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AZ CORP COMMISSION  
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7 **BEFORE THE ARIZONA CORPORATION COMMISSION**

9 **COMMISSIONERS**

10 GARY PIERCE, CHAIRMAN  
11 PAUL NEWMAN  
12 SANDRA D. KENNEDY  
13 BOB STUMP  
14 BRENDA BURNS

Arizona Corporation Commission  
DOCKETED

FEB 24 2012

DOCKETED BY 

15 **IN THE MATTER OF THE**  
16 **COMMISSION ON ITS OWN MOTION**  
17 **INVESTIGATING THE FAILURE OF**  
18 **TRUXTON CANYON WATER**  
19 **COMPANY TO COMPLY WITH**  
20 **COMMISSION RULES AND**  
21 **REGULATIONS**

Docket No. W-02168A-10-0247

**NOTICE OF FILING REJOINDER  
TESTIMONY AND EXHIBITS**

22 Pursuant to the applicable procedural order, Truxton Canyon Water Company, Inc.  
23 (“Company”) hereby files its updated testimony and exhibits in this case. The rejoinder  
24 testimony of Rick Neal (Enclosure 1) and Sonn Rowell (Enclosure 2), as well as related  
25 exhibits, are set forth herein.

27 Arizona Corporation Commission  
DOCKETED

FEB 24 2012

DOCKETED BY 

1 Dated this 24<sup>th</sup> day of February, 2012.

2 **MOYES SELLERS & HENDRICKS LTD.**

3  
4 

5 Steve Wene

6  
7 Original and 13 copies of the foregoing  
8 filed on this 24<sup>th</sup> day of February, 2012 with:

9 Docket Control  
10 Arizona Corporation Commission  
11 1200 W. Washington Street  
12 Phoenix, Arizona 85007

13 Copy of the foregoing electronically  
14 mailed this 24<sup>th</sup> day of February, 2012, to:

15 Kim Ruht  
16 kruht@azcc.gov

17 Todd Wiley  
18 twiley@fclaw.com

19   
20

# **ENCLOSURE 1**

1                                   **BEFORE THE ARIZONA CORPORATION COMMISSION**

2  
3  
4    **COMMISSIONERS**

5    GARY PIERCE, CHAIRMAN  
6    PAUL NEWMAN  
7    SANDRA D. KENNEDY  
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10 **IN THE MATTER OF THE**  
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16 **REGULATIONS**

Docket No. W-02168A-10-0247

**REJOINDER TESTIMONY OF  
RICK NEAL**

17 **Q     Please state your name and current employment position:**

18 **A     My name is Rick Neal. I am currently a managing member of Blackhawk**  
19 **Developers.**

20 **Q     What is the purpose of your testimony?**

21 **A     The purpose of my testimony is to address the issues raised by the Arizona**  
22 **Corporation Commission staff in its updated surrebuttal testimony. I am also adopting**  
23 **the testimony of Chris Hopper filed earlier in these proceedings. Mr. Hopper is no longer**  
24 **with Blackhawk Developers.**

25 **Q     Please comment on Staff's position regarding your statement that Staff**  
26 **should identify exactly how Truxton violated each rule.**  
27  
28

1 A All the Company is stating is that Staff should identify which rules have been  
2 violated and how. The Complaint and Petition for an Order to Show Cause (“OSC”) does  
3 not do this in many cases. For example, Count I incorporates the allegations, cites A.R.S.  
4 § 40-321(A), and then states “ADEQ has issued numerous report and orders citing the  
5 deficiencies in Truxton’s system over the years, and Truxton has not rectified these  
6 problems. The Company does not follow the rules and regulations of the Commission.  
7 Truxton has been unable to maintain compliance with ADEQ standards or follow the  
8 rules and regulations of the Commission, its equipment and facilities are inadequate,  
9 insufficient and unsafe.”

10  
11  
12  
13 Previously, Truxton sent Staff a data request asking Staff to either admit or deny if  
14 Truxton was still in violation of A.R.S. § 40-321(A) as alleged in Count I of the OSC,  
15 and if denied, please provide each and every fact supporting Staff’s position. See  
16 Attachment 1. In response, Staff objected to the request and did not list a single event of  
17 noncompliance. See Attachment 2. The data request also expressly stated that it was a  
18 continuing interrogatory, requiring Staff to supplement answers as information is  
19 gathered by Staff, but there was never any supplemental responses provided by Staff.  
20

21  
22 Truxton has requested that Staff identify the specific facts to support each claimed  
23 violation so it could address each factual issue and claim that a rule was violated. Staff  
24 has never explained which alleged problem related to each violation. The Company  
25 should not have to try and figure out what alleged problems need to be resolved to satisfy  
26 Staff and resolve this issue. Further, Staff admits that many alleged problems have been  
27 resolved. The Company does not believe these issues need to be addressed in detail at  
28

1 the hearing if they were resolved. The Company would simply state what happened and  
2 how the alleged problem was solved.

3  
4 **Q. Please comment on Staff's position that Chris Hopper's testimony filed on**  
5 **December 10, 2010 conceded that a number of violations have occurred.**

6 **A.** Mr. Hopper's testimony speaks for itself. See Attachment 3. Again, Staff does  
7 *not specify the alleged "concession" in Mr. Hopper's testimony.*

8  
9 **Q. Please comment on Staff's statement that the Company knows exactly which**  
10 **rules were violated and how because it signed the stipulation.**

11 **A.** Again, the stipulation speaks for itself. The stipulation expressly states "the  
12 actions as described in paragraphs three through thirty of the OSC may constitute  
13 violation of the Arizona Revised Statutes and the Arizona Administrative Code."  
14 Stipulation Agreement at p. 1, ¶ 2 (emphasis added).

15  
16  
17 **Q Please comment on Staff's position regarding the demand that all water**  
18 **system leaks must be repaired.**

19 **A** As stated before, this is not possible. All water systems leak. Staff seems to be  
20 saying that if there are leaks, the water system is not safe and reliable. The Company  
21 disagrees with that position and if that were the case, then there are likely no safe and  
22 reliable water systems in Arizona.

23  
24  
25 **Q Please comment on Staff's statement that it was not maintaining 20 psi under**  
26 **all flow conditions, within its certificated area at the time the OSC was initiated.**

27 **A** I do not agree.  
28

1 **Q Please comment on Staff's statement that it does not understand why the**  
2 **Company wants any ACC recommendation to say the Company should be in**  
3 **material compliance with ADEQ rules.**

4  
5 **A** As stated before, 100% compliance with its rules is impossible as a practical  
6 matter. In fact, the compliance status report ADEQ uses implicitly recognizes this point.  
7 That form states that the Company has either "major deficiencies" or "no major  
8 deficiencies". If the Commission wanted to be consistent with ADEQ's terminology, it  
9 could state that the Company should not have any major deficiencies rather than material  
10 deficiencies.  
11

12  
13 **Q Please comment on Staff's statement that the Company needs to formally file**  
14 **the main extension agreements.**

15  
16 **A** The Company admitted that it did not file the Bacus extension agreement with the  
17 ACC, which is why it agreed to refund the money to Bacus. Otherwise, the Company's  
18 position in the Bacus matter would have been different. As for the agreement with the  
19 fire district, I know Staff has it, but I did not know they wanted us to follow a formal  
20 filing process. Also, the fire district agreement was not for a main extension, it was an  
21 agreement to install hydrants. Nevertheless, the Company can send the agreement to  
22 Staff if they believe it is necessary.  
23

24  
25 **Q Please comment on Staff's statement regarding the transfer of wells and**  
26 **pipeline from the Trust to the Company.**

27  
28 **A** Staff's statement that the price and value of the wells and pipeline should be  
addressed in the rate case. But the transfer of the wells and the pipeline has been one of

1 Staff's central demands in this case. It seems as though Staff is now saying that the  
2 Company must transfer the assets and then the price of the transfer can be determined  
3 later in the rate case. However, if Staff still holds the position that the assets should be  
4 transferred in this case, then the cost of that transfer is relevant and Staff's position on  
5 that latter issue needs to be clear.  
6

7  
8 **Q Please comment on Staff's response regarding the Company's current**  
9 **financial situation?**

10 **A** Staff stated that the rates are fair and reasonable. I disagree. In 2011, the  
11 Company was losing money. In January, the Commission required the Company to  
12 initiate new rates to the VVPOA which substantially reduced the amount VVPOA pays  
13 for water. In January, the VVPOA invoice for water service was \$3,458.78. See  
14 Attachment 4. This \$17,000 loss of monthly income is roughly a 50% reduction in  
15 revenue to the Company is financially devastating. The rate case will take quite awhile to  
16 complete, and in the meantime, the Company will not have enough money to pay its  
17 operating costs. The Company has had to lay off all of the field staff except one person  
18 because it cannot afford the salaries. In other words, with this income reduction, the  
19 Company can afford only one field operator to run a manual water system serving  
20 thousands of people. The Company has further reduced office staff hours as well.  
21  
22  
23  
24

25 **Q Does this conclude your rejoinder testimony?**

26 **A** Yes.  
27  
28

# **ATTACHMENT 1**

1 Steve Wene, State Bar No. 019630  
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4 Phoenix, Arizona 85004  
5 Telephone: 602-604-2141  
6 [swene@lawms.com](mailto:swene@lawms.com)  
7 Attorneys for Truxton Canyon Water Company

8  
9 **BEFORE THE ARIZONA CORPORATION COMMISSION**

10 IN THE MATTER OF THE  
11 COMMISSION ON ITS OWN MOTION  
12 INVESTIGATING THE FAILURE OF  
13 TRUXTON CANYON WATER  
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16 REGULATIONS.

DOCKET NO. W-02168A-10-0247

**TRUXTON'S FIRST SET OF DATA  
REQUESTS, REQUESTS FOR  
ADMISSIONS, NON-UNIFORM  
INTERROGATORIES, AND  
REQUESTS FOR PRODUCTION**

17 To the Arizona Corporation Commission.

18 **INSTRUCTIONS FOR REQUESTS FOR ADMISSIONS**

19 You are hereby required to admit or deny the Requests for Admission set forth  
20 below. Under Rule 36, Ariz.R.Civ.P, a matter is deemed admitted unless, within 40 days  
21 after service of the Requests for Admission, a written answer or objection addressed to  
22 such matter is served upon Defendants and signed by you or your attorney.

23 If objection is made, the reasons therefore shall be stated. The answer shall  
24 specifically deny the matter or set forth in detail the reasons you cannot truthfully admit  
25 or deny the matter. A denial shall fairly meet the substance of the requested admission,  
and when good faith requires that you qualify an answer or deny only part of the matter

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ARIZ. CORPORATION COMMISSION

1 of which an admission is requested, you shall specify so much of it as is true and qualify  
2 or deny the remainder, setting forth in detail the reasons specifically as requested herein.  
3 You may not give lack of information or knowledge as a reason for failure to admit or  
4 deny unless you include a statement that you have made a reasonable inquiry and that the  
5 information known or readily obtainable by you is insufficient to enable you to admit or  
6 deny the matter in question.  
7

8         If you fail to admit the truth of any matter requested herein and that matter is  
9 thereafter proved upon the trial of this action or otherwise, you may be required to pay to  
10 Defendants the reasonable expenses, including attorneys' fees, incurred in proving the  
11 truth of such matter. If you consider that a matter as to which an admission has been  
12 requested presents a genuine issue for trial, you may not, on that ground alone, object to  
13 the request. You may, subject to the provisions of Rule 37(e), Ariz.R.Civ.P., deny the  
14 matter or set forth the reasons why you cannot admit or deny such matter.  
15

16                   **INSTRUCTIONS FOR USE OF NON-UNIFORM INTERROGATORIES**

17         Pursuant to Rule 33, Ariz.R.Civ. P., Defendants hereby request that you answer in  
18 writing under oath the following Non-Uniform Interrogatories within 30 days from the  
19 date of service hereof. With regard to these Non-Uniform Interrogatories, the following  
20 general instructions and definitions set forth below apply:  
21

22         1. All information is to be divulged that is in the possession, custody or control of  
23 Plaintiffs, Plaintiffs' attorneys, investigators, agents or other representatives. In  
24 answering, Plaintiff must furnish all information available.  
25

1 2. If you cannot answer an interrogatory in full and have exercised thorough  
2 diligence in an attempt to secure the information requested, then you must so state. You  
3 must also explain to the fullest extent possible the specific facts concerning your inability  
4 to answer the interrogatory and supply whatever information or knowledge you have  
5 concerning any unanswered portion of an interrogatory.  
6

7 3. If the answer to any interrogatory is "unknown," "not applicable," or any similar  
8 phrase or answer, state the following:

- 9 a. Why the answer to that interrogatory is "unknown";  
10 b. The efforts made to obtain answers to the interrogatory; and  
11 c. The name and address of any person who may know the answer.  
12

13 4. Where an interrogatory requires you to state facts you believe support a particular  
14 allegation, contention, conclusion or statement, set forth with particularity:

- 15 a. All facts relied upon;  
16 b. The identity of all lay witnesses who will or may be called to testify with  
17 respect to those facts; and  
18 c. The identity of all experts who will or may be called to testify with respect  
19 to those facts.  
20

21 5. If you contend that the answer to any interrogatory is privileged, in whole or in  
22 part, or if you object to any interrogatory, in whole or in part, state the reasons for such  
23 objection and identify each person having knowledge of the factual basis, if any, on  
24 which the privilege is asserted.  
25

1 6. A space has been provided on the form of interrogatories of your answer. In the  
2 event the space provided is not sufficient for your answer to any of the questions, please  
3 attach a separate sheet of paper setting forth the questions followed by the additional  
4 answering information.  
5

6 7. Where an individual interrogatory calls for an answer which involves more than  
7 one part, each part of the answer should be clearly set out so that it is understandable.

8 8. The original and one (1) copy are served herewith. Please complete the original  
9 and one (1) copy, return the original to the undersigned attorney and attach a verification  
10 thereto. You may keep the copy for your records.

11 9. These interrogatories are intended as continuing interrogatories which require that  
12 you supplement your answers setting forth any information within the scope of the  
13 interrogatories as may be acquired by you, your agents, attorneys, or other representatives  
14 following the service of your original answers.  
15

16 **INSTRUCTIONS FOR USE OF REQUESTS FOR PRODUCTION**

17 1. If in your possession, control or custody, or if you otherwise have access to, you  
18 shall produce the originals of all documents called for herein, as well as any and all  
19 copies of documents which bear any mark or notation not present on the original.  
20

21 2. In producing documents called for herein, you shall segregate the documents so as  
22 to identify the numbered requests to which such document responds.  
23  
24  
25

1 3. If you withhold from production any document requested hereunder solely on the  
2 basis of any asserted privilege, including attorney-client privilege or work product rule,  
3 you shall provide the following information:

4 a. the place, approximate date and manner of recording or preparation of the  
5 document;

6 b. the name and title of the sender and the name and title of the recipient of  
7 the document;

8 c. the name of each person or persons participating in the preparation of the  
9 document;

10 d. the name and corporation position, if any, of each person to whom the  
11 contents of the documents have heretofore been communicated by copy, exhibition,  
12 reading or substantial summarization;

13 e. a statement of the basis on which privilege is claimed and whether or not  
14 the subject matter of the contents of documents is limited to legal advice or information  
15 provided for the purpose of securing legal advice;

16 f. the number of the request to which the document is responsive; and

17 g. the identity and corporate position, if any, of the person or persons  
18 supplying the attorney with the information requested.

19 4. If you claim that any document responsive to any of these requests has been lost or  
20 destroyed, describe and identify each such document by stating in writing:  
21  
22  
23  
24  
25

1 a. the name of the author, the names of the persons who received the original  
2 and all copies and the date and subject matter;

3 b. the circumstances under which each such document was lost or destroyed;  
4 and

5 c. your efforts to locate each such document.

6  
7 5. This request shall be deemed continuing to the extent required by the Arizona  
8 Rules of Civil Procedure and any other applicable Rules of Court.

9 6. With respect to documents produced in electronic form, such documents shall be  
10 produced in their native format.

#### 11 STANDARD DEFINITIONS

12  
13 1. **“Person”** means an individual, corporation, business trust, estate, trust,  
14 partnership, limited partnership, limited liability partnership, limited liability company,  
15 association, joint venture, government, governmental subdivision, agency, or  
16 instrumentality, or any other legal or commercial entity.

17  
18 2. The terms **“you”** and **“your”** shall be deemed to refer to the named party(s)  
19 to whom this discovery request is directed, but also to each of their employees, agents,  
20 representatives, investigators and attorneys, and all other persons who have acted on their  
21 behalf.

22 3. The term **“relating to”** means embodying, discussing, constituting evidence  
23 of, having a relationship to (in whole or in part), pertaining, referring to, regarding,  
24 reflecting, describing or setting forth the subject matter to which reference is made.  
25

1           4.     The word "**communications**" shall mean all inquiries, discussions,  
2     conversations, negotiations, agreements, understandings, meetings, conferences,  
3     telephone conversations, interviews, cards, letters, notes, correspondence, telegrams,  
4     telexes, cables, e-mails, or other forms of interpersonal discourse, whether oral or written,  
5     however transmitted, including reports, notes, memoranda, lists, agenda, and other  
6     reports of communications.  
7

8           5.     As used herein, the words "**and**" and "**or**" shall be construed either  
9     conjunctively or disjunctively as necessary to bring within the scope of these requests to  
10    any matter which might otherwise be construed to be outside their scope. The singular  
11    form of a word shall also be construed to include the plural form in any instances where  
12    such construction will expand the scope of these requests.  
13

14          6.     As used herein, the term "**document**" means all writings of any kind,  
15    including the originals and all non-identical copies, whether different from the original by  
16    reason of any notation made on such copies or otherwise (including, without limitation,  
17    all abstracts, agreements, appointment records, appraisals, audio recordings (whether  
18    transcribed or not), balance sheets, bills, bills of lading, blueprints, books, books of  
19    account, bulletins, bylaws, cablegrams, cassettes, catalogues, certificates, charts, charters,  
20    checks, circulars, computer printouts, computer programs, computer tapes, contracts,  
21    correspondence, data compilations from which information can be obtained or translated  
22    through property diagrams, diaries, discs, drafts, electric or electronic records or  
23    representations, e-mails, entries, estimates, expense reports, field notes, files, financial  
24  
25

1 analyses, financial statements, forms, graphs, handbooks, income statements, indices,  
2 instructions, instruments, insurance policies, insurance riders, interoffice  
3 communications, intra-office communications, invoices, itemizations, journals, letters,  
4 maps, mechanical records, meeting reports, memoranda, memoranda of all conversations  
5 (including telephone calls), microfiche, microfilm, minutes, motions pictures, notes,  
6 notices, order forms, orders, pamphlets, photographs, printed matter, prospectuses,  
7 receipts, recordings, records, records of account, reports, requisitions, resolutions,  
8 returns, sketches, specifications, statements, statistical records, studies, summaries,  
9 system analyses, tapes, telefaxes, telegrams, teletypes, telexes, tests, text, time records,  
10 transcripts, valuations, video recordings, writings, and work papers, and notations of any  
11 sort of communications or conversations, and all drafts, versions, changes and  
12 amendments to any of the foregoing.  
13  
14

15 7. As used herein, the term "**all documents**" means every document as above-  
16 defined know to you and every such document which can be located or discovered by  
17 reasonably diligent efforts.  
18  
19

20 8. "**Identify**" (or "**Identity**") as used herein with respect to a document shall  
21 be read to require a statement of all of the following information related to such  
22 document:  
23

24 Title;

25 Nature and subject matter;

1 Date;

2 Author;

3 Addressee;

4 File number or other identifying mark or code;

5 Location by room, building, address, city and state; and

6 Identification of custodian.

7  
8 9. "Identify" (or "Identity") as used herein with respect to any individual  
9 shall read to require a statement of all of the following information pertaining to such  
10 individual:

11 Present home address;

12 Present home telephone number;

13 Employer;

14 Present or last known business address;

15 Business telephone number;

16 Job description; and

17 Title.

18  
19  
20 10. "Identify" (or "Identity") as used herein with respect to any entity other  
21 than an individual shall be read to require a statement of all of the following information  
22 relating to such entity:

23 Full name or title;

24 Principal place of business or other activity;

1 Place of incorporation (if applicable);

2 Date of formation;

3 Names of any predecessor or successor corporations or other  
4 business entities;

5 Nature or type of entity; and

6 Principal business or other activity.

7  
8 11. **"Identify"** (or **"Identity"**) as used herein with respect to any conversation,  
9 including any telephone conversation, or meeting shall be read to require a statement of  
10 all of the following:

11 a. The date on which it occurred;

12 b. The identity of each and every person who was present or who participated;

13 c. The place at which it occurred or, in the case of a telephone  
14 communication, the location of each party.

15  
16 **TO AVOID PROBLEMS, PLEASE CAREFULLY EXAMINE THE FOREGOING**  
17 **INSTRUCTIONS AND DEFINITIONS PRIOR TO ANSWERING**

18  
19 1.1 **Request for Admission No. 1:** Admit that Truxton is no longer in violation of  
20 A.R.S. § 40-321(A) as alleged in Count One in the Complaint and Petition for an Order  
21 to Show Cause.

22 ADMIT \_\_\_\_\_ DENY \_\_\_\_\_  
23  
24  
25

1 1.2 **Interrogatory No. 1:** If your answer to Request for Admission No. 1 was  
2 anything other than an unqualified "Admit," please provide each and every fact  
3 supporting your position that Truxton is currently violating A.R.S. § 40-321(A).  
4

5  
6  
7  
8 1.3 **Request for Production No. 1:** Please provide copies of any and all documents  
9 in your possession that support or otherwise relate to your answers to Request for  
10 Admission No. 1 or Interrogatory No. 1 and any documents you referred to or reviewed  
11 in preparing your answers to Request for Admission No. 1 or Interrogatory No. 1.  
12

13  
14  
15 2.1 **Request for Admission No. 2:** Admit that Truxton is no longer in violation of R-  
16 14-2-407(A) as alleged in Count Two in the Complaint and Petition for an Order to Show  
17 Cause.

18 ADMIT \_\_\_\_\_ DENY \_\_\_\_\_  
19

20  
21 2.2 **Interrogatory No. 2:** If your answer to Request for Admission No. 2 was  
22 anything other than an unqualified "Admit," please provide each and every fact  
23 supporting your position that Truxton is currently violating R-14-2-407(A).  
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**2.3 Request for Production No. 2:** Please provide copies of any and all documents in your possession that support or otherwise relate to your answers to Request for Admission No. 2 or Interrogatory No. 2 and any documents you referred to or reviewed in preparing your answers to Request for Admission No. 2 or Interrogatory No. 2.

**3.1 Request for Admission No. 3:** Admit that Truxton is no longer in violation of R-14-2-407 (E) as alleged in Count Three in the Complaint and Petition for an Order to Show Cause.

ADMIT \_\_\_\_\_ DENY \_\_\_\_\_

**3.2 Interrogatory No. 3:** If your answer to Request for Admission No. 3 was anything other than an unqualified "Admit," please provide each and every fact supporting your position that Truxton is currently violating R-14-2-407(E).

1 **3.3 Request for Production No. 3:** Please provide copies of any and all documents  
2 in your possession that support or otherwise relate to your answers to Request for  
3 Admission No. 3 or Interrogatory No. 3 and any documents you referred to or reviewed  
4 in preparing your answers to Request for Admission No. 3 or Interrogatory No. 3.  
5

6  
7 **4.1 Request for Admission No. 4:** Admit that Truxton is no longer in violation of R-  
8 14-2-407(C) as alleged in Count Four in the Complaint and Petition for an Order to Show  
9 Cause.

10 ADMIT \_\_\_\_\_ DENY \_\_\_\_\_  
11

12  
13 **4.2 Interrogatory No. 4:** If your answer to Request for Admission No. 4 was  
14 anything other than an unqualified "Admit," please provide each and every fact  
15 supporting your position that Truxton is currently violating R-14-2-407(C).  
16

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20 **4.3 Request for Production No. 4:** Please provide copies of any and all documents  
21 in your possession that support or otherwise relate to your answers to Request for  
22 Admission No. 4 or Interrogatory No. 4 and any documents you referred to or reviewed  
23 in preparing your answers to Request for Admission No. 4 or Interrogatory No. 4.  
24  
25

1 5.1 **Request for Admission No. 5:** Admit that Truxton is no longer in violation of  
2 A.R.S §40-301(B) as alleged in Count Five in the Complaint and Petition for an Order to  
3 Show Cause.

4 ADMIT \_\_\_\_\_ DENY \_\_\_\_\_  
5  
6

7 5.2 **Interrogatory No. 5:** If your answer to Request for Admission No. 5 was  
8 anything other than an unqualified "Admit," please provide each and every fact  
9 supporting your position that Truxton is currently violating A.R.S §40-301(B).  
10  
11  
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14 5.3 **Request for Production No. 5:** Please provide copies of any and all documents  
15 in your possession that support or otherwise relate to your answers to Request for  
16 Admission No. 5 or Interrogatory No. 5 and any documents you referred to or reviewed  
17 in preparing your answers to Request for Admission No. 5 or Interrogatory No. 5.  
18  
19

20 6.1 **Request for Admission No. 6:** Admit that Truxton is no longer in violation of  
21 A.R.S §40-302(A) as alleged in Count Six in the Complaint and Petition for an Order to  
22 Show Cause.

23 ADMIT \_\_\_\_\_ DENY \_\_\_\_\_  
24  
25

1 **6.2 Interrogatory No. 6:** If your answer to Request for Admission No. 6 was  
2 anything other than an unqualified "Admit," please provide each and every fact  
3 supporting your position that Truxton is currently violating A.R.S §40-302(A).  
4

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9 **6.3 Request for Production No. 6:** Please provide copies of any and all documents  
10 in your possession that support or otherwise relate to your answers to Request for  
11 Admission No. 6 or Interrogatory No. 6 and any documents you referred to or reviewed  
12 in preparing your answers to Request for Admission No. 6 or Interrogatory No. 6.  
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14

15 **7.1 Request for Admission No. 7:** Admit that Truxton is no longer in violation of  
16 A.R.S §40-221, A.R.S. §40-221(C) and A.A.C. R14-2-411(D)(2) as alleged in Count  
17 Seven in the Complaint and Petition for an Order to Show Cause.  
18

19 ADMIT \_\_\_\_\_ DENY \_\_\_\_\_  
20

21 **7.2 Interrogatory No. 7:** If your answer to Request for Admission No. 7 was  
22 anything other than an unqualified "Admit," please provide each and every fact  
23 supporting your position that Truxton is currently violating A.R.S §40-221, A.R.S. §40-  
24 221(C) and A.A.C. R14-2-411(D)(2).  
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6 7.3 **Request for Production No. 7:** Please provide copies of any and all documents  
7 in your possession that support or otherwise relate to your answers to Request for  
8 Admission No. 7 or Interrogatory No. 7 and any documents you referred to or reviewed  
9 in preparing your answers to Request for Admission No. 7 or Interrogatory No. 7.  
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12 8.1 **Request for Admission No. 8:** Admit that Truxton is no longer in violation of  
13 A.A.C. R14-2-411(D)(1) as alleged in Count Eight in the Complaint and Petition for an  
14 Order to Show Cause.

15 ADMIT \_\_\_\_\_ DENY \_\_\_\_\_  
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18 8.2 **Interrogatory No. 8:** If your answer to Request for Admission No. 8 was  
19 anything other than an unqualified "Admit," please provide each and every fact  
20 supporting your position that Truxton is currently violating A.A.C. R14-2-411(D)(1).  
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1 **8.3 Request for Production No. 8:** Please provide copies of any and all documents  
2 in your possession that support or otherwise relate to your answers to Request for  
3 Admission No. 8 or Interrogatory No. 8 and any documents you referred to or reviewed  
4 in preparing your answers to Request for Admission No. 8 or Interrogatory No. 8.  
5

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7 **9.1 Request for Admission No. 9:** Admit that Truxton is no longer in violation of  
8 A.A.C. R14-2-411(A)(1) and A.A.C. R14-2-411(A)(2) as alleged in Count Nine in the  
9 Complaint and Petition for an Order to Show Cause.

10 ADMIT \_\_\_\_\_ DENY \_\_\_\_\_  
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12  
13 **9.2 Interrogatory No. 9:** If your answer to Request for Admission No. 9 was  
14 anything other than an unqualified "Admit," please provide each and every fact  
15 supporting your position that Truxton is currently violating A.A.C. R14-2-411(A)(1) and  
16 A.A.C. R14-2-411(A)(2).  
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21 **9.3 Request for Production No. 9:** Please provide copies of any and all documents  
22 in your possession that support or otherwise relate to your answers to Request for  
23 Admission No. 9 or Interrogatory No. 9 and any documents you referred to or reviewed  
24 in preparing your answers to Request for Admission No. 9 or Interrogatory No. 9.  
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10.1 **Request for Admission No. 10:** Admit that Truxton is no longer in violation of A.A.C. R14-2-406(G) as alleged in Count Ten in the Complaint and Petition for an Order to Show Cause.

ADMIT \_\_\_\_\_ DENY \_\_\_\_\_

10.2 **Interrogatory No. 10:** If your answer to Request for Admission No. 10 was anything other than an unqualified "Admit," please provide each and every fact supporting your position that Truxton is currently violating A.A.C. R14-2-406(G).

10.3 **Request for Production No. 10:** Please provide copies of any and all documents in your possession that support or otherwise relate to your answers to Request for Admission No. 10 or Interrogatory No. 10 and any documents you referred to or reviewed in preparing your answers to Request for Admission No. 10 or Interrogatory No. 10.

11.1 **Request for Admission No. 11:** Admit that Truxton is no longer in violation of A.A.C. R14-2-406(M) as alleged in Count Eleven in the Complaint and Petition for an Order to Show Cause.

ADMIT \_\_\_\_\_ DENY \_\_\_\_\_

1  
2 **11.2 Interrogatory No. 11:** If your answer to Request for Admission No. 11 was  
3 anything other than an unqualified "Admit," please provide each and every fact  
4 supporting your position that Truxton is currently violating A.A.C. R14-2-406 (M).  
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9 **11.3 Request for Production No. 11:** Please provide copies of any and all documents  
10 in your possession that support or otherwise relate to your answers to Request for  
11 Admission No. 11 or Interrogatory No. 11 and any documents you referred to or  
12 reviewed in preparing your answers to Request for Admission No. 11 or Interrogatory  
13 No. 11.  
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15

16 **12.1 Request for Admission No. 12:** Admit that Truxton is no longer in violation of  
17 A.A.C. R14-2-409(D)(1) as alleged in Count Twelve in the Complaint and Petition for an  
18 Order to Show Cause.  
19

20 ADMIT \_\_\_\_\_ DENY \_\_\_\_\_  
21

22 **12.2 Interrogatory No. 12:** If your answer to Request for Admission No. 12 was  
23 anything other than an unqualified "Admit," please provide each and every fact  
24 supporting your position that Truxton is currently violating A.A.C. R14-2-409(D)(1).  
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**12.3 Request for Production No. 12:** Please provide copies of any and all documents in your possession that support or otherwise relate to your answers to Request for Admission No. 12 or Interrogatory No. 12 and any documents you referred to or reviewed in preparing your answers to Request for Admission No. 12 or Interrogatory No. 12.

**13.1 Request for Admission No. 13:** Admit that Truxton is no longer in violation of A.R.S. §40-202(L) as alleged in Count Thirteen in the Complaint and Petition for an Order to Show Cause.

ADMIT \_\_\_\_\_ DENY \_\_\_\_\_

**13.2 Interrogatory No. 13:** If your answer to Request for Admission No. 13 was anything other than an unqualified "Admit," please provide each and every fact supporting your position that Truxton is currently violating A.R.S. §40-202(L).

1 **13.3 Request for Production No. 13:** Please provide copies of any and all documents  
2 in your possession that support or otherwise relate to your answers to Request for  
3 Admission No. 13 or Interrogatory No. 13 and any documents you referred to or  
4 reviewed in preparing your answers to Request for Admission No. 13 or Interrogatory  
5 No. 13  
6

7  
8 **14.1 Request for Admission No. 14:** Admit that Truxton is no longer in violation of  
9 A.R.S. §40-204(A) as alleged in Count Fourteen in the Complaint and Petition for an  
10 Order to Show Cause.  
11

12 ADMIT \_\_\_\_\_ DENY \_\_\_\_\_  
13

14 **14.2 Interrogatory No. 14:** If your answer to Request for Admission No. 14 was  
15 anything other than an unqualified "Admit," please provide each and every fact  
16 supporting your position that Truxton is currently violating A.R.S. §40-204(A).  
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22 **14.3 Request for Production No. 14:** Please provide copies of any and all documents  
23 in your possession that support or otherwise relate to your answers to Request for  
24 Admission No. 14 or Interrogatory No. 14 and any documents you referred to or  
25

1 reviewed in preparing your answers to Request for Admission No. 14 or Interrogatory  
2 No. 14.

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5 15.1 **Request for Admission No. 15:** Admit that Truxton is no longer in violation of  
6 A.R.S. §40-204(B) as alleged in Count Fifteen in the Complaint and Petition for an Order  
7 to Show Cause.

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9 ADMIT \_\_\_\_\_ DENY \_\_\_\_\_

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12 15.2 **Interrogatory No. 15:** If your answer to Request for Admission No. 15 was  
13 anything other than an unqualified "Admit," please provide each and every fact  
14 supporting your position that Truxton is currently violating A.R.S. §40-204(B).

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20 15.3 **Request for Production No. 15:** Please provide copies of any and all documents  
21 in your possession that support or otherwise relate to your answers to Request for  
22 Admission No. 15 or Interrogatory No. 15 and any documents you referred to or  
23 reviewed in preparing your answers to Request for Admission No. 15 or Interrogatory  
24 No. 15.  
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1 DATED this 8<sup>th</sup> day of October, 2010.

2 MOYES SELLERS & SIMS LTD.

3  
4 

5 Steve Wene

6 Attorneys for Truxton Canyon Water Company

7  
8 Original and one copy of the foregoing  
9 hand-delivered this 8<sup>th</sup> day of October, 2010 to:

10 Kimberly A. Ruht  
11 Legal Division  
12 Arizona Corporation Commission  
13 1200 West Washington Street  
14 Phoenix, Arizona 85007  
15 [kruht@azcc.gov](mailto:kruht@azcc.gov)

16 Charles Hains  
17 Legal Division  
18 Arizona Corporation Commission  
19 1200 West Washington Street  
20 Phoenix, Arizona 85007  
21 [chains@azcc.gov](mailto:chains@azcc.gov)

# **ATTACHMENT 2**

**COMMISSIONERS**  
KRISTIN K. MAYES – Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP



ERNEST G. JOHNSON  
Executive Director

**ARIZONA CORPORATION COMMISSION**

October 25, 2010

Steve Wene  
MOYES SELLERS & SIMS  
1850 North Central Avenue, Suite 1100  
Phoenix, Arizona 85004

*Via E-mail and United States Mail*  
swene@lawms.com

Re: Staff's Response to Truxton's First Set of Data Requests  
Docket No. W-02168A-10-0247

Dear Mr. Wene:

Attached are Staff's responses to Truxton's First Set of Data Requests to the Arizona Corporation Commission Staff in the above-referenced matter.

Please do not hesitate to contact me if you have any questions regarding the attached.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kimberly Ruht".

Kimberly A. Ruht, Staff Attorney  
Charles H. Hains, Staff Attorney  
Legal Division  
(602) 542-3402

KAR:klc

Attachment

**ARIZONA CORPORATION COMMISSION STAFF'S RESPONSES TO  
TRUXTON CANYON WATER COMPANY, INC.  
FIRST SET OF DATA REQUESTS  
DOCKET NO. W-02247A-10-0247  
October 25, 2010**

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Before responding to the Company's first set of data requests, requests for admissions, non-uniform interrogatories, and requests for production ("Data Request"), Staff makes the following clarifications and objections regarding the instructions to the Data Request. First, Staff would note that although the Commission follows the general principles of discovery articulated in the rules of civil procedure, the practice does not strictly follow the format contemplated by the rules of civil procedure. Staff's review of the Data Request indicates that the format is more consistent with discovery that would be propounded in a superior court litigation context. However, requests for the home address and home telephone number of any individual as described at page 9, lines 12 and 13 of the Data Request that may be appropriate in superior court litigation are inappropriate for discovery made in matters litigated before the Commission.

Additionally, Staff objects to the instruction that failure to admit the truth of a matter requested within the Data Request that is thereafter proved true during the trial will render the Commission liable for attorneys fees related to the Company's defense of that matter as described at page 2 lines 8-12 of the Data Request. The relevant authority for paying legal fees to a successful litigant in Commission matters is set out in Arizona Revised Statutes Title 12 and does not provide for legal fees for matters successfully litigated before the Commission. Consequently, Staff objects to the form of the Data Request instruction insofar as responding may imply that Staff accepts that liability for legal fees, as described within the Data Request instructions, are legally permissible.

**ARIZONA CORPORATION COMMISSION STAFF'S RESPONSES TO  
TRUXTON CANYON WATER COMPANY, INC.  
FIRST SET OF DATA REQUESTS  
DOCKET NO. W-02247A-10-0247  
October 25, 2010**

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- 1.1 REQUEST FOR ADMISSION NO. 1:** Staff objects to request for admission 1.1 because it is not relevant. Staff further objects because 1.1 is not reasonably calculated to arrive at admissible evidence. Staff further objects that request for admission 1.1 impermissibly attempts to shift the burden of demonstrating the Company's affirmative defenses onto Staff. Moreover, Staff is not required to perform a new investigation for violations that are alleged to have already occurred.

Notwithstanding Staff's objections to request for admission 1.1, Staff responds as follows. Deny. The Company's current status regarding compliance with A.R.S. §40-321(A) does not eliminate the occurrence of the violation event. As such, the Company may have dealt with the ongoing violation of A.R.S. §40-321(A). However, as alleged within Staff's Complaint and Petition for Order to Show Cause, an event of noncompliance occurred thereby giving rise to a violation of A.R.S. §40-321(A).

- 1.2 INTERROGATORY NO. 1:** See response to 1.1. Further, see Staff's Complaint and Petition for Order to Show Cause paragraphs 5 – 19.
- 1.3 REQUEST FOR PRODUCTION NO. 1:** See attached Appendix A: documents 1, 2, & 4 – 19.

**ARIZONA CORPORATION COMMISSION STAFF'S RESPONSES TO  
TRUXTON CANYON WATER COMPANY, INC.  
FIRST SET OF DATA REQUESTS  
DOCKET NO. W-02247A-10-0247  
October 25, 2010**

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- 2.1 REQUEST FOR ADMISSION NO. 2:** Staff objects to request for admission because it is not relevant. Staff further objects because 2.1 is not reasonably calculated to arrive at admissible evidence. Staff further objects that request for admission 2.1 impermissibly attempts to shift the burden of demonstrating the Company's affirmative defenses onto Staff. Moreover, Staff is not required to perform a new investigation for violations that are alleged to have already occurred.

Notwithstanding Staff's objections to request for admission 2.1, Staff responds as follows. Deny. The Company's current status regarding compliance with A.C.C. R14-2-407(A) does not eliminate the occurrence of the violation event. As such, the Company may have dealt with the ongoing violation of A.C.C. R14-2-407(A). However, as alleged within Staff's Complaint and Petition for Order to Show Cause, an event of noncompliance occurred thereby giving rise to a violation of A.C.C. R14-2-407(A).

- 2.2 INTERROGATORY NO. 2:** See response to 2.1. Further, see Staff's Complaint and Petition for Order to Show Cause paragraphs 5 – 13 & 19.
- 2.3 REQUEST FOR PRODUCTION NO. 2:** See attached Appendix A: documents 1, 2, & 4 – 19.

**ARIZONA CORPORATION COMMISSION STAFF'S RESPONSES TO  
TRUXTON CANYON WATER COMPANY, INC.  
FIRST SET OF DATA REQUESTS  
DOCKET NO. W-02247A-10-0247  
October 25, 2010**

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- 3.1 REQUEST FOR ADMISSION NO. 3:** Staff objects to request for admission 3.1 because it is not relevant. Staff further objects because 3.1 is not reasonably calculated to arrive at admissible evidence. Staff further objects that request for admission 3.1 impermissibly attempts to shift the burden of demonstrating the Company's affirmative defenses onto Staff. Moreover, Staff is not required to perform a new investigation for violations that are alleged to have already occurred.

Notwithstanding Staff's objections to request for admission 3.1, Staff responds as follows. Deny. The Company's current status regarding compliance with A.C.C. R14-2-407(E) does not eliminate the occurrence of the violation event. As such, the Company may have dealt with the ongoing violation of A.C.C. R14-2-407(E). However, as alleged within Staff's Complaint and Petition for Order to Show Cause, an event of noncompliance occurred thereby giving rise to a violation of A.C.C. R14-2-407(E).

- 3.2 INTERROGATORY NO. 3:** See response to 3.1. Further, see Staff's Complaint and Petition for Order to Show Cause paragraphs 6, 7, 10, 11 & 13.
- 3.3 REQUEST FOR PRODUCTION NO. 3:** See attached Appendix A: documents 6, 7, 8, 10, 37, 38, 39, 41, 42, 44, & 50.

**ARIZONA CORPORATION COMMISSION STAFF'S RESPONSES TO  
TRUXTON CANYON WATER COMPANY, INC.  
FIRST SET OF DATA REQUESTS  
DOCKET NO. W-02247A-10-0247  
October 25, 2010**

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- 4.1 REQUEST FOR ADMISSION NO. 4:** Staff objects to request for admission 4.1 because it is not relevant. Staff further objects because 4.1 is not reasonably calculated to arrive at admissible evidence. Staff further objects that request for admission 4.1 impermissibly attempts to shift the burden of demonstrating the Company's affirmative defenses onto Staff. Moreover, Staff is not required to perform a new investigation for violations that are alleged to have already occurred.

Notwithstanding Staff's objections to request for admission 4.1, Staff responds as follows. Deny. The Company's current status regarding compliance with A.C.C. R14-2-407(C) does not eliminate the occurrence of the violation event. As such, the Company may have dealt with the ongoing violation of A.C.C. R14-2-407(C). However, as alleged within Staff's Complaint and Petition for Order to Show Cause, an event of noncompliance occurred thereby giving rise to a violation of A.C.C. R14-2-407(C).

- 4.2 INTERROGATORY NO. 4:** See response to 4.1. Further, see Staff's Complaint and Petition for Order to Show Cause paragraphs 6 – 19 & 25 – 26.
- 4.3 REQUEST FOR PRODUCTION NO. 4:** See attached Appendix A: documents 1, 2, 4, 5 – 16, 18, 19, 29, 30, & 34 – 53.

**ARIZONA CORPORATION COMMISSION STAFF'S RESPONSES TO  
TRUXTON CANYON WATER COMPANY, INC.  
FIRST SET OF DATA REQUESTS  
DOCKET NO. W-02247A-10-0247  
October 25, 2010**

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- 5.1 REQUEST FOR ADMISSION NO. 5:** Staff objects to request for admission 5.1 because it is not relevant. Staff further objects because 5.1 is not reasonably calculated to arrive at admissible evidence. Staff further objects that request for admission 5.1 impermissibly attempts to shift the burden of demonstrating the Company's affirmative defenses onto Staff. Moreover, Staff is not required to perform a new investigation for violations that are alleged to have already occurred.

Notwithstanding Staff's objections to request for admission 5.1, Staff responds as follows. Deny. The Company's current status regarding compliance with A.R.S. §40-301(B) does not eliminate the occurrence of the violation event. As such, the Company may have dealt with the ongoing violation of A.R.S. §40-301(B). However, as alleged within Staff's Complaint and Petition for Order to Show Cause, an event of noncompliance occurred thereby giving rise to a violation of A.R.S. §40-301(B).

- 5.2 INTERROGATORY NO. 5:** See response to 5.1. Further, see Staff's Complaint and Petition for Order to Show Cause paragraph 20.
- 5.3 REQUEST FOR PRODUCTION NO. 5:** See attached Appendix A: documents 11 -- 19.

**ARIZONA CORPORATION COMMISSION STAFF'S RESPONSES TO  
TRUXTON CANYON WATER COMPANY, INC.  
FIRST SET OF DATA REQUESTS  
DOCKET NO. W-02247A-10-0247  
October 25, 2010**

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- 6.1 REQUEST FOR ADMISSION NO. 6:** Staff objects to request for admission 6.1 because it is not relevant. Staff further objects because 6.1 is not reasonably calculated to arrive at admissible evidence. Staff further objects that request for admission 6.1 impermissibly attempts to shift the burden of demonstrating the Company's affirmative defenses onto Staff. Moreover, Staff is not required to perform a new investigation for violations that are alleged to have already occurred.

Notwithstanding Staff's objections to request for admission 6.1, Staff responds as follows. Deny. The Company's current status regarding compliance with A.R.S. §40-302(A) does not eliminate the occurrence of the violation event. As such, the Company may have dealt with the ongoing violation of A.R.S. §40-302(A). However, as alleged within Staff's Complaint and Petition for Order to Show Cause, an event of noncompliance occurred thereby giving rise to a violation of A.R.S. §40-302(A).

- 6.2 INTERROGATORY NO. 6:** See response to 6.1. Further, see Staff's Complaint and Petition for Order to Show Cause paragraph 20.
- 6.3 REQUEST FOR PRODUCTION NO. 6:** See attached Appendix A, documents 11 – 19.

**ARIZONA CORPORATION COMMISSION STAFF'S RESPONSES TO  
TRUXTON CANYON WATER COMPANY, INC.  
FIRST SET OF DATA REQUESTS  
DOCKET NO. W-02247A-10-0247  
October 25, 2010**

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- 7.1 REQUEST FOR ADMISSION NO. 7:** Staff objects to request for admission 7.1 because it is not relevant. Staff further objects because 7.1 is not reasonably calculated to arrive at admissible evidence. Staff further objects that request for admission 7.1 impermissibly attempts to shift the burden of demonstrating the Company's affirmative defenses onto Staff. Moreover, Staff is not required to perform a new investigation for violations that are alleged to have already occurred.

Notwithstanding Staff's objections to request for admission 7.1, Staff responds as follows. Deny. The Company's current status regarding compliance with A.R.S. §40-221, §40-221(C) and A.C.C. R14-2411(D)(2) does not eliminate the occurrence of the violation event. As such, the Company may have dealt with the ongoing violations of A.R.S. §40-221, §40-221(C) and A.C.C. R14-2411(D)(2). However, as alleged within Staff's Complaint and Petition for Order to Show Cause, an event of noncompliance occurred thereby giving rise to a violations of A.R.S. §40-221, §40-221(C) and A.C.C. R14-2411(D)(2).

- 7.2 INTERROGATORY NO. 7:** See response to 7.1. Further, see Staff's Complaint and Petition for Order to Show Cause paragraphs 21 – 24.
- 7.3 REQUEST FOR PRODUCTION NO. 7:** See attached Appendix A: documents 20 & 21. See Truxton Canyon's general accounting ledger.

**ARIZONA CORPORATION COMMISSION STAFF'S RESPONSES TO  
TRUXTON CANYON WATER COMPANY, INC.  
FIRST SET OF DATA REQUESTS  
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October 25, 2010**

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- 8.1 REQUEST FOR ADMISSION NO. 8:** Staff objects to request for admission 8.1 because it is not relevant. Staff further objects because 8.1 is not reasonably calculated to arrive at admissible evidence. Staff further objects that request for admission 8.1 impermissibly attempts to shift the burden of demonstrating the Company's affirmative defenses onto Staff. Moreover, Staff is not required to perform a new investigation for violations that are alleged to have already occurred.

Notwithstanding Staff's objections to request for admission 8.1, Staff responds as follows. Deny. The Company's current status regarding compliance with A.A.C. R14-2-411(D)(1) does not eliminate the occurrence of the violation event. As such, the Company may have dealt with the ongoing violation of A.A.C. R14-2-411(D)(1). However, as alleged within Staff's Complaint and Petition for Order to Show Cause, an event of noncompliance occurred thereby giving rise to a violation of A.A.C. R14-2-411(D)(1).

- 8.2 INTERROGATORY NO. 8:** See response to 8.1. Further, see Staff's Complaint and Petition for Order to Show Cause paragraphs 21 – 24.
- 8.3 REQUEST FOR PRODUCTION NO. 8:** See attached Appendix A: documents 20 & 21. See Truxton Canyon's general accounting ledger.

**ARIZONA CORPORATION COMMISSION STAFF'S RESPONSES TO  
TRUXTON CANYON WATER COMPANY, INC.  
FIRST SET OF DATA REQUESTS  
DOCKET NO. W-02247A-10-0247  
October 25, 2010**

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- 9.1 REQUEST FOR ADMISSION NO. 9:** Staff objects to request for admission 9.1 because it is not relevant. Staff further objects because 9.1 is not reasonably calculated to arrive at admissible evidence. Staff further objects that request for admission 9.1 impermissibly attempts to shift the burden of demonstrating the Company's affirmative defenses onto Staff. Moreover, Staff is not required to perform a new investigation for violations that are alleged to have already occurred.

Notwithstanding Staff's objections to request for admission 9.1, Staff responds as follows. Deny. The Company's current status regarding compliance with A.A.C. R14-1-411(A)(1) and A.A.C. R14-2-411(A)(2) does not eliminate the occurrence of the violation event. As such, the Company may have dealt with the ongoing violations of A.A.C. R14-1-411(A)(1) and A.A.C. R14-2-411(A)(2). However, as alleged within Staff's Complaint and Petition for Order to Show Cause, an event of noncompliance occurred thereby giving rise to violations of A.A.C. R14-1-411(A)(1) and A.A.C. R14-2-411(A)(2).

- 9.2 INTERROGATORY NO. 9:** See response to 9.1. Further, see Staff's Complaint and Petition for Order to Show Cause paragraphs 25 – 30.
- 9.3 REQUEST FOR PRODUCTION NO. 9:** See attached Appendix A: documents 30, 35, 36, 37, 41, 42, 44, 45, 46, 49, & 50.

**ARIZONA CORPORATION COMMISSION STAFF'S RESPONSES TO  
TRUXTON CANYON WATER COMPANY, INC.  
FIRST SET OF DATA REQUESTS  
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October 25, 2010**

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- 10.1 REQUEST FOR ADMISSION NO. 10:** Staff objects to request for admission 10.1 because it is not relevant. Staff further objects because 10.1 is not reasonably calculated to arrive at admissible evidence. Staff further objects that request for admission 10.1 impermissibly attempts to shift the burden of demonstrating the Company's affirmative defenses onto Staff. Moreover, Staff is not required to perform a new investigation for violations that are alleged to have already occurred.

Notwithstanding Staff's objections to request for admission 10.1, Staff responds as follows. Deny. The Company's current status regarding compliance with A.A.C R14-2-406(G) does not eliminate the occurrence of the violation event. As such, the Company may have dealt with the ongoing violation of A.A.C R14-2-406(G). However, as alleged within Staff's Complaint and Petition for Order to Show Cause, an event of noncompliance occurred thereby giving rise to a violation of A.A.C R14-2-406(G).

- 10.2 INTERROGATORY NO. 10:** See response to 10.1. Further, see Staff's Complaint and Petition for Order to Show Cause paragraph 27 – 30.
- 10.3 REQUEST FOR PRODUCTION NO. 10:** See attached Appendix A: documents 26 – 33.

**ARIZONA CORPORATION COMMISSION STAFF'S RESPONSES TO  
TRUXTON CANYON WATER COMPANY, INC.  
FIRST SET OF DATA REQUESTS  
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October 25, 2010**

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- 11.1 REQUEST FOR ADMISSION NO. 11:** Staff objects to request for admission 11.1 because it is not relevant. Staff further objects because 11.1 is not reasonably calculated to arrive at admissible evidence. Staff further objects that request for admission 11.1 impermissibly attempts to shift the burden of demonstrating the Company's affirmative defenses onto Staff. Moreover, Staff is not required to perform a new investigation for violations that are alleged to have already occurred.

Notwithstanding Staff's objections to request for admission 11.1, Staff responds as follows. Deny. The Company's current status regarding compliance with A.A.C. R14-2-406(M) does not eliminate the occurrence of the violation event. As such, the Company may have dealt with the ongoing violation of A.A.C. R14-2-406(M). However, as alleged within Staff's Complaint and Petition for Order to Show Cause, an event of noncompliance occurred thereby giving rise to a violation of A.A.C. R14-2-406(M).

- 11.2 INTERROGATORY NO. 11:** See response to 11.1. Further, see Staff's Complaint and Petition for Order to Show Cause at paragraphs 27 – 30.
- 11.3 REQUEST FOR PRODUCTION NO. 10:** See attached Appendix A: documents 26 – 33.

**ARIZONA CORPORATION COMMISSION STAFF'S RESPONSES TO  
TRUXTON CANYON WATER COMPANY, INC.  
FIRST SET OF DATA REQUESTS  
DOCKET NO. W-02247A-10-0247  
October 25, 2010**

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- 12.1 REQUEST FOR ADMISSION NO. 12:** Staff objects to request for admission 12.1 because it is not relevant. Staff further objects because 12.1 is not reasonably calculated to arrive at admissible evidence. Staff further objects that request for admission 12.1 impermissibly attempts to shift the burden of demonstrating the Company's affirmative defenses onto Staff. Moreover, Staff is not required to perform a new investigation for violations that are alleged to have already occurred.

Notwithstanding Staff's objections to request for admission 12.1, Staff responds as follows. Deny. The Company's current status regarding compliance with A.A.C. R14-2-409(D)(1) does not eliminate the occurrence of the violation event. As such, the Company may have dealt with the ongoing violation of A.A.C. R14-2-409(D)(1). However, as alleged within Staff's Complaint and Petition for Order to Show Cause, an event of noncompliance occurred thereby giving rise to a violation of A.A.C. R14-2-409(D)(1).

- 12.2 INTERROGATORY NO. 12:** See response to 12.1. Further, see Staff's Complaint and Petition for Order to Show Cause paragraphs 27 – 30.
- 12.3 REQUEST FOR PRODUCTION NO. 12:** See attached Appendix A: documents 26 – 33.

**ARIZONA CORPORATION COMMISSION STAFF'S RESPONSES TO  
TRUXTON CANYON WATER COMPANY, INC.  
FIRST SET OF DATA REQUESTS  
DOCKET NO. W-02247A-10-0247  
October 25, 2010**

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- 13.1 REQUEST FOR ADMISSION NO. 13:** Staff objects to request for admission 13.1 because it is not relevant. Staff further objects because 13.1 is not reasonably calculated to arrive at admissible evidence. Staff further objects that request for admission 13.1 impermissibly attempts to shift the burden of demonstrating the Company's affirmative defenses onto Staff. Moreover, Staff is not required to perform a new investigation for violations that are alleged to have already occurred.

Notwithstanding Staff's objections to request for admission 13.1, Staff responds as follows. Deny. The Company's current status regarding compliance with A.R.S. §40-202(L) does not eliminate the occurrence of the violation event. As such, the Company may have dealt with the ongoing violation of A.R.S. §40-202(L). However, as alleged within Staff's Complaint and Petition for Order to Show Cause, an event of noncompliance occurred thereby giving rise to a violation of A.R.S. §40-202(L).

- 13.2 INTERROGATORY NO. 13:** See response to 13.1. Further, see Staff's Complaint and Petition for Order to Show Cause paragraphs 9 – 30.
- 13.3 REQUEST FOR PRODUCTION NO. 13:** See attached Appendix A: documents 1 – 53.

**ARIZONA CORPORATION COMMISSION STAFF'S RESPONSES TO  
TRUXTON CANYON WATER COMPANY, INC.  
FIRST SET OF DATA REQUESTS  
DOCKET NO. W-02247A-10-0247  
October 25, 2010**

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- 14.1 REQUEST FOR ADMISSION NO. 14:** Staff objects to request for admission 14.1 because it is not relevant. Staff further objects because 14.1 is not reasonably calculated to arrive at admissible evidence. Staff further objects that request for admission 14.1 impermissibly attempts to shift the burden of demonstrating the Company's affirmative defenses onto Staff. Moreover, Staff is not required to perform a new investigation for violations that are alleged to have already occurred.

Notwithstanding Staff's objections to request for admission 14.1, Staff responds as follows. Deny. The Company's current status regarding compliance with A.R.S. §40-204(A) does not eliminate the occurrence of the violation event. As such, the Company may have dealt with the ongoing violation of A.R.S. §40-204(A). However, as alleged within Staff's Complaint and Petition for Order to Show Cause, an event of noncompliance occurred thereby giving rise to a violation of A.R.S. §40-204(A).

- 14.2 INTERROGATORY NO. 14:** See response to 14.1. Further, see Staff's Complaint and Petition for Order to Show Cause at paragraphs 21 – 30.
- 14.3 REQUEST FOR PRODUCTION NO. 14:** See attached Appendix A; documents 1, 2, 3, 12 – 33.

**ARIZONA CORPORATION COMMISSION STAFF'S RESPONSES TO  
TRUXTON CANYON WATER COMPANY, INC.  
FIRST SET OF DATA REQUESTS  
DOCKET NO. W-02247A-10-0247  
October 25, 2010**

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- 15.1 REQUEST FOR ADMISSION NO. 15:** Staff objects to request for admission 15.1 because it is not relevant. Staff further objects because 15.1 is not reasonably calculated to arrive at admissible evidence. Staff further objects that request for admission 15.1 impermissibly attempts to shift the burden of demonstrating the Company's affirmative defenses onto Staff. Moreover, Staff is not required to perform a new investigation for violations that are alleged to have already occurred.

Notwithstanding Staff's objections to request for admission 15.1, Staff responds as follows. Deny. The Company's current status regarding compliance with A.R.S. §40-204(B) does not eliminate the occurrence of the violation event. As such, the Company may have dealt with the ongoing violation of A.R.S. §40-204(B). However, as alleged within Staff's Complaint and Petition for Order to Show Cause, an event of noncompliance occurred thereby giving rise to a violation of A.R.S. §40-204(B)

- 15.2 INTERROGATORY NO. 15:** See response to 14.1. Further, see Staff's Complaint and Petition for Order to Show Cause at paragraphs 25 – 26.
- 15.3 REQUEST FOR PRODUCTION NO. 15:** See attached Appendix A: documents 1, 2, 3, 22 – 25, 43, 44, 48.

**Appendix 1**  
**Index of Documents**

1. Truxton Canyon Water's Response to Staff's First Set of Data Requests
2. Truxton Canyon Water's Response to Staff's Second Set of Data Requests
3. Truxton Canyon Water's Response to Staff's Third Set of Data Requests
4. ADEQ Drinking Water Compliance Status Report, October 1, 2010.
5. Letter Re: Truxton Canyon Water Company from Vivian Burns at ADEQ to Steve Wene, September 21, 2010 ("2010 ADEQ Letter to Steve Wene")
6. 2010 ADEQ Consent Order against Truxton Canyon Water ("2010 Consent Order")
7. List of Current Violation ADEQ had on record for Truxton Canyon Water, 2/23/2010 ("2/23/2010 ADEQ List of Violations")
8. ADEQ Sanitary Survey Report, October 14, 2009.
9. 2007 ADEQ Consent Order with Civil Administrative Penalty, Docket No. DW49-07 ("2007 ADEQ Consent Order")
10. 2007 ADEQ Compliance Order with Civil Administrative Penalty, Docket No. DW49-07 ("2007 ADEQ Compliance Order")
11. Engineering Report for Truxton Canyon Water Company, Docket No. U-2168-96-347 ("1996 Staff Engineering Report")
12. Truxton Canyon Water Company Annual Report 2002
13. Truxton Canyon Water Company Annual Report 2003
14. Truxton Canyon Water Company Annual Report 2004
15. Truxton Canyon Water Company Annual Report 2005
16. Truxton Canyon Water Company Annual Report 2006
17. Truxton Canyon Water Company Annual Report 2007
18. Truxton Canyon Water Company Annual Report 2008
19. Truxton Canyon Water Company Annual Report 2009

20. Truxton Canyon Water Company Profit and Loss Statement January through October 2009
21. Truxton Canyon Water Company Profit and Loss Statement January through December 2008.
22. Letter February 5, 2010: From Staff re: Truxton Canyon Water Company Noncompliance with ADEQ dated February 5, 2010.
23. Letter February 17, 2010: From Truxton Water re: Truxton Canyon Water Company Noncompliance with ADEQ dated February 5, 2010.
24. Emails February 17- February 24, 2010 Re: Additional Documentation for Company's Response to Noncompliance Letter Dated February 17, 2010.
25. Letter February 24, 2010: Re Truxton Canyon Water Company Noncompliance with ADEQ.
26. Utility Complain Form – Complaint Number 2009 – 81257
27. Letter October 7, 2009: Re Informal Complaint
28. Letter February 8, 2010: Re Informal Complaint by Mr. James Bacus
29. Arizona Corporation Commission Formal Complaint, Docket No. W 02168A-10-0111
30. Utility Complaint Form – Complaint Number 2009 – 83498
31. Letter December 1, 2009 from Northern Arizona Consolidated Fire District to Arizona Corporation Commission, Re: Truxton Canyon Water.
32. Letter February 23, 2010 from Northern Arizona Consolidated Fire District to Arizona Corporation Commission, Re: NACFD Complaint Against Cerbat and Truxton Canyon Water Companies Mediation Scheduled for February 26, 2010.
33. Email Chain May 18, 2010 through June 9, 2010 Re: NACFD v. Cerbat and Truxton Canyon Water Companies – Hydrant Agreement.
34. Utility Complaint Form – Complaint Number 2007 – 57427
35. Utility Complaint Form – Complaint Number 2007 – 58196
36. Utility Complaint Form – Complaint Number 2007 – 60322
37. Utility Complaint Form – Complaint Number 2007 – 64269
38. Utility Complaint Form – Complaint Number 2008 – 65634

39. Utility Complaint Form – Complaint Number 2008 – 65635
40. Utility Complaint Form – Complaint Number 2008 – 68048
41. Utility Complaint Form – Complaint Number 2009 – 74750
42. Utility Complaint Form – Complaint Number 2009 – 81955
43. Utility Complaint Form – Complaint Number 2009 – 82068
44. Utility Complaint Form – Complaint Number 2009 – 82133
45. Utility Complaint Form – Complaint Number 2009 – 82379
46. Utility Complaint Form – Complaint Number 2009 – 82457
47. Utility Complaint Form – Complaint Number 2009 – 82512
48. Utility Complaint Form – Complaint Number 2009 – 82583
49. Utility Complaint Form – Complaint Number 2009 – 82698
50. Utility Complaint Form – Complaint Number 2009 – 82832
51. Utility Complaint Form – Complaint Number 2009 – 83636
52. Utility Complaint Form – Complaint Number 2009 – 83992
53. Utility Complaint Form – Complaint Number 2010 – 89737

# **ATTACHMENT 3**

1 Steve Wene, No. 019630  
2 MOYES SELLERS & SIMS LTD.  
3 1850 N. Central Avenue, Suite 1100  
4 Phoenix, Arizona 85004  
5 (602)-604-2189  
6 swene@lawms.com  
7 Attorneys for Truxton Canyon Water Company

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AZ CORP COMMISSION  
DOCKET CONTROL

8  
9 **BEFORE THE ARIZONA CORPORATION COMMISSION**

10 **COMMISSIONERS**

11 KRISTIN K. MAYES, CHAIRMAN  
12 GARY PIERCE  
13 PAUL NEWMAN  
14 SANDRA D. KENNEDY  
15 BOB STUMP

16 **IN THE MATTER OF THE**  
17 **COMMISSION ON ITS OWN MOTION**  
18 **INVESTIGATING THE FAILURE OF**  
19 **TRUXTON CANYON WATER**  
20 **COMPANY TO COMPLY WITH**  
21 **COMMISSION RULES AND**  
22 **REGULATIONS.**

Docket No. W-02168A-10-0247

**NOTICE OF FILING OF REBUTTAL  
TESTIMONY AND POTENTIAL  
EXHIBITS**

23 Truxton Canyon Water Company ("Company"), hereby gives notice that it is  
24 filing the rebuttal testimony of the following witnesses:

- 25 • Chris Hopper (Attachment 1); and
- 26 • Rick Neal (Attachment 2).

27 The rebuttal testimony of each of these witnesses is being submitted with this notice. The  
28 potential exhibits are being submitted as exhibits in a separate pleading.

1 RESPECTFULLY SUBMITTED this 10<sup>th</sup> day of December, 2010.

2  
3 MOYES SELLERS & SIMS

4 

5 Steve Wene

6 Attorneys for Truxton Canyon Water Company

7  
8 Original and 13 copies of the foregoing  
9 filed this 10<sup>th</sup> day of December, 2010, with:

10 Docket Control  
11 Arizona Corporation Commission  
12 1200 West Washington  
13 Phoenix, Arizona 85007

14 Copy of the foregoing mailed this  
15 10<sup>th</sup> day of December, 2010, to:

16 Kimberly Ruht  
17 Legal Division  
18 Arizona Corporation Commission  
19 1200 West Washington Street  
20 Phoenix, Arizona 85007

21 

# **Attachment 1**

1  
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**  
3  
4

5 **COMMISSIONERS**

6 KRISTIN K. MAYES, CHAIRMAN

7 GARY PIERCE

8 PAUL NEWMAN

9 SANDRA D. KENNEDY

10 BOB STUMP

11 **IN THE MATTER OF THE**  
12 **COMMISSION ON ITS OWN MOTION**  
13 **INVESTIGATING THE FAILURE OF**  
14 **TRUXTON CANYON WATER**  
15 **COMPANY TO COMPLY WITH**  
16 **COMMISSION RULES AND**  
17 **REGULATIONS**

Docket No. W-02168A-10-0247

**REBUTTAL TESTIMONY OF**  
**CHRIS HOPPER**

18 **Q-1 Please state your name and current employment position:**

19 **A-1** My name is Chris Hopper. I am currently a managing member of Blackhawk  
20 Developers.

21 **Q-2 Describe your educational and professional background:**

22 **A-2** In 1983, I graduated from the University of Nevada at Las Vegas with a B.S. in  
23 Business Administration. From 1983 to 1991, I worked for H&H Door. From 1991 to  
24 2007, I was the principal owner of Hopper Building Supply and Hopper Resources.  
25 From 2007 forward, I have been a managing member of Blackhawk Developers, which  
26 has assumed the management of Truxton Canyon Water Company.  
27  
28

**Q-3 What is the purpose of your testimony?**

1  
2 A-3 The purpose of my testimony is to address issues raised by Staff concerning the  
3 Company's financial matters and record keeping.  
4

5 **Q-4 Please comment on Staff's recommendation that the Commission order**  
6 **Truxton to record its long-term debt obtained from the Trust without prior**  
7 **Commission approval as additional paid-in capital by the Trust.**  
8

9 A-4 Company disagrees with this position, but understands the applicable rules and  
10 Staff's position.  
11

12 **Q-5 Please comment on Staff's recommendation that the Commission order**  
13 **Truxton to bring its accounting books and records into compliance with National**  
14 **Association of Regulatory Utility Commissioners Uniform Systems of Accounts and**  
15 **Generally Accepted Accounting Principles, no later than 30 days from the date of**  
16 **Commission decision in this docket.**  
17

18 A-5 Company has already brought its accounting book and records into compliance  
19 from January 1, 2010, forward. Assuming the Staff does not intend to require the  
20 Company to revise its books and records prior to 2010, then the Company has no problem  
21 with this recommendation.  
22

23 **Q-6 Please comment on Staff's recommendation that the Commission order**  
24 **Truxton to file a rate case no later than September 30, 2011, based on a Test Year**  
25 **ending June 30, 2011.**  
26

27 A-6 The Company anticipates filing a rate case as soon as practical after this  
28 proceeding is resolved.

1 **Q-7 Please comment on Staff's recommendation that the Commission order**  
2 **Truxton to have the Trust grant Staff access to the Trust's accounting books and**  
3 **records, for Staff's regulatory audit, during Truxton's rate case proceedings.**

4  
5 A-7 The Company has no problem giving Staff all financial records that relate to the  
6 water systems and system operations. However, the Trust is not regulated by the  
7 Commission and it has financial data that is personal and unrelated to the water systems,  
8 and the Trust has every right to keep that information confidential.  
9

10 **Q-8 Please comment on Staff's recommendation that the Commission order**  
11 **Truxton to comply with A.A.C. R14-2-411(A)(2) on the issue of timely response to its**  
12 **customers and the Commission.**

13  
14 A-8 The Company has no problem with this recommendation. However, we would ask  
15 that the Commission Staff contact either me or Rick Neal because we are now acting  
16 management for the Company.  
17

18 **Q-9 Please comment on Staff's recommendation that the Commission order**  
19 **Truxton to comply with R14-2-406 on the issue of Main Line Extension Agreement**  
20 **("MXA").**

21  
22 A-9 The Company has no problem with this recommendation.

23 **Q-10 Please comment on Staff's recommendation that the Commission order**  
24 **Truxton to file all its future MXA's for Commission approval.**

25  
26 A-10 The Company has no problem with this recommendation.

27 **Q-11 Please comment on Staff's recommendation that the Company install meters**  
28 **at each interconnection location.**

1 A-11 The Company cannot afford to do so at this time.

2 **Q-12 Does that conclude your testimony?**

3  
4 A-12 Yes.

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# **Attachment 2**

1  
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**  
3  
4

5 **COMMISSIONERS**

6 KRISTIN K. MAYES, CHAIRMAN  
7 GARY PIERCE  
8 PAUL NEWMAN  
9 SANDRA D. KENNEDY  
10 BOB STUMP

11 **IN THE MATTER OF THE**  
12 **COMMISSION ON ITS OWN MOTION**  
13 **INVESTIGATING THE FAILURE OF**  
14 **TRUXTON CANYON WATER**  
15 **COMPANY TO COMPLY WITH**  
16 **COMMISSION RULES AND**  
17 **REGULATIONS**

Docket No. W-02168A-10-0247  
**REBUTTAL TESTIMONY OF**  
**RICK NEAL**

18 **Q-1 Please state your name and current employment position:**

19 A-1 My name is Rick Neal. I am currently a managing member of Blackhawk  
20 Developers.

21 **Q-2 Describe your educational and professional background:**

22 A-2 In 1984, I graduated from Northern Arizona University with a major in civil  
23 engineering. From 1984 to 1989, I worked for McCarthy, a construction firm, in the  
24 Phoenix area as a project engineer and manager. From 1989 to 1991, I was employed in  
25 Washington D.C. essentially lobbying on behalf of agricultural interests. In 1991, I  
26 moved to Las Vegas, Nevada, employed in the building and development industry. In  
27 2007, Chris Hopper and I partnered to form Blackhawk Developers, which is now  
28

1 managing the Truxton Water Company.

2 **Q-3 What is the purpose of your testimony?**

3  
4 A-3 The purpose of my testimony is to address operational issues and regulatory  
5 compliance matters.

6 **Q-4 Please comment on Staff's recommendation that the Commission order**  
7  
8 **Truxton to be fully in compliance with Commission rules and regulations, no later**  
9 **than September 30, 2011.**

10 A-4 The Company is willing to work on any issue that Staff wants resolved within this  
11 time-frame. However, we believe that Staff should identify what rules and regulations  
12 they believe the Company is not in compliance with. The Company has asked Staff  
13 numerous times to identify what problems they believe currently exist, and Staff is  
14 declining to do so. Therefore, the Company asks that the order require Staff to identify  
15 the issues within a reasonable time. Second, if a compliance matter cannot be reasonably  
16 achieved in that time-frame, an exception to this rule should be included. For example,  
17 the arsenic levels exceed the maximum allowable levels, and the Company may need to  
18 finance the construction of an expensive arsenic treatment plant. If that is the case, then a  
19 September 30, 2011 deadline is not realistic.

20  
21 **Q-5 Please comment on Staff's recommendation that the Commission order**  
22  
23 **Truxton to repair all leaks within its water systems, no later than June 30, 2011.**

24  
25 A-5 We are not aware of any specific leak currently. It is impossible to identify and  
26 fix all of the leaks on the system because miles of pipeline are buried and the system is  
27 over 40 years old, so there are undoubtedly leaks that are not known. We know that leaks  
28

1 will continue to occur, so the Company believes it is reasonable to require the Company  
2 to fix any leak within 5 days of discovery, or inform Arizona Corporation Commission  
3 Staff why the leak cannot be fixed within that time-frame, in which case, the Company  
4 must fix it in a reasonable time-frame. For example, if a part needs to be ordered, but it  
5 will not arrive for 3 days, then the Company should have 8 days to fix the leak.  
6

7  
8 **Q-6 Please comment on Staff's recommendation that the Commission order**  
9 **Truxton to maintain no less than 20 psi, under all flow conditions, within its**  
10 **certificated area, no later than June 30, 2011.**

11  
12 A-6 The Company currently maintains 20 psi at the meters within its system. The  
13 Company recognizes, however, that the pressure at an auto repair shop may fall under 20  
14 psi sometimes. This is due to the fact that the auto repair shop is located in an area that is  
15 approximately 500 feet in elevation higher than most of the area served by the Company.  
16 To make matters worse, the auto repair shop was elevated approximately 24 feet above  
17 grade and set back approximately 265 feet from the meter. The Company believes that  
18 the customer should have been required to install a booster on his side of the meter to  
19 maintain pressure. Otherwise, the other Company customers will have to pay for this  
20 expense through rates.  
21

22  
23 **Q-7 Please comment on Staff's recommendation that the Commission order the**  
24 **Trust to immediately cease and desist from providing water service within**  
25 **Truxton's CC&N.**

26  
27 A-7 The Company disagrees that this should be done immediately. The Trust has been  
28 serving the golf course for approximately 40 years. Requiring Valle Vista Property

1 Owners Association to pay the tariff rates for Golf Course water will likely lead to the  
2 golf course turf to go without water and die. The golf course will stop operating and the  
3 community will suffer an extremely adverse impact and their property values will fall  
4 drastically. Alternatively, with the Valle Vista Property Owners Association and  
5 Commission approval, the Trust assigns the contract to Company until its term expires.  
6

7  
8 **Q-8 Please comment on Staff's recommendation that the Commission order the**  
9 **Trust to transfer all its customers within Truxton's CC&N to Truxton, no later than**  
10 **30 days from the effective date of the Commission's Order in this docket.**

11 A-8 This is acceptable so long as the golf course is treated as described above.  
12

13 **Q-9 Please comment on Staff's recommendation that the Commission order**  
14 **Truxton to file a report with Docket Control, no later than 30 days from date of the**  
15 **Commission Order in this proceeding, confirming that the Trust has transferred to**  
16 **Truxton all its customers within Truxton's CC&N, including but not limited to**  
17 **Valle Vista Property Owners Association and its Golf Course.**

18  
19 A-9 This is acceptable so long as the golf course is treated as described above.  
20

21 **Q-10 Please comment on Staff's recommendation that the Commission authorize**  
22 **Staff to appoint an Interim Manager for Truxton, without further action of the**  
23 **Commission, if its rate case filing does not meet sufficiency requirements by**  
24 **November 30, 2011.**

25  
26 A-10 The Company does not agree that the Commission can, or should, take over the  
27 management of the Company if for some reason the Company has not met this  
28 recommendation.

1 **Q-11 Please comment on Staff's recommendation that the Commission order**  
2 **Truxton to be fully in compliance with ADEQ rules and regulations, no later than**  
3 **September 30, 2011, or by the date required in any ADEQ Consent Order,**  
4 **whichever date comes first.**

6 A-11 The order should state that the Company should be in material compliance with all  
7 ADEQ rules and regulations because, strictly speaking, full compliance with ADEQ rules  
8 and regulations is impossible. Further, the order should be consistent with the proposed  
9 consent order offered by ADEQ, and no other deadlines should be imposed.

11 **Q-12 Please comment on Staff's recommendation that the Commission order Staff**  
12 **to appoint an Interim Manager for Truxton, without further action of the**  
13 **Commission, if Truxton is not fully in compliance with all Commission and ADEQ**  
14 **rule and regulations by September 30, 2011.**

16 A-12 We do not believe the Commission can or should appoint an Interim Manager.  
17 Further, as stated above, full compliance is impossible and even material compliance may  
18 be impossible if substantial infrastructure construction is needed and financing needs to  
19 occur. Further, the order should refer to a finding of no major deficiencies, not "full  
20 compliance".

22 **Q-13 Please comment on Staff's recommendation that the Commission order**  
23 **Truxton to file any Notice of Violation ("NOV") issued by ADEQ, with Docket**  
24 **Control within 7 days of receipt of such NOV. Subsequent to the transmission of**  
25 **such NOV, Truxton will continue to provide copies to Docket Control of all relevant**  
26 **documents, including but not limited to any documents or pleadings filed by ADEQ**  
27  
28

1 and/or by Truxton relating to the NOV and the steps Truxton takes to come in  
2 compliance, until the ultimate resolution of the NOV:  
3

4 A-13 The Company is to file any such documentation with the Commission.

5 **Q-14 Please comment on Staff's recommendation that if Truxton fails to file the**  
6 **required documentation form with ADEQ within the required time-frame, or fails**  
7 **to timely provide Docket Control with copies or any NOV as required herein, the**  
8 **Commission should order the Utilities Division Director to commence an OSC**  
9 **proceeding against Truxton, seeking such sanctions and Orders as the Director**  
10 **deems appropriate.**  
11

12 A-14 The Company believes this to be an overreaction.  
13

14 **Q-15 Please comment on Staff's recommendation that the Commission order**  
15 **Truxton to repair any and all leaks in a timely manner and provide Consumer**  
16 **Services Staff with a monthly status report to be filed as a compliance item.**  
17

18 A-15 The Company has no objection to this recommendation.  
19

20 **Q-16 Please comment on Staff's recommendation that the Commission order**  
21 **Truxton to comply with A.A.C. R14-2-411(A)(2) on the issue of timely response to its**  
22 **customers and the Commission.**

23 A-16 The Company has no objection to this recommendation.  
24

25 **Q-17 Please comment on Staff's recommendation that the Commission order**  
26 **Truxton to comply with R14-2-406 on the issue of Main Line Extension Agreement**  
27 **("MXA").**  
28

A-17 The Company has no objection to this recommendation.

1 **Q-18 Does that conclude your testimony?**

2 **A-18 Yes.**

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# **ATTACHMENT 4**

# Truxton Canyon Water Company

7313 E. Concho Dr., Suite B Kingman, AZ 86401  
(928)757-2205 phone (928)757-2217 fax

## VVPOA Bulk Water Billing: Account #1133

### January 2012 Billing for 5 Meters

	<u>December read</u>	<u>January read</u>	<u>Total Usage</u>
MAIN	64841300	66388600	1,547,300
P&P	4500600	4509400	8,800
AUX	47399300	(meter off)	0
ENT	151534000	(meter off)	0
OLE	448220	(off since August)	0
			<b><u>Total Usage for January 2012= 1,556,100</u></b>

**Total Amount Due    \$3,695.78**  
**Water Charges        \$3,458.85**  
**Sales Tax              \$ 236.93**

If you have any questions, feel free to contact me anytime at 928-757-2205.

Michelle Monzillo  
Manager

# **ENCLOSURE 2**

1  
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**

3  
4 **COMMISSIONERS**

5 GARY PIERCE, CHAIRMAN

6 PAUL NEWMAN

7 SANDRA D. KENNEDY

8 BOB STUMP

9 BRENDA BURNS

10 **IN THE MATTER OF THE**  
11 **COMMISSION ON ITS OWN MOTION**  
12 **INVESTIGATING THE FAILURE OF**  
13 **TRUXTON CANYON WATER**  
14 **COMPANY TO COMPLY WITH**  
15 **COMMISSION RULES AND**  
16 **REGULATIONS**

Docket No. W-02168A-10-0247

**REJOINDER TESTIMONY OF  
SONN ROWELL**

17 **Q. Please state your name and current employment position:**

18 **A.** My name is Sonn S. Rowell, and I am a Certified Public Accountant and  
19 managing member of Desert Mountain Analytical Services, PLLC ("DMAS").

20 **Q. Describe your educational and professional background:**

21 **A.** I have a Bachelor of Science Degree in Accounting from Arizona State University,  
22 as well as my CPA certification from the Arizona State Board of Accountancy. I have  
23 worked for many years in the practice of public accounting, and have held part-time  
24 teaching positions at Mesa Community College. After employment with the Utilities  
25 Division of the Arizona Corporation Commission for four years, I started DMAS and  
26 now specialize in regulatory accounting and consulting.  
27  
28

1 **Q. By whom are you employed and in what capacity?**

2 **A.** I have been retained to perform a financial analysis of their books and records of  
3  
4 Truxton Canyon Water Company, Inc. ("Company") in order to prepare rate and finance  
5 applications for submittal to the Arizona Corporation Commission. I have also been  
6 asked to provided some limited rejoinder testimony it the Order to Show Cause  
7 proceeding.  
8

9 **Q. When you reviewed the Company's records, what was your opinion**  
10 **regarding the Company's compliance with NARUC and GAAP?**

11 **A.** Overall, the records were better than I expected. There were some  
12 misclassifications, but that is very typical with small water companies. Small water  
13 companies like Truxton usually keep there books according to the instructions they  
14 receive from their tax accountant who is the only professional accountant they see once a  
15 year. Transactions are booked by nonprofessionals who do not understand the  
16 capitalization rules. Unless the small water company pays a professional who specializes  
17 in regulatory accounting routinely to manage the booking and classifications, their  
18 records are not in compliance with NARUC and GAAP. So while Truxton had some  
19 errors, it is on par with most small water companies.  
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23 **Q. When you reviewed the Company's records, was there anything unusual?**

24 **A.** Yes, the Trust has been making payments to vendors for the benefit of the  
25 Company.  
26

27 **Q. So the Trust was subsidizing the Company?**

28 **A.** Yes.

1 **Q. Recently, the Commission set a new tariff rate for the Golf Course, are you**  
2 **aware of this?**

3 A. Yes.

4 **Q. In surrebuttal, Mr. Abinah stated the new rates applicable to VVPOA's golf**  
5 **course are reasonable. For water service in January, the VVPOA paid**  
6 **approximately \$17,000 less than they were paying previously for water to the golf**  
7 **course and park. What impact do you believe this revenue reduction will have on**  
8 **the Company?**

9 A. Like most small water companies, Truxton survives on a month-to-month basis.  
10 Reducing the Company's revenue by \$17,000 for just one month will cause serious cash  
11 flow problems. If such a loss continues for another month or two, it will cause a serious  
12 shortfall, which can lead to operational problems and an inability to pay operational  
13 costs, such as power bills, repair costs, and salaries. I find it difficult to understand why  
14 the rates are being set so low to serve irrigation water to a golf course knowing that it  
15 could jeopardize water service to the residential customers. This is unprecedented.

16 **Q. Based upon Mr. Abinah's surrebuttal testimony on pages 8-9, Staff's position**  
17 **seems to be that the Trust should transfer the pipeline and wells to the Company**  
18 **and then work out the appropriate price later in the rate case. What is your opinion**  
19 **on that position?**

20 A. I do not know anyone who would agree to sell extremely valuable assets like the  
21 pipeline and wells using that approach. In the rate case, there is currently no expense for  
22 water purchased from the Trust or for debt service that would arise from the Company  
23 financing the purchase of the Trust's wells and pipeline. The Company has presented  
24 several ideas to Staff, but I am not aware of Staff ever stating exactly what it wants to see  
25 happen. I believe the Company wants to buy the Trust wells and pipeline for fair value if  
26 Staff is still demanding that the Trust transfer these assets to the Company. This is  
27 reasonable.  
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1 **Q. Does this conclude your testimony?**

2 **A. Yes.**

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