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August 30, 2011

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Ernest G. Johnson  
Executive Director

Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, AZ 85007

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**Montezuma Rimrock Water Company  
Emergency Rate Increase  
DOCKET No. W-04254A-11-0296**

ARIZONA CORP. COMM  
400 W CONGRESS STE 218 TUCSON AZ 85704

Submitted by John E. Dougherty  
Intervener

**I. NOTICE OF FILING FORMAL COMPLAINT AGAINST MONTEZUMA RIMROCK WATER COMPANY UNDER DOCKET W-04254A-11-0323**

**II. MOTION TO STAY**

I. On August 23, 2011, Intervener filed a formal complaint with detailed exhibits against Montezuma Rimrock Water Company docketed under W-04254A-11-0323. On August 30, 2011, Intervener filed additional exhibits to the complaint.

The complaint includes 14 allegations supported by substantial documentation that Montezuma Rimrock filed materially false and misleading financial statements in its Annual Reports from 2006 through 2010 by failing to disclose a \$32,000 loan used to purchase property for a well site.

The Complaint alleges the company improperly withheld this information during a 2009 staff audit that formed the basis of Decision No. 71317. The Decision included underwriting review by staff on the company's request for a \$165,000 loan from the Arizona Water Infrastructure Financing Authority.

The Complaint also alleges the Company falsely stated on its 2009 WIFA loan application that it had incurred no long-term debt.

The Company's misleading financial statements cast serious doubt over the foundation and legitimacy of Decision No. 71317 and the Company's request to now modify the Decision to allow it to seek private financing for the arsenic treatment facility in docket W-04254A-08-0361 and 0362.

Commission staff stated in the August 10, 2011 Procedural Conference that the Emergency Rate Increase sought in this Docket is based on a "back of the envelope" assessment of the Company's financial condition.

The Commission is on notice that MRWC has submitted materially false financial statements on Annual Reports and financing applications. Any financial submissions the Company now provides to the Commission in connection with its Emergency Rate Increase request are suspect and should not be accepted on face value.

II. Therefore, the Commission should stay all proceedings in this Docket until Montezuma Rimrock fully responds to all allegations raised in the complaint.

The following is a summation of the Complaint filed in docket W-04254A-11-0323:

### **Complaint**

The complainants request the Company to provide a complete explanation and for the Commission Staff to independently investigate the following *allegations*:

I--The Company did not disclose material financial information to the Commission when it submitted its Annual Reports in 2006, 2007, 2008, 2009 and 2010 by failing to disclose a \$32,000 long-term debt incurred in 2005.

II--The Company did not disclose material financial information to Commission staff during a 2009 audit that was used to calculate a permanent rate increase and whether the company could qualify for a \$165,000 WIFA loan. The staff audit formed the basis for Decision No. 71317 Docketed on Oct. 30, 2009.

III--The Company did not disclose material financial information to WIFA in 2009 when it formally applied for a \$165,000, 20-year, federally subsidized loan by falsely declaring it had no long-term debt when in fact it had incurred a \$32,000 debt in 2005.

IV--The Company improperly includes Well No. 4, DWR 55-213141, as part of its "Water Company Plant Description" in its Annual Reports in 2007, 2008, 2009 and 2010. Well No. 4 has never been approved for operation by Yavapai County and the Company does not have a "Certificate of Compliance" to operate the Well because it was built in violation of the Yavapai County Water Code and encroaches on neighboring property rights.

V--The Company overcharges an unknown number of customers by failing to fully disclose its approved rate tariffs on Montezuma Rimrock's official website and forcing customers to pay for water service connections larger than necessary.

VI--The Company is seriously damaging its financial condition through:

1. Excessive salaries paid to managing partner Patricia Olsen and others;
2. Excessive rents paid for its office located in a residential property owned by Ms. Olsen and her husband

3. Excessive transportation expenses in connection with Ms. Olsen's commute from her home in Flagstaff to the MRWC office in Rimrock – a distance of approximately 50 miles each way.

These excessive expenses have seriously eroded the company's cash reserves and contributed directly to operating losses in four of the last five years.

VII--The Company is in violation of state and federal safe water standards and is operating under an Arizona Department of Environmental Quality (ADEQ) Consent Order (since June 2010) requiring customers to make an appointment to obtain bottled water from the company's office.

VIII--The Company is in violation of Commission Decision No. 71317 since December 31, 2009 for failing to obtain an ADEQ Certificate of Approval for Well No. 4.

IX--The Company is in violation of Commission Decision No. 71317 since April 30, 2010 for failing to obtain an ADEQ Certificate of Approval for the arsenic treatment facility.

X--The Company provided incomplete and misleading statements to Commission investigators in January 2010 concerning its Yavapai County zoning issues related to Well No. 4.

XI--The Company improperly billed and collected an "arsenic surcharge" in December 2009 in violation of Commission Decision No. 71317.

XII--The Company improperly billed and collected an "arsenic surcharge" in April 2011 in violation of Commission Decision No. 71317.

XIII--The Company constructed the vast majority of a 2,500-foot pipeline on or about April 20, 2011 intended to connect Well No. 4 to the proposed arsenic treatment facility at Well No. 1.

The cost of the pipeline is included within Company's budget for the \$165,000 loan for the arsenic treatment facility. There is a conflict in amounts between the \$7,000 Ms. Olsen asserts she paid for the pipeline and the \$42,000 she claims is needed in the loan documentation. Complainants ask for a detailed accounting of pipeline costs.

XIV--The Company is improperly seeking a \$37,536 emergency rate increase to not only cover the possible costs of a private loan for the arsenic treatment facility, but to also include **ongoing operating losses** without the benefit of a full rate hearing and an ACC staff audit of its books that would normally be required in a formal rate hearing.

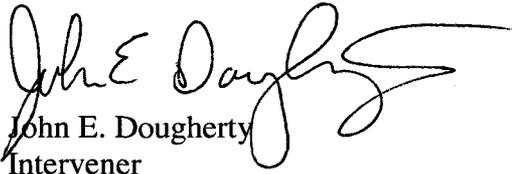
The \$37,536 emergency rate increase sought by the Company is more than double the \$16,562 annual increase that ACC staff determined in 2009 would be needed to repay the WIFA loan.

The Commission sent by registered mail a copy of the formal complaint and exhibits to MRWC on August 24, 2011. As of this date, the Company has not responded by filing a return receipt acknowledging receipt of the complaint. The Company has 20 days to respond to the Complaint from the date it signs the certified mail receipt.

Given the imminent deadlines set forth in Procedural Orders and the serious issues raised in the Complaint buttressed by substantial evidence all of which bears directly on material matters before the Commission in this Docket,

**Intervener now files this motion requesting the Commission to stay all Proceedings in this Docket until the allegations raised in the Complaint have been fully answered by the Company.**

Dated this 30<sup>th</sup> Day of August,

A handwritten signature in black ink, appearing to read "John E. Dougherty", with a large, sweeping flourish extending to the right.

John E. Dougherty  
Intervener

Copies of the foregoing mailed  
This 30<sup>th</sup> day of August, 2011 to:

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