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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

2015 APR 27 A 10:59

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SUSAN BITTER SMITH, Chairman

APR 27 2015

AZ CORP COMMISSION  
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IN THE MATTER OF THE PETITION OF  
ARIZONA WATER COMPANY FOR AN  
INCREASE OF AREA TO BE SERVED AT  
CENTRAL HEIGHTS, ARIZONA.

Docket No. W-01445A-14-0305

**ARIZONA WATER COMPANY'S  
MOTION FOR AN ORDER  
REGARDING CITY'S ELECTION  
OF A.R.S. § 40-252 THEORY**

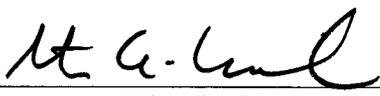
BRYAN CAVE LLP  
TWO NORTH CENTRAL AVENUE, SUITE 2200  
PHOENIX, ARIZONA 85004-4406  
(602) 364-7000

Arizona Water Company moves for an Order confirming with finality that Petitioner City of Globe ("City") is basing its Petition and relief it seeks solely on the "initial mistake" theory, focused on 1961-related facts, pursuant to A.R.S. § 40-252. This motion is based on previous briefing on this point arising out of Arizona Water Company's Motion to Dismiss,<sup>1</sup> as well as stipulations made in open hearing by counsel for the City of Globe at the oral argument of Arizona Water Company's Motion to Dismiss on March 4, 2015 and the City's recent responses to data requests. See attached copies of portions of oral argument transcript and the City's responses to Arizona Water Company's second set of data requests.

<sup>1</sup> See Arizona Corporation Commission Staff's Supplemental Response to Arizona Water Company's Motion to Dismiss dated March 27, 2015, the City's Supplemental Response dated March 27, 2015, and Arizona Water Company's Supplemental Reply Memorandum dated April 10, 2015. Arizona Water Company incorporates those previous arguments and briefs to the extent they are applicable here.

1  
2 RESPECTFULLY SUBMITTED this 27th day of April, 2015.

3  
4 BRYAN CAVE LLP

5 By   
6 Steven A. Hirsch, #006360  
7 Coree E. Neumeier, #025787  
8 Two N. Central Avenue, Suite 2200  
9 Phoenix, AZ 85004-4406  
Attorneys for Arizona Water Company

10 **MEMORANDUM OF POINTS AND AUTHORITIES**

11 By Procedural Order dated March 6, 2015, the Commission reserved ruling on  
12 Arizona Water Company's Motion to Dismiss until an evidentiary hearing was held. 3/6/15  
13 Procedural Order at p. 2, ll. 25-28. The Commission also ordered the filing of supplemental  
14 briefs that are identified in footnote 1, supra.

15 In those supplemental briefs, an issue raised at the March 4, 2015 oral argument was  
16 further developed. Specifically, the City's Petition alleges both 1961 and post-1961 facts.  
17 In the context of defending Arizona Water Company's Motion to Dismiss the Petition under  
18 James P. Paul v. Arizona Corporation Commission, 137 Ariz. 426, 671 P.3d 404 (1983) and  
19 A.R.S. § 9-516, the City, through its counsel, took the position that James P Paul and  
20 A.R.S. § 9-516 do not apply because the City's requested relief is based solely on the theory  
21 that the Commission made an "initial mistake" in the 1961 grant of the subject CC&N in  
22 Decision No. 33424.

23 A proceeding under A.R.S. § 40-252 based upon "initial mistake" is a reopening of  
24 the same case as the Decision No. 33424 docket, and not a new matter. A.R.S. § 40-252  
25 ("The commission may at any time, upon notice to the corporation affected, and after  
26 opportunity to be heard as upon a complaint, rescind, alter or amend any order or decision  
27 made by it. When the order making such rescission, alteration or amendment is served upon  
28 the corporation affected, it is effective as an original order or decision."). This distinction is

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(602) 364-7000

1 supported by the holding in James P. Paul that a request for deletion requires a subsequent,  
2 later determination that a CC&N holder, when presented with a reasonable demand for  
3 service, has failed to supply such service at a reasonable cost to customers. James P. Paul,  
4 137 Ariz. at 429, 671 P.3d at 430. Thus, the City cannot use § 40-252 to seek a deletion of  
5 Arizona Water Company's CC&N. As can be seen in the attached transcript, counsel for  
6 the City acknowledged this at oral argument on March 4.

7 At that oral argument, Arizona Water Company argued that the City cannot have it  
8 both ways: the relief it seeks must be based either on the City's theory that a "mistake"  
9 occurred in 1961 when the subject CC&N was granted, or, alternatively, that the CC&N was  
10 validly granted but should be deleted under James P. Paul. When faced with this choice, the  
11 City, through its counsel, clearly elected the former theory:

12 By Mr. Hays: But I think what is important to keep in mind  
13 is this is not a deletion case. This not a complaint case.  
14 Neither one of those things apply.

15 \* \* \*

16 Neither one of those are actually true here. What  
17 happened was in 1961 the Commission granted a certificate  
18 of convenience and necessity, and the key word is necessity,  
19 over an area where the City of Globe has been serving. And  
20 we have shown AWC, we have shown Staff through data  
21 requests, and we have pled it in our pleading that we have  
22 factual evidence back to the '20s and 1900s in the southern  
23 area and we found a map from ADOT from 1959 that shows  
24 where the City of Globe was serving.

25 So it is not a deletion of their service territory. What it  
26 says on the 1961 order is no one was serving this area. That's  
27 not the case. We know that to be true. We have facts. We  
28 have an expert witness who is a right-of-way expert and  
works for the City of Phoenix and other things that has put  
together a report which will be filed that will lay out exactly  
where Globe was. And we have even gone so far, Your  
Honor, as to find the – I forgot what you call it – moleskin,  
the old parchment paper that they draw the lines on from the

1 '30s that has people's names on the little map to then go to  
2 the county recorder's office to check and make sure these  
3 people own the property in the '30s, all served by the City of  
4 Globe. AWC has all of this information.

5 This is not a deletion case. This is a case where the  
6 Commission made an error and gave a certificate over a  
7 municipality's current service territory.

8 \* \* \*

9 Everything that Mr. Hirsch and AWC have alleged is  
10 just not accurate. It is not a deletion. This is not a complaint  
11 case. This is a 252.

12 TR 3/4/15 at pp. 24-27 (see Attachment 1).<sup>2</sup>

13 Basically, recognizing that it could not secure deletion of Arizona Water Company's  
14 certificate under the James P. Paul theory and that it is obligated to follow A.R.S. § 9-516 to  
15 acquire Arizona Water Company's CC&N and utility plant facilities, the City chose the  
16 theory that an "initial mistake" occurred in portions of the CC&N grant, and that its relief is  
17 based on the state of the record in 1961 under A.R.S. § 40-252.

18 Because the Commission has deferred ruling on Arizona Water Company's Motion  
19 to Dismiss pending more discovery and the receipt of evidence, it is important as discovery  
20 progresses to tie the City down to the theory so emphatically stated by its legal counsel  
21 during the March 4, 2015 hearing. Discovery should focus exclusively on topics that bear  
22 upon what, if any, service the City alleges it provided in the disputed areas as of September  
23 21, 1961. Based upon the City's representations and admissions, any facts related to a  
24 theory that a certificate should be deleted or that a balancing of factors should occur  
25 between the City and Arizona Water Company as the service provider in the disputed area  
26 today are completely irrelevant. It is in the public interest and promotes efficiency to clarify  
27 this distinction. The City is judicially estopped to contend otherwise.

28 <sup>2</sup> As has been previously briefed, the City has not provided facts regarding service by  
the City in 1961. However, the absence of such facts and evidence is not the basis of this  
motion.

1           The purpose of the judicial estoppel doctrine “is to protect the integrity of the judicial  
2 process by preventing a litigant from using contrary positions in the courts to gain an unfair  
3 advantage over an opponent.” In re Marriage of Thorn, 236 Ariz. 216, 222, 330 P.3d 973,  
4 979 (App. 2014). Although the doctrine often is applied in the context of separate actions, it  
5 has been applied in circumstances involving differing positions within the same action. Cf.  
6 id. (citing with approval 28 Am. Jur. 2d Estoppel and Waiver § 67 (2014) (“Judicial  
7 estoppel is a judge-made doctrine that seeks to prevent a litigant from asserting a position  
8 inconsistent with, conflicting with, or is contrary to one that he or she has previously  
9 asserted in the same or in a previous proceeding.”)); see also Intellivision v. Microsoft  
10 Corp., 484 Fed. Appx. 616, 618-620 (2d Cir. 2012) (affirming application of judicial  
11 estoppel against a party who argued two inconsistent positions within the same proceeding).  
12 At oral argument and in its briefing, the City repeatedly emphasized that it is not pursuing  
13 deletion under James P. Paul and that such an argument would involve a separate,  
14 “complaint” proceeding. If the City were able to resurrect its deletion theory later in this  
15 proceeding, after Arizona Water Company has relied on the City’s abandonment of that  
16 theory in conducting discovery and developing its case, Arizona Water Company and Staff  
17 would be extremely prejudiced and the integrity of this proceeding would be undermined.  
18 Wasting time and resources on discovery that has nothing to do with the extent of the City’s  
19 service in the disputed area (if any) as of September 21, 1961 serves no purpose and should  
20 be avoided.

21           The City’s recently-served responses to a second set of data requests from Arizona  
22 Water Company relied on a series of objections consistent with the City’s choice during the  
23 March 4, 2015 hearing and the relief Arizona Water Company seeks here. The City  
24 objected to several data requests stating that “the information requested is not relevant to  
25 who was providing water service in 1961” or that the data request “has no relation to the  
26 events of 1961 that are at issue in this case.” See, e.g., City’s 4/24/15 DR Responses, at  
27 2.32, 2.36, & 2.47 (Attachment 2).  
28

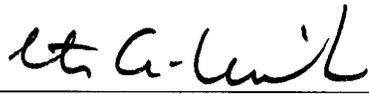
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(602) 364-7000

**CONCLUSION**

1  
2 For the foregoing reasons, it is important to enter an Order at this time confirming  
3 that the City has chosen its remedy under A.R.S. § 40-252 and that discovery going forward  
4 in the case is limited to the City's "initial mistake" theory about the Commission's Decision  
5 issuing the certificate in 1961. The City is estopped to deny otherwise and should be held to  
6 the theory which it clearly stated on the record in open hearing at the March 4, 2015 oral  
7 argument of Arizona Water Company's Motion to Dismiss.

8 RESPECTFULLY SUBMITTED this 27th day of April, 2015.

9  
10 BRYAN CAVE LLP

11 By   
12 Steven A. Hirsch, #006360  
13 Coree E. Neumeyer, #025787  
14 Two N. Central Avenue, Suite 2200  
15 Phoenix, AZ 85004-4406  
16 Attorneys for Arizona Water Company

17  
18 **ORIGINAL** and 13 copies filed this  
19 27th day of April, 2015, with:

20 Docket Control  
21 Arizona Corporation Commission  
22 1200 W. Washington Street  
23 Phoenix, AZ 85007

24 **COPY** of the foregoing hand-delivered  
25 this 27th day of April, 2015, to:

26 Janice Alward, Chief Counsel  
27 Legal Division  
28 Arizona Corporation Commission  
1200 W. Washington Street  
Phoenix, AZ 85007

BRYAN CAVE LLP  
TWO NORTH CENTRAL AVENUE, SUITE 2200  
PHOENIX, ARIZONA 85004-4408  
(602) 364-7000

1 Steve Olea, Director  
2 Utilities Division  
3 Arizona Corporation Commission  
4 1200 W. Washington Street  
5 Phoenix, AZ 85007

6 **COPY** of the foregoing mailed (and e-mailed)  
7 this 27th day of April, 2015, to:

8 Garry D. Hays  
9 The Law Offices of Garry D. Hays, P.C.  
10 1702 E. Highland Avenue, Suite 204  
11 Phoenix, AZ 85016  
12 [ghays@lawgdh.com](mailto:ghays@lawgdh.com)

13 and

14 William J. Sims III  
15 Sims Murray, Ltd.  
16 2020 N. Central Avenue, Suite 670  
17 Phoenix AZ 85004  
18 [wjsims@simsmurray.com](mailto:wjsims@simsmurray.com)  
19 Attorneys for City of Globe

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# Attachment 1

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BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE PETITION OF	)	DOCKET NO.
ARIZONA WATER COMPANY FOR AN	)	W-01445A-14-0305
INCREASE OF AREA TO BE SERVED AT	)	
CENTRAL HEIGHTS, ARIZONA.	)	STATUS
<hr/>		) CONFERENCE

At: Phoenix, Arizona  
 Date: March 4, 2015  
 Filed: March 10, 2015

REPORTER'S TRANSCRIPT OF PROCEEDINGS

COASH & COASH, INC.  
 Court Reporting, Video & Videoconferencing  
 1802 N. 7th Street, Phoenix, AZ 85006  
 602-258-1440 mh@coashandcoash.com

By: Colette E. Ross, CR  
 Certified Reporter  
 Certificate No. 50658

1           BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on regularly to be heard before the  
3 Arizona Corporation Commission, in Hearing Room 2 of  
4 said Commission, 1200 West Washington Street, Phoenix,  
5 Arizona, commencing at 10:00 a.m. on the 4th of March,  
6 2015.

7  
8 BEFORE:     SASHA PATERNOSTER, Administrative Law Judge

9  
10 APPEARANCES:

11 For the Petitioner:

12           BRYAN CAVE, L.L.P.  
13           By Mr. Steve Hirsch and Ms. Coree Neumeyer  
14           Two North Central Avenue, Suite 2200  
15           Phoenix Arizona 85004

16           and

17           ARIZONA WATER COMPANY  
18           By Mr. Robert Spear, General Counsel  
19           3805 North Black Canyon Highway  
20           Phoenix, Arizona 85015

21 For City of Globe:

22           THE LAW OFFICES OF GARRY D. HAYS, P.C.  
23           By Mr. Garry D. Hays  
24           1702 East Highland Avenue, Suite 204  
25           Phoenix, Arizona 85016

1 APPEARANCES:

2

For the Arizona Corporation Commission Staff:

3

Ms. Robin Mitchell  
Staff Attorney, Legal Division  
1200 West Washington Street  
Phoenix, Arizona 85007

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5

6

COLETTE E. ROSS  
Certified Reporter  
Certificate No. 50658

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1 raising these issues, and on an argument that the  
2 Commission itself is estopped from granting the relief  
3 that Globe is requesting. And this isn't a Commission  
4 proceeding started by the Commission. We grant you  
5 that. But Globe would be asking the Commission to grant  
6 the relief that, under this case, it would be estopped  
7 from doing so under these facts.

8           So we would ask you to weigh that issue as  
9 another 12(b)(6) argument. How it fits into 12(b)(6) is  
10 that, as a matter of law, the relief that has been  
11 requested, a claim hasn't been stated for it because the  
12 Commission would be estopped from granting that relief.

13           If Your Honor doesn't have any questions, I have  
14 not hit every single nuance of fairly thorough briefing  
15 on both the opening memorandum and the reply, and I am  
16 prepared to do so, but those are the key issues. We  
17 think either under a modern day "we are better able to  
18 provide than you" approach or a 1961 ministerial defect  
19 approach that this case should be dismissed.

20           ALJ PATERNOSTER: Thank you, Mr. Hirsch. I  
21 don't have any questions at this time.

22           Mr. Hays.

23           MR. HAYS: Thank you, Your Honor. Where to  
24 start after that one.

25           I think that as I have gone through this case --

1 and Mr. Hirsch and I have worked on this for two years,  
2 because after we found this out and got notice of  
3 claims, we tried to work with AWC. And it didn't work.  
4 And so we did end up here unfortunately.

5 But I think what is important to keep in mind is  
6 this is not a deletion case. This is not a complaint  
7 case. Neither one of those things apply.

8 It is not my cell phone, I promise. I just  
9 looked at it.

10 Neither one of those are actually true here.  
11 What happened was in 1961 the Commission granted a  
12 certificate of convenience and necessity, and the key  
13 word is necessity, over an area where the City of Globe  
14 has been serving. And we have shown AWC, we have shown  
15 Staff through data requests, and we have pled it in our  
16 pleading that we have factual evidence back to the '20s  
17 and 1900s in the southern area and we found a map from  
18 ADOT from 1959 that shows where the City of Globe was  
19 serving.

20 So it is not a deletion of their service  
21 territory. What it says on the 1961 order is no one was  
22 serving this area. That's not the case. We know that  
23 to be true. We have facts. We have an expert witness  
24 who is a right-of-way expert and works for the City of  
25 Phoenix and other things that has put together a report

1 which will be filed that will lay out exactly where  
2 Globe was. And we have even gone so far, Your Honor, as  
3 to find the -- I forgot what you call it -- moleskin,  
4 the old parchment paper that they draw the lines on from  
5 the '30s that has people's names on the little map to  
6 then go to the county recorder's office to check and  
7 make sure these people own the property in the '30s, all  
8 served by the City of Globe. AWC has all of this  
9 information.

10 This is not a deletion case. This is a case  
11 where the Commission made an error and gave a  
12 certificate over a municipality's current service  
13 territory. So this actually goes to Walker DeConcini.  
14 The Commission had no legal authority to grant a  
15 certificate. It can't. It can't go to the City of  
16 Phoenix right now and say by the way, AWC is going to  
17 serve all the City of Phoenix. That doesn't work. It  
18 just can't -- you can't get there, Your Honor.

19 Mr. Hirsch talks a lot about their plant. They  
20 talk about their business. Your Honor, the only person  
21 serving in this area is City of Globe. The person that  
22 has ever served in this area is the City of Globe. They  
23 have not sent a bill. They don't have lines to  
24 customers.

25 They have two lines in this area. And these

1 maps are pretty helpful. One line connects to Globe,  
2 because we sell them water to make sure they have  
3 enough. So they have a connection to our system so we  
4 can provide water to them. So that's the one that's on  
5 the US 60. If you look in the southern portion, you  
6 will see a line that kind of goes down to the south.  
7 That is actually lines going the other way. There is a  
8 well that AWC has. And they have the storage tank at  
9 the top of that ridge. That's a pressurized line that  
10 allows them to move the water from the well to the  
11 storage tank. There are no customers. I mean I am not  
12 an engineer, Your Honor, but I assume if you tried to  
13 hook up to that thing you might get blown out because it  
14 has got to be pretty pressurized to go up to the top of  
15 the ridge line.

16 What -- as it relates to collateral attack,  
17 again, there was no jurisdiction authority by the  
18 Commission to grant a certificate. And, yes, everybody  
19 knew where Globe served. Everybody knew where AWC  
20 served. These maps are great, Your Honor, because you  
21 can see what the top of the ridge is and what the bottom  
22 of the ridge is. And that portion at the bottom of the  
23 ridge is where Globe has been.

24 Everything that Mr. Hirsch and AWC have alleged  
25 is just not accurate. It is not a deletion. This is

1 not a complaint case. This is a 252. And I checked  
2 with Mr. Olea so I could quote him, because as we went  
3 through all this stuff, I said to Steve, you know, have  
4 you seen anything like this in your 35 years. He said  
5 no, but this is exactly what a 252 is for; if we made a  
6 mistake, we need to fix it. So five Commissioners voted  
7 to send this to an evidentiary hearing.

8 AWC's attempt at procedural lack of procedure by  
9 the City of Globe is just an attempt to thwart the will  
10 of the Commission. As I said in our response, Your  
11 Honor, we have evidence which AWC and Staff have seen  
12 that shows we had service.

13 And it is interesting because I believe  
14 Mr. Hirsch said a service or two. Well, Your Honor, the  
15 magic number is one. If you are serving somebody, you  
16 are serving somebody. And the City of Globe was serving  
17 somebody. So there is no reason for the Commission to  
18 have granted a certificate of convenience and necessity.  
19 Laches doesn't apply. As Walker DeConcini lays out,  
20 laches didn't apply -- I am sorry. Collateral attack  
21 doesn't apply as DeConcini lays out. I actually think  
22 DeConcini is really helpful for us because, as  
23 Mr. Hirsch said, DeConcini said the Commission didn't  
24 have the authority to do this.

25 In our instant case the Commission didn't have

1 STATE OF ARIZONA )  
COUNTY OF MARICOPA )  
2

3 BE IT KNOWN that the foregoing proceedings were  
taken before me; that the foregoing pages are a full,  
4 true, and accurate record of the proceedings all done to  
the best of my skill and ability; that the proceedings  
5 were taken down by me in shorthand and thereafter  
reduced to print under my direction.  
6

7 I CERTIFY that I am in no way related to any of  
the parties hereto nor am I in any way interested in the  
outcome hereof.  
8

9 I CERTIFY that I have complied with the  
ethical obligations set forth in ACJA 7-206(F)(3) and  
ACJA 7-206 J(1)(g)(1) and (2). Dated at Phoenix,  
10 Arizona, this 12th day of March, 2015.

11 *Colette E. Ross*  
12

13 \_\_\_\_\_  
COLETTE E. ROSS  
14 Certified Reporter  
Certificate No. 50658

15 I CERTIFY that Coash & Coash, Inc., has complied  
16 with the ethical obligations set forth in ACJA 7-206  
(J)(1)(g)(1) through (6).  
17

18  
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22  
23 *David J. Coash*

24 \_\_\_\_\_  
COASH & COASH, INC.  
25 Registered Reporting Firm  
Arizona RRF No. R1036

# Attachment 2

**CITY OF GLOBE'S RESPONSES TO ARIZONA WATER  
COMPANY'S SECOND SET OF DATA REQUESTS  
Docket W-01445A-14-0305**

1  
2 AWC-GLOBE 2.1 Please identify each customer, located inside the Northern Area, to which  
3 the City of Globe provided water service on or before September 20, 1961.  
4 In your response, please include each customer's address, real property  
5 parcel number, account number, name, any other information the City of  
6 Globe used to identify the customer, the date the customer requested  
7 service, the date the City began serving the customer, and the date the City  
8 ended service to the customer.

9  
10 **RESPONSE TO AWC 2.1**

11 Attached are the only documents that relate to water that the City could  
12 find that predate 1961 with some later documents that also pertain to AWC.  
13 The City's records are incomplete. It has come to the City's attention that a  
14 former elected official is in possession of an immense amount of Globe's  
15 records. The council is in the process of evaluating the necessary steps to  
16 gain access and possession of those documents. Once the City has access  
17 and reviews them, the responses will be updated to reflect any new  
18 information that the City finds. Attached is a City Council agenda for  
19 April 28, 2015 where this matter will be discussed in executive session.

20 Additionally, requests have been made to the State Archivist for any  
21 records that may be in the possession of the State that would be responsive  
22 to this Data Request. If there are any records in the State's possession that  
23 are responsive, the City will supplement this Data Response.

24 Attached is a list of customers that are currently served by the City in the  
25 disputed areas.

26 Any information that the City has acquired regarding these data requests,  
27 other than the information discussed above, has already been given to  
28 Arizona Water Company in previous data requests. There is currently a  
meeting scheduled on April 30, 2015 with City of Globe technical staff and  
AWC technical staff to review and discuss all documents in the City's  
possession.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

22 AWC-GLOBE 2.2 Please provide all documentary evidence (including but not limited to  
23 invoices, customer lists, account statements, requests for service, maps, and  
24 repair records) for each customer you identify in your response to Data  
25 Request 2.1.

26 **RESPONSE TO AWC 2.2**

27 Please see answer to AWC 2.1.

28 Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.

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AWC-GLOBE 2.3

Please identify each customer, located inside the Southern Area, to which the City of Globe provided water service on or before September 20, 1961. In your response, please include each customer's address, real property parcel number, account number, name, any other information the City of Globe used to identify the customer, the date the customer requested service, the date the City began serving the customer, and the date the City ended service to the customer.

**RESPONSE TO AWC-GLOBE 2.3**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.4

Please provide all documentary evidence (including but not limited to invoices, customer lists, account statements, requests for service, maps, and repair records) for each customer you identify in your response to Data Request 2.3.

**RESPONSE TO AWC-GLOBE 2.4**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.5

Please identify all physical plant, property, and other infrastructure the City of Globe installed in the Northern Area prior to September 20, 1961. In your response, please include the location and date of installation for the physical plant, property, and other infrastructure.

**RESPONSE TO AWC-GLOBE 2.5**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.6

Please provide all documentary evidence for all physical plant, property,

1 and infrastructure you identify in your response to Data Request 2.5,  
2 including construction plans, diagrams, schematics, maps, drawings,  
3 invoices, work orders, receipts, and City council resolutions. Please also  
4 provide all permits, Arizona Department of Environmental Quality  
5 Approvals, or other government or regulatory approvals for the physical  
6 plant, property, and infrastructure you identify in your response to Data  
7 Request 2.5.

8 **RESPONSE TO AWC-GLOBE 2.6**

9 Please see answer to AWC 2.1.

10 Witness: Brent Billingsley  
11 City of Globe  
12 150 N. Pine St.  
13 Globe, Arizona 85501

14 AWC-GLOBE 2.7 Please identify all physical plant, property, and other infrastructure the City  
15 of Globe installed in the Southern Area prior to September 20, 1961. In  
16 your response, please include the location and date of installation for the  
17 physical plant, property, and other infrastructure.

18 **RESPONSE TO AWC-GLOBE 2.7**

19 Please see answer to AWC 2.1.

20 Witness: Brent Billingsley  
21 City of Globe  
22 150 N. Pine St.  
23 Globe, Arizona 85501

24 AWC-GLOBE 2.8 Please provide all documentary evidence for all physical plant, property,  
25 and infrastructure you identify in your response to Data Request 2.7,  
26 including construction plans, diagrams, schematics, maps, drawings,  
27 invoices, work orders, receipts, and City council resolutions. Please also  
28 provide all permits, Arizona Department of Environmental Quality  
Approvals, or other government or regulatory approvals for the physical  
plant, property, and infrastructure you identify in your response to Data  
Request 2.7.

**RESPONSE TO AWC-GLOBE 2.8**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.9 Please identify all witnesses able to testify regarding the information

1 Arizona Water Company requests in Data Requests 2.1 to 2.8. In your  
2 answer, please include current contact information for each witness and the  
3 Data Request response for which the witness can provide testimony.

4  
5 **RESPONSE TO AWC-GLOBE 2.9**

6 Please see answer to AWC 2.1.

7  
8 Witness: Brent Billingsley  
9 City of Globe  
10 150 N. Pine St.  
11 Globe, Arizona 85501

12 AWC-GLOBE 2.10 Please identify each customer, located inside the Northern Area, to which  
13 the City of Globe provided water service beginning after September 20,  
14 1961. In your response, please include each customer's address, real  
15 property parcel number, account number, name, any other information the  
16 City of Globe used to identify the customer, the date the customer  
17 requested service, the date the City began serving the customer, and the  
18 date the City ended service to the customer.

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20 **RESPONSE TO AWC-GLOBE 2.10**

21 Please see answer to AWC 2.1.

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23 Witness: Brent Billingsley  
24 City of Globe  
25 150 N. Pine St.  
26 Globe, Arizona 85501

27 AWC-GLOBE 2.11 Please identify and provide all documentary evidence (including but not  
28 limited to invoices, customer lists, account statements, requests for service,  
maps) for each customer you identify in your response to Data Request  
2.10.

**RESPONSE TO AWC-GLOBE 2.11**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.12 Please identify each customer, located inside the Southern Area, to which  
the City of Globe provided water service beginning after September 20,  
1961. In your response, please include each customer's address, real  
property parcel number, account number, name, any other information the  
City of Globe used to identify the customer, the date the customer  
requested service, the date the City began serving the customer, and the

date the City ended service to the customer.

**RESPONSE TO AWC-GLOBE 2.12**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.13 Please identify and provide all documentary evidence (including but not limited to invoices, customer lists, account statements, requests for service, maps) for each customer you identify in your response to Data Request 2.12.

**RESPONSE TO AWC-GLOBE 2.13**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.14 Please identify all physical plant, property, and other infrastructure the City of Globe installed in the Northern Area after September 20, 1961. In your response, please include the location and date of installation for the physical plant, property, and other infrastructure.

**RESPONSE TO AWC-GLOBE 2.14**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.15 Please provide all documentary evidence for all physical plant, property, and infrastructure you identify in your response to Data Request 2.14, including construction plans, diagrams, schematics, maps, drawings, invoices, work orders, receipts, and City council resolutions. Please also provide all permits, Arizona Department of Environmental Quality Approvals, or other government or regulatory approvals for the physical plant, property, and infrastructure you identify in your response to Data Request 2.14.

**RESPONSE TO AWC-GLOBE 2.15**

1 Please see answer to AWC 2.1.

2 Witness: Brent Billingsley  
3 City of Globe  
4 150 N. Pine St.  
5 Globe, Arizona 85501

6 AWC-GLOBE 2.16 Please identify all physical plant, property, and other infrastructure the City  
7 of Globe installed in the Southern Area after September 20, 1961. In your  
8 response, please include the location and date of installation for the  
9 physical plant, property, and other infrastructure.

10 **RESPONSE TO AWC-GLOBE 2.16**

11 Please see answer to AWC 2.1.

12 Witness: Brent Billingsley  
13 City of Globe  
14 150 N. Pine St.  
15 Globe, Arizona 85501

16 AWC-GLOBE 2.17 Please provide all documentary evidence for all physical plant, property,  
17 and infrastructure you identify in your response to Data Request 2.16,  
18 including construction plans, diagrams, schematics, maps, drawings,  
19 invoices, work orders, receipts, and City council resolutions. Please also  
20 provide all permits, Arizona Department of Environmental Quality  
21 Approvals, or other government or regulatory approvals for the physical  
22 plant, property, and infrastructure you identify in your response to Data  
23 Request 2.16.

24 **RESPONSE TO AWC-GLOBE 2.17**

25 Please see answer to AWC 2.1.

26 Witness: Brent Billingsley  
27 City of Globe  
28 150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.18 Please identify all witnesses able to testify regarding the information  
Arizona Water Company requests in Data Requests 2.10 to 2.17. In your  
answer, please include current contact information for each witness and the  
Data Request response for which the witness can provide testimony.

**RESPONSE TO AWC-GLOBE 2.18**

Please see answer to AWC 2.1.



City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

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3 AWC-GLOBE 2.22 Please provide all documentary evidence for all water systems, water  
4 infrastructure, water companies, or water customers that the City of Globe  
5 acquired between January 1, 1900 and September 20, 1961, which you  
6 identify in your response to Data Request 2.21, including plans, diagrams,  
7 schematics, maps, drawings, invoices, work orders, receipts, and City  
8 council resolutions.

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11 **RESPONSE TO AWC-GLOBE 2.22**

12 Please see answer to AWC 2.1.

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Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

12 AWC-GLOBE 2.23 Please identify all water systems, water infrastructure, water companies, or  
13 water customers that the City of Globe acquired after September 20, 1961,  
14 which are located in what is known in this matter as the Northern Area. In  
15 your response, please identify each water system, water company, or water  
16 customer's location, date of acquisition, price of acquisition, selling person  
17 or entity, name or other identifying label, and the number of customers  
18 associated with the acquisition.

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28 **RESPONSE TO AWC-GLOBE 2.23**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

21 AWC-GLOBE 2.24 Please provide all documentary evidence for all water systems, water  
22 infrastructure, water companies, or water customers that the City of Globe  
23 acquired after September 20, 1961, which you identify in your response to  
24 Data Request 2.23, including plans, diagrams, schematics, maps, drawings,  
25 invoices, work orders, receipts, and City council resolutions.

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28 **RESPONSE TO AWC-GLOBE 2.24**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.

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AWC-GLOBE 2.25 Please identify all water systems, water infrastructure, water companies, or water customers that the City of Globe acquired after September 20, 1961, which are located in what is known in this matter as the Southern Area. In your response, please identify each water system, water company, or water customer's location, date of acquisition, price of acquisition, selling person or entity, name or other identifying label, and the number of customers associated with the acquisition.

**RESPONSE TO AWC-GLOBE 2.25**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.26 Please provide all documentary evidence for all water systems, water infrastructure, water companies, or water customers that the City of Globe acquired after September 20, 1961, which you identify in your response to Data Request 2.25, including plans, diagrams, schematics, maps, drawings, invoices, work orders, receipts, and City council resolutions.

**RESPONSE TO AWC-GLOBE 2.26**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.27 Please identify all offers to sell water systems, water infrastructure, water companies, or water customers to the City of Globe between January 1, 1900 and September 20, 1961. In your response, please identify the offering party, the terms of the offer, the date of the offer, and the City of Globe's response, if any, to such offers.

**RESPONSE TO AWC-GLOBE 2.27**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

1 AWC-GLOBE 2.28 Please provide all documentary evidence for all offers to sell water  
2 systems, water infrastructure, water companies, or water customers to the  
3 City of Globe between January 1, 1900 and September 20, 1961.

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5 **RESPONSE TO AWC-GLOBE 2.28**

6 Please see answer to AWC 2.1.

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8 Witness: Brent Billingsley  
9 City of Globe  
10 150 N. Pine St.  
11 Globe, Arizona 85501

12 AWC-GLOBE 2.29 Please identify all offers to sell water systems, water infrastructure, water  
13 companies, or water customers to the City of Globe after September 20,  
14 1961. In your response, please identify the offering party, the terms of the  
15 offer, the date of the offer, and the City of Globe's response, if any, to such  
16 offers.

17 **RESPONSE TO AWC-GLOBE 2.29**

18 Please see answer to AWC 2.1.

19  
20 Witness: Brent Billingsley  
21 City of Globe  
22 150 N. Pine St.  
23 Globe, Arizona 85501

24 AWC-GLOBE 2.30 Please provide all documentary evidence for all offers to sell water  
25 systems, water infrastructure, water companies, or water customers to the  
26 City of Globe after September 20, 1961.

27 **RESPONSE TO AWC-GLOBE 2.30**

28 Please see answer to AWC 2.1.

29  
30 Witness: Brent Billingsley  
31 City of Globe  
32 150 N. Pine St.  
33 Globe, Arizona 85501

34 AWC-GLOBE 2.31 Please identify all witnesses able to testify regarding the information  
35 Arizona Water Company requests in Data Requests 2.19 to 2.30. In your  
36 answer, please include current contact information for each witness and the  
37 Data Request response for which the witness can provide testimony.

38 **RESPONSE TO AWC-GLOBE 2.31**

39 Please see answer to AWC 2.1.

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Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.32 Please identify all areas the City of Globe annexed after 1900. In your response, please identify the date and the legal description of each annexation.

**RESPONSE TO AWC-GLOBE 2.32**

Please see answer to AWC 2.1. Additionally, the City objects because the information requested is not relevant to who was providing water service in 1961, is overly broad and unduly burdensome.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.33 Please provide all files, documents, and records for each annexation you identify in your response Data Request 2.32.

**RESPONSE TO AWC-GLOBE 2.33**

Please see answer to AWC 2.1 and 2.32.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.34 Please provide every approved City Council Ordinance changing or extending the corporate limits of the City of Globe since the City's incorporation to present.

**RESPONSE TO AWC-GLOBE 2.34**

Please see answer to AWC 2.1 and 2.32.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.35 Please identify all witnesses able to testify regarding the information Arizona Water Company requests in Data Requests 2.32 to 2.34. In your answer, please include current contact information for each witness and the

Data Request response for which the witness can provide testimony.

**RESPONSE TO AWC-GLOBE 2.35**

Please see answer to AWC 2.1 and 2.32.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.36 Please identify all outside contractors the City of Globe has used to work on its water system from 1961 to present, with a description of their work.

**RESPONSE TO AWC 2.36**

The City objects to AWC 2.36 as not relevant, overbroad and unduly burdensome.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.37 Please produce all records related to work outside contractors performed for the City of Globe on the water systems and infrastructure in the Northern Area on or before September 20, 1961.

**RESPONSE TO AWC-GLOBE 2.37**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.38 Please produce all records related to work outside contractors performed for the City of Globe on the water systems and infrastructure in the Southern Area on or before September 20, 1961.

**RESPONSE TO AWC-GLOBE 2.38**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

1 AWC-GLOBE 2.39 Please produce all records related to work outside contractors performed  
2 for the City of Globe on the water systems and infrastructure in the  
3 Northern Area from September 20, 1961 to the present.

4 **RESPONSE TO AWC-GLOBE 2.39**

5 Please see answer to AWC 2.1 and 2.36.

6 Witness: Brent Billingsley  
7 City of Globe  
8 150 N. Pine St.  
9 Globe, Arizona 85501

9 AWC-GLOBE 2.40 Please produce all records related to work outside contractors performed  
10 for the City of Globe on the water systems and infrastructure in the  
11 Southern Area from September 20, 1961 to the present.

12 **RESPONSE TO AWC-GLOBE 2.40**

13 Please see answer to AWC 2.1 and 2.36.

14 Witness: Brent Billingsley  
15 City of Globe  
16 150 N. Pine St.  
17 Globe, Arizona 85501

16 AWC-GLOBE 2.41 Please identify all witnesses able to testify regarding the information  
17 Arizona Water Company requests in Data Requests 2.36 to 2.40. In your  
18 answer, please include current contact information for each witness and the  
19 Data Request response for which the witness can provide testimony.

20 **RESPONSE TO AWC-GLOBE 2.41**

21 Please see answer to AWC 2.1 and 2.36.

22 Witness: Brent Billingsley  
23 City of Globe  
24 150 N. Pine St.  
25 Globe, Arizona 85501

24 AWC-GLOBE 2.42 Please identify the location of all of the City's wastewater treatment plants  
25 on September 20, 1961. In your response, please include the address and  
26 legal description of the real property parcel or parcels on which the  
27 wastewater treatment plants were located on September 20, 1961.

28 **RESPONSE TO AWC-GLOBE 2.42**

To the best of the City's knowledge, the wastewater treatment plant was

located where it currently is on Pinal Creek Road.

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Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

5 AWC-GLOBE 2.43 Please provide any and all agreements between the City and Freeport-  
6 McMoRan or its predecessors, or any other party, concerning construction  
7 and operation of the City's wastewater treatment plant currently located in  
8 the Northern Area.

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**RESPONSE TO AWC-GLOBE 2.43**

13 Please see answer to AWC 2.1. The City also objects as to relevance.

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Witness: Brent Billingsley  
18 City of Globe  
19 150 N. Pine St.  
20 Globe, Arizona 85501

21 AWC-GLOBE 2.44 Please identify all witnesses able to testify regarding the information  
22 Arizona Water Company requests in Data Requests 2.42 to 2.43. In your  
23 answer, please include current contact information for each witness and the  
24 Data Request response for which the witness can provide testimony.

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**RESPONSE TO AWC-GLOBE 2.44**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.45 Please provide all documents related to Arizona Water Company's sale of  
land to the City, upon which the City located a water tank, mentioned on  
page 3, lines 1 and 2, of Globe's Petition to Amend Decision 33424  
Pursuant to A.R.S. §40-252 ("Petition"). In your response, please identify  
all witnesses able to testify regarding the subject of this data request.

**RESPONSE TO AWC-GLOBE 2.45**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

1 AWC-GLOBE 2.46 Please provide all maps of the City of Globe's water system and water  
2 infrastructure, including wastewater facilities, from 1900 to the present.

3 **RESPONSE TO AWC-GLOBE 2.46**

4 Please see answer to AWC 2.1.

5  
6 Witness: Brent Billingsley  
7 City of Globe  
8 150 N. Pine St.  
9 Globe, Arizona 85501

10 AWC-GLOBE 2.47 Please state when and how the City of Globe first became aware of  
11 Decision No. 33424, Docket No. U-1445, and the certificate of  
12 convenience and necessity the Arizona Corporation Commission issued to  
13 Arizona Water Company in Decision No. 33424. In your response to this  
14 Data Request, please provide the name of the person or persons at the City  
15 of Globe who first became aware of Decision No. 33424, Docket No. U-  
16 1445, and the certificate of convenience and necessity the Arizona  
17 Corporation Commission issued to Arizona Water Company in Decision  
18 No. 33424. Please also provide all documents, records, or files related to  
19 Decision No. 33424 and Docket No. U-1445. Please also provide the name  
20 and contact information for each witness who can provide testimony about  
21 the subject of this Data Request.

22 **RESPONSE TO AWC-GLOBE 2.47**

23 This data request has no relation to the events of 1961 that are at issue in  
24 this case.

25  
26 Witness: Brent Billingsley  
27 City of Globe  
28 150 N. Pine St.  
Globe, Arizona 85501

29 AWC-GLOBE 2.48 Please identify all agreements entered into between 1900 and September  
30 20, 1961 between the City of Globe and any mining companies for the use  
31 of any water infrastructure, including without limitation pipes, wells, tanks,  
32 and reservoirs. Please produce all documents related to any agreements  
33 you identify in response to this Data Request. Please also identify all  
34 witnesses able to testify regarding any agreements you identify in response  
35 to this Data Request.

36 **RESPONSE TO AWC-GLOBE 2.48**

37 Please see answer to AWC 2.1.

38  
39 Witness: Brent Billingsley  
40 City of Globe

150 N. Pine St.  
Globe, Arizona 85501

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3 AWC-GLOBE 2.49 Please identify all agreements from 1961 to present between the City of  
4 Globe and any mining companies for the use of any water infrastructure,  
5 including without limitation pipes, wells, tanks, and reservoirs. Please  
6 produce all documents related to any agreements you identify in response  
7 to this Data Request. Please also identify all witnesses able to testify  
8 regarding any agreements you identify in response to this Data Request.

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11 **RESPONSE TO AWC-GLOBE 2.49**

12 Please see answer to AWC 2.1.

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Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.50 Please identify any intergovernmental agreements between the City of  
Globe and the State of Arizona, Gila County, or any other town or  
municipality regarding the City of Globe's use of rights-of-way in the  
Northern Area on or before September 20, 1961 or that is in any way  
related to the City of Globe's provision of water service to customers in the  
Northern area on or before September 20, 1961. Please produce all  
documents related to any agreements you identify in response to this Data  
Request.

**RESPONSE TO AWC-GLOBE 2.50**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.51 Please identify any intergovernmental agreements between the City of  
Globe and the State of Arizona, Gila County, or any other town or  
municipality regarding the City of Globe's use of rights-of-way in the  
Northern Area after September 20, 1961 or that is in any way related to the  
City of Globe's provision of water service to customers in the Northern  
area after September 20, 1961. Please produce all documents related to  
any agreements you identify in response to this Data Request.

**RESPONSE TO AWC-GLOBE 2.51**

Please see answer to AWC 2.1 and 2.32.

Witness: Brent Billingsley



150 N. Pine St.  
Globe, Arizona 85501

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2 AWC-GLOBE 2.55 Please identify all permissions (i.e., consents, franchises or permits), if any,  
3 obtained by the City of Globe from Gila County to construct water lines or  
4 other infrastructure in the Southern Area. Please further provide copies of  
5 all identified permissions, as well as related documents and  
6 correspondence.

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8 **RESPONSE TO AWC-GLOBE 2.55**

9 Please see answer to AWC 2.1.

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11 Witness: Brent Billingsley  
12 City of Globe  
13 150 N. Pine St.  
14 Globe, Arizona 85501

15 AWC-GLOBE 2.56 Please provide all certificates of occupancy, permits, approvals, or other  
16 similar documents the City of Globe issued on or before September 20,  
17 1961 for any building or construction project located in the Northern Area.

18 **RESPONSE TO AWC-GLOBE 2.56**

19 Please see answer to AWC 2.1.

20  
21 Witness: Brent Billingsley  
22 City of Globe  
23 150 N. Pine St.  
24 Globe, Arizona 85501

25 AWC-GLOBE 2.57 Please provide all certificates of occupancy, permits, approvals, or other  
26 similar documents the City of Globe issued on or before September 20,  
27 1961 for any building or construction project located in the Southern Area.

28 **RESPONSE TO AWC-GLOBE 2.57**

Please see answer to AWC 2.1.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.58 Please provide all certificates of occupancy, permits, approvals, or other  
similar documents the City of Globe issued after September 20, 1961 for  
any building or construction project located in the Northern Area.

**RESPONSE TO AWC-GLOBE 2.58**

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Please see answer to AWC 2.1 and 2.32.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501

AWC-GLOBE 2.59 Please provide all certificates of occupancy, permits, approvals, or other similar documents the City of Globe issued after September 20, 1961 for any building or construction project located in the Southern Area.

**RESPONSE TO AWC-GLOBE 2.59**

Please see answer to AWC 2.1 and 2.32.

Witness: Brent Billingsley  
City of Globe  
150 N. Pine St.  
Globe, Arizona 85501