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BEFORE THE ARIZONA CORPORATION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

AUG 12 2014

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

DOCKETED BY	nr
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IN THE MATTER OF THE APPLICATION OF WATER UTILITY OF GREATER TONOPAH, INC., AN ARIZONA CORPORATION, FOR AN EXTENSION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO ENCOMPASS ALL OR PORTIONS OF SECTIONS 15, 17 AND 22, T2N, R5W, G&SRB&M, MARICOPA COUNTY, ARIZONA (AKA THE HASSAYAMPA RANCH DEVELOPMENT).

DOCKET NO. W-02450A-04-0837

DECISION NO. 74692

**ORDER EXTENDING TIME DEADLINE CONTAINED IN DECISION NOS. 68307, 70690 AND 71711**

Open Meeting  
 August 12 and 13, 2014  
 Phoenix, Arizona

BY THE COMMISSION:

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On November 19, 2004, the Water Utility of Greater Tonopah<sup>1</sup> ("Global Tonopah," "Company" or "Applicant") filed an application for an extension of its Certificate of Convenience and Necessity ("Certificate" or "CC&N") with the Arizona Corporation Commission ("Commission") to provide public water utility service in various parts of Maricopa County, Arizona.

2. On November 14, 2005, the Commission issued Decision No. 68307, which approved Global Tonopah's application to extend its CC&N to serve an area known as Hassayampa Ranch, a 2,066 acre subdivision in Maricopa County, Arizona.

3. The Commission's approval in Decision No. 68307 was conditional upon the

<sup>1</sup> Applicant is one of five utilities owned by West Maricopa Combine, Inc. Subsequent to Decision No. 68307, West Maricopa Combine, Inc., was acquired by Global Water Resources, LLC ("Global"). Applicant is now known as Global Tonopah.

1 Company filing the following documentation in a timely fashion:

- 2 • that the storage and production deficiencies outlined in the Company's system  
3 improvement plan submitted to the Commission's Utilities Division ("Staff")  
4 on September 9, 2005, be corrected not later than December 31, 2006;
- 5 • that the Company file, within one year of the effective date of the Decision,  
6 with the Commission's Docket Control as a compliance item, a copy of the  
7 Maricopa County Environmental Services Department ("MCESD")  
8 Certificate of Approval of Construction ("CAC") for Applicant's water  
9 source/treatment plant and water distribution system for Hassayampa Ranch;
- 10 • that the Company file, within one year of the effective date of the Decision,  
11 with the Commission's Docket Control as a compliance item, a copy of the  
12 developer's Certificate of Assured Water Supply ("CAWS") issued by the  
13 Arizona Department of Water Resources ("ADWR") where applicable or  
14 when required by statute;
- 15 • that the Company file, by June 30, 2006, with the Commission's Docket  
16 Control as a compliance item, documents showing compliance with the new  
17 arsenic standard;
- 18 • that the Company file, by December 31, 2005, with the Commission's Docket  
19 Control, proposed stand alone rates to be applied solely to the extension area.  
20 In the alternative, the Company should provide documentation to demonstrate  
21 that its existing customers will be positively impacted by the addition of the  
22 new water facilities necessary to serve the extension area if it intends to use its  
23 existing rates for Hassayampa Ranch; and
- 24 • that the Company file, by December 31, 2006, with the Commission's Docket  
25 Control as a compliance item, a copy of the applicable Maricopa County  
26 franchise.

27 4. On March 27, 2007, Global Tonopah filed a Motion for an Extension of Time  
28 ("Motion") to comply with the conditions set forth in Decision No. 68307, and requesting that the  
Commission grant it the option of filing a Designation of Assured Water Supply ("DAWS") instead  
of a CAWS for the extension area.

5. On March 29, 2007, by Procedural Order, Staff was directed to file a response to  
Global Tonopah's Motion.

6. On April 16, 2007, Staff filed its response to the Motion, stating Global Tonopah was  
in compliance with three of the seven requirements ordered in Decision No. 68307. According to  
Staff, the following requirements had not been satisfied:

- that Global Tonopah file, by June 30, 2006, evidence of compliance with the  
new arsenic standard;
- that Global Tonopah file, by November 14, 2006, a copy of the MCESD CAC  
for the water source/treatment plant, and for the distribution system for

Hassayampa Ranch;

- that Global Tonopah file, by November 14, 2006, a copy of the developer's CAWS issued by ADWR where applicable or when required by statute; and
- that storage and production deficiencies be corrected no later than December 31, 2006.

7. On May 3, 2007, by Procedural Order, Global Tonopah was granted an extension of time to comply with the following requirements as set forth below:

- to file, with the Commission's Docket Control, a plan to meet storage and production deficiencies and completely correct the deficiencies by December 31, 2007;
- to file, by December 31, 2007, with the Commission's Docket Control, evidence of compliance with the new arsenic standard;
- to file, by September 23, 2008, with the Commission's Docket Control, a copy of the MCESD CAC for the water source/treatment plant, and for the distribution system for Hassayampa Ranch; and
- to file, by September 23, 2008, with the Commission's Docket Control, a copy of the developer's CAWS issued by the ADWR where applicable or when required by statute.

8. On June 25, 2007, Global Tonopah docketed a Motion for Clarification reiterating its request that the Commission allow it to file a DAWS in lieu of a CAWS for the extension area set forth in Decision No. 68307. The motion stated that the key difference between a DAWS and a CAWS is that "a DAWS is subject to on-going review and supervision by ADWR, and therefore provides greater protections to future customers than a CAWS."

9. On April 23, 2008, Global Tonopah filed a Motion to Correct Nunc Pro Tunc the Commission's May 3, 2007, Procedural Order. The motion stated that the Procedural Order granted the extension of time for Global Tonopah to file a MCESD CAC, but that previous references in the docket were for the company to file a Certificate of Approval to Construct ("ATC"). The motion cited several references to the ATC requirement.

10. On April 25, 2008, by Amended Procedural Order, Global Tonopah's request to correct the May 3, 2007, Procedural Order requiring Global Tonopah to file an ATC by September 23, 2008, was granted.

11. On September 12, 2008, Global Tonopah filed a second Motion to comply with

1 Decision No. 68307.

2 12. In its second Motion, Global Tonopah requested an extension of time until May 16,  
3 2010, to match the compliance deadline established in Commission Decision No. 70357 (May 16,  
4 2008)<sup>2</sup>, which required Global Tonopah to file a CAWS for the first subdivision or a DAWS for the  
5 entire extension area in that Decision within two years. Global Tonopah had a pending application  
6 with ADWR requesting a DAWS that will cover the extension areas granted in Decision Nos. 68307  
7 and 70357. Although the Company had been ordered to file a copy of the developer's CAWS in  
8 Decision No. 68307, in its second Motion, the Company requested essentially that, in the alternative,  
9 it be permitted to file a copy of the DAWS as ordered in Decision No. 70357.

10 13. Global Tonopah's second Motion stated that the company had obtained an Analysis of  
11 Assured Water Supply ("AAWS") for Hassayampa Ranch, and that the AAWS is a key step towards  
12 a CAWS or a DAWS. According to the second Motion, the AAWS showed that there is water  
13 physically available to meet the projected needs of the Hassayampa Ranch subdivision. The  
14 Company also attached a letter from Harvard Investments, the developers for Hassayampa Ranch,  
15 which expressed a continuing desire for Global Tonopah to provide water utility service to the  
16 extension area.

17 14. On October 2, 2008, Staff filed a memorandum stating Staff did not oppose Global  
18 Tonopah's request for an extension of time, until May 16, 2010, to comply and recommended that  
19 Global Tonopah be allowed to file a CAWS or DAWS<sup>3</sup> for the extension area granted in Decision  
20 No. 68307. Staff found that Global Tonopah had already met six of the seven conditions required in  
21 Decision No. 68307. The only remaining requirement was for Global Tonopah to file a copy of the  
22 developer's CAWS issued by ADWR where applicable or required by statute. Staff also  
23 recommended that Global Tonopah not be granted any additional extensions of time to comply with  
24 Decision No. 68307.

25 15. On January 20, 2009, the Commission issued Decision No. 70690 and found that  
26

27 <sup>2</sup> Decision No. 70357 approved a conditional Certificate for the Company to provide water service to an additional  
28 22,217 acres of land in Maricopa County.

<sup>3</sup> Staff's recommendation with respect to the DAWS was in error since Decision No. 68307 ordered only the filing  
of a copy of the developer's CAWS where applicable or when required by statute.

1 Global Tonopah had made a timely request for an extension of time to comply with Decision No.  
2 68307, and authorized the Company to have an extension of time until May 16, 2010, in which to file  
3 a copy of the developer's CAWS.

4 16. In Decision No. 70690, the Commission noted that Staff had expressed concern that  
5 Global Tonopah had twice requested an extension of time to comply with Decision No. 68307 and  
6 recommended that no future extensions of time be granted. In that Decision, the Commission did not  
7 adopt Staff's recommendation that no future requests for extensions of time to comply with Decision  
8 No. 68307 be granted. However, Decision No. 70690 put Global Tonopah on notice that any further  
9 requests for extensions of time to comply had to demonstrate that extraordinary circumstances existed  
10 that would warrant additional time.

11 17. On March 4, 2010, the company filed a third Motion requesting an extension of time  
12 until December 31, 2012, in which to file a copy of the developer's CAWS for the following reasons:  
13 the Company had made substantial progress to comply with Decision No. 68307; the delay was due  
14 to ADWR's extensive review of water resources in the Lower Hassayampa Sub-Basin related to  
15 Applicant's requested DAWS for its extension areas; and because the extension would match the  
16 deadline approved in Decision No. 70430 (December 8, 2009), which set a deadline of December 31,  
17 2012, for the remainder of Greater Tonopah's service area.

18 18. The Company further cited Commission Decision No. 70690 which previously noted  
19 that the Company had met six of the seven conditions required by Decision No. 68307.

20 19. Attached to the Company's third Motion was a copy of a letter dated November 16,  
21 2009, from Ms. Karen Smith, the Deputy Director of ADWR, who supported efforts such as the  
22 Company's to achieve a sustainable water supply in the Lower Hassayampa Sub-Basin and supported  
23 the Company's efforts to obtain a DAWS to provide "a significant opportunity to move closer to  
24 sustainability by maximizing water reuse, recycling and recharge."

25 20. On April 29, 2010, Staff filed its response to the Company's third Motion for an  
26 extension stating that Staff was aware of the downturn in the economy and that the Company had  
27 been involved on a continuous basis in ADWR's analysis of the Lower Hassayampa Sub-Basin issues  
28 and reiterated that Applicant had met six of the seven conditions of Decision No. 68307.

1           21. Staff concluded stating that it had no objections to Global Tonopah's request for an  
2 extension of time until December 31, 2012, to file a copy of the developer's CAWS. Staff further  
3 stated that it had notified the Company that any request to file a DAWS in lieu of a CAWS would  
4 require a proceeding to modify Decision No. 68307 pursuant to A.R.S. § 40-252.

5           22. On June 3, 2010, the Commission issued Decision No. 71711 which found that Global  
6 Tonopah had done a commendable job achieving compliance with six of the seven conditions to  
7 secure an extension of its Certificate as set forth in Decision No. 68307. The Commission found  
8 further that the Company was continuing its efforts to achieve total compliance with the Decision  
9 through the Company's ongoing efforts with ADWR, and was granted the requested extension of  
10 time until December 31, 2012, to file a copy of the developer's CAWS.

11           23. On December 31, 2012, the Company filed a fourth Motion requesting an extension of  
12 time until December 15, 2015, in which to file a copy of the developer's CAWS. The fourth Motion  
13 reiterated that Global Tonopah had complied with six of the original seven conditions required in  
14 Decision No. 68307 and stated that securing its CAWS for the extension area is the only remaining  
15 condition to be satisfied. The Company further states that it is continuing discussions with ADWR  
16 with respect to the issuance of a DAWS for Global Tonopah's entire service area. Attached to the  
17 Company's fourth Motion as exhibits were copies of two letters from the developer of Hassayampa  
18 Ranch requesting water and wastewater utility service which illustrate the continued need for water  
19 and wastewater utility service in the extension area.

20           24. On July 21, 2014, Staff filed its response to Global Tonopah's fourth Motion for an  
21 extension stating that if the Company chooses to secure a DAWS, it will have to seek an amendment  
22 of Decision No. 68307 pursuant to A.R.S. § 40-252. Staff further states that Staff does not object to  
23 the Company's request for a further extension of time<sup>4</sup> to secure a CAWS from ADWR for the  
24 extension area and further recommends that the extension be granted until December 31, 2016.  
25 Lastly, Staff recommends that no further extension be granted in this matter and that if Global  
26 Tonopah files any further requests for an extension of time in this or any other docket that it be filed

27 \_\_\_\_\_  
28 <sup>4</sup> According to Staff, the Company amended its fourth Motion and requested that the extension be authorized until  
December 15, 2016.

1 at least 90 days prior to the pending deadline established in a Commission Decision.

2 25. Under the circumstances, the fourth Motion for an extension of time by Global  
3 Tonopah to allow for compliance with Decision No. 68307 should be granted until December 31,  
4 2016, as recommended by Staff to allow for the filing of the developer's CAWS. Further, any similar  
5 requests for an extension of time by the Company in the future should be filed at least 90 days prior  
6 to the Commission's deadline.

7 **CONCLUSIONS OF LAW**

8 1. Global Tonopah is a public service corporation within the meaning of Article XV of  
9 the Arizona Constitution and A.R.S. §§40-281 and 40-282.

10 2. The Commission has jurisdiction over Global Tonopah and the subject matter of the  
11 fourth Motion for an extension of time to comply with Commission Decision No. 68307.

12 3. Staff's recommendation that Global Tonopah should receive an extension of time to  
13 comply with Decision No. 68307 is reasonable and should be adopted.

14 4. Global Tonopah should file future requests for extensions of time deadlines in  
15 Commission Decisions in a timely fashion.

16 **ORDER**

17 IT IS THEREFORE ORDERED that Water Utility of Greater Tonopah, Inc.'s fourth Motion  
18 for an Extension of Time to comply with Decision No. 68307, until December 31, 2016, to file a  
19 copy of the developer's Certificate of Assured Water Supply where applicable or when required by  
20 statute for the extension area is hereby granted.

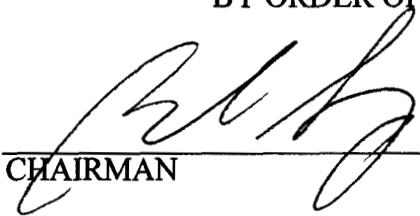
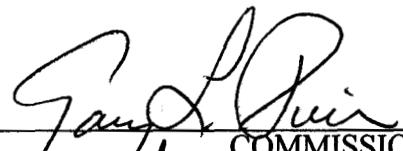
21 IT IS FURTHER ORDERED that Water Utility of Greater Tonopah, Inc. shall be on notice  
22 that any future requests for extensions of time to comply with Decision No. 68307, shall demonstrate  
23 that extraordinary circumstances exist or the request shall be denied.

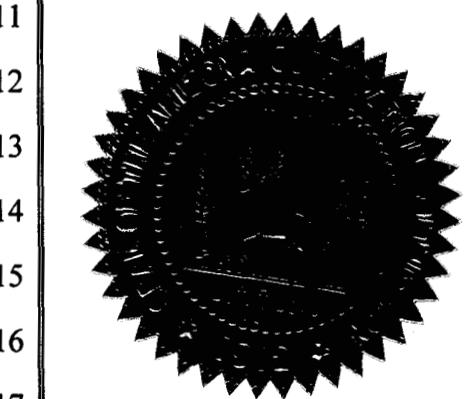
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1 IT IS FURTHER ORDERED that Water Utility of Greater Tonopah, Inc. shall file any further  
2 requests for an extension of time to comply with a Commission Decision at least 90 days prior to the  
3 deadline.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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7  
8  CHAIRMAN  COMMISSIONER  
9  COMMISSIONER  COMMISSIONER  COMMISSIONER  
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11  
12 IN WITNESS WHEREOF, I, JODI JERICH, Executive  
13 Director of the Arizona Corporation Commission, have  
14 hereunto set my hand and caused the official seal of the  
15 Commission to be affixed at the Capitol, in the City of Phoenix,  
16 this 12<sup>th</sup> day of August 2014.

17   
18 JODI JERICH  
19 EXECUTIVE DIRECTOR

20 DISSENT \_\_\_\_\_

21 DISSENT \_\_\_\_\_  
22 MS:ru  
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