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7 Attorney for Montezuma Rimrock
8 Water Company, LLC

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2011 AUG 31 A 10:00

Arizona Corporation Commission
DOCKETED

AUG 31 2011

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY

BEFORE THE ARIZONA CORPORATION COMMISSION

9 IN THE MATTER OF THE APPLICATION OF
10 MONTEZUMA RIMROCK WATER COMPANY
11 LLC FOR AN EMERGENCY RATE INCREASE

DOCKET NO. W-04254A-11-0296

MOTION FOR PROTECTIVE
ORDER

12 Montezuma Rimrock Water Company, LLC moves this Court for a protective order to
13 prevent the annoyance, oppression and undue burden and expense of the numerous data requests
14 propounded by intervener John Dougherty. This motion is supported by the Certificate of
15 Counsel in Support of Motion for Protective Order filed herewith, the attachments appended
16 hereto and the following Memorandum of Points and Authorities. *ARCP 26[c]*.

17 **MEMORANDUM OF POINTS AND AUTHORITIES**

18 On August 2, 2011, Mr. Dougherty propounded thirteen data requests in W-4254A-08-
19 0361 and 0362. On August 23, he submitted an additional thirty data requests in this case. On
20 August 28, he propounded additional data requests with seven discreet subparts. Applicant
21 believes that it has responded completely and in good faith to the data requests propounded in
22 0361 and 0362. It is the thirty-seven data requests in this case which are the subject of this
23 motion.
24

25 The data requests at issue are filed herewith. A cursory review of the requests reflects
26 that Applicant would be required to expend an enormous amount of time, at substantial expense,
27 to respond to the requests. The legal fees and accounting fees to be generated in responding to
28

1 Mr. Dougherty's data requests would alone justify entry of the protective order Applicant seeks.

2 Filed herewith is an e-mail from John Campbell, Applicant's accountant since
3 approximately 2006, which offers some perspective on the time he would be required to spend in
4 responding to the requests. He notes that there are in excess of 1,200 entries in the general
5 ledger alone which are responsive to the requests. Copying the numerous cancelled checks
6 sought by Mr. Dougherty "could take up to 80 hours, without even considering invoices and
7 receipts and other 'supporting records.'" Mr. Campbell would expect to spend some 156 hours
8 digging out and providing the 30 categories of documents sought by Mr. Dougherty. In addition
9 to the time that would be invested by Mr. Campbell and the cost of his involvement, there would
10 be many hours spent by undersigned counsel at an additional and substantial expense.
11
12

13 A review of Mr. Dougherty's data requests raises questions concerning the
14 discoverability of the documentation he seeks. Only the Intervener can surmise how the
15 boatload of documentation is relevant to the issues raised by Applicant's request for an
16 emergency rate increase. Why Applicant should be required to dig back in her archives to 2007
17 for such records is equally perplexing.
18

19 Mr. Dougherty understands, as well as anyone, the precarious financial status of the water
20 company. He has nonetheless propounded his onerous and unreasonable discovery requests
21 subjecting the company to substantial professional fees it can ill afford. The Intervener is
22 clearly on a mission to put Ms. Olsen out of business. It is a vendetta. Mr. Dougherty does not
23 deny that such is his end game.
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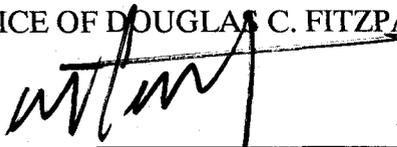
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1 ARCP 26[c] authorizes the Court to enter appropriate orders to protect a party "from
2 annoyance, embarrassment, oppression or undue burden or expense." The water company has
3 demonstrated good cause for entry of an order quashing or severely limiting the scope of the data
4 requests propounded by Mr. Dougherty.
5

6 DATED this 30th day of August, 2011.

7 LAW OFFICE OF DOUGLAS C. FITZPATRICK

8
9 BY



Douglas C. Fitzpatrick
Attorney for applicant

10
11
12
13
14 ORIGINAL of the foregoing
15 mailed this 30th day of
16 August, 2011, to:

17 Arizona Corporation Commission
18 Attn: Docket Control
19 1200 West Washington Street
20 Phoenix, Arizona 85007

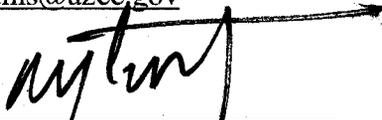
21 COPIES of the foregoing mailed/
22 e-mailed or faxed this 30th day of
23 August, 2011, to:

24 Judge Sarah N. Harpring
25 Arizona Corporation Commission
26 1200 West Washington Street, #104
27 Phoenix, Arizona 85007
28 Fax 1-602-542-4230

John Dougherty
PO Box 501
Rimrock, Arizona 86335
jd.investigativemedia@gmail.com

1 Patricia D. Olsen, Manager
2 Montezuma Rimrock Water
3 Company, LLC
4 PO Box 10
5 Rimrock, Arizona 86335
6 patsy@montezumawater.com

7 Charles H. Haines
8 Arizona Corporation Commission
9 Legal Division
10 1200 West Washington Street
11 Phoenix, Arizona 85007-2927
12 chains@azcc.gov

13 
14 _____
15 Douglas C. Fitzpatrick

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Doug Fitzpatrick

From: John Campbell [happyfeet@sedona.net]
Sent: Tuesday, August 30, 2011 8:57 AM
To: fitzlaw@sedona.net
Subject: Additions to my original email

Mr. Douglas Fitzpatrick

Dear Doug,

I have a Bachelors degree in accounting and have over 20 years of private enterprise corporate accounting experience. I have been preparing financial reports for the Montezuma Rimrock Water Company, LLC since 2006.

I have reviewed the "First Set of Data Requests" to Montezuma Rimrock Water Company, LLC. Following is my analysis of that request.

First of all, the data request refers to Patricia Olsen as the managing partner of Montezuma Rimrock Water Company. In fact, Montezuma Rimrock Water Co, LLC is a Single Member Limited Liability Company and not a partnership. Patricia Olsen is the owner and Manager of said water company.

This request is totally unreasonable in the extent of detailed information it has requested. In addition to being an intrusion into the operational activities and records of a privately held business concern, it will create a financial burden upon a business that operates within a very minimal range of positive cash flow.

There are in excess of 1,200 entries in the general ledger alone that this request asks for "all supporting records, receipts and documentation". Just copying that many cancelled checks could take up to 80 hours, without even considering other "supporting records". These 1,200 plus entries includes only 9 of the 30 line items requested. I do not have immediate access to the documents that the other 21 line items request, but I can say that these are also extensive in number.

My estimate of total time requirements to prepare the 30 requested line items is 156 hours. This is a totally unreasonable amount of time to spend. In 2011, the water company has been operating without employees on the payroll. The burden of this request would most likely require a few thousand dollars in expense for finding and copying requested supporting documents.

Schedules and documents that I personally would need to prepare would take me approximately 45 hours. The cost of my work would be an estimated additional \$2,250. Considering my current workload, for me to find the time to do this work, it would take me approximately 2 months to incorporate this time into my schedule.

Sincerely,

John Campbell

8/30/2011

August 23, 2011

Mr. Douglas Fitzpatrick
Law Office of Douglas C. Fitzpatrick
49 Bell Rock Plaza
Sedona, AZ 86351
fitzlaw@sedona.net

Re: Intervener John E. Dougherty's First Set of Data Requests to Montezuma Rimrock Water Company, ACC Docket No. **W-04254A-11-0296**.

Attached is John E. Dougherty's First Set of Data Requests to Montezuma Rimrock Water Company for Docket No. W-04254A-11-0296.

Mr. Dougherty should expect to receive the Company's response on or before Tuesday September 6, 2011.

Please indicate the person or persons responsible for compilation of the information provided in response to these Data Requests, and the witness to who questions regarding that information should be directed.

These requests are continuing in nature. Accordingly, the Company is requested to supplement prior responses if it receives or generates additional information, reports, or other data within the scope of these data requests between the time of the original response and any hearing that may be scheduled in connection with these dockets.

Please provide one copy of the requested data directly to:

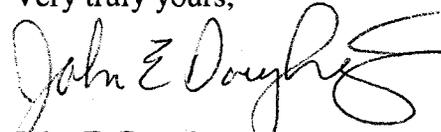
Mr. John E. Dougherty
PO Box 501
Rimrock, Arizona, 86335

And by email at: jd.investigativemedia@gmail.com

If you have any questions, please do not hesitate to contact me.

Thank you for your time and cooperation.

Very truly yours,


John E. Dougherty

MONTEZUMA RIMROCK WATER COMPANY
DOCKET W-04254A-11-0296
INTERVENOR JOHN E. DOUGHERTY'S FIRST SET OF DATA REQUESTS

1.01 Data Requests – Please provide copies of all data requests and the Company's responses to such requests to ACC staff and all other parties in this Docket.

1.02 Accounting – Electronic copy of the calendar year 2009 and 2010 General Ledgers and the General Ledger from January 1, 2011 through August 1, 2011.

1.03 Debt—For each debt issuance accounted for in line 224 of the 2010 Annual Report provide a copy of the associated debt terms, promissory notes and agreements. Please explain the discrepancy between line 224 in the Liabilities table in the 2010 Annual Report and the failure to disclose the long-term debt on the Supplement Financial Data (Long Term Debt) in the 2010 annual report.

1.04 Debt—For all debts, short term and long term, encumbered by MRWC and/or by Ms. Patricia Olsen, managing partner for Montezuma Rimrock, for services or products for use by the company from January 1, 2011 through August 1, 2011 please provide a copy of the associated debt terms and agreements and the purpose for which the debt was incurred.

1.05 Pipeline Construction—Provide complete copies of all communications, contracts, agreements, receipts, records of payments, deferrals, loans and any other financial consideration in connection with the construction of an approximately 2,500-foot pipeline by Rask Construction Company that began on or about April 18, 2011. The pipeline connects Well No. 4 with the site of a proposed arsenic treatment facility.

This includes all payments, checks and written agreements and contracts entered into by Ms. Patricia Olsen, managing partner of Montezuma Rimrock Water Company, with Rask Construction and all other contractors in connection with construction of the pipeline.

1.06 Utilities—Provide a copy of electric bills (consumption of electricity and dollar cost) for each of the company's well sites (Well No. 1, Well No. 3 and Well No. 4) from January 1, 2010 through August 2011.

In addition, please include the complete electric bills for Feb, March and April 2009 for all three wells.

1.07 Lenders—Provide a complete copy of all company applications to private lenders to obtain approximately \$165,000 in financing for construction of an arsenic treatment facility. Include all supplemental information filed by the company in connection with these applications including, but not limited to, MRWC state and federal income tax returns. If the company does not have copies of the loan applications, please obtain the loan applications from the lenders.

1.08 Tax Returns—Provide copies of MRWC's 2006, 2007, 2008, 2009 and 2010 state and federal tax returns.

1.09 Performance Bond—Provide copies of receipts showing payment for a \$30,000 performance bond for 2010 and 2011 and a copy of the performance bond for each year.

1.10 Well No. 4/Pipeline – Provide copies of all receipts, contracts, and canceled checks related to expenses incurred by the company and/or Ms. Olsen in connection with construction of Well No. 4, the pipeline to the proposed arsenic treatment facility including construction, engineering, surveying, pumps, pipes and fittings, electrical upgrades, fencing, cement work and any other associated expense.

1.10 Water Applications – Provide copies of water service applications for all $\frac{3}{4}$ x $\frac{3}{4}$ hookup connections. Please include the address for each of the applications.

1.11 Utility Plant in Service-- All supporting records, receipts, and description of assets used by the company to compute Line 101 "Utility Plant in Service" for the annual reports for 2007, 2008, 2009 and 2010.

1.12 Retained Earnings--All supporting records, receipts and other documentation that supports the company's computation of Line 215 "Retained Earnings" for the annual reports for 2007, 2008, 2009 and 2010.

1.13 Bank Records.—Monthly bank statements for 2010 and the first six months of 2011 for all MRWC bank accounts, including accounts holding various customer deposits. Please provide the August 2011 bank statements when they become available.

1.14 Contributions in Aid Construction-- All supporting records, receipts, and documentation used to compute Line 271 Contributions in Aid of Construction for the 2007, 2008, 2009 and 2010 annual reports.

1.15--Advances in Aid of Construction-- All supporting records, receipts, and documentation used to compute Line 252 Aid of Construction for the 2007, 2008, 2009 and 2010 annual reports.

1.16—Insurance—Provide copies of the company's general liability insurance and health/life insurance policies including premiums for 2007, 2008, 2009 and 2010.

1.17—Proprietary Capital—All supporting records, receipts, and documentation used to compute Line 218 Proprietary Capital for the 2007, 2008, 2009 and 2010 annual reports.

1.18—Repairs and Maintenance—All supporting records, receipts, bills, canceled checks related to Line 620 Repairs and Maintenance in the 2010 Annual Report.

1.19—Salaries—The names and salaries and/or wages paid to all employees and contract workers used to compute Line 601 Salaries and Wages for the 2007, 2008, 2009 and 2010 Annual Reports.

1.20—Rents—The names of all recipients of rents paid in Line 641 of the 2007, 2008, 2009 and 2010 Annual Reports and the amount each recipients was paid.

1.21—Transportation—All supporting records, receipts, and documentation used to compute Line 650 Transportation Expenses for the 2007, 2008, 2009 and 2010 annual reports.

1.22—Transportation Expenses—All supporting records, receipts, and documentation used to compute Line 650 Transportation Expenses for the 2007, 2008, 2009 and 2010 annual reports.

1.23—Wells and Springs—All supporting records, receipts and documentation used to compute Line 307 Wells and Springs for the 2007, 2008, 2009 and 2010 annual reports.

1.24—Pumping Equipment—All supporting records, receipts and documentation used to compute Line 311 Pumping Equipment for the 2007, 2008, 2009 and 2010 annual reports.

1.25—Structure and Improvements—All supporting records, receipts and documentation used to compute Line 304 Structure and Improvements for the 2007, 2008, 2009 and 2010 annual reports.

1.26—Transmission and Distribution Mains—All supporting records, receipts and documentation used to compute Line 331 Transmission and Distribution Mains for the 2007, 2008, 2009 and 2010 annual reports.

1.27—Meters and Meter Installations—All supporting records, receipts and documentation used to compute Line 334 Meters and Meter Installations for the 2007, 2008, 2009 and 2010 Annual Reports.

1.28—Tax Credits—All supporting records, receipts and documentation used to compute Line 281 Accumulated Deferred Investment Tax Credits for the 2007, 2008, 2009 and 2010 Annual Reports.

1.29—Amortization—All supporting records, receipts and documentation used to compute Line 272 Less Amortization of Contributions for the 2007, 2008, 2009 and 2010 Annual Reports.

1.30—Utility Plant Depreciation—All supporting records, receipts and documentation used to compute Line 108 Accumulated Depreciation Utility Plant for the 2007, 2008, 2009 and 2010 Annual Reports.

August 28, 2011

Mr. Douglas Fitzpatrick
Law Office of Douglas C. Fitzpatrick
49 Bell Rock Plaza
Sedona, AZ 86351
fitzlaw@sedona.net

Re: Intervener John E. Dougherty's Second Set of Data Requests to Montezuma Rimrock Water Company, ACC Docket No. **W-04254A-11-0296**.

Attached is John E. Dougherty's Second Set of Data Requests to Montezuma Rimrock Water Company for Docket No. W-04254A-11-0296.

Mr. Dougherty should expect to receive the Company's response on or before Friday September 9, 2011.

Please indicate the person or persons responsible for compilation of the information provided in response to these Data Requests, and the witness to who questions regarding that information should be directed.

These requests are continuing in nature. Accordingly, the Company is requested to supplement prior responses if it receives or generates additional information, reports, or other data within the scope of these data requests between the time of the original response and any hearing that may be scheduled in connection with these dockets.

Please provide one copy of the requested data directly to:

Mr. John E. Dougherty
PO Box 501
Rimrock, Arizona, 86335

And by email at: jd.investigativemedia@gmail.com

If you have any questions, please do not hesitate to contact me.

Thank you for your time and cooperation.

Very truly yours,

John E. Dougherty

MONTEZUMA RIMROCK WATER COMPANY
DOCKET W-04254A-11-0296
INTERVENOR JOHN E. DOUGHERTY'S SECOND SET OF DATA REQUESTS

1.03 Debt—All records related to a purported repayment of a \$32,000 loan obtained by Montezuma Rimrock Water Company from Anna Barbara Brunner in connection with the purchase of a residential lot where the company's Well No. 4 is now located. This includes, but is not limited to:

a. Complete copies of all canceled checks, cashiers checks, money orders or any other form of payment including cash from MRWC and/or Patricia Olsen or any other party representing MRWC and/or Patricia Olsen in connection with the repayment of the Deed of Trust entered into between MRWC and Anna Barbara Brunner on or about Oct. 19, 2005.

These records include the time period from the date the loan was initiated on or about Oct. 19, 2005 until the loan was "repaid" as stated in a Deed of Full Release and Full Reconveyance dated on or about August 9, 2011 and recorded in Yavapai County.

b. Complete copies of all receipts issued by Ms. Brunner to MRWC acknowledging payments from MRWC and/or Ms. Olsen in connection with the loan.

c. A complete copy of the loan amortization schedule specifying the amount of principle and interest to be repaid and the timing of the payments.

d. A complete copy of the promissory note between Ms. Brunner and MRWC and/or Ms. Olsen in connection with the \$32,000 loan and all addendums to such promissory note.

e. Copies of all unrecorded side agreements in connection with any form of consideration to be provided by MRWC and/or Patricia Olsen that in anyway obligates MRWC/Olsen to provide financial consideration, enumeration, free services or any other product or service of value including free water to Ms. Brunner.

f. Complete copies of all loan forgiveness agreements between Ms. Brunner and Patricia Olsen and/or MRWC.