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Transcript Exhibit(s)

Docket #(s): W-03783A-10-0172

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Exhibit #: S1-S2.

Arizona Corporation Commission

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OCT 8 2010

MEMORANDUM

LEGAL DIV.
ARIZ. CORPORATION COMMISSION

TO: Docket Control

FROM: Steven M. Olea
Director
Utilities Division

EA for SMD

DATE: October 8, 2010

RE: APPLICATION OF RINCON CREEK WATER COMPANY FOR APPROVAL
OF THE SALE OF ASSETS AND TRANSFER OF THE CERTIFICATE OF
CONVENIENCE AND NECESSITY (DOCKET NO. W- 03783A-10-0172)

Attached is the Staff Report for the sale of assets and transfer of the Certificate of Convenience and Necessity for Rincon Creek Water Company. Staff recommends approval with conditions.

EGJ:KMS:red

Originator: Kiana M. Sears



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AZ CORP COMMISSION
DOCKET CONTROL

Service List for: Rincon Creek Water Company.
Docket No. W-03783A-10-0172

Mr. Michael W. Schultz
Rincon Creek Water Company
1102 North Anita Avenue
Tucson, Arizona 85705

Mr. William Shirley
14545 E. Rincon Creek Ranch Road
Tucson, Arizona 85747

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

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

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

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

RINCON CREEK WATER COMPANY
DOCKET NO. W-03783A-10-0172

APPLICATION OF RINCON CREEK WATER COMPANY FOR APPROVAL OF THE SALE
OF ASSETS AND TRANSFER OF THE CERTIFICATE OF CONVENIENCE AND
NECESSITY (DOCKET NO. W- 03783A-10-0172)

OCTOBER 8, 2010

STAFF ACKNOWLEDGMENT

The Staff Report for Rincon Creek Water Company, Docket No. W-03783A-10-0172 was prepared by the Staff members shown below.


Kiana M. Sears
Executive Consultant I


Dorothy Hains
Utilities Engineer

**EXECUTIVE SUMMARY
RINCON CREEK WATER COMPANY
DOCKET NO. W-03783A-10-0172**

On May 3, 2010, Rincon Creek Water Company ("Rincon Creek" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") for approval of the sale of assets and transfer of its Certificate of Convenience and Necessity ("CC&N") to Mr. William Shirley. Rincon Creek is an Arizona non-profit corporation, granted a CC&N on February 25, 1959. Rincon Creek is located approximately one and three-quarter square mile area in Sections 13, 14 and 23 of Township 15 South, Range 16 East and Section 18 in Township 15 South, Range 17 East, in Pima County.

The reasoning behind the transfer expressed by the applicant:

Mr. Shultz, owner of Rincon Creek, desires to pursue other business interests which have left him with less time to maintain the Rincon Creek. Mr. Shirley (the transferee) approached Mr. Shultz about purchasing the ranch and the Rincon Creek water system. According to Mr. Shirley, he intends to develop the ranch with additional rental casitas. Mr. Shirley has familiarized himself with the requirements of the ACC and other State regulatory agencies and believes he fully understands the responsibilities of owning the water company. Staff understands that the Shirley's have taken possession of the ranch and have been operating the Rincon Creek water system since April 26, 2010.

Staff recommends that the Commission approve the sale of assets and transfer of the CC&N of Rincon Creek with the condition that the Company complies with the following recommendations.

1. Staff recommends that the appropriate documents be filed with Arizona Department of Water Resources ("ADWR") transferring ownership of the wells to the Company. Staff further recommends that the Company file ADWR documentation with the Commission's Docket Control, as a compliance item in this docket, showing that the ownership transfer has taken place. This documentation shall be filed within 180 days after the effective date of the decision in this matter.
2. Staff further recommends that each customer's water usage be metered and that appropriately sized meters be installed on the wells so that reliable/accurate data is available to evaluate system adequacy and to determine the level of non-account water. Staff further recommends that the Company file documentation with the Commission's Docket Control, as a compliance item in this docket, showing that the installation of well meters and customer meters has taken place. This documentation shall be filed within 180 days after the effective date of the decision in this matter.

3. Staff recommends that the Company be required to report the actual water pumped data as read at the well meter on a monthly basis in future Annual Reports. The Company should coordinate when it reads the well meters each month when it reads the customer meters so that an accurate accounting of the water pumped and the water delivered to customers is determined.
4. Staff recommends that a Cross Connection or Backflow Prevention tariff be filed within 45 days of the effective date of the Commission's Decision in this matter.
5. Staff recommends that a curtailment tariff be filed within 45 days of the effective date of the Commission's Decision in this matter.

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INTRODUCTION

On May 3, 2010, Rincon Creek Water Company ("Rincon Creek" or "Company") filed an application with the Arizona Corporation Commission ("Commission") for approval of the sale of assets and transfer of its Certificate of Convenience and Necessity ("CC&N") to Mr. William Shirley. Rincon Creek is an Arizona non-profit corporation that was granted a CC&N on February 25, 1959. Rincon Creek is located in an approximately one and three-quarter square mile area in Sections 13, 14 and 23 of Township 15 South, Range 16 East and Section 18 in Township 15 South, Range 17 East, in Pima County.

BACKGROUND OF TRANSFEREE

Mr. William Shirley currently is and has been a Licensed Structural Engineer for 17 years. Mr. Shirley has purchased the Rincon Creek Ranch which contains Rincon Creek Water Company for \$1.6 million in cash. Therefore, there is no financing or encumbrances involved with the purchase. Mr. Shirley has also retained the services of Westland Resources, Inc., Engineering & Environments Consultants ("Westland") Mark Taylor as the principal agent. Mr. Shirley is awaiting the approval of this application to implement the upgrades of the system, Westland has recommended. Mr. Shirley owns various properties and assets but does not own any other businesses. Staff conducted an internet search and did not find any complaints or judgments regarding Mr. Shirley. Mr. Shirley also, informed Staff that he does not have any delinquencies, bankruptcies or judgments.

WATER SYSTEM, OPERATION AND RATES

Rincon Creek water system is classified a semi-public water system by the Arizona Department of Environmental Quality ("ADEQ") because the system serves less than 15 connections. Because Rincon Creek water system is classified a semi-public water system it is not subject to ADEQ's monitoring and reporting requirements and a water quality compliance status report is not available for the system. The Rincon Creek water system consists of two wells, two storage tanks, two pressure tanks and a distribution system serving five customers. The Company does not meter the water used by its customers nor are meters installed on its wells, therefore, reliable water use data to evaluate system adequacy and non-account water can not be determined at this time.

However the pump yield data reported for the Company wells indicates that the water system should have sufficient capacity to serve existing customers. According to Arizona Department of Water Resources' ("ADWR") well registration database, ADWR Well ID No. 55-620931 (the primary water system production well) produces a maximum 150 Gallon per Minute ("GPM") flow and is registered to Gilbert & Mary Elizabeth Acosta. Commission Decision No. 58595, effective April 8, 1994, approved the transfer of Rincon Creek from Mary Acosta to the Shultzes. The backup well, ADWR ID No. 55-550957 (described as "other water source" in the Company's Annual Report, that is registered to Mr. Mike Schultz, is capable of producing a maximum flow of 600 GPM flow.

COMPLIANCE

A check of the Utilities Division compliance database indicated that there is currently no delinquent compliance item for Rincon Creek. Rincon Creek is in ADWR's Pima Active Management Area ("AMA"). Staff received a Compliance Status Report from ADWR for Rincon Creek on August 4, 2010. ADWR reported that the Company is in compliance with its requirements governing water providers and/or community water systems.

RECOMMENDATION

Staff recommends that the Commission approve the sale of assets and transfer of the CC&N of Rincon Creek with the condition that the Company complies with the following recommendations.

1. Staff recommends that the appropriate documents be filed with ADWR transferring ownership of the wells to the Company. Staff further recommends that the Company file ADWR documentation with the Commission's Docket Control, as a compliance item in this docket, showing that the ownership transfer has taken place. This documentation shall be filed within 180 days after the effective date of the decision in this matter.
2. Staff further recommends that each customer's water usage be metered and that appropriately sized meters be installed on the wells so that reliable/accurate data is available to evaluate system adequacy and to determine the level of non-account water. Staff further recommends that the Company file documentation with the Commission's Docket Control, as a compliance item in this docket, showing that the installation of well meters and customer meters has taken place. This documentation shall be filed within 180 days after the effective date of the decision in this matter.
3. Staff recommends that the Company be required to report the actual water pumped data as read at the well meter on a monthly basis in future Annual Reports. The Company should coordinate when it reads the well meters each month when it reads the customer meters so that an accurate accounting of the water pumped and the water delivered to customers is determined.
4. Staff recommends that a Cross Connection or Backflow Prevention tariff be filed within 45 days of the effective date of the Commission's Decision in this matter.
5. Staff recommends that a curtailment tariff be filed within 45 days of the effective date of the Commission's Decision in this matter.

MEMORANDUM

DATE: September 30, 2010

TO: Kiana Sears
Executive Consultant

FROM: Dorothy Hains, P. E. *DH*
Utilities Engineer

RE: The Application of Rincon Creek Water Company for Approval of the Sale of Assets and Transfer of the Certificate of Convenience and Necessity (Docket Nos. W- 03783A-10-0172)

INTRODUCTION

On May 3, 2010, Michael W. Schultz & Pamela J. Schultz dba Rincon Creek Water Company ("Rincon Creek" or "Company") and William F. Shirley filed a joint application ("Application") with the Arizona Corporation Commission ("ACC" or "Commission") for approval of the sale of Rincon Creek water system assets and transfer of the Certificate of Convenience and Necessity ("CC&N") of Rincon Creek from the Shultzes to Mr. Shirley and his wife. The Company has been granted a CC&N by the Commission to provide water utility service to an approximately one and three-quarter square mile area in Sections 13, 14 and 23 of Township 15 South, Range 16 East and Section 18 in Township 15 South, Range 17 East, all in Pima County.

Reason Given for Transfer

Mr. Shultz desires to pursue other business interests which have left him with less time to maintain the Rincon Creek. Mr. Shirley and his wife approached Mr. Shultz about purchasing the ranch and the Rincon Creek water system.¹ According to Mr. Shirley, he and his wife intend to develop the ranch with additional rental casitas.² Mr. Shirley has familiarized himself with the requirements of the ACC and other State regulatory agencies and believes he fully understands the responsibilities of owning the water company. Staff understands that the Shirley's have taken possession of the ranch and have been operating the Rincon Creek water system since April 26, 2010.

¹ The Company serves the ranch and other parcels of land near the ranch.

² Staff understands that the Shirley's have hired an engineering firm to review and design whatever water system improvements are necessary to support this development.

WATER SYSTEM

The Rincon Creek water system consists of two wells, two storage tanks, two pressure tanks and a distribution system serving five customers.³ The Company does not meter the water used by its customers nor are meters installed on its wells, therefore, reliable water use data to evaluate system adequacy and non-account water can not be determined at this time. However the pump yield data reported for the Company wells indicates that the water system should have sufficient capacity to serve existing customers.⁴

Well Ownership

According to Arizona Department of Water Resource's ("ADWR") well registration database, ADWR Well ID #55-620931 (the primary water system production well) produces a maximum 150 Gallon per Minute ("GPM") flow and is registered to Gilbert & Mary Elizabeth Acosta. Commission Decision No. 58595, effective April 8, 1994, approved the transfer of Rincon Creek from Mary Acosta to the Shultzes. The backup well, ADWR ID #55-550957 (described as "other water source" in the Company's Annual Report)⁵, that is registered to Mr. Mike Schultz, is capable of producing a maximum flow of 600 GPM flow.⁶

Staff recommends that the appropriate documents be filed with ADWR transferring ownership of the wells (referenced above) to the Company. Staff further recommends that the Company file ADWR documentation with the Commission's Docket Control, as a compliance item in this docket, showing that the ownership transfer has taken place. This documentation shall be filed within 180 days after the effective date of the decision in this matter.

Meter Installation

Staff recommends that each customer's water usage be metered and that appropriately sized meters be installed on the wells so that reliable/accurate data is available to evaluate system adequacy and to determine the level of non-account water. Staff further recommends that the Company file documentation with the Commission's Docket Control, as a compliance item in this docket, showing that the installation of well meters and customer meters has taken place. This documentation shall be filed within 180 days after the effective date of the decision in this matter.

³ According to the Water Company Plant Description data provided in the Company's 2009 Annual Report filed with the Commission.

⁴ Based on water pumped data reported to Arizona Department of Water Resources and provided to Staff (see Company response to Question No. 2 of July 21, 2010 Data Request), Rincon Creek pumped 9.71 acre ft water during 2009. Staff used this data to estimate the daily water usage per customer in Rincon.

⁵ Staff understands this well is only used as a backup well at this time.

⁶ This well was designed to be irrigation well according to ADWR records.

Annual Report Data

The Company has not been reporting water use data in its Commission Annual Reports as required because the water system was not equipped with the necessary customer meters and well meters. Staff is recommending that these meters be equipped in the Rincon Creek water system within 12 months after the effective date of the decision in this matter. Staff recommends that the Company be required to report the actual water pumped data as read at the well meter on a monthly basis in future Annual Reports, beginning with the 2012 Annual Report filed in 2013. The Company should coordinate when it reads the well meters each month with when it reads the customer meters so that an accurate accounting of the water pumped and the water delivered to customers is determined.

Water Quality and Certified Operator

Rincon Creek water system is classified a semi-public water system by the Arizona Department of Environmental Quality ("ADEQ") because the system serves less than 15 connections. Because Rincon Creek water system is classified a semi-public water system it is not subject to ADEQ's monitoring and reporting requirements and a water quality compliance status report is not available for the system. Because of its size, Rincon Creek is not required to have a certified operator; however, according to information contained in the Application, Lee Lambert is the ADEQ certified operator of the water system. In Attachment B, Mr. Lambert states that he is an ADEQ Certified Operator but does not serve in that capacity for Rincon Creek Water.

ACC AND ADWR COMPLIANCE

ADWR Compliance Status

Rincon Creek is in ADWR's Pima Active Management Area ("AMA"). Staff received a Compliance Status Report from ADWR for Rincon Creek on August 4, 2010. ADWR reported that the Company is in compliance with its requirements governing water providers and/or community water systems.

ACC Compliance

A check of the Utilities Division compliance database indicated that there is currently no delinquent compliance item for Rincon Creek.

TARIFFS

Curtailment

Since Rincon Creek does not have a curtailment tariff, Staff recommends that a curtailment tariff be filed within 45 days of the effective date of the Commission's Decision in this matter. The tariff shall be docketed as a compliance item under this docket number for the review and certification of Staff. Staff further recommends that the tariff shall generally conform to the sample tariff found on the Commission's website at <http://www.azcc.gov/Divisions/Utilities/forms/Curtailment%20Standard%202009.doc>. Staff recognizes that the Company may need to make minor modifications to the sample tariff according to its specific management, operational, and design requirements as necessary and appropriate.

Cross Connection or Backflow Prevention

Since Rincon Creek does not have a Cross Connection or Backflow Prevention tariff, Staff recommends that a Cross Connection or Backflow Prevention tariff be filed within 45 days of the effective date of the Commission's Decision in this matter. The tariff shall be docketed as a compliance item under this docket number for the review and certification of Staff. Staff further recommends that the tariff shall generally conform to the sample tariff found on the Commission's website at <http://www.azcc.gov/Divisions/Utilities/forms/CrossConnectBackflow.pdf>. Staff recognizes that the Company may need to make minor modifications to the sample tariff according to its specific management, operational, and design requirements as necessary and appropriate.

SUMMARY

Conclusions

1. Mr. Schultz (the current owner) desires to pursue other business interests and does not have time to operate and manage Rincon Creek. The Shirley's are in the process of acquiring property including the Rincon Creek water system assets and are living in the area served by Rincon Creek. The Shirley's have a significant vested interest in assuring that the water company is operated properly. Mr. Shirley has familiarized himself with the requirements of the ACC and other State regulatory agencies and believes he fully understands the responsibilities of owning the water company. Staff concludes that the Shirley's are capable of operating and maintaining Rincon Creek.
2. Rincon Creek is in compliance with ACC and ADWR requirements.

3. Staff concludes that the water system has adequate capacity to serve existing customers.

Recommendations

1. Staff recommends that the appropriate documents be filed with ADWR transferring ownership of the wells to the Company. Staff further recommends that the Company file ADWR documentation with the Commission's Docket Control, as a compliance item in this docket, showing that the ownership transfer has taken place. This documentation shall be filed within 180 days after the effective date of the decision in this matter.
2. Staff recommends that each customer's water usage be metered and that appropriately sized meters be installed on the wells so that reliable/accurate data is available to evaluate system adequacy and to determine the level of non-account water. Staff further recommends that the Company file documentation with the Commission's Docket Control, as a compliance item in this docket, showing that the installation of well meters and customer meters has taken place. This documentation shall be filed within 180 days after the effective date of the decision in this matter.
3. Staff recommends that the Company be required to report the actual water pumped data as read at the well meter on a monthly basis in future Annual Reports. The Company should coordinate when it reads the well meters each month with when it reads the customer meters so that an accurate accounting of the water pumped and the water delivered to customers is determined.
4. Staff recommends that a curtailment tariff be filed within 45 days of the effective date of the Commission's Decision in this matter.
5. Staff recommends that a Cross Connection or Backflow Prevention tariff be filed within 45 days of the effective date of the Commission's Decision in this matter.

Arizona Corporation Commission

Attn: Kiana M. Sears, M.P.A.

Executive Consultant 1, Utilities Division

October 7, 2010

Ms. Sears,

In regards to the Rincon Water System I have completed their annual water withdrawal and use report to the Arizona Department of Water Resources since 1998. Although, I hold multiple Arizona Department of Environmental Quality Operator licenses, I do not currently provide an Operator service for the Rincon Water System. I simply measure the flow rate and electrical use for the main well supplying this system on an annual basis, and then complete the ADWR withdrawal reports once per calendar year.

I hope this clears up any questions you and the Arizona Corporation Commission may have regarding this matter.

Please feel free to contact me in the future should you have any other questions.

Respectfully,

Lee Lambert 10/7/2010

Lee Lambert

MEMORANDUM

TO: Kiana Sears
Executive Consultant I
Utilities Division

FROM: Barb Wells *bw*
Information Technology Specialist
Utilities Division

THRU: Del Smith *DS*
Engineering Supervisor
Utilities Division

DATE: June 15, 2010

RE: **MICHAEL W. SCHULTZ & PAMELA J. SCHULTZ DBA RINCON CREEK WATER COMPANY
(DOCKET NO. W-03783A-10-0172)**

Rincon Creek has filed an application to transfer their CC&N to William and Gretchen Shirley.

Attached is a copy of the map for your files

:bsw

Attachments

cc: Mr. Michael W. Schultz
Mr. William Shirley
Ms. Deb Person (Hand Carried)
Ms. Dorothy Hains

TARIFF SCHEDULE

TARIFF SHEET NO. 1
 REPLACES SHEET NO. _____
 DECISION NO. 31637
 EFFECTIVE 6/2/59

UTILITY: GILBERT A. ACOSTA
 DOCKET NO.: U-1619
 TELEPHONE: _____

6/22/59

RATES & CHARGES

MONTHLY SERVICE RATE:

<u>MINIMUM</u>	<u>GALLONS</u>	<u>MINIMUM</u>	<u>GALLONS</u>
5/8 x 3/4" \$ 6.00	FOR 7,000	3" \$	FOR _____
3/4" \$	FOR _____	4" \$	FOR _____
1" \$	FOR _____	5" \$	FOR _____
1-1/2" . . . \$	FOR _____	6" \$	FOR _____
2" \$	FOR _____		

\$.50 PER 1,000 GALLONS IN EXCESS OF MINIMUM

SERVICE LINE & METER INSTALLATION CHARGES:

5/8 x 3/4" \$100	1-1/2" . . . \$300
3/4" . . . \$120	2" \$400
1" \$160	

SERVICE CHARGES:

ESTABLISHMENT _____	RE-ESTABLISHMENT <u>\$25.00</u>
AFTER HOUR _____	(Within 12 months)
RECONNECTION <u>\$5.00</u>	NSF CHECK _____
(Delinquent)	DEFERRED PAYMENT _____
METER TEST _____	RE-READ <u>\$2.50</u>
* DEPOSIT _____	

* (If other than provided for in Rules & Regulations)

OTHER CHARGES AS SPECIFIED BY ORDER:



31637

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION OF GILBERT G. ACOSTA, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A PUBLIC SERVICE CORPORATION TO THE SALE AND DISTRIBUTION OF WATER FOR DOMESTIC USE IN A PART OF SECTION 13, TOWNSHIP 15 SOUTH, RANGE 17 EAST, GAVARAN, PIMA COUNTY, ARIZONA; AND THE EAST HALF OF THE SOUTHWEST QUARTER AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, ALL IN SECTION 14, AND THE NORTH HALF OF THE NORTHWEST QUARTER AND THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER, BOTH IN SECTION 21, ALL IN TOWNSHIP 15 SOUTH, RANGE 17 EAST, GAVARAN, AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 15 SOUTH, RANGE 17 EAST, GAVARAN, PIMA COUNTY, ARIZONA.

DOCKET NO. U-1619

DECISION NO. 31532

OPINION AND ORDER

→ 31637

BY THE COMMISSION:

On April 30, 1959, this Commission issued Opinion and Order, Decision No. 31532 granting a Certificate of Convenience and Necessity to Gilbert G. Acosta, covering the above described territory, with the proviso that a schedule of rates be submitted to this Commission for approval.

In compliance with this order, a letter was received in this office dated June 1, 1959 from Henry Zinf of the law firm, Zinf & Larkin.

WHEREFORE, IT IS ORDERED that the rates and charges which are hereby approved and which shall be in full force and effect are as follows:

- For the first 7,000 gallons or less of water for each consumer per month minimum..... \$6.00
- For each 1,000 gallons in excess of the minimum gallons for each consumer..... \$0.50.

All other rates and charges shall be in accordance with General Order U-4, Rules and Regulations for Domestic Water Companies, which became effective as of January 15, 1955.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

IN WITNESS WHEREOF, I, FRANCIS J. BYRNES, Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of this Commission to be affixed, at the Capitol, in the City of Phoenix, this 22nd day of June 1959.

Arizona Corporation Commission
DOCKETED
JUN 22 1959

DOCKETED BY
AB

Francis J. Byrnes
FRANCIS J. BYRNES
SECRETARY

[Signature]

Robert Byrnes