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BEFORE THE ARIZONA CORPORATION COMMISSION  
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**COMMISSIONERS**

SUSAN BITTER SMITH - Chairman  
BOB STUMP  
BOB BURNS  
DOUG LITTLE  
TOM FORESE

2015 JAN -6 P 2:10

ORIGINAL

AZ CORP COMMISSION  
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF  
CIRCLE CITY WATER COMPANY, LLC FOR  
AN EXTENSION OF ITS EXISTING  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY FOR WATER SERVICE.

DOCKET NO. W-03510A-13-0397

STAFF'S NOTICE OF FILING DIRECT  
TESTIMONY

Staff of the Arizona Corporation Commission ("Staff") hereby files the Direct Testimony of  
Blessing Chukwu in the above matter.

RESPECTFULLY SUBMITTED this 6<sup>th</sup> day of January 2015.

Brian E. Smith, Attorney  
Legal Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007  
(602) 542-3402

Original and thirteen (13) copies  
of the foregoing filed this  
6<sup>th</sup> day of January 2015 with:

Docket Control  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Arizona Corporation Commission

DOCKETED

JAN 06 2015

DOCKETED BY

1 Copy of the foregoing mailed  
this 6<sup>th</sup> day of January 2015 to:

2 Robert T. Hardcastle  
3 Circle City Water Company, LLC  
Post Office Box 82218  
4 Bakersfield, California 93380-2218

5 Garry Hays  
Law Offices of Garry D. Hays, PC  
6 1702 East Highland Avenue, Suite 204  
Phoenix, Arizona 85016  
7 Attorney for Lake Pleasant 5000, LLC

8 Darin P. Reber  
7501 East McCormick Parkway  
9 Scottsdale, Arizona 85258  
Counsel for Maughan Revocable Trust of 2007  
10 and Rex G. Maughan and Ruth G. Maughan

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BEFORE THE ARIZONA CORPORATION COMMISSION

BOB STUMP

Chairman

GARY PIERCE

Commissioner

BRENDA BURNS

Commissioner

BOB BURNS

Commissioner

SUSAN BITTER SMITH

Commissioner

IN THE MATTER OF THE APPLICATION OF )  
CIRCLE CITY WATER COMPANY, L.L.C. FOR )  
APPROVAL TO DELETE PORTIONS OF ITS )  
CERTIFICATE OF CONVENIENCE AND )  
NECESSITY AND TO DELETE A )  
REQUIREMENT SET FORTH IN DECISION )  
NO. 68246 )  
\_\_\_\_\_)

DOCKET NO. W-03510A-13-0397

DIRECT

TESTIMONY

OF

BLESSING NKIRUKA CHUKWU

EXECUTIVE CONSULTANT III

UTILITIES DIVISION

ARIZONA CORPORATION COMMISSION

JANUARY 6, 2015

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**EXECUTIVE SUMMARY  
CIRCLE CITY WATER COMPANY, L.L.C.  
DOCKET NO. W-03510A-13-0397**

On November 19, 2013, Circle City Water Company L.L.C. ("Circle City" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") requesting approval to delete approximately 5,042 acres of its Certificate of Convenience and Necessity ("CC&N") as extended by Decision No. 68246 and to delete the Decision's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area.

The purpose hereof is to adopt the Utility Division's ("Staff") Staff Report filed on October 21, 2014, as Staff's direct testimony in this docket.

Circle City is an Arizona Corporation in good standing with the Commission's Corporation Division. The Company's water system has adequate production and storage capacities to serve the present customer base and reasonable growth in the Company's certificated area. However, the Company's water system is not in compliance with Arizona Department of Water Resources ("ADWR") requirements as the Company failed to file a System Water Plan.

Staff recommends the Commission deny Circle City's application for deletion of a portion of its CC&N within Maricopa County, Arizona, to provide water service. Staff also recommends that the Commission eliminate the requirement set forth in Decision No. 68246 that the Company demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area. Staff further recommends that the Company file with Docket Control, as a compliance item in this Docket by June 30, 2015, documentation from ADWR indicating that the water system is compliant with departmental requirements governing water providers and/or community water systems.

1 **I. INTRODUCTION**

2 **Q. Please state your name, business address, by whom and where you are employed and**  
3 **in what capacity.**

4 A. My name is Blessing Nkiruka Chukwu. My business address is 1200 West Washington Street,  
5 Phoenix, Arizona 85007. I am employed by the Utilities Division ("Staff") of the Arizona  
6 Corporation Commission ("ACC" or "Commission") as an Executive Consultant III.

7  
8 **Q. Please describe your educational and professional background.**

9 A. I received a B.S. in Accounting and a M.B.A. in Finance from the University of Central  
10 Oklahoma. I was employed for over eight years by The City of Oklahoma City ("City") in  
11 various capacities. For approximately eight years of my employment with the City, I was an  
12 Administrative Aide with the responsibility of overseeing the various Environmental  
13 Protection Agency's mandates on Stormwater Quality within the Corporate City limits. Prior  
14 to being an Administrative Aide, I was a Budget Technician where I was responsible for  
15 reviewing, analyzing, and recommending budget requests and/or proposed budget, fund  
16 transfers, appropriations and/or any other budget related issues proposed by assigned  
17 departments. Prior to joining the Commission, I was employed by the Oklahoma  
18 Corporation Commission ("OCC") for five years in the Public Utility Division where I held  
19 various Public Utility Regulatory Analyst positions of increasing responsibilities. My  
20 responsibilities at the OCC included processing applications consisting of rates and charges,  
21 streamline tariff revisions and requests for Certificates of Convenience and Necessity  
22 ("CC&N") filed by local exchange telecommunications companies, payphone providers,  
23 resellers, and operator service provides. I also reviewed mergers and acquisitions,  
24 Interconnection Agreements (including Arbitrations), and performed special projects as  
25 requested by the Director of Public Utility Division and/or the Commissioners.

1 **Q. How long have you been employed with the ACC?**

2 A. I have been employed with the ACC since May 27, 2003.

3  
4 **Q. What are your responsibilities as an Executive Consultant III?**

5 A. I perform special projects for the Director's Office which include, but are not limited to,  
6 serving on the case teams; development of policies and procedures for appropriate regulatory  
7 oversight of public utilities; review applications for CC&N, and writing Staff Reports and  
8 Testimony.

9  
10 **Q. Have you testified previously before this Commission?**

11 A. Yes, I have testified before this Commission.

12  
13 **II. PURPOSE OF TESTIMONY**

14 **Q. What is the purpose of your testimony?**

15 A. The purpose of my testimony is to adopt the Staff Report filed on October 21, 2014, as  
16 Staff's direct testimony in this docket.

17  
18 **III. STAFF REPORT**

19 **Q. Please describe the attached Staff Report, Exhibit BNC-1.**

20 A. Exhibit BNC-1 presents the details of Staff's analysis and findings and is attached to this  
21 direct testimony. Exhibit BNC-1 contains the following major topics: (1) Introduction, (2)  
22 Background, (3) The Requested CC&N Deletion Area, (4) Circle City Position, (5) Maughan  
23 Revocable Trust ("MRT"), Lake Pleasant 5000, L.L.C. ("LP5K") Position, (6) The Water  
24 System, (7) Special Service Tariffs, and (8) Staff Analysis of the CC&N Deletion Application.

25  
26 **Q. Does this conclude your direct testimony?**

27 A. Yes, it does.

MEMORANDUM

RECEIVED

2014 OCT 21 P 3:39

TO: Docket Control

 FROM: Steve M. Olea  
 Director  
 Utilities Division

 AZ CORP COMMISSION  
 DOCKET CONTROL

ORIGINAL

Date: October 21, 2014

 RE: **CORRECTED STAFF REPORT FOR CIRCLE CITY WATER COMPANY L.L.C. –  
 APPLICATION FOR DELETION OF PORTIONS OF ITS CERTIFICATE OF  
 CONVENIENCE AND NECESSITY AND THE REQUIREMENT TO FILE A  
 RATE APPLICATION PURSUANT TO DECISION NO. 68246  
 (DOCKET NO. W-03510A-13-0397)**

Attached is the corrected Staff Report for Circle City Water Company L.L.C.'s application for deletion of portions of its existing Certificate of Convenience and Necessity and the requirement to file a rate application pursuant to Decision No. 68246. Staff is recommending denial.

The original Staff Report docketed on October 17, 2014, inadvertently contained two page 4s. On page 5, a typographical error was also corrected.

SMO:BNC:tdp\MS

Originator: Blessing Chukwu

Arizona Corporation Commission

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OCT 21 2014

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Service List for: Circle city Water Company L.L.C.  
Docket No. W-03510A-13-0397

Mr. Robert Hardcastle  
P.O. Box 82218  
Bakersfield, CA 93380-2218

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Ms. Janice Alward  
Chief, Legal Division  
Arizona Corporation Commission  
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Phoenix, Arizona 85007

Mr. Steve M. Olea  
Director, Utilities Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Ms. Lyn Farmer  
Chief, Hearing Division  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION

CIRCLE CITY WATER COMPANY L.L.C.

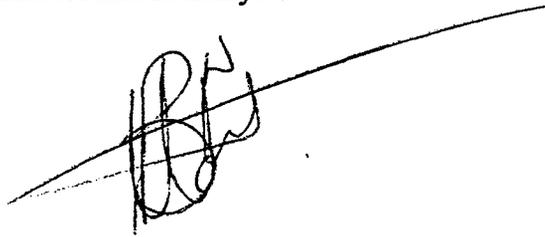
DOCKET NO. W-03510A-13-0397

APPLICATION FOR DELETION OF PORTIONS OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY AND THE REQUIREMENT TO FILE A RATE  
APPLICATION PURSUANT TO DECISION NO. 68246

OCTOBER 21, 2014

## STAFF ACKNOWLEDGMENT

The Staff Report for Circle city Water Company L.L.C. (Docket No. W-03510A-13-0397) was the responsibility of the Staff members signed below. Blessing Chukwu was responsible for the review and analysis of the Company's application. Katrin Stukov was responsible for the engineering and technical analysis.

A handwritten signature in black ink, appearing to be 'BChukwu', written over a long horizontal line that extends across the page.

Blessing Chukwu  
Executive Consultant

A handwritten signature in black ink, appearing to be 'Katrin Stukov', written over a long horizontal line that extends across the page.

Katrin Stukov  
Utilities Engineer

**EXECUTIVE SUMMARY**  
**CIRCLE CITY WATER COMPANY L.L.C.**  
**DOCKET NO. W-03510A-13-0397**

On November 19, 2013, Circle City Water Company L.L.C. ("Circle City" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") requesting approval to delete approximately 5,042 acres of its Certificate of Convenience and Necessity ("CC&N") as extended by Decision No. 68246 and to delete the Decision's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area.

Circle City is an Arizona Corporation, in good standing with the Commission's Corporation Division, and engaged in providing water service to approximately 179 customers in portions of Maricopa County, Arizona.

Staff recommends the Commission deny Circle City's application for deletion of a portion of its CC&N within portions of Maricopa County, Arizona, to provide water service. Staff also recommends that the Commission eliminate the requirement that Circle City comply with Decision No. 68246's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area. Staff further recommends that the Company file with Docket Control, as a compliance item in this Docket by June 30, 2015, documentation from ADWR indicating that the water system is compliant with departmental requirements governing water providers and/or community water systems.

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**ATTACHMENT(S)**

ENGINEERING REPORT .....	A
ENGINEERING MAP .....	B
REQUEST FOR SERVICE LETTER.....	C

## **INTRODUCTION**

On November 19, 2013, Circle City Water Company L.L.C. ("Circle City" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") requesting approval to delete portions of its Certificate of Convenience and Necessity ("CC&N") as extended by Decision No. 68246 and to delete the Decision's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area.

On December 11, 2013, and January 9, 2014, Lake Pleasant 5000, L.L.C. ("LP5K") and Rex G. Maughan and Ruth G. Maughan, Trustees of the Maughan Revocable Trust of 2007 ("MRT"), respectively, filed an Application to intervene.

On December 13, 2013, and March 12, 2014, by Procedural Order, LP5K and MRT were granted intervention, respectively.

In April 2014, the Company provided additional documentation to support its relief requested, pursuant to data request issued by Commission Division Staff ("Staff"). Likewise, LP5K also provided additional information.

## **BACKGROUND**

Circle City is an Arizona Corporation, in good standing with the Commission's Corporation Division, and engaged in providing water service to approximately 179 customers in portions of Maricopa County, Arizona. According to Commission records, the Commission approved the original CC&N for Circle City in Decision No. 31121 (August 15, 1958) as Circle City Development Company. Since then, the assets and CC&N have been transferred a few times. Circle City is now owned by Brooke Resources L.L.C.

Circle City provides water services to both residential and commercial customers. The Company's CC&N covers approximately 8,300 acres (approximately 13 square miles) and is located in the western portion of the Phoenix Metropolitan Area, in Maricopa County.

By this application, Circle City is seeking Commission authority to delete approximately 5,042 acres of its CC&N, as extended by Decision No. 68246 and to delete the Decision's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area.

## **THE REQUESTED CC&N DELETION AREA**

The Company's CC&N is approximately 13.2 square miles in size and is located in the western portion of Phoenix Metropolitan Area, in Maricopa County. Precisely, in Section 33 in Township 06 North, Range 03 West (referred to herein as the "Circle City's initial CC&N"), Section 28 in Township 06 North, Range 03 West (referred to herein as the "Warrick 160") and Sections 5,

6, 7, 8, 9, 17 and 18 as well as a majority portion of Section 4 in Township 07 North, Range 02 West (referred to herein as the "Lake Pleasant 5000"). Lake Pleasant 5000 CC&N area consists of approximately 4,882 acre planned development with approximately 10,000 residential units and 300 acres of commercial development and is located approximately five miles northeast of Circle City's initial CC&N area. Warrick 160 CC&N area consists of approximately 160 acres of land for 78 residential lots. Warrick 160 is located northeast of Circle City's initial CC&N and is adjacent to it at one point. Decision No. 68246, issued on October 25, 2005, granted Circle City's request to extend its CC&N to include Warrick 160 and Lake Pleasant 5000 areas ("the Project"). The subject CC&N deletion application would remove from Circle City's CC&N all of the Warrick 160 and the Lake Pleasant 5000 areas. The proposed deletion areas include approximately 5,000 acres. According to Circle City, the Company is not serving any customers in the Warrick 160 and the Lake Pleasant 5000 areas and none of the intended water system's plant necessary to serve the proposed deletion areas has been constructed.<sup>1</sup>

### **CIRCLE CITY POSITION**

Decision No. 68246 granted Circle City's request to extend its CC&N to serve the Project.

In its Application to delete CC&N as extended in Decision No. 68246 and its Motion to delete the requirement in Decision No. 68246 related to a future rate application, Circle City states that it first received an expression of interest to develop the Project known as the Lake Pleasant 5000 Project from Harvard Investments, Inc. ("Harvard" or the "Developer") in 2004.

In 2005, Circle City and Harvard executed the Water Facilities Agreement ("WFA") which provided water service to Warrick 160 and Lake Pleasant 5000. Subsequently, according to Circle City, in November 2007, Circle City and the other ownership partners of Phase I including the Developer, known as Warrick 160 LLC for the purposes of this portion of the Project, and the Central Arizona Groundwater Replenishment District ("CAGRDR") executed the Agreement and Notice of Municipal Provider Reporting Requirements for Warrick Property Regarding Membership in the Central Arizona Groundwater Replenishment District (the "CAGRDR Agreement"). Circle City states that as a result of the Agreement, the Developer became a Member Lands in the CAGRDR and met the requirements for an assured water supply for Phase I of the Project in the Active Management Area ("AMA") of the Arizona Department of Water Resources ("ADWR"). In addition, Circle City received an approval to construct ("ATC") Phase I of the Project in June, 2008.

On March 2, 2005, Circle City filed an application for an extension of its CC&N with the Commission to provide public water service to the Project, which was granted in Decision No.68246. The Project was to consist of two sections called Phase I and Phase II. Phase I related to 160 acres of land for 78 residential lots located northeast and contiguous to Circle City's existing CC&N also known as the Warrick 160 portion. Phase II related to 4,882 acres located approximately five miles north of Circle City's existing CC&N that would be connected by a series of newly developed main extensions, 7.6 million gallons of water storage, Central Arizona Project ("CAP") treatment plant and related appurtenances. Circle City states that the Project was planned

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<sup>1</sup> See Company's responses to Staff's First Data Requests.

for 1000 dwelling units having peak day demand of more than 5,255 gallons per minute. The engineers cost estimate for the combined cost of water infrastructure and onsite distribution for the Project exceeded \$55,000,000.

Circle City states that it now desires to delete the area from its CC&N because "the Project never got developed beyond the initial entitlements phase more than 8 years later, there is no plan to develop or construct the Project." Circle City alleges that in prior interaction it had with the Developer in an April 12, 2013 phone call, the Developer described the Project as "not viable" and that the Developer had "indicated that it could be as long as 10 more years before the area around the Project might develop." Circle City further alleged that the Developer agreed with the Company to unwind all regulatory and contractual arrangements with Circle City related to the Project including the deletion of the extended CC&N; termination of the Water Facilities Agreement; cancellation as a Member Lands with CAGR for Warrick 160, and cancellation of the Maricopa County Franchise Agreement.

The Company contends that several weeks after significant "unwinding" work had been completed (although it never identified what this significant unwinding work consisted of), the Developer apparently recognized that "unwinding" the Project arrangements should include the approval of the other Project partners as well. As a result, the Developer requested on May 3, 2013 Circle City to "hold" on the "extinguishing/termination" of the unwinding arrangements until a Partners' "meeting was convened that confirmed and approved the Developer's previous "unwinding" decision." According to Circle City, in response to the Developer's request, it expressed astonishment at the Developer's "hold" instruction and advised the Developer that it was "directing its counsel to proceed" based on their prior discussions that "the Project was not viable and that unwinding the Project was the only reasonable thing to do."

On July 18, 2013, LP5K paid Circle City \$67,782.61 for legal and engineering expenses incurred for the extension area, in accordance with the WFA. Circle City does not deny that it cashed this check. According to Circle City's response to Staff's Second Set of Data Requests, the check was for "expenses related to development of the project." On August 7, 2013, at the suggestion of Circle City, a meeting was arranged with the Developer to discuss the most current status of the Project. According to Circle City the Developer stated that its partners did not want to delete the CC&N approved in Decision No. 68246 or terminate their membership with CAGR.

Nonetheless, Circle City proceeded to file the instant CC&N deletion application. Attachment B contains a map which shows the portion of Maricopa County at issue.

#### **MAUGHAN REVOCABLE TRUST ("MRT"), LAKE PLEASANT 5000, L.L.C. ("LP5K") POSITION**

The areas Circle City proposes to delete (Warrick 160 and the Lake Pleasant 5000) are owned by MRT, LP5K, and their development partners. MRT and LP5K were granted intervention in this matter. The owners entered into a WFA with Circle City. In July of 2013, as stated above, the owners paid \$67,782.61 to Circle City in accordance with the WFA. The owners do not want

their properties deleted and have advised Circle City a need for service exists. The owners reiterated the request for service in a letter dated December 11, 2013.

## **THE WATER SYSTEM**

The new water system needed to serve the proposed CC&N deletion area was contemplated to be constructed in two phases<sup>2</sup> and financed pursuant to the WFA between Circle City and the developer. According to the Company's responses to Staff's First Data Requests, Circle City does not serve any customers in the CC&N extension granted in Decision No.68246 and none of the intended water system's plant necessary to serve the Warrick 160 and the Lake Pleasant 5000 areas has been constructed.

Attachment A is Staff's Engineering Report which describes the current water system. The report includes the findings that Circle City is in compliance with Maricopa County Environmental Services Department ("MCESD") and with the Commission decisions. The Company's water system is not in compliance with Arizona Department of Water Resources ("ADWR") requirements as the Company failed to file a System Water Plan.

The report indicates that Circle City's water system has adequate production and storage capacities to serve the present customer base and reasonable growth in the Company's original certificated area.

Staff recommends that the Company file with Docket Control, as a compliance item in this docket, by June 30, 2015, documentation from ADWR indicating that the water system is compliant with departmental requirements governing water providers and/or community water systems.

## **SPECIAL SERVICE TARIFFS**

Circle City has approved Curtailment Tariff, Backflow Prevention Tariff, and Offsite Hookup Fee Tariff for water on file.

## **STAFF ANALYSIS OF THE CC&N DELETION APPLICATION**

In any CC&N deletion proceeding, Staff is charged with reviewing the evidence submitted by an applicant to make a recommendation to the Commission based upon the facts contained in the application and any responses to the application by interested and/or affected parties. The issues in a deletion proceeding relate to whether the applicant continues to be fit and proper with the financial, managerial and technical capabilities to serve the public. In this case, additional circumstances are presented related to the Project's viability and Circle City's continued responsibility to serve the area as the CC&N holder.

During its review, Staff met with Circle City and with the owners of Warrick 160 and the Lake Pleasant 5000 and also issued data requests to both parties.

---

<sup>2</sup> Phase I of the Project intended to be in the Warrick 160 area

Staff's review of the information received indicates that the owners and/or developers of the proposed deletion area want Circle City to provide water service to their development.<sup>3</sup> The statements made regarding unwinding the Project were apparently not based upon input by all of the partners to the Project. Once all of the Partners were consulted, it became clear that they wanted to proceed with the Project in the extension area. While no timeframe has been presented, steps have been taken by the Developers to begin the Project. On July 18, 2013, LP5K paid Circle City \$67,782.61 for legal and engineering expenses incurred for the extension area, in accordance with the WFA. Circle City received and cashed Check No. 786, approximately four (4) months before filing the instant application. In addition, the check was received and cashed on August 1, 2013, during the time that the Developers and Circle City were engaged in discussions regarding the Project. Significantly, after receiving and cashing the check, Circle City arranged a meeting with the Developers to discuss the current status of the Project. The fact that Circle City cashed the Developer's check is an indication that it intended to proceed with the Project. In response to Staff's Second Set of Data Requests<sup>4</sup>, Circle City itself acknowledged that the check for \$67,782.61 was for "payment of contractual legal and engineering expenses related to development of the project in accordance with the WFA." After cashing the check, it called a status meeting in August, 2013, during which it was once again informed that the Developer's partners wanted to proceed with the project.

Circle City also apparently relies upon language in Decision No. 68246 which provided that if Circle City failed to meet certain conditions in the Order which involved filing certain documentation within 24 months of the Order, the decision would be deemed null and void without further Order of the Commission. Two of the documents it was to file were (1) a copy of the Certificate of Approval to Construct for Phase I, and (2) a copy of the Developer's Assured Water Supply for Phase I of the Project.<sup>5</sup> While these documents were not filed, Circle City acknowledges in its filing, that it had obtained both documents. Given this, the Company should not be allowed to benefit at the expense of the Developers from its own failure to file the documents with Docket Control as required by Decision No. 68246.

There is also the issue of Decision No. 68246 requirement for the Company to demonstrate in its next rate case filing (scheduled for 2014) that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area. Neither Phase I nor II of the Project has been built. Staff agrees with Circle City that this requirement is no longer necessary and should be deleted.

LP5K and its development partners need water service, as evidenced by Attachment C. Circle City in cashing the Developer's check took action inconsistent with its current application to delete the Project service area from its CC&N. It noted in response to Staff's Second Set of Data Requests, that the check was for expenses related to development of the Project. Then, at the

---

<sup>3</sup> See Attachment C, Letter from LP5K to Mr. Robert Hardcastle of Circle City.

<sup>4</sup> April 18, 2014 response by Robert T. Hardcastle to Staff Second Set of Data Requests.

<sup>5</sup> It should be pointed out that the ATC for Phase I has since expired. However, the Company can resubmit the ATC application at any time.

August 2013 meeting Circle City called, Circle City again was told by the Developer that its partners desired to proceed with the Project.

Further, there are no other water providers serving areas contiguous to or in close proximity to the proposed deletion area. Staff believes that in general it is more economical for an area to be served by one water provider than several contiguous, small water providers. Staff has no reason to believe that the situation in this case is any different in that the deletion proposed by Circle City could result in the creation of at least one other small, possibly non-financially viable, water company. Such a result is not consistent with the public interest.

Staff recommends denial of Circle City's request to delete the portions of its CC&N extended by Decision No. 68246. Staff also recommends that the Commission eliminate the requirement that Circle City comply with Decision No. 68246's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area.

#### **RECOMMENDATIONS**

Staff recommends the Commission deny Circle City's application for deletion of a portion of its CC&N within portions of Maricopa County, Arizona, to provide water service. Staff also recommends that the Commission eliminate the requirement that Circle City comply with Decision No. 68246's requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area. Staff further recommends that the Company file with Docket Control, as a compliance item in this Docket by June 30, 2015, documentation from ADWR indicating that the water system is compliant with departmental requirements governing water providers and/or community water systems.

## MEMORANDUM

TO: Blessing Chukwu  
Executive Consultant III

FROM: Katrin Stukov  
Utilities Engineer 

DATE: September 5, 2014

RE: Application of Circle City Water Company L.L.C. for approval to delete portions of its Certificate of Convenience and Necessity and the requirement to file a rate application pursuant to Decision No. 68246 (Docket No.W-03510A-13-0397).

---

**Introduction**

On November 19, 2013, Circle City Water Company L.L.C. ("Circle City" or "Company") filed with the Arizona Corporation Commission ("ACC" or "Commission") an application requesting approval to delete portions of its Certificate of Convenience and Necessity ("CC&N") as extended by Decision No. 68246 and to delete the requirement for the Company to demonstrate in its next rate case filing that its existing customers have been positively impacted by the addition of new water facilities necessary to serve the extension area.

Circle City's service area is located in the western portion of the Phoenix metropolitan area in Maricopa County. The Company's CC&N area covers approximately 8,300 acres (roughly 13 square miles).

The Company's CC&N extension granted in Decision No.68246 includes two separate areas intended for a project known as Lake Pleasant 5000 ("Project"). The first area covers 4,882 acres and is five miles northeast of Circle City's original certificated area<sup>1</sup>. The second area, known as the Warrick 160, covers 160 acres and is adjacent at one point to Circle City's original certificated area.

The new water system needed to serve the Project was contemplated to be constructed in two phases<sup>2</sup> and financed pursuant to a Water Facility Agreement between Circle City and the developer of the Project. According to the Company's responses to Staff's First Data Requests, Circle City does not serve any customers in the CC&N extension granted in Decision No.68246 and none of the intended water system's plant necessary to serve the Project has been constructed.

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<sup>1</sup> Circle City's certificated area prior to the CC&N extension granted in Decision No.68246.

<sup>2</sup> Phase I of the Project intended to be in the Warrick 160 area

## **Circle City Water System**

### *Operation*

According to the Company's 2012 Annual Report, the Circle City water system consists of one well, producing 75 gallons per minute ("GPM"), one 50,000 gallon storage tanks, three 25,000 gallon storage tanks, a booster system and a distribution system serving 179 customers in the Company's original certificated area.

### *Capacity*

Based on the water use data obtained from the Company's 2012 Annual Report, Staff concludes that the Company's well production capacity of 75 GPM and storage capacity of 125,000 gallons are adequate to serve the present customer base and reasonable growth in the Company's original certificated area.

## **Maricopa County Environmental Services Department ("MCESD") Compliance**

According to MCESD compliance status report, dated December 6, 2013, MCESD has determined that the Company's water system has no major deficiencies and is currently delivering water that meets water quality standards required by 40 C.F.R. 141 (National Primary Drinking Water Regulations) and Arizona Administrative Code, Title 18, Chapter 4.

## **Arizona Department of Water Resources ("ADWR") Compliance**

The Company is located in the Phoenix Active Management Area. According to an ADWR compliance status report, dated September 5, 2014, ADWR has determined that the Company's water system is not in compliance with ADWR requirements as the Company failed to file a System Water Plan.

## **ACC Compliance**

On September 5, 2014, the Utilities Division Compliance Section noted that a check of the compliance database indicates that there are no delinquencies for Circle City. Therefore, Circle City is in compliance with the ACC Compliance Database at this time.

## **Curtailment Tariff**

The Company has an approved Curtailment Tariff.

## **Backflow Prevention Tariff**

The Company has an approved Backflow Prevention Tariff.

**Conclusions/Recommendations**

1. The Circle City water system has adequate well production and storage capacity to serve its present customer base and reasonable growth.
2. The Company is in compliance with MCESD regulations.
3. Circle City is in compliance with the ACC Compliance Database at this time.
4. Staff recommends that the Company file with Docket Control, as a compliance item in this docket by June 30, 2015, documentation from ADWR indicating that the water system is compliant with departmental requirements governing water providers and/ or community water systems.

MEMORANDUM

TO: Blessing Chukwu  
Executive Consultant III  
Utilities Division

FROM: Lori H. Miller *LHM*  
GIS Specialist  
Utilities Division

THRU: Del Smith *DS*  
Engineering Supervisor  
Utilities Division

DATE: December 12, 2013

RE: **CIRCLE CITY WATER COMPANY, LLC (DOCKET NO. W-03510A-13-0397)**

The area requested by Circle City for a partial deletion has been plotted with no complications using the legal description from Decision No. 68246 as referenced in the application (a copy of which is attached).

Also attached is a copy of the map for your files.

/lhm

Attachment

cc: Mr. Robert T. Hardcastle  
Ms. Katrin Stukov  
Ms. Deb Person (Hand Carried)  
File

# MARICOPA COUNTY

06	05	04	03	02	01	06N02W	03	02	01
07	08	09	10	11	12	Circle City Water Company, LLC	10	11	12
18	17	16	15	14	13		15	14	13
19	20	21	22	23	24		16	20	24
30	29	28	27	26	25		19	29	25
31	32	33	34	35	36	Circle City Water Company, LLC	22	30	26
							21	31	25
							20	32	24
							19	33	23
							18	34	22
							17	35	21
							16	36	20

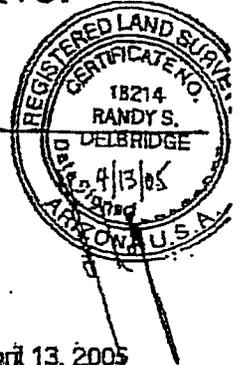


Circle City Water Company, LLC  
 Docket No. W-03510A-13-0397  
 Application for Deletion

**SOUTHWESTERN STATES SURVEYING, INC.**  
Professional Land Surveying

Randy S. Delbridge, President

21415 North 23rd Avenue • Phoenix, Arizona 85027  
Phone (623) 869-0223 Fax (623) 869-0728



DESCRIPTION  
FOR  
TOTAL AREA

Job no. 210750

April 13, 2005

Being all of Sections 5, 6, 7, 8, 9, 17, 18 and a portion of Section 4, Township 6 North, Range 2 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, being more particularly described as follows:

BEGINNING at the Southwest corner of said Section 18, being a G.L.O. Brass Cap;  
THENCE North 00 degrees 01 minutes 37 seconds East, along the West line of the Southwest quarter of said Section 18 a distance of 2640.12 feet to the West quarter corner of said Section 18, being a G.L.O. Brass Cap;  
THENCE North 00 degrees 02 minutes 20 seconds West, along the West line of the Northwest quarter of said Section 18 a distance of 2639.18 feet to the Northwest corner of said Section 18, being a G.L.O. Brass Cap;  
THENCE North 00 degrees 00 minutes 00 seconds East, along the West line of said Section 7, a distance of 5284.62 feet to the Northwest corner of said Section 7, being a G.L.O. Brass Cap;  
THENCE North 00 degrees 07 minutes 21 seconds East, along the West line of the Southwest quarter of said Section 6 a distance of 2640.71 feet to the West quarter corner of said Section 6, being a G.L.O. Brass Cap;  
THENCE North 00 degrees 07 minutes 15 seconds West, along the West line of the Northwest quarter of said Section 6 a distance of 2636.20 feet to the Northwest corner of said Section 6, being a G.L.O. Brass Cap;  
THENCE South 89 degrees 55 minutes 08 seconds East, along the North line of the Northwest quarter of said Section 6 a distance of 2499.21 feet to the North quarter corner of said Section 6, being a G.L.O. Brass Cap;  
THENCE South 89 degrees 10 minutes 12 seconds East, along the North line of the Northeast quarter of said Section 6 a distance of 498.80 feet to the South quarter corner of Section 31, Township 7 North, Range 2 West, being a G.L.O. Brass Cap;  
THENCE North 89 degrees 50 minutes 21 seconds East, continuing along the North line of the Northeast quarter of said Section 6 a distance of 2140.56 feet to the Northeast corner of Section 6, being a G.L.O. Brass Cap;  
THENCE South 89 degrees 53 minutes 38 seconds East, along the North line of the Northwest quarter of said Section 5 a distance of 501.45 feet to the Southwest corner of said Section 32, Township 7 North, Range 2 West, being a G.L.O. Brass Cap;  
THENCE South 89 degrees 54 minutes 32 seconds East, continuing along the North line of the Northwest quarter of said Section 5 a distance of 2143.21 feet to the North quarter corner of Section 5, being a G.L.O. Brass Cap;  
THENCE North 89 degrees 07 minutes 14 seconds East, along the North line of the Northeast quarter of said Section 5 a distance of 499.67 feet to the South quarter corner of Section 32, Township 7 North, Range 2 West being a G.L.O. Brass Cap;  
THENCE South 89 degrees 43 minutes 38 seconds East, continuing along the North line of the Northeast quarter of said Section 5 a distance of 2148.06 feet to the Northeast corner of said Section 5, being a G.L.O. Brass Cap;

Page 2.  
Total Description

THENCE North 89 degrees 58 minutes 03 seconds East, along the North line of the Northwest quarter of said Section 4 a distance of 497.01 feet to the Southwest corner of Section 33, Township 7 North, Range 2 West, being a G.L.O. Brass Cap;  
 THENCE South 89 degrees 57 minutes 12 seconds East, continuing along the North line of the Northwest quarter of said Section 5 a distance of 823.19 feet to the Northeast corner of G.L.O. Lot 4;  
 THENCE South 00 degrees 10 minutes 24 seconds East, along the East line of said Lot 4 a distance of 1352.71 feet to the Southeast corner of said Lot 4;  
 THENCE North 89 degrees 58 minutes 58 seconds East 2637.17 feet;  
 THENCE South 00 degrees 11 minutes 19 seconds East 660.77 feet;  
 THENCE North 89 degrees 57 minutes 42 seconds East 989.08 feet;  
 THENCE South 00 degrees 11 minutes 32 seconds East 660.42 feet;  
 THENCE North 89 degrees 56 minutes 29 seconds East 329.71 feet to the East quarter corner of said Section 4;  
 THENCE South 00 degrees 11 minutes 37 seconds West, along the East line of the Southeast quarter of said Section 4 a distance of 2641.22 feet to the Southeast corner of said Section 4, being a G.L.O. Brass Cap;  
 THENCE South 00 degrees 02 minutes 31 seconds West, along the East line of the Northeast quarter of said Section 9 a distance of 2638.28 feet to the East quarter corner of said Section 9, being a G.L.O. Brass Cap;  
 THENCE South 00 degrees 03 minutes 39 seconds West, along the East line of the Southeast quarter of said Section 9 a distance of 2635.85 feet to the Southeast corner of said Section 9, being a G.L.O. Brass Cap;  
 THENCE North 89 degrees 55 minutes 39 seconds West, along the South line of the Southeast quarter of said Section 9 a distance of 2836.78 feet to the South quarter corner of Section 9, being a G.L.O. Brass Cap;  
 THENCE North 89 degrees 54 minutes 43 seconds West, along the South line of the Southwest quarter of said Section 9 a distance of 2639.18 feet to the Southwest corner of Section 9, being a G.L.O. Brass Cap;  
 THENCE South 00 degrees 10 minutes 03 seconds West, along the East line of the Northeast quarter of said Section 17 a distance of 2637.41 feet to the East quarter corner of said Section 17, being a G.L.O. Brass Cap;  
 THENCE South 00 degrees 10 minutes 03 seconds West, along the East line of the Southeast quarter of said Section 17 a distance of 2637.41 feet to the Southeast corner of said Section 17, being a G.L.O. Brass Cap;  
 THENCE North 89 degrees 40 minutes 41 seconds West, along the South line of the Southeast quarter of said Section 17 a distance of 2638.22 feet to the South quarter corner of said Section 17, being a G.L.O. Brass Cap;  
 THENCE North 89 degrees 54 minutes 18 seconds West, along the South line of the Southwest quarter of said Section 17 a distance of 2840.09 feet to the Southwest corner of Section 17, being a G.L.O. Brass Cap;  
 THENCE North 89 degrees 57 minutes 37 seconds West, along the South line of the Southeast quarter of said Section 18 a distance of 2640.12 feet to the South quarter corner of said Section 18, being a G.L.O. Brass Cap;  
 THENCE North 89 degrees 56 minutes 11 seconds West, along the South line of the Southwest quarter of said Section 18 a distance of 2514.54 feet to the Southwest corner of said Section 18, being the Point of Beginning.



THE SOUTHEAST QUARTER OF SECTION 28  
LEGAL DESCRIPTION

THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 6 NORTH, RANGE 3  
WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY,  
ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SECTION 28, MONUMENTED BY A  
G.L.O. BRASS CAP:

THENCE NORTH 89°59'07" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST  
QUARTER OF SAID SECTION 28, ALSO BEING THE BASIS OF BEARING, A  
DISTANCE OF 2844.53 FEET TO THE SOUTH QUARTER CORNER OF SECTION 28  
MONUMENTED BY A G.L.O. BRASS CAP

THENCE NORTH 00°D1'21" WEST ALONG THE NORTH-SOUTH MID-SECTION LINE  
OF SAID SECTION 28 A DISTANCE OF 2639.37 FEET TO THE CENTER OF  
SECTION OF SAID SECTION 28, MONUMENTED BY A REBAR WITH RLS 9087 CAP;

THENCE NORTH 89°58'37" EAST ALONG THE EAST-WEST MID-SECTION LINE A  
DISTANCE OF 2644.57 FEET TO THE EAST QUARTER CORNER OF SECTION 28,  
MONUMENTED BY A G.L.O. BRASS CAP;

THENCE SOUTH 00°01'17" EAST ALONG THE EAST LINE OF THE SOUTHEAST  
QUARTER OF SAID SECTION 28 A DISTANCE OF 2641.11 FEET TO THE  
SOUTHEAST CORNER OF SECTION 28, BEING THE POINT OF BEGINNING;

THE ABOVE DESCRIPTION BASED ON AN A.L.T.A SURVEY BY SOUTHWESTERN  
STATES SURVEYING, INC. DATED JUNE 28, 2004, JOB NUMBER 240694.



DECISION NO. 68246

**Blessing Chukwu**

---

**From:** Garry Hays <ghays@lawgdh.com>  
**Sent:** Wednesday, July 23, 2014 1:57 PM  
**To:** Blessing Chukwu  
**Subject:** CCWC Deletion W-03510A-13-0397  
**Attachments:** LP5K LTR to Hardcastle 12-11-13.pdf

Ms. Chukwu,

Please find attached a letter that was sent from my client to Bob Hardcastle of CCWC. I am sending you this letter as a supplement to Staff's first set of data requests in the above referenced docket.

Thank you

Garry

garry hays

Garry Hays  
Law Offices of Garry Hays PC  
1702 E Highland Ave. Suite 204  
Phoenix, Arizona 85016  
602-308-0579 office  
480-329-6143 cell

Note: This e-mail message and/or any attachments may be confidential and subject to attorney/client privilege. Use or dissemination of the message or any attachments by anyone other than the intended recipient is strictly prohibited and may violate federal or state law. If you are not the intended recipient, please immediately notify the sender and destroy the message, attachment(s), and all printed copies thereof. Thank you for your cooperation.

Lake Pleasant 500, L.L.C.  
17700 N. Pacesetter Way, Suite 100  
Scottsdale, AZ 85255  
480.348.1118

December 11, 2013

VIA EMAIL TO RTH@BROOKEUTILITIES.COM AND REGULAR MAIL

Mr. Robert T. Hardcastle  
Brooke Utilities, Inc.  
P.O. Box 82218  
Bakersfield, California 93380-2218

Re: Circle City Water Co. CC&N

Dear Bob:

I am writing in response to the application Circle City Water Company ("CCWC") filed at the Arizona Corporation Commission ("Commission") that requested a deletion of the Certificate of Convenience and Necessity ("CC&N") covering the Warrick 160 and Lake Pleasant 5000 LLC ("LP5K") property. I was extremely disappointed by your filing. As you are aware, LP5K intends to move forward with the development and is adamantly opposed to the deletion of the CC&N.

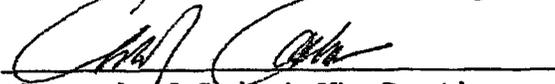
This letter will formally serve as a reiteration of the Request for Service letter received by CCWC on September 30, 2004 from LP5K. I advised you, in an email dated July 10, 2013 that LP5K intended to move forward and did not want the CC&N deleted. As you are aware, LP5K has a Water Facilities Agreement ("WFA") with CCWC and has met its contractual obligations under the WFA. In fact, in accordance with Section II, paragraph 5 of the WFA, LP5K paid CCWC \$67,782.61 on July 18, 2013. This payment was made and received when you were fully aware of LP5K's intentions. While you have attempted to get LP5K to sign a termination agreement, I have advised you numerous times that LP5K and its development partners are moving forward with this project.

LP5K will be filing an application for leave to intervene and will explain to the Commission the need for service and the desire to keep the CC&N in place. LP5K is ready and willing to present its case in front of the Commission. If there is any way we can resolve this matter without wasting the Commission's resources, please feel free to call me.

LAKE PLEASANT 5000 L.L.C.,

By: Harvard 5K, L.L.C., its Manager

By: Harvard Investments, Inc., its Manager

By:   
Christopher J. Cacheris, Vice President