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BEFORE THE ARIZONA CORPORATION RECEIVED

Arizona Corporation Commission DOCKETED

MAR 15 2011

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COMMISSIONERS

- GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

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ARIZONA CORPORATION COMMISSION DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF WICKENBURG RANCH WASTEWATER, LLC FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WASTEWATER SERVICE IN YAVAPAI COUNTY.

DOCKET NO. SW-20769A-10-0469

PROCEDURAL ORDER

BY THE COMMISSION:

On November 16, 2010, Wickenburg Ranch Wastewater, LLC ("WRWW") filed with the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("CC&N") to provide wastewater utility service to customers in Yavapai County, Arizona, in an area approximately 5 miles north of the Town of Wickenburg ("Town") and directly adjacent to State Route 89 and U.S. Highway 93. Specifically, WRWW seeks to serve an area projected to include a proposed 2,162-acre master-planned community, known as Wickenburg Ranch, and a one-acre parcel dedicated to Arizona Public Service Company ("APS") for construction of a substation (collectively "the proposed service area"). The land in the proposed service area, other than the APS parcel, is owned by Vanwick, LLC; Van Development Co., Inc.; 5860 Development Inc.; and JVT Investors, LLC (jointly the "Van Tuyl entities"1). The Van Tuyl entities are the developers for Wickenburg Ranch, which is to consist of 1,724 single-family home lots, 600 multi-family units, and commercial units. The Van Tuyl entities desire wastewater service for

1 Official notice is taken of Commission Corporations Division records showing the following: Vanwick, LLC has only one member, Larry Van Tuyl, and has as its manager VTWick, Inc., which lists Larry Van Tuyl, trustee, as its only shareholder. Van Development, Inc., a Kansas for-profit corporation, had its authorization to conduct business in Arizona revoked in September 2000 for failure to file an annual report and listed V.T., Inc. as its only shareholder in its last annual report filed in Arizona. V.T., Inc. has only one listed shareholder, Cecil Van Tuyl. 5860 Development Inc. is owned by 7575 Development Inc., which lists Larry Van Tuyl, trustee, as its only shareholder. JVT Investors, LLC lists as its only members the Van Tuyl Family Irrevocable Trust, for the benefit of three different individuals (Jessica L. Van Tuyl, Tricia Ann Van Tuyl, and Vanessa Noel Van Tuyl), with Cecil L. Van Tuyl as trustee, and has as its manager 7575 Development Inc. (See http://starpas.azcc.gov.) In addition, Commission Corporations Division records show that either Larry Van Tuyl or Cecil Van Tuyl has a leadership role (President/CEO, Director) in each of these entities. (See id.)

1 Wickenburg Ranch to be provided by WRWW, which is affiliated with the Van Tuyl entities.² With
2 the application, WRWW included, *inter alia*, a November 15, 2010, letter notifying APS of the
3 application; a draft notice letter to be sent to the Town; a copy of the Construction Authorization for
4 Sewage Collection Facilities issued by Yavapai County on June 27, 2008; and a copy of the Arizona
5 Department of Water Resources (“ADWR”) Designation of Adequate Water Supply issued to CDC
6 Wickenburg Water, LLC³ for Wickenburg Ranch on February 11, 2008.

7 On November 23, 2010, WRWW filed a copy of the notice letter sent to the Town on
8 November 18, 2010.

9 On December 17, 2010, the Commission’s Utilities Division (“Staff”) issued an Insufficiency
10 Letter stating that the application had not met the sufficiency requirements outlined in Arizona
11 Administrative Code (“A.A.C.”) R14-2-602(D) and requesting additional information.

12 On December 22, 2010, WRWW filed a Notice of Errata correcting two errors in the legal
13 description set forth in the application.

14 On February 9, 2011, WRWW filed a Response to Staff’s Letter of Insufficiency, including
15 data responses with a number of attachments.

16 On March 10, 2011, Staff issued a Sufficiency Letter stating that the application had met the
17 sufficiency requirements outlined in the A.A.C.

18 Thus, it is now necessary and appropriate to schedule a hearing in this matter and to establish
19 other procedural requirements and deadlines.

20 IT IS THEREFORE ORDERED that the **hearing** in this matter shall commence on **May 6,**
21 **2011, at 10:00 a.m.**, or as soon thereafter as is practicable, at the Commission’s offices, Hearing
22 Room #1, 1200 West Washington, Phoenix, Arizona 85007.

23 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-
24 105, except that all motions to intervene must be filed on or before **April 19, 2011.**

25 IT IS FURTHER ORDERED that any **objections to intervention** shall be filed on or before
26 **April 29, 2011.**

27 ² WRWW is owned by Vanwick, LLC.

28 ³ CDC Wickenburg Water, LLC is now known as Wickenburg Ranch Water, LLC. (Decision No. 70741 (February 12, 2009).)

1 IT IS FURTHER ORDERED that WRWW shall, by April 5, 2011, mail a copy of the
2 following notice by first class U.S. Mail to the Town and to each owner of land within the
3 proposed service area and cause the following notice to be published in a newspaper(s) of general
4 circulation in the proposed service area, in the following form and style:

5 **PUBLIC NOTICE OF HEARING ON THE**
6 **APPLICATION OF WICKENBURG RANCH WASTEWATER, LLC FOR A**
7 **CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE**
8 **WASTEWATER SERVICE IN YAVAPAI COUNTY.**
(Docket No. SW-20769A-10-0469)

9 **Summary**

10 On November 16, 2010, Wickenburg Ranch Wastewater, LLC (“WRWW”) filed with
11 the Arizona Corporation Commission (“Commission”) an application for a Certificate
12 of Convenience and Necessity (“CC&N”) to provide wastewater utility service to
13 customers in Yavapai County, Arizona, in an area approximately 5 miles north of the
14 Town of Wickenburg (“Town”) and directly adjacent to State Route 89 and U.S.
15 Highway 93. Specifically, WRWW seeks to serve an area projected to include a
16 proposed 2,162-acre master-planned community, known as Wickenburg Ranch, and a
17 one-acre parcel dedicated to Arizona Public Service Company (“APS”) for
18 construction of a substation.

19 The Commission’s Utilities Division (“Staff”) has not yet made a recommendation
20 regarding WRWW’s application. The Commission is not bound by the proposals
21 made by WRWW, Staff, or any intervenors. The Commission will issue a decision
22 regarding WRWW’s application following consideration of testimony and evidence
23 provided at an evidentiary hearing.

24 **How You Can View or Obtain a Copy of the Application**

25 Copies of the application are available for inspection during regular business hours at
26 the Commission’s Docket Control Center in Phoenix, at 1200 West Washington Street,
27 Phoenix, Arizona, and at WRWW’s offices [COMPANY INSERT ADDRESS
28 HERE]. The application is also available on the Internet via the Commission’s
website (www.azcc.gov) using the e-Docket function.

Arizona Corporation Commission Public Hearing Information

The Commission will hold a hearing on this matter beginning May 6, 2011, at 10:00
a.m., at the Commission’s offices, Hearing Room #1, 1200 West Washington,
Phoenix, Arizona. Public comments will be taken on the first day of the hearing.
Written public comments may be submitted by mailing a letter referencing Docket No.
SW-20769A-10-0469 to Arizona Corporation Commission, Consumer Services
Section, 1200 West Washington, Phoenix, AZ 85007, or by e-mail. For a form to use
and instructions on how to e-mail comments to the Commission, go to
<http://www.azcc.gov/Divisions/Utilities/consumerservices.asp>. If you require
assistance, you may contact the Consumer Services Section at 1-800-222-7000 or 602-
542-4251.

About Intervention

The law provides for an open public hearing at which, under appropriate
circumstances, interested parties may intervene. Any person or entity entitled by law
to intervene and having a direct and substantial interest in the matter will be permitted

1 to intervene. If you desire to intervene, you must file a written motion to intervene
 2 with the Commission no later than **April 19, 2011**. You must send a copy of the
 motion to intervene to WRWW or its counsel and to all parties of record. Your
 motion to intervene must contain the following:

- 3 1. Your name, address, and telephone number and the name, address, and
 4 telephone number of any person upon whom service of documents is to be
 made, if not yourself;
- 5 2. A short statement of your interest in the proceeding (e.g., a potential customer
 of WRWW, etc.); and
- 6 3. A statement certifying that you have mailed a copy of the motion to intervene
 7 to WRWW or its counsel and to all parties of record in the case.

8 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
 9 that all motions to intervene must be filed on or before April 19, 2011. If
 10 representation by counsel is required by Arizona Supreme Court Rule 31, intervention
 will be conditioned upon the intervenor's obtaining counsel to represent the
 11 intervenor. For information about requesting intervention, visit the Commission's
 website at <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>. The
 12 granting of intervention, among other things, entitles a party to present sworn evidence
 at the hearing and to cross-examine other witnesses. However, failure to intervene
 will not preclude any interested person or entity from appearing at the hearing and
 providing public comment on the application or from filing written comments in the
 record of the case.

13 **ADA/Equal Access Information**

14 The Commission does not discriminate on the basis of disability in admission to its
 15 public meetings. Persons with a disability may request a reasonable accommodation
 such as a sign language interpreter, as well as request this document in an alternative
 16 format, by contacting the ADA Coordinator, Shaylin Bernal, at sabernal@azcc.gov,
 voice phone number (602) 542-3931. Requests should be made as early as possible to
 17 allow time to arrange the accommodation.

18 IT IS FURTHER ORDERED that **WRWW shall file certification of mailing and**
 19 **publication** as soon as practicable after the mailing and publication has been completed, but **no later**
 20 **than April 19, 2011**.

21 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing/publication
 22 of same, notwithstanding the failure of an individual to read or receive the notice.

23 IT IS FURTHER ORDERED that Staff shall file its **Staff Report** and associated exhibits to
 24 be presented at the hearing on or before **April 15, 2011**.

25 IT IS FURTHER ORDERED that any **objection or response to the Staff Report** from
 26 WRWW or any intervenor shall be made in writing and filed on or before **April 29, 2011**.

27 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
 28 31 and 38 and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

1 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
2 Communications) applies to this proceeding and shall remain in effect until the Commission's
3 Decision in this matter is final and non-appealable.

4 IT IS FURTHER ORDERED that any motion filed in this matter, other than a motion to
5 intervene, that is not ruled upon by the Commission within 20 calendar days of the filing date of the
6 motion shall be deemed denied.

7 IT IS FURTHER ORDERED that any response to a motion, other than a motion to intervene,
8 shall be filed within five calendar days of the filing date of the motion.

9 IT IS FURTHER ORDERED that any reply related to a motion shall be filed within five
10 calendar days of the filing date of the response to the motion.

11 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
12 pursuant to Civil Procedure Rule 6(a) or (e).

13 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
14 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
15 hearing.

16 DATED this 15th day of March, 2011.


SARAH N. HARPRING
ADMINISTRATIVE LAW JUDGE

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21 Copies of the foregoing mailed/delivered
this 15th day of March, 2011, to:

22 Steve Wene
23 MOYES SELLERS LTD
1850 North Central Avenue, Suite 1100
Phoenix, AZ 85004
24 Attorney for Wickenburg Ranch Wastewater, LLC

Steven M. Olea, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

25 Janice Alward, Chief Counsel
26 Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

ARIZONA REPORTING SERVICE, INC.
2200 North Central Avenue, Suite 502
Phoenix, AZ 85004-1481

27 By: 
Debra Broyles
28 Secretary to Sarah N. Harpring