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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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IN THE MATTER OF THE
APPLICATION OF BLACK MOUNTAIN
SEWER CORPORATION, AN ARIZONA
CORPORATION, FOR A
DETERMINATION OF THE FAIR
VALUE OF ITS UTILITY PLANT AND
PROPERTY AND FOR INCREASES IN
ITS RATES AND CHARGES FOR
UTILITY SERVICE BASED THEREON.

NO. DOCKET NO. SW-02361A-08-0609

STIPULATION OF FACTS

The Boulders Homeowners' Association ("BHOA") and Black Mountain Sewer Corporation ("Black Mountain" or "Company") (collectively, the "Stipulating Parties") by and through undersigned counsel, submit the following Stipulation of Facts. The Stipulating Parties believe that the facts included herein are undisputed. This Stipulation of Facts is being offered in lieu of testimony from BHOA.

1. In the midst of the Boulders residential community sits the Boulders Wastewater Treatment Plant (the "Treatment Plant") that was originally constructed in 1969.

2. The Treatment Plant sits less than 100 feet from three homes, and within 1,000 feet of the Treatment Plant there are 200-300 homes and dining and conference facilities of the Resort.

3. The Treatment Plant is permitted to treat 120,000 gallons per day of wastewater.

4. The Treatment Plant treats about 20 percent of the Company's total wastewater flows.

1 5. Complaints have been received that odors from the Treatment Plant are
2 noticeable by and objectionable to Boulders residents. Such residents have also
3 complained that odors from the Treatment Plant can be irritating and sometimes interfere
4 with residents' opportunity to leave their windows open to enjoy fresh air in the
5 immediate vicinity of the facility. Residents of the Boulders have complained to the
6 Boulders' community manager about odors from the Treatment Plant.

7 6. Complaints from residents regarding odors from the Treatment Plant appear
8 more frequent from October through April.

9 7. Since Decision No. 71865 was issued, the Company has received and
10 logged 23 odor complaints from customers (including a lawsuit filed in Maricopa County
11 Superior Court by a resident living adjacent to the Treatment Plant).

12 8. A portion of the north Boulders golf course is adjacent to the Treatment
13 Plant. Golfers playing the north Boulders golf course have also complained at times of
14 noticeable odors as they pass by the Treatment Plant.

15 9. At times, noises from the operation of the Treatment Plant are noticeable
16 from homes within approximately 400 feet of the Treatment Plant.

17 10. There is periodic traffic (service vehicles, pumper trucks, sub-contractor
18 vehicle parking, dumpsters, etc.) in the Boulders community associated with the
19 Treatment Plant's operations.

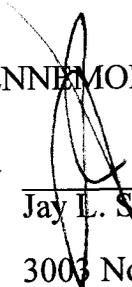
20 11. The Treatment Plant is operated in full compliance with all applicable law
21 and industry standards. In addition, BMSC has taken steps to minimize odors and noises
22 from operation of the facility, including, among many other improvements, the
23 installation of an odor-scrubber.

24 12. It is not feasible to completely eliminate odor and noise from the operation
25 of the Treatment Plant.

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FENNERMORE CRAIG, P.C.

By  _____
Jay L. Shapiro

3003 North Central Avenue, Suite 2600
Phoenix, Arizona 85012
Attorneys for Black Mountain Sewer
Corporation

ORIGINAL and 13 copies filed
this 6th day of March, 2012 with:

Docket Control
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

COPY of the foregoing hand-delivered
this 6th day of March, 2012, to:

Janice Alward, Chief Counsel
Legal Division
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, Arizona 85007

Steven M. Olea, Director
Utilities Division
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, Arizona 85007

Dwight Nodes
Hearing Division
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Robin Mitchell
Attorney, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

///

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1 COPY of the foregoing mailed/mailed
2 this 6th day of March, 2012 to:

3 Jay L. Shapiro
4 Fennemore Craig, PC
5 3003 N. Central Ave., Suite 2600
6 Phoenix, Arizona 85012-2913
7 Attorneys for Black Mountain Sewer Corporation

8 Jodi Jerich, Director
9 Residential Utility Consumer Office
10 1110 W. Washington St., Suite 220
11 Phoenix, Arizona 85007-2958

12 Michael W. Wright
13 Sherman & Howard, LLC
14 7033 East Greenway Parkway, Suite 250
15 Scottsdale, Arizona 85254
16 Attorneys for Town of Carefree

17 Michelle L. Wood
18 Residential Utility Consumer Office
19 1110 W. Washington, Suite 220
20 Phoenix, Arizona 85007

21 Fredric D. Bellamy
22 Michele L. Van Quathem
23 Ryley Carlock & Applewhite, P.A.
24 One North Central Avenue, Suite 1200
25 Phoenix, Arizona 85004-4417
26 Attorneys for Wind P1 Mortgage Borrower,
LLC, dba The Boulders Resort

Janet G. Betts
Sherman & Howard, LLC
7033 East Greenway Parkway, Suite 250
Scottsdale, Arizona 85254
Attorneys for Wind P1 Mortgage Borrower,
LLC, dba The Boulders Resort

Dennis E. Doelle, D.D.S.
7223 E. Carefree Drive
P.O. Box 2506
Carefree, Arizona 85377

M.M. Schirtzinger
34773 N. Indian Camp Trail
Scottsdale, Arizona 85266

26 