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Arizona Corporation Commission
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AZ CORP COMMISSION
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BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF APPLICATION OF
BEARDSLEY WATER COMPANY FOR AN
EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY

DOCKET NO. W-02074A-07-0616

NOTICE OF NON-OPPOSITION

Bryan Cave LLP
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Phoenix, Arizona 85004-4406
(602) 364-7000

On October 24, 2007, Beardsley Water Company filed an application to extend its Certificate of Convenience and Necessity to provide domestic water service to an area now known as the Asante West Development located to the west of Grand Avenue and north of Deer Valley Road in Maricopa County, Arizona (the "Extension Area"). That application was approved by the Arizona Corporation Commission (the "Commission") in Decision No. 70463, docketed August 6, 2008. Under Decision No. 70463, Beardsley was required to file, as compliance items, a copy of the developer's Certificate of Assured Water Supply for the extension area and a copy of the Approval to Construct issued by the Maricopa County Environmental Services Department for the water plant and facilities needed to provide water service to the Extension Area within two years of the date of Decision No. 70463.

Due to the economic downturn, the developer did not proceed with development of the Asante West project and did not obtain a Certificate of Assured Water Supply for the property. In addition, the developer did not obtain an Approval to Construct the water plant and facilities necessary to provide water service to the Extension Area. Based on conversations with the developer's representative, Beardsley Water Company understands that the developer has abandoned plans to develop the property for the foreseeable future.

In August 2011, Commission Staff notified Beardsley Water Company that it had not

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1 met the conditions contained in Decision No. 70463 and that the decision could be
2 considered null and void unless Beardsley Water Company took steps to meet those
3 conditions. Because it is apparent that no development will occur in the Extension Area in
4 the near future, Beardsley Water Company has determined that it does not wish to seek an
5 extension of time in which to comply with the conditions contained in Decision No. 70463.
6 Accordingly, in these unique circumstances, Beardsley Water Company provides notice that
7 (1) it considers the due process requirements in the Arizona Constitution and set forth in
8 James P. Paul Water Co. v. Arizona Corp. Comm'n, 137 Ariz. 426, 671 P.2d 404 (1983), to
9 have been met in this instance, and (2) it does not oppose the Commission considering
10 Decision No. 70463 to be null and void pursuant to its terms. Beardsley Water Company
11 reserves the right to seek a future extension of its Certificate of Convenience and Necessity
12 to provide service to the Extension Area as development demands so dictate, and by taking
13 this position in this proceeding does not intend to be bound by this action in other
14 proceedings as they may occur.

15 RESPECTFULLY SUBMITTED this 26th day of September, 2011.

16 BRYAN CAVE LLP

17
18 By 

19 Steven A. Hirsch, #006360
20 Stanley B. Lutz, #021195
21 Two N. Central Avenue, Suite 2200
22 Phoenix, AZ 85004-4406
23 Attorneys for Rigby Water Company

24 **ORIGINAL** and 13 copies of the foregoing
25 filed this 26th day of September, 2011 with:

26 Docket Control Division
27 Arizona Corporation Commission
28 1200 West Washington Street
Phoenix, Arizona 85007

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1 COPIES of the foregoing hand-delivered
this 26th day of September, 2011, to:

2 Lyn A. Farmer, Esq.
3 Chief Administrative Law Judge
4 Hearing Division
5 Arizona Corporation Commission
6 1200 W. Washington Street
Phoenix, AZ 85007

7 Steve Olea
8 Director, Utilities Division
9 Arizona Corporation Commission
10 1200 W. Washington Street
Phoenix, AZ 85007

11 Janice Alward, Chief Counsel
12 Legal Division
13 Arizona Corporation Commission
14 1200 W. Washington Street
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15 COPY of the foregoing mailed
this 26th day of September, 2011, to:

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17 City Attorney
18 City of Surprise
19 12425 West Bell Road, Suite D100
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