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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON

Arizona Corporation Commission
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IN THE MATTER OF THE APPLICATION OF PALO VERDE UTILITIES COMPANY FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY.	DOCKET NO. SW-03575A-03-0167
IN THE MATTER OF THE APPLICATION OF SANTA CRUZ WATER COMPANY FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY.	DOCKET NO. W-03576A-03-0167 DECISION NO. 66394 **OPINION AND ORDER**

DATE OF HEARING: July 31, 2003; August 7, 2003

PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Dwight D. Nodes

APPEARANCES: Mr. Jay L. Shapiro, FENNEMORE CRAIG, P.C., on behalf of Applicants;

Mr. Richard L. Sallquist, SALLQUIST & DRUMMOND, P.C., on behalf of Intervenor Sonoran Utility Services, LLC; and

Ms. Lisa A. Vandenberg, Staff Attorney, Legal Division, on behalf the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On March 20, 2003, Palo Verde Utilities Company ("Palo Verde") and Santa Cruz Water Company ("Santa Cruz") (jointly "Applicants" or "Utilities") jointly filed an application in the respective, above-captioned dockets seeking to extend their Certificates of Convenience and Necessity ("CC&N") for water and wastewater service to various specified areas of Pinal County, Arizona.

On April 15, 2003, the Arizona Corporation Commission's ("Commission") Utilities Division Staff ("Staff") filed a letter stating that the application was not sufficient and requested additional

information from the Applicants.

On April 25, 2003, a Procedural Order was issued granting intervention to Kent A. Hoggan and Brent A. Butcher.

On May 14, 2003, Staff filed its Sufficiency Letter indicating that the application met the sufficiency requirements of A.A.C. R14-2-402(C) and R14-2-602(B).

On May 28, 2003, a Procedural Order was issued setting a hearing date of July 31, 2003, and directing the Applicants to publish notice of the application and the hearing date.

On June 30, 2003, Staff filed its Staff Report in this matter recommending approval of the application subject to certain modifications.

On July 14, 2003, the Applicants filed a Response to the Staff Report ("Response"). In their Response, the Applicants disputed Staff's position that Palo Verde and Santa Cruz were required to obtain Commission approval of the Utilities' change from a corporation to Arizona Limited Liability Corporations ("LLCs"). The Applicants also argued that Staff's interpretation of A.R.S. §40-281(B) is incorrect. The Applicants contend that, pursuant to that statute, they may legally extend service to any area within a city, county or town in which they are currently operating (regardless of contiguousness), without Commission approval. The Applicants indicated that they have already commenced construction of facilities to serve the areas that are the subject of the application and expect to begin serving customers in October 2003.

On July 17, 2003, the Administrative Law Judge conducted a teleconference with the parties to discuss the pending motions to intervene filed by various developers. After extensive discussion, the Administrative Law Judge indicated that each of the intervention requests would be granted, but intervention would not entitle the intervenors to expand the CC&N extension areas requested by the Applicants in this docket (because the Applicants did not wish to amend their application in this proceeding). However, Staff committed to an expedited review of a subsequent application filed by Palo Verde and Santa Cruz for further extension of their CC&Ns to property that is owned by the developers seeking intervention in this matter[1].

[1] A new application was filed by Palo Verde and Santa Cruz on August 18, 2003 seeking extensions of their CC&Ns to an additional 1,254 acres of property in Pinal County (Docket Nos. SW-03575A-03-0586 and W-03576A-03-0586).

On July 18, 2003, a Procedural Order was issued granting intervention to HAM Maricopa, LLC, Desert Cedars Equities, LLC, Land Solutions Maricopa, LLC, and Sonoran Utility Services, LLC.

On July 21, 2003, Staff filed a Reply to the Applicants' Response ("Reply"). In its Reply, Staff stated that it continues to disagree with the Applicants' arguments regarding transfer from a corporation to an LLC, and with respect to interpretation of A.R.S. §40-281(B). However, Staff does not believe it is necessary to pursue those legal issues in this case because Staff is recommending approval of the transfer to the LLCs and of the CC&N extension area sought by the Applicants[2].

At the July 31, 2003 hearing, Staff requested additional time to review recently obtained information regarding the application and requested a brief continuance of the hearing. By Procedural Order issued July 31, 2003, Staff's request was granted and the hearing was continued until August 7, 2003.

On August 5, 2003, Staff filed an Addendum to the Staff Report to address information it had received from the State of Oregon regarding a 1999 civil judgment of more than $61 million for commercial fraud and milking corporate assets that had been assessed against Michael T. Reinbold, the president of Palo Verde and Santa Cruz.

On August 6, 2003, a letter from the Oregon Department of Justice ("DOJ") was docketed. The letter indicated that the DOJ was undertaking an investigation into whether the change of Palo Verde and Santa Cruz from corporate entities to LLCs violated a pledge agreement between Mr. Reinbold and the Oregon Public Employees Retirement Fund ("OPERF") wherein certain assets of Mr. Reinbold, RHS Properties, Inc., and Reinbold Investments, LLC, are pledged as security to the OPERF while the civil judgment against Mr. Reinbold is on appeal.

On August 7, 2003, a hearing was convened before a duly authorized Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing, the

[2] The dispute between the Applicants and Staff surrounding these legal arguments was preceded by an exchange of letters filed in the Applicants' original certification dockets (SW-03575A-98-0327 and W-03576A-98-0328) wherein Staff advised the Applicants to cease and desist from attempting to serve any areas that are not contiguous to their current CC&N areas. The Applicants responded that Staff had misinterpreted the statute, but that the Applicants were willing to meet with Staff to attempt to resolve the dispute. Since Staff has recommended approval of the CC&N expansion area requested by Palo Verde and Santa Cruz, the Applicants assert that it is not necessary for the Commission to address in this proceeding the dispute regarding interpretation of A.R.S. §40-281(B).

matter was taken under advisement pending submission of a Recommended Opinion and Order.

* * * * * * * * * *

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. Palo Verde and Santa Cruz are Arizona LLCs engaged in providing water service to approximately 885 customers and wastewater utility service to approximately 636 customers in Pinal County, Arizona.

2. The current CC&Ns were granted by the Commission in Decision No. 61943 (September 17, 1999) to Palo Verde Utilities Company and Santa Cruz Water Company, Arizona corporations that were initially incorporated by Michael Reinbold.

3. As a condition of being granted the CC&Ns in Decision No. 61943, Palo Verde and Santa Cruz were ordered to obtain performance bonds in the amounts of $118,000 and $82,000, respectively, at least 15 days prior to serving any customers. The Commission expressed concern that Palo Verde and Santa Cruz were "start up" utilities and that neither the Applicants nor Mr. Reinbold had any prior experience in operating a public utility.

4. Based on the bond requirement in Decision No. 61943, Santa Cruz was required to obtain its bond by November 4, 2000 and notice of Palo Verde's bond was due by February 28, 2002. However, neither of the Applicants complied with this requirement and, on August 14, 2002, they filed a document titled "Supplemental Notice of Compliance with Decision No. 61943; Request for Reinstatement of CC&N." By Procedural Order issued September 23, 2002, in Docket Nos. SW-03575A-98-0327 and W-03576A-98-0328, the Applicants were granted a retroactive extension of time to file the performance bonds and their CC&Ns were reinstated.

5. On August 23, 2001, the corporate entities Palo Verde Utilities Company and Santa Cruz Water Company filed a document captioned "In the Matter of the Application for Approval of Change in Business Form from a Corporation to an LLC" (Docket Nos. W-03576A-01-0672 and SW-03575A-01-0672)("Change Application"). According to the Staff Report in this proceeding, the Applicants provided documentation that, as of June 15, 2001, the corporations had been merged into

the LLCs and the surviving entities were the LLCs (Ex. S-1, at 1). On September 27, 2001, the Applicants requested administrative closure of the Change Application because it was inadvertently labeled as an "application" rather than simply a "notice" to the Commission that the change had occurred. Staff contends that, because Decision No. 61943 granted CC&Ns to the corporations Palo Verde Utilities Company and Santa Cruz Water Company, any change in that corporate status required "approval" by the Commission. Staff's contention is based on the language in A.R.S. §40-285, which states in relevant part that, "[a] public service corporation shall not sell, lease, assign, mortgage or otherwise dispose of or encumber the whole or any part of its ... plant, or system necessary or useful in the performance of its duties to the public, or any franchise or permit or any right thereunder, ... without first having secured from the commission an order authorizing it to do so." As indicated above, however, Staff is recommending approval retroactively of the transfer, subject to certain filing requirements and the provision of notice of the transfer to all affected customers, regulatory bodies and interested parties.

6. In their Response to the Staff Report, the Applicants argue that no approval of the change in corporate structure was required. The Applicants claim that the August 23, 2001 filing was intended simply as a notice to the Commission, rather than a request for approval of the transaction. The Applicants contend that the transaction was a seamless transition and no change in actual ownership, management or utility operations occurred. The Applicants point out that the Change Application dockets were administratively closed by the Commission on April 15, 2003 because Staff had expressed no objection to the change in corporate status of Palo Verde and Santa Cruz.

7. We disagree with the Applicants' interpretation of A.R.S. §40-285. Although entities that are not public utilities may not be required to obtain Commission approval, the statute clearly contemplates that public service corporations occupy a unique status under Arizona law which requires approval of the type of transaction undertaken in 2001 by the Applicants. Given that the Change Application dockets were previously closed without objection by Staff, and that Staff now recommends approval of the transaction in this proceeding, we will approve retroactively the transfer and merger of the Palo Verde and Santa Cruz corporate assets into the current LLC status of the

entities[3].

8. With respect to the Applicants' ownership, Staff stated in the Staff Report that the utilities' total ownership "is not easily understood" (Ex. S-1, at 2). At the hearing, the Applicants presented two exhibits showing the utilities' ownership structure including Mr. Reinbold's ownership interests in various related entities (Exs. A-2 and A-3). These exhibits show that Santa Cruz and Palo Verde are owned by Phoenix Capital Partners, LLC (99 percent) and Phoenix Utility Management (1 percent). Phoenix Capital Partners is owned by Pecan Valley Investments, LLC (64.2 percent), Shea Homes LP (34.8 percent), and Phoenix Utility Management, LLC (1 percent)[4]. Pecan Valley Investments, LLC is owned by Reinbold Investments, LLC (0.01742 percent), El Dorado Pecan, LLC (0.02727 percent), and "Others" (99.95531 percent). El Dorado Pecan, LLC is owned by RHS Properties, Inc. (5.55 percent), Reinbold Investments, LLC (13.915 percent) and "Others" (80.535 percent).

9. According to the Applicants, these exhibits demonstrate that Mr. Reinbold does not have ownership control of either Palo Verde or Santa Cruz. Nor does he have ownership control of Phoenix Capital Partners, the entity that owns 99 percent of the Applicants. Mr. Reinbold conceded that, as president of the Applicants and Phoenix Capital Partners, he has "control and input on the day-to-day management" of those companies (Tr. 88). He added, however, that he does not have authority to order the sale, trade or liquidation of any of the companies (Id.).

10. Palo Verde and Santa Cruz currently have CC&Ns that encompass 2.7 square miles. The application in this proceeding requests the extension of the Applicants' CC&Ns to approximately 5.5 additional square miles (1,600 acres) in Pinal County. The developers expect to construct more than 10,000 new homes in the requested extension area (Ex. S-1, at 4-5). As noted above, the Applicants have continued to construct utility plant to serve the extension areas based on their interpretation of A.R.S. §40-281(B). The Applicants expect that service to the first model homes will

[3] At the hearing, the Applicants' witness opposed Staff's recommendation that notice be provided to customers of the change that took place in 2001 (Tr. 34). We agree with Staff that notice to the Applicants' existing customers should be required because, although the change occurred two years ago, the LLC entities that currently operate the utilities have not heretofore been granted CC&Ns to provide public utility service.

[4] Phoenix Utility Management, LLC is owned by Michael Reinbold (50 percent) and "Others" (50 percent). According to the exhibits, the "Others" does not include any entity that is owned or controlled by Mr. Reinbold, RHS Properties, Inc., or Reinbold Investments, LLC (Ex. A-3).

be available by October 2003.

11. The Applicants plan to finance the required utility facilities through a combination of shareholder equity and advances in aid of construction ("AIAC"). According to the Staff Report, Santa Cruz and Palo Verde have entered into main extension agreements with the developers requesting service that require the Utilities to refund 7 percent of the gross annual revenue from the associated facilities 4 years after the facilities are accepted by the Utilities. The 7 percent refund would continue to the developers for a period of 22 years. Staff states that the term of these refund provisions exceeds the minimum refund standard required in the Commission's rules (Ex. S-1, at 5). Therefore, the terms of the agreements are acceptable to Staff.

12. Staff Engineering analyzed the Applicants' facilities and found that Santa Cruz has five well sources, one of which is on line and serving customers, and two others that have been refitted and are being held for future use. Santa Cruz has 3 million gallons of existing water storage capacity (Tr. 32). Staff indicated that, although Santa Cruz appears to have an adequate source of water, groundwater in the service area is typically characterized by high nitrates, fluorides, arsenic, and total dissolved solids. However, the well currently in service meets all inorganic maximum contaminant levels and has an arsenic concentration between 11 and 13 μg/l. Staff recommends that Santa Cruz be required to submit a report to the Utilities Division by December 31, 2004 describing what steps the company plans to take in order to reduce the arsenic concentration below 10 μg/l by January, 2006, pursuant to new federal clean water standards (Ex. S-1, at 6).

13. Santa Cruz does not currently have in place a curtailment tariff. Staff points out that a curtailment tariff is an effective tool to allow a water company to manage its resources during periods of shortages due to pump breakdowns, droughts, or other unforeseeable events. Staff recommends that Santa Cruz be required to submit a curtailment tariff as a condition of approval of the application (Id. at 6).

14. The Staff Report indicates that Santa Cruz is currently delivering water that meets water quality standards set forth in the Arizona Administrative Code. ADEQ also reported that Palo Verde is in total compliance with wastewater treatment rules (Id. at 7).

15. According to the Staff Report, ADEQ Capacity Development rules require new public

drinking water systems to meet certain financial, managerial, and technical capacity requirements. Santa Cruz and Palo Verde provided Staff with copies of their current "Approvals to Construct" (Id.).

16. Santa Cruz is within the Pinal Active Management Area ("AMA") and, as a result, is subject to reporting and conservation rules. The Pinal AMA reported to Staff that Santa Cruz is in total compliance with the Arizona Department of Water Resources ("ADWR") reporting and conservation rules (Id.).

17. With respect to Palo Verde's wastewater infrastructure, Staff Engineering found that the existing wastewater treatment plant is an aerated lagoon with a capacity of 300,000 gallons per day ("gpd"). As of the end of 2002, wastewater flows were 111,000 gpd for the 636 current customers. Palo Verde has begun construction of a new mechanical wastewater treatment plant which will be built in three phases with an initial capacity of 1 million gpd. According to Staff, ADEQ has given notice of its intent to issue an aquifer protection permit for the eventual total plant capacity of 3 million gpd. Staff notes that the full capacity plant, at an average flow of 180 gpd, could accommodate approximately 16,000 homes. Effluent disposal will be accomplished by agricultural reuse, golf course irrigation, recharge, and discharge to surface water via a federal permit (Ex. S-1, at 7).

18. Staff explained that, pursuant to Section 208 of the Federal Water Pollution Control Act, the Central Arizona Association of Governments ("CAAG") is the designated water quality planning agency for the requested CC&N areas. Staff indicates that CAAG has authority to develop and approve general wastewater plans which include land development policies, service areas, objectives, and standards for local growth and development. Palo Verde currently holds a CAAG §208 plan that was approved in 1997 for the existing and proposed CC&N area, with the exception of a "small finger" of land approximately 3/8 square miles in area. Palo Verde has submitted an amendment to its CAAG §208 plan that would include the small finger of land as well as an expanded area[5]. Staff recommends that the Applicants be required to submit a copy of the final CAAG §208 amendment to the Director of Utilities after it is approved (Id. at 8).

[5] This "expanded area" pending before CAAG is not included in the CC&N extension requested in this Docket.

19. At the hearing, the Applicants claimed that the 1997 CAAG §208 approval actually included an additional three-mile radius to the west and south of its current authorized area. The Applicants base their assertion on a paragraph from Palo Verde's 1997 CAAG §208 plan engineering report that indicates the Applicants may increase their water delivery and storage capacity, and wastewater treatment facilities over the next 10 to 20 years to allow for anticipated growth (Ex. A-6, at 3; Tr. 49-52). However, there is no formal CAAG authorization that specifically identifies the additional three-mile radius area for which the Applicants claim to have §208 approval (Tr. 51-52; 63-65).

20. Staff disputes the Applicants' contention that they have CAAG approval for the additional three-mile radius. Staff witnesses also testified that the 1997 §208 approval does not include the 3/8 mile finger of land and, as a result, Staff does not recommend approval of any portion of the requested CC&N extension area until the Applicants have provided documentation that shows CAAG §208 approval for the entire requested area (See, Tr. 107-115; 139; 170).

21. Based on its review, Staff made the following recommendations with respect to Santa Cruz Water Company:

a) Require Santa Cruz to provide to the Director of the Utilities Division a list of all fixed assets, regulatory approvals, financial liabilities, and management arrangements transferred to the LLC;

b) Require Santa Cruz to provide notice of the transfer from a corporation to an LLC entity;

c) Require Santa Cruz to charge its existing rates and charges in the proposed extension area;

d) Require Santa Cruz to file a curtailment tariff;

e) Require Santa Cruz to file a copy of the developers' Certificate of Assured Water Supply related to the proposed extension area[6];

[6] The Applicants' witness testified that, because Santa Cruz has an Assured Water Supply Designation issued by ADWR, developers do not need to obtain their own designation. She stated that the company has begun the process to include the developers within Santa Cruz' designation (Tr. 35; Ex. A-6).

f) Require Santa Cruz to file a copy of the municipal franchise[7] for the extension area;

g) Require Santa Cruz to complete compliance with all of Staff's recommendations prior to serving its first customers within the proposed extension area; and

h) That failure to comply with conditions (d), (e), and (f), above, within 365 days, would result in the CC&N extension becoming null and void without further action of the Commission.

22. With respect to the wastewater extension request of Palo Verde Utilities Company, Staff made the following recommendations:

a) Require Palo Verde to provide to the Director of the Utilities Division a list of all fixed assets, regulatory approvals, financial liabilities, and management arrangements transferred to the LLC;

b) Require Palo Verde to provide notice of the transfer from a corporation to an LLC entity;

c) Require Palo Verde to charge its existing rates and charges in the proposed extension area;

d) Require Palo Verde to file a copy of the ADEQ approved CAAG §208 plan amendment to the Director of the Utilities Division;

e) Require Palo Verde to file a copy of the municipal franchise for the extension area;

f) Require Santa Cruz to complete compliance with all of Staff's recommendations prior to serving its first customers within the proposed extension area; and

g) That failure to comply with conditions (d) and (e), above, within 365 days, would result in the CC&N extension becoming null and void without further action of the Commission.

23. After reviewing the testimony and evidence of record, we believe that Staff's recommendations are reasonable and should, in large part, be approved. As indicated above, we believe that a change in corporate status for a public service corporation requires Commission

[7] Because Santa Cruz operates in an unincorporated area of Pinal County, the company will obtain a franchise extension from Pinal County (Tr. 33). The same condition applies with respect to Palo Verde, as indicated below.

approval. However, as recommended by Staff, we find that the Applicants' change from corporate entities to LLCs should be approved retroactively. As stated previously, notice to customers of the change in corporate status shall be required as recommended by Staff.

24. Regarding Staff's other recommendations, we agree that Santa Cruz should be required to: provide to the Director of the Utilities Division a list of all fixed assets, regulatory approvals, financial liabilities, and management arrangements transferred to the LLC; charge its existing rates and charges in the proposed extension area; file a curtailment tariff; file a copy of the approved modification of Assured Water Supply Designation; file a copy of the approved Pinal County franchise extension; and complete compliance with these recommendations prior to serving any customers within the proposed extension area.

25. With respect to Palo Verde, we agree with Staff that the company should be required to: provide to the Director of the Utilities Division a list of all fixed assets, regulatory approvals, financial liabilities, and management arrangements transferred to the LLC; charge its existing rates and charges in the proposed extension area; file a copy of the approved CAAG §208 plan amendment that is currently pending; file a copy of the approved Pinal County franchise extension; and complete compliance with these recommendations prior to serving any customers within the proposed extension area. We disagree, in part, with Staff's recommendation at hearing that Palo Verde should not be permitted to serve any customers in the requested extension area prior to obtaining CAAG §208 approval of the entire requested area, including the 3/8 mile "finger" of land (Tr. 119-120). We believe that Palo Verde should be entitled to serve the requested extension areas for which it currently has CAAG §208 authority, but may not serve customers in that small area until CAAG approval is obtained.

26. The evidence presented at hearing indicates that neither Mr. Reinbold, nor the other entities in which he owns a majority interest, have a controlling interest in Santa Cruz or Palo Verde (Exs. A-2 and A-3). However, Mr. Reinbold is the president of both utility companies, as well as president of Phoenix Capital Partners, LLC, which holds a 99 percent interest in Santa Cruz and Palo Verde (Tr. 87-88). Thus, Mr. Reinbold has "control and input on the day-to-day management" of the utilities (Id.). Because a court in Oregon has entered a significant monetary judgment against Mr.

Reinbold for fraud and milking corporate assets, we are concerned that the Applicants' operations could ultimately be affected in the event that the judgment is upheld on appeal. We also continue to be concerned that the Applicants and Mr. Reinbold have limited experience with operating a public utility company, a fact that we pointed out in Decision No. 61943. This concern is exacerbated by the Applicants' rapidly expanding service areas. We also note that the Applicants previously failed to comply with the performance bond requirement in Decision No. 61943, a failure that required the Applicants to seek a retroactive reinstatement of their CC&Ns. Due to these concerns, we will require the Applicants to procure increased performance bonds, in a total amount of $500,000 each[8], in order to provide additional assurance that customers will be protected. Proof of the performance bonds shall be filed with the Commission in this docket prior to service being provided to any customers in the CC&N extension area. The bonds shall remain in place until further Order of the Commission.

CONCLUSIONS OF LAW

1. Palo Verde and Santa Cruz are public service corporations within the meaning of Article XV of the Arizona Constitution and A.R.S. §§40-281, 40-282 and 40-285.

2. The Commission has jurisdiction over Palo Verde and Santa Cruz and the subject matter of the application.

3. Notice of the application was provided in accordance with law.

4. There is a public need and necessity for water and wastewater utility services in the proposed extension area.

5. Subject to compliance with the above-stated conditions, Palo Verde and Santa Cruz are fit and proper entities to receive extensions of their wastewater and water CC&Ns, for the proposed extension area in Pinal County more fully described in Exhibit A attached hereto.

6. Pursuant to A.R.S. §40-285, public service corporations are required to seek Commission approval prior to changing their corporate structure. Under the facts and circumstances presented in this docket, it is reasonable to approve retroactively the transfer and merger of the Palo

[8] The increased performance bonds are inclusive of the bonds currently held by the Applicants ($118,000 for Palo Verde and $82,000 for Santa Cruz), not in addition to those existing bonds.

Verde and Santa Cruz corporate assets into the current LLC status of the entities, including the transfer of the CC&Ns.

7. Staff's recommendations set forth in Findings of Fact Nos. 21 and 22, as modified in Findings of Fact Nos. 24, 25, and 26, are reasonable and shall be adopted.

ORDER

IT IS THEREFORE ORDERED that the application of Palo Verde Utilities Company and Santa Cruz Water Company for authority to merge into Palo Verde Utilities Company, LLC, and Santa Cruz Water Company, LLC, with the surviving entities being the LLCs, is approved retroactively.

IT IS FURTHER ORDERED that the request to transfer the CC&Ns from Palo Verde Utilities Company and Santa Cruz Water Company to Palo Verde Utilities Company, LLC, and Santa Cruz Water Company, LLC, respectively, is approved.

IT IS FURTHER ORDERED that Palo Verde Utilities Company, LLC, and Santa Cruz Water Company, LLC, shall provide to the Director of the Utilities Division a list of all fixed assets, regulatory approvals, financial liabilities, and management arrangements transferred to the LLC entities within 30 days, but prior to service being provided to customers in the extension area.

IT IS FURTHER ORDERED that the application of Palo Verde Utilities Company, LLC, and Santa Cruz Water Company, LLC, for an extension of their respective wastewater and water CC&Ns, to an area in Pinal County more fully described in Exhibit A attached hereto be, and hereby is granted, subject to the conditions more fully described herein.

IT IS FURTHER ORDERED that Palo Verde Utilities Company, LLC, and Santa Cruz Water Company, LLC, shall file legal descriptions reflecting their amended CC&Ns, as set forth in Exhibit A attached hereto, within 30 days, and prior to serving customers in the CC&N extension area.

IT IS FURTHER ORDERED that the current rates and charges set forth in the respective tariffs of Palo Verde Utilities Company, LLC, and Santa Cruz Water Company, LLC, shall be applied to all customers in the CC&N extension area approved herein.

IT IS FURTHER ORDERED that Palo Verde Utilities Company, LLC, and Santa Cruz Water Company, LLC, shall file copies of their respective amended Pinal County franchises within 365

days of this Decision, and prior to service being provided to customers in the extension area.

IT IS FURTHER ORDERED that Santa Cruz Water Company, LLC, shall file a Curtailment Tariff within 365 days of this Decision, and prior to service being provided to customers in the extension area.

IT IS FURTHER ORDERED that Santa Cruz Water Company, LLC, shall submit a report to the Director of the Utilities Division by December 31, 2004 describing what steps the company plans to take in order to reduce the arsenic concentration below 10 μg/l by January, 2006, pursuant to new federal clean water standards.

IT IS FURTHER ORDERED that Santa Cruz Water Company, LLC, shall file within 365 days of this Decision, but prior to service being provided to customers in the extension area, an amended Assured Water Supply Designation issued by ADWR that includes the appropriate developers within Santa Cruz' designation.

IT IS FURTHER ORDERED that Palo Verde Utilities Company, LLC, shall file within 365 days of this Decision a copy of the approved CAAG §208 plan amendment that is currently pending. However, Palo Verde Utilities Company, LLC, may serve customers in the CC&N extension area where CAAG §208 approval has already been obtained pending receipt of approval of the CAAG plan amendment.

IT IS FURTHER ORDERED that Palo Verde Utilities Company, LLC, and Santa Cruz Water Company, LLC, shall procure increased performance bonds, in a total amount of $500,000 each. Proof of the performance bonds shall be filed with the Commission in this docket prior to service being provided to any customers in the CC&N extension area. The bonds shall remain in place until further Order of the Commission.

IT IS FURTHER ORDERED that Palo Verde Utilities Company, LLC, and Santa Cruz Water Company, LLC, shall file monthly status reports, beginning November 1, 2003, until further order of the Commission, and copies of all subsequent pleadings related to Mr. Reinbold's Oregon Circuit Court judgment, including all appeals and related litigation, as well as any pleadings or correspondence of the pledge agreement signed by Mr. Reinhold, or related matters.

IT IS FURTHER ORDERED that Palo Verde Utilities Company, LLC, and Santa Cruz Water Company, LLC, shall submit to Staff all information necessary for a review of the companies' certificates by no later than November 1, 2003, in order for Staff to undertake the certificate review prior to issuance of its Staff Report in the pending Palo Verde and Santa Cruz CC&N extension dockets (SW-03575A-03-0586 and W-03576A-03-0586).

IT IS FURTHER ORDERED that, in the event Palo Verde Utilities Company, LLC, and Santa Cruz Water Company, LLC, fail to comply with the above-stated conditions within the times specified, the CC&N extensions approved herein shall be deemed to be denied without further Order of the Arizona Corporation Commission.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN COMMISSIONER COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. MCNEIL, Interim Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 6th day of October, 2003.

BRIAN C. MCNEIL
EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____
DDN

SERVICE LIST FOR: PALO VERDE UTILITY COMPANY and SANTA CRUZ WATER COMPANY

DOCKET NOS. SW-03575A-03-0167 and W-03576A-03-0167

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LEGAL DESCRIPTION FOR CC&N EXPANSION FOR PALO VERDE UTILITIES COMPANY, L.L.C. AND SANTA CRUZ WATER COMPANY, L.L.C.

THAT PORTION OF SECTION 15, TOWNSHIP 4 SOUTH,.RANGE 3 EAST , GILA & SALT RIVER BASE & MERIDIAN, PINAL COUNTY, ARIZONA, LYING WESTERLY OF THE WESTERLY RIGHT-OF-WAY OF ARIZONA STATE ROUTE 347, EXCEPT THE WEST 160 FEET OF THE NORTHWEST QUARTER THEREOF;

TOGETHER WITH THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 4 SOUTH, RANGE 3 EAST;

TOGETHER WITH ALL OF SECTION 22, TOWNSHIP 4 SOUTH, RANGE 3 EAST, EXCEPT THE WESTERLY 500 FEET OF THE SOUTHERLY 1803 FEET OF THE SOUTHWEST QUARTER THEREOF, AND EXCEPT THE SOUTHERLY 173 FEET OF THE SOUTHWEST QUARTER THEREOF;

TOGETHER WITH ALL OF SECTIONS 23 AND 24, TOWNSHIP 4 SOUTH, RANGE 3 EAST;

TOGETHER WITH ALL OF SECTION 25, TOWNSHIP 4 SOUTH, RANGE 3 EAST, EXCEPT THE NORTHEAST QUARTER THEREOF, AND EXCEPT THE NORTH HALF OF THE NORTHWEST QUARTER THEREOF; AND EXCEPT THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER THEREOF;

TOGETHER WITH THE NORTH 3000 FEET, MORE OR LESS, OF THE WEST HALF OF THE WEST HALF OF SECTION 36, TOWNSHIP 4 SOUTH, RANGE 3 EAST LYING NORTHERLY OF THE SOUTHERN-PACIFIC RAILWAY RIGHT-OF-WAY;

TOGETHER WITH THAT PORTION OF SECTION 35, TOWNSHIP 4 SOUTH, RANGE 3 EAST, LYING NORTHEASTERLY OF THE SOUTHERN-PACIFIC RAILWAY RIGHT-OF-WAY, EXCEPT THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 35, TOWNSHIP 4 SOUTH, RANGE 3 EAST LYING NORTHEASTERLY OF THE SOUTHERN-PACIFIC RAILWAY RIGHT-OF-WAY;

TOGETHER WITH ALL OF SECTION 26, TOWNSHIP 4 SOUTH, RANGE 3 EAST, EXCEPT THE WEST HALF OF THE WEST HALF THEREOF;

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 4 SOUTH, RANGE 3 EAST OF THE GILA AND SALT RIVER MERIDIAN, PINAL COUNTY, ARIZONA; THENCE EASTERLY 30.0 FEET TO THE TRUE POINT OF BEGINNING, THENCE SOUTHERLY 525.0 FEET, THENCE EASTERLY 600.0 FEET, THENCE NORTHERLY 525.5 FEET, THENCE WESTERLY 600.0 FEET TO THE TRUE POINT OF BEGINNING.

TOGETHER WITH THE FOLLOWING: COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 4 SOUTH, RANGE 3 EAST OF THE GILA AND SALT RIVER MERIDIAN, PINAL COUNTY, ARIZONA; THENCE EASTERLY 690.0 FEET TO THE TRUE POINT OF BEGINNING, THENCE SOUTHERLY 525.6 FEET, THENCE EASTERLY 400.0 FEET, THENCE NORTHERLY 525.9 FEET, THENCE WESTERLY 400.0 FEET TO THE TRUE POINT OF BEGINNING.

TOGETHER WITH THE FOLLOWING: COMMENCING AT A POINT ON THE WEST SIDE OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 4 SOUTH, RANGE 3 EAST OF THE GILA AND SALT RIVER MERIDIAN, PINAL COUNTY, ARIZONA, 810 FEET NORTH OF THE SECTION LINE COMMON TO THE SOUTH OF SAID SECTION 21 AND EXTENDING NORTH ALONG SAID QUARTER SECTION LINE FOR A DISTANCE OF 726 FEET: THENCE 300 FEET EAST; THENCE SOUTH 726 FEET PARALLELING SAID QUARTER SECTION LINE; THENCE WEST TO THE POINT OF BEGINNING;

TOGETHER WITH ALL THAT PART OF THE EAST 495.5 FEET OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 4 SOUTH, RANGE 3 EAST OF THE GILA AND SALT RIVER MERIDIAN, PINAL COUNTY, ARIZONA, LYING NORTH OF THE NORTH BOUNDARY LINE OF THE COUNTY ROAD WHICH IS NORTH OF THE SOUTHERN-PACIFIC RAILROAD RIGHT-OF-WAY.

TOGETHER WITH THOSE PARTICULAR PUBLIC STREETS AND/OR COUNTY ROADWAYS UTILIZED BY THE PUBLIC FOR LEGAL ACCESS TO ANY AND/OR ALL OF THE LANDS DESCRIBED ABOVE.

CONTAINS 3427 ACRES, MORE OR LESS.

DOCKET NO. SW-03575A-03-0167, et al.

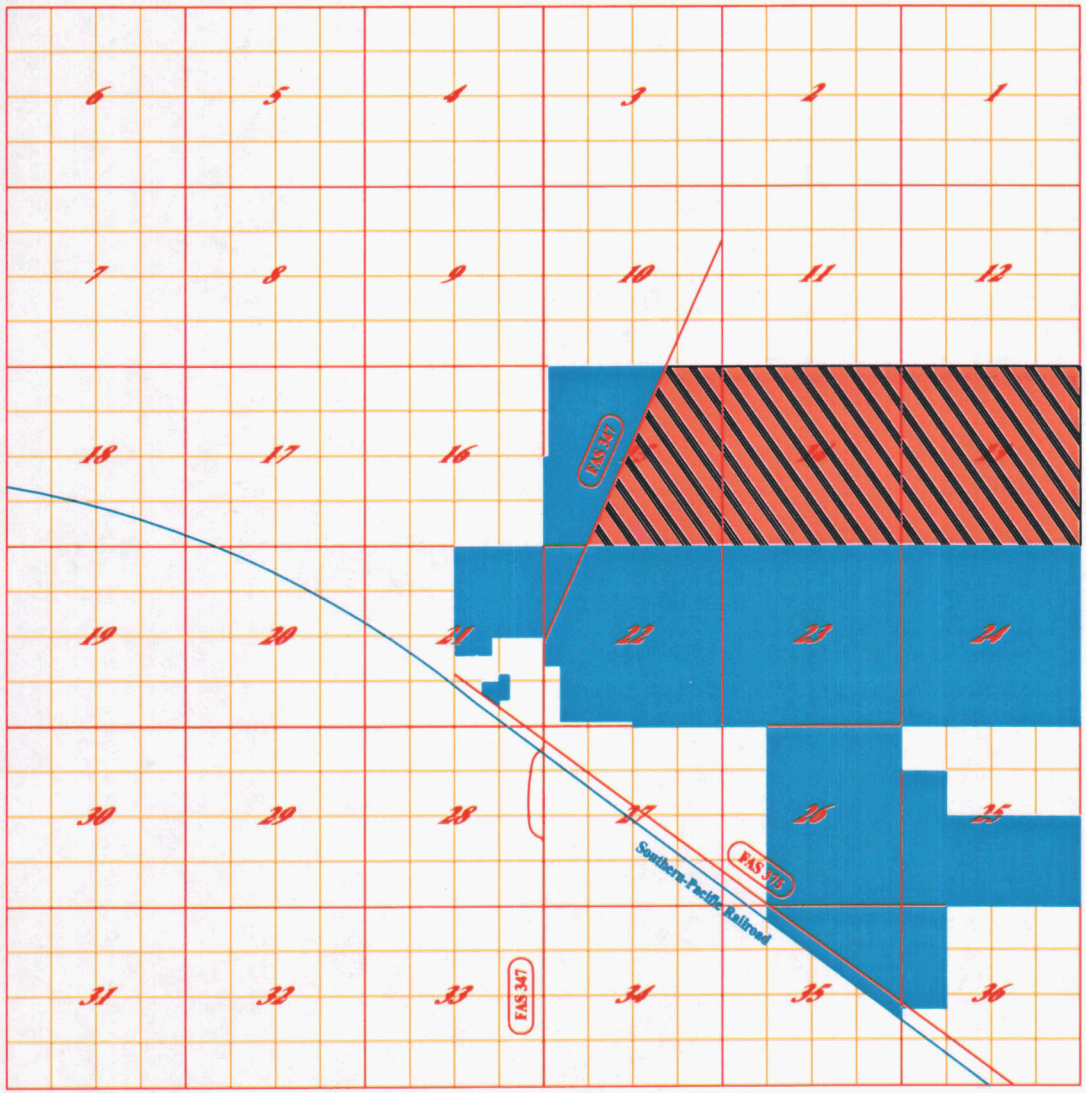
Map No. 52

DECISION NO. 66394

COUNTY: *Pinal*

RANGE 3 East

TOWNSHIP 4 South



W-3576 (1)
Santa Cruz Water Company

Sewer SW-3575 (1)
Palo Verde Utilities Company

Santa Cruz Water Company
Docket No. W-3576-03-167
Palo Verde Utilities Company
Docket No. SW-3575-03-167
Application for Extension

TR4S3E 17 SEP 1999