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July 20, 2011

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Ernest G. Johnson
Executive Director
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007

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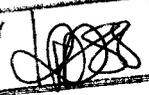
ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Docket Nos. W-04254A-08-0361 and W-04254A-08-0362

**IN THE MATTER OF THE APPLICATION OF
MONTEZUMA RIMROCK WATER
COMPANY, LLC FOR APPROVAL OF A
RATE INCREASE.**

Arizona Corporation Commission
DOCKETED

JUL 20 2011

DOCKETED BY 

**IN THE MATTER OF THE APPLICATION OF
MONTEZUMA RIMROCK WATER
COMPANY, LLC FOR APPROVAL OF A
FINANCING APPLICATION.**

Submitted by John E. Dougherty
Intervener*

**Motion seeking Order directing Commission Staff to
Prepare an
Order to Show Cause Hearing
to Revoke
Montezuma Rimrock Water Company LLC's
Certificate of Convenience and Necessity**

1. On March 2, 2010, the Commission voted 5-0 to reject a request by the Montezuma Rimrock Water Company LLC to extend a December 31, 2009 deadline to file a copy of the Arizona Department of Environmental Quality Certificate of Approval of Construction for its new Well No. 4, as set forth in Decision No. 71317.
2. The Commission's affirmative action not to extend the deadline placed Montezuma Rimrock out of compliance with Decision No. 71317.
3. During the discussion on what would happen if Montezuma Rimrock failed to meet the deadline, Commission Staff Director Mr. Steve Olea stated:

"Staff's recommendation would be if they can't meet that date, then we would do an Order to Show Cause where they would have to show why they should either be given more time or why some other sanctions should not be imposed."

4. Moments later in the hearing, in response to a question from Commissioner Kennedy asking what would happen if the Commission voted not to extend the deadline, Mr. Olea again stated that staff would have no choice but to prepare an Order to Show Cause:

“Madame Chair and Commissioner Kennedy: You asked the question what happened if you do nothing today. If you do nothing today, the company is out of compliance. At that point, when they are out of compliance, basically your doing nothing has told staff you’re not going to give them the time extension.”

“The only option, at least that I see staff has, is to do an Order to Show Cause because they are out of compliance. At that point we would do exactly what the judge said, we would list all the counts the company would have to respond to.”

5. As of July 20, 2011, Montezuma Rimrock has not submitted a copy of the ADEQ Certificate of Approval of Construction for Well No. 4 and remains out of compliance with Commission Order 71317.

6. More than 16 months have passed since the Commission unanimously voted *not* to extend the deadline under the clear impression that by doing so staff’s only option was to prepare an Order to Show Cause.

7. A state of emergency exists for MRWC’s customers because Montezuma Rimrock is unable to provide safe, potable drinking water, has no prospect of accomplishing this basic requirement in the near future and the company is now teetering on financial collapse.

8. The company reported a net loss of \$15,360 on operating revenue of \$101,961 in its 2010 Annual Report. The company reported net income of \$6,992 on revenue of \$103,346 in 2009. The company’s 2010 Annual Report reported only \$1,514 in cash at yearend, down precipitously from \$14,946 at the end of 2009. Montezuma Rimrock reported total current and accrued assets of \$1,891 at the end of 2010, down sharply from \$21,907 at the end of 2009.

9. During the March 2, 2010 hearing Commission Chairwoman Kris Mayes clearly stated her concern over the then looming possibility that the company would be forced to provide bottled water to its customers because Montezuma Rimrock had failed to meet arsenic treatment standards.

“This is ridiculous. We can not have a situation where people in this area are being forced to drink bottled water because the company has been unable so far to complete the arsenic treatment...It seems like we are heading for a cliff here, that this company is heading for a cliff that is now foreseeable. Within a matter of weeks they are going to have to start handing out bottled water.”

10. On (May 27, 2010 effective June 7, 2010) Montezuma Rimrock signed an ADEQ Consent Order requiring the company to provide bottled water. Montezuma Rimrock missed a June 7, 2011 deadline to build the arsenic treatment plant. In June 2011, ADEQ

extended the deadline to build the arsenic treatment plant to April 2012. Montezuma Rimrock water customers are now in their second year of having to make an appointment with the company to obtain bottled water from the company's office.

11. As of July 20, 2011, Commission staff has taken no steps to seriously address the egregious failure of Montezuma Rimrock to provide safe, potable drinking water or address the company's failure to construct an arsenic treatment facility. Rather, staff has orchestrated a series of delays and procedural conferences in which Montezuma Rimrock continues to miss deadlines.

12. On January 24, 2011, Montezuma Rimrock filed a request, pursuant to A.R.S. S 40-252, to have the Commission amend Decision No. 71317 to allow Montezuma Rimrock to seek funding from a private financial institution, with terms and prevailing interest rates of the financial institution. Montezuma Rimrock asserted that such an amendment would allow Montezuma Rimrock to meet the ADEQ Consent Order requirement to have its arsenic treatment facility completed by June 2011.

13. On April 27, 2011, at the Commission's Staff Open Meeting, the Commission voted 3-2 (Kennedy and Newman, dissenting) to reopen Decision No. 71317 pursuant to A.R.S. S 40-252 to determine whether to modify the decision concerning financing approval and related provisions.

14. On May 16, 2011, a Procedural Order was issued requiring Montezuma Rimrock to file, by June 16, 2011, "an update regarding its financing application with the financial institution referenced during the procedural conference, which update was to identify the financial institution; completely describe the terms of the financing requested; provide the status of the application; and if the application had been disapproved, describe the alternate arrangements Montezuma Rimrock was exploring to finance the arsenic treatment facilities for its system or any other actions Montezuma Rimrock intended to explore or to take to remedy its system's arsenic MCL exceedance (sic)."

15. On June 15, 2011, Montezuma Rimrock filed a June 10, 2011 letter to Montezuma Rimrock from Sunwest Bank stating that Sunwest Bank had determined that Montezuma Rimrock does not appear to have sufficient cash flow to service the debt for its requested \$165,000 loan. Sunwest stated in its letter:

"The income reported on your 2010 tax returns shows a net loss for the year so there is no reporting income to support this loan request."

16. The decision by Montezuma Rimrock to abandon the WIFA loan and its subsequent inability to obtain a private loan should not be a surprise to the commission staff nor should it be a revelation to the Commission.

During the March 2, 2010 Commission open meeting, Administrative Law Judge Sarah Harping stated:

“The WIFA loan, as I understood it, was the company’s only option for obtaining the financing, at least at that time, to create the arsenic treatment facility in the first place. So without that availability, they are in a very bad place.”

17. Montezuma Rimrock did not provide any information for alternative arrangements it intended to pursue if the private financing was rejected as required by the May 16, 2011 Procedural Order. Montezuma Rimrock is now in that “very bad place” described by Ms. Harping.

18. Rather than proceeding with the appropriate action of finally scheduling an Order to Show Cause hearing, on June 29, 2011 staff opted to hold a **second** Procedural Conference scheduled for July 22, 2011.

19. Staff stated the need for a second Procedural Conference was “because it appears unlikely that Sunwest Bank is willing to provide a loan to Montezuma Rimrock, and Montezuma Rimrock has not provided any information regarding alternate means of financing arsenic treatment facilities or any other actions to be explored or taken to remedy (its failure to meet the MCL for arsenic) it is unlikely that Staff has sufficient information to make a meaningful filing...Additionally, it is unclear whether Montezuma Rimrock is to be represented by counsel in this matter.”

20. The fact that Montezuma Rimrock missed the June 16, 2011 deadline in the first Procedural Order does not mean Staff has no option other than to grant yet another extension and another opportunity for the company to explain why it hasn’t produced an alternative arsenic treatment plan, why it has not obtained a private loan or whether it has obtained counsel.

There is no justifiable reason to extend any more deadlines to Montezuma Rimrock. Incompetent and corrupt management has created a crisis on many fronts including:

- * The company’s financial position has deteriorated steadily and appears heading for bankruptcy.

- * The company has been unable to find a lender willing to provide a private loan to build the arsenic treatment plant.

- * The company fails to meet the most basic requirement of a public water utility to provide safe, potable water to its customers.

- * The company that has been out of compliance with Commission Order 71317 for more than 18 months.

- * The company has rejected seeking a low-cost WIFA loan because it can’t afford to pay for the environmental studies that are designed to protect Wet Beaver Creek and Montezuma Well National Monument.

21. A reasonable person would conclude from the facts described above that it is the Commission’s legal duty and obligation to immediately take the necessary steps to order staff to prepare an Order to Show Cause Hearing to consider revoking Montezuma Rimrock’s Certificate of Convenience and Necessity.

22. In addition to the overwhelming evidence provided above for the immediate need of an Order to Show Cause, my investigation into the operation of Montezuma Rimrock has so far revealed several substantial irregularities.

23. First, public records indicate that Montezuma Rimrock (MRWC)) incurred "long-term debt" without Commission approval and without fully disclosing such debt on Annual Reports filed with the Commission for at least 2007, 2008, 2009 and 2010. The failure to report the long-term debt violates Commission Order 67583. The Order states:

MRWC shall not encumber the assets of the utility in any way without prior Commission approval;

MRWC shall maintain its books and records in accordance with the NARUC Uniform System of Accounts;

24. On October 19, 2005, Montezuma Rimrock signed a "Deed of Trust" obligating Montezuma Rimrock to repay a \$32,000 loan to Anna Barbara Brunner for the purchase of a lot (Yavapai County Assessor No. 405-25-517) in Rimrock. The company subsequently drilled "Well No. 4" on this lot. Patricia Arias (aka Olsen) signed the Deed of Trust as "managing member of the Montezuma Rimrock Water Company LLC". (Exhibit 1)

25. There is no record that can be found in Yavapai County indicating that the Deed of Trust is not in full force or that the loan has been fully repaid.

26. The affidavit of value states the property was purchased for \$35,000, with a \$3,000 cash down payment. The affidavit indicates that the seller provided a "carryback" loan and the buyer was Montezuma Rimrock. (Exhibit 2)

27. The Yavapai County Treasurer states the owner of the property is Montezuma Rimrock. (Exhibit 3)

28. Montezuma Rimrock's Annual Reports for 2007, 2008 and 2009 do not report any long-term debt. (Exhibit 4)

29. Montezuma Rimrock's 2010 Annual Report states a long-term debt "balance at end of year" of \$28,611 on line item 224 of the balance sheet.

30. Montezuma Rimrock does not disclose the long-term debt under "Supplemental Financial Data" in the 2010 Annual Report. The supplemental section requires a company to report when the commission authorized long-term debt, among other disclosures. (Exhibit 5)

31. Montezuma Rimrock's apparent failure to disclose the long-term debt is not the first time the company has misled regulators in its filings.

In late 2009, Montezuma Rimrock submitted a false statement in connection with

its WIFA loan application to obtain a \$165,000 loan to build the arsenic treatment plant. In January 2010, I filed a complaint with WIFA concerning Montezuma Rimrock's loan application.

WIFA investigated the discrepancies and in February 2010 rescinded its approval for the loan and instead required Montezuma Rimrock to submit an Environmental Information Document. In November 2010, WIFA determined that Montezuma Rimrock would need to complete an Environmental Impact Statement before the WIFA loan could be granted.

In January 2011, Montezuma Rimrock formally abandoned seeking the WIFA loan and instead asked the commission to allow it to seek private financing, which to this point, it has been unable to obtain.

32. In addition to the failure to disclose long-term debt, there is substantial likelihood that Montezuma Rimrock's Well No. 4 will never be operable. Without Well No. 4, the company cannot build the planned arsenic treatment plant because the company's other two production wells do not have sufficient water {volume or recharge capacity} to operate the arsenic treatment plant the company intends to purchase.

33. Montezuma Rimrock installed Well No. 4 on the residential parcel without first obtaining zoning approval from Yavapai County. In 2006, Montezuma Rimrock drilled a 400-foot well within 50 feet of adjacent properties, in violation of the Yavapai County Water Code (Exhibit 6).

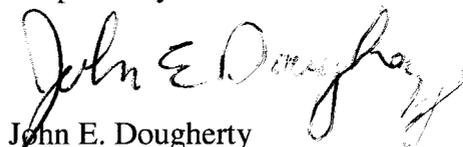
34. As of this date, Well No. 4 has not been granted a "certificate of compliance" by Yavapai County Development Services. The certificate of compliance is necessary before Montezuma Rimrock can operate the well. (Exhibit 7)

35. On April 21, 2011, Yavapai County Deputy Attorney Jack Fields avowed in Yavapai County Superior Court that Well No. 4 will not receive a certificate of compliance until it meets the requirements of the Yavapai County Water Code, including obtaining encroachment waivers from neighboring property owners. (Exhibit 8)

36. On April 21, 2011, Mr. Nick Kopko, who owns property adjacent to Well No. 4, submitted a sworn affidavit to Yavapai County Superior Court stating he will not sign an encroachment waiver for Well No. 4. (Exhibit 9)

37. In light of the facts in this case it is reasonable and appropriate to grant the intervener's motion seeking an Order directing Commission Staff to Prepare an Order to Show Cause Hearing to revoke Montezuma Rimrock Water Company LLC's Certificate of Convenience and Necessity.

Respectfully submitted,


John E. Dougherty

Intervener
PO Box 501
Rimrock, AZ
86335

* (On June 29, 2011, Arizona Corporation Commission Administrative Law Judge Sarah Harping Granted John E. Dougherty intervention status on this matter.)

Exhibit 1

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33
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Recorded at the Request of
YAVAPAI TITLE AGENCY, INC.

When Recorded Mail To:
YTA Loan Servicing Dept.
P.O. Box 1900
Sierra Vista, Arizona 85636

09000956-EJ

B-4335 P-429
Page: 1 of 5
DOT 3942665

DEED OF TRUST AND ASSIGNMENT OF RENTS

October 19, 2005

TRUSTOR:

MONTEZUMA RIMROCK WATER CO., L.L.C., an Arizona limited liability company

Whose mailing address is p.o. box 10, RIMROCK, ARIZONA 86335

TRUSTEE:

YAVAPAI TITLE AGENCY, INC., an Arizona corporation

whose mailing address is P.O. Box 2019, Prescott, Arizona 86302

BENEFICIARY:

ANNA BARBARA BRUNNER, a single woman

whose mailing address is P.O. BOX 20351, SEDONA, ARIZONA 86341

Property situated in the County of Yavapai, State of Arizona, as described as follows:

See Exhibit A attached hereto and made a part hereof.

Together with all buildings, improvements and fixtures thereon or hereinafter erected thereon.

Street address if any, or identifiable location of this property:

VACANT LAND, LAKE MONTEZUMA, AZ 86342

THIS DEED OF TRUST, made on the above date by, between and among the TRUSTOR, TRUSTEE and BENEFICIARY above named.

WITNESSETH: That Trustor hereby irrevocably grants, conveys, transfers and assigns to the Trustee in Trust, with Power of Sale, the above described real property (the Trust Property), together with leases, issues, profits, or income therefrom (all of which are hereinafter called "property income"): SUBJECT, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such property income; AND SUBJECT TO:

FOR THE PURPOSE OF SECURING:

- A. Payment of the indebtedness in the principal sum of \$ 32,000.00 evidenced by a Promissory Note or Notes of even date herewith, and any extension or renewal thereof, executed by Trustor in favor of Beneficiary or Order.
- B. Payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or his successors or assigns, when evidenced by a Promissory Note or Notes reciting that they are secured by a Deed of Trust.
- C.
- D. Performance of each agreement of Trustor herein contained.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES:

1. To keep said property in good condition and repair; not to remove or demolish any building, thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged, or destroyed thereon, and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer, or permit any act upon said property in violation of law; and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

Initials:

ABB

PDR

2. To provide, maintain, and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of Trustee's sale hereunder or invalidate any act done pursuant to such notice.

3. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses of Beneficiary and Trustee, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear or be named, and in any suit brought by Beneficiary or Trustee to foreclose this Deed of Trust.

4. To pay: before delinquent, all taxes and assessments affecting said property; when due, all encumbrances, charges, and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees, and expenses of this Trust, including, without limiting the generality of the foregoing, the fees of Trustee for issuance of any Deed of Partial Release and Partial Reconveyance or Deed of Release and full Reconveyance, and all lawful charges, costs, and expenses in the event of reinstatement of, following default in, this Deed of Trust or the obligations secured hereby.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest, or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel, and pay his reasonable fees.

5. To pay immediately and without demand all sums expended by Beneficiary or Trustee pursuant to the provisions hereof, together with interest from date of expenditure at the same rate as is provided for in the note or notes secured by this Deed of Trust or at the legal rate if it secures a contract or contracts other than a promissory note or notes. Any amounts so paid by Beneficiary or Trustee shall become a part of the debt secured by this Deed of Trust and a lien on said premises or immediately due and payable at option of Beneficiary or Trustee.

IT IS MUTUALLY AGREED:

6. That any award of damages in connection with any condemnation or any such taking, or for injury to the property by reason of public use, or for damages for private trespass or injury thereto, is assigned and shall be paid to Beneficiary as further security for all obligations secured hereby (reserving unto the Trustor, however, the right to sue therefor and the ownership thereof subject to this Deed of Trust), and upon receipt of such moneys Beneficiary may hold the same as such further security, or apply or release the same in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

7. That time is of the essence of this Deed of Trust, and that by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

8. That at any time or from time to time, and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and said note(s) for endorsement, and without liability therefor, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, and without affecting the security hereof for the full amount secured hereby on all property remaining subject hereto, and without the necessity that any sum representing the value or any portion thereof of the property affected by the Trustee's action be credited on the indebtedness, the Trustee may: (a) release and reconvey all or any part of said property; (b) consent to the making and recording, or either, of any map or plat of the property or any part thereof; (c) join in granting any easement thereon; (d) join in or consent to any extension agreement or any agreement subordinating the lien, encumbrance, or charge hereof.

9. That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and said note(s) to Trustee for cancellation, and upon payment of its fees, Trustee shall release and reconvey, without covenant or warranty, express or implied, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

10. That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power, and authority, during the continuance of this Trust, to collect the property income, reserving to Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such property income as it becomes due and payable. Upon any such default, Beneficiary may at any time, without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such property income, including that past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such property income, and the application thereof as aforesaid, shall not cure or waive any default or notice of Trustee's sale hereunder or invalidate any act done pursuant to such notice.

Initials: ABB ADA _____

11. That upon default by Trustor in the payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written notice thereof, setting forth the nature thereof, and of election to cause to be sold said property under this Deed of Trust. Beneficiary also shall deposit with Trustee this deed of Trust, said note(s), and all documents evidencing expenditures secured hereby.

Trustee shall record and give notice of Trustee's sale in the manner required by law, and after the lapse of such time as may then be required by law, subject to the statutory rights of reinstatement, the Trustee shall sell, in the manner required by law, said property at public auction at the time and place fixed by it in said notice of Trustee's sale to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone or continue the sale by giving notice of postponement or continuance by public declaration at the time and place last appointed for the sale. Trustee shall deliver to such purchaser its Deed conveying the property so sold, but without any covenant or warranty, expressed or implied. Any persons, including Trustor, Trustee, or Beneficiary, may purchase at such sale.

After deducting all costs, fees, and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale and reasonable attorney's fees, Trustee shall apply the proceeds of sale to payment of: All sums then secured hereby and all other sums due under the terms hereof, with accrued interest; and the remainder, if any, to the person or persons legally entitled thereto, or as provided in A.R.S. 33-812. To the extent permitted by law, an action may be maintained by Beneficiary to recover a deficiency judgment for any balance due hereunder.

In lieu of sale pursuant to the power of sale conferred hereby, this Deed of Trust may be foreclosed in the same manner provided by law for the foreclosure of mortgages on real property. Beneficiary shall also have all other rights and remedies available him hereunder and at law or in equity. All rights and remedies shall be cumulative.

12. That Beneficiary may appoint a successor Trustee in the manner prescribed by law. A successor Trustee herein shall, without conveyance from the predecessor Trustee, succeed to all the predecessor's title, estate, rights, powers, and duties. Trustee may resign by mailing or delivering notice thereof to Beneficiary and Trustor, by registered or certified mail, and by recordation of a Notice of Resignation of Trustee in the office of the County Recorder in each County in which trust property or some part thereof is situated.

13. That this Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term Beneficiary shall mean the owner and holder of the note(s) secured hereby, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural.

14. That Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

The undersigned Trustor requests that a copy of any notice of Trustee's sale hereunder be mailed to him at his address hereinbefore set forth.

MONTEZUMA RIMROCK WATER CO., L.L.C.,
An Arizona Limited Liability Company

By: [Signature] Trustor
As its: Manager

STATE OF ARIZONA }
County of Yavapai } ss



This instrument was acknowledged before me this 7th day of Nov, 2005 by Patricia D. Arias, as its Managing Member of MONTEZUMA RIMROCK WATER CO., L.L.C., an Arizona Limited Liability Company

[Signature]
Notary Public
My commission will expire Feb 24 2007

STATE OF ARIZONA }
County of _____ } ss

This instrument was acknowledged before me this _____ day of _____ by _____

Notary Public
My commission will expire _____

ACCEPTED AND APPROVED

Beneficiary

Anna Barbara Brunner
ANNA BARBARA BRUNNER

Beneficiary

STATE OF ARIZONA
County of Kauai

} ss

This instrument was acknowledged before
me this 27 day of October, 2005 by
ANNA BARBARA BRUNNER

[Signature]
Notary Public

My commission expires: Feb 24, 2007



"Unofficial Copy"

Exhibit A

Lot 500, LAKE MONTEZUMA ESTATES, UNIT TWO, according to the plat of record in Book 13 of Maps, page 30, records of Yavapai County, Arizona.

EXCEPT all minerals, ores and metals of every kind and character, and all coal, asphaltum, oil, gases, fertilizers, fossils and other like substances in or under said land as reserved in Patent from the United States of America.

Unofficial Copy

AFFIDAVIT OF PROPERTY VALUE

1. ASSESSOR'S PARCEL IDENTIFICATION NUMBER(s)
 Primary Parcel: 405-26-517
 BOOK MAP PARCEL SPLIT LETTER
 Does this sale include any parcels that are being split / divided?
 Check one: Yes No
 How many parcels, other than the Primary Parcel, are included in this sale? _____
 Please list the additional parcels below (no more than four):
 (1) _____ (3) _____
 (2) _____ (4) _____

9. FOR OFFICIAL USE ONLY: Buyer and Seller leave blank
 (a) County of Recordation: 13
 (b) Docket & Page Number: 4335-428
 (c) Date of Recording: 11-16-05
 (d) Fee/Recording Number: 3942663

Validation Codes:
 (e) ASSESSOR _____ (f) DOR _____

ASSESSOR'S USE ONLY
 Verify Primary Parcel in Item 1: _____
 Use Code: _____ Full Cash Value: \$ _____

2. SELLER'S NAME AND ADDRESS
ANNA BARBARA BRUNNER
P.O. Box 20351
Sedona, AZ 86341

3. (a) BUYER'S NAME AND ADDRESS:
MONTEZUMA RIMROCK WATER CO., L.L.C.
P.O. Box 10
Rimrock, AZ 86335

(b) Are the Buyer and Seller related? Yes _____ No
 If Yes, state relationship: _____

4. ADDRESS OF PROPERTY:
VACANT LAND, LAKE MONTEZUMA, AZ 86342

5. MAIL TAX BILL TO:
MONTEZUMA RIMROCK WATER CO., L.L.C.
VACANT LAND
LAKE MONTEZUMA, AZ 86342

6. PROPERTY TYPE (for Primary Parcel): NOTE: Check Only One Box

a. <input checked="" type="checkbox"/> Vacant Land	f. <input type="checkbox"/> Commercial or Industrial Use
b. <input type="checkbox"/> Single Family Residence	g. <input type="checkbox"/> Agriculture
c. <input type="checkbox"/> Condo or Townhouse	h. <input type="checkbox"/> Mobile or Manufactured Home
d. <input type="checkbox"/> 2-4 Plex	i. <input type="checkbox"/> Other Use; Specify: _____
e. <input type="checkbox"/> Apartment Building	

7. RESIDENTIAL BUYER'S USE: If you checked b, c, d or h in Item 6 above, please check one of the following:
 To be occupied by owner or "family member."
 To be rented to someone Other than family member.
 See reverse side for definition of a "family member."

8. NUMBER OF UNITS: _____
 For Apartment Properties, Motels, Hotels, Mobile Home Parks, RV Parks, Mini-Storage Properties

10. TYPE OF DEED OR INSTRUMENT (Check Only One Box):
 a. Warranty Deed d. Contract or Agreement
 b. Special Warranty Deed e. Quit Claim Deed
 c. Joint Tenancy Deed f. Other: _____

11. SALE PRICE: \$ 35,000.00

12. DATE OF SALE (Numeric Digits): 10 / 2005
 Month Year
 (For example: 03 / 05 for March 2005)

13. DOWN PAYMENT: \$ _____ 3,000.00

14. METHOD OF FINANCING:
 a. Cash (100% of Sale Price)
 b. Exchange or Trade
 c. Assumption of existing loans
 d. Seller Loan (Carryback)
 e. New loan(s) from financial institution:
 (1) Conventional
 (2) VA
 (3) FHA
 f. Other financing; Specify: _____

15. PERSONAL PROPERTY (see reverse side for definition):
 (a) Did the Sale Price in item #11 include Personal Property that impacted the Sale Price by 5% or more? Yes _____ No
 (b) If Yes, provide the dollar amount of the Personal Property:
 \$ _____ 00 AND
 Briefly describe the Personal Property: _____

16. PARTIAL INTEREST: If only a partial ownership interest is being sold, Briefly describe the partial interest: _____

17. PARTY COMPLETING AFFIDAVIT (Name, Address, Phone):
YAVAPAI TITLE AGENCY, INC.
527 S. Main St., Camp Verde, AZ 86322
 Phone (928) 567-0590

18. LEGAL DESCRIPTION (attach copy if necessary)
 See Exhibit A attached hereto and

THE UNDERSIGNED BEING DULY SWORN, ON OATH SAYS THAT THE FOREGOING INFORMATION IS A TRUE AND CORRECT STATEMENT OF THE FACTS PERTAINING TO THE TRANSFER OF THE ABOVE DESCRIBED PROPERTY.

Anna Barbara Brunner Signature of Seller/Agent
 State of Arizona, County of Yavapai
 Subscribed and sworn to before me this 16th day of Nov, 2005
 Notary Public: Elissa Jewell
 Notary Expiration Date: Feb 24, 2007

Michael J. Wood, III Signature of Buyer/Agent
 State of Arizona, County of Yavapai
 Subscribed and sworn to before me this 16th day of Nov, 2005
 Notary Public: Elissa Jewell
 Notary Expiration Date: Feb 24, 2007

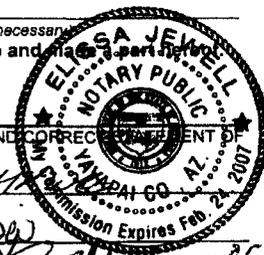
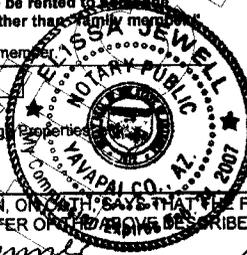


Exhibit A

Lot 500, LAKE MONTEZUMA ESTATES, UNIT TWO, according to the plat of record in Book 13 of Maps, page 30, records of Yavapai County, Arizona.

EXCEPT all minerals, ores and metals of every kind and character, and all coal, asphaltum, oil, gases, fertilizers, fossils and other like substances in or under said land as reserved in Patent from the United States of America.

"Unofficial Copy"

2010 PROPERTY TAX NOTICE **YAVAPAI COUNTY** **ARIZONA**

BOOK	PARCEL # MAP	PARCEL	AREA CODE	PRIMARY TAX RATE PER \$100 ASSESSED VALUE	SECONDARY TAX RATE PER \$100 ASSESSED VALUE	IRRIGATION DISTRICT \$ PER ACRE	
405-25-517	2		02690	5.7819	3.8528		
ASSESSMENT		VALUE IN DOLLARS	ASSMT %	ASSESSED VALUE	EXEMPTIONS	TAX RATE	TAX
LIMITED LAND, BLDGS, ETC.		23,884	16.0	3,821	0	5.7819	220.94
LIMITED PERSONAL PROPERTY		0	.0	0	0	.0000	.00
LIMITED TOTALS		23,884		3,821	0		220.94
FULL CASH LAND		39,000	16.0	6,240	0	3.8528	240.40
FULL CASH BUILDINGS, ETC.		0	.0	0	0	.0000	.00
FULL CASH PERSONAL PROPERTY		0	.0	0	0	.0000	.00
FULL CASH TOTALS		39,000		6,240	0		240.40

2010 TAX SUMMARY	
PRIMARY PROPERTY TAX	220.94
LESS STATE AID TO EDUCATION	.00
NET PRIMARY PROPERTY TAX	220.94
SECONDARY PROPERTY TAX	240.40
SPECIAL DISTRICT TAX	.00
TOTAL TAX DUE FOR 2010	461.34

0120502
 4645 E TIEMANN LN, RIMROCK
 LAKE MONTEZUMA ESTATES UNIT #2 LOT 500

Ross D. Jacobs, Yavapai County Treasurer
 Yavapai County Treasurer's Office
 1015 Fair Street
 Prescott, AZ 86305

**THIS IS A
 CALENDAR YEAR
 TAX NOTICE**

JURISDICTION	2009 TAXES	2010 TAXES
11213 MONTEZUMA-RIMROCK F.D.	135.64	163.40
05026 BEAVER CREEK ELEM.S.D.#26	100.06	151.94
08150 YAVAPAI COMMUNITY COLLEGE	42.45	55.78
02000 YAVAPAI COUNTY	38.73	51.68
02001 SCHOOL EQUALIZATION	9.97	13.62
15001 YAVAPAI FLOOD CONTROL DISTRICT	10.75	12.44
14900 YAVAPAI CTY. LIBRARY DISTRICT	6.34	7.41
11900 FIRE DIST. ASSIST. FUND	4.62	5.07
TOTALS	348.56	461.34

MONTEZUMA RIMROCK WATER CO LLC
 PO BOX 10
 RIMROCK AZ 86335

PAYMENT INSTRUCTIONS

To pay the 1st half installment and full year tax notices of \$100 or less, send the coupon below with your payment postmarked no later than Nov. 1, 2010. To pay the 2nd half installment, send the coupon below with your payment postmarked no later than May 2, 2011. To pay taxes for the full year if the entire amount billed per notice exceeds \$100, send the coupon below with your payment postmarked no later than Jan. 3, 2011 and no interest will be charged for current year.

Make your check payable to and mail to:
 Ross D. Jacobs, Yavapai County Treasurer
 Yavapai County Treasurer's Office
 1015 Fair Street
 Prescott, AZ 86305

THERE WILL BE A CHARGE FOR EACH RETURNED CHECK AND YOUR TAXES WILL REVERT TO AN UNPAID STATUS.

PLEASE INCLUDE YOUR PARCEL NUMBER ON YOUR CHECK.

2010 TAX PAYMENT COUPON

DETACH AND RETURN WITH PAYMENT

Payment in U.S. FUNDS ONLY
 Make check payable to:
 Ross D. Jacobs, Yavapai County Treasurer

MONTEZUMA RIMROCK WATER CO LLC
 405-25-517 2 0120502

Delinquency Date First Half Payment
 Penalty for late payment is 16% per year prorated monthly as of the 1st day of the month for payments postmarked after 5:00 P.M. November 1, 2010 (ARS 42-18052 and 42-18053).

Delinquency Date Second Half Payment
 Penalty for late payment is 16% per year prorated monthly as of the 1st day of the month for payments postmarked after 5:00 P.M. May 2, 2011 (ARS 42-18052 and ARS 42-18053.)

Any total property tax notice of \$100 or less must be paid in full no later than November 1, 2010 at 5:00P.M.

Remit one full year payment for billed amounts over \$100 by Jan. 3, 2011 and no interest will be charged for current year.

TO PAY 1ST HALF ONLY (DUE OCT 1, 2010)	PAY ▶	230.67
TO PAY 2ND HALF ONLY (DUE MAR 1, 2011)	PAY ▶	230.67
TO PAY FULL YEAR TAX (IF PAID BY DEC 31, 2010)	PAY ▶	461.34

Ross D. Jacobs, Yavapai County Treasurer
 Yavapai County Treasurer's Office
 1015 Fair Street
 Prescott, AZ 86305

4052551702

ARIZONA CORPORATION COMMISSION
UTILITIES DIVISION

ANNUAL REPORT MAILING LABEL - MAKE CHANGES AS NECESSARY

W-04254A

m

Montezuma Rimrock Water Company LLC
P.O. Box 10
Rimrock, AZ 86335

RECEIVED
APR 15 2009
AZ CORP COMMISSION
Director, Utilities

ANNUAL REPORT
WATER

FOR YEAR ENDING

12	31	2008
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FOR COMMISSION USE

ANN 04	08
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PROCESSED BY:

4-13-09

SCANNED

BALANCE SHEET (CONTINUED)

Acct. No.		BALANCE AT BEGINNING OF YEAR	BALANCE AT END OF YEAR
	LIABILITIES		
	CURRENT LIABILITES		
231	Accounts Payable	\$	\$
232	Notes Payable (Current Portion)		
234	Notes/Accounts Payable to Associated Companies		
235	Customer Deposits	10,321	7,712
236	Accrued Taxes		
237	Accrued Interest		
241	Miscellaneous Current and Accrued Liabilities	650	976
	TOTAL CURRENT LIABILITIES	\$ 10,971	\$ 8,689
	LONG-TERM DEBT (Over 12 Months)		
⇒ 224	Long-Term Notes and Bonds	\$	\$
	DEFERRED CREDITS		
251	Unamortized Premium on Debt	\$	\$
252	Advances in Aid of Construction	29,605	29,511
255	Accumulated Deferred Investment Tax Credits		
271	Contributions in Aid of Construction	114,281	104,711
272	Less: Amortization of Contributions		
281	Accumulated Deferred Income Tax		
	TOTAL DEFERRED CREDITS	\$ 143,866	\$ 113,460
	TOTAL LIABILITIES	\$ 154,856	\$ 142,971
	CAPITAL ACCOUNTS		
201	Common Stock Issued	\$	\$
211	Paid in Capital in Excess of Par Value		
215	Retained Earnings	<37,724>	<47,376>
218	Proprietary Capital (Sole Props and Partnerships)	109,891	107,968
	TOTAL CAPITAL	\$ 72,167	\$ 60,592
	TOTAL LIABILITIES AND CAPITAL	\$ 227,023	\$ 203,563

SUPPLEMENTAL FINANCIAL DATA

Long-Term Debt

	LOAN #1	LOAN #2	LOAN #3	LOAN #4
Date Issued				
Source of Loan				
ACC Decision No.				
Reason for Loan				
Dollar Amount Issued	\$	\$	\$	\$
Amount Outstanding	\$	\$	\$	\$
Date of Maturity				
Interest Rate	%	%	%	%
Current Year Interest	\$	\$	\$	\$
Current Year Principle	\$	\$	\$	\$

Meter Deposit Balance at Test Year End \$ 24,758

Meter Deposits Refunded During the Test Year \$ 3,097

ARIZONA CORPORATION COMMISSION
UTILITIES DIVISION

ANNUAL REPORT MAILING LABEL - MAKE CHANGES AS NECESSARY

M

W-04254A
Montezuma Rimrock Water Company, LLC
P.O. Box 10
Rimrock, AZ 86335

RECEIVED

APR 14 2010

AZ CORP COMM
Director Utilities

ANNUAL REPORT
Water

FOR YEAR ENDING

12	31	2009
----	----	------

FOR COMMISSION USE

ANN 04	09
--------	----

4-19-10 Lhm

BALANCE SHEET (CONTINUED)

Acct. No.		BALANCE AT BEGINNING OF YEAR	BALANCE AT END OF YEAR
	LIABILITIES		
	CURRENT LIABILITIES		
231	Accounts Payable	\$ 0	\$ 1909
232	Notes Payable (Current Portion)		
234	Notes/Accounts Payable to Associated Companies		
235	Customer Deposits	7712	19341
236	Accrued Taxes		
237	Accrued Interest		
241	Miscellaneous Current and Accrued Liabilities	976	
	TOTAL CURRENT LIABILITIES	\$ 8689	\$ 21,250
	LONG-TERM DEBT (Over 12 Months)		
224	Long-Term Notes and Bonds	\$	\$
	DEFERRED CREDITS		
251	Unamortized Premium on Debt	\$	\$
252	Advances in Aid of Construction	29511	65327
255	Accumulated Deferred Investment Tax Credits	104771	281777
271	Contributions in Aid of Construction		<72508>
272	Less: Amortization of Contributions		
281	Accumulated Deferred Income Tax		
	TOTAL DEFERRED CREDITS	\$ 113,460	\$ 274,596
	TOTAL LIABILITIES	\$ 142,971	\$ 295,846
	CAPITAL ACCOUNTS		
201	Common Stock Issued 2007 Rate Case Adjustments	\$ 0	\$ <106,946>
211	Paid in Capital in Excess of Par Value		
215	Retained Earnings	<47376>	<2552>
218	Proprietary Capital (Sole Props and Partnerships)	107,968	108,705
	TOTAL CAPITAL	\$ 60,592	\$ <793>
	TOTAL LIABILITIES AND CAPITAL	\$ 203,563	\$ 295,053

Exhibit 5

ARIZONA CORPORATION COMMISSION
UTILITIES DIVISION

ANNUAL REPORT MAILING LABEL - MAKE CHANGES AS NECESSARY

W-04254A

Montezuma Rimrock Water Company LLC
P.O. Box 10
Rimrock, AZ 86335

ANNUAL REPORT
Water

FOR YEAR ENDING

12	31	2010
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FOR COMMISSION USE

ANN 04	10
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4-14-11

COMPANY NAME Montezuma Rimrock Water Company, LLC

BALANCE SHEET (CONTINUED)

Acct. No.		BALANCE AT BEGINNING OF YEAR	BALANCE AT END OF YEAR
	LIABILITIES		
	CURRENT LIABILITES		
231	Accounts Payable	\$ 1909	\$ 2000
232	Notes Payable (Current Portion)		
234	Notes/Accounts Payable to Associated Companies		
235	Customer Deposits	19341	26855
236	Accrued Taxes		
237	Accrued Interest		
241	Miscellaneous Current and Accrued Liabilities		
	TOTAL CURRENT LIABILITIES	\$ 21250	\$ 27055
	LONG-TERM DEBT (Over 12 Months)		
224	Long-Term Notes and Bonds	\$	\$ 28611
	DEFERRED CREDITS		
251	Unamortized Premium on Debt	\$	\$
252	Advances in Aid of Construction	65327	28575
255	Accumulated Deferred Investment Tax Credits		
271	Contributions in Aid of Construction	281777	252556
272	Less: Amortization of Contributions	<72508>	<73388>
281	Accumulated Deferred Income Tax		
	TOTAL DEFERRED CREDITS	\$ 274596	\$ 207743
	TOTAL LIABILITIES	\$ 295846	\$ 263209
	CAPITAL ACCOUNTS		
201	Common Stock Issued 2007 Rate Case Adjustments	\$ <106,946>	\$
211	Paid in Capital in Excess of Par Value		
215	Retained Earnings	<2552>	4712
218	Proprietary Capital (Sole Props and Partnerships)	108705	40444
	TOTAL CAPITAL	\$ <793>	\$ 45156
	TOTAL LIABILITIES AND CAPITAL	\$ 295,053	\$ 310,365

COMPANY NAME Montezuma Rimrock Water Company LLC

SUPPLEMENTAL FINANCIAL DATA
Long-Term Debt

	LOAN #1	LOAN #2	LOAN #3	LOAN #4
Date Issued				
Source of Loan				
ACC Decision No.				
Reason for Loan				
Dollar Amount Issued	\$	\$	\$	\$
Amount Outstanding	\$	\$	\$	\$
Date of Maturity				
Interest Rate	%	%	%	%
Current Year Interest	\$	\$	\$	\$
Current Year Principle	\$	\$	\$	\$

Meter Deposit Balance at Test Year End	\$ 20,372
Meter Deposits Refunded During the Test Year	\$ 3,189

EXHIBIT 1

LOT 500
LAKE MONTEZUMA ESTATES UNIT 2

BOOK 13 OF MAPS, PAGE 30, YOR
SECTION 36
TOWNSHIP 15 NORTH, RANGE 5 EAST, GILA & SALT RIVER
BASE & MERIDIAN, YAVAPAI COUNTY, ARIZONA
405-25-517

LOCATION: 4645 E TIEMANN LN

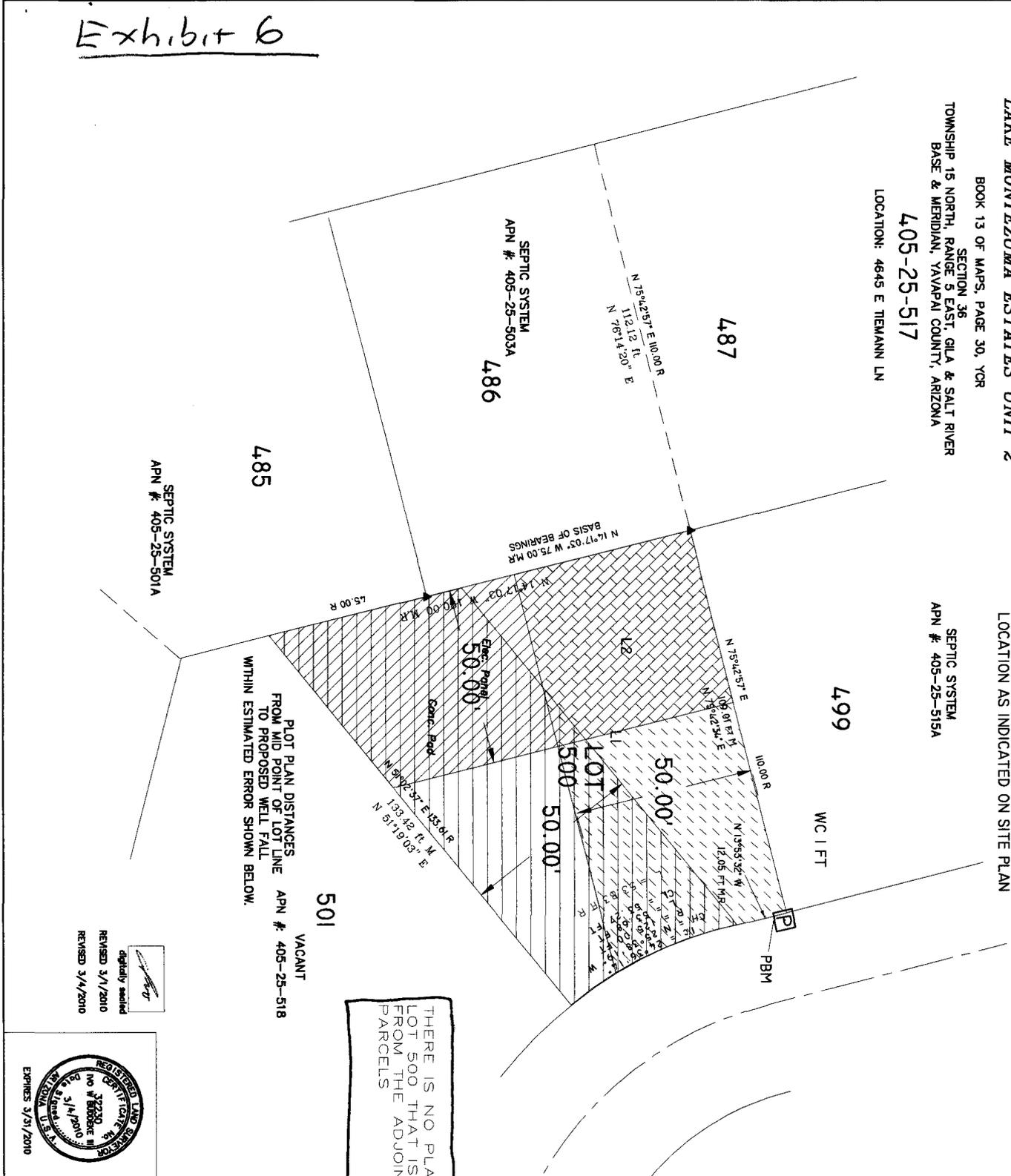
AUX WELL APPARENTLY ABANDONED 2006

WELL LOCATION MAR 2008

LOCATION AS INDICATED ON SITE PLAN

SEPTIC SYSTEM
APN #: 405-25-515A

REDUCED COPY NOT TO SCALE



LOT PLAN DISTANCES
FROM MID POINT OF LOT LINE
TO PROPOSED WELL FALL
WITHIN ESTIMATED ERROR SHOWN BELOW.

THERE IS NO PLACE ON
LOT 500 THAT IS 50'
FROM THE ADJOINING
PARCELS

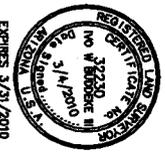
LEGEND

- ▲ 1/2" REBAR, NO ID, ATTACHED CAP LS 23378
- 1/2" REBAR WITH CAP LS 5357
- 1/2" REBAR W/CAP AS NOTED
- WITNESS CORNER 1 FT FROM PT MARKED ON TRANS.
- PROPERTY CORNER FALLS IN TRANSFORMER
- 3/8" REBAR, TAGGED LS 32230
- M - FROM FILE
- R - RECORD

- SW CORNER OF TRANSFORMER PAD
PBM - 3478.33
- TOP OF WELL CASING (2006)
MAR06 AUX - 3477.65
- TOP OF WELL CASING (2008)
WELL MAR08 - 3481.62
- FIRM BENCHMARK
RM134 - ALUM CAP CENTER OF KRAMER
RM 134 - 3473.96

Exhibit 6

digitally sealed
REVISED 3/1/2010
REVISED 3/4/2010



Ivo W. Buddeke III, R.L.S.
LAND SURVEYOR

928 567-1414
5280 Bentley Dr., Rimrock, Arizona 86335

Yavapai County Water Well Code requirements:

Reg. 1-2-203 Minimum Distance Requirements

A. Property Boundary Setbacks

No well shall be approved for construction in a location less than 50' from the property boundaries of the parcel on which the well is proposed for construction, except as provided for below:

1. For a parcel that abuts a dedicated roadway upon which the public has the right of travel, the 50' property boundary setback shall be measured from the center of the area dedicated for roadway.
2. For a parcel that abuts a railway, the 50' property boundary setback shall be measured from the center of the area dedicated for railway.
3. No property boundary setback shall be required for a parcel that abuts an area served by a sewer system provided that:
 - (A) all habitable structures are serviced by the sewer system, and
 - (B) all future development of the area is required to be served by the sewer system.
4. Waiver is obtained from abutting property owners establishing a legally enforceable easement and right of encroachment into all or part of the abutting property boundary setback. Where abutting property owners have agreed to not locate a septic system within 100' of the proposed well, the property boundary setback requirement may be reduced to 0'. The exact amount by which the property boundary is reduced from 50' is dependent upon maintaining 100' separation between the well and any current or future septic system. The abutting property owner agreement must be recorded in the official records of the County.

Exhibit 7

YAVAPAI COUNTY

Development Services

Prescott Office -

500 S. Marina Street, Prescott, AZ 86303
(928) 771-3214 Fax: (928) 771-3432



Cottonwood Office -

10 S. 6th Street, Cottonwood, AZ 86326
(928) 639-8151 Fax: (928) 639-8153

Addressing – Building Safety – Customer Service & Permitting – Environmental - Land Use – Planning

April 5, 2011

Montezuma Rimrock Water Co LLC
Patricia D. Olsen
PO Box 10
Rimrock, AZ 86335

RE: Well #4 Use Permit Administrative Extension on APN#405-25-517 HA#H9139

Dear Patricia Olsen:

This letter is being written to notify you of the administrative extension of your approved Use Permit, hearing application number HA# H9139, for the period of one (1) year to get the well online of the Montezuma Rimrock Water Company Well #4 in order to obtain a Certificate of Compliance to expire on April 5, 2012. The Board of Supervisors approved your request to construct a well site to service the Montezuma Rimrock Water Company on March 15, 2010.

Stipulation number 5 of the approval states "Certificate of Compliance to be issued within one year of Board of Supervisors approval demonstrating that the use is operating in compliance with all applicable local, state and federal regulations". According to our records the water company is still working to get the well site operational.

If you have any questions or concerns please feel free to contact me.

Sincerely,

Tammy DeWitt, Planner
Yavapai County Development Services
Planning and Design Review
Phone (928) 639-8151 Fax (928) 639-8153
E-mail: Tammy.DeWitt@co.yavapai.az.us

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

JOHN DOUGHERTY;)	
FREDERICK SHUTE,)	
)	
Plaintiffs,)	
)	No. P1300CV201000585
vs.)	
)	Division IV
)	
YAVAPAI COUNTY BOARD OF)	
SUPERVISORS; MONTEZUMA)	
RIMROCK WATER COMPANY,)	
LLC, JOHN DOES 1-10,)	
)	
Defendants.)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

BEFORE: THE HONORABLE KENTON D. JONES
Judge of the Superior Court

ORAL ARGUMENT

Prescott, Arizona
April 21, 2011
9:04 a.m.

1 MR. FIELDS: Um-hmm.

2 THE COURT: Is that a yes?

3 MR. FIELDS: That's correct.

09:41:33 4 THE COURT: Okay. Because you understand
5 that at some point that issue's going to have to be
6 raised, correct?

7 MR. FIELDS: That issues's going to have to
8 be raised. They will either need the encroachment, and
9 we have assured them, and they need a Certificate of
09:41:47 10 Compliance, by the way, from us, they need a Certificate
11 of Compliance in order to operate the well.

12 THE COURT: To turn the switch on.

13 MR. FIELDS: That's correct. And part of
14 that, part of that Certificate of Compliance is going to
09:41:59 15 be do you meet the setback requirements. They got
16 essentially, Mr. Shanker's right, they can't meet it
17 just by simply saying hey, here we go, because it's too
18 small a parcel. They have to meet it. They have to
19 have an encroachment easement, and if they have one they
09:42:17 20 can operate that well. They are not operating the well

21 at this point so there is no violation of the Water Well
22 Code. That's why it's important to distinguish between
23 county zoning action which allows them to do certain
24 construction and prepare for the well, because you can
09:42:33 25 do that, and operation of the well itself, which is --

1 understand that this could be throwing good money after
2 bad, that they don't have approval to operate this well,
3 and the fact that they've built this pipeline and are
4 building an arsenic plant and installing a well, I
10:17:51 5 suspect, will weigh heavily in the County's
6 decision-making process when it comes time. Well, it's
7 already past time.

8 THE COURT: I guess that's why it's a good
9 thing we've got separation of powers, isn't it?

10:18:05 10 MR. SHANKER: Yes, Your Honor.

11 THE COURT: And Mr. Fields, does this Court
12 have your avowal as you previously asserted that that
13 well does not get turned on until such time as a
14 Certificate of Compliance issues?

10:18:18 15 MR. FIELDS: That is what the Board of
16 Supervisors has instructed Development Services, that
17 they need -- and it's in the conditional use,
18 conditional approval of the Use Permit, that they need a
19 Certificate of Compliance.

10:18:31 20 THE COURT: And so then it would simply be,
21 as I'm perceiving it, and "simply," I don't mean to
22 mean -- to debase the position of the plaintiffs at all,
23 that the issue then would be that any cost would be
24 simply costs that MRWC chose to incur pending the
10:18:55 25 decision of this Court.

APR 21 2011

ORIGINAL FILED THIS _____
DAY OF _____
JEANNE HICKS
Clerk Superior Court
By ROBBT JO BALL
Deputy

1 Howard M. Shanker (#015547)
2 THE SHANKER LAW FIRM, PLC.
3 700 East Baseline Road, Bldg. B
4 Tempe, Arizona 85283
5 Phone: (480) 838-9300
6 Facsimile: (480) 838-9433
7 howard@shankerlaw.net

8 Counsel for Plaintiffs

9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **IN AND FOR THE COUNTY OF YAVAPAI**

11 JOHN DOUGHERTY; FREDERICK
12 SHUTE;
13
14 Plaintiffs,

15 v.

16 YAVAPAI COUNTY BOARD OF
17 SUPERVISORS; MONTEZUMA
18 RIMROCK WATER COMPANY, LLC,
19 JOHN DOES 1-10,
20
21 Defendants.

No. P1300CV201000585

**PLAINTIFFS' NOTICE OF
FILING SUPPLEMENTAL
EVIDENCE**

(Assigned to Hon. Kenton Jones)

22 At oral argument on April 21, 2011, the County raised, for the first time, the prospect
23 of a waiver under the Water Well Code. Notwithstanding that the Code requires that any
24 such waiver be made prior to "construction," the attached letter, dated March 9, 2010 (6
25 days before the Board of Supervisor's hearing on this issue), from Nick Kopko makes clear
26 that he will not sign a waiver. Mr. Kopko is an abutting property owner.

...

...

Mr. Steve Mauk, Director
Development Services
Yavapai County
500 S. Marina St.
Prescott, AZ 86303

**RE: h9139 Complaint based on Notice of Intent to drill Well Approval
(ADWR # 55-213141)**

Dear Mr. Mauk:

After a review the plot plan attached to the Notice of Intent to drill and the exhibit prepared by Ivo Buddeke I formally request the County investigate and enforce setback requirements for new wells as prescribed in the county water well code. I wish to retain any right I may have gained to use that part of my property affected by the abandonment of the old well on Parcel 405-25-517. I intend to use my property to the full extent in the area affected by the alleged violation of the 50 foot setback.

Furthermore, I have not signed a waiver releasing my interest to Montezuma Rimrock Water Company nor do I intend to do so in the future. I wish to retain my right to expand my on-site septic system within the limits of the ordinance governing such expansion and I request that the ordinance be enforced regarding the alleged violation.

As a party directly affected by the alleged violation I request you vote no on approving the special use permit. Please send this matter back to the Planning & Zoning Commission for reconsideration. If the allegation is true their decision recommending approval for the special use permit is in direct conflict with the setback requirement and violates my ability to use the full extent of my property.

Sincerely;

Nick Kopko, property owner, APN 405-25-501A

Executed this 9 day of MARCH, 2010.

William N. Kopko 3-9-2010
William N. Kopko date

State of Arizona)
County of Yavapai) ss.

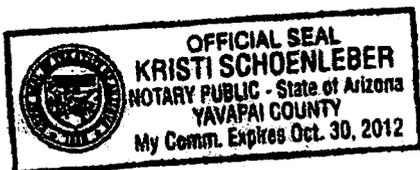
Subscribed and affirmed before me this 9th day of March, 2010 by

William N. Kopko, proved to me on the basis of satisfactory evidence to

be the person(s) who appeared before me.

Kristi Schoenleber
Notary Public

3/9/2010
date



My Commission expires: 10/30/2012

Yavapai County Water Well Code requirements:

Reg. 1-2-203 Minimum Distance Requirements

A. Property Boundary Setbacks

No well shall be approved for construction in a location less than 50' from the property boundaries of the parcel on which the well is proposed for construction, except as provided for below:

1. For a parcel that abuts a dedicated roadway upon which the public has the right of travel, the 50' property boundary setback shall be measured from the center of the area dedicated for roadway.
2. For a parcel that abuts a railway, the 50' property boundary setback shall be measured from the center of the area dedicated for railway.
3. No property boundary setback shall be required for a parcel that abuts an area served by a sewer system provided that:
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 - (B) all future development of the area is required to be served by the sewer system.
4. Waiver is obtained from abutting property owners establishing a legally enforceable easement and right of encroachment into all or part of the abutting property boundary setback. Where abutting property owners have agreed to not locate a septic system within 100' of the proposed well, the property boundary setback requirement may be reduced to 0.' The exact amount by which the property boundary is reduced from 50' is dependent upon maintaining 100' separation between the well and any current or future septic system. The abutting property owner agreement must be recorded in the official records of the County.