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March 26, 2014

Arizona Corporation Commission

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Via E-mail and U.S. Mail

Steve Wene

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DOCKETED BY 

Re: Truxton Canyon Water Company, Inc. Rate Case, Docket Nos. W-02168A-11-0363, W-02168A-13-0309, W-02168A-13-0332

Dear Mr. Wene:

Representatives of the Valle Vista Property Owners Association (“VVPOA”) just recently learned that the Claude K. Neal Family Trust (the “Trust”) and Truxton Canyon Water Company (“Truxton”) have been approached by Rhodes Development or another company regarding a potential sale of land, including the Hualapai Well. As you know, the Hualapai Well has been and is being used by Truxton to provide water service to customers within the Company’s CC&N, including VVPOA. It is a necessary and useful asset of the Trust/Truxton in providing water service under Truxton’s CC&N. The Hualapai Well is necessary for Truxton to continue to provide reliable and adequate water service to customers within its CC&N, including irrigation water to VVPOA during the high usage summer months. As Mr. Neal testified during the hearings last month, the Hackberry wells don’t supply enough water to meet customer demand during the summer months, requiring Truxton to use the Hualapai Well during the summer months. 2/27/2014 Tr. at 245:18-247:12.

In the pending rate case and financing dockets, Truxton has requested financing approval to convert that well to electric service in order to provide adequate water service within its CC&N. According to the testimony during the rate case hearing, the Hualapai Well is owned by the Trust, but the Trust is the sole shareholder and owner of Truxton. At hearing, Mr. Neal testified that when Truxton was formed in 1972, the Trust opted to maintain ownership of the assets necessary and useful for Truxton to provide water service (including the Hackberry Wells and Hualapai Well) in order to “avoid going before the ACC and having to deal with all of the regulatory issues.” 2/27/2014 Tr. Vol. II at 269:15-270:18. As a matter of law, it appears that the Trust is holding those assets in trust for Truxton. There is a strong argument that an

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equitable trust was created in favor of Truxton relating to the ownership of those wells and other facilities used to provide water service.

Under these circumstances, VVPOA was surprised to learn that the Trust and Truxton are considering a potential sale of land, including the Hualapai Well. That possibility was not mentioned by Truxton in the recent hearings before the Commission. In fact, Mr. Neal testified that the Trust owns the Hualapai Well free and clear and he didn't mention any pending sales of that well. 2/27/2014 Tr. at 297:9-13. As such, VVPOA provides this letter to put Truxton and Trust on notice of several legal issues and claims relating to any such sale. VVPOA provides this letter hoping to prevent the Trust and Truxton from undertaking any actions in violation of Arizona law and avoiding any legal disputes and/or claims. By this letter, VVPOA also requests written assurance that Truxton will be able to provide reliable and adequate water service to VVPOA and that any potential sale of land by the Trust/Truxton will not impact Truxton's ability to provide an adequate water supply to VVPOA.

To start, any sale of the Hualapai Well to a developer or other party without allowing Truxton to use that well as necessary to provide water service to customers (including VVPOA) would be a violation of Truxton's CC&N and its service obligations. Under the unique facts relating to organization of Truxton and the Trust, the Hualapai Well is necessary and useful in the performance of Truxton's duties to the public under A.R.S. § 40-285(A) and, under that statute, the Trust and Truxton cannot sell that well without approval of the Arizona Corporation Commission. We assume that the Trust and Truxton have notified any potential buyer that any such transfer is subject to voidance under A.R.S. § 40-285(E) absent the necessary approval by the Corporation Commission.

Based on testimony from the recent hearings, if the Trust and Truxton attempted to sell the Hualapai Well to a developer or other entity, any such sale likely would leave Truxton without necessary facilities and wells to provide adequate water service within its CC&N, including depriving Truxton of a necessary water source to provide irrigation water to VVPOA. As the owner of Truxton, the Trust has an obligation to ensure that Truxton has adequate resources to provide water service to its customers. Put another way, it would violate Arizona law for the Trust to transfer property and assets that would result in the Trust depriving Truxton of assets that are necessary and useful in providing utility service to customers, including VVPOA, especially given the testimony relating to the Trust's original decision to retain ownership of those assets when it created Truxton and obtained a CC&N.

It also bears emphasis that if the Trust sold the Hualapai Well, then the Trust has an obligation as the owner of Truxton to replace that well with an adequate and alternative source of water. Truxton also has an obligation to act in a way that would prevent its sole shareholder from depriving Truxton of assets necessary to provide utility service. For example, Truxton could

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condemn the Hualapai Well and/or insert provisions in any sale documents documenting Truxton's right to continued use of the Hualapai Well to provide water service.

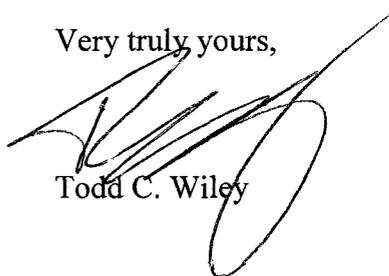
VVPOA is hopeful that the Trust and Truxton have not entered or closed on any asset sales relating to the Hualapai Well given the host of legal issues and claims that would result against the Trust, Truxton and others on these issues. Towards that end, VVPOA formally requests that Truxton provide a written response addressing whether the Trust and Truxton have entered any sales agreements with any parties relating to sale of the Hualapai Well or any other assets used by Truxton in providing water service to customers of Truxton.

If the Trust and Truxton have agreed to sell any such assets, VVPOA respectfully requests that Truxton provide the terms and conditions of any such agreements and that Truxton provide written assurance to VVPOA that (i) any such sale will not impact or adversely modify Truxton's rights to use the Hualapai Well as necessary to provide water service to VVPOA, (ii) that any such sale will not impact Truxton's ability to provide uninterrupted and continuous water service to VVPOA, and (iii) that Truxton will continue to have an adequate water supply to provide reliable water service to VVPOA.

VVPOA requests that Truxton provide that written response by end of business this Friday, March 28, 2014. We are hopeful that the Trust and Truxton will abide by this request. If the Trust and Truxton are unwilling to do so, VVPOA will have no choice but to formally request a procedural conference before Judge Kinsey to address these issues.

Given the legal issues noted above and the pending rate case filed by Truxton, we are docketing this letter in the pending consolidated rate case docket before the Arizona Corporation Commission. We look forward to your response on these issues.

Very truly yours,



Todd C. Wiley

13 Copies of the foregoing filed with:

Docket Control
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COPY of the foregoing hand-delivered to:

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