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# EXCEPTION

BEFORE THE ARIZONA CORPORATIONS COMMISSION

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**BOB STUMP**  
CHAIRMAN

**ORIGINAL**

AZ CORP COM  
DOCKET COM

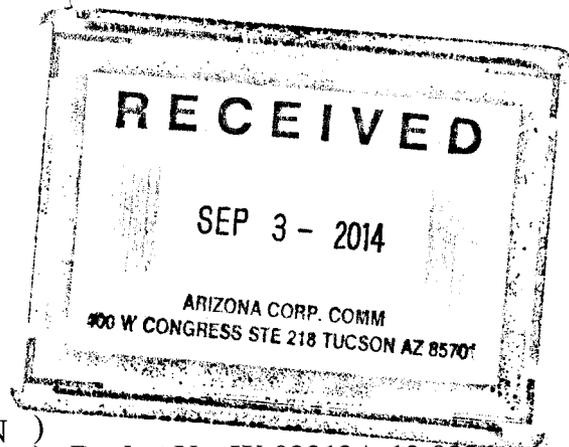
2014 SEP 9 AM 11 21

**GARY PIERCE**  
COMMISSIONER

**BRENDA BURNS**  
COMMISSIONER

**SUSAN BITTER SMITH**  
COMMISSIONER

**BOB BURNS**  
COMMISSIONER



IN THE MATTER OF THE APPLICATION OF PRESIDIO TRAILS DEVELOPMENT, LLC FOR DELETION OF ITS PROJECT FROM THE CERTIFICATE OF CONVENIENCE AND NECESSITY HELD BY HALCYON ACRES ANNEX NO. 2 WATER COMPANY, INC.

Docket No. W-02312A-13-0326

EXCEPTIONS TO FINDINGS OF FACT AND CONCLUSIONS OF LAW

ARIZONA CORPORATIONS COMMISSION  
DOCKETED

SEP 9 2014

**I. INTRODUCTION:**

DOCKETED BY

Halcyon Acres. No. 2 Water Co., Inc. ("Halcyon"), through undersigned counsel, hereby submits its Exceptions to the recommendation of Administrative Law Judge Belinda A. Martin. Although Halcyon generally agrees with the Findings of Fact and Conclusions of Law, a few clarifications are necessary. Specifically, Halcyon takes exception to Findings of Fact 80 and 81 and Conclusion of Law 4 for the reasons described below.

**II. BACKGROUND.**

Halcyon takes exception to Findings of Fact 80 and 81 along with Conclusion of Law 4 because those Findings and that Conclusion state that Halcyon is "unable" to provide service to

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Presidio. That is not the case. Halcyon remains ready, willing and able to serve Presidio. The current proceeding and the circumstances surrounding the current application are in the nature of compromise and settlement, as noted in Findings of Fact 40, 47, 50, 58, and 61. Findings of Fact 80 and 81 along with Conclusion of Law 4 therefore should indicate that the current proceeding is a compromise as to whether Halcyon is "able" to serve Presidio.

The disagreement between Halcyon and Presidio stems from difficulties with the City of Tucson. Halcyon applied and was granted a special exception land use ("SELU") from the City of Tucson's Zoning Examiner and approval of necessary variances from the Board of Adjustment. However, as recognized in Finding of Fact 35, after two Halcyon customers appealed, "the City Mayor and Council reversed the Zoning Examiner's decision and rejected Halcyon's SELU application." Halcyon maintains that the land use approvals can be secured with additional and more refined application. Presidio claims that the City of Tucson's denial of the SELU is a full and final barrier to service. This conflict between Presidio and Halcyon resulted in the current compromise.

For purposes of future consideration of service or deletion applications, Halcyon believes it is appropriate to clarify Finding of Facts 80 and 81 and Conclusion of Law 4 to indicate that the current agreement is a compromise, not a final adjudication that Halcyon is unable to serve Presidio. Failure to make those clarifications would indicate that the City of Tucson can control Halcyon by simply denying Halcyon's land use application based on political pressure from local citizenry. Such an indication would be contrary to the compromise and settlement nature of this proceeding.

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1 **III. THE FINDINGS OF FACT AND CONCLUSIONS OF LAW SHOULD BE**  
2 **REFINED TO ACCURATELY REFLECT THE COMPROMISE.**

3 Halcyon takes exception to Findings of Fact 80 and 81 and Conclusion of Law 4. These  
4 items should be refined to indicate that the deletion action is a reasonable compromise  
5 regarding whether Halcyon is able to serve Presidio. Halcyon continues to support the  
6 application for deletion with these refinements.  
7

8 **RESPECTFULLY SUBMITTED** this 3rd day of September, 2014.

9 **GOOD LAW, P.C.**

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20 Attorneys for Halcyon Acres Annex No. 2

21 ORIGINAL and thirteen (13) copies  
22 of the foregoing filed this 3rd day  
23 of September, 2014, with:

24 The Arizona Corporation Commission  
25 Utilities Division – Docket Control  
26 400 W. Congress Street, #218  
27 Tucson, AZ 85701

28 Copy of the foregoing mailed  
this 3rd day of September, 2014, to:

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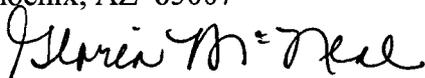
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