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Arizona Corporation Commission

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AZ CORP COMMISSION
WATER CONTROL

BEFORE THE ARIZONA CORPORATION COMMISSION

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IN THE MATTER OF THE APPLICATION
 OF H2O, INC., FOR AN EXTENSION
 OF ITS EXISTING CERTIFICATE OF
 CONVENIENCE AND NECESSITY

Docket No: W -02234A-00-0371

IN THE MATTER OF THE APPLICATION
 OF JOHNSON UTILITIES, L.L.C. DBA
 JOHNSON UTILITIES COMPANY FOR AN
 EXTENSION FOR ITS CERTIFICATE OF
 CONVENIENCE AND NECESSITY TO
 PROVIDE WATER AND WASTEWATER
 SERVICE TO THE PUBLIC IN THE
 DESCRIBED AREA IN PINAL COUNTY,
 ARIZONA

Docket No: WS-02987A-99-0583

**PREFILED REBUTTAL TESTIMONY
OF BYRON F. HANDY**

1 **Q. Please state your name for the record.**

2 A. Byron F. Handy

3
4 **Q. What is your current employment and responsibilities?**

5 A. I am employed by BFH Development Corporation as its President. J-Cor, Inc. has
6 hired BFH Development to work on engineering, planning and entitlement issues
7 associated with the Ware Farms Project. Pantano Development Limited
8 Partnership owns Ware Farms. Pantano has entered into a Profits Interest
9 Agreement with J-Cor, thus J-Cor's involvement/interest in the development
10 process.
11

12 **Q. Can you describe the Ware Farms Project?**

13 A. J-Cor, Inc., in association with Pantano Development, is developing approximately
14 480 acres as a residential/commercial development. Construction is scheduled to
15 begin 2001.
16

17 **Q. Have you reviewed any filings in this proceeding?**

18 A. Yes. I have reviewed the staff report and the Johnson and H2O applications.
19

20 **Q. Did you send a letter to the Commission in this proceeding?**

21 A. Yes. Attached as Exhibit 1 is the letter I sent to the Commission explaining why
22 our company prefers Johnson Utilities to H2O.
23

24 **Q. Can you explain why the Designation of Assured Water Supply is important to**
25 **you?**
26

1 A. Without an adequate supply of water, a real estate development project cannot
2 move forward. To show that a project has sufficient water, it must have a
3 designation of an assured water supply issued by DWR showing the existence of
4 sufficient water for the proposed development to consumers and regulators.
5
6 In the absence of a designation, Ware Farms must apply for a Certificate of Assured
7 Water Supply from DWR. This lengthy and difficult process would require
8 voluminous, expensive reports and filing to be made which would add 7 months or
9 more to the process.
10

11 **Q. Can you explain why having both a wastewater and water system is**
12 **important?**

13 A. People will choose to live in the Ware Farms Project because of the appeal of a
14 more rural, less congested, cleaner environment. Having a combined system to
15 deliver and treat water adds immeasurably to what we want to deliver to our
16 customers. Septic tanks or other lesser waste treatment facilities will undercut our
17 efforts because of the perceptions associated with these less preferable alternatives
18 and the very real risk these alternatives pose in terms of nitrate pollution.
19

20
21 **Q. Why is Johnson's financial situation in comparison to H2O's important for**
22 **your company?**

23 A. Pantano will make substantial investments in the planning and development of this
24 property. It is important that we have a secure sense that the facilities necessary
25 will be built. Our history with Johnson Utilities and its affiliated entities and our
26

1 knowledge of their significant financial resources provides us with an acceptable
2 conform level. On the other hand, H2O has a history of financial problems,
3 including a bankruptcy, failure to pay county taxes, failure to use advances paid to
4 actually construct facilities. In light of that understanding, I am concerned that
5 H2O will look to Ware Farms to fund a disproportionate share of the cost of
6 common facilities.
7

8 **Q. Have you reviewed the Diversified Water Utilities (“Diversified”) application**
9 **to serve Ware Farms?**
10

11 **A. Yes.**

12 **Q. What is your reaction to Diversified’s application?**

13 **A. Ware Farms would prefer Johnson Utilities to Diversified for the reasons set forth**
14 **above relating to H2O.**
15

16 **Q. Does that conclude your testimony?**

17 **A. Yes.**
18
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VERIFICATION

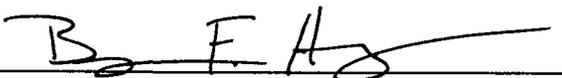
State of Arizona)
) ss.
County of Maricopa)

Byron F. Handy, of lawful age being first duly sworn, deposes and states:

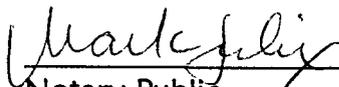
1. My name is Byron F. Handy. I am the Owner's Representative for Pantano Development Limited Partnership, the developer of Ware Farms.
2. I hereby swear and affirm that my answers contained in the attached testimony to the

Questions therein propounded are true and correct to the best of my knowledge and belief.

Dated this 5th day of October, 2000.


Byron F. Handy

Subscribed and sworn to before me this 5th day of October, 2000.


Notary Public

My commission expires
 MARK FELIX
Notary Public - Arizona
MARICOPA COUNTY
My Commission Expires
MARCH 9, 2004

Exhibit

1

Vistoso Partners, LLC
1121 W. Warner Road Suite #109
Tempe, AZ 85284
(602) 831-2000
Fax (602) 893-1604

August 31, 2000

Chairman Carl Kunasek
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007

RE: Johnson Utilities Docket #WS-02987A-99-0583

Mr. Chairman:

I am writing on behalf of Pantano Development Limited Partnership, an Arizona Limited Partnership, to request that Johnson Utilities be able to expand their water and sewer service area to include Pantano's property.

Pantano's property includes 480 acres at the S.E.C. of Kenworthy and Combs road.

Pantano Development offers the following reasons for this service request.

- 1) Pantano would prefer to deal with one utility company that will be able to provide water and sewer facilities for the development.
- 2) Johnson Utilities has an Assured Water Supply Designation in place.
- 3) Johnson Utilities is well capitalized and has the ability to react to our water needs in a timely manner.

Thank you for your consideration of this request.

Sincerely,



Byron Handy
On behalf of,
Pantano Development Limited Partnership

cc: Commissioner Jim Irvin
Commissioner William Mundell
Mr. Mark DiNunzio

W-62234A-00-0371 J. Day 1

SM INVESTMENT, Inc.

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Arizona Corporation Commission
Consumer Service Section
1200 West Washington Street
Phoenix, Arizona 85007

ARIZONA CORPORATION COMMISSION
JUL 19 2000
AZ CORP COMMISSION DOCUMENT CONTROL
Director of Utilities

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AUG 21 2000

ARIZONA CORP. COMM.
HEARING DIVISION

July 13, 2000
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Dear Sirs,

we were informed by the law offices of Fennemore Craig that H2O, Inc. has filed an Application with the Arizona Corporation Commission for authority for extension of its Certificate of Convenience and Necessity to provide water service.

As one of our properties situated on Schnepf Road / Hash Knife is affected by this application of H2O, Inc. we herewith want to inform you that we object to the application of H2O, Inc. and that we absolutely reject to become a customer of H2O, Inc. We have decided to go with Johnson Utilities for water and sewer services.

Therefore we would like to ask you to take care that our intervention will be taken into account when the Arizona Corporation Commission will decide on the application of H2O, Inc.

If any further information should be required please contact us via fax: 011 49 2732 880 226. Please also inform us on the outcome of the hearing and the consequences thereof for Pantano Development Limited Partnership.

Sincerely,

Pantano Development Limited Partnership
by its General Partner
SM Investment, Inc.
Petra Schadeberg
(Vice President)