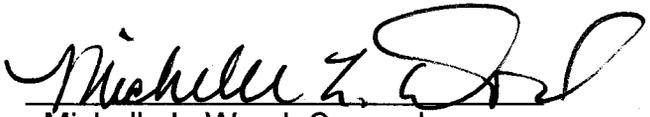
1 client,... the hourly rate for the service... and providing proof that the hourly rate was the  
2 prevailing market rate.” *Id.*

3 Chaparral alleges to have spent in excess of \$500,000. Aside from a non-specific  
4 summary of expenses, the Company has not identified the work performed broken down by  
5 issue, the hourly wage of the employee providing service, or provided proof that the hourly  
6 wage charged was the prevailing market rate for such work. The Company has not identified  
7 fees associated with unsuccessful portions of its appeal. The Company has not removed rate  
8 case expense associated with its unsuccessful request for interim rates or its failed settlement  
9 endeavors. Due to the absence of detail, there is no way for the Commission to determine  
10 whether the charges are duplicative or what the prevailing hourly rates are. Without a break  
11 down of specific expenses, there is no way for the Commission to apply the Central Florida  
12 Iodestar test to this case or to ascertain what a reasonable amount of legal expense would be.  
13 Again, the burden is on the Company, not RUCO to support its request for rate case expense.  
14 Based on the foregoing, RUCO respectfully requests that the Commission reaffirm its prior  
15 decision denying the Company’s request for an additional \$100,000 for rate case expense.

16 **CONCLUSION**

17 The FHSD settlement proceeds should be allocated 100 percent to ratepayers.  
18 Shareholders have received recovery of and on their investment in Wells Nos. 8 and 9 and are  
19 legally entitled to no more. RUCO asserts that the Company’s request for legal fees for the  
20 appeal and remand be denied as a matter of law, evidence, fairness and public policy. The  
21 Commission should not attempt to apply the ruling of Central Florida because it is both legally  
22 and factually distinguishable. Accordingly, RUCO respectfully requests that the Commission  
23 reaffirm its prior decision and deny the Company all requested relief.  
24

1 RESPECTFULLY SUBMITTED this 22<sup>nd</sup> day of June, 2010.

2  
3 

4 Michelle L. Wood, Counsel  
5 Residential Utility Consumer Office

6 AN ORIGINAL AND THIRTEEN COPIES  
7 of the foregoing filed this 22<sup>nd</sup> day  
8 of June, 2010 with:

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10 Arizona Corporation Commission  
11 1200 West Washington  
12 Phoenix, Arizona 85007

13 COPIES of the foregoing hand delivered/  
14 mailed this 22<sup>nd</sup> day of June, 2010 to:

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20 Phoenix, Arizona 85007

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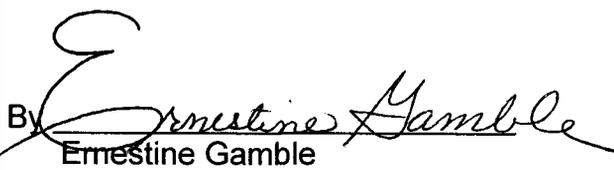
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Ernestine Gamble

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RUCO

EXHIBIT 1

OFFICIAL RECORDS OF  
MARICOPA COUNTY RECORDER  
HELEN PURCELL  
20050158200 02/08/2005 09:37  
12915-20-1-1-  
ELECTRONIC RECORDING

WHEN RECORDED RETURN TO:

Fountain Hills Sanitary District  
Attn: Ronald D. Huber  
General Manager  
16941 East Pepperwood Circle  
Fountain Hills, AZ 85268

AGREEMENT BETWEEN CHAPARRAL CITY WATER  
AND FOUNTAIN HILLS SANITARY DISTRICT  
DATED THIS 3 DAY OF February, 2005

REC BY [illegible]

## AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into as of this 3<sup>rd</sup> day of FEB, 2005 (the "Agreement Date") by and between CHAPARRAL CITY WATER COMPANY, an Arizona public service corporation ("CCWC") and the FOUNTAIN HILLS SANITARY DISTRICT, an Arizona sanitary district ("District"). CCWC and the District are occasionally referred to herein collectively as the "Parties" and individually as a "Party."

## RECITALS

A. CCWC is a public service corporation as defined in Article XV, Section 2 of the Arizona Constitution and as such, is regulated by the Arizona Corporation Commission (the "Commission"). CCWC provides potable water service and irrigation service to customers located within the geographical boundaries of its certificate of convenience and necessity (the "Certificated Territory") issued by the Commission.

B. CCWC owns various groundwater wells, including (i) Well #8 registered with the Arizona Department of Water Resources ("ADWR") as Well Registration No. 55-604784 ("Well #8"), which well has never been committed to potable service and (ii) Well #9 registered with ADWR as Well Registration No. 55-604785 ("Well #9"), which well has not been in service for at least three (3) years.

C. The District is a political subdivision of the State of Arizona, and as such, the District provides sanitary sewer service to customers residing within the boundaries of the District, which boundaries are coextensive with portions of CCWC's Certificated Territory. In connection with the operation of its sanitary system, the District has constructed a recharge system (the "Recharge System") whereby District recharges treated effluent through multiple aquifer storage and recovery ("ASR") wells.

D. In order for the District to secure an Aquifer Protection Permit for its Recharge System, District requested CCWC to permanently cease using its Well #8 and Well #9 and CCWC acceded to the District's request with the understanding that a formal agreement would follow.

E. The District has caused to be constructed a well known as the community center well and registered with ADWR as Well Registration No. 55-587029 (the "Community Center Well") as a possible replacement for Well #8 and Well #9. The Parties have agreed, instead, that the District will retain the Community Center Well as an ASR well and pay CCWC to permanently cap Well # 8 and cap Well #9, subject to the terms and conditions set forth herein. CCWC intends to use the Consideration paid by the District, as hereinafter defined, to fund projects to improve CCWC's water production, treatment and distribution system.

NOW, THEREFORE, in consideration of the premises and the mutual covenants, agreements, undertakings, representations, and warranties set forth herein, and subject to the terms and conditions hereof, the Parties hereby agree as follows:

## AGREEMENT

1. Removal from Service of Well #8 and Well #9; Grant of Option to Acquire the Well # 8 Real Property. For the consideration of ONE MILLION FIVE-HUNDRED TWENTY THOUSAND DOLLARS (\$1,520,000.00) (the "Consideration") paid by the District to CCWC as provided hereinafter, CCWC shall:

(a) Permanently remove from service and cap Well #8 and cap Well #9 in accordance with the provisions set forth herein, retaining ownership thereof; and

(b) Relinquish any legal or equitable claim or interest that CCWC may otherwise possess in the Community Center Well; and

(c) Grant an option to the District providing the District the right to acquire Well # 8 together with that certain real property comprising the Well #8 well site, more particularly described in Exhibit "A" attached hereto, and including the well casing, pad, and any pump, bowls, motor, electrical panel, meter and other appurtenances thereon, together with any assignable licenses, permits, warranties and guarantees that relate to the Well #8 and the Well #8 real property in existence at the time the District exercises the option, all as more particularly described in Exhibits "B" and "C" attached hereto, all in accordance with the option terms and conditions set forth below. Well #8, the real property, including all the foregoing improvements, appurtenances and rights are collectively referred to herein as the "Well #8 Real Property."

2. Payment of the Consideration. District will tender a Check drawn on District's account and payable in United States Federal Reserve Currency in the amount of ONE MILLION FIVE-HUNDRED TWENTY THOUSAND DOLLARS (\$1,520,000.00) at CCWC's business office located at 12021 N. Panorama Drive, Fountain Hills, Arizona 85268 on or before close of business on February 1, 2005. Payment of the Consideration is effective when the District's check is accepted upon presentment to the payor bank.

3. Representations and Warranties of CCWC. CCWC represents and warrants to the District as follows:

(a) Full Power and Authority. CCWC is a corporation duly organized, validly existing and in good standing under the laws of the State of Arizona. CCWC has the full corporate power and authority to execute and deliver this Agreement, and to perform and carry out all covenants and obligations to be performed and carried out by CCWC hereunder.

(b) Legal, Valid and Binding. This Agreement and all deeds, assignments, certificates or other instruments or documents executed or delivered by CCWC in connection with the transactions contemplated herein, each constitute legal, valid and binding obligations of CCWC, enforceable against CCWC in accordance with their respective terms.

(c) No Conflict. To CCWC's actual knowledge upon good faith investigation, the execution, delivery and performance of this Agreement by CCWC and the consummation of the transactions contemplated herein will not: result in a breach or acceleration of or constitute a default or event of termination under the provisions of any agreement or instrument to which CCWC is a party or bound, or constitute or result in the violation or breach

by CCWC of any judgment, order, writ, injunction or decree issued against or imposed upon CCWC.

(d) Removal of Well # 8 and Well #9 from Service. Neither Well #8 or Well #9 are connected to CCWC's water distribution system; CCWC has not used Well #8 or Well #9 for at least three (3) years; CCWC will not use or connect to its distribution system either Well # 8 or Well #9 in the future; and, at its sole cost, CCWC will cap Well #8 and cap Well # 9 in accordance with ADWR rules and regulations within one hundred eighty (180) days from the Agreement Date.

(e) No Objection to Permitting District Recharge Wells. CCWC shall not file any objection to any application filed by the District: (i) to drill a well on the Community Center Well site; (ii) to operate a recharge facility on the Community Center Well site; or (iii) for a storage and recovery permit to operate the Community Center Well.

4. Representations and Warranties of the District. The District represents and warrants to CCWC (and on the Closing Date shall be deemed to represent and warrant) as follows:

(a) Full Power and Authority. The District is a sanitary district duly organized, validly existing and in good standing under the laws of the State of Arizona, and has the full power and authority to execute and deliver this Agreement, and to perform and carry out all covenants and obligations to be performed and carried out by the District hereunder.

(b) Legal, Valid and Binding. This Agreement and all certificates or other instruments or documents executed or delivered by District in connection with the transactions contemplated herein, each constitute legal, valid and binding obligations of the District, enforceable against the District in accordance with their respective terms.

(c) No Conflict. To District's actual knowledge upon good faith investigation, execution, delivery and performance of this Agreement by the District and the consummation of the transactions contemplated herein will not: result in a breach or acceleration of or constitute a default or event of termination under the provisions of any agreement or instrument to which District is a party or bound, or constitute or result in the violation or breach by District of any judgment, order, writ, injunction or decree issued against or imposed upon District.

5. District Option to Acquire the Well # 8 Real Property; No Transfer or Encumbrance. Upon payment of the Consideration, District shall have the option to acquire the Well # 8 Real Property for a period of fifteen (15) years from the Agreement Date (the "Well #8 Option") and, during the option period, CCWC shall not transfer, convey or encumber (other than financial liens and mortgages applying to all or substantially all of CCWC's utility property) the Well #8 Real Property without District's written consent, which consent shall not be unreasonably withheld. No additional consideration will be due from District at the time the Well #8 Option is exercised.

6. District's Exercise of Well #8 Option. District shall exercise the Well #8 Option in writing and subject to the notice provisions set forth below. Upon execution of the Well #8 Option by District the following additional terms and conditions shall apply:

(a) Usefulness of the Well #8 Real Property. While, CCWC believes that the Well #8 Real Property is no longer necessary or useful in the performance of CCWC's duties to the public and may be disposed of consistent with A.R.S. §40-285(C), CCWC and District agree CCWC will, at its sole cost, within ninety (90) days after the District's exercise of the Well #8 Option, file an application with the Commission for an adjudication that the Well #8 Real Property is not necessary or useful in the performance of its duties meaning that Commission approval is not required, or, in the alternative, that the conveyance to the District pursuant to this Agreement and the Well #8 Option is in the public interest.

(b) Preliminary ALTA Title Report and Disclosure. Within ninety (90) days of a favorable determination by the Commission, CCWC shall secure a Preliminary ALTA Title Report for the Well #8 Real Property and, to the extent that it has actual knowledge thereof upon reasonable investigation, provide written disclosure to District of any faults, defects or dangerous conditions of any kind regarding the Well #8 Real Property being conveyed to District, and will set forth those disclosures on Exhibit "D" to be attached hereto. CCWC shall satisfy or otherwise remove any defect in title or encumbrance that is not reflected on that certain Preliminary ALTA Title Report No 211-4171969 for the Well #8 Real Property prepared by First American Title Insurance Company with an effective date of December 15, 2003, or unless otherwise consented to in writing by District.

(c) Conveyance of Title to the Well #8 Real Property. Title to the Well #8 Real Property shall be conveyed to the District by: (i) bill of sale in the form attached hereto as Exhibit "B" (the "Well #8 Real Property Bill of Sale"), modified as necessary to reflect the then existing improvements as of the time of conveyance; and (ii) general warranty deed in the form attached hereto as Exhibit "C" (the "General Warranty Deed"). The General Warranty Deed shall be recorded subject only to (x) taxes which are not yet due and payable; and (y) those exceptions set forth in a Preliminary ALTA Title Report for the Well #8 Real Property that are reflected on that certain Preliminary ALTA Title Report No 211-4171969 for the Well #8 Real Property prepared by First American Title Insurance Company with an effective date of December 15, 2003, or are otherwise consented to in writing by District, which consent shall not be unreasonably withheld.

(d) Representations and Warranties. Upon conveyance of the Well # 8 Real Property, CCWC will further represent and warrant that (i) to CCWC's actual knowledge upon good faith investigation, the conveyance of the Well # 8 Real Property will not: (x) result in a breach or acceleration of or constitute a default or event of termination under the provisions of any agreement or instrument to which CCWC is a party or bound, or by which the Well #8 Real Property is bound or affected; (y) result in the creation or imposition of any lien, charge or encumbrance on or against the Well #8 Real Property or any portion thereof (except as otherwise provided herein); or (z) constitute or result in the violation or breach by CCWC of any judgment, order, writ, injunction or decree issued against or imposed upon CCWC; (ii) to CCWC's actual knowledge upon good faith investigation, as of the conveyance date there is no pending litigation affecting the Well #8 Real Property. If CCWC becomes aware of any litigation affecting the

Well #8 Real Property after the conveyance (whether arising before or after the conveyance) CCWC shall give prompt written notice thereof to the District; (iii) as of the conveyance date. CCWC has not received notice, formal or informal, from any governmental agency of any violation by CCWC of any laws, ordinances, rules or regulations with respect to the Well #8 Real Property or any pending or threatened condemnation or eminent domain action with respect to the Well #8 Real Property and to CCWC's actual knowledge upon good faith investigation no such violations or threats of condemnation actions exist. If CCWC becomes aware of any litigation affecting the Well #8 Real Property after the conveyance (whether arising before or after the conveyance) CCWC shall give prompt written notice thereof to the District; (iv) to CCWC's actual knowledge, that Well #8 has been duly permitted, registered and capped in accordance with the laws of the State of Arizona and the rules and regulations of all administrative agencies have jurisdiction thereover.

(e) Condition of Well #8 Real Property at Conveyance. As of the conveyance date, the District shall: (i) accept the Well #8 Real Property "AS IS" subject only to CCWC's express representations and warranties as set forth herein and to be provided by CCWC connection with the District's exercise of the Well #8 Option and subject to all faults of every kind, whether latent or patent, whether discovered or undiscovered by the District's investigations and whether now or hereinafter existing, including without limitation, except as otherwise set forth herein, all zoning, expansive soils conditions, degree of soil compaction, environmental contamination, grading and drainage and any other faults or conditions of any kind whatsoever, and (ii) accept all liability as to the Well #8 Real Property, including all environmental conditions as to the Well #8 Real Property, and (iii) irrevocably waive and release any claim against CCWC related to any of the same, except as arising out of breach of a warranty or representation contained and to be provided by CCWC connection with the District's exercise of the Well #8 Option. The District agrees that, other than as set forth herein, the District has the sole responsibility of investigating the Well #8 Real Property prior to the conveyance date to the District's satisfaction, including, without limitation, all physical and environmental conditions on or relating to the Well #8 Real Property, all structures thereon and improvements thereto, all encroachments onto or off of the Well #8 Real Property, and all zoning, platting, subdivision and other governmental restrictions or requirements which apply to the Well #8 Real Property. The District further agrees that it shall acquire the Well #8 Real Property hereunder subject to any and all laws, ordinances, requirements, limitations, restrictions, regulations and codes which are or may be imposed on the Well #8 Real Property by any governmental or quasi-governmental authority having jurisdiction over the Well #8 Real Property, including any recorded deed restrictions. The District acknowledges that Well #8 is not connected to a power supply or the water distribution system of CCWC. The District further acknowledges and agrees that except for the warranties and representations contained herein and to be provided by CCWC connection with the District's exercise of the Well #8 Option, the District has not relied, and will not rely, upon any warranty, representation or statement, or the failure to make any warranty, representation or statement, by CCWC, its agents or employees, or by any person acting, or purporting to act, on behalf of CCWC. Except as expressly provided herein and to be provided by CCWC connection with the District's exercise of the Well #8 Option, CCWC expressly disclaims all warranties, whether express or implied, and makes no representations as to the Well #8 Real Property, including any environmental conditions as to the Well #8 Real Property. CCWC shall not be obligated to do any work or make any improvement

in connection with Well #8 and the Well #8 Real Property, and CCWC shall not be responsible for any work or improvement necessary to cause the Well #8 Real Property or structures and improvements thereon to meet any applicable law, ordinance, regulation or code, or to be made suitable for any particular use.

(f) CCWC Actions For Conveyance of the Well #8 Real Property. At the conveyance date, CCWC shall deliver or cause to be delivered to the District, or, if the parties mutually desire, a third-party escrow holder, all of the following:

(i) The General Warranty Deed, fully executed by CCWC with signatures acknowledged before a notary public as provided by the laws of the State of Arizona.

(ii) The Well #8 Bill of Sale, fully executed by CCWC.

(iii) An affidavit of value (the "Affidavit of Value") as required by the laws of the State of Arizona, fully executed by CCWC with signatures acknowledged before a notary public as provided by the laws of the State of Arizona.

(iv) An ALTA Policy on the Well #8 Real Property.

(v) A notice of change of well ownership on an ADWR approved form for Well #8 to be submitted to the ADWR, fully completed in a manner acceptable to the District and ADWR.

(vi) Such other funds, instruments or documents as may be reasonably necessary to perform and carry out the covenants and obligations to be performed and carried out by CCWC pursuant to this Agreement.

(g) District Actions For Conveyance of the Well #8 Real Property. At the conveyance date, District shall deliver or cause to be delivered to CCWC, or, if the parties mutually desire, a third-party escrow holder, all of the following:

(i) An Affidavit of Value as required by the laws of the State of Arizona, fully executed by the District with signatures acknowledged before a notary public as provided by the laws of the State of Arizona.

(ii) Such other funds, instruments or documents which may be reasonably necessary to perform and carry out the covenants and obligations to be performed and carried out by the District pursuant to this Agreement.

(h) Closing Costs. In the event an escrow is opened and utilized in connection with the conveyance of the Well # 8 Real Property, the District shall pay all fees associated with the escrow, as well as all costs of recording the Affidavit(s) of Value, the General Warranty Deed and the premium for the ALTA Policy. All other fees, charges or expenses incidental to the sale, assign, transfer and conveyance of the Well #8 Real Property to the District shall be paid according to the customs of similar real estate transactions in Maricopa County, Arizona, except as otherwise herein expressly provided.

(i) Taxes and Assessments. Real estate taxes and assessments and personal property taxes for the current calendar year attributable to the Well #8 Real Property prior to the Conveyance Date shall be paid by CCWC.

(j) Use of Well #8 Real Property. CCWC acknowledges that the District may use the Well #8 Real Property and any well located thereon as part of its Recharge System whereby reclaimed water may be injected into ASR wells in and around the vicinity of the Certificated Territory for storage underground and possible future withdrawal pursuant to applicable laws, rules and regulations. The District hereby agrees to use its best efforts, consistent with customary practices of sanitary districts of similar size, to perform such reclaimed water recharge, storage and recovery operations and locate any additional wells used therefor, whether on the Well #8 Real Property or not: (i) in a manner that will not adversely impact the water quality or quantity of any water production wells of CCWC which are located and constructed within its Certificated Territory; and (ii) in compliance with any Recharge System permits and laws and regulations applicable to the Recharge System, including those permits issued and regulations promulgated by ADWR, the Arizona Department of Environmental Quality and the Maricopa County Environmental Services Department. CCWC agrees to comply with all provisions of applicable law in connection with the location of any future water production wells in proximity to the Well #8 Real Property. The District shall comply with all ADWR regulations in connection with the drilling of any new well or any replacement well on the Well #8 Real Property that will become a part of the Recharge System, including, without limitation, ADWR's well spacing and well impact regulations as contained in Arizona Administrative Code R12-15-830 *et seq.*, or any successor rules. This subparagraph is not intended to and shall not be construed to create separate contractual obligations or remedies, but is merely an affirmation of the standards of performance otherwise imposed upon the District and CCWC by law irrespective of this subparagraph.

#### 7. Indemnification.

(a) Indemnification of CCWC by District. To the extent District is liable at law or equity for any claims, damages, costs, liens, judgments, awards, penalties, attorneys' fees, or expenses arising out of, or as a result of, District's breach of this Agreement (collectively, "District-Caused Claims"), then the District shall indemnify and hold harmless CCWC, its officers, agents, employees, parents and lenders, from and against any such District-Caused Claims, and CCWC shall not be liable to the District nor any third party for such District-Caused Claims.

(b) Indemnification of District by CCWC. To the extent CCWC is liable at law or equity for any claims, damages, costs, liens, judgments, awards, penalties, attorneys' fees, or expenses arising out of, or as a result of, CCWC's breach of this Agreement (collectively, "CCWC-Caused Claims"), then CCWC shall indemnify and hold harmless District, its officers, elected officials, agents and employees, from and against any such CCWC-Caused Claims, and District shall not be liable to CCWC nor any third party for such CCWC-Caused Claims.

8. Remedies on Default. If either Party shall breach or fail to perform or fulfill any of its covenants or obligations hereunder or in any instrument delivered pursuant hereto, the

other Party may exercise any right or remedy provided under this Agreement or at law or in equity, including, but not limited to, suit for specific performance, subject to the obligation to meet and confer set forth below.

9. Notices.

(a) All notices, requests, demands or other communications ("Notices") required by this Agreement or otherwise given in respect of any transactions contemplated hereby, shall be in writing and served by personal delivery, telephonic facsimile or deposited with the United States Postal Service, registered or certified mail, return receipt requested, with proper postage affixed, addressed and directed to the Party to receive the same as follows:

**If to CCWC:**

Chaparral City Water Company  
12021 N. Panorama Drive  
Fountain Hills, Arizona 85268  
Attn: Robert N. Hanford, District Manager  
Telephone: (480) 837-3411  
Facsimile: (480) 837-5310

**With a copy to:**

American States Water Company  
3035 Prospect Park Drive, Suite 60  
Rancho Cordova, California 95762  
Attn: Denise L. Kruger  
Facsimile: (916) 852-0171

**If to the District:**

Fountain Hills Sanitary District  
16941 E. Pepperwood Circle  
Fountain Hills, Arizona 85268  
Attn: Ronald D. Huber, General Manager  
Telephone: (480) 837-9444  
Facsimile: (480) 837-0819

**With a copy to:**

William Sullivan, Esq.  
Curtis, Goodwin, Sullivan,  
Udall & Schwab, P.L.C..  
2712 N. 7<sup>th</sup> Street  
Phoenix, Arizona 85006  
Fax No. (602) 393-1703

(b) Except as otherwise specifically stated in this Agreement, all Notices shall be effective upon delivery and shall be deemed delivered on the date and time of delivery if delivered in person, upon the time and date of confirmed transmission if delivered by telephonic facsimile or if deposited with the U.S. Postal Service, on the second business day following the date of mailing. Either Party may designate a different person or entity or change the place to which any Notice shall be given as herein provided, which Notice shall be effective after the same is actually received by the other Party.

10. Community Center Well. Although the Community Center Well was drilled in CCWC's name, CCWC does not own and does not claim any ownership right in or to the Community Center Well. The Community Center Well is and will remain the property of the District for use as it deems appropriate, such as a future ASR well in the Recharge System, and CCWC hereby relinquishes any claim or interest that CCWC may have in the Community Center Well. If requested by District, CCWC will execute a notice of change of ownership on an ADWR approved form for submittal to ADWR and a Quit Claim Deed in a mutually agreed upon form.

11. Obligation to Meet and Confer. In the event of any dispute between the Parties regarding a claimed breach of this Agreement, or based upon any claim or action arising from the performance of this Agreement, the Parties, except where extraordinary equitable relief is immediately justified, shall first meet and confer about the controversy or claim in an attempt to resolve the matter prior to commencement of any legal action to enforce this Agreement.

12. Miscellaneous Provisions.

(a) No Agency. None of the provisions of this Agreement shall be deemed to designate or appoint any Party hereto as an agent of the other or to authorize or empower any Party hereto to act for or to create or incur any obligation on behalf of the other.

(b) Attorneys' Fees. If either Party hereto shall bring suit against the other as a result of any alleged breach or failure by the other Party to perform any obligations under this Agreement or in any deed or other document delivered pursuant hereto, or shall seek declaratory relief with respect to any provision hereof, then in such event, the prevailing Party in such action shall, in addition to any other relief granted or awarded by the court, be entitled to judgment for reasonable attorneys' fees incurred by reason of such action and all costs of suit and those incurred in preparation thereof at both trial and appellate levels.

(c) Captions and Pronouns. Captions and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation hereof.

(d) Governing Law. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Arizona.

(e) Counterparts. For the convenience of the Parties, this Agreement may be executed in one or more counterparts, and each executed counterpart shall for all

purposes be deemed an original and shall have the same force and effect as an original, but all of such counterparts together shall constitute in the aggregate but one and the same instrument.

(f) Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties hereto, their heirs, personal representatives, successors and assigns.

(g) Provisions Severable. In the event any provision hereof or any portion of any provision hereof shall be deemed to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect the remaining portion of such provision, or any other provisions hereof, and each such provision of this Agreement shall be deemed to be severable from all other provisions hereof, provided that the overall intent of this Agreement is not vitiated by such severability.

(h) Waiver. Waiver by any Party hereto of any right granted hereunder shall not be deemed to be a waiver of any other right granted herein, nor shall the same be deemed to be a waiver of any subsequent right obtained by reason of the continuation of any matter previously waived.

(i) Construction. The use of the masculine, feminine or neuter shall be deemed to include the others when the context so requires and the use of the singular or plural shall be deemed to include the other when the context so requires. This Agreement shall be construed as a whole and in accordance with its fair meaning and without regard to any presumption or rule requiring construction against the other Party preparing this Agreement or any part hereof.

(j) Entire Agreement. This Agreement, including the attached exhibits, contains all of the agreements, representations and warranties of the Parties hereto and supersedes all other discussions, understandings or agreements with respect to the subject matter hereof. Any and all prior discussions, understandings and agreements are merged into this Agreement, which alone fully and completely expresses the agreements and understandings of the Parties hereto. This Agreement may not be amended, superseded, extended or modified except by an instrument in writing signed by the Parties hereof.

(k) Exhibits as Part of this Agreement. All exhibits referred to in this Agreement and attached hereto are incorporated into this Agreement by reference and are hereby made a part hereof.

(l) Survival. All representations, warranties, covenants, obligations, promises, agreements and releases by the Parties hereto shall survive payment of the Consideration and exercise of the Well #8 Option and shall not be deemed to have merged into any deed, document or instrument of transfer, assignment or conveyance.

(m) Consents. The Parties hereto covenant and agree that unless otherwise specifically provided for in this Agreement, any and all consents, requests or approvals contemplated or required by this Agreement by one Party from the other Party shall not be unreasonably or arbitrarily withheld or delayed.

(n) Time of the Essence. Time is of the essence with respect to the performance of each and every term, condition, and obligation of this Agreement.

(o) Waiver of Right to Jury Trial. The Parties to this Agreement hereby waive trial by jury in any action, proceeding or counterclaim brought by either of the Parties hereto against the other to enforce this Agreement, to collect damages for the breach of the Agreement, or which in any other way arise out of, are connected to or are related to this Agreement or the subject matter of this Agreement. Any such action shall be tried by the judge without a jury.

(p) Conflict of Interest. This Agreement may be canceled pursuant to Arizona Revised Statutes § 38-511.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement to be effective as of the Agreement Date when fully executed by both Parties.

“CCWC”

“District”

CHAPARRAL CITY WATER COMPANY,  
an Arizona corporation

FOUNTAIN HILLS SANITARY DISTRICT,  
an Arizona sanitary district

By: Denise Kruger  
Name: Denise Kruger  
Title: SE. V.P. Operations, CCWC  
Date: 2/3/05

By: Ronald D. Huber  
Name: RONALD D. HUBER  
Title: GENERAL MANAGER  
Date: 1/24/05

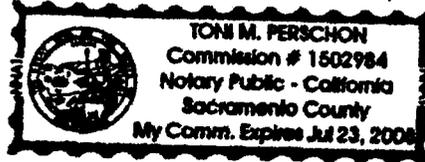
STATE OF CALIFORNIA )  
 ) ss.  
County of Sacramento )

On this the 3<sup>rd</sup> day of February, 2005, before me, a notary public in and for said state, personally appeared Denise Kruger personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person acted, executed the instrument.

WITNESS my hand and official seal.

Kim M. Perschon  
Signature

(This area for official notarial seal)



STATE OF ARIZONA )  
 ) ss.  
County of Maricopa )

On this the 24<sup>th</sup> day of January, 2005, before me, a notary public in and for said state, personally appeared Ronald D. Huber personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person acted, executed the instrument.

WITNESS my hand and official seal.

Hazel Ann Freeland  
Signature

(This area for official notarial seal)



Exhibit "A"

Well #8 Real Property

Well # 8: A parcel of land in Section Fourteen (14), Township Three (3) North, Range Six (6) East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

BEGINNING at the South quarter corner of said Section;

thence North 48 degrees 19 minutes 37 seconds West, 1,344.55 feet to the TRUE POINT OF BEGINNING;

thence North 51 degrees 00 minutes 00 seconds West, 100.00 feet; thence North 39 degrees 00 minutes 00 seconds East, 37.50 feet;

thence North 51 degrees 00 minutes 00 seconds West, 117.77 feet; thence North 39 degrees 00 minutes 00 seconds East, 25.00 feet;

thence South 51 degrees 00 minutes 00 seconds East, 117.77 feet; thence North 39 degrees 00 minutes 00 seconds East, 37.50 feet; thence South 51 degrees 00 minutes 00 seconds East, 100.00 feet;

thence South 39 degrees 00 minutes 00 seconds West 100.00 feet to the TRUE POINT OF BEGINNING;

EXCEPT that portion conveyed to G.M. Development Corporation an Arizona corporation, in deed recorded July 25, 1986 at Recorders No. 86-385918 and re-recorded August 22, 1986 at Recorders No. 86-450975 an more particularly described as follows:

All that certain parcel of land in the County of Maricopa, State of Arizona, being a portion of Section 14, Township 3 North, Range 6 East of the Gila and Salt River Meridian, more particularly described as follows:

Commencing at the most northwesterly corner of parcel "A" as shown on Lakeside Patio Homes Fountain Hills Final Plat, as recorded in Book 278. page 27 of official records of said county. Said point being on a curve concave northeasterly and having a radius of 280.00 feet, a radial line passing through said point bears South 26 degrees 45 minutes 37 seconds West, said point also being on the Southerly right-of-way of El Lago Boulevard; thence South 83 degrees 07 minutes 44 seconds West, a distance of 459.67 feet to the POINT OF BEGINNING; thence South 51 degrees 00 minutes 00 seconds East, 117.77 feet; thence North 39 degrees 00 minutes 00 seconds East, 37.50 feet; thence South 51 degrees 00 minutes 00 seconds East 100.00 feet; thence South 39 degrees 00 minutes 00 seconds West. 100.00 feet; thence North 51 degrees 00minutes 00 seconds West, 38.30 feet; thence North 39 degrees 00 minutes 00 seconds East, 58.69 feet; thence North 51 degrees 00 minutes 00 seconds West 61.70 feet; thence South 39 degrees 00 minutes 00 seconds West, 21.19 feet; thence North 51 degrees 00 minutes 00 seconds West 117.77 feet; thence North 39 degrees 00 minutes 00 seconds East, 25 feet to the POINT OF BEGINNING.

Except all minerals as reserved in Patent from the United States of America; and EXCEPT all gas, coal and minerals, as reserved in Deed recorded In Docket 12489, page 894, records of Maricopa County, Arizona.

**The Personalty:** All structures, improvements, water wells, casing and related pumps, meters and other equipment on or in Well #8 described above, together with any assignable licenses, permits, warranties and guarantees that relate thereto.

**Exhibit "B"**

**Well #8 Real Property Bill of Sale**

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Chaparral City Water Company, an Arizona corporation ("CCWC"), does hereby sell, assign and transfer to the Fountain Hills Sanitary District, an Arizona sanitary district (the "District"), all of CCWC's right, title and interest in and to all of the described property more particularly set forth on Schedule 1 and any assignable licenses, permits, warranties and guarantees that relate thereto (collectively, the "Personal Property"), on the terms set forth in that certain Agreement among CCWC and the District dated \_\_\_\_\_, 200\_\_ (the "Agreement").

Subject to the representations and warranties in the Agreement, this sale, assignment and transfer is "AS IS" and subject to all faults of every kind, whether latent or patent, whether discovered or undiscovered by the District and whether now or hereafter existing. Except as expressly provided in the Agreement to the contrary, CCWC expressly disclaims all warranties, whether express or implied, and makes no representations as to the Personal Property

Dated \_\_\_\_\_, 200\_\_.

CCWC :

CHAPARRAL CITY WATER COMPANY, an  
Arizona corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF CALIFORNIA        )  
  ) ss.  
County of Sacramento        )

On this the \_\_\_\_ day of \_\_\_\_\_, 200\_\_ before me, a notary public in and for said state, personally appeared \_\_\_\_\_ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature

(This area for official notarial seal)

**Schedule "1" to Bill of Sale**

**Well #8:** A parcel of land in Section Fourteen (14), Township Three (3) North, Range Six (6) East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

BEGINNING at the South quarter corner of said Section;

thence North 48 degrees 19 minutes 37 seconds West, 1,344.55 feet to the TRUE POINT OF BEGINNING;

thence North 51 degrees 00 minutes 00 seconds West, 100.00 feet; thence North 39 degrees 00 minutes 00 seconds East, 37.50 feet;

thence North 51 degrees 00 minutes 00 seconds West, 117.77 feet; thence North 39 degrees 00 minutes 00 seconds East, 25.00 feet;

thence South 51 degrees 00 minutes 00 seconds East, 117.77 feet; thence North 39 degrees 00 minutes 00 seconds East, 37.50 feet; thence South 51 degrees 00 minutes 00 seconds East, 100.00 feet;

thence South 39 degrees 00 minutes 00 seconds West 100.00 feet to the TRUE POINT OF BEGINNING;

EXCEPT that portion conveyed to G.M. Development Corporation an Arizona corporation, in deed recorded July 25, 1986 at Recorders No. 86-385918 and re-recorded August 22, 1986 at Recorders No. 86-450975 an more particularly described as follows:

All that certain parcel of land in the County of Maricopa, State of Arizona, being a portion of Section 14, Township 3 North, Range 6 East of the Gila and Salt River Meridian, more particularly described as follows:

Commencing at the most northwesterly corner of parcel "A" as shown on Lakeside Patio Homes Fountain Hills Final Plat, as recorded in Book 278, page 27 of official records of said county. Said point being on a curve concave northeasterly and having a radius of 280.00 feet, a radial line passing through said point bears South 26 degrees 45 minutes 37 seconds West, said point also being on the Southerly right-of-way of El Lago Boulevard; thence South 83 degrees 07 minutes 44 seconds West, a distance of 459.67 feet to the POINT OF BEGINNING; thence South 51 degrees 00 minutes 00 seconds East, 117.77 feet; thence North 39 degrees 00 minutes 00 seconds East, 37.50 feet; thence South 51 degrees 00 minutes 00 seconds East 100.00 feet; thence South 39 degrees 00 minutes 00 seconds West. 100.00 feet; thence North 51 degrees 00 minutes 00 seconds West, 38.30 feet; thence North 39 degrees 00 minutes 00 seconds East, 58.69 feet; thence North 51 degrees 00 minutes 00 seconds West 61.70 feet; thence South 39 degrees 00 minutes 00 seconds West, 21.19 feet; thence North 51 degrees 00 minutes 00 seconds West 117.77 feet; thence North 39 degrees 00 minutes 00 seconds East, 25 feet to the POINT OF BEGINNING.

Except all minerals as reserved in Patent from the United States of America; and

EXCEPT all gas, coal and minerals, as reserved in Deed recorded In Docket 12489, page 894, records of Maricopa County, Arizona.

**The Personalty:** All structures, improvements, water wells, casing and related pumps, meters and other equipment on or in Well #8 described above, together with any assignable licenses, permits, warranties and guarantees that relate thereto.



Schedule "1" to General Warranty Deed

**Well #8:** A parcel of land in Section Fourteen (14), Township Three (3) North, Range Six (6) East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

BEGINNING at the South quarter corner of said Section;

thence North 48 degrees 19 minutes 37 seconds West, 1,344.55 feet to the TRUE POINT OF BEGINNING;

thence North 51 degrees 00 minutes 00 seconds West, 100.00 feet; thence North 39 degrees 00 minutes 00 seconds East, 37.50 feet;

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thence South 39 degrees 00 minutes 00 seconds West 100.00 feet to the TRUE POINT OF BEGINNING;

EXCEPT that portion conveyed to G.M. Development Corporation an Arizona corporation, in deed recorded July 25, 1986 at Recorders No. 86-385918 and re-recorded August 22, 1986 at Recorders No. 86-450975 an more particularly described as follows:

All that certain parcel of land in the County of Maricopa, State of Arizona, being a portion of Section 14, Township 3 North, Range 6 East of the Gila and Salt River Meridian, more particularly described as follows:

Commencing at the most northwesterly corner of parcel "A" as shown on Lakeside Patio Homes Fountain Hills Final Plat, as recorded in Book 278, page 27 of official records of said county. Said point being on a curve concave northeasterly and having a radius of 280.00 feet, a radial line passing through said point bears South 26 degrees 45 minutes 37 seconds West, said point also being on the Southerly right-of-way of El Lago Boulevard; thence South 83 degrees 07 minutes 44 seconds West, a distance of 459.67 feet to the POINT OF BEGINNING; thence South 51 degrees 00 minutes 00 seconds East, 117.77 feet; thence North 39 degrees 00 minutes 00 seconds East, 37.50 feet; thence South 51 degrees 00 minutes 00 seconds East 100.00 feet; thence South 39 degrees 00 minutes 00 seconds West. 100.00 feet; thence North 51 degrees 00 minutes 00 seconds West, 38.30 feet; thence North 39 degrees 00 minutes 00 seconds East, 58.69 feet; thence North 51 degrees 00 minutes 00 seconds West 61.70 feet; thence South 39 degrees 00 minutes 00 seconds West, 21.19 feet; thence North 51 degrees 00 minutes 00 seconds West 117.77 feet; thence North 39 degrees 00 minutes 00 seconds East, 25 feet to the POINT OF BEGINNING.

Except all minerals as reserved in Patent from the United States of America; and

EXCEPT all gas, coal and minerals, as reserved in Deed recorded In Docket 12489, page 894, records of Maricopa County, Arizona.

Exhibit "D"

FAULTS, DEFECTS OR DANGEROUS CONDITIONS

NONE

1768/well exchange/documents/CCWC District Ag (Clean)12-09-04

RUCO

EXHIBIT 2



**REGISTRATION OF EXISTING WELLS**

READ INSTRUCTIONS ON BACK OF THIS FORM BEFORE COMPLETING  
 PRINT OR TYPE - FILE IN DUPLICATE

REGISTRATION FEE (CHECK ONE)

EXEMPT WELL (NO CHARGE)

NON-EXEMPT WELL - \$10.00

05

FOR OFFICE USE ONLY

REGISTRATION NO. 35- 604784

FILE NO. A(3-6)14 cdb

FILED 3-15-82 AT 9:00am  
(DATE) (TIME)

INA  
AMA Phoenix

1. Name of Registrant:  
Chaparral City Water Co.  
P. O. Box 17030, Fountain Hills, Arizona 85268  
(Address) (City) (State) (Zip)
2. File and/or Control Number under previous groundwater law:  
A (3-6) 14-8 35-  
(File Number) (Control Number)
3. a. The well is located within the NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , Section 14,  
 of Township 3N N/S, Range 6E E/W, G & SRB & M, in the  
 County of Maricopa.
- b. If in a subdivision: Name of subdivision \_\_\_\_\_  
 Lot No. \_\_\_\_\_, Address \_\_\_\_\_
4. The principal use(s) of water (Examples: irrigation - stockwater - domestic - municipal - industrial)  
Municipal
5. If for irrigation use, number of acres irrigated from well \_\_\_\_\_
6. Owner of land on which well is located. If same as Item 1, check this box   
 \_\_\_\_\_  
(Address) (City) (State) (Zip)
7. Well data (If data not available, write N/A)
  - a. Depth of Well 725 feet
  - b. Diameter of casing 10 3/4 inches
  - c. Depth of casing 725 feet
  - d. Type of casing Steel
  - e. Maximum pump capacity 640 gallons per minute.
  - f. Depth to water 267 feet below land surface.
  - g. Date well completed 10 4 67 test date  
(Month) (Day) (Year)
8. The place(s) of use of water. If same as Item 3, check this box   
1/4 1/4 1/4, Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_  
1/4 1/4 1/4, Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_  
Boundaries of Fountain Hills
9. DATE 1-14-82 SIGNATURE OF REGISTRANT W.A. Fisher Pres.

Attach additional sheet if necessary.

ARIZONA DEPARTMENT OF WATER RESOURCES  
99 EAST VIRGINIA AVENUE  
PHOENIX, ARIZONA 85004  
Phone (602) 255-1581

APPLICATION FOR A RECOVERY  
WELL PERMIT (45-667)  
APPLICATION FEE \$50.00

FOR DEPARTMENT USE ONLY

Application No.	55-522513
Registration	
Permit No.	R-55-604784
File No.	A(3-6)14 edb
Date Received	9-30-88

- Name of Applicant MCO Properties
- |                       |                       |           |              |                       |
|-----------------------|-----------------------|-----------|--------------|-----------------------|
| <u>P.O. Box 17030</u> | <u>Fountain Hills</u> | <u>AZ</u> | <u>85768</u> | <u>(602) 837-9660</u> |
| Mailing Address       | City                  | State     |              | Telephone number      |
- The well is x (check) existing or \_\_\_\_\_ proposed new well. If existing, give well registration No. 55- 604784.
- Owner of the land where wellsite is located is  
AS STATED ABOVE  

Name	Address	City	State	Zip
------	---------	------	-------	-----
- The recovered water will be used for irrigation.
- The legal description of the land where water will be used is:  
1/4 1/4 1/4 Section 14 Township 3N N/S Range 6E E/W
- Name of driller Weber Well Drilling Co. License No. \_\_\_\_\_
- Design pump capacity 600 gallons per minute.
- Well depth 725 ft. Diameter 10 3/4 in. Proposed annual volume \_\_\_\_\_  
acre feet.
- Construction ~~will begin~~ July 1967.  
Date
- Estimated time required to complete well -0-
- The recovery well will be operated under Storage and Recovery Project Permit  
No. 64- \_\_\_\_\_.

**MICROFILMED**

# Memo

**To:** Al Ramsey  
**From:** Carol E. Norton  
**Subject:** Fountain Hills Sanitary District - Ronald D. Huber Application to Withdraw Groundwater for Hydrologic Testing no. 59-572385  
**Date:** January 15, 1999

The Hydrology Division is in receipt of the above referenced application to withdraw groundwater for hydrologic testing. The applicant intends to recharge 13.2 acre-feet of groundwater into an existing (pre-Code) well no. 55-604784 A(03-06)14 cdb. The purpose of the test is to determine aquifer characteristics of well injection recharge methods.

The Hydrology Division recommends issuance of this permit with the following condition:

Within 60 days of completion of the test, the results will be submitted to the Hydrology Division, Arizona Department of Water Resources, 500 North Third Street, Phoenix, Arizona 85004.

# 8

# REPORT OF WELL DRILLER



This report should be prepared by the driller in all detail and filed with the State Land Commissioner following completion of the well.

1. OWNER Transamerica Title Insurance Co., as Trustee  
Name
2. Lessee or Operator Page Land & Cattle Co.  
Name  
807 Title & Trust Bldg., Phoenix, Arizona 85003  
Address
3. DRILLER Weber Well Drilling Co.  
Name  
P.O. Box 5354 Phoenix, Arizona 85000  
Address
4. Location of well: Twp. 3.N Rge. 6.E Section 14 NW 1/4 SE 1/4 SW 1/4  
10-acre subdivision
5. Intention to Drill File No. A(3-6)14 cdb Permit No. 10154  
Test Well

## DESCRIPTION OF WELL

# 8

6. Total depth of hole 725' ft.
7. Type of casing Steel
8. Diameter and length of casing 10-3/4 from 0 to 725 in. from to in. from to
9. Method of sealing at reduction points
10. Perforated from 300' to 725 from to from to from to
11. Size of cuts 3/16" yield 11-1/4 sq. opening per ft. Number of cuts per foot 10 rows, 20 slots per foot
12. If screen was installed: Length ft. Diam. in. Type
13. Method of construction Cable Rig  
drilled, dug, driven, bored, jetted, etc.
14. Date started July 2, 1967  
Month Day Year
15. Date completed August 1, 1967  
Month Day Year
16. Depth of water 215 static ft.  
If flowing well, so state.
17. Describe point from which depth measurements were made, and give sea-level elevation if available  
1560' elevation
18. If flowing well, state method of flow regulation

19. REMARKS

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

DO NOT WRITE IN THIS SPACE  
OFFICE RECORD

Received 3-19-68 by [Signature]

Filed 3-19-68 by [Signature]

File No. A(3-6)14 cdb Test Well





**REGISTRATION OF EXISTING WELLS**

READ INSTRUCTIONS ON BACK OF THIS FORM BEFORE COMPLETING  
PRINT OR TYPE - FILE IN DUPLICATE

**REGISTRATION FEE (CHECK ONE)**

EXEMPT WELL (NO CHARGE)

NON-EXEMPT WELL - \$10.00

05

FOR OFFICE USE ONLY

REGISTRATION NO. 55-604785

FILE NO. A(3-6)14 cdh

FILED 3-15-82 AT 9:00 am

(DATE) (TIME)

INA  
AMA *Phoenix*

1. Name of Registrant: Chaparral City Water Co.  
P. O. Box 17030 Fountain Hills, Arizona 85268  
(Address) (City) (State) (Zip)
  2. File and/or Control Number under previous groundwater law:  
A (3-6) 14-9 35-  
(File Number) (Control Number)
  3. a. The well is located within the NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , Section 14,  
of Township 3N N/S, Range 6E E/W, G & SRB & M, in the  
County of Maricopa.  
b. If in a subdivision: Name of subdivision \_\_\_\_\_  
Lot No. \_\_\_\_\_, Address \_\_\_\_\_
  4. The principal use(s) of water (Examples: irrigation - stockwater - domestic - municipal - industrial)  
Municipal
  5. If for irrigation use, number of acres irrigated from well \_\_\_\_\_.
  6. Owner of land on which well is located. If same as Item 1, check this box   
\_\_\_\_\_  
(Address) (City) (State) (Zip)
  7. Well data (If data not available, write N/A)
    - a. Depth of Well 750 feet
    - b. Diameter of casing 350' - 20" 415' - 16" inches
    - c. Depth of casing 750 feet
    - d. Type of casing Steel
    - e. Maximum pump capacity 2020 gallons per minute.
    - f. Depth to water 268 feet below land surface.
    - g. Date well completed 2 12 70  
(Month) (Day) (Year)
  8. The place(s) of use of water. If same as Item 3, check this box   
 $\frac{1}{4}$   $\frac{1}{4}$   $\frac{1}{4}$ , Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_  
 $\frac{1}{4}$   $\frac{1}{4}$   $\frac{1}{4}$ , Section \_\_\_\_\_ Township \_\_\_\_\_ Range \_\_\_\_\_  
Boundaries of Fountain Hills
- Attach additional sheet if necessary.
9. DATE 1-14-82 SIGNATURE OF REGISTRANT W.A. Fisher Pres.

RUCO  
EXHIBIT 3

#9

# REPORT OF WELL DRILLER

## 55 604785

This report should be prepared by the driller in all detail and filed with the State Land Commissioner following completion of the well.

- OWNER McCulloch Properties  
Name Fountain Hills, Az.  
Address
- Lessee or Operator  
Name  
Address
- DRILLER Mass-Weber Inc.  
Name  
Address
- Location of well: Twp. 3N Rge. 6E Section 14  
NE SW SW  
SW 1/4 NE 1/4 SW 1/4  
10-acre subdivision
- Intention to Drill File No. \_\_\_\_\_ Permit No. \_\_\_\_\_

per Bill Weber  
7/10/72  
for

### DESCRIPTION OF WELL

- Total depth of hole 750 ft.
- Type of casing STEEL
- Diameter and length of casing 20 in. from 0 to 39, 16 in. from 345 to 250, ..... in. from ..... to .....
- Method of sealing at reduction points TOP SIDE
- Perforated from 39 to 250, from ..... to ....., from ..... to ....., from ..... to .....
- Size of cuts 1/4 x 1/2 Number of cuts per foot 77
- If screen was installed: Length ..... ft. Diam. .... in. Type .....
- Method of construction CABLE TOOL  
drilled, dug, driven, bored, jetted, etc.
- Date started 1 3 70  
Month Day Year
- Date completed 2 12 70  
Month Day Year
- Depth of water 255 ft.  
If flowing well, so state.
- Describe point from which depth measurements were made, and give sea-level elevation if available.....
- If flowing well, state method of flow regulation.....

## 55 604785

19. REMARKS:.....  
.....  
.....  
.....  
.....

DO NOT WRITE IN THIS SPACE  
OFFICE RECORD

Received 6-21-72 by Jur  
Filed 6-23-72 by Jur  
File No. A(3-6)14 ccn

(Well Log to Appear on Reverse Side)

