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BEFORE THE ARIZONA CORPORATION C

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COMMISSIONERS

- BOB STUMP, Chairman
- GARY PIERCE, Commissioner
- BRENDA BURNS, Commissioner
- SUSAN BITTER SMITH, Commissioner
- BOB BURNS, Commissioner

2014 FEB 19 P 3:55

Arizona Corporation Commission

DOCKETED

FEB 19 2014

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

DOCKETED BY 

ORIGINAL

IN THE MATTER OF THE APPLICATION OF ) DOCKET NO. W-01732A-05-0532  
 WILLOW VALLEY WATER CO., INC. FOR )  
 AN EXTENSION OF ITS CERTIFICATE OF ) **SUPPLEMENT TO McKELLIPS LAND**  
 CONVENIENCE AND NECESSITY. ) **CORPORATION'S MOTION FOR**  
 ) **EXTENSION OF TIME AND**  
 ) **CONFIRMATION OF COMPLIANCE**  
 ) **WITH ORDER**

McKellips Land Corporation ("MLC") was previously granted intervention in this docket by Decision No. 71174 (June 30, 2009), pursuant to A.A.C. R14-3-105(A) as an entity "directly and substantially affected by the proceedings". On September 30, 2013, MLC filed a motion in this proceeding requesting the Commission for an order (a) confirming that compliance with the LAWS deadline in Decision No. 68610 (March 23, 2006) has been met as it affects that portion of the expanded CC&N encompassing the Mohave County subdivisions described as Willow Valley Estates 20, Tract 4134-A<sup>1</sup> and Tract 4134-B<sup>2</sup> and (b) extending the LAWS deadline in Decision No. 68610 by an additional six (6) months to March 31, 2014, as it affects that portion of the expanded CC&N encompassing the property described as Willow Valley Estates 21, Tract 4228 (previously known as Willow Valley Estates 20, Tract 4134-C or simply as "Tract C" in these proceedings). No action has been yet taken by the Commission on that motion and MLC would like to amend the motion as it applies to the request enumerated in subsection (b) above. It has become apparent that MLC will be unable to obtain the required LAWS within the six (6) month's extension requested in the September 30, 2013 Motion for Extension of Time. Therefore, MLC requests that this

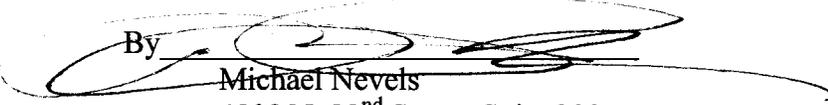
<sup>1</sup> Recorded August 16, 1996 at Fee No. 96-45414 Official Records of Mohave County, Arizona

<sup>2</sup> Recorded March 17, 2005 at Fee No. 2005-27028 Official Records of Mohave, County, Arizona

1 Supplement be deemed an amendment to that motion and requests that in lieu of a six (6) month  
2 extension of the LAWS deadline in Decision No. 68610 as previously requested, that a one (1) year  
3 extension be granted from September 30, 2013 to September 30, 2014, for the reasons stated in the  
4 original Motion for Extension of Time and those provided in the Affidavit of the President of MLC  
5 attached hereto as Exhibit "A".

6 RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of February, 2014

7 CARSON MESSINGER PLLC

8 By 

9 Michael Nevels  
10 4808 N. 22<sup>nd</sup> Street, Suite 200  
11 P.O. Box 33907  
12 Phoenix, Arizona 85067  
13 Attorneys for McKellips Land Corporation

14 Original and 13 copies of the foregoing  
15 filed this 19 day of February, 2014, with:

16 Docket Control  
17 Arizona Corporation Commission  
18 1200 West Washington Street  
19 Phoenix, Arizona 85007

20 Copy of the foregoing ~~hand delivered and/or~~ mailed  
21 this 19 day of February, to:

22 Lyn Farmer, Esq.  
23 Chief Administrative Law Judge  
24 Hearing Division  
25 Arizona Corporation Commission  
26 1200 West Washington  
Phoenix, Arizona 85007

Janice Alward, Esq.  
Chief Counsel, Legal Division  
Arizona Corporation Commission  
1200 West Washington  
Phoenix, Arizona 85007

1 Steven, M. Olea  
2 Director, Utilities Division  
3 Arizona Corporation Commission  
4 1200 West Washington  
5 Phoenix, Arizona 85007

6 Timothy J. Sabo, Esq.  
7 Roshka DeWulf & Patten, PLLC  
8 400 East Van Buren Street, Suite 800  
9 Phoenix, Arizona 85004

10 By *Lawrence O. Harding*

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1 EXHIBIT "A"

2 SUPPLEMENT TO NARRATIVE ATTACHED

3 AS EXHIBIT "E" TO MOTION

4 In its last motion filed herein McKellips Land Corporation ("MLC") requested a six (6)  
5 month extension from September 30, 2013 to March 31, 2014, of the commission's order requiring  
6 MLC to obtain and file with the commission, as a compliance item, the Letter of Assured Water  
7 Supply ("LAWS") for Willow Valley Estates 21, Tract 4228 (the "Subdivision"). It appears that  
8 MLC was too optimistic in its estimation of the time that it would take to finish this Subdivision.  
9 Since the time that the motion for extension was filed MLC has been prosecuting the completion of  
10 the Subdivision with due diligence however, the participation by the various utilities and county and  
11 state agencies that is required has made it impossible to complete the process and obtain the LAWS  
12 by the March 31<sup>st</sup> deadline.

13 The mere existence of these proceedings creates an ongoing problem with respect to the  
14 water service for this subdivision. MLC has negotiated and signed a Water Facilities Extension  
15 Agreement ("will serve" agreement") with Willow Valley Water Co., Inc. and the water company  
16 has applied pursuant to these proceedings for, and has received, an extension of the water  
17 company's Certificate of Convenience and Necessity ("CCN") to deliver water to this subdivision.  
18 The original extension order was subject to the condition that MLC file with the commission copies  
19 of the developer's Letter of Adequate Water Supply ("LAWS") for this Subdivision (and two other  
20 phases of what was originally intended to be a three phase subdivision) by a March 21, 2007  
21 deadline. Because of all of the delays in obtaining MLC's preliminary and final plats, MLC was  
22 unable to obtain and supply the LAWS in a timely manner for this Subdivision (though there was  
23 compliance with respect to the other two subdivisions) and MLC has subsequently been required to  
24 assist the water company in obtaining additional extensions of the deadline contained in the  
25 commission's order. This has resulted in MLC filing an intervener pleading in these proceedings.  
26 The last deadline extension was set to expire on September 30, 2013, and MLC was obligated to

1 once again request another extension. This has become a "catch-22". The commission has not  
2 taken any action yet on MLC's last request for an extension, so the status of the water company's  
3 CCN is in question and in order for the LAWS to be issued the water company must have a CCN.

4 Nevertheless, since the last extension, the Company has made substantial progress. It has  
5 made application to the Arizona Department of Environmental Quality for approvals to construct  
6 the water and sewer systems, has submitted a Notice of Intent to Discharge and a Request for  
7 Approval of the Sanitary Facilities and has received back comments from that department which the  
8 MLC engineer is now addressing.

9 MLC has also made application to Mohave County for *final* subdivision plat approval and  
10 approval of its improvement plans. The review process of the county is laborious. Each submittal  
11 of a preliminary or final plat is reviewed by Planning and Zoning, Mohave County Health  
12 Department, three divisions of the Public Works Department (Roads, Survey and Engineering  
13 Design), the local Fire Marshall, Arizona Department of Public Safety, and notices soliciting  
14 comments are sent to all of the public utilities serving the subdivision. Each time MLC previously  
15 submitted a preliminary plat and accompanying documentation for this Subdivision, planning and  
16 zoning and/or the many departments and utilities reviewing the plat responded with an endless list  
17 of additional comments and requirements, and because of understaffing and overwork it always  
18 took the maximum 45-day time the county is allowed (and more) to review anything. Now that  
19 MLC has filed its final subdivision plat it is hoped that this process will be faster. On Wednesday,  
20 February 12, 2014, what MLC hopes are final comments from the county were received by the  
21 Company and they are being reviewed and addressed by the Company's engineer who is confident  
22 that they can be satisfied without substantial delay.

23 The MLC engineer also prepared and delivered to MLC on February 7, 2014, an Application  
24 for a Water Report (the "Application") which ultimately is to be sent to the Arizona Department of  
25 Water Resources ("ADWR") with an accompanying Notice of Intent to Serve which is to be signed  
26 by MLC and the water service company. The notice has been forwarded to Willow Valley Water

1 Co., Inc. for execution and return to MLC. When the signed notice has been returned by the water  
2 company, the Application can finally be made to the ADWR for the LAWS for this Subdivision.  
3 The Office of Assured and Adequate Water Supply division of ADWR is allowed one hundred  
4 twenty (120) days to determine whether the Application should be granted or denied. It is allowed  
5 sixty (60) days to determine the administrative completeness of the Application followed by sixty  
6 (60) days to determine whether the Application meets the substantive criteria required by law.  
7 Since the Application has not yet been submitted and ADWR may take as long as four months to  
8 review it, and longer in some cases if extensions are requested, it is obvious that the LAWS cannot  
9 be issued by the March 31, 2014 deadline requested by MLC in its original motion for an extension.

10 On February 14, 2014, MLC made a request to the Mohave Valley Irrigation & Drainage  
11 District ("MVIDD") for an extension of the Colorado River water allocation previously granted by  
12 the district, which MLC expects will be granted. The continued existence of this allocation has  
13 become a crucial part of the development of this Subdivision. MVIDD has a contract with the  
14 Department of Interior for an allocation of Colorado River water which it subcontracts and allocates  
15 for agriculture, residential and commercial uses. At its January Board of Directors meeting  
16 MVIDD announced that as of now, it has allocated and/or subcontracted all of the water under its  
17 government contract and there will be no more allocations unless and until it gets back water that  
18 has been previously allocated or finds a new source of water. This means that if this subdivision is  
19 not permitted to proceed at this time, it will lose its MVIDD allocation and will not be able to get  
20 another one and the land together with all of the investments in improvements will become  
21 valueless. Therefore, it is imperative that MLC be granted the extra extension to obtain the required  
22 LAWS.

23 This Affidavit is made in support of the MLC request for an amendment of its Motion for  
24 Extension of Time and Confirmation of Compliance with Order.

AFFIDAVIT

STATE OF ARIZONA        )  
  ) ss.  
County of Maricopa        )

G. WAYNE McKELLIPS, JR., being first duly sworn deposes and says: That he is the President of McKellips Land Corporation, that he has knowledge of the facts contained in the foregoing Narrative and that such facts are true to the best of his knowledge, information and belief.

*G. Wayne McKellips, Jr.*  
G. WAYNE MCKELLIPS, JR.

SUBSCRIBED AND SWORN to before me this 19 day of February, 2014, by G. WAYNE McKELLIPS, JR., who is a personally known to me and who personally appeared before me and executed this document for the purposes therein contained.

*Florence A. Harding*  
Notary Public

My commission expires:

