

ORIGINAL



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MEMORANDUM

30

TO: Docket Control  
Arizona Corporation Commission

FROM: Ernest G. Johnson  
Director  
Utilities Division

Date: April 19, 2006

RE: STAFF REPORT FOR THE APPLICATION OF BEARDSLEY WATER  
COMPANY FOR APPROVAL OF THE DELETION OF A PORTION OF ITS  
CERTIFICATE OF CONVENIENCE AND NECESSITY  
DOCKET NO: W-02074A-06-0095

Attached is the Staff Report for the application of Beardsley Water Company for approval of the deletion of a portion of its Certificate of Convenience and Necessity. The deleted portion will be served by the City of Surprise. Staff believes it is in the public interest for the Commission to approve the deletion and recommends approval. Staff also recommends that the Commission authorize Staff to begin an Order to Show Cause proceeding against Beardsley if Beardsley has not filed documentation of compliance with MCESD in this docket and in Decision No. 67160, as a compliance item, within 60 calendar days of the final decision in this matter.

EGJ:LAJ:tdp

Originator: Linda A. Jaress

Arizona Corporation Commission

DOCKETED

APR 19 2006

DOCKETED BY	RB
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AZ CORP COMMISSION  
DOCUMENT CONTROL

2006 APR 19 A 9:30

RECEIVED

Service List for: Beardsley Water Company  
Docket No. W-02074A-06-0095

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STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION

BEARDSLEY WATER COMPANY

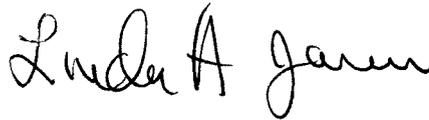
DOCKET NO. W-02074A-06-0095

APPLICATION FOR DELETION OF A PORTION OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY

April 19, 2006

## STAFF ACKNOWLEDGMENT

The Staff Report for Beardsley Water Company, Docket No. W-02074A-06-0095 was prepared by the Staff members shown below. Linda Jaress was responsible for the review and analysis of the Company's application. Del Smith was responsible for the engineering and technical analysis.

Handwritten signature of Linda A. Jaress in cursive script.

Linda A. Jaress  
Executive Consultant III

Handwritten signature of Del Smith in cursive script.

Del Smith  
Chief Engineer

**EXECUTIVE SUMMARY  
BEARDSLEY WATER COMPANY  
DOCKET NO. W-02074A-06-0095**

On February 16, 2006, Beardsley Water Company, ("Beardsley" or "the Company") filed an application to delete a portion of its certificated area. At the end of Beardsley's last fiscal year ending September 30, 2005, Beardsley was serving 286 customers. The proposed deletion area is approximately one and one-half square miles of property located adjacent to the City of Surprise ("Surprise") in the vicinity of Grand Avenue, Cotton Lane and Jomax Road in the West Valley. Attached as Exhibit 1 is a map and legal description of the area to be deleted. The portion requested for deletion does not currently contain any customers.

As a municipality, Surprise does not pay income taxes. Its population is currently reaching 100,000. Economies of scale and the absence of the need to recover income tax expense through rates should result in a more economical provision of service to the future customers in the area at issue.

The Utilities Division compliance database indicates that Beardsley has one delinquent compliance item. Decision 67160, dated August 10, 2004, granted the Company's request to extend its CC&N. The Decision required that the Company file documentation that the Company was operating its water systems in total compliance with Maricopa County Environmental Services Department ("MCESD") requirements and that the Decision would not become effective until such documentation was filed. This requirement was never met, nor is Beardsley in compliance with MCESD.

Staff believes it is in the public interest for the Commission to approve the deletion and recommends approval. Staff also recommends that the Commission authorize Staff to begin an Order to Show Cause proceeding against Beardsley if Beardsley has not filed documentation of compliance with MCESD in this docket and in Decision No. 67160, as a compliance item, within 60 calendar days of the final decision in this matter.

Staff also recommends that Beardsley update its curtailment tariff to reflect a complete listing of the applicable Public Water System numbers within 45 calendar days of the final decision in this matter.

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## **Introduction**

On February 16, 2006, Beardsley Water Company, (“Beardsley” or “the Company”) filed an application to delete a portion of its certificated area. At the end of Beardsley’s last fiscal year ending September 30, 2005, Beardsley was serving 286 customers. The proposed deletion area is approximately one and one-half square miles of property located adjacent to the City of Surprise (“Surprise”) in the vicinity of Grand Avenue, Cotton Lane and Jomax Road in the West Valley. Attached as Exhibit 1 is a map and legal description of the area to be deleted. The portion requested for deletion does not currently contain any customers.

## **Background**

In January 2006, Beardsley, Lennar Communities Development, Inc., Surprise and BMY Happy Valley North Investment, LLC entered into an agreement whereby, for compensation, Beardsley will delete the area at issue from its Certificate of Convenience and Necessity (“CC&N”). Upon approval of the deletion by the Commission, Surprise will assume the obligation to provide water service to the deleted area.

A portion of the deletion area falls within the city limits of Surprise. The rest falls within Surprise’s general planning area. If Beardsley were to retain the area, it would be necessary for Beardsley to build a costly extension of a line beneath Grand Avenue and adjacent railroad tracks.

Beardsley currently charges rates of a \$14.00 per month basic service charge; \$2.16 per thousand gallons up to 4,000 gallons; \$2.45 per thousand gallons from 4,000 gallons to 12,000 gallons; and \$4.25 per thousand gallons for gallons over 12,000. The City of Surprise charges a basic service charge of \$12.20 per month plus \$2.25 per thousand gallons for all usage.

As a municipality, Surprise does not pay income taxes. Its population is currently reaching 100,000. Economies of scale and rates that don’t include the recovery of income taxes should result in the provision of service to the future customers in the area at issue in a more efficient and economical manner than if Beardsley would serve that area.

## **Maricopa County Environmental Services Department (“MCESD”) Compliance**

Staff’s Engineering Report, attached as Exhibit 2, provides details regarding Beardsley’s water system and its compliance with MCESD. According to the Report, all Beardsley systems are currently delivering water that meets water quality standards set forth by Arizona Administrative Code, Title 18, Chapter 4. However, MCESD also reported that three of Beardsley’s four active systems have deficiencies. The deficiencies are related to operations and maintenance and with monitoring and reporting.

The Report also indicates that the Company’s 2004 Annual Report shows that all Beardsley’s wells comply with the new arsenic standard.

### **Arizona Corporation Commission (“ACC”)**

The Utilities Division compliance database indicates that Beardsley has one delinquent compliance item related to Decision No. 67160, dated August 10, 2004, which granted the Company’s request to extend its CC&N. The Decision set forth several requirements including the filing of an executed main extension agreement, a Certificate of Assured Water Supply, and a copy of the applicable Maricopa County Franchise.

The Commission further ordered that the Decision allowing the CC&N extension would not become effective until the Company filed documentation from MCESD that the Company was operating its water systems in total compliance with MCESD requirements. Beardsley has complied with all the requirements except for filing documentation that it is in full compliance with MCESD. According to the Company, Beardsley is not currently serving customers within the area addressed by Decision No. 67160. Therefore, Decision No. 67160 is not in effect and Beardsley cannot legally serve customers in the extension area.

Over the past four years, the Commission’s Consumer Services Section has received four complaints regarding Beardsley. All the complaints related to outages or interruptions of service and have been resolved.

### **Recommendations**

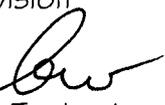
Beardsley is requesting deletion of a portion of its CC&N in which there are currently no customers. The City of Surprise will provide service to the deletion area. Staff believes it is in the public interest for the Commission to approve the deletion and recommends approval.

However, Staff is concerned about Beardsley’s noncompliance with Decision No. 67160 and continued non-compliance with MCESD. Therefore, Staff also recommends that the Commission authorize Staff to begin an Order to Show Cause proceeding against Beardsley if Beardsley has not filed documentation of compliance with MCESD in this docket and in Decision No. 67160, as a compliance item, within 60 calendar days of the final decision in this matter.

Staff also recommends that Beardsley update its curtailment tariff to reflect a complete listing of the applicable Public Water System numbers. Staff recommends that the revised tariff be filed with Docket Control as a compliance item for Staff review within 45 days of the final decision in this matter.

**MEMORANDUM**

TO: Linda Jaress  
Executive Consultant III  
Utilities Division

FROM: Barb Wells   
Information Technology Specialist  
Utilities Division

THRU: Del Smith   
Engineering Supervisor  
Utilities Division

DATE: April 19, 2006

RE: **BEARDSLEY WATER COMPANY (DOCKET NO. W-02074A-06-0095)**

The area requested by Beardsley for a partial deletion has been plotted with no complications using the legal description filed on April 19, 2006, separately from application (a copy of which is attached).

Also attached is a copy of the map for your files.

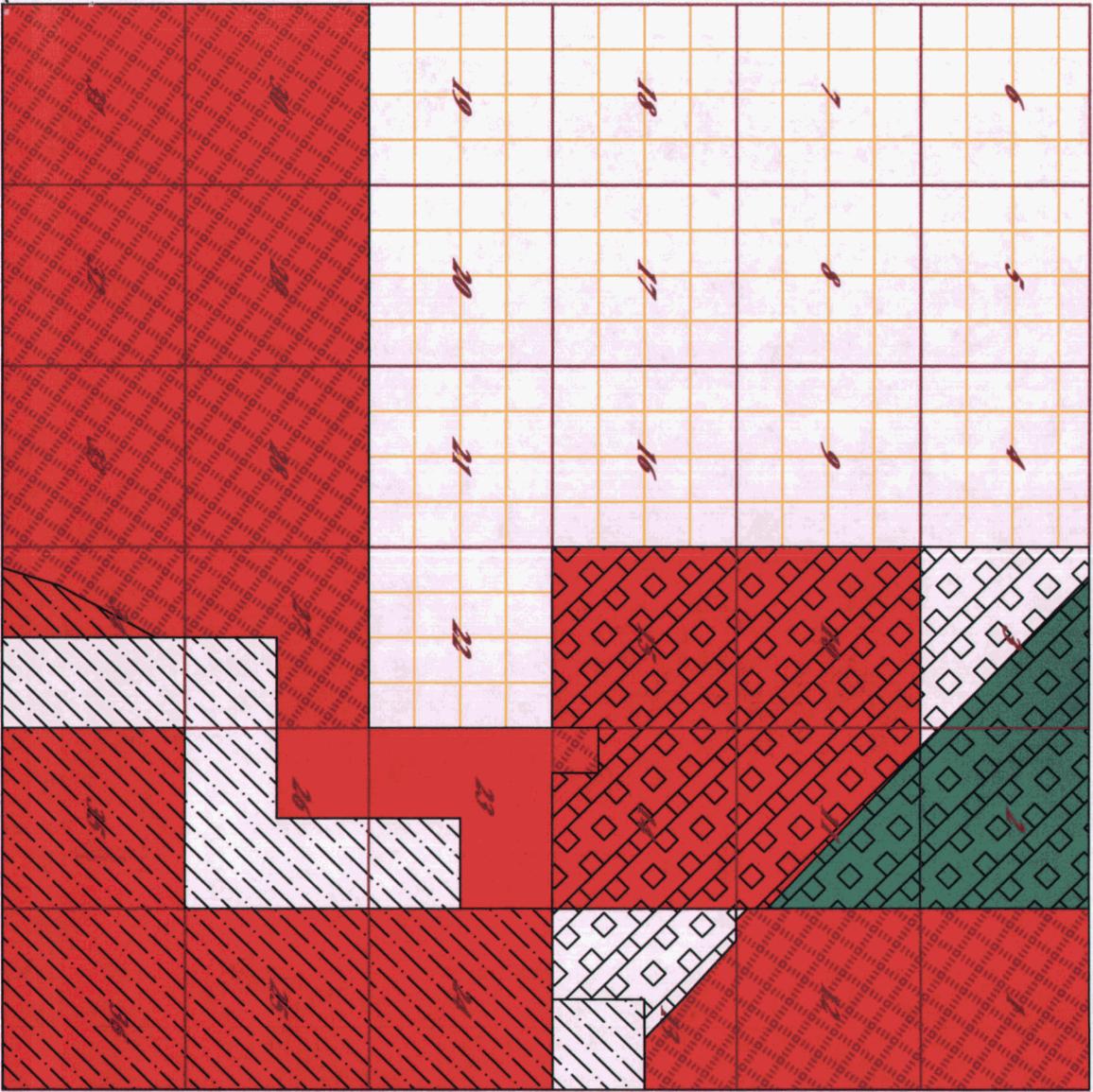
:bsw

Attachments

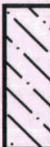
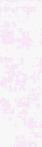
cc: Docket Control  
Mr. Stanley Lutz  
Ms. Deb Person (Hand Carried)  
File

# COUNTY: Maricopa

## RANGE 2 West



## TOWNSHIP 4 North

-  WS-1303 (14)
-  Arizona-American Water Company (Agua Fria)
-  W-2074 (2)
-  Beardsley Water Company, Inc.
-  (4)
-  City of Surprise (Nonjurisdictional)
-  Sewer
-  Beardsley Water Company, Inc.  
Docket No. W-02074A-06-0095  
Application for Partial Deletion



Professional  
Services, LLC

Civil Engineering  
Land Surveying  
Project Management



www.deipro.com

5 APRIL 2006  
JOB NO. 03101

LEGAL DESCRIPTION  
BEARDSLEY ABANDONED CC & N - 1

A PARCEL OF LAND LOCATED WITHIN A PORTION OF SECTION 2, SECTION 3 AND A PORTION OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 4 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE SOUTHWEST CORNER OF SAID SECTION 2, BEING AN ALUMINUM CAP, FROM WHICH THE SOUTHEAST CORNER OF SAID SECTION 2, BEING AN ALUMINUM CAP, BEARS SOUTH 89 DEGREES 27 MINUTES 57 SECONDS EAST 5,269.57 FEET;

**THENCE** SOUTH 89 DEGREES 27 MINUTES 57 SECONDS EAST, ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 2, A DISTANCE OF 640.18 FEET, TO A POINT ON THE NORTHEASTERLY RIGHT OF WAY OF GRAND AVENUE, SAID POINT ALSO BEING THE **POINT OF BEGINNING** OF THE PARCEL DESCRIBED HEREIN;

**THENCE** NORTH 46 DEGREES 13 MINUTES 34 SECONDS WEST, DEPARTING SAID SOUTH LINE AND PROCEEDING ALONG THE NORTHEASTERLY RIGHT OF WAY OF GRAND AVENUE, A DISTANCE OF 7,002.58 FEET, TO A POINT ON THE NORTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 3, SAID POINT ALSO BEING A COMMON POINT ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 5 NORTH, RANGE 2 WEST;

**THENCE** NORTH 89 DEGREES 43 MINUTES 03 SECONDS EAST, DEPARTING SAID NORTHEASTERLY RIGHT OF WAY AND PROCEEDING ALONG THE COMMON LINE OF SAID SECTION 3 AND SAID SECTION 34, A DISTANCE OF 949.61 FEET, TO THE SOUTH QUARTER CORNER OF SAID SECTION 34;

**THENCE** SOUTH 89 DEGREES 42 MINUTES 25 SECONDS EAST, DEPARTING SAID SOUTH LINE OF THE SOUTHWEST QUARTER AND PROCEEDING ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 34, A DISTANCE OF 2,588.21 FEET, TO THE SOUTHWEST CORNER OF SECTION 35, TOWNSHIP 5 NORTH, RANGE 2 WEST;

**THENCE SOUTH 89 DEGREES 41 MINUTES 53 SECONDS EAST, DEPARTING THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 34 AND PROCEEDING ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 35, A DISTANCE OF 2652.91 FEET, TO THE SOUTH QUARTER CORNER OF SAID SECTION 35;**

**THENCE SOUTH 89 DEGREES 42 MINUTES 40 SECONDS EAST, DEPARTING SAID SOUTH LINE OF THE SOUTHWEST QUARTER AND PROCEEDING ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 35, A DISTANCE OF 2,653.20 FEET, TO THE SOUTHEAST CORNER OF SAID SECTION 35;**

**THENCE SOUTH 89 DEGREES 37 MINUTES 54 SECONDS EAST, DEPARTING THE SOUTH LINE OF THE SOUTH EAST QUARTER OF SAID SECTION 35 AND PROCEEDING ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 2, A DISTANCE OF 907.37 FEET, TO THE NORTHEAST CORNER OF SAID SECTION 2;**

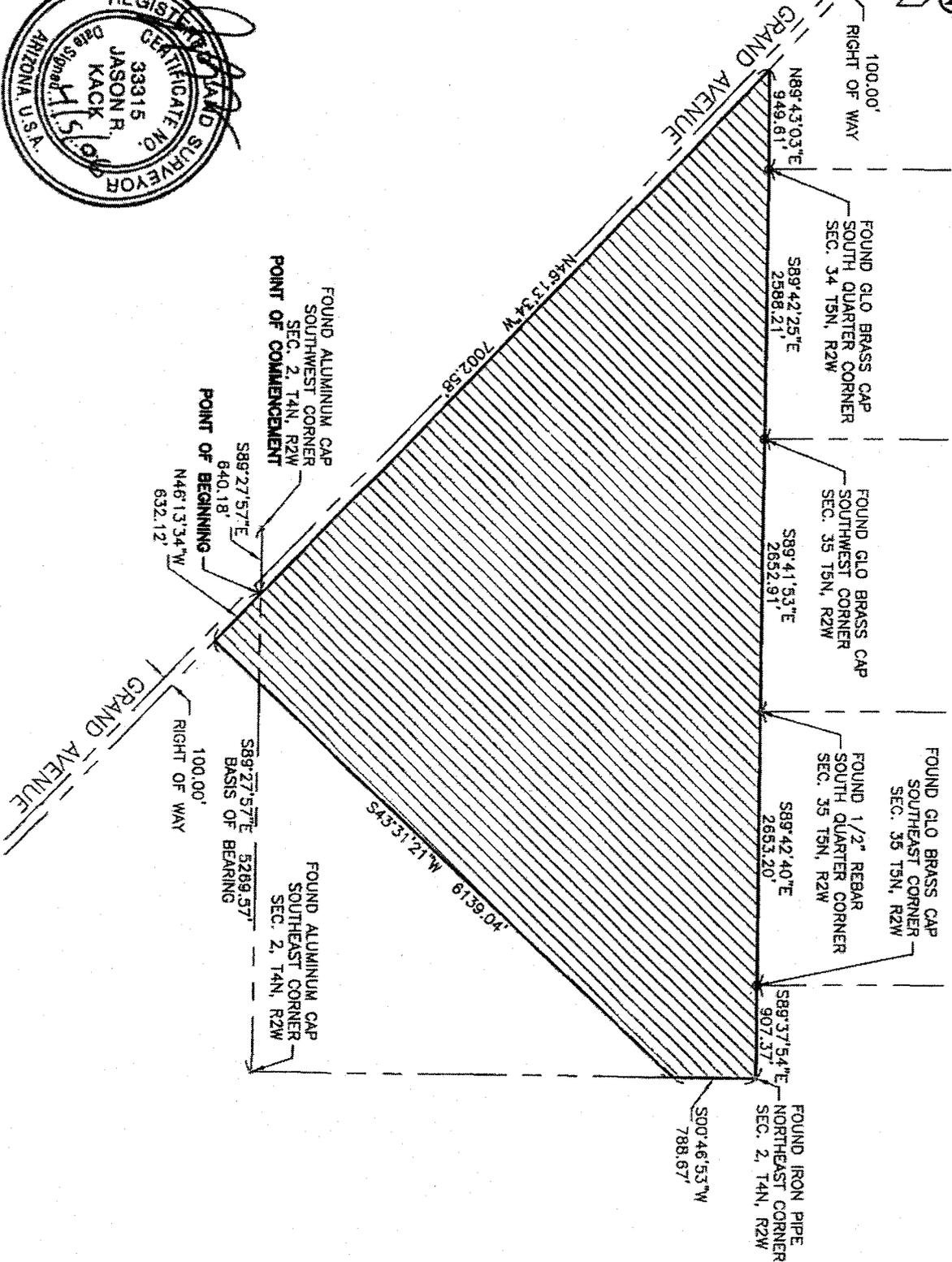
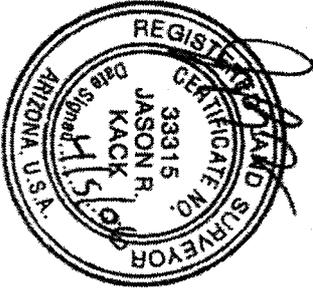
**THENCE SOUTH 00 DEGREES 46 MINUTES 53 SECONDS WEST, DEPARTING SAID NORTH LINE AND PROCEEDING ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 2, A DISTANCE OF 788.67 FEET;**

**THENCE SOUTH 43 DEGREES 31 MINUTES 21 SECONDS WEST, DEPARTING SAID EAST LINE, A DISTANCE OF 6,139.04 FEET, TO A POINT ON THE NORTHEASTERLY RIGHT OF WAY OF GRAND AVENUE;**

**THENCE NORTH 46 DEGREES 13 MINUTES 34 SECONDS WEST, ALONG SAID NORTHEASTERLY RIGHT OF WAY, A DISTANCE OF 632.12 FEET, TO A POINT ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 2, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THE PARCEL DESCRIBED HEREIN.**

**CONTAINING 27,326,398.284 SQUARE FEET OR 627.3278 ACRES, MORE OR LESS.**





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**BEARDSLEY ABANDONED CC & N - 1  
 WATER SERVICE PARCEL**  
 SURPRISE, ARIZONA

DATE: 3/30/08 | SCALE: N.T.S. | PROJ. NO: 03101 | CAD FILE: 03101\_EXHIBITS

EXHIBIT  
**A**  
 1 of 1



Professional Services, LLC

Civil Engineering  
Land Surveying  
Project Management



5 APRIL 2006  
JOB NO. 03101

**LEGAL DESCRIPTION  
BEARDSLEY ABANDONED CC & N - 2**

A PARCEL OF LAND LOCATED WITHIN A PORTION OF SECTION 2 AND A PORTION OF SECTION 11, TOWNSHIP 4 NORTH, RANGE 2 WEST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE SOUTHWEST CORNER OF SAID SECTION 2, BEING AN ALUMINUM CAP, FROM WHICH THE SOUTHEAST CORNER OF SAID SECTION 2, BEING AN ALUMINUM CAP, BEARS SOUTH 89 DEGREES 27 MINUTES 57 SECONDS EAST 5,269.57 FEET;

**THENCE** SOUTH 89 DEGREES 27 MINUTES 57 SECONDS EAST, ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 2, A DISTANCE OF 1504.33 FEET, TO THE **POINT OF BEGINNING** OF THE PARCEL DESCRIBED HEREIN;

**THENCE** NORTH 43 DEGREES 31 MINUTES 21 SECONDS EAST, DEPARTING SAID SOUTH LINE, A DISTANCE OF 5,547.05 FEET, TO A POINT ON THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 2;

**THENCE** SOUTH 00 DEGREES 46 MINUTES 38 SECONDS WEST, ALONG SAID EAST LINE, A DISTANCE OF 1,437.75 FEET, TO THE EAST QUARTER CORNER OF SAID SECTION 2;

**THENCE** SOUTH 00 DEGREES 46 MINUTES 22 SECONDS WEST, DEPARTING SAID EAST LINE OF THE NORTHEAST QUARTER AND PROCEEDING ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 2, A DISTANCE OF 2,619.91 FEET, TO THE NORTHEAST CORNER OF SECTION 11;

**THENCE** SOUTH 00 DEGREES 42 MINUTES 32 SECONDS WEST, DEPARTING SAID EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 2 AND PROCEEDING ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 11, A DISTANCE OF 2,644.69 FEET, TO THE EAST QUARTER CORNER OF SAID SECTION 11;

**THENCE SOUTH 00 DEGREES 43 MINUTES 44 SECONDS WEST, DEPARTING SAID EAST LINE OF THE NORTHEAST QUARTER AND PROCEEDING ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 11, A DISTANCE OF 1,695.80 FEET, TO A POINT ON THE NORTHEASTERLY RIGHT OF WAY OF GRAND AVENUE;**

**THENCE NORTH 46 DEGREES 13 MINUTES 30 SECONDS WEST, DEPARTING SAID EAST LINE AND PROCEEDING ALONG THE NORTHEASTERLY RIGHT OF WAY OF GRAND AVENUE, A DISTANCE OF 5,703.73 FEET;**

**THENCE NORTH 43 DEGREES 31 MINUTES 21 SECONDS EAST, DEPARTING SAID NORTHEASTERLY RIGHT OF WAY, A DISTANCE OF 591.99 FEET TO THE POINT OF BEGINNING OF THE PARCEL DESCRIBED HEREIN.**

CONTAINING 17,499,303.934 SQUARE FEET OR 401.7287 ACRES, MORE OR LESS.





FOUND IRON PIPE  
NORTHEAST CORNER  
SEC. 2, T4N, R2W

S00°46'38"W  
1437.75'

EAST QUARTER CORNER  
SEC. 2, T4N, R2W  
NOTHING FOUND OR SET

FOUND ALUMINUM CAP  
SOUTHWEST CORNER  
SEC. 2, T4N, R2W  
POINT OF COMMENCEMENT

S89°27'57"E  
1504.33'

POINT OF  
BEGINNING

S89°27'57"E 5269.57'  
BASIS OF BEARING

FOUND ALUMINUM CAP  
SOUTHEAST CORNER  
SEC. 2, T4N, R2W  
NORTHEAST CORNER  
SEC. 11, T4N, R2W

N43°31'21"E  
591.99'

GRAND AVENUE

100.00'  
RIGHT OF WAY

N46°13'30"W  
5703.73'

S00°46'22"W 2619.91'

FOUND ALUMINUM CAP  
EAST QUARTER CORNER  
SEC. 11, T4N, R2W

S00°43'44"W  
1695.80'



6225 N. 24th St., Ste. 200  
Phoenix, AZ 85016  
Phone: (602)934-0038  
Fax: (602)944-8685

BEARDSLEY ABANDONED CC & N - 2  
WATER SERVICE PARCEL  
SURPRISE, ARIZONA

EXHIBIT  
**A**

DATE: 3/31/06 SCALE: N.T.S. PROJ NO: 03101 CAD FILE: 03101\_EXHIBITS

1 of 1

MEMORANDUM

DATE: April 4, 2006  
TO: Linda Jaress  
FROM: Del Smith *DS*  
RE: Application of Beardsley Water Company for deletion of a portion of its Certificate of Convenience and Necessity (Docket No. W- 02074A-06-0095)

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**Introduction**

Beardsley Water Company ("Beardsley" or "the Company") provides water utility service to roughly an eleven square mile area north of Deer Valley Road adjacent to the City of Surprise. Beardsley has applied to delete a portion of its Certificate of Convenience and Necessity ("CC&N"). The proposed deletion area, which is approximately one and one-half square miles in size, is located north of Grand Avenue, West of Cotton Lane (or an extension thereof), and South of Jomax Road. The proposed deletion area is adjacent to the City of Surprise. The City is willing and able to provide service in the deletion area.

**Beardsley Systems**

Beardsley currently has five water systems that are providing service to customers located within its CC&N (Public Water System ("PWS") Numbers 07-007, 07-509, 07-511, 07-517 and 07-528). According to the application, Beardsley does not serve nor has it constructed any facilities within the proposed deletion area.

The Company has informed Staff that if it were to serve the deletion area that it would extend its water lines from a system that is south of Grand Avenue. These lines would need to cross Grand Avenue and the adjacent Rail Line to reach the proposed deletion area. According to the Company, such an extension would be very costly. The City of Surprise on the other hand is currently serving areas west of the deletion area and north of Grand Avenue and has agreed to serve this area. The City of Surprise will also be providing wastewater service to the deletion area.

**Maricopa County Environmental Services Department ("MCESD")  
Compliance**

MCESD regulates the Beardsley Water systems under the PWS Numbers listed above. MCESD reported that all systems are currently delivering water that

meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4. However, MCESD also reported that several systems have deficiencies.

PWS Number	Meets Water Quality Standards	Compliance Status and Date	Deficiencies
07-007	Yes	Substantial Compliance 3/28/06	Minor O & M
07-509	Yes	Compliant 3/28/06	NA
07-511	Deactivated*	NA	NA
07-517	Yes	Substantial Compliance	Minor O & M
07-528	Yes	Substantial Compliance	Monitoring and Reporting

\*System was classified as deactivated by MCESD on September 26, 2005 because it has less than 15 service connections and is therefore not considered a public water system subject to applicable MCESD requirements and regulations.

The U.S. Environmental Protection Agency has reduced the arsenic maximum contaminant level ("MCL") in drinking water from 50 micrograms per liter ("µg/l") to 10 µg/l. The Company's 2004 Annual Report indicates that all system wells comply with the new arsenic MCL standard.

### **Arizona Department of Water Resources ("ADWR") Compliance**

Beardsley's systems are within ADWR's Phoenix Active Management Area. ADWR reported that Beardsley is in compliance with its monitoring and reporting requirements.<sup>1</sup>

### **ACC Compliance**

The Utilities Division compliance database indicates that Beardsley has one delinquent compliance item.<sup>2</sup> In Decision 67160, dated August 10, 2004, the Company's request to extend its CC&N was granted. The Commission further ordered that the authorization granted would not become effective until the Company filed documentation from MCESD that the Company was operating its water systems in total compliance with MCESD requirements. Therefore the extension granted under Decision 67160 is still pending. This extension area can generally be described as the southeast quarter of Section 20 in Township 5 North, Range 3 West. Beardsley has informed Staff that it is not serving any

<sup>1</sup> Per Compliance status check dated March 14, 2006.

<sup>2</sup> Per Compliance status check dated April 3, 2006.

customers within this extension area nor has it constructed any facilities within this extension area.

### **Curtailment Tariff**

Beardsley has an approved curtailment tariff on file with the Commission.

### **Conclusions**

1. The proposed deletion area is adjacent to the City of Surprise. The City is willing and able to provide service in the deletion area.
2. Beardsley does not serve nor has it constructed any facilities within the proposed deletion area.
3. An extension of Beardsley's facilities to serve the deletion area would be very costly. The City of Surprise on the other hand is currently serving areas west of the deletion area and north of Grand Avenue.
4. Beardsley's systems are currently delivering water that meets water quality standards required by Arizona Administrative Code, Title 18, Chapter 4. However, several systems have deficiencies per MCESD.

### **Recommendations**

1. Staff recommends that the Company update its curtailment tariff to reflect a complete listing of the applicable water system PWS numbers. Staff recommends that the revised tariff be filed with Docket Control, as a compliance item in this docket, for Staff's review within 45 days of the date of the order in this matter.