

**ORIGINAL  
INTERVENTION**



0000139465

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

**RECEIVED**

2 COMMISSIONERS

3 GARY PIERCE, Chairman  
4 BOB STUMP  
5 SANDRA D. KENNEDY  
6 PAUL NEWMAN  
7 BRENDA BURNS

2012 SEP - 1 P 4: 24

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

**DOCKETED**

SEP 07 2012

DOCKETED BY

8 IN THE MATTER OF THE  
9 INVESTIGATION OF THE FAILURE OF  
10 BELLEMONT WATER COMPANY, AN  
11 ARIZONA PUBLIC SERVICE  
12 CORPORATION, AND BELLEMONT  
13 WATER COMPANY SHAREHOLDERS  
14 BRAD NESS, GLORIA NESS, ERIK NESS,  
DIANAH NESS, (AKA DIANA NESS),  
OPERATING AS AN ARIZONA PUBLIC  
SERVICE CORPORATION IN FACT, TO  
COMPLY WITH ARIZONA STATUTES  
AND COMMISSION RULES AND  
REGULATIONS.

Docket No. W-02526A-10-0499

**APPLICATION OF STEVEN D.  
ADAMS AND JANET A. ADAMS  
FOR LEAVE TO INTERVENE**

15  
16 Pursuant to A.A.C. R14-3-105, Steven D. Adams and Janet A. Adams, husband  
17 and wife (collectively "Adams") hereby apply the Arizona Corporation Commission  
18 (the "Commission") for an Order granting Adams leave to intervene in the above  
19 captioned proceeding.

20 On September 13, 2010, Adams entered into a loan agreement with the  
21 Bellemont Water Company ("BWC") and several of its shareholders. The money from  
22 the loan agreement provided the funds which resulted in the dismissal with prejudice  
23 of BWC and all BWC shareholders who are members of the Ness Family (Brad Ness,  
24 Gloria Ness, Erik Ness, Dianah Ness, Elliott Ness and Klaudia Ness, collectively  
25 referred to as the "Ness Family Shareholders") from litigation in Coconino County  
26 filed by the previous majority owners of BWC. One day before the scheduled closing

1 of the loan transaction, Adams and several of the Ness Family Shareholders signed an  
2 amended loan agreement which substituted BWC as the sole borrower. The debt  
3 obligation from BWC was also secured by a deed of trust on real property owned by  
4 BWC.

5 When the Ness Family Shareholders and BWC defaulted in making payments,  
6 Adams sought to foreclose on the parcel of BWC real property identified in the deed of  
7 trust. On August 26, 2011, Adams received a letter from Bridget A. Humphrey, staff  
8 attorney for the Commission, stating that because the Commission had not previously  
9 approved and authorized the long-term debt between BWC and Adams, the transaction  
10 was void pursuant to A.R.S. § 40-301, *et seq.* Accordingly, Adams is not only directly  
11 interested but has already been affected by this proceeding, and therefore the  
12 Commission should grant Adams leave to intervene in this matter.

13 In addition Adams has filed a Complaint in the Superior Court of Coconino  
14 County against BWC and all of the individual Ness Family Shareholders. Adams'  
15 Complaint seeks to recover monies owed by BWC and the Ness Family Shareholders  
16 pursuant to the loan agreement. The Complaint also seeks other relief including  
17 damages against BWC arising out of the violation of A.R.S. § 40-423. The issues  
18 which Adams intends to raise in this proceeding relate to the management of BWC and  
19 decisions made by the Ness Family Shareholders. Adams also seeks to recover any  
20 proceeds from any potential sale of shares of stock in BWC. It is Adams'  
21 understanding that the Commission and Respondents have already consented to the  
22 entry of an injunction prohibiting BWC or Respondents from participating in the  
23 management of public utility or removing any funds therefrom. Therefore, Adams'  
24 participation in this proceeding will neither broaden the issues nor unduly delay the  
25 instant proceeding, except upon leave of the Commission.

26 For all the reasons outlined above Adams respectfully request that the  
Commission grant the Application for Leave to Intervene in this matter.

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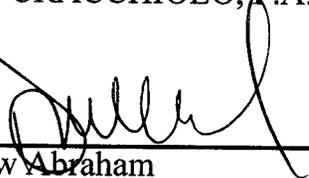
1 Adams further request that all communications in connection with the above  
2 captioned proceeding be directed to:

3  
4 Andy Abraham  
5 David M. Villadolid  
6 Steven J. Lippman  
7 **BURCH & CRACCHIOLO, P.A.**  
8 702 E. Osborn Road, Suite 200  
9 Phoenix, Arizona 85014  
10 aabraham@bcattorneys.com  
11 dvilladolid@bcattorneys.com  
12 sjlippman@bcattorneys.com

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RESPECTFULLY SUBMITTED this 7<sup>th</sup> day of September, 2012.

BURCH & CRACCHIOLO, P.A.

By

  
Andrew Abraham  
David M. Villadolid  
Steven J. Lippman  
702 E. Osborn Road, Suite 200  
Phoenix, AZ 85014  
*Attorneys for Adams*

1 **ORIGINAL and 13 COPIES** of the foregoing  
2 **FILED** this 7<sup>th</sup> day of September, 2012 with:

3 Docket Control  
4 ARIZONA CORPORATION COMMISSION  
5 1200 W. Washington  
6 Phoenix, Arizona 85007

7 **COPIES** of the foregoing was **MAILED**  
8 This 7<sup>th</sup> day of September, 2012 to:

9 Klaudia Ness  
10 5303 E. Cortland Blvd. D-5  
11 Flagstaff, Arizona 86004

12 Elliott Ness  
13 5303 E. Cortland Blvd. D-5  
14 Flagstaff, Arizona 86004

15 Brad Ness  
16 3960 N. Pinal Street  
17 Kingman, Arizona 86409

18 Gloria Ness  
19 3960 N. Pinal Street  
20 Kingman, Arizona 86409

21 Erik Ness  
22 3960 N. Pinal Street  
23 Kingman, Arizona 86409

24 Dianah Ness  
25 3960 N. Pinal Street  
26 Kingman, Arizona 86409

Bellemont Water Company  
c/o Tevis Reigh  
7350 Hutton Ranch Road  
Flagstaff, Arizona 86004

