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**BEFORE THE ARIZONA CORPORATION COMMISSION**

IN THE MATTER OF THE APPLICATION  
OF TRUXTON CANYON WATER  
COMPANY, INC. FOR APPROVAL OF A  
RATE INCREASE.

DOCKET NO. W-02168A-11-0363

IN THE MATTER OF THE APPLICATION  
OF TRUXTON CANYON WATER  
COMPANY, INC. FOR APPROVAL OF A  
REVISION OF THE COMPANY'S  
EXISTING TERMS AND CONDITIONS OF  
WATER SERVICE.

DOCKET NO. W-02168A-13-0309

IN THE MATTER OF THE APPLICATION  
OF TRUXTON CANYON WATER  
COMPANY, INC. FOR AUTHORITY TO  
INCUR LONG-TERM DEBT.

DOCKET NO. W-02168A-13-0332

**NOTICE OF FILING REBUTTAL  
TESTIMONY OF WES STEWART**

Intervenor Valle Vista Property Owners Association, Inc. hereby submits the  
Rebuttal Testimony of Wes Stewart in the above captioned Dockets.

RESPECTFULLY SUBMITTED this 27<sup>th</sup> day of December 2013.

FENNEMORE CRAIG, P.C.

Arizona Corporation Commission

**DOCKETED**

DEC 27 2013

DOCKETED BY

By

Todd C. Wiley  
Attorneys for Valle Vista Property Owners  
Association, Inc.

1 ORIGINAL and 13 copies  
2 of the foregoing was filed  
3 this 27<sup>th</sup> day of December 2013,  
4 with:

5 Docket Control  
6 Arizona Corporation Commission  
7 1200 West Washington Street  
8 Phoenix, Arizona 85007

9 A COPY of the foregoing  
10 was hand-delivered/mailed this  
11 27<sup>th</sup> day of, December 2013, to:

12 Yvette B. Kinsey  
13 Administrative Law Judge  
14 Arizona Corporation Commission  
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7 **BEFORE THE ARIZONA CORPORATION COMMISSION**

8 IN THE MATTER OF THE APPLICATION  
9 OF TRUXTON CANYON WATER  
COMPANY, INC. FOR APPROVAL OF A  
10 RATE INCREASE.

DOCKET NO. W-02168A-11-0363

11 IN THE MATTER OF THE APPLICATION  
12 OF TRUXTON CANYON WATER  
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13 REVISION OF THE COMPANY'S  
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WATER SERVICE.

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15 OF TRUXTON CANYON WATER  
COMPANY, INC. FOR AUTHORITY TO  
16 INCUR LONG-TERM DEBT.

DOCKET NO. W-02168A-13-0332

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21 **REBUTTAL TESTIMONY OF**

22 **WES STEWART**

23  
24 **December 27, 2013**  
25  
26

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1 **I. INTRODUCTION AND PURPOSE OF REBUTTAL TESTIMONY**

2 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS PROCEEDING?**

3 A. I am testifying on behalf of Valle Vista Property Owners Association (“VVPOA”)  
4 in this docket. VVPOA has intervened in this case in response to Truxton Canyon  
5 Water Company’s substantial proposed rate increases applicable to VVPOA. I  
6 previously filed direct testimony on behalf of VVPOA explaining VVPOA’s issues  
7 and positions in this case.

8 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY HERE?**

9 A. As noted in my direct testimony, VVPOA intervened in this docket to protect its  
10 interests in light of the substantial water rate increases proposed by Truxton. As  
11 stated in prior testimony, VVPOA has been hit extremely hard by the economy,  
12 which has depleted financial reserves and left VVPOA in a precarious financial  
13 position. VVPOA’s cost of water for its various community facilities is critical to  
14 its ongoing viability and that of the Valle Vista community. The simple reality is  
15 that VVPOA can’t afford to pay the rate increases requested by Truxton. In this  
16 rebuttal testimony, I respond to rebuttal testimony submitted by Truxton relating to  
17 Truxton’s proposed transfer of assets owned by the Neal Family Trust to Truxton  
18 and the Company’s proposal to pass on substantial costs of that transfer to rate  
19 payers, including VVPOA.

20 **II. PROPOSED RATES FOR VVPOA**

21 **Q. BEFORE ADDRESSING THOSE ISSUES, WHAT IS VVPOA’S**  
22 **PROPOSAL FOR RATES APPLICABLE TO WATER SERVICES FOR**  
23 **VVPOA?**

24 A. As stated in my direct testimony, VVPOA proposes that the Commission approve a  
25 permanent rate for VVPOA set at \$1.70/1000 gallons for the first 15,000,000  
26 gallons per month provided to VVPOA (across all of its meters) and \$1.90 per

1 1,000 gallons for any amounts above 15,000,000 gallons (again, across all of its  
2 meters). VVPOA believes it can afford to pay those rates. Since the beginning of  
3 2012, VVPOA has maintained its ability to pay the \$1.70/\$1.90 permanent rate.

4 **Q. IS VALLE VISTA A KEY PART OF THE COMMUNITY?**

5 A. Yes, absolutely. VVPOA's facilities and amenities are center pieces of the  
6 community and are a prime selling point for the community and its residents.  
7 Specifically, the Valle Vista community park houses a pool, tennis court,  
8 basketball court and kids playground. The Valle Vista golf course lies within the  
9 community of Valle Vista with over 4,300 available home sites. Valle Vista would  
10 not be able to sustain its amenities if it weren't for the revenue derived from its  
11 assessments as well as revenue from the golf course. VVPOA, a non-profit  
12 corporation, has operated many years in the red. We believe that adopting the  
13 \$1.70/\$1.90 proposed rates for VVPOA will allow VVPOA to continue to operate  
14 and allow the Valle Vista Development to continue and prosper.

15 **Q. WHAT IS TRUXTON'S RESPONSE TO THAT RATE PROPOSAL?**

16 A. In some revised rate schedules filed with Docket Control (VVPOA did not receive  
17 copies of those revised filings), Truxton seemingly agreed to the proposed  
18 \$1.70/\$1.90 rates for VVPOA. Further, in his rebuttal testimony, Mr. Neal stated  
19 that he "is not opposed to charging VVPOA commodity rates of \$1.70 per 1,000  
20 gallons of water for 0-15,000,000 gallons of water delivered each month and \$1.90  
21 per 1,000 gallons thereafter."<sup>1</sup>

22 **Q. PLEASE EXPLAIN HOW VVPOA OPERATES AND WHO IT**  
23 **REPRESENTS?**

24  
25

26 <sup>1</sup> Rebuttal Testimony of R. Neal at 4:1-4.

1 A. As I stated in my direct testimony, VVPOA is a non-profit corporation acting as  
2 the property owners association for the Valle Vista development. The membership  
3 of VVPOA is comprised strictly of property owners in Valle Vista, including most  
4 of Truxton's residential water customers. VVPOA is community operated and  
5 owned. What that means is that because we are community owned and operated,  
6 any cost increases imposed on VVPOA ultimately fall on its residential property  
7 owners (*i.e.*, Truxton's residential customers) through either (1) increased  
8 assessments, fees or prices for services provided by VVPOA, including operation  
9 of the golf course or (2) a drastic reduction in operation of the golf course and  
10 related amenities. As I explained in my direct testimony, it is highly unlikely that  
11 VVPOA will be able to pass any increased water rates on to its property owners  
12 through an increased assessment. That's why it is critical to set an affordable rate  
13 for VVPOA, especially given that VVPOA is Truxton's biggest water customer.

14 **Q. WHAT WOULD HAPPEN IF THE COMMISSION ADOPTED A HIGHER**  
15 **RATE STRUCTURE OR PASSED ADDITIONAL COSTS ON TO**  
16 **CUSTOMERS FOR TRANSFER OF THE TRUST'S ASSETS AND VVPOA**  
17 **CAN'T MAKE UP THAT REVENUE SHORTFALL?**

18 A. Simply put, the golf course and related amenities would not be able to stay in  
19 business. As demonstrated in my direct testimony, VVPOA simply cannot afford a  
20 nearly \$100,000 or more cost increase for water. That would be to the extreme  
21 detriment of VVPOA, Truxton's existing rate payers and property owners in the  
22 Valle Vista Development. As I mentioned in my direct testimony, if VVPOA  
23 ceased operations, then Truxton would lose its biggest water customer and the lost  
24 revenue would have to be made up by residential customers.

25  
26

1 **III. ARSENIC TREATMENT COSTS**

2 **Q. WHAT IS VVPOA'S POSITION RELATING TO TRUXTON'S PROPOSED**  
3 **ARSENIC TREATMENT FACILITIES?**

4 A. Truxton seeks Commission approval for \$1,819,208 in financing for the cost of  
5 acquiring and installing plant to treat and blend water to resolve arsenic  
6 compliance issues, along with the acquisition of wells and transmission lines  
7 currently owned by the Neal Family Trust. I address the Truxton's proposed costs  
8 for acquisition of the Trust's assets below. With respect to arsenic treatment,  
9 VVPOA does not believe it should pay for the costs of arsenic treatment. VVPOA  
10 uses bulk irrigation water. As a result, it is not fair for VVPOA to pay for arsenic  
11 treatment when VVPOA is using non-potable irrigation water. VVPOA supports  
12 Truxton's attempts to build an arsenic treatment system and believes such system  
13 is in the public interest of Truxton's customers. Even so, arsenic treatment is not  
14 necessary for the non-potable water service provided to VVPOA. The arsenic  
15 levels do not directly affect irrigation of the golf course.

16 **Q. WHAT IS TRUXTON'S RESPONSE TO THAT POSITION TAKEN BY**  
17 **VVPOA?**

18 A. On page 4 of his rebuttal testimony, Mr. Neal states that "[t]he Company also  
19 understands there is no need to treat arsenic for irrigation. But the cost of the  
20 improvements will then fall upon the other customers."<sup>2</sup> Of course, the costs for  
21 such facilities should be borne by the customers that use and benefit from such  
22 facilities. The notion that VVPOA should bear the costs of arsenic treatment given  
23 that VVPOA does not need and would not benefit from arsenic treated water  
24 would be patently unfair.

25  
26 <sup>2</sup> Rebuttal Testimony of R. Neal at 4:5-8.

1 **IV. TRUXTON'S ATTEMPT TO FINANCE OWNER PROFIT**

2 **Q. LET'S TALK ABOUT TRUXTON'S PROPOSED PURCHASE OF THE**  
3 **WELLS AND TRANSMISSION LINES OWNED BY THE NEAL FAMILY**  
4 **TRUST AND TRUXTON'S PROPOSED COSTS TO BE PASSED ON TO**  
5 **RATEPAYERS OF \$1,400,000. WHAT IS VVPOA'S RESPONSE TO THAT**  
6 **PROPOSAL?**

7 A. Simply put, VVPOA believes that it and customers should not pay any increased  
8 rates for Truxton's acquisition of the wells and transmission lines owned by the  
9 Neal Family Trust. VVPOA fully supports Commission Staff's treatment of that  
10 acquisition costs at zero dollars for the reasons stated by Commission Staff.

11 **Q. DO YOU HAVE ANY OTHER COMMENTS ON THIS ISSUE?**

12 A. Yes, there are several issues and concerns that Truxton did not disclose or address  
13 in its testimony on this issue. To start, Truxton did not address how the Neal  
14 Family Trust acquired those assets, when the Trust acquired those assets or how  
15 much the Trust paid for those assets. It is our understanding that that the wells  
16 were drilled from 1943 on into the 1960's. We are not certain, but the wells may  
17 have been put in by the Neal Family. It is my understanding that the Army Corps  
18 of Engineers put in the infrastructure from Hackberry to the military installation  
19 and/or munitions plant in the 1940s. The details of how the Neals acquired the  
20 transmission lines are unclear. We believe the Neals may have acquired the  
21 transmission lines from the Santa Fe Railroad. We also believe that the Trust used  
22 those transmission lines to provide water to the City of Kingman until the City  
23 constructed its own water system.

24 **Q. PLEASE CONTINUE.**

25 A. Commission Staff has concluded that the plant and infrastructure are fully  
26 depreciated and VVPOA completely agrees with that finding. In its rebuttal

1 testimony, Truxton's witnesses focus on the replacement costs of the transmission  
2 lines and the wells. Unfortunately, however, Truxton does not address the fact that  
3 the Trust and Truxton did not invest in ongoing upgrades or improvements to the  
4 system over the years. The notion that a prospective buyer would pay \$1.4 million  
5 or more for a system that is fully depreciated, in poor condition and in need of  
6 substantial replacement is simply not supported by this record.

7 **Q. DID THE TRUST PROFIT FROM USING THE SYSTEM TO SELL**  
8 **WATER TO VVPOA AND OTHER CUSTOMERS?**

9 **A.** Absolutely. Not only did the Trust not invest in improvements and upgrades to the  
10 infrastructure, but the Trust used that system to provide irrigation water to VVPOA  
11 for many years, in turn, taking in a substantial amount of revenue from VVPOA  
12 since the Valle Vista Development came into existence in the 1970s. Commission  
13 Staff previously suggested that the Trust violated Commission regulations by  
14 selling water to VVPOA without a CC&N and within Truxton's service territory.  
15 We estimate that VVPOA paid the Trust in excess of approximately \$2,000,000  
16 since 2002, and not including the prior years. To say the least, it is a "double  
17 billing" to VVPOA to now seek to include the costs for transferring that  
18 infrastructure to Truxton in rates. The Neal Family Trust has already profited for  
19 years from this system and the Commission should not allow the Trust and Truxton  
20 to fabricate another level of affiliate profit by creating a \$1.4 transfer from the  
21 Trust to Truxton, especially since the Trust invested very little of that revenue in  
22 the water system infrastructure over the years and given that the infrastructure is  
23 fully depreciated and in need of substantial repair. The Commission also should  
24 not reward the Trust for failing to invest in system improvements over the years by  
25 now selling the assets to Truxton for \$1.4M.

26

1 Q. WHAT DO YOU MEAN THAT THE TRUST PROFITED FROM THE  
2 SYSTEM?

3 A. The Neal Family Trust used those facilities to sell bulk water to VVPOA for many,  
4 many years and we believe that the Trust has more than earned its money back.  
5 My understanding is that the Corporation Commission has a policy preventing  
6 utility owners from seeking affiliate profit on internal transactions from being  
7 charged to ratepayers. That policy is even more applicable here given the Trust's  
8 history of using and neglecting that system. Given that the Neal Family Trust is  
9 the sole shareholder of Truxton, neither VVPOA nor water customers should pay  
10 any increased rates or charges applicable to Truxton for the purchase of those  
11 assets from the Trust. As the owner of Truxton, the Trust has an obligation to  
12 provide necessary facilities and infrastructure allowing Truxton to provide  
13 adequate utility service. The Commission should reject Truxton's attempt to create  
14 another level of affiliate profit for the Trust. That is especially true for VVPOA  
15 given that Truxton has not provided adequate water service to VVPOA on several  
16 occasions. In 2011, VVPOA went 30 days without watering the course due to  
17 Truxton breakdowns. It has taken nearly two years for the golf course to recover.  
18 The Commission should reject Truxton's attempts to increase VVPOA's rates so  
19 substantially for the simple reason that the Trust and Truxton have failed to  
20 provide adequate water service to VVPOA in July, August and September 2011.  
21 In July 2011, two of the Trust's wells in the Hackberry Well Field and the Valley  
22 Well, which is used to provide sufficient or adequate water service to VVPOA  
23 during the summer, failed and went out of service. The outages occurred again in  
24 August 2011. As a result, the Trust failed to provide water service to VVPOA for  
25 a period of several weeks in July and August 2011, which caused substantial harms  
26 to VVPOA. To make matters worse, Truxton and the Trust again failed to provide

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water to VVPOA from September 2-7, 2011 (the Valley Well went out of service again). Additionally, VVPOA was without adequate water service for a total of 23 days in 2012, including one stretch of 10 days straight and for 29 days in 2013 with a 21 day stretch in April that again caused stress to the golf course, park and pool. Truxton's attempts to now increase customer rates so that it can undertake financing to pay \$1.4 million in profit to its owner is absurd and should be rejected.

**V. CONCLUSION**

**Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

A. Yes. In summary, VVPOA requests that the Commission approve the proposed rate structure for VVPOA of \$1.70/1000 gallons for the 0-15,000,000 gallons of water and \$1.90/1000 gallons for more than 15,000,000 gallons of water. VVPOA also requests that the Commission not assess the costs of arsenic treatment in VVPOA's irrigation water rates. VVPOA requests that the Commission reject Truxton's attempt to obtain financing and charge ratepayers for the transfer of the Trust's infrastructure and facilities. VVPOA requests that the Commission adopt Commission Staff's recommendations on these issues.