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

6 IN THE MATTER OF THE APPLICATION
OF PAYSON WATER CO., INC., AN
7 ARIZONA CORPORATION, FOR A
DETERMINATION OF THE FAIR VALUE
8 OF ITS UTILITY PLANTS AND
PROPERTY AND FOR INCREASES IN ITS
9 WATER RATES AND CHARGES FOR
UTILITY SERVICE BASED THEREON.

DOCKET NO: W-03514A-13-0111

ORIGINAL

10
11 IN THE MATTER OF THE APPLICATION
OF PAYSON WATER CO., INC., AN
12 ARIZONA CORPORATION, FOR
AUTHORITY TO: (1) ISSUE EVIDENCE
13 OF INDEBTEDNESS IN AN AMOUNT
NOT TO EXCEED \$1,238,000 IN
14 CONNECTION WITH INFRASTRUCTURE
IMPROVEMENTS TO THE UTILITY
15 SYSTEM; AND (2) ENCUMBER REAL
PROPERTY AND PLANT AS SECURITY
16 FOR SUCH INDEBTEDNESS.

DOCKET NO: W-03514A-13-0142

**NOTICE OF FILING
SUPPLEMENTAL REJOINDER
TESTIMONY**

17
18 At the request of the Administrative Law Judge, Payson Water Co., Inc. hereby
19 submits supplemental rejoinder testimony in the above-referenced matter. Specifically
20 filed herewith are the supplemental rejoinder testimonies of Jason Williamson and
21 Thomas J. Bourassa.

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Arizona Corporation Commission
DOCKETED
JAN 15 2014

DOCKETED BY

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RESPECTFULLY SUBMITTED this 15th day of January, 2014.

FENNEMORE CRAIG, P.C.

By



Jay L. Shapiro
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ORIGINAL and thirteen (13) copies
of the foregoing were filed
this 15th day of January, 2014, with:

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

COPY of the foregoing was hand delivered
this 15th day of January, 2014, to:

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CONNECTION WITH INFRASTRUCTURE
IMPROVEMENTS TO THE UTILITY
SYSTEM; AND (2) ENCUMBER REAL
PROPERTY AND PLANT AS SECURITY
FOR SUCH INDEBTEDNESS.

DOCKET NO: W-03514A-13-0142

18
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20 **SUPPLEMENTAL REJOINDER TESTIMONY OF**
21 **JASON WILLIAMSON**

22
23
24 **January 15, 2014**
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8815417.1/073283.0006

1 **I. INTRODUCTION, PURPOSE AND SUMMARY**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Jason Williamson. My business address is 7581 E. Academy
4 Boulevard, Suite 229, Denver, Colorado 80230.

5 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

6 A. On behalf of the Applicant, Payson Water Co., Inc. ("PWC" or the "Company").

7 **Q. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY IN THIS**
8 **PROCEEDING?**

9 A. Yes. In Phase 1, I submitted direct testimony in support of the Company's request
10 to consolidate and expedite the financing and rate applications, and in response to
11 the Staff Report. I also testified at the Phase 1 hearings in late September 2013.
12 In this Phase 2, I submitted rebuttal and rejoinder testimonies. As stated in my
13 rejoinder, I am also adopting the direct testimony of the prior President,
14 Robert Hardcastle, because he no longer has any interest in or association with
15 PWC.

16 **Q. WHAT IS THE PURPOSE OF THIS SUPPLEMENTAL REJOINDER**
17 **TESTIMONY?**

18 A. At the request of the Administrative Law Judge, I will address the issue of the
19 condemnation of the Star/Quail Valley system, which was raised in Staff's direct
20 testimony and in Intervenor Kathleen Reidhead's ("KMR") surrebuttal testimony.
21 I will also respond to Intervenor Thomas Bremer's ("Bremer") recent filing
22 regarding East Verde Park ("EVP"). Finally, I will address the Company's
23 concerns and requests regarding the timing of the implementation of new rates.
24
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1 **II. CONDEMNATION OF STAR/QUAIL VALLEY SYSTEM**

2 **Q. IN HER SURREBUTTAL TESTIMONY, KMR CLAIMS THE**
3 **STAR/QUAIL VALLEY SYSTEM IS AN ASSET THAT IS “MISSING.”**
4 **IS THIS SYSTEM MISSING?**

5 A. No. The Town of Star Valley (“Town”) condemned this system.

6 **Q. DO YOU KNOW WHY THE SYSTEM WAS CONDEMNED,**
7 **MR. WILLIAMSON?**

8 A. The condemnation occurred before JW Water Holdings, LLC bought the stock of
9 PWC from Brooke Utilities. I don’t know the details. But, my general
10 understanding is that the Town became interested in running its own water system
11 and approached PWC on two different occasions in the past several years –
12 the second time sometime in or around 2011. The court issued its condemnation
13 order in April 2012. Star Valley took possession of the Star/Quail Valley system
14 on May 1, 2012.¹ Again, this was just over a year before we bought the stock.

15 **Q. DO YOU KNOW WHAT HAPPENED TO THE PROCEEDS FROM THE**
16 **CONDEMNATION JUDGMENT?**

17 A. It appears the proceeds were used primarily to pay bills as well as to provide a
18 dividend to the previous shareholder before we bought the stock. The Company’s
19 consultant, Mr. Bourassa, more fully explains this in his supplemental rejoinder
20 testimony.²

21 **Q. IS THERE REASON TO BELIEVE THAT PWC WAS BEHAVING BADLY**
22 **OR ILLEGALLY, OR THAT THERE WAS SOMETHING WRONG WITH**
23 **THESE ASSETS TO HAVE THEM CONDEMNED?**

24 A. Absolutely not. The word “condemnation” seems to have a negative connotation.

25

¹ See Exhibit JW-SRJ1.

26 ² Supplemental Rejoinder Testimony of Thomas J. Bourassa at 3.

1 But, the condemning of assets does not necessarily mean that there is anything
2 wrong or bad or illegal going on. In fact, condemnation proceedings are not all
3 that unusual – the power of eminent domain goes back to the Bill of Rights.
4 Here, the Town wanted the Star/Quail Valley system and exercised its
5 governmental powers to acquire it by paying fair market value.

6 **Q. IN HER SURREBUTTAL TESTIMONY, KMR ASSERTS THAT PWC IS**
7 **“LIABLE” TO THE CUSTOMERS FOR THE “LOSS” OF THE**
8 **STAR/QUAIL VALLEY SYSTEM. HOW DO YOU RESPOND?**

9 A. First of all, the condemnation was not a “loss.” The Town took the system and
10 paid for it. All adjustments related to owning and operating Star/Quail Valley were
11 made to the Company’s books. Yes, the fair value of PWC’s plant decreased as a
12 result, however, this doesn’t mean the Company became worse off financially.
13 It just got smaller. It certainly didn’t cause any expense to the customers that are
14 still on one of PWC’s systems.

15 **Q. PLEASE CONTINUE.**

16 A. KMR’s assertion that PWC is liable to the customers is simply uninformed. I will
17 leave the law to the lawyers, but customers pay for utility service. Just because
18 customers pay rates does not mean they have an ownership interest in PWC or its
19 plant. It is the shareholders not the customers that are entitled to proceeds of a
20 condemnation because it is the shareholders who have lost assets – in this case
21 revenue producing assets.

22 **Q. WHICH SHAREHOLDER LOST ASSETS?**

23 A. Brooke Utilities. That entity had its assets taken by the Town, that entity decided
24 what to do with the proceeds, and then that entity sold JW Holdings the stock a
25 little over a year later. Therefore, the current shareholder did not receive any
26 benefit or compensation from the condemnation.

1 Q. BUT DIDN'T THE CURRENT SHAREHOLDER PAY LESS TO BUY THE
2 STOCK THAN IT WOULD HAVE HAD THE STAR/QUAIL VALLEY
3 SYSTEM STILL BEEN THERE?

4 A. Presumably. The fair market value of a water utility with roughly a third more
5 customers is going to be higher. But we paid for what we bought – the stock of a
6 water company that no longer owned or served the Star/Quail Valley system.
7 Until KMR raised it, we did not see it as an issue for this rate case.

8 Q. DIDN'T MS. BROWN ADDRESS THE CONDEMNATION IN HER
9 DIRECT TESTIMONY?

10 A. Yes, she said that the proceeds belonged to the Company, and then she made an
11 adjustment to CIAC that we disagree with and which has been fully addressed in
12 earlier testimony.³ Staff has not recommended any other relief.

13 Q. DO YOU AGREE THAT THE MONEY BELONGED TO THE COMPANY?

14 A. Yes, frankly I am not sure whom else it could have belonged to. It was the
15 Company's money, not the customers,' and the shareholder, then Brooke, decided
16 what the Company should do with the money. But the taking of the Star/Quail
17 Valley system reduced the fair market value of the stock, so it was really just the
18 shareholder's payment for the loss of a revenue-producing asset – that system.

19 Q. COULDN'T THE MONEY HAVE BEEN USED TO IMPROVE THE
20 SYSTEM?

21 A. I am not going to speculate about what could have been done with money that the
22 prior owners decided should go somewhere else. I might have chosen to reinvest
23 it, but I was not given that option. So, I am going to focus on this utility's current
24 concerns, and there are plenty of them.

25

26

³ Direct Testimony of Crystal S. Brown at 7-8.

1 **III. SUPPLEMENTAL REJOINDER TO BREMER**

2 **A. REQUEST FOR EVP HAULING SURCHARGE**

3 **Q. BREMER STATES THAT EVP STRONGLY OPPOSES PWC'S REQUEST**
4 **FOR A HAULING SURCHARGE. HOW DO YOU RESPOND?**

5 A. With the current production available in EVP, the Company is concerned that it
6 will be unable to maintain water service during the entirety of the summer months.
7 It is possible that hauling could be minimal or even unnecessary. But the previous
8 years' shortages reveal the unpredictability of the supply.⁴

9 **Q. IS PWC'S CURRENT FINANCIAL POSITION A FACTOR?**

10 A. Certainly. The Company is currently experiencing serious financial challenges.
11 We do not want to be faced with having to choose between hauling water to
12 maintain the supply and running out of water. Without an augmentation tariff,
13 the Company could be forced to run out of water because it simply cannot afford to
14 pay for hauling without recovery through rates.

15 **Q. BUT ISN'T HAULING JUST A TEMPORARY MEASURE?**

16 A. Maybe. We have already agreed to do the analysis recommended by Staff in its
17 engineering report. PWC is currently working with its engineer to apply to WIFA
18 for a grant to be able to study the water supply issues in EVP. When that analysis
19 is complete, we hope to know what options are available to augment the existing
20 supply and what the estimated costs will be. At that time we can assess whether
21 the cost of permanent water supply augmentation is warranted for this small
22 system.

23 **Q. WHY WASN'T THIS SORT OF ANALYSIS ALREADY DONE?**

24 A. I do not know, we would have to ask the prior shareholders. As I have testified,
25 JW Holdings acquired the Company about 7 months ago. Since then we have been

26 ⁴ See Exhibit JW-SRJ2, which depicts the gallons hauled and associated costs for the last three years.

1 focused primarily on staying solvent and getting ready for this summer's water
2 supply challenges.

3 **Q. HAS THE COMPANY HAULED WATER OUT OF EVP TO DELIVER**
4 **ELSEWHERE?**

5 A. Certainly not since we took over ownership and operation. Nor do I find any
6 evidence that this has occurred in the recent past.

7 **B. WATER USAGE DATA**

8 **Q. BREMER QUESTIONS THE NEED FOR A HAULING TARIFF BASED**
9 **ON REFERENCE TO WATER PRODUCTION AND USGAGE DATA**
10 **(SURREBUTTAL AT PAGE 4). HOW DOES THE COMPANY RESPOND?**

11 A. PWC was concerned with Bremer's figures. After researching, the Company
12 determined that the figures provided in the 2012 annual report were both
13 incomplete and incorrect. In fact, it appears the correct percent of water loss for
14 EVP is only 1.6 percent.⁵ We appreciate Bremer's having brought these errors to
15 the Company's attention. An amended report has been forwarded to the Utilities
16 Division.

17 **IV. TIMING OF THE IMPLEMENTATION OF RATES**

18 **A. PROCEDURAL BACKGROUND**

19 **Q. WHEN DID PWC FILE ITS RATE APPLICATION, AND WHEN DID THE**
20 **APPLICATION REACH SUFFICIENCY?**

21 A. The Company filed on April 22, 2013. The application was deemed sufficient on
22 June 3. Originally, hearing was set for early December 2013. A final decision in
23 this case would have been due in late February 2014.

24
25
26 ⁵ See Exhibit JW-SRJ3 (well reading).

1 **Q. WHY DID THE SCHEDULE CHANGE?**

2 A. On August 15, PWC moved the Commission to consolidate its rate and financing
3 applications and order an expedited procedural schedule so that PWC could pursue
4 an opportunity to build an interconnection between the Town of Payson and Mesa
5 del Caballo ("MDC-TOP line"). The case was ultimately bifurcated into two
6 phases.

7 Phase 1 addressed a portion of the Company's financing request, which,
8 if approved, would enable PWC to borrow funds from WIFA to build the MDC-
9 TOP line and avoid having to haul water to MDC during the summer of 2014.
10 The Commission did approve the Company's request in Decision No. 74175
11 (October 25, 2013), authorizing the Company to borrow up to \$275,000 from
12 WIFA.

13 This Phase 2 is addressing the remaining portion of the Company's
14 financing request and its request for a rate increase.

15 **B. IMPLEMENTATION OF NEW RATES**

16 **Q. AS FAR AS THE TIMING OF THE NEW RATES WHAT ARE THE**
17 **COMPANY'S CONCERNS?**

18 A. We recognize that scheduling conflicts in December of 2013, as well as our request
19 for expedited approval for financing (Phase 1) contributed to the delay. But the
20 Company is in dire need for new rates. Our initial proposal in August 2013 was
21 actually to consolidate and expedite the entire proceedings, and for a decision on
22 the financing and the rate application to go before the Commission in
23 December 2013. That's how desperate we are. Unfortunately for us, Staff opposed
24 expediting the entire proceedings. While we ultimately worked out a new schedule,
25 it was always done with the anticipation that new rates would be in effect before the
26 summer water supply limits start. Even with the approved financing we're still in

1 the same boat. We need new rates to be in effect now, or at least by May 1, 2014 as
2 was our understanding when the phasing and new schedule was worked out and
3 approved.

4 **Q. WHAT IF NEW RATES ARE NOT IN EFFECT BY MAY 1, 2014,**
5 **MR. WILLIAMSON?**

6 A. The impacts would be numerous and potentially dangerous. I'll try to identify a
7 few that are most concerning. First, we would be in a situation where we have
8 installed the new TOP-MDC connection, funded by WIFA and approved in Phase 1
9 of this proceeding, but without the means of paying Payson for the water to send
10 through the line to customers in MDC.

11 Second, the Company will continue to be unable to pay all of its bills,
12 including the bills associated with this rate case which, due to the complexity of the
13 proceedings and the number of intervenors, continue to accrue at concerning rates.

14 Finally, and similar to our reasons for requesting an augmentation tariff for
15 EVP, we would be forced to make some very difficult decisions that could impact
16 our core responsibility as a water company: To provide safe and reliable water
17 utility service for our customers. In the case of water shortages in EVP and MDC,
18 we would be forced to decide between providing water through alternate methods
19 or running out of water, simply because we may not have the means to afford the
20 alternative measures.

21 **Q. WHAT ABOUT THE HAULING TARIFF FOR MDC?**

22 A. It is still in effect and will be until we make a filing and the Commission issues
23 another order. But that tariff cannot be used to just buy the water from the Town to
24 deliver through the TOP-MDC line. So we can buy the same water and haul it, but
25 we won't be able to use the TOP-MDC line until the Commission approves new
26 rates that include a PWAM.

1 Q. DOES THIS CONCLUDE YOUR SUPPLEMENTAL REJOINDER
2 TESTIMONY?

3 A. Yes.
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EXHIBIT JW-SRJ1

FILED

AT _____
2012 APR 12 AM 11:13
ANITA ESCOBEDO, CLERK
BY _____ DEPUTY

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10 Attorneys for Plaintiff Town of Star Valley

11
12 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
13 IN AND FOR THE COUNTY OF GILA

14 TOWN OF STAR VALLEY, a municipal
15 corporation of the State of Arizona,

16 Plaintiff,

17 v.

18 PAYSON WATER CO., INC., an Arizona
19 corporation; COUNTY OF GILA, a
20 political subdivision of the State of Arizona;
21 JOHN DOES 1 through 10; and BLACK
22 AND WHITE PARTNERSHIPS 1 through
23 10,

24 Defendants.

No. CV 2011-00438

**STIPULATED FINAL JUDGMENT
IN CONDEMNATION**

(Hon. Peter J. Cahill)

23 This matter came before the Court pursuant to the complaint to condemn a portion
24 of the system of Payson Water Co., Inc., an Arizona corporation ("PWC"), by Plaintiff,
25 the Town of Star Valley, a municipal corporation (the "Town"). After considering the
26 complaint, the Court noting the consent of the parties to entry of this judgment, it

cc:
M. Patten
T. Grier
J. Shapiro

ORIGINAL 4/10/12

1 appearing that other than Gila County, there are no persons other than PWC having any
2 right, title, claim or interest in and to the property and/or title, claim, or interest in and to
3 the property and/or assets which are the subject of this condemnation proceeding and this
4 Stipulated Final Judgment in Condemnation, and good cause appearing, hereby finds and
5 concludes as follows:

6 NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that
7 judgment be, and the same is, hereby entered as follows:

8 1. That the Town have judgment condemning for its sole use, possession, and
9 ownership all of the plant, system, and business of PWC, including, but not limited to, all
10 fee and/or leaseholds in real property legally described in **Exhibit A** attached hereto, all
11 easements, water wells, pumps, water plants, substations, water distribution systems,
12 customer accounts, books and records used and useful in providing water utility services,
13 and all tangible, intangible, personal, or real property rights or interests in any way related
14 to PWC (the "Town System"). The Town System also includes that portion of the PWC
15 Certificate of Convenience and Necessity as shown the "Star/Quail Valley" system on the
16 map attached hereto as **Exhibit B**. PWC shall, upon satisfaction of this Stipulated Final
17 Judgment in Condemnation, be forever barred from asserting any right, title, or interest
18 contrary to the sole and exclusive ownership and possessory interest vested in the Town in
19 said property;

20 2. That the Town shall pay by wire transfer into escrow the total sum of
21 \$775,000.00 to be released to PWC on May 1, 2012 at 9:00 a.m., in accordance with the
22 Escrow Instructions attached hereto as **Exhibit C**;

23 3. That Gila County will receive from escrow the sum of \$2,494.53 for any
24 property taxes due and unpaid relating to the Town System for the period ending May 1,
25 2012. This sum will be applied to parcel 941-01-005 (which consists of parcels 302-57-
26

1 036, 302-60-004E, 302-60-052A, and 302-80-138). Other than as set forth in this
2 Paragraph, all claims to property tax by Gila County for the Town System (parcels 302-
3 57-036, 302-60-004E, 302-60-052A, and 302-80-138) are extinguished.

4 4. That said payment shall constitute full, fair, and final just compensation to
5 PWC for the condemnation of its property in its "as is, where is, with all faults" condition,
6 and no further payments of any kind by the Town to PWC for the Town System shall be
7 required. Provided, however, that the foregoing is limited by the representations and
8 warranties of PWC set forth in Paragraph 6 of the Settlement Memorandum entered into
9 on or about December 29, 2011 (attached as **Exhibit D**) by and between PWC and the
10 Town, and that the provisions of the said Paragraph 6 are incorporated herein by
11 reference.

12 5. That each party shall bear its own attorneys' fees, costs, and expenses in
13 connection with this action;

14 6. That PWC shall, upon payment from escrow of the sum specified in
15 Paragraph 2 (less any taxes claimed by Gila County), promptly execute a Satisfaction of
16 Judgment with regard to the Stipulated Final Judgment in Condemnation and deliver same
17 to the Town, which Satisfaction of Judgment shall be promptly filed with this Court;

18 7. That the Court shall, upon the filing of the Satisfaction of Judgment, enter
19 the Stipulated Final Order of Condemnation in the form attached hereto as **Exhibit E**,
20 vesting in the Town sole use, possession, and ownership to all of the property and
21 property rights described in Paragraph 1, free and clear of any and all claims by, through,
22 or on behalf of PWC and without the necessity of any other consents, orders, or approvals
23 by any governmental entities;

24 8. That this Stipulated Final Judgment in Condemnation constitutes a final and
25 conclusive determination as to all issues raised in the Town's complaint, and all matters
26 pertaining to just compensation due for the taking of the PWC property and property

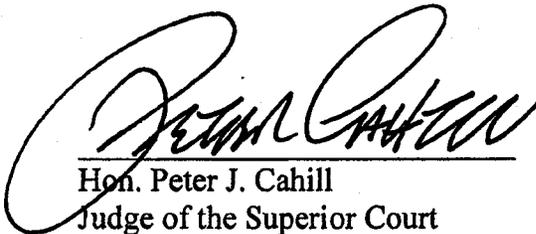
1 rights, including, without limitation, any claims for damages of any kind or other relief
2 resulting from this proceeding, and shall constitute the final judgment in this proceeding
3 in all respects. To the extent necessary, PWC specifically waives any right it may
4 otherwise possess, in law or in equity, to appeal this Stipulated Final Judgment in
5 Condemnation;

6 9. That PWC shall execute such documents and take such further action as
7 may be reasonably required and necessary to fully implement the intent of the parties and
8 as may be reasonably required and necessary to fully effectuate the provisions set forth in
9 this Stipulated Final Judgment in Condemnation.

10 10. That PWC shall surrender possession of the Town System to the Town on
11 May 1, 2012 at 9:00 AM, and that the Town shall be authorized to take possession of the
12 Town System on the same time and date.

13 11. That as of May 1, 2012, at 9:00 AM, that portion of PWC's Certificate of
14 Convenience and Necessity for the Town System (as shown the "Star/Quail Valley"
15 system on the map attached hereto as **Exhibit B**) be forever terminated and extinguished.

16
17 DONE IN OPEN COURT this day of April 11, 2012.

18
19
20 
21 Hon. Peter J. Cahill
22 Judge of the Superior Court
23
24
25
26

1 APPROVED AS TO FORM AND CONTENT:

2 TOWN OF STAR VALLEY

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6 Town Attorney
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12 and

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GILA COUNTY, ARIZONA

Daisy Flores, County Attorney

27 By: Bryan B. Chambers

28 Bryan B. Chambers
29 Chief Deputy County Attorney

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1 ORIGINAL of the foregoing filed
2 this 10th day of April, 2012 with:

3 Clerk of the Court
4 Gila County Superior Court
5 1400 E. Ash Street
6 Globe, Arizona 85501

7 COPY of the foregoing hand-delivered
8 this 10th day of April, 2012 with:

9 Hon. Peter J. Cahill
10 Judge of the Superior Court
11 Gila County Superior Court
12 1400 E. Ash Street
13 Globe, Arizona 85501

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15 this 10th day of April, 2012, to:

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24 Globe, Arizona 85501

25 Attorneys for Defendant Gila County, Arizona

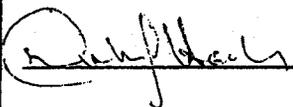
26 

EXHIBIT A

to

**STIPULATED FINAL JUDGMENT IN
CONDEMNATION**

Exhibit A

All of the real and personal property and all other assets, if any, within the area described below used or useful in providing water services to the public in:

Township 11 North, Range 10 East, Section 36

Township 11 North, Range 11 East, Sections 31 and 32

Township 10 North, Range 11 East, Section 05

All of the foregoing in Gila County, Arizona

EXHIBIT B

to

**STIPULATED FINAL JUDGMENT IN
CONDEMNATION**

Payson Water Company, Inc.

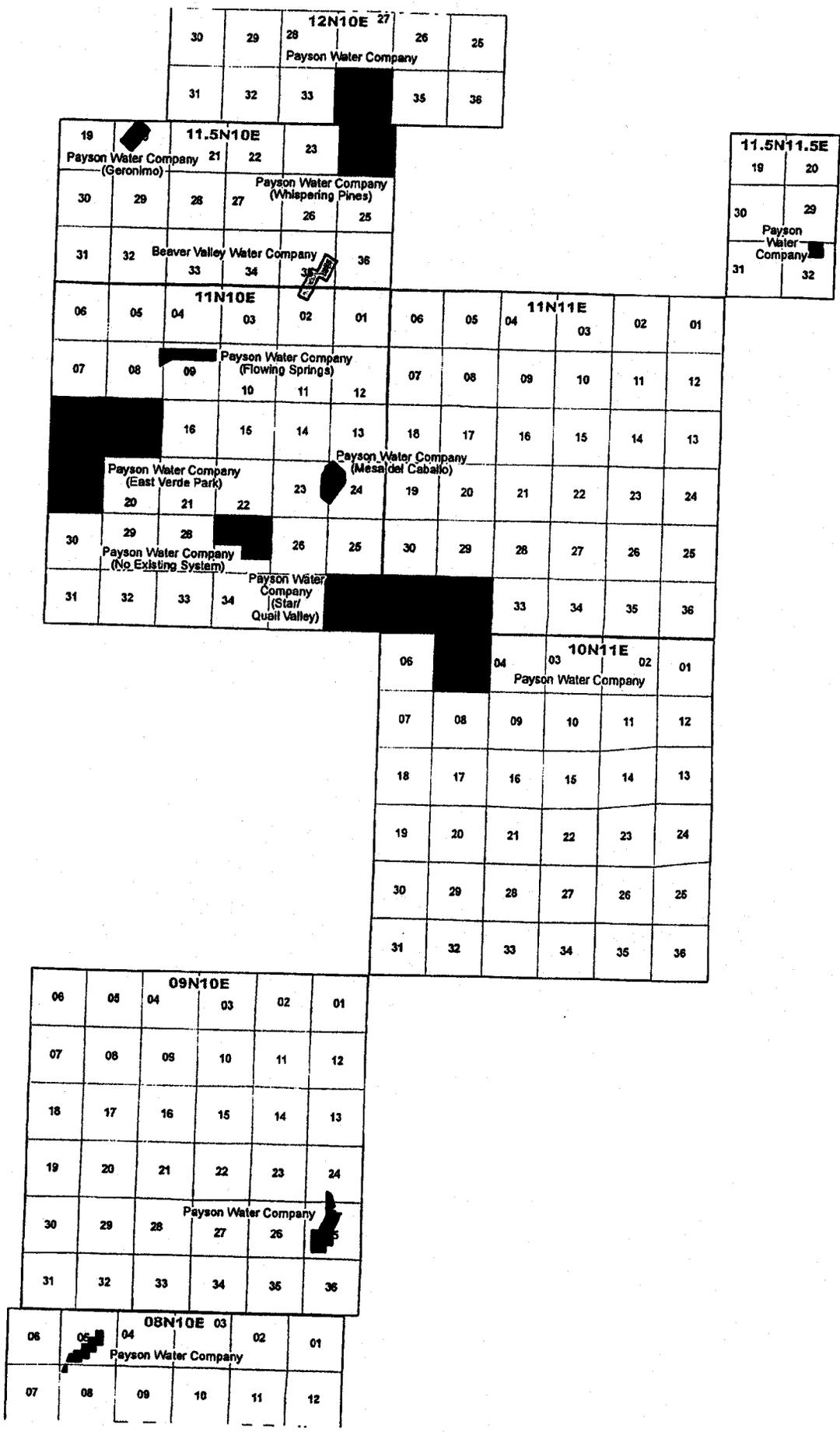


EXHIBIT C

to

**STIPULATED FINAL JUDGMENT IN
CONDEMNATION**

Escrow Instructions

February __, 2012

First American Title Insurance Company
2425 East Camelback Road, Suite 300
Phoenix, Arizona 85016
Attention: Neil Moffett

Dear Neil:

First American Title Insurance Company, a California corporation, has been selected to act as the escrow office (the "First American") in connection with that certain *Settlement Memorandum* (the "Memorandum"), dated December __, 2011, between Payson Water Company, Inc., an Arizona corporation (the "Water Company"), and the Town of Star Valley, a municipal corporation and a political subdivision of the State of Arizona (the "Town"). Except as otherwise defined herein, all capitalized terms used herein shall have the meanings ascribed thereto in the Memorandum.

As set forth in the Memorandum, on or before December 30, 2011, the Town will initiate an action in Eminent Domain in Gila County Superior Court (the "Court") pursuant to ARS § 12-1111 *et seq.* to condemn the Town System (the "Proceeding"). As part of the Proceeding, the Town has agreed to pay to Water Company the sum of Seven Hundred Seventy-five Thousand and 00/100 Dollars (\$775,000.00) as compensation (the "Compensation"). The Town shall pay the compensation into escrow not later than the earlier of: (1) three days after the Court issues the Stipulated Final Judgment in Condemnation; or (2) May 1, 2012. The Compensation shall be escrowed and disbursed as set forth below.

First American is hereby directed to hold, deal with, and dispose of the Compensation in accordance with the following terms and conditions:

1. Within 3 days of entry of a final judgment of condemnation by the Court authorizing the Town to take possession of the Town System, the Town shall deposit with First American the Compensation. The Compensation shall be wired to First American in accordance with the account and wiring information you have provided and which is enclosed herein.

2. First American is instructed to invest the Compensation in an interest-bearing savings or money market account or short term U.S. Treasury Bills or similar cash equivalent securities, as Water Company may direct. Any interest earned on the Compensation, after deduction of First American's customary investment charges, shall become and be deemed to be a part of the Compensation. Any escrow fee to be charged by First American is to be borne by the Town.

3. On May 1, 2012, at 9:00 a.m., Mountain Standard Time, First American shall release to Gila County from the Compensation the sum of \$2,494.53 for any property taxes due and unpaid relating to the Town System up for the period ending May 1, 2012.

4. On May 1, 2012, at 9:00 a.m., Mountain Standard Time, First American shall release the Compensation (less the \$2,494.53 paid to Gila County) to Water Company pursuant to the wiring instructions to be provided by Water Company.

All notices, requests, demands or other communications required or permitted under these Escrow Instructions shall be in writing and delivered personally, by certified mail, return receipt requested, postage prepaid, by overnight courier (such as Federal Express), or by facsimile transmission with confirmation of error-free transmission (with a copy to follow by certified mail, return receipt requested, postage paid or by overnight courier), addressed as follows:

If to Water Company:

Payson Water Company, Inc.
3101 State Road
Bakersfield, California 93308
Attn: Robert T. Hardcastle
Email: RTH@brookeutilities.com
Facsimile: (661) 633-7551

With a copy to:

Jay L. Shapiro
Fennemore Craig
3003 North Central Avenue
Suite 2600
Phoenix, Arizona 85012-2913
Facsimile: (602) 916-5566

If to Town:

Timothy W. Grier (No. 020472)
Town Attorney
Town of Star Valley
3675 East Highway 260
Star Valley, Arizona 85541
Telephone: (928) 472-7752

With a copy to:

Timothy J. Sabo
Roshka DeWulf & Patten, PLC
One Arizona Center
400 East Van Buren, Suite 800
Phoenix, Arizona 85004

If to Gila County:

Brian Chambers, Esq.
Gila County Attorney's Office
1400 E. Ash Street
Globe, Arizona 85501

If to First American:

First American Title Insurance Company
2425 East Camelback Road, Suite 300
Phoenix, Arizona
Attention: Neil Moffett
Facsimile: (602) 567-8101

All notices given in accordance with the terms hereof shall be deemed received on the earliest of the next business day if sent by overnight courier, on the same day if sent by facsimile transmission before 5:00 p.m. (Mountain Standard Time) on a business day or on the following business day if sent on a non-business day or after 5:00 p.m. (Mountain Standard Time), on the third (3rd) business day following deposit with the United States Mail as a registered or certified matter with postage prepaid, or when delivered personally or otherwise received. Any party hereto may change the address for receiving notices, requests, demands or other communication by notice sent in accordance with the terms of this paragraph.

These Escrow Instructions are being entered into to implement the Memorandum and shall not (nor be deemed to) amend, modify or supersede the Memorandum or act as a waiver of any rights, obligations or remedies set forth therein; provided, however, that First American may rely solely upon these Escrow Instructions.

Agreed and Acknowledged this ____ day of February, 2011.

WATER COMPANY:

Payson Water Company, an Arizona corporation

By: _____
Name: _____
Title: _____

TOWN:

Town of Star Valley, a municipal corporation and a political subdivision of the State of Arizona

By: _____
Name: _____
Title: _____

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Agreed and Acknowledged this ____ day of December, 2011.

GILA COUNTY, ARIZONA
Daisy Flores, County Attorney

By: _____
Brian Chambers
Assistant County Attorney

FIRST AMERICAN:

First American Title Insurance Company,
a California corporation

By: _____
Name: _____
Title: _____

EXHIBIT D

to

**STIPULATED FINAL JUDGMENT IN
CONDEMNATION**

SETTLEMENT MEMORANDUM

THIS SETTLEMENT MEMORANDUM (the "Memorandum") is made and entered into as of the 29th day of December 2011 by and between **PAYSON WATER COMPANY, INC.**, an Arizona corporation (the "Water Company") and the **TOWN OF STAR VALLEY**, a municipal corporation and a political subdivision of the State of Arizona (the "Town") (individually, a "Party" and collectively, "Parties").

RECITALS

A. Water Company is a public service corporation, and holds a Certificate of Convenience and Necessity ("CC&N") granted by the Arizona Corporation Commission ("Commission"), together with other required permits and governmental approvals authorizing it to serve the public with water utility service in certain parts of Gila County, Arizona.

B. Water Company owns two water systems serving the Town of Star Valley, which system's location and make up are generally described on Exhibit A attached hereto and incorporated herein by this reference (the "Town System"). The Town System is Public Water System No. 04-037 as registered with the Arizona Department of Environmental Quality ("ADEQ"). There are approximately 403 residential and 6 commercial meter connections serving 361 customers on the Town System as of the date first set forth above.

C. Town intends to acquire the Town System from Water Company through the exercise of its power of eminent domain as set forth in A.R.S. § 12-1111 *et seq.* However, rather than engage in contested proceedings that will require the unnecessary expenditure of the Parties' resources, the Town and Water Company have reached an agreement to resolve the condemnation proceedings in an uncontested manner.

D. Upon the entry of final judgment of condemnation in the Gila County Superior Court and payment by the Town into escrow of the sum of SEVEN HUNDRED SEVENTY-FIVE THOUSAND and NO DOLLARS (\$775,000.00), beginning on May 1, 2012 at 9:00 AM, the Town will be the sole owner of the Town System and solely responsible for the provision of water utility service to the customers on the Town System, and Water Company will only be responsible for completion of any remaining Post-Condemnation Administration contemplated herein, which will require the parties to cooperate to accomplish various administrative matters related to the Town's acquisition of the Town System as addressed herein.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged Water Company and Town, intending to be legally bound, agree as follows:

1. Incorporation of Recitals. By this reference, the parties hereby agree to incorporate the recitals above as part of the terms and conditions of this Memorandum as if fully set forth herein.

2. Eminent Domain Proceedings. As soon a practicable but in no event later than December 30, 2011, the Town will initiate an action in Eminent Domain pursuant to A.R.S. § 12-1111 *et seq.* in Gila County Superior Court to condemn the Town System (the "Proceeding"). In connection with the Proceeding, the Parties further agree as follows:

A. To cooperate and prepare all documents, pleadings and other things necessary for the Proceeding to commence, be litigated and conclude with entry of a final judgment of condemnation to be followed by a final order of condemnation. The final judgment of condemnation shall also require the Town to pay into escrow the just compensation contemplated herein within 3 days of entry of judgment.

B. Water Company waives any claim that the Town has failed to comply with A.R.S. § 12-1116.A which requires the Town to first provide Water Company with an appraisal of the assets subject to the condemnation.

C. Town shall not seek immediate possession of the Town System, rather, the final judgment of condemnation will authorize the Town to take possession of the Town System on May 1, 2012 at 9:00 AM.

D. The Town System has a fair market value of no less than SEVEN HUNDRED SEVENTY-FIVE THOUSAND and NO DOLLARS (\$775,000.00) and that a condemnation award ("Compensation") to Water Company in that amount is just compensation for the taking of Water Company's Town System.

3. Payment of the Compensation. Within 3 days of entry of a final judgment of condemnation authorizing Town to take possession of the Town System, Town shall pay the Compensation into Escrow as contemplated herein. Water Company shall be entitled to receive payment of the Compensation from Escrow on May 1, 2012 at 9:00 a.m. Town further acknowledges and agrees that the consideration for Water Company's agreement not to contest the Proceeding specifically includes Town's agreement to pay the Compensation. Once the Compensation has been placed in Escrow, the Escrow Instructions agreed to herein shall govern its distribution.

4. Post-Condemnation Administration. Water Company and Town also agree that certain additional actions will need to be taken following entry the final judgment of condemnation. The Parties agree to fully and reasonably cooperate in all matters necessary to

complete the transfer of the Town System to the Town. In connection therewith, the Parties agree as follows:

a. Commission Notice. Following payment of the Compensation into Escrow, Water Company will notify the Commission of the final judgment of condemnation and ask that the Town System be administratively deleted from its CC&N or file any other necessary or appropriate information to allow the Commission to delete the Town System from Water Company's CC&N. In such notice, Water Company will indicate the treatment of meter deposits and line extension agreements applicable to the Town System. This provision does not constitute an admission by Water Company that Commission approval to transfer the Town System or cancel the CC&N is necessary under applicable law and regulation.

b. Customer Meter Deposits. Town is entitled to a credit for the value of meter deposits received by Water Company from customers within the Town System as May 1, 2012, and not applied to delinquent accounts by Water Company. Town acknowledges and agrees that as a result of the condemnation that, post-condemnation, Town shall assume all obligations for refunding the existing customer meter deposits.

c. Customer Receivables. In addition to and separate from the Compensation, Water Company shall be entitled to receive payment for the value of services rendered to customers in the Town System but not billed and services billed but not received as of the date of entry of the final judgment in the Proceedings (the "Customer Receivables"). Within thirty (30) days following May 1, 2012, Town and Water Company shall reach an accounting of Customer Receivables.

d. Water Well Documentation. Water Company and Town acknowledge that part of the Town System are water wells registered with the Arizona Department of Water Resources as Well Registration Numbers 55-501381, 55-605247, 55-519703, 55-538696, 55-548773 (the "Water Company Wells"). Water Company presently has on file documents with the Arizona Department of Water Resources relating to the Water Company Wells and agrees that it will cooperate with Town to accomplish the transfer or assignment of any such documentation following Water Company's lodging of a satisfaction of judgment.

5. Escrow Instructions. The Parties have agreed to the Escrow Instructions attached hereto as Exhibit B, which instructions authorize the Escrow Office to, among other things, release the Compensation to Water Company on May 1, 2012 at 9:00 a.m. Following payment of the Compensation from Escrow, Water Company shall promptly file evidence of satisfaction of judgment.

6. No Interference; Representations Regarding Condition; Waiver and Indemnity.

a. Other Systems. Town acknowledges that Water Company has other systems and customers and agrees that neither the Proceeding nor any aspect of the transition shall inhibit Water Company's operations in any manner.

b. "As is" condition. Town further acknowledges and agrees that it is taking title to a public water system in its existing condition subject only to the representations made herein.

c. Representations by the Water Company. The Water Company represents and warrants to the Town as follows:

i. *No known defects.* The Water Company is not aware of any material defects in the Town System;

ii. *Plans and specifications.* To the Water Company's knowledge, all plans and specifications of the Town System accurately reflect the system, and copies of all such plans and specifications will be provided to the Town on or before the entry of final judgment of condemnation.

iii. *Environmental liabilities.* The Water Company is not aware of any actual, probable or threatened environmental liabilities pertaining to the Town System;

iv. *Title.* The Water Company has good and marketable title to the Town System, and all the assets thereof including all easements used or necessary to operate the Town System.

v. *Valid corporate existence and powers.* The Water Company has been duly incorporated and validly exists under the laws of the State of Arizona. The Water Company has all requisite corporate power and authority to own its property and to carry on its business as now being conducted in the Town System.

vi. *Power to execute Memorandum.* The Water Company has all requisite corporate power and authority to execute and deliver this Memorandum, to perform its obligations hereunder and to consummate the transactions contemplated hereby. The execution and delivery of this Memorandum and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on the part of the Water Company. This Memorandum has been duly and validly executed and delivered by Water Company and constitutes a valid and binding agreement of Water Company, enforceable against the Water Company in accordance with its terms.

vii. *No violation from execution and consummation of Memorandum.* The execution and delivery of this Memorandum by the Water Company and the consummation of the transactions contemplated hereby will not result in the violation of: (A) the Articles of Incorporation or Bylaws of the Water Company, (B) any material contract of the Water Company or (C) any statute, law, ordinance, rule or regulation (the "Law") or any order or judgment of any court or other governmental agency applicable to it or the transactions contemplated hereby.

viii. *No regulatory approvals needed.* No regulatory approval or consent of any other third party is required to be obtained by Water Company with respect to the execution and delivery of this Memorandum or the consummation of the transactions contemplated hereby.

ix. *No violations.* The Water Company is not in violation of, nor, to the knowledge of the Water Company, under investigation with respect to, any violation of, any

laws or any orders of the Commission, the ADWR, ADEQ, the USEPA or any other governmental agency with respect to the Town System.

x. *Receipt of authorizations.* The Water Company is duly authorized by the Commission to conduct the business of a water utility in the area served by the Town System and has all permits, licenses, franchises and other governmental authorizations, consents and approvals necessary to conduct its business therein.

xi. *Articles and Bylaws.* The Water Company is not in violation of any provision of its Articles of Incorporation or Bylaws.

xii. *Violation of other contracts.* The Water Company is not in violation of any contract applicable to the Water Company or its properties or assets, except for violations which would not, individually or in the aggregate, reasonably be expected to have a material adverse effect with respect to the Town System.

xiii. *Regulatory filings.* All filings required to be made by Water Company since December 31, 2010, under any applicable Laws or orders of the Commission, the ADWR, the USEPA, the ADEQ or other applicable governmental agency, have been filed and all such filings complied, as of their respective dates, in all material respects with all applicable requirements of such laws or orders, except for such filings or such failures to comply that would not, individually or in the aggregate, reasonably be expected have a material adverse effect with respect to the Town System.

xiv. *Environmental Matters.* Neither the Water Company nor any of its property or operations is subject to any outstanding order, decree or agreement with any person relating to any environmental law. To Water Company's knowledge, there have been no conditions or occurrences (including the release of hazardous materials in, on, under or migrating from any of the Water Company's property or any failure by the Water Company to use, store, transport or dispose of hazardous materials in compliance with Environmental Laws) which is reasonably expected to form the basis of a claim arising under any environmental law against the Water Company with respect to the Town System. The Town has been provided access to all environmental reports concerning any property of Water Company in its Town System (04-037) in the possession of the Water Company or its affiliates.

xv. *Water Quality.* The quality of water supplied by Water Company to its customers meets or exceeds all standards for quality and safety of water in all material respects in accordance with applicable laws and orders of any applicable governmental agency with respect to the Town System.

xvi. *Upgrades or improvements.* The Water Company has provided the Town with a Capital Expenditures Budget that represents its reasonably expected improvements, upgrades, and modifications in the Town System.

D. Knowledge. For the purposes of this paragraph, the words "knowledge" and "aware" refer to the actual knowledge of the officers, directors, managers, or employees of the Water Company or its affiliate Brooke Utilities, Inc.

E. Waiver and Indemnity Regarding CC&N. Water Company, for itself, and its successors, beneficiaries, heirs, assigns, partners, limited partners, constituent entities, affiliates, officers, directors, stockholders, members, managers, principals, servants, employees, agents, insurers and representatives, and each of them, fully and forever waives any and all rights under its CC&N for the Town System. This waiver shall take effect upon the Town's payment of the Compensation into escrow in accordance with Section 3. In addition, Water Company agrees to indemnify, defend and hold harmless the Town from any and all claims made by any other person, entity or governmental agency making a claim due to the ACC's failure to reflect the deletion of the Town System from Water Company's CC&N. The indemnity contemplated herein shall expire on November 1, 2012.

F. Incorporation. The provisions of this Paragraph 6 shall be incorporated into the proposed final order of condemnation to be submitted to the Court in the Proceeding. The provisions of this Paragraph 6 shall remain in effect following the Courts approval of the final order of condemnation.

7. Term. The terms of this Memorandum shall continue in full force and effect until the parties have completed all of the necessary Post-Condernation Administrative Proceedings contemplated herein, and in no event shall it terminate before Water Company has received full payment of the Compensation and notice from the Commission that the Town System has been removed from Water Company's CC&N and nothing further is required of the Water Company from the Commission or any other agency with applicable authority with respect to the Town System.

8. Ordinary Course of Business. For the period of time after the execution of this Memorandum and before the Town takes possession of the Town System on May 1, 2012, the Water Company shall operate the Town System in accordance with its ordinary course of business. Any deviations from the ordinary course of business shall not take place without prior notice to the Town and opportunity for comment by the Town, unless exigent circumstances prevent such notice.

9. Mutual release.

a. Release by the Water Company. Except as otherwise set forth herein and except as limited by the terms of this Memorandum, the Water Company, for itself, and its successors, beneficiaries, heirs, assigns, partners, limited partners, constituent entities, affiliates, officers, directors, stockholders, members, managers, principals, servants, employees, agents, insurers and representatives, and each of them, fully and forever release, relieve, waive, absolve and acquit the Town, including without limitation, the Town's successors, beneficiaries, heirs, assigns, partners, constituent entities, affiliates, officers, directors, stockholders, members, managers, principals, servants, employees, agents, insurers and representatives, and each of them, from and of any and all claims including, without limitation, all demands, promises, causes of action, actions, suits, debts, liabilities, obligations, costs, expenses, sums of money, controversies, damages, accounts, reckonings, and liens of every kind or nature whatsoever, whether mature, contingent, past, present, future, direct, derivative, subrogated, personal, assigned, discovered, undiscovered, suspected, unsuspected, legal or equitable, which it has or

may have or have had, owned, or held at any time by reason of any matter, cause or thing, involving or reasonably related to the Town System or the Proceeding.

b. Release by the Town. Except as otherwise set forth herein and except as limited by the terms of this Memorandum, the Town, for itself, and its successors, beneficiaries, heirs, assigns, partners, partners, constituent entities, affiliates, officers, directors, stockholders, members, managers, principals, servants, employees, agents, insurers and representatives, and each of them, fully and forever release, relieve, waive, absolve and acquit the Water Company, including without limitation, its successors, beneficiaries, heirs, assigns, spouses, partners, limited partners, constituent entities, affiliates, officers, directors, stockholders, members, managers, principals, servants, employees, agents, insurers and representatives, and each of them, from and of any and all claims including, without limitation, all demands, promises, causes of action, actions, suits, debts, liabilities, obligations, costs, expenses, sums of money, controversies, damages, accounts, reckonings, and liens of every kind or nature whatsoever, whether mature, contingent, past, present, future, direct, derivative, subrogated, personal, assigned, discovered, undiscovered, suspected, unsuspected, legal or equitable, which they have or may have or have had, owned, or held at any time by reason of any matter, cause or thing, involving or reasonably related to the Town System or the Proceeding.

10. Deadlines. The Town and the Water Company shall use best efforts to meet the deadlines specified in this Memorandum, including the December 23, 2011 date for filing the Proceeding. However, no monetary claim shall arise against any party for the failure to meet any such deadlines.

11. Binding Effect. This Memorandum shall be binding upon the parties and their respective successors and assigns.

12. Severability. If any portion of this Memorandum is found to be invalid, such finding will not affect the validity of the remainder of this Memorandum and to this end the provisions of this Memorandum are severable.

13. No Waiver. No waiver of any provision of this Memorandum shall be deemed or constitute a waiver of any other provision, nor shall it be deemed to be a continuing waiver unless expressly provided for by a written amendment to this Memorandum signed by the parties; nor will the waiver of any default under this Memorandum be deemed a waiver of any subsequent default of the same type. The Town's failure to exercise any right under this Memorandum will not constitute the approval of any wrongful act by the Water Company.

14. Notices. All notices, requests and other communications hereunder shall be given in writing and either (i) personally served on the party to whom it is given, or (ii) mailed by registered or certified mail, postage prepaid, return receipt requested, (iii) sent by a nationally recognized overnight courier service, or (iv) sent by facsimile transmission, addressed to the party at the address provided below:

Water Company: Payson Water Company, Inc.
3101 State Rd.
Bakersfield, CA 93308

Attn: Robert T. Hardcastle
Email: RTH@brookeutilities.com
FAX: (661) 633-7551

With a copy to: Jay L. Shapiro
Fennemore Craig
3003 North Central Avenue
Suite 2600
Phoenix, AZ 85012-2913
FAX: (602) 916-5566

Town: Town of Star Valley
Attention: Town Manager
3675 East Highway 260
Star Valley, Arizona 85541

With a copy to: Timothy J. Sabo
Roshka DeWulf & Patten, PLC
One Arizona Center
400 East Van Buren, Suite 800
Phoenix, Arizona 85004

All notices shall be deemed delivered and received upon the earliest of (a) actual receipt, (b) the third (3rd) day after the day of mailing, (c) the next business day after the date of deposit with a nationally recognized overnight courier service, or (d) upon confirmation of error-free facsimile transmission. Any notices received on a Saturday, Sunday or on an Arizona State or federal holiday, or after 5:00 p.m., Arizona time, on a business day shall be deemed received on the next succeeding business day. Any party may change its address for the receipt of notices at any time by giving written notice thereof to the other parties in accordance with the terms of this paragraph. The inability to deliver notice because of a changed address of which no notice was given, or the rejection or other refusal to accept any notice, shall be deemed to be the effective receipt of the notice as of the date of such inability to deliver or rejection or refusal to accept.

15. Effective Date of Memorandum. This Memorandum shall become effective upon execution.

16. Controlling Law. This Memorandum and the rights of the Parties hereto shall be governed by and construed in accordance with the internal laws of the State of Arizona without regard to conflicts of laws principles.

17. Authority. The Parties acknowledge and warrant that each of them is fully authorized and empowered to execute this Memorandum by and through the individual(s) executing hereinafter.

18. Further Documents. The Parties shall execute and deliver any and all such documents and perform any and all such acts as reasonably necessary or required to carry out the matters contemplated by this Memorandum, including, without limitation, all documents

necessary for Town to initiate and prosecute an action for condemnation of the Town System in Gila County Superior Court and all documents necessary to seek confirmation of the deletion of the Town System from Water Company's CC&N.

19. Representations. Each of the Parties acknowledges and warrants that it has been, or has had an opportunity to be represented by independent counsel. This Memorandum is the result of negotiation between the Parties and their respective attorneys, and the terms, conditions and provisions of this Memorandum shall be construed in a fair and even manner regardless of the Party who drafted this Memorandum or any provision or portion thereof.

20. Counterparts. This Memorandum may be executed in one or more counterparts. Each executed counterpart shall for all purposes be deemed an original, but all of which together shall constitute in the aggregate but one and the same instrument. The signature pages from one or more counterparts may be removed there from and attached to one or more duplicate agreements containing all original signatures.

21. Date of Performance. If this Memorandum provides that any time period expires or date for performance specified in this Memorandum falls on a non-business day (a Saturday, Sunday or legal holiday recognized by the Town), such time period or performance deadline shall be extended to the Town's next business day. Except as may otherwise be set forth herein, any performance shall be timely made and completed no later than 5:00 p.m. (Arizona time) on the date the performance is due.

22. Complete Agreement. This Memorandum and additional written agreements described herein, if any, contain and set forth the entire and exclusive Memorandum and understanding between the Parties hereto pertaining to the subject matter of this Memorandum and reflect the reasonable expectations of the Parties hereto. This Memorandum may not be amended or modified in any way whatsoever without the prior written consent of all Parties to this Memorandum. Notwithstanding anything to the contrary contained in this Memorandum, this Memorandum is not intended to modify, amend, replace, abridge, abrogate or otherwise affect any other rights or obligations of Water Company.

23. Dispute Resolution. Any dispute, controversy, claim, or cause of action arising out of or related to this Memorandum shall be governed by Arizona law and may, but in no event need, be settled by submission with the consent of all parties to binding arbitration in accordance with the rules of the American Arbitration Association and the Arizona Uniform Arbitration Act, A.R.S. § 12-1501, *et seq.*, and judgment upon any award rendered by the arbitrator(s) may be entered in the Superior Court of Maricopa County, or any such dispute, controversy, claim or cause of action may be litigated in a court. The venue for any such dispute shall be Maricopa County, Arizona.

24. Conflict of Interest. This Memorandum is subject to the provisions of A.R.S. § 38-511 and Town represents, to the best of its knowledge that no such conflict exists.

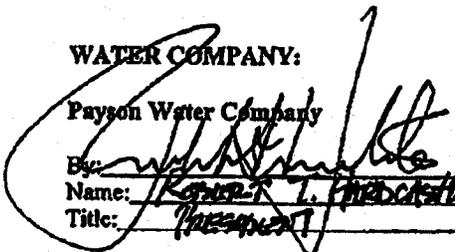
25. No Other Party Benefit. This Memorandum inures to the benefit of the Parties and is not executed for the benefit of other parties, such as, but not limited to, material men, laborers, or others providing work, services or materials in furtherance of the Water Company.

THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum as of the date first set forth above.

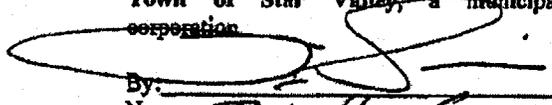
WATER COMPANY:

Payson Water Company

By: 
Name: Robert L. Prescott
Title: President

TOWN:

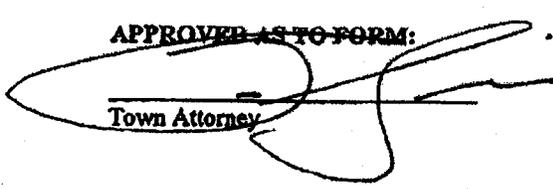
Town of Star Valley, a municipal corporation

By: 
Name: Timothy Gaiser
Title: Town Manager

ATTEST:

Town Clerk

APPROVED AS TO FORM:



Town Attorney

Exhibit "A"
Description of Town System
Exhibit "B"
Escrow Instructions

Manage/2504074

EXHIBIT A

Payson Water Company, Inc.

		12N10E 29			
		30	31	32	33
		Payson Water Company			
		34	35	36	37
19	20	11.5N10E		23	
Payson Water Company (Cottonwood)		21	22	23	
		Payson Water Company (Whispering Pines)			
24	25	26	27	28	29
		Payson Water Company			
30	31	Silver Valley Water Company			
		32	33	34	35
		11N10E		11N11E	
06	07	08	09	10	11
		Payson Water Company (Flowing Springs)			
12	13	14	15	16	17
		Payson Water Company (East Verde Park)		Payson Water Company (Mesa del Caballo)	
18	19	20	21	22	23
24	25	26	27	28	29
		Payson Water Company (No. El Estero System)		Payson Water Company (West Oak Valley)	
30	31	32	33	34	35
				10N11E	
				Payson Water Company	
06	07	08	09	10	11
12	13	14	15	16	17
18	19	20	21	22	23
24	25	26	27	28	29
30	31	32	33	34	35
		09N10E			
06	07	08	09	10	11
12	13	14	15	16	17
18	19	20	21	22	23
		Payson Water Company			
24	25	26	27	28	29
30	31	32	33	34	35
		08N10E			
06	07	08	09	10	11
Payson Water Company					
12	13	14	15	16	17

Star Valley/Quail Valley Water System Components

2" PVC pipe (installed)
2" GI pipe (installed)
4" AC pipe (installed)
6" AC pipe (installed)
4" C900 pipe (installed)
6" C900 pipe installed
8" C900 pipe installed
SV well #1
SV well #2
QV well #1
TK well #1
TK well #2
2 hp booster pump
3 hp booster pump
5 hp booster pump
7.5 hp booster pump
15 hp well pump
7.5 hp well pump
2.5 hp booster pump
15,000 gallon steel storage tank
20,000 gallon steel storage tank
60,000 gallon storage tank
160,000 gallon storage tank
1,000 gallon pneumatic tank
2,000 gallon pneumatic tank
Air compressors and release valves (complete)
Well chlorinator
5/8 X 3/4 service meters
1" well meters
3" well meters
Real property (land)
Buildings & Structures
6" Fire hydrants
8" Fire hydrants
Communication equipment
4" water main valves
6" water main valves
8" water main valves
1,000 GPM Peerless Fire pump (complete)
490 ft. chain link fence, gates, locks
630 sq. ft. Well building structures (complete)
2" pressure reducing valves

BEFORE THE ARIZONA CORPORATION COMMISSION

MITCHELL J. HUSKY
Chairman
DICK HERBERT
Commissioner
E. T. "EDDIE" WILLIAMS, JR.
Commissioner

IN THE MATTER OF THE APPLICATION FOR TRANSFER OF CERTIFICATE
OF CONVENIENCE AND NECESSITY FOR FURNISHING WATER IN THE
CERTIFICATED AREA IN GILA COUNTY, ARIZONA FROM RAYMOND H.
CLINE, DBA PAYSON WATER COMPANY, TO UNITED UTILITIES, AN
ARIZONA CORPORATION.

DOCKET NO. U-1306
U-1993

DECISION NO. 38614

OPINION AND ORDER

BY THE COMMISSION:

The above entitled matter came on for hearing before
the Commission sitting at Phoenix, Arizona, on May 19, 1966

Applicant appeared by Glen L. Randall, attorney, and
no appearance was entered in opposition to the granting of the
approval sought.

Evidence was adduced upon the application, and from
that evidence it is found as follows:

1. That applicant desires to acquire and Payson
Water Company desires to transfer the physical assets and
operating rights of Payson Water Company.
2. That such transfer is in the public interest.

WHEREFORE, IT IS ORDERED approving the sale of the
physical assets of Payson Water Company to United Utilities, a
corporation, in accord with that certain written agreement
between the transferor and the transferee herein, dated
December 31, 1965, and entered in evidence on the application
herein.

IT IS FURTHER ORDERED that United Utilities, a
corporation, shall succeed to the rights and duties of Payson
Water Company under those certificates of convenience and
necessity issued in Docket No. U-1306 of this Commission, and
being Decisions 27729, 28947, 31492, 31603, 31921 and 33016
therein, and that this order shall constitute a certificate
of convenience and necessity for the operation by United

Utilities, a corporation, of a public utility water system
in the area described as follows:

TOWNSHIP 10 NORTH, RANGE 10 EAST:

Section 3; Section 4; Section 5; the North Half of
Section 6; the North Half of Section 9; and the North
Half of Section 10.

TOWNSHIP 10 NORTH, RANGE 11 EAST:

Section 5, except such portions as may have been within
Tonto National Forest and under authority of the United
States Forest Service, on June 3, 1959.

TOWNSHIP 11 NORTH, RANGE 10 EAST:

Section 27; Section 33; and Section 34; except that part
of each of those sections that may have been unpatented
on May 24, 1955, and
Section 17; Section 18; and Section 19; except such portions
of each of those sections as may have been within Tonto
National Forest, and under authority of the United States
Forest Service, on April 27, 1959, and
Section 35; except such portions as may have been within
Tonto National Forest, and under authority of the United
States Forest Service, on June 3, 1959, and
The whole of "Homestead Entry Survey No. 123," a parcel
of land more particularly described as follows: beginning
at the common corners of Sections 33 and 34, Township 11
North, Range 10 East, and of Sections 3 and 4, Township 10
North, Range 10 East, thence North 0° 38' East for a dis-
tance of 83.97 chains (5542.02'), to the true point of
beginning, thence North 64° 22' West for a distance of
70.69 chains (4663.94'), thence North 10° 18' East for a
distance of 15.11 chains (977.86'), thence South 64° 36'
East for a distance of 86.35 chains (5535.8'), thence
North 76° 37' East for a distance of 20.17 chains (1331.22'),
thence South 40° 45' East for a distance of 43.92 chains
(2823.72'), thence South 82° 51' West for a distance of
14.47 chains (933.02') to the true point of beginning, and

the whole of "Homestead Entry Survey No. 577," a parcel
of land more particularly described as follows: beginning
at the northeast corner of Section 24, Township 11 North,
Range 10 East, thence South 74° 44' West for a distance
of 61.39 chains (4051.74') to the true point of beginning,
thence South 2° 42' East for a distance of 13.6 chains (897.6'),
thence South 33° 45' West for a distance of 37.28 chains
(2460.48'), thence North 59° 40' West for a distance of
15.28 chains (1008.48'), thence North 1° 49' East for a
distance of 30.57 chains (2017.62'), thence North 18° 32'
East for a distance of 13.38 chains (883.08'), thence
North 46° 45' East for a distance of 12.77 chains (842.82'),
thence South 48° 11' East for a distance of 24.28 chains
(1602.48') to the true point of beginning.

U-1986
DOCKET NO. U-1992

DECISION NO. 38614

TOWNSHIP 11 NORTH, RANGE 11 EAST:

Section 31; and Section 32; except such portions of each of those sections as may have been within Gato National Forest, and under authority of the United States Forest Service, on June 3, 1959.

AND IT IS FURTHER ORDERED that the rates and charges of the transferee shall be as heretofore authorized for Payson Water Company within the areas above described.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

IN WITNESS WHEREOF, I, GEORGE S. LIVERMORE, Executive Secretary of the Arizona Corporation Commission, have hereto set my hand and caused the official seal of this Commission to be affixed, at the Capitol in the City of Phoenix, this 9th day of August, 1966.


GEORGE S. LIVERMORE
EXECUTIVE SECRETARY

EXHIBIT B

Exhibit B

Escrow Instructions

December ____, 2011

First American Title Insurance Company
2425 East Camelback Road, Suite 300
Phoenix, Arizona 85016
Attention: Neil Moffett

Dear Neil:

First American Title Insurance Company, a California corporation, has been selected to act as the escrow office (the "First American") in connection with that certain *Settlement Memorandum* (the "Memorandum"), dated December ____, 2011, between Payson Water Company, Inc., an Arizona corporation (the "Water Company"), and the Town of Star Valley, a municipal corporation and a political subdivision of the State of Arizona (the "Town"). Except as otherwise defined herein, all capitalized terms used herein shall have the meanings ascribed thereto in the Memorandum.

As set forth in the Memorandum, on or before December 30, 2011, the Town will initiate an action in Eminent Domain in Gila County Superior Court (the "Court") pursuant to ARS § 12-1111 *et seq.* to condemn the Town System (the "Proceeding"). As part of the Proceeding, the Town has agreed to pay to Water Company the sum of Seven Hundred Seventy-five Thousand and 00/100 Dollars (\$775,000.00) as compensation (the "Compensation"). The Compensation shall be escrowed and disbursed as set forth below.

First American is hereby directed to hold, deal with, and dispose of the Compensation in accordance with the following terms and conditions:

1. Within 3 days of entry of a final judgment of condemnation by the Court authorizing the Town to take possession of the Town System, the Town shall deposit with First American the Compensation. The Compensation shall be wired to First American in accordance with the account and wiring information you have provided and which is enclosed herein.
2. First American is instructed to invest the Compensation in an interest-bearing savings or money market account or short term U.S. Treasury Bills or similar cash equivalent securities, as Water Company may direct. Any interest earned on the Compensation, after deduction of First American's customary investment charges, shall become and be deemed to be a part of the Compensation. Any escrow fee to be charged by First American is to be borne by the Town.
3. On May 1, 2012, at 9:00 a.m., Mountain Standard Time, First American shall release the Compensation to Water Company pursuant to the wiring instructions to be provided by Water Company.

All notices, requests, demands or other communications required or permitted under these Escrow Instructions shall be in writing and delivered personally, by certified mail, return receipt requested, postage prepaid, by overnight courier (such as Federal Express), or by facsimile

6537646.1673283.0003

transmission with confirmation of error-free transmission (with a copy to follow by certified mail, return receipt requested, postage paid or by overnight courier), addressed as follows:

If to Water Company:

Payson Water Company, Inc.
3101 State Road
Bakersfield, California 93308
Attn: Robert T. Harcastle
Email: RTH@brookeutilities.com
Facsimile: (661) 633-7551

With a copy to:

Jay L. Shapiro
Fennemore Craig
3003 North Central Avenue
Suite 2600
Phoenix, Arizona 85012-2913
Facsimile: (602) 916-5565

If to Town:

Town of Star Valley

Facsimile: () _____
Attention: _____

With a copy to:

Timothy J. Sabo
Roshka DeWulf & Patten, PLC
One Arizona Center
400 East Van Buren, Suite 800
Phoenix, Arizona 85004

If to First American:

First American Title Insurance Company
2425 East Camelback Road, Suite 300
Phoenix, Arizona
Attention: Neil Moffett
Facsimile: (602) 567-8101

All notices given in accordance with the terms hereof shall be deemed received on the earliest of the next business day if sent by overnight courier, on the same day if sent by facsimile transmission before 5:00 p.m. (Mountain Standard Time) on a business day or on the following business day if sent on a non-business day or after 5:00 p.m. (Mountain Standard Time), on the third (3rd) business day following deposit with the United States Mail as a registered or certified matter with postage prepaid, or when delivered personally or otherwise received. Any party

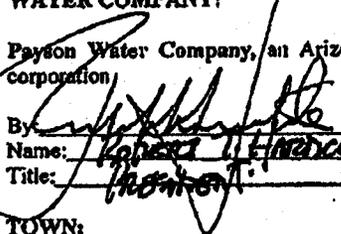
hereto may change the address for receiving notices, requests, demands or other communication by notice sent in accordance with the terms of this paragraph.

These Escrow Instructions are being entered into to implement the Memorandum and shall not (nor be deemed to) amend, modify or supersede the Memorandum or act as a waiver of any rights, obligations or remedies set forth therein; provided, however, that First American may rely solely upon these Escrow Instructions.

Agreed and Acknowledged this 29th day of December, 2011.

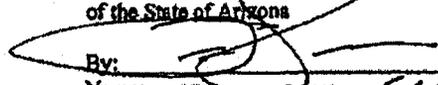
WATER COMPANY:

Payson Water Company, an Arizona corporation

By: 
Name: Robert J. Hinescastle
Title: President

TOWN:

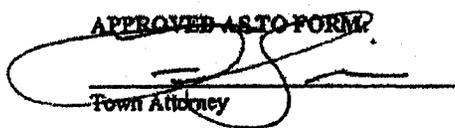
Town of Star Valley, a municipal corporation and a political subdivision of the State of Arizona

By: 
Name: Timothy Grier
Title: Town Manager

ATTEST:

Town Clerk

APPROVED AS TO FORM:



Town Attorney

Agreed and Acknowledged this _____ day of December, 2011.

FIRST AMERICAN:

First American Title Insurance Company,
a California corporation

By: _____
Name: _____
Title: _____

EXHIBIT E

to

**STIPULATED FINAL JUDGMENT IN
CONDEMNATION**

1 Michael W. Patten (No. 009796)
2 Timothy J. Sabo (No. 021309)
3 ROSHKA DEWULF & PATTEN, PLC
4 One Arizona Center
5 400 East Van Buren Street, Suite 800
6 Phoenix, AZ 85004
7 Telephone: (602) 256-6100
8 mpatten@rdp-law.com
9 tsabo@rdp-law.com

6 Timothy W. Grier (No. 020472)
7 Town Attorney
8 Town of Star Valley
9 3675 East Highway 260
10 Star Valley, Arizona 85541
11 Telephone: (928) 472-7752
12 townmanager@ci.star-valley.az.us

10 Attorneys for Plaintiff Town of Star Valley

11 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
12 IN AND FOR THE COUNTY OF GILA

13 TOWN OF STAR VALLEY, a municipal
14 corporation of the State of Arizona,
15 Plaintiff,
16 v.
17 PAYSON WATER CO., INC., an Arizona
18 corporation; COUNTY OF GILA, a
19 political subdivision of the State of Arizona;
20 JOHN DOES 1 through 10; and BLACK
21 AND WHITE PARTNERSHIPS 1 through
22 10,
23 Defendants.

No.
**STIPULATED FINAL ORDER OF
CONDEMNATION**
(Hon. Peter J. Cahill)

22 It appearing to the Court that the Stipulated Final Judgment in Condemnation
23 heretofore in the above-entitled action has been fully paid and satisfied; and

24 It further appearing to the Court that, pursuant to the provisions of Paragraph 6 of
25 the Stipulated Final Judgment in Condemnation, this Court shall now enter the Stipulated
26

1 Final Order of Condemnation.

2 IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

3 1. that sole use, possession, and ownership of all the plant, system, and
4 business of Payson Water Co., Inc. ("PWC"), including, but not limited to, all fee and/or
5 leasehold interests in real property described in **Exhibit A** attached hereto, all easements,
6 water wells, pumps, water plants, substations, water distribution systems, customer
7 accounts, books and records used and useful in providing water utility services, the PWC
8 Certificate of Convenience and Necessity as shown the Star/Quail Valley system on the
9 map attached hereto as **Exhibit B**, and/or business, and all tangible, intangible, personal
10 or real property rights or interests in any way related thereto (collectively, the "Town
11 System") be, and the same are, hereby condemned for the use and benefit of the Town,
12 and that the ownership of the same be, and is, hereby vested in the Town, a municipal
13 corporation of the State of Arizona,

14 2. that the Town System is transferred in its "as is, where is, with all faults"
15 condition, and without the necessity of any other consents, orders, or approvals by any
16 governmental entities, free and clear of any and all claims by, through, or on behalf of
17 PWC. Provided, however, that the foregoing is limited by the representations and
18 warranties of PWC set forth in Paragraph 6 of the Settlement Memorandum entered into
19 on or about December 29, 2011 (attached as **Exhibit A**) by and between PWC and the
20 Town, and that the provisions of the said Paragraph 6 are incorporated herein by
21 reference.

22 3. That the portion of PWC's Certificate of Convenience and Necessity for the
23 Town System (as shown the "Star/Quail Valley" system on the map attached hereto as
24 **Exhibit B**) be forever terminated and extinguished.

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DONE IN OPEN COURT this ____ day of _____, 2012.

Hon. Peter J. Cahill
Judge of the Superior Court

1 APPROVED AS TO FORM AND CONTENT:

2

3 TOWN OF STAR VALLEY

4

5

By:

6

Timothy W. Grier
Town Attorney
Town of Star Valley
3675 East Highway 260
Star Valley, Arizona 85541
Telephone: (928) 472-7752
townmanager@ci.star-valley.az.us

7

8

9

10

and

11

Michael W. Patten (No. 009796)
Timothy J. Sabo (No. 021309)
ROSHKA DEWULF & PATTEN, PLC
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, AZ 85004
Telephone: (602) 256-6100
mpatten@rdp-law.com
tsabo@rdp-law.com

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Attorneys for Plaintiff Town of Star Valley

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19

FENNEMORE CRAIG, P.C.

20

21

22

Jay L. Shapiro
Attorneys for Defendant Payson Water Co., Inc.

23

24

25

26

1 ORIGINAL of the foregoing hand-delivered
this ___ day of ____, 2011 with:

2 Hon. XXXXX
3 Judge of the Superior Court
4 Address

5 COPY of the foregoing mailed
this ___ day of ____, 2011, to:

6 Jay Shapiro
7 Fennemore Craig, P.C.
8 3003 North Central Avenue, Suite 2600
Phoenix, Arizona 85012
9 Attorneys for Defendant Payson Water Co., Inc.

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EXHIBIT JW-SRJ2

East Verde Park Hauling

Year	Water Hauled (Gal)	Cost of Hauled Water (\$)	Customer Count
2011	58,873	\$3,238	143
2012	207,000	\$12,059	141
2013	10,900	\$556	140

EXHIBIT JW-SRJ3

Brooke Utilities, Inc.

2012 Water Loss Analysis: By Public Water System

Date:

	Jan-12	Feb-12	Mar-12	Apr-12	May-12	Jun-12	Jul-12	Aug-12	Sep-12	Oct-12	Nov-12	Dec-12	2012 Total
Meter read dates (from dospollv.txt files)	12/14-1/14	1/14-2/14	2/14-3/14	3/14-4/16	4/16-5/14	5/14-6/14	6/14-7/12	7/12-8/13	8/13-9/13	9/13-10/15	10/15-11/13	11/13-12/13	
Production read dates (from meter read sheet)	12/14-1/14	1/14-2/14	2/14-3/14	3/14-4/16	4/16-5/14	5/14-6/14	6/14-7/12	7/12-8/13	8/13-9/13	9/13-10/15	10/15-11/13	11/13-12/13	
Active Connections	143	141	141	141	141	142	141	140	141	141	141	140	
Production	206,780	329,120	282,390	342,100	372,520	486,840	333,180	354,120	334,400	330,130	281,550	145,630	3,800,760
Water Hauled In	0	0	0	0	0	51,817	153,359	14,531	0	0	0	0	219,707
Production + Water Hauled In	206,780	329,120	282,390	342,100	372,520	538,657	486,539	368,651	334,400	330,130	281,550	145,630	4,020,467
Consumption	179,883	251,570	268,120	311,310	369,430	494,820	414,244	356,916	304,710	314,860	242,700	228,369	3,236,932
Water Loss in Gallons	28,897	77,550	14,270	30,790	3,090	-7,980	-61,064	-2,795	29,690	15,270	38,850	-82,739	63,828
Water Loss %	13.44%	23.56%	5.02%	8.99%	0.83%	-1.48%	-12.51%	-0.76%	8.88%	4.63%	13.77%	-57.11%	1.67%

1 FENNEMORE CRAIG, P.C.
Jay L. Shapiro (No. 014650)
2 2394 E. Camelback Road, Suite 600
Phoenix, Arizona 85016
3 Telephone (602) 916-5000

4 Attorneys for Payson Water Co., Inc.
5

6 **BEFORE THE ARIZONA CORPORATION COMMISSION**

7 IN THE MATTER OF THE APPLICATION
8 OF PAYSON WATER CO., INC., AN
ARIZONA CORPORATION, FOR A
9 DETERMINATION OF THE FAIR VALUE
OF ITS UTILITY PLANTS AND
10 PROPERTY AND FOR INCREASES IN ITS
WATER RATES AND CHARGES FOR
11 UTILITY SERVICE BASED THEREON.

DOCKET NO: W-03514A-13-0111

12 IN THE MATTER OF THE APPLICATION
13 OF PAYSON WATER CO., INC., AN
ARIZONA CORPORATION, FOR
14 AUTHORITY TO: (1) ISSUE EVIDENCE
OF INDEBTEDNESS IN AN AMOUNT
15 NOT TO EXCEED \$1,238,000 IN
CONNECTION WITH INFRASTRUCTURE
16 IMPROVEMENTS TO THE UTILITY
SYSTEM; AND (2) ENCUMBER REAL
17 PROPERTY AND PLANT AS SECURITY
FOR SUCH INDEBTEDNESS.

DOCKET NO: W-03514A-13-0142

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20 **SUPPLEMENTAL REJOINDER TESTIMONY OF**
21 **THOMAS J. BOURASSA**

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23
24 **January 15, 2014**
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I. INTRODUCTION AND QUALIFICATIONS 1
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III. CONDEMNATION OF THE STAR/QUAIL VALLEY SYSTEM 2
IV. ACCOUNTING RECORDS 4

8814864.1/073283.0006

1 **I. INTRODUCTION AND QUALIFICATIONS**

2 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

3 A. My name is Thomas J. Bourassa. My business address is 139 W. Wood Drive,
4 Phoenix, Arizona 85029.

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

6 A. I am testifying in this proceeding on behalf of the applicant, Payson Water
7 Company ("PWC" or "Company").

8 **Q. HAVE YOU PREVIOUSLY SUBMITTED DIRECT, REBUTTAL AND
9 REJOINDER TESTIMONY IN THE INSTANT CASE?**

10 A. Yes, my direct testimony was submitted in support of the initial application in this
11 docket. There were two volumes, one addressing rate base, income statement and
12 rate design, and the other addressing cost of capital. My rebuttal and rejoinder
13 testimonies were also submitted in response to the direct testimony of Staff.

14 **Q. WHAT IS THE PURPOSE OF THIS SUPPLEMENTAL REJOINDER
15 TESTIMONY?**

16 A. I will provide supplemental rejoinder testimony on the condemnation of the Star/
17 Quail Valley system. I am filing this testimony because the Company was ordered
18 to address the condemnation, which was raised in Staff's direct testimony and in
19 Intervenor Kathleen Reidhead's ("KMR") surrebuttal testimony.

20 **II. SUMMARY**

21 **Q. PLEASE SUMMARIZE YOUR SUPPLEMENTAL TESTIMONY.**

22 A. My supplemental testimony makes the following points:

23 1) The Company's recommended revenue requirement in
24 the instant case does not reflect any costs of service for the
25 Star/Quail Valley system.

26

1 2) The condemnation award paid by the Town of Star Valley
2 helped PWC pay its bills, make capital improvements, and
3 provide a dividend to the previous shareholder.

4 3) Customers do not acquire any interest in the utility's
5 property by virtue of paying for utility service. Therefore, the
6 customers of PWC should not share in any gain/loss resulting
7 from the condemnation of the Star/Quail Valley system.

8 4) The accounting records of PWC are not materially
9 misstated or misleading.

10 **III. CONDEMNATION OF THE STAR/QUAIL VALLEY SYSTEM**

11 **Q. DOES THE COMPANY'S PROPOSED REVENUE REQUIREMENT IN**
12 **THE INSTANT CASE INCLUDE THE COST OF SERVICE FOR THE**
13 **STAR/QUAIL VALLEY SYSTEM?**

14 A. No. PWC no longer owns and provides utility service to the system so the related
15 plant-in-service, deferred liabilities, revenues and expenses have been eliminated.
16 The Company's proposed revenue requirement (operating expenses plus
17 depreciation plus taxes plus a return on rate base) reflects only the cost of service
18 for the systems currently served by PWC. The plant assets and the deferred
19 liabilities related to the Star/Quail Valley system are not included in the proposed
20 rate base and therefore there is no return on or of Star/Quail Valley plant
21 investment in the Company's proposed revenue requirement. When the
22 condemnation was recorded on the books of PWC in 2012 all the related assets and
23 deferred credits were eliminated. Attached as Supplemental Rejoinder Exhibit
24 **TJB-SRJ1** is the Company's response to Staff data request CSB 1.18 reflecting the
25 details of the entries booked in 2012. The remaining plant assets and deferred
26 liabilities for the remaining systems owned by PWC form the basis of the
27 Company's proposed rate base in the instant case.¹

¹ Direct Testimony of Thomas J. Bourassa – Rate Base (“Bourassa Dt.”) at 6-8.

1 Further, all operating expenses and depreciation related to the Star/Quail
2 Valley system are excluded from the proposed cost of service. The Company's
3 proposed adjustments to operating expenses in this case reflect all non-recurring
4 Star/Quail Valley related expenses.² The proposed depreciation expense (based
5 upon the adjusted 2012 plant-in-service) reflects only the remaining assets used to
6 provide service to PWC's remaining customers.³ Proposed property taxes and
7 income taxes reflect only the revenues and the taxable income for the remaining
8 systems served by PWC.⁴

9 **Q. HOW WERE THE PROCEEDS OF THE CONDEMNATION OF THE**
10 **STAR/QUAIL VALLEY SYSTEM USED?**

11 A. Ultimately, the proceeds were used to by PWC to pay its bills and provide a
12 dividend to its previous shareholder. For example, the Company owed
13 approximately \$285,000 to BUI at the end of 2011.⁵ The proceeds also helped to
14 pay 2012 operating expenses.⁶ In 2012, PWC's operating revenues were less than
15 its cash operating expenses by \$128,000. All of this took place before the stock
16 sale; there was little to no cash on hand when the sale closed.

17 **Q. ARE YOU AWARE OF ANY RULES OR LAWS THAT WERE**
18 **VIOLATED?**

19 A. I am not an attorney, but I have been appearing in ACC rate case for almost
20 20 years now so I do have some familiarity with the general rules and I certainly
21 have a lot of experience reviewing utility books and records. I do not find any
22

23 ² Bourassa Dt. at 10; Rebuttal Testimony of Thomas J. Bourassa – Rate Base (“Bourassa Rb.”) at 10.

24 ³ Bourassa Dt. at 8; Rejoinder Testimony of Thomas J. Bourassa – Rate Base (“Bourassa Rj.”) at 14.

25 ⁴ Bourassa Dt. at 8 and 11; Bourassa Rj. at 14 and 15.

26 ⁵ See Schedule E-1.

⁶ See Schedule E-2. Operating expenses (excluding non-cash depreciation and amortization) in 2012 were approximately \$523,000 and revenues were approximately \$395,000 - a \$128,000 difference.

1 evidence BUI transferred funds or otherwise used funds from the proceeds of the
2 condemnation that broke any laws, rules, and/or regulations of which I am aware.

3 **Q. DO CUSTOMERS OF A UTILITY GAIN AN OWNERSHIP INTEREST IN**
4 **PWC OR ITS PLANT BY VIRTUE OF PAYING UTILITY RATES?**

5 A. In my professional judgment, no. A fundamental tenant in rate making is that
6 rate payers pay for utility service based on rates set by a regulatory body. Because
7 rate payers only pay for utility service, rate payers do not pay for the property used
8 by the utility to provide utility service, nor do customers acquire any interest in the
9 utility's property by virtue of paying for utility service.

10 **IV. ACCOUNTING RECORDS**

11 **Q. PLEASE COMMENT ON KMR'S SURREBUTTAL TESTIMONY**
12 **(ON PAGE 6) REGARDING "INACCURATE" AND "MISLEADING"**
13 **ACCOUNTING RECORDS.**

14 A. I have two comments. First, adjustments to rate base elements such as plant-in-
15 service, accumulated depreciation, etc. and revenue/expense elements such as
16 salaries and wages, contractual services, depreciation are not only common in rate
17 cases, they are necessary. Adjustments by themselves do not mean the accounting
18 records are inaccurate or misleading. Rate case adjustments are made to provide a
19 more normal or realistic relationship between rate base, revenue, and expenses on a
20 going forward basis.⁷ Second, while the Company has admitted that it could not
21 produce some plant invoices,⁸ there is no credible evidence in this case that the
22 accounting records were materially misstated.⁹ As far as I am aware, the missing
23 plant invoices and the Star/Quail Valley related CIAC are the only record keeping
24

25 ⁷ A.A.C. Rule 14-2-103(i).

26 ⁸ E.g., Rebuttal Testimony of Jason Williamson at 4-5 and Exhibit JW-RB2.

⁹ Bourassa Rj. at 8-9.

1 issues in this case. Staff has not asserted that the actual test year revenues and/or
2 expenses were misleading or materially misstated. There are differences of opinion
3 regarding the support for the plant and CIAC as well as whether the BUI overhead
4 allocation versus JW Water Holdings, LLC's management fees should be used for
5 purposes of setting rates,¹⁰ but these differences are not a basis for asserting that the
6 records of PWC were misleading and/or materially misstated. On that point, I am
7 not aware of any credible testimony being cited by KMR.

8 **Q. DOES THAT CONCLUDE YOUR SUPPLEMENTAL REJOINDER**
9 **TESTIMONY?**

10 A. Yes.

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¹⁰ Bourassa Rj. at 15.

EXHIBIT TJB-SRJ1

**PAYSON WATER COMPANY
DOCKET NO. W-03514A-13-0111
RESPONSE TO STAFF'S FIRST SET OF DATA REQUESTS**

August 21, 2013

Response provided by: Jason Williamson
Title: President
Company: Payson Water Company
Address: 7581 E. Academy Blvd., Suite 229
Denver, CO 80230

Company Response Number: CSB – 1.18

- Q. \$755,709 Gain on Disposal of Fixed Assets – Schedule C-1, line reports a \$755,709 gain on disposal of fixed assets. Regarding that amount, please answer the following:
- a. Please explain why the assets were sold and/or disposed of.
 - b. Please state whether or not the assets were replaced.
 - c. Please identify the assets by NARUC account number.
 - d. Please state the accounts debited and credited in the recording of the gain.
 - e. Please provide a schedule showing the calculation of the gain.
 - f. Please state the length of time the Company owned the assets prior to disposal.
 - g. Please state the actual date (if known, or an estimate if not known) that the assets were placed in service.
 - h. Please state the amount of depreciation recovered from customers for each asset, through the date the asset was sold.
 - i. Please state how the assets were originally financed (i.e. equity, AIAC, CIAC, etc.).

RESPONSE:

- a. The assets were condemned by the Town of Star Valley.

- b. The assets were not replaced because the Company no longer serves the customers in those systems.
- c. NARUC accounts, 303, 304, 307, 311, 320, 330, 331, 333, 334, 335, 339, 346, 347 and 348 as represented by attached schedule dated 2012.
- d. Please see the attached schedule. The accounts debited were: Cash, Accumulated depreciation of structures and improvements, and accumulated amortization of CIAC. On the other side, the accounts credited were: Structures and Improvements, CIAC's and Gain on sale of disposition.
- e. Please see the attached schedule.
- f. Since August 1996.
- g. Unknown. Various portions of the assets were placed in service dating back to the 1960's and at various times since that date.
- h. Please see the attached schedule.
- i. The assets were originally financed through a combination of equity, AIAC's and CIAC's.

Payson Water Company

SQV- Detail for Disposition Journal- Accounts & Balances Mapping

Account 1650.00 - Fixed Assets and Depreciation & 2600.30 CIACs

Based on May Balances

June 30, 2012

Acct No.	Description	12/31/2011	Additions	Deletions	5/31/2012	G/L Accounts	DIFFERENCE	In Gl/Account	% Cost	Acc. Depreciat.	STV Disposition 0.263110138
301	Intangibles	300.00	0.00	0.00	300.00		300.00	00.00.1650.04	78.93	76.75	
302	Franchises	0.00	0.00	0.00	0.00		0.00		0.00	0.00	
303	Land and Land Rights	22,391.22	0.00	0.00	22,391.22		22,391.22	00.00.1650.04	5,891.36	4,319.70	
304	Structures and Improvements	216,604.90	101,835.99	0.00	318,440.89	00.00.1650.04	2,699,836.62	00.00.1650.04	83,785.03	42,902.73	
305	Collecting Reservoirs	3,435.00	0.00	0.00	3,435.00	00.00.1650.05	(2,381,395.73)		903.78	103.78	
307	Wells and Springs	370,493.29	0.00	0.00	370,493.29	00.00.1650.07	3,435.00		97,480.54	73,244.67	
308	Infiltration Galleries & Tunnels	0.00	0.00	0.00	0.00		355,574.53	00.00.1650.04	0.00	0.00	
309	Supply Mains	612.45	0.00	0.00	612.45		612.45	00.00.1650.04	161.14	56.37	
310	Power Operated Equipment	8,627.59	0.00	0.00	8,627.59	00.00.1650.10	7,666.01	00.00.1650.04	2,270.01	816.65	
311	Pumping Equipment	289,649.82	3,402.22	0.00	293,052.04	00.00.1650.11	961.58	00.00.1650.04	77,104.96	35,267.30	
320	Water Treatment Equipment	14,339.38	0.00	0.00	14,339.38	00.00.1650.12	70,367.85	00.00.1650.04	3,772.84	1,792.31	
330	Distribution Reservoirs	371,561.44	0.00	0.00	371,561.44	00.00.1650.13	1,074.92	00.00.1650.04	97,761.58	58,120.49	
331	Transmission & Distribution Mains	597,066.06	0.00	0.00	597,066.06		11,870.43	00.00.1650.04	157,094.13	122,207.44	
333	Services	111,038.33	0.00	0.00	111,038.33		111,038.33	00.00.1650.04	29,215.31	24,362.56	
334	Meters	270,384.44	170.54	0.00	270,554.98	00.00.1650.16	7,257.97	00.00.1650.04	71,185.76	34,665.48	
335	Hydrants	1,588.87	0.00	0.00	1,588.87		1,588.87	00.00.1650.04	418.05	196.70	
339	Other Plant	435,370.97	0.00	0.00	435,370.97	00.00.1650.19	21,778.90	00.00.1650.04	114,550.52	89,482.30	
341	Transportation Equipment	0.00	0.00	0.00	0.00		0.00		0.00	0.00	
343	Tools and Work Equipment	98.18	0.00	0.00	98.18	00.00.1660.04	44.89		25.83	3.06	
345	Power Operated Equipment	0.00	0.00	0.00	0.00		0.00		0.00	0.00	
346	Communications Equipment	12,576.32	0.00	0.00	12,576.32		12,576.32	00.00.1650.04	3,308.96	690.35	
SUBTOTAL					2,831,547.01		2,831,546.92		745,008.73	488,308.65	0.00
348	Other Tangible Plant	0.00	0.00	0.00	0.00		0.00		0.00	0.00	
114	Acquisition Adjustment	0.00	0.00	0.00	0.00		0.00		0.00	0.00	
105	C.W.I.P.	174,380.37	0.00	-109,692.88	64,687.49	00.00.1690.20	64,687.58	(0.09)	0.00	0.00	
TOTALS					2,900,518.63	105,408.75	-109,692.88	2,896,234.50			
					G/L		2,896,234.50				

Recap of the journal entries:

	Debit	Credit
Cash	00.00.1010.01	771,755.47
Fixed assets	00.00.1650.04	745,008.73
Accumulated depreciation	00.00.1750.04	488,308.65
Gain on sale of disposition	05.05.9030.01	755,708.53
Accumulated Amort. CIAC	00.00.2600.30	584,628.46
CIAC	00.00.2600.31	343,975.32
	1,844,692.58	1,844,692.58

STV Journal Entry disposition:

	Debit	Credit
00.00.1750.04	488,308.65	744,104.94
00.00.1650.04		903.78
00.00.1650.05	771,755.47	
00.00.1010.01		515,055.39
05.05.9030.01	1,260,064.12	1,260,064.12
Original posting:		
	Debit	Credit
00.00.1010.01	771,755.47	
05.05.9030.01		771,755.47
To record deposit of sales proceeds received.		
Temporary posting.		
	771,755.47	771,755.47

JE 3321

Payson Water Company

SQV- Detail for Disposition Journal- Accounts & Balances Mapping

Based on May Balances

Acct No.	Description	STV Disposition	
		% Cost	Acc. Depreciat.
301	Intangibles	78.93	76.75
302	Franchises		0.00
303	Land and Land Rights	5,891.36	4,319.70
304	Structures and Improvements	83,785.03	42,902.73
305	Collecting Reservoirs	903.78	103.78
307	Wells and Springs	97,480.54	73,244.67
308	Infiltration Galleries & Tunnels		0.00
309	Supply Mains	161.14	56.37
310	Power Operated Equipment	2,270.01	816.65
311	Pumping Equipment	77,104.96	35,267.30
320	Water Treatment Equipment	3,772.84	1,792.31
330	Distribution Reservoirs	97,761.58	58,120.49
331	Transmission & Distribution Mains	157,094.13	122,207.44
333	Services	29,215.31	24,362.56
334	Meters	71,185.76	34,665.48
335	Hydrants	418.05	196.70
339	Other Plant	114,550.52	89,482.30
341	Transportation Equipment		0.00
343	Tools and Work Equipment	25.83	3.06
345	Power Operated Equipment		0.00
346	Communications Equipment	3,308.96	690.35
GRAND TOTALS		745,008.73	488,308.65