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JAN 12 2023



CLERK OF THE SUPERIOR COURT
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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

WENDY H. WALKER AND VANCE E.
WALKER, et al.,

Plaintiffs,

v.

CITY OF SCOTTSDALE, an Arizona
municipal corporation,

Defendant.

Case No. **CV 2023-000545**

**APPLICATION FOR PRELIMINARY
INTERLOCUTORY STAY**

(With Notice)

Pursuant to Ariz. R. Civ. P. 65(a) and Rule 5 of Special Actions Rules of Procedure,
Plaintiffs

Wendy H. Walker and Vance E. Walker, et al., by and through undersigned counsel,
respectfully request the Court enter a Preliminary Interlocutory Stay restraining and staying
the Defendant City of Scottsdale, the Defendant's officers, agents, servants, employees and
attorneys, and any and all persons in active concert or participation with them from continuing
to refuse Plaintiffs and the Rio Verde Foothills residences and their agents access to the
existing water standpipe located at Pima and Jomax Roads and owned and maintained by
Defendant City of Scottsdale and continuing to refuse providing normal and customary
quantities of Scottsdale domestic water to serve the daily needs of Plaintiffs and the Rio Verde
Foothills residents.

1 This Application for Preliminary Interlocutory Stay is made for the reasons that:

- 2 1. Plaintiffs will suffer immediate and irreparable harm, unless the conduct of
3 Defendant is stayed and restrained by this Court;
- 4 2. There is a strong likelihood Plaintiffs will succeed on the merits;
- 5 3. The balance of hardships tips in Plaintiffs' favor and
- 6 4. Plaintiffs have no adequate remedy at law.

7 This Application is supported by the verified Complaint filed in this action, the
8 accompanying Memorandum of Points and Authorities, and the Affidavits of Christina B.
9 Jackman, Patrick C. Kruse and Larry Wolff submitted herewith, which are attached hereto and
10 incorporated herein by this reference.

11 RESPECTFULLY SUBMITTED this 12th day of January, 2023.

12 FRANCIS J. SLAVIN, P.C.

13 By: /s/ Francis J. Slavin
14 Francis J. Slavin
15 Daniel J. Slavin
16 Attorneys for Plaintiffs

17
18 E-filed with the Clerk, Maricopa
19 County Superior Court this 12th
20 day of January, 2023.

21 /s/ Paula Schultz
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8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**

10 WENDY H. WALKER AND VANCE E.
WALKER, et al.,

11
12 Plaintiffs,

13 v.

14 CITY OF SCOTTSDALE, an Arizona
municipal corporation,

15 Defendant.
16

Case No. CV 2023-000545

**APPLICATION FOR TEMPORARY
INTERLOCUTORY STAY**

(With Notice)

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CLERK OF THE SUPERIOR COURT
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DEPUTY CLERK

17
18 Pursuant to Ariz. R. Civ. P. 65(a) and Rule 5 of Special Actions Rules of Procedure,
19 Plaintiffs Wendy H. Walker and Vance E. Walker, et al., by and through undersigned counsel,
20 respectfully request the Court issue forthwith a Temporary Interlocutory Stay restraining and
21 staying the Defendant City of Scottsdale, the Defendant's officers, agents, servants, employees
22 and attorneys, and any and all persons in active concert or participation with them from
23 continuing to refuse Plaintiffs and the Rio Verde Foothills residences and their agents access
24 to the existing water standpipe located at Pima and Jomax Roads and owned and maintained
25 by Defendant City of Scottsdale and continuing to refuse providing normal and customary
26 quantities of Scottsdale domestic water to serve the daily needs of Plaintiffs and the Rio Verde
27 Foothills residents.
28

1 This Application is made for the reasons that:

2 1. Plaintiffs will suffer immediate and irreparable harm, unless the conduct of
3 Defendant is stayed and restrained by this Court;

4 2. There is a strong likelihood Plaintiffs will succeed on the merits;

5 3. The balance of hardships tips in Plaintiffs' favor and

6 4. Plaintiffs have no adequate remedy at law.

7 This Application for Temporary Interlocutory Stay is supported by the Verified
8 Complaint filed in this action, the accompanying Memorandum of Points and Authorities, and
9 the Affidavits of Christina B. Jackman, Patrick C. Kruse and Larry Wolff submitted herewith,
10 which are attached hereto and incorporated herein by this reference.

11 RESPECTFULLY SUBMITTED this 12th day of January, 2023.

12 FRANCIS J. SLAVIN, P.C.

13 By: /s/ Francis J. Slavin
14 Francis J. Slavin
15 Daniel J. Slavin
16 Attorneys for Plaintiffs

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20 day of January, 2023.

21 /s/ Paula Schultz
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Person/Attorney Filing: Francis J Slavin
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[☐] Representing Self, Without an Attorney
(If Attorney) State Bar Number: 002972, Issuing State: AZ

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

Wendy H. Walker, et al.
Plaintiff(s),
v.
City of Scottsdale
Defendant(s).

Case No.

CV 2023-000545

**CERTIFICATE OF
COMPULSORY ARBITRATION**

I certify that I am aware of the dollar limits and any other limitations set forth by the Local Rules of Practice for the Maricopa County Superior Court, and I further certify that this case IS NOT subject to compulsory arbitration, as provided by Rules 72 through 77 of the Arizona Rules of Civil Procedure.

RESPECTFULLY SUBMITTED this

By: Francis J Slavin /s/
Plaintiff/Attorney for Plaintiff

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8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**

10 WENDY H. WALKER AND VANCE E.
WALKER, et al.,

11 Plaintiffs,

12 v.

13 CITY OF SCOTTSDALE, an Arizona
14 municipal corporation,

15 Defendant.
16
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Case No. CV 2023-000545

**MOTION FOR ORDER TO SHOW
CAUSE RE TEMPORARY
INTERLOCUTORY STAY**

(With Notice)

(Oral Argument Requested)

18
19 Pursuant to Ariz. R. Civ. P. 7.3, Ariz. R. Civ. P. 65 and Rule 5 Rules of Procedure for
20 Special Actions, Plaintiffs Wendy H. Walker and Vance E. Walker, et al., by and through
21 undersigned counsel, respectfully request the Court issue an Order to Show Cause why a
22 Temporary Interlocutory Stay should not issue as prayed for in the Verified Complaint on file
23 in the above-entitled cause.

24 In addition to the Verified Complaint, the Application for Temporary Interlocutory
25 Stay, this Motion is supported by the Memorandum of Points and Authorities and the exhibits
26 attached thereto, submitted herewith and incorporated herein by this reference.

27 ///

28 ///

1 RESPECTFULLY SUBMITTED this 12th day of January, 2023.

2 FRANCIS J. SLAVIN, P.C.

3 By: /s/ Francis J. Slavin
4 Francis J. Slavin
5 Daniel J. Slavin
6 Attorneys for Plaintiffs
7

8 E-filed with the Clerk, Maricopa
9 County Superior Court this 12th
10 day of January, 2023.

11 /s/ Paula Schultz
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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

Case No. **CV 2023-000545**

**VERIFIED COMPLAINT
FOR SPECIAL ACTION**

WENDY H. WALKER AND VANCE E.
WALKER, JILL ADAMSKI, MIKE
ALBRIZZI, DAWN ANTRIM, ANTHONY
BACON AND MARGARET BACON,
ROBERT BAECHLE AND MARIA
BAECHLE, KAREN BAUGHMAN, LARRY
BRAY AND CONNIE BRAY, SUSAN
BRINKLEY, JAN W. BROWN AND GREG M.
BROWN, GLENN A. BURGESS, ROSEMARY
CARROLL, JOHN COXE, GERI WRIGHT,
SCOTT CROOK, GAIL DUDLEY, KELSI
FOLDING AND KEITH FOLDING, MICHAEL
GEORGE AND KIMBERLY GEORGE, LISA
HARMON, RYAN HENDRICKSON, GARY
HOLLOWAY, DAWN HOUGHTALING,
CHRISTOPHER LJUBAN JORICH JR.,
JAMES CRAIG KELLY AND CYNTHIA
KELLY, ROGER A. KESSLER, JENNIFER
KROUSE, PATRICK KRUSE, LINDA
LARION, LINDA LAWRENCE, ARTHUR
MACFARLAND AND WENDY
MACFARLAND, GAYLENE NICHOLS,
PETER OKOPNY AND IRENE OKOPNY,
NICK ROSSI AND MELISSA ROSSI,
SAMUEL RUSSO AND MARY RUSSO,
LINDA SCHLENKER AND BRENT
SCHLENKER, JENNIFER SCHUCK, BRUCE
SMITH AND PATTY SMITH, SHAWN
SMITH AND SARAH SMITH, DAVID
SLOMAN AND DEBBIE SLOMAN,
STEPHANIE STAPLES AND DAVID

1 STAPLES, TAMICA L. SUMMERS, GARY
2 THOMPSON AND JANE THOMPSON,
3 LYNNE TURNER, CODY WALLS, LAURA
4 WEAVER, CHRISTOPHER WENDT, LARRY
5 WOLFF AND AMY WOLFF, LARRY
6 WORKMAN, JAMES T. WRIGHT,

7 Plaintiffs,

8 v.

9 CITY OF SCOTTSDALE, an Arizona
10 municipal corporation,

11 Defendant.

12 Plaintiffs allege as follows:

13 JURISDICTION AND VENUE

- 14 1. Plaintiffs reside and own real property in Maricopa County, Arizona.
- 15 2. Defendant City of Scottsdale is an Arizona municipal corporation which is
16 located in Maricopa County, Arizona ("Scottsdale").
- 17 3. This lawsuit arises out of acts and events which occurred in Maricopa County.
- 18 4. Jurisdiction is proper because this is a special action being brought against the
19 City of Scottsdale located in Maricopa County pursuant to Rule 4, Arizona Rules of Procedure
20 for Special Actions.
- 21 5. Venue in this court is proper pursuant A.R.S. § 12-401, et seq.
- 22 6. This request for relief is to qualify for Tier 2 as defined by Rule 26.2(c)(3)(D)
23 Ariz. R. Civ. P.

24 COMMON ALLEGATIONS

- 25 7. Plaintiffs reside in an unincorporated area of Maricopa County known as Rio
26 Verde Foothills (also referred to herein as "RVF").
- 27 8. Rio Verde Foothills is generally bound on the west by the City of Scottsdale
28 (west of 136th Street), on the north by East Stagecoach Pass Road and by the Tonto National
Forest (north of East Lone Mountain Road and East Ashler Hills Drive), on the east by the

1 Tonto National Forest (east of North 176th Street), and on the south by McDowell Mountain
2 Regional Park. See map attached hereto as **Exhibit A**.

3 9. There is no piped water service in the Rio Verde Foothills community.

4 10. Plaintiffs rely solely upon a source of water owned and provided by the City of
5 Scottsdale. The City has provided water service to the RVF community for over 30 years.

6 11. Scottsdale owns and maintains a water filling station located at 26602 North
7 Pima Road at the intersection of Pima Road and Jomax Road which provides City owned water
8 (the "Scottsdale Standpipe"). The Scottsdale Standpipe is the current source of water that
9 Scottsdale provides to Rio Verde Foothills households. The Scottsdale Standpipe at Pima and
10 Jomax Roads lies approximately 7 miles from the entrance of the RVF community. Water from
11 the Scottsdale Standpipe is transported either by third-party commercial water haulers who
12 deliver water to the RVF residents or RVF residents who self-haul.

13 12. Prior to the construction of the Scottsdale Standpipe, the source of potable water
14 for the RVF community were fire hydrants owned and maintained by Scottsdale.

15 13. For more than 30 years, Scottsdale has continuously supplied domestic water
16 serving the needs of the RVF community. Plaintiffs and RVF residents pay Scottsdale fees for
17 their water service.

18 14. There are approximately 500 households in Rio Verde Foothills which rely upon
19 hauled water obtained from the Scottsdale Standpipe to serve their daily needs for domestic
20 water.

21 15. As of January 1, 2023, Scottsdale has taken acts to discontinue its long-standing
22 water service to the Rio Verde Foothills.

23 16. In connection with Scottsdale's January 1, 2023 discontinuation of water service,
24 Scottsdale has made clear that its discontinuation of water service to RVF is permanent.

25 17. On October 13, 2022, EPCOR Water Arizona, Inc. ("EPCOR") filed a request
26 for approval from the Arizona Corporation Commission ("ACC") to establish a certificate of
27 convenience and necessity and a corresponding tariff to provide standpipe water service for
28

1 Plaintiffs and the RVF community.

2 18. Upon the ACC's approval of EPCOR's application for standpipe water service,
3 EPCOR, according to its application, will purchase land upon which to place the standpipe, to
4 acquire water rights, to drill a well, and to construct the standpipe.

5 19. EPCOR estimates that it will take between 24 to 36 months to develop this new
6 standpipe facility for providing water service to Plaintiffs and RVF residents.

7 20. EPCOR's Application is scheduled to be heard at the Arizona Corporation
8 Commission's January 23, 2023 meeting.

9 21. During the interim, and until the EPCOR standpipe begins providing water for
10 Plaintiffs and RVF households, EPCOR proposes to provide Central Arizona Project (CAP)
11 water at no cost to Scottsdale to replace the standpipe water being consumed by Plaintiffs and
12 the RVF households and to pay the cost of treating the water for human consumption.

13 22. Under EPCOR's proposal, Scottsdale will be able to continue providing
14 standpipe water to the RVF community without using any of Scottsdale's water resources at
15 no out-of-pocket cost to Scottsdale or its citizens for the next 2 to 3 years.

16 **COUNT ONE**

17 23. Plaintiffs incorporate herein by references paragraphs 1 through 22 as if fully set
18 forth herein.

19 24. Scottsdale has provided domestic water service to the Rio Verde Foothills
20 community for more than 30 years.

21 25. Scottsdale has maintained accounts with Plaintiffs and commercial water haulers
22 for invoicing and paying the fees and costs for Scottsdale's domestic water service.

23 26. Plaintiffs built and/or bought residences in the Rio Verde Foothills in reliance
24 upon Scottsdale's long-standing provision of water service to the RVF community .

25 27. Pursuant to Arizona Revised Statutes Section 9-516(C), Scottsdale may not
26 discontinue domestic water service to the Rio Verde Foothills community.

27 28. Plaintiffs estimate that their onsite water storage tanks will become empty by as
28

1 early as January 10, 2023.

2 29. Scottsdale's act of discontinuing water service to RVF residents from
3 Scottsdale's Standpipe located at Pima and Jomax Roads constitutes a violation of Arizona
4 Revised Statutes Section 9-516(C).

5 30. Scottsdale's discontinuation of domestic water service has left Plaintiffs with no
6 nearby reliable source of water.

7 31. There is no evidence that Scottsdale will suffer any immediate hardship if the
8 Court were to require Scottsdale to continue providing domestic water service to Plaintiffs.

9 32. Scottsdale is in a position to accept delivery of CAP water from EPCOR and to
10 treat the water for domestic use at EPCOR's expense so that Plaintiffs have water during the
11 24 to 36 month time period that EPCOR needs to obtain the necessary approvals to build
12 standpipe water services to Plaintiffs and the RVF community.

13 33. Plaintiffs and other RVF residents will suffer immediate and irreparable harm
14 unless Scottsdale's act of discontinuing water service to Plaintiffs is stayed and restrained by
15 this court.

16 34. The public policy underlying the Arizona legislature's enactment of
17 A.R.S. § 9-516(C) favors stay relief applied for by Plaintiff

18 35. There is a strong likelihood that Plaintiffs will succeed on the merits.

19 36. The balance of the hardship tips in Plaintiffs' favor.

20 37. Plaintiffs have no adequate remedy at law.

21 38. As a direct and proximate result thereof, Plaintiffs are entitled to temporary
22 interlocutory, preliminary interlocutory and permanent stay relief.

23 WHEREFORE, Plaintiffs pray for judgment against Defendant Scottsdale as follows:

24 A. An order requiring Scottsdale to comply with A.R.S. § 9-516(C) and continue to
25 provide domestic water service to the Plaintiffs.

26 B. An order granting temporary interlocutory, preliminary interlocutory and
27 permanent stay relief ordering Scottsdale to resume water service to Plaintiffs and to enjoin
28

1 Scottsdale from blocking Plaintiffs and Plaintiffs' commercial water haulers from obtaining
2 water deliveries from the Scottsdale Standpipe.

3 C For Plaintiffs' costs and attorneys' fees incurred herein.

4 D. For such other and further relief as the Court deems just and proper.

5 RESPECTFULLY SUBMITTED this 12th day of January, 2023.

6 FRANCIS J. SLAVIN, P.C.

7 By: /s/ Francis J. Slavin

8 Francis J. Slavin

9 Daniel J. Slavin

10 Attorneys for Plaintiffs

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E-filed with the Clerk, Maricopa
County Superior Court this 12th
day of January, 2023.

/s/ Paula Schultz

VERIFICATION

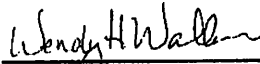
STATE OF ARIZONA)
) ss.
County of Maricopa)

Wendy H. Walker, being first duly sworn upon her oath, deposes and says as follows:

I am one of the Plaintiffs in this matter and I am authorized to execute this Verification statement.

I have read the preceding Complaint and know the contents thereof, and the statements and matters set forth therein are true of my own personal knowledge, except as to those matters therein alleged on information and belief, and as to those matters, I believe them to be true and correct.

Dated this 9 day of January, 2023.



Wendy H. Walker

SUBSCRIBED AND SWORN to before me this 9 day of January, 2023 by
Wendy H. Walker.



Notary Public

My Commission Expires: 08/12/2025

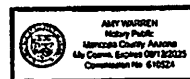
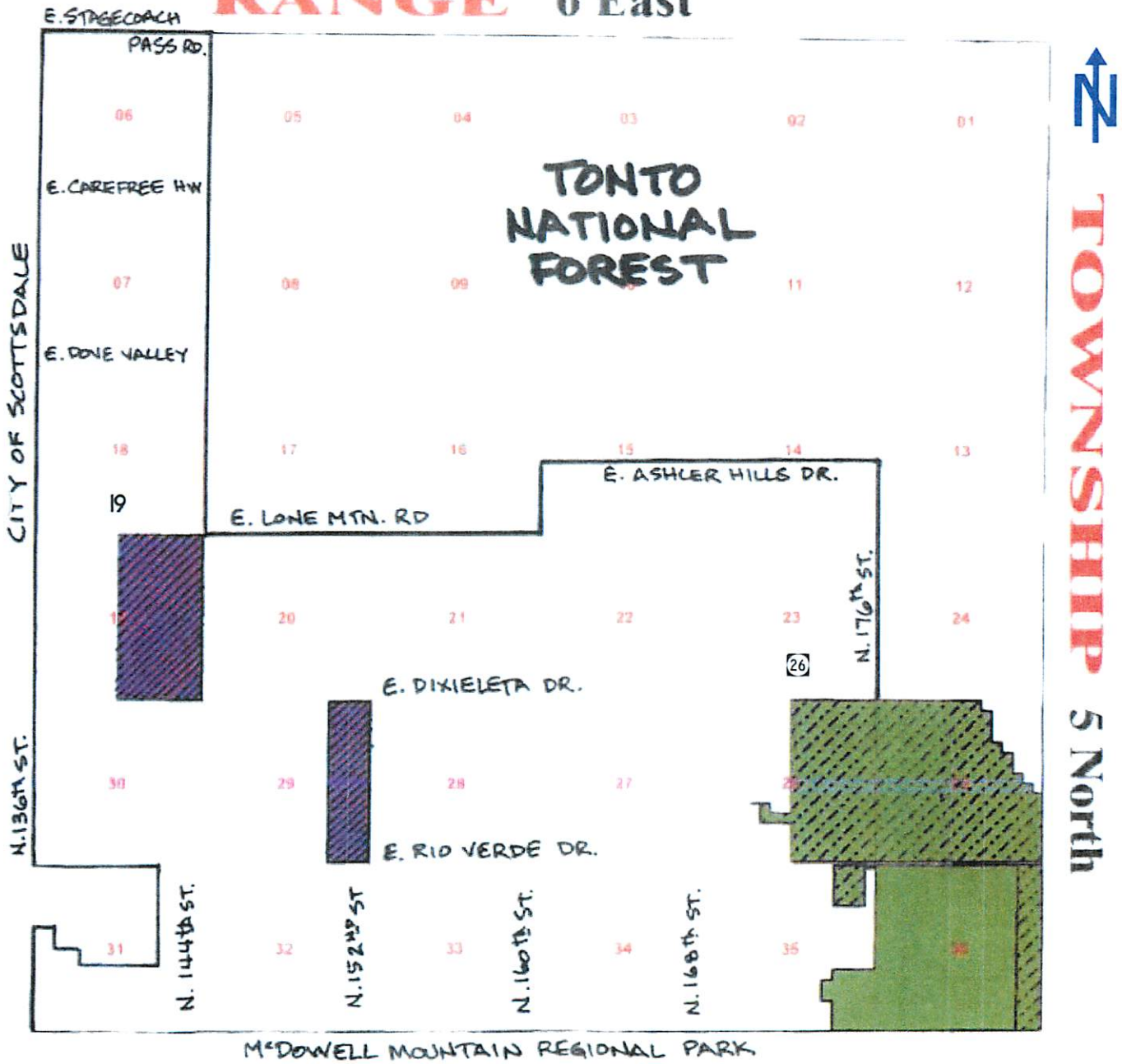


EXHIBIT A

RANGE 6 East



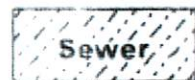
W-03720A (1)

Water Utility of Northern Scottsdale, Inc.



WS-02156A (3)

Rio Verde Utilities, Inc.



Sewer

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8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
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10 WENDY H. WALKER AND VANCE E.
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11 Plaintiffs,

12 v.

13 CITY OF SCOTTSDALE, an Arizona
14 municipal corporation,

15 Defendant.
16
17

Case No. CV 2023-000545

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
APPLICATION FOR TEMPORARY
INTERLOCUTORY STAY AND
PRELIMINARY INTERLOCUTORY
STAY**

(With Notice)

18 Plaintiffs hereby file their Memorandum of Points and Authorities in Support of their
19 (1) Motion for Order to Show Cause re Temporary Interlocutory Stay; (2) Application for
20 Temporary Interlocutory Stay; and (3) Application for Preliminary Interlocutory Stay.

21 **I. As codified by the Arizona Legislature under A.R.S. Section 9-516(C), public**
22 **policy does not allow Scottsdale to leave the Rio Verde community high and dry.**

23 Scottsdale has been the water service provider to the Rio Verde Foothills community
24 for decades. As the Rio Verde Foothills community continued to grow, Scottsdale continued
25 to open new accounts for new households to obtain their water needs even upgrading its water
26 delivery systems to meet new demand. Scottsdale's acts of supplying water service to new
27 households in Rio Verde Foothills without question has been the catalyst fueling growth in
28 this community—without water, no growth. And in 2015, Scottsdale accommodated this

1 community's growing demand for water by creating a water filling station outfitted with a
2 dedicated standpoint for water tankers and self-haulers to receive delivery of their water.

3 As of January 1, 2023, Scottsdale completely halted water service to the Rio Verde
4 Foothills community. See **Exhibit A**. Scottsdale claims it warned and advised residents this
5 day would come, but its acts in fulfilling new demand spoke much louder than its words.
6 Fortunately for the Rio Verde Foothills community the Arizona Legislature does not permit
7 Scottsdale to simply turn off the faucet and let the community go dry. Arizona Revised Statute
8 Section 9-516(C) prohibits an Arizona municipality which renders utility service outside of its
9 boundaries from discontinuing such service once established.
10

11 In the case of *Jung v. City of Phoenix*, 160 Ariz. 35, 770 P.2d 339 (App. 1987), the City
12 of Phoenix served water to non-resident customers charging them twice the water rate being
13 charged to Phoenix residents. The non-resident plaintiffs sued Phoenix for damages and
14 injunctive relief. The trial court granted the City's motion to dismiss, and the Court of Appeals
15 reversed. In its recitation of A.R.S. § 9-516(C) (adopted by the Arizona legislature in 1964),
16 the Court of Appeals emphasized the following language:

17 A city or town acquiring the facilities of a public service corporation rendering
18 utility service within the boundaries of such city or town, *or which renders utility*
19 *service without its boundaries, shall not discontinue such service, once*
20 *established, as long as such city or town owns or controls such utility.*

21 *Id.* at 37, 770 P.2d at 341 (emphasis in original). The court held the city had an obligation to
22 furnish continued water services to non-residents under § 95-516(C):

23 Based on the language of subsection (C) and the Title to the amendment, it is
24 clear to us that the legislature intended to grant a right to those persons living
25 outside the boundaries of a city who are users of a city's water service, to require
26 the continuation of such water service by the city once it is established . . . [A]n
obligation to furnish continued water services to appellants exists by virtue of
A.R.S. § 9-516(C) . . .

27 *Id.* at 38, 770 P.2d at 342.
28

1 The Arizona Supreme Court in *Jung v. City of Phoenix* upheld the Court of Appeals
2 holding. In so doing, the Supreme Court made clear “the legislature has enacted legislation
3 specifically governing water service to nonresidents by a municipality.” *Jung v. City*
4 *of Phoenix*, 160 Ariz. 38, 39, 770 P.2d 342, 343 (1989). In further interpretation of this
5 legislation, the Supreme Court made clear that “[t]he relevant statute, A.R.S. § 9-516, prohibits
6 a city from discontinuing water service to non-residents.” *Id.* at 40, 770 P.2d at 344.

7
8 The Supreme Court, similar to the Court of Appeals, also emphasized the following
9 excerpt of A.R.S. § 9-516(C): “A city or town . . . which renders utility service without its
10 boundaries, *shall not discontinue such service, once established, as long as such city or town*
11 *owns or controls such utility*” *Id.* (emphasis in original). And the Supreme Court
12 interpreted A.R.S. § 9-516(C) as making the continued provision of water services to Rio
13 Verde Foothills community mandatory: “The City does not contend that it does not have a
14 legal duty to continue water service to nonresidents. *The statute at issue clearly mandates such*
15 *duty.*” *Id.* (emphasis supplied). Scottsdale clearly has the legal obligation to continue serving
16 domestic water to the Plaintiffs and the Rio Verde Foothills community.

17
18 **II. Plaintiffs’ claim satisfies the four-part test for issuance of a preliminary injunction**
19 **and temporary restraining order.**

20 Special Actions Rules of Procedure Rule 5 provides the courts with the following
21 guidance regarding interlocutory orders and stays:

22 The court in a special action may grant an interlocutory stay, either ex parte or
23 after notice and hearing, in the same manner and subject to the same limitations
24 as temporary restraining orders and preliminary injunctions are granted under
25 Rule 65 of the Rules of Civil Procedure and may on appeal grant an injunction
26 under Rule 62(c) of the Rules of Civil Procedure.

27 Arizona common law has set forth the following four-part criteria that a party must
28 establish when seeking a preliminary injunction:

- 1 A. A strong likelihood that he will succeed at trial on the merits;
- 2 B. The possibility of irreparable injury to him not remediable by damages if the
- 3 requested relief is not granted;
- 4 C. A balance of hardship favors himself; and
- 5 D. Public policy favors the injunction.

6 *IB Property Holdings, LLC v. Rancho Del Mar Apartments Limited Partnership*, 228 Ariz. 61,
7 64-65, 263 P.3d 69, 72 (App. 2011). As emphasized by *Shoen*, “[t]he critical element in this
8 analysis is the relative hardship to the parties.” *Shoen v. Shoen*, 167 Ariz. 58, 63, 804 P.2 787,
9 792 (App.1990) (citation omitted). “To meet this burden, the moving party may establish either
10 1) probable success on the merits and the possibility of irreparable injury; or 2) the presence
11 of serious questions and the ‘balance of hardships tips sharply’ in his favor.” *Id.*

12 The application of Arizona’s four-part test for preliminary injunctions also applies to
13 temporary restraining orders. *Arizona All. for Retired Americans v. Clean Elections USA*, CV-
14 22-01823-PHX-MTL, 2022 WL 15678694, at *2 (D. Ariz. Oct. 28, 2022). Plaintiffs satisfy
15 Arizona’s four-part test and seek injunctive relief to maintain Scottsdale’s delivery of water to
16 Plaintiffs pending trial on the merits.

17 **A. A strong likelihood exists that Plaintiffs will succeed on the merits.**

18 Scottsdale first began providing water service outside its boundaries to Rio Verde
19 Foothills community over 30 years ago and has continuously provided such water service until
20 January 1, 2023. In discontinuing its water service, Scottsdale claims it is not legally obligated
21 to continue providing water service to the Rio Verde Foothills community because it lies
22 beyond the corporate boundaries of Scottsdale. However, Scottsdale’s position directly
23 contradicts and violates A.R.S. § 9-516(C) which prohibits Scottsdale from discontinuing
24 water service to Plaintiffs and the RVF community. *Jung*, 160 Ariz. at 40, 770 P.2d at 344.
25 Accordingly, Plaintiffs have a strong likelihood of prevailing on the merits at trial.
26
27
28

1 **B. Plaintiffs will suffer irreparable injury not remediable by damages if**
2 **injunctive relief is not granted.**

3 The City of Scottsdale has placed Plaintiffs and their families under an unconscionable
4 amount of stress and anxiety by discontinuing their domestic water supply on January 1, 2023.
5 The lack of fresh potable water for families to be able to bathe themselves or running water to
6 flush their toilets is a well-known basic necessity. Shutting off and eliminating Plaintiffs'
7 access to safe water is creating a barrier to safe hygiene for their families at a time when
8 washing hands and practicing other safety measures against viruses and infectious diseases can
9 mean the difference between life and death. The real-life impact Plaintiffs and this community
10 are experiencing is not something remediable by a dollar amount. The only realistic and
11 available relief is the immediate restoration of water service to Plaintiffs and their RVF
12 community.

13 **C. Balance of hardship favors the Plaintiffs.**

14 According to the City of Scottsdale, the annual average consumption of water by the Rio
15 Verde Foothills community is 117-acre feet. *See* Scottsdale City Manager report to the
16 Scottsdale Mayor and City Council dated December 19, 2022, Conclusion, page 5, at
17 **Exhibit B.** Scottsdale's current amount of water supply is 107,000-acre feet. *See* Scottsdale
18 Water Drought Management Plan 2021, pages 5-7, at **Exhibit C.** The amount of water being
19 furnished to the RVF community constitutes about one-tenth of one percent (0.001%) of
20 Scottsdale's water supply. To date, Scottsdale has not presented any evidence that it would
21 suffer any hardship by continuing to provide daily water service to Plaintiffs and the RVF
22 community. The hardship suffered by Plaintiffs and the RVF community being without a daily
23 domestic water supply is self-evident.

24
25 **D. Public policy favors issuance of a temporary and preliminary interlocutory**
26 **stay.**

27 The Court of Appeals in *Jung v. City of Phoenix* held that the intent of the Arizona
28 legislature in enacting A.R.S. § 9-516(C) is to grant persons living outside a city's boundaries,

1 who are established users of a municipality's water service, the right to require the continuation
2 of such water services by the municipality. Issuance of temporary and preliminary
3 interlocutory stays is consistent with the public policy set forth by Arizona legislation and the
4 common law interpreting that legislation.

5 CONCLUSION

6 There is a strong likelihood Plaintiffs will succeed at trial on the merits. Being without
7 domestic water to serve their daily needs has and will result in irreparable injury to the
8 Plaintiffs. The balance of hardships favors the Plaintiffs, and public policy favors the
9 interlocutory stay being requested by Plaintiffs.
10

11 RESPECTFULLY SUBMITTED this 12th day of January, 2023.

12 FRANCIS J. SLAVIN, P.C.

13 By: /s/ Francis J. Slavin
14 Francis J. Slavin
15 Daniel J. Slavin
16 Attorneys for Plaintiffs
17

18
19 E-filed with the Clerk, Maricopa
20 County Superior Court this 12th
21 day of January, 2023.

22 /s/ Paula Schultz
23
24
25
26
27
28

EXHIBIT A

Francis J. Slavin, SBN 002972
Daniel J. Slavin, SBN 024780
FRANCIS J. SLAVIN, P.C.
2198 East Camelback Road, Suite 285
Phoenix, Arizona 85016
Tel. (602) 381-8700
Fax (602) 381-1920
Email: b.slavin@fjslegal.com
d.slavin@fjslegal.com
service@fjslegal.com
Attorneys for Plaintiffs

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

WENDY H. WALKER AND VANCE E.
WALKER, et al.,

Plaintiffs,

v.

CITY OF SCOTTSDALE, an Arizona
municipal corporation,

Defendants.

Case No.

**DECLARATION OF CHRISTINA B.
JACKMAN IN SUPPORT OF
APPLICATION FOR TEMPORARY
AND PRELIMINARY
INTERLOCUTORY STAY**

(With Notice)

I, Christina B. Jackman, declare as follows:

1. I own and reside in a residence located 31207 North 138th Street, Scottsdale, Arizona 85262. I have resided there since January 2010.

2. Although I have a Scottsdale address, I reside in an unincorporated community which borders Scottsdale on the east known as Rio Verde Foothills (hereinafter sometime referred to as "RVF").

3. Rio Verde Foothills is generally bound on the west by the City of Scottsdale (west of 136th Street), on the north by East Stagecoach Pass Road and by the Tonto National Forest (north of East Lone Mountain Road and East Ashler Hills Drive), on the east by the

1 Tonto National Forest (east of North 176th Street), and on the south by McDowell Mountain
2 Regional Park. See map attached hereto as **Exhibit A**.

3 4. Approximately 500 households rely solely upon water provided by the City of
4 Scottsdale which is hauled by water tankers from a Scottsdale watering station located on the
5 west side of Pima Road just north of Jomax Road ("Scottsdale Standpipe").

6 5. Some of the 500 households themselves haul the water from the Scottsdale
7 Standpipe to their homes; other residents employ commercial water haulers to haul their water
8 from the Scottsdale Standpipe to their homes.

9 6. The self-water haulers are invoiced for payment directly by Scottsdale. See
10 copy of invoice from Scottsdale to a self-water hauler resident in RVF attached hereto as
11 **Exhibit B**.

12 7. Commercial water haulers are invoiced by Scottsdale directly for the water
13 obtained from the Scottsdale Standpipe who in turn invoice each respective resident for water
14 deliveries. See copies of invoices dated September, October, November and December 2022
15 to an RVF resident by Rio Verde Potable Water Hauling, a commercial water hauler, attached
16 as **Exhibit C**.

17 8. Scottsdale has furnished water to the RVF community for over 30 years. Initially
18 the water was furnished using fire hydrants owned and maintained by Scottsdale.
19 Approximately 5 years ago due to safety concerns, Scottsdale commenced supplying water to
20 the RVF residences from the Scottsdale Standpipe.

21 9. The Scottsdale Standpipe is located approximately 7-10 miles from the RVF
22 Community. Self-water-haulers and commercial haulers have continuously obtained water at
23 this location until January 1, 2023 at which time Scottsdale suspended use of this watering
24 station by RVF residents.

25 10. As of January 1, 2023, 500 households in the Rio Verde Foothills community
26 have no reliable source of domestic water to serve their daily needs.

27 11. Scottsdale's decision to cut off the long-standing Rio Valley Foothills
28

1 Community water supply has resulted in community-wide panic, desperation and chaos.

2 12. I declare under penalty of perjury that the foregoing is true and correct.

3
4 Executed on 1/11/2023

DocuSigned by:

Christina B. Jackman

11676DEB49E5417...

Christina B. Jackman

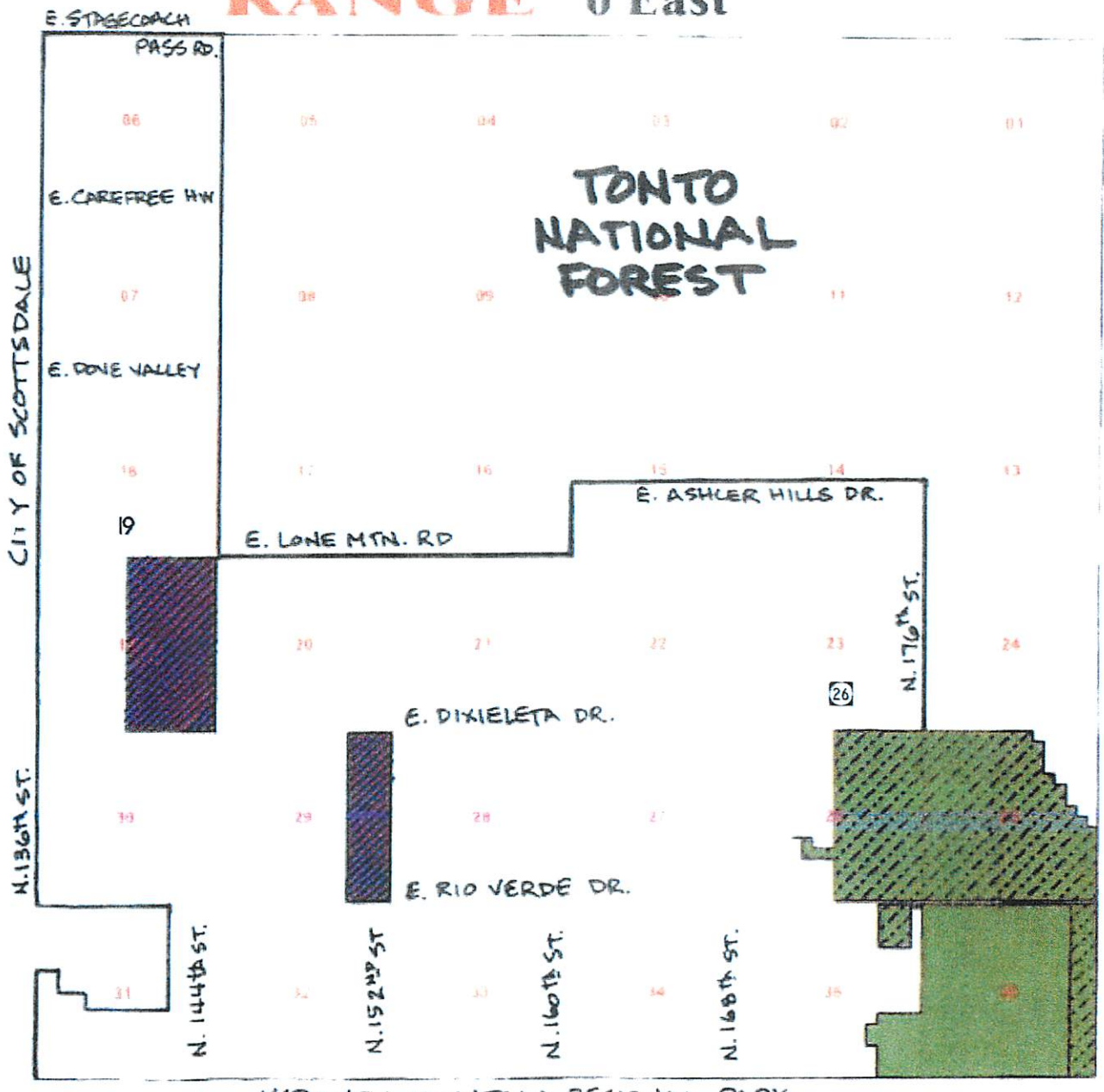
EXHIBIT A

RANGE 6 East

TONTO NATIONAL FOREST



TOWNSHIP 5 North



W-03720A (1)

Water Utility of Northern Scottsdale, Inc.



WS-02156A (3)

Rio Verde Utilities, Inc.

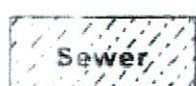


EXHIBIT B

CITY OF SCOTTSDALE

GEN PRA. IN. 11	480 312 2401
DELINQUENT UN. 17 ADULTS	480 312 2175
SOLID WASTE 100000 TON	480 312 5500
METER LEAKS	480 312 5500
PHONE RACEMENTS	888 455 2422

PERIOD COVERING 10/31/22 11/30/22 150

METER #	CUR READ	PREV READ	USAGE	SIZE
WF20119558	0	0	953	

GRAND TOTAL WITH CARES	42.85
------------------------	-------

- View statements, account details or make a payment at your convenience
- Save paper and save the environment
- Get your notifications quicker with email
- Reduce identity theft risks



13221300000201195580050000000000000042850000418507

EXHIBIT C

Rio Verde Potable Water
28150 N. Alma School Parkway Suite
103-165
Scottsdale, AZ 85262 US
602-228-5547
ineedwater@rioverdewater.com
www.rioverdewater.com



Received From
Travis and Julie Bever
16706 E. Morning Vista
Lane
Scottsdale, AZ 85262

Date: 09/12/2022
Payment Method:
Reference No:

Invoice #	Invoice Date	Due Date	Amount Due	Amount Paid	Balance Due
10/56877	09/12/2022	09/12/2022	146.25	146.25	146.25

Memo:

Amount Credited: \$0.00
Total: \$146.25

Rio Verde Potable Water
28150 N. Alma School Parkway Suite
103-165
Scottsdale, AZ 85262 US
602-228-5547
ineedwater@rioverdewater.com
www.rioverdewater.com



Receipt

Received From
Travis and Julie Bever
16706 E. Morning Vista
Lane
Scottsdale, AZ 85262

Date: 10/04/2022
Payment Method:
Reference No:

Invoice Number	Invoice Date	Invoice Due	Original Amount	Amount Paid	Balance Due
10/57764	10/04/2022	10/04/2022	135.00	135.00	135.00

Memo:

Amount Credited: \$0.00
Total: \$135.00

No additional transfer fees or taxes apply.
Payment services brought by:
Intuit Payments Inc.
2700 Coast Avenue, Mountain View, CA 94043
Phone number 1-888-536-4801
NMLS #1098819

For more information about Intuit Payments' money transmission licenses, please visit <https://www.intuit.com/legal/licenses/payment-licenses/>.

Rio Verde Potable Water
28150 N. Alma School Parkway Suite
103-165
Scottsdale, AZ 85262 US
602-228-5547
ineedwater@rioverdewater.com
www.rioverdewater.com



Received From
Travis and Julie Bever
16706 E. Morning Vista
Lane
Scottsdale, AZ 85262

Date: 10/19/2022
Payment Method:
Reference No:

10/58295	10/19/2022	10/19/2022	135.00	135.00	135.00
----------	------------	------------	--------	--------	--------

Memo:

Amount Credited: \$0.00
Total: \$135.00

No additional transfer fees or taxes apply.
Payment services brought by:
Intuit Payments Inc.
2700 Coast Avenue, Mountain View, CA 94043
Phone number 1-888-536-4801
NMLS #1098819

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Rio Verde Potable Water
28150 N. Alma School Parkway Suite
103-165
Scottsdale, AZ 85262 US
602-228-5547
ineedwater@rioverdewater.com
www.rioverdewater.com



Receipt

Received From
Travis and Julie Bever
16706 E. Morning Vista
Lane
Scottsdale, AZ 85262

Date: 11/05/2022
Payment Method:
Reference No:

Invoice Number	Invoice Date	Due Date	Invoice Amount	Balance Due	Payment
10/58779	11/05/2022	11/05/2022	166.50	166.50	166.50

Memo:

Amount Credited: \$0.00
Total: \$166.50

No additional transfer fees or taxes apply.
Payment services brought by:
Intuit Payments Inc.
2700 Coast Avenue, Mountain View, CA 94043
Phone number 1-888-536-4801
NMLS #1098819

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Rio Verde Potable Water
28150 N. Alma School Parkway Suite
103-165
Scottsdale, AZ 85262 US
602-228-5547
ineedwater@rioverdewater.com
www.rioverdewater.com



Receipt

Received From
Travis and Julie Bever
16706 E. Morning Vista
Lane
Scottsdale, AZ 85262

Date: 12/13/2022
Payment Method:
Reference No:

Invoice Number	Invoice Date	Due Date	Original Amount	Balance	Payment
10/59901	12/13/2022	12/13/2022	135.00	135.00	135.00

Memo:

Amount Credited: \$0.00
Total: \$135.00

No additional transfer fees or taxes apply.
Payment services brought by:
Intuit Payments Inc.
2700 Coast Avenue, Mountain View, CA 94043
Phone number 1-888-536-4801
NMLS #1098819

For more information about Intuit Payments' money transmission licenses, please visit <https://www.intuit.com/legal/licenses/payment-licenses/>.

Rio Verde Potable Water
28150 N. Alma School Parkway Suite
103-165
Scottsdale, AZ 85262 US
602-228-5547
ineedwater@rioverdewater.com
www.rioverdewater.com



Received From
Travis and Julie Bever
16706 E. Morning Vista
Lane
Scottsdale, AZ 85262

Date: 12/23/2022
Payment Method:
Reference No:

Invoice Number	Invoice Date	Due Date	Amount Due	Amount Paid	Balance Due
10/60357	12/23/2022	12/23/2022	135.00	135.00	135.00

Memo:

Amount Credited: \$0.00
Total: \$135.00

No additional transfer fees or taxes apply.
Payment services brought by:
Intuit Payments Inc.
2700 Coast Avenue, Mountain View, CA 94043
Phone number 1-888-536-4801
NMLS #1098819

For more information about Intuit Payments' money transmission licenses, please visit <https://www.intuit.com/legal/licenses/payment-licenses/>.

1 Francis J. Slavin, SBN 002972
Daniel J. Slavin, SBN 024780
2 FRANCIS J. SLAVIN, P.C.
2198 East Camelback Road, Suite 285
3 Phoenix, Arizona 85016
4 Tel. (602) 381-8700
Fax (602) 381-1920
5 Email: b.slavin@fjslegal.com
d.slavin@fjslegal.com
6 service@fjslegal.com
7 Attorneys for Plaintiffs

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**

10 WENDY H. WALKER AND VANCE E.
WALKER, et al.,

11
12 Plaintiffs,

13 v.

14 CITY OF SCOTTSDALE, an Arizona
municipal corporation,

15 Defendants.
16
17

Case No.

**AFFIDAVIT OF PATRICK C. KRUSE IN
SUPPORT OF APPLICATION FOR
TEMPORARY AND PRELIMINARY
INTERLOCUTORY STAY**

(With Notice)

18
19 STATE OF ARIZONA)
20) ss.
County of Maricopa)
21

22 I, Patrick C. Kruse, being over the age of 18 years and competent to testify, having first
23 been duly sworn, depose and state as follows. If I were called to testify, I could and would
24 testify to the following facts based upon my personal knowledge, except for those statements
25 which are made upon information and belief, which I believe to be true based upon information
26
27
28

1 I currently possess.

2 1. I own and reside in a residence located at 33119 North 140th Street, Scottsdale,
3 Arizona 85262 in the Rio Verde Foothills Community. I have resided there since
4 2006

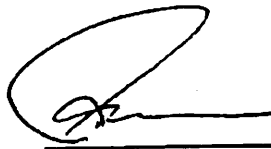
5 2. In order to meet my daily needs for domestic water, I regularly obtain and haul
6 water myself from the Scottsdale water filling station located at 26602 N. Pima Road at the
7 intersection of Pima and Jomax Roads in Scottsdale.

8 3. Scottsdale has assigned me account number 2011955800 and sends me monthly
9 invoices for water charges based on my monthly consumption of water from this station. (See
10 Exhibit A)

11 4. I received the attached letter dated August 8, 2022 from the City of Scottsdale
12 notifying me that my account with the City of Scottsdale would be deactivated and closed on
13 January 1, 2023. (See Exhibit B)

14 5. On January 2, 2023, I drove to the Scottsdale water filling station at Pima and
15 Jomax Roads, but the station was closed.

16 Further affiant sayeth not.

17
18 

19 Patrick C. Kruse

20
21 SUBSCRIBED AND SWORN to before me, a Notary Public, by Patrick C. Kruse this
22 8th day of January, 2023.

23
24
25 My Commission Expires:

26 May 24, 2023
27
28

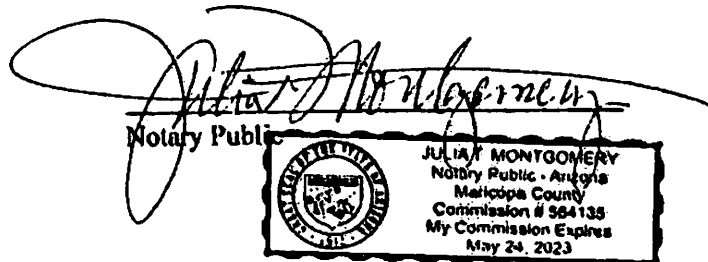


EXHIBIT A

NAME: KRUSE PATRICK
ACCOUNT NUMBER: 2011955800
BILL DATE: 12/14/2022
DUE DATE: 01/03/2023
SERVICE ADDRESS: WATER HAULER



GENERAL BILLING 480-312-2461
DELINQUENT UTILITY ACCTS 480-312-2755
SOLID WASTE COLLECTION 480-312-5550
METER LEAKS 480-312-5550
PHONE PAYMENTS 855-499-2422

BILLING SUMMARY

BALANCE FROM LAST BILL	57.98
PAYMENT - ELECTRONIC PYMT (11/28/2022)	-57.98
BALANCE FORWARD	0.00

WATER

BASE FEE	26.65
USAGE TIER 1 (953 @ 6.75 per/1,000 gallons)	6.43

FEES AND TAXES

STORMWATER FEE	6.10
ARIZONA WATER QUALITY FEE	0.01
CITY TAX	0.58
STATE TAX	2.08
TOTAL CURRENT CHARGES	41.85

UTILITY AMOUNT DUE	41.85
--------------------	-------

VOLUNTARY DONATION TO SCOTTSDALE CARES	1.00
--	------

GRAND TOTAL WITH CARES	42.85
------------------------	-------

PERIOD COVERING: 10/31/22 - 11/30/22 (30 DAYS)

METER #	CUR READ	PREV READ	USAGE	SIZE
WF20119558	0	0	953	

ACCOUNT MESSAGES

ADDRESS CHANGE

If you have address changes please call 480-312-2461 Mon-Friday 8 - 5 or
Email us at UtilityBilling@ScottsdaleAZ.gov

EBILL - Sign up for ebilling at www.ScottsdaleAZ.gov/utilities

- View statements, account details or make a payment at your convenience
- Save paper and save the environment
- Get your notifications quicker with email
- Reduce identity theft risks



UTILITY STATEMENT

ACCOUNT NUMBER
2011955800

BALANCE FORWARD

0.00

CURRENT CHARGES

DUE: 01/03/2023

41.85

UTILITY

AMOUNT DUE

41.85

VOLUNTARY

DONATION

1.00

GRAND TOTAL

WITH DONATION

42.85

RETURN THIS PORTION WITH YOUR PAYMENT MADE PAYABLE TO: CITY OF SCOTTSDALE
MAIL PAYMENTS TO: PO BOX 842105 LOS ANGELES CA 90084-2105

KRUSE PATRICK
33119 N 140TH ST
SCOTTSDALE AZ 85262

132213000002011955800500000000000042850000418507

EXHIBIT B



City Treasurer's Office
Business Services

7447 E Indian School Rd, Suite 110
Scottsdale, AZ 85251

WEB www.scottsdaleaz.gov

08/08/2022

KRUSE PATRICK
33119 N 140TH ST
SCOTTSDALE AZ 85262

RE: 2011955800

Dear Water Hauling Customer,

Our records indicate that you have an active account using the City of Scottsdale's Water Filling station at 26602 N Pima Road, Scottsdale, Arizona. On October 6, 2021, you were notified of water restrictions being carried out due to Stage One of Scottsdale's Drought Management Plan. This would close your account on January 1, 2023, if proof of residency and need were not received by August 1, 2022.

Scottsdale has not received proof that the property requiring water hauling is within the City of Scottsdale and has a direct need. Thus, your account will be deactivated on January 1, 2023.

For questions, please contact Utility Billing at (480) 312-2461 or email UtilityBilling@ScottsdaleAZ.gov.

Sincerely,

Scottsdale Water

Francis J. Slavin, SBN 002972
Daniel J. Slavin, SBN 024780
FRANCIS J. SLAVIN, P.C.
2198 East Camelback Road, Suite 285
Phoenix, Arizona 85016
Tel. (602) 381-8700
Fax (602) 381-1920
Email: b.slavin@fjslegal.com
d.slavin@fjslegal.com
service@fjslegal.com
Attorneys for Plaintiffs

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

CHRISTINA B. JACKMAN, VANCE E.
WALKER AND WENDY H. WALKER, et
al.,

Plaintiffs,

v.

CITY OF SCOTTSDALE, an Arizona
municipal corporation; DAVID D. ORTEGA,
in his official capacity as Mayor of
Scottsdale, TOM DURHAM, in his official
capacity as Vice-Mayor of Scottsdale;
BARRY GRAHAM, KATHY
LITTLEFIELD, LINDA MILHAVEN AND
SOLANGE WHITEHEAD, in their official
capacity as members of the Scottsdale City
Council,

Defendants.

Case No.

**AFFIDAVIT OR LARRY WOLFF IN
SUPPORT OF APPLICATION
TEMPORARY AND PRELIMINARY
INTERLOCATORY STAY**

(With Notice)

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, Larry Wolff, being over the age of 18 years and competent to testify, having first been
duly sworn, depose and state as follows. If I were called to testify, I could and would testify
to the following facts based upon my personal knowledge, except for those statements which
are made upon information and belief, which I believe to be true based upon information I

Francis J. Slavin, P.C.
2198 E. Camelback Rd. Ste. 285
Phoenix, Arizona 85016

currently possess.

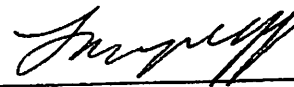
1. I own and reside in a residence located at 32825 North 137th Street, Scottsdale, Arizona 85262 in the Rio Verde Foothills Community. I have resided there since 2005

2. In order to meet my daily needs for domestic water, I regularly employ Dynamite Water, LLC to haul water to my residence from the Scottsdale water filling station located at 26602 N. Pima Road at the intersection of Pima and Jomax Roads in Scottsdale.

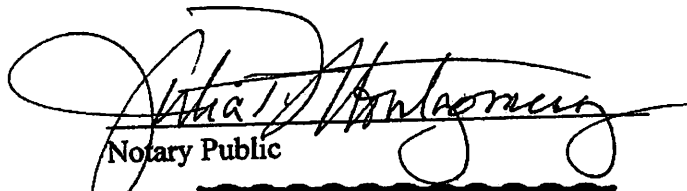
3. Attached hereto is a copy of an invoice from my water hauler for the month of November 2022 for water charges based on my monthly consumption of water from this station. (See Exhibit A)

4. Since January 1, 2023, my water hauler has been denied access to the Scottsdale water filling station.

Further affiant sayeth not.


Larry Wolff

SUBSCRIBED AND SWORN to before me, a Notary Public, by Larry Wolff this 8th day of January, 2023.


Notary Public

My Commission Expires:

5-24-23

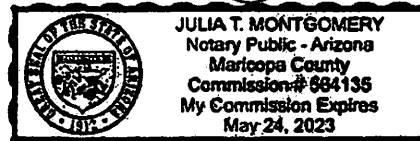


EXHIBIT A

Dynamite Water LLC
28150 N Alma School Pkwy #103-486
Scottsdale, AZ 85262 US
602-620-9667
office@dynamitewater.com
www.dynamitewater.com

INVOICE

BILL TO

32825 N 137th Street
Scottsdale, AZ 85262

SHIP TO

Larry & Amy Wolff
32825 N 137th Street
Scottsdale, AZ 85262

INVOICE # 62430**DATE** 11/30/2022**DUE DATE** 12/01/2022**TERMS** Due on receipt

DATE	ACCOUNT SUMMARY	AMOUNT
10/31/2022	Balance Forward	380.00
11/30/2022	Payments and credits already applied to this invoice	-380.00
	Other payments and credits after 10/31/2022 through 11/29/2022	-380.00
11/30/2022	Other invoices from this date	0.00
	New charges (details below)	380.00
	Total Amount Due	0.00

DATE	DESCRIPTION	QTY	RATE	AMOUNT
11/04/2022	Transportation Service of Potable Water per Load	1	120.00	120.00
11/16/2022	Transportation Service of Potable Water per Load	1	120.00	120.00
11/26/2022	Transportation Service of Potable Water per Load	1	120.00	120.00
11/30/2022	Monthly Tank Link Service~ Well Monitor System	1	20.00	20.00

TOTAL OF NEW CHARGES 380.00
BALANCE DUE **\$0.00**

EXHIBIT B



City Manager's Office

3939 N. Drinkwater Blvd.

Scottsdale, AZ 85251

Date: December 19, 2022
To: Honorable Mayor and City Council
Through: Jim Thompson, City Manager
From: Stephanie Zamora, Management Associate to the City Manager
Subject: Citizen Petition to enter agreement with EPCOR to provide water to Rio Verde Foothills

Petition

On November 21, 2022, a citizen petition was presented to the City Council by Paul Mann requesting that the city enter an agreement with EPCOR Water to treat and deliver water to the Rio Verde Foothills (RVF) while EPCOR constructs the necessary infrastructure to deliver water to the residents. In October 2021, customers were notified that starting January 1, 2023, the city would no longer allow non-residents to utilize the city's water supply. As such, the petitioners request that the city enter this agreement before year end.

A total of 135 signers joined the petition, of which 130 report addresses within Scottsdale city limits and five outside city limits (Attachment 1). Since 52 people signed the petition more than once, the petition has a total of 187 signatures. This petition was directed, by action of the City Council, to the city manager's office to be investigated with a written response prepared and sent to the Council and the petitioner.

Considerations

History

The city of Scottsdale has spent the last two decades developing plans to ensure the health of its water resources even through regional water challenges. The first iteration of the Drought Management Plan (DMP) was adopted in 2003 and updated in 2014 to reflect the city's development of a more robust water portfolio and improvements in modeling water supplies for projected drought scenarios. In 2015, Scottsdale Water began enforcing a 12-month limit on temporary hydrant meters, which impacted multiple meters being used by water haulers supplying the Rio Verde area.

Recognizing the immediate hardship this would place on customers who rely on hauled water, specifically in the Rio Verde Foothills, Scottsdale Water allowed the haulers to continue using the hydrant meters on Dynamite Road until the appropriate infrastructure could be put in place to accommodate both the commercial and residential water haulers. This resulted in the construction of the Jomax Road water filling station. This was not intended to provide long-term service to this area beyond city limits.

In 2016, Scottsdale made the decision to remove temporary fire hydrant meters on Dynamite Road due to safety concerns from water haulers using the hydrants as a permanent water distribution point. This was not the original intended use of the hydrants, which began to be overutilized. In accordance with Sec. 49-50 of Chapter 49 of the Scottsdale Code of Ordinances, water haulers were instructed to use Scottsdale's permanent filling station at Jomax Road and Pima Road as of October 1, 2016. To accommodate the increased water demand, Scottsdale modified the existing filling station to support the logistical and water flow capacity for both commercial and residential water haulers. Through this process, Scottsdale recognized that the Rio Verde Foothills community was increasingly reliant on water

being hauled from Scottsdale and it became evident, especially as the community continues to expand, that this was not a sustainable situation.

At around this same time in 2015-2016, the Rio Verde Foothills resident water taskforce, which later became RVF Water Resources Incorporated was created and approached Scottsdale about the options for establishing a long-term water supply solution for Rio Verde Foothills. Scottsdale told the group that "the City cannot guarantee service in the future and has advised the area residents to obtain a separate water source." This was advised due to the persistent drought on the Colorado and the city's commitment and legal obligation to the Drought Management Plan. This same messaging was written in communications provided in 2019, 2020, and in 2021 to the RVF community and Maricopa County officials (Attachment 2).

City Actions

Scottsdale continued to vocalize that the infrastructure and water rights have been funded entirely by rate payers in Scottsdale. The city's primary commitment is to ensure Scottsdale customers have first priority to the city's water supplies. These customers within Scottsdale's service area have funded the system for almost 50 years. Additionally, the city has a 100-Year Assured Water Supply as certified by the Arizona Department of Water Resources. Scottsdale's assured water supply designation applies to the city's population at build out. It does not account for customers outside its service area.

The city maintains a Drought Management Plan (DMP) as part of its overall water management strategy and as mandated by Arizona Revised Statutes §45-342. The statute requires communities to have a drought preparedness plan that shall have "response stages providing for the implementation of measures in response to reduction in available water supply due to drought or infrastructure failure." The function of the DMP is to provide guidelines for implementing the appropriate series of options and actions in response to successive levels of reduction in the city's water supply.

The current update of the Drought Management Plan 2021 or Amended DMP, was in the development process since the execution of the Lower Basin Drought Contingency Plan (DCP) in 2019. The DCP establishes additional shortage guidelines based on water elevation of Lake Mead, triggering levels of shortage for Arizona's Colorado River allocation. The 2021 DMP was presented to the Scottsdale Environmental Advisory Commission in December of 2020 and approved by Council in April of 2021.

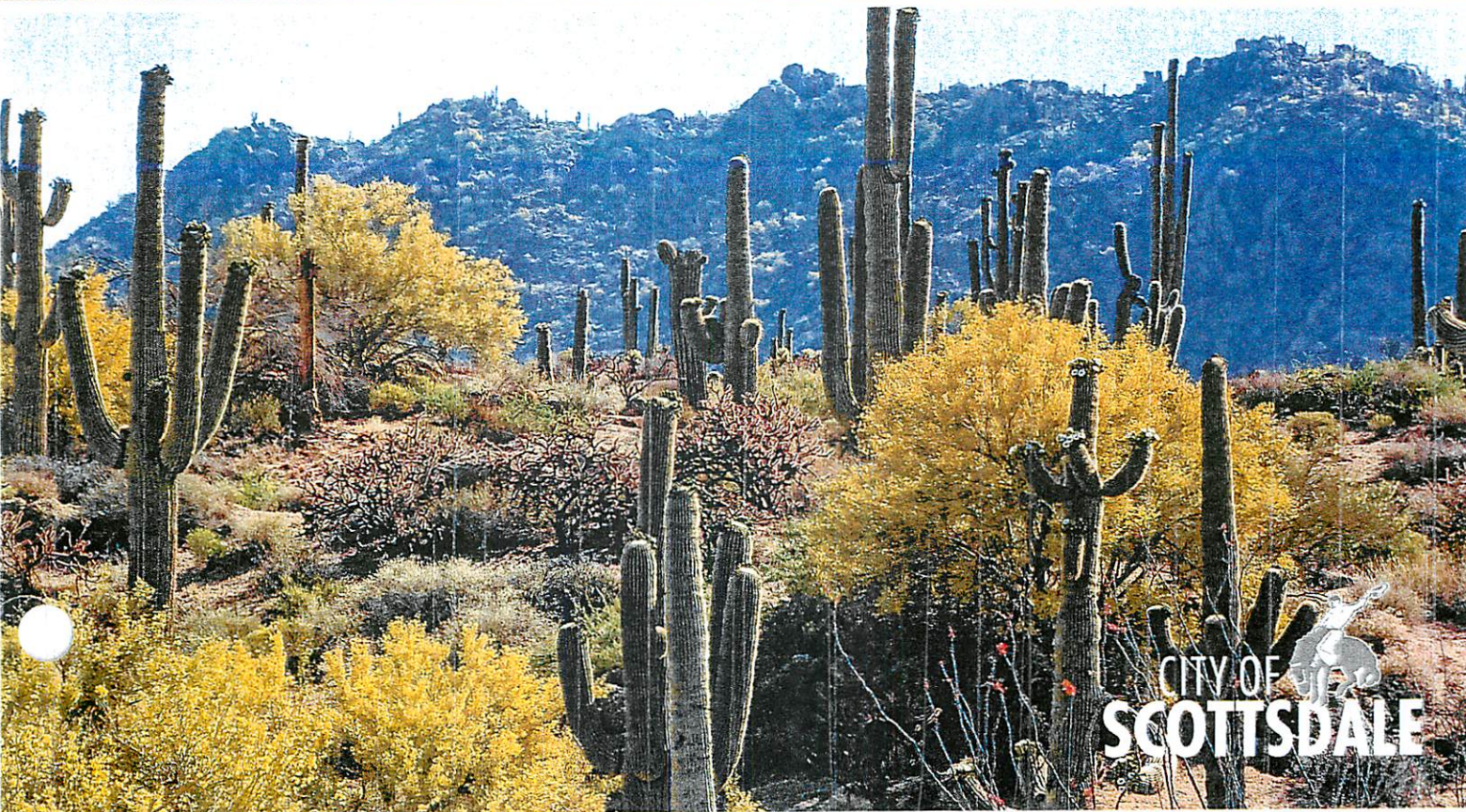
In August of 2021 the Bureau of Reclamation declared the first ever Tier 1 shortage on the Colorado River system, effective for calendar year 2022. In response, Scottsdale city manager Jim Thompson activated Stage One of the DMP in the same month which states "Scottsdale's commercial and residential fill station shall be shut down or restricted at this stage. Any water hauling operations will cease unless the water hauling customer, whether residential or commercial, can prove indisputably that the hauled water is being supplied directly to a City of Scottsdale resident or business." As such, the city's Utility Billing department sent notices in August 2022 to all water hauling customers regarding termination of services, effective January 1, 2023, unless they can prove the water would be used within city limits (Attachment 3).

In August 2022 the Bureau of Reclamation triggered additional cuts to the system and a Tier 2a shortage will be in effect for calendar year 2023. While water restrictions are not currently in place, a voluntary 5% reduction has been asked of all Scottsdale residents and businesses. Anticipated further cuts from the federal government in 2023 and/or beyond could result in advising Council to consider heightened conversation efforts to better manage demand and best use the city's water supplies. In fact, the Scottsdale City Council passed Resolution 12649 in October 2022 which approved a Memorandum of Understanding in which more than 30 water agencies and providers have committed to take additional actions to reducing water demands and helping protect the Colorado River system (Attachment 4). This

EXHIBIT C



Drought Management Plan 2021



CITY OF
SCOTTSDALE

Water Supply

Throughout this document, water is measured in acre-feet (AF) and million gallons per day (MGD). One AF is equal to 325,851 gallons.

Scottsdale's water resources portfolio provides for a continuous, sustainable water supply, which can be delivered to customers at a reasonable cost. Scottsdale's water supplies are consistent with the Arizona Department of Water Resources (ADWR) state regulatory requirements for a designation of Assured Water Supply (AWS). The AWS dictates that cities in the Phoenix Active Management Area must have a physically available, continuous, legal and reliable water supply capable of meeting the needs of its service area for 100 years. The development of Scottsdale's current water resources portfolio is based on a strategic long-term direction emphasizing the increased use of renewable surface water supplies versus pumping groundwater in order to meet the city's water demands. In addition to surface and groundwater supplies, Scottsdale utilizes reclaimed (recycled) water supplies, which is water that has been collected via the sewer system and then treated through an advanced water treatment facility. This reclaimed water is used for irrigation purposes and groundwater recharge.

Scottsdale's potable, or drinking, water resources portfolio consists of three water supplies (Table 1). Each of these supply sources has its own set of delivery and use restrictions based on regulatory, contractual and operational limitations that impact where and how they can be used to meet the community's needs. Scottsdale combines the water resources to strategically meet the needs of its water service area (the boundary in which it serves water). Figure 1 displays Scottsdale's water service area and the location of the water treatment facilities.

TABLE 1 - SCOTTSDALE'S POTABLE WATER SUPPLIES

Supply	Water Source	Infrastructure Components
Central Arizona Project (CAP)	Colorado River water delivered through the CAP canal system	Delivered to Scottsdale CAP Water Treatment Plant through the canal turnout
Salt River Project (SRP)	Salt and Verde rivers delivered through the SRP canal system	Delivered to Chaparral Water Treatment Plant
Groundwater (GW)	Wells located throughout the Scottsdale service area	Well production and groundwater treatment facilities are interconnected with Scottsdale's water distribution system

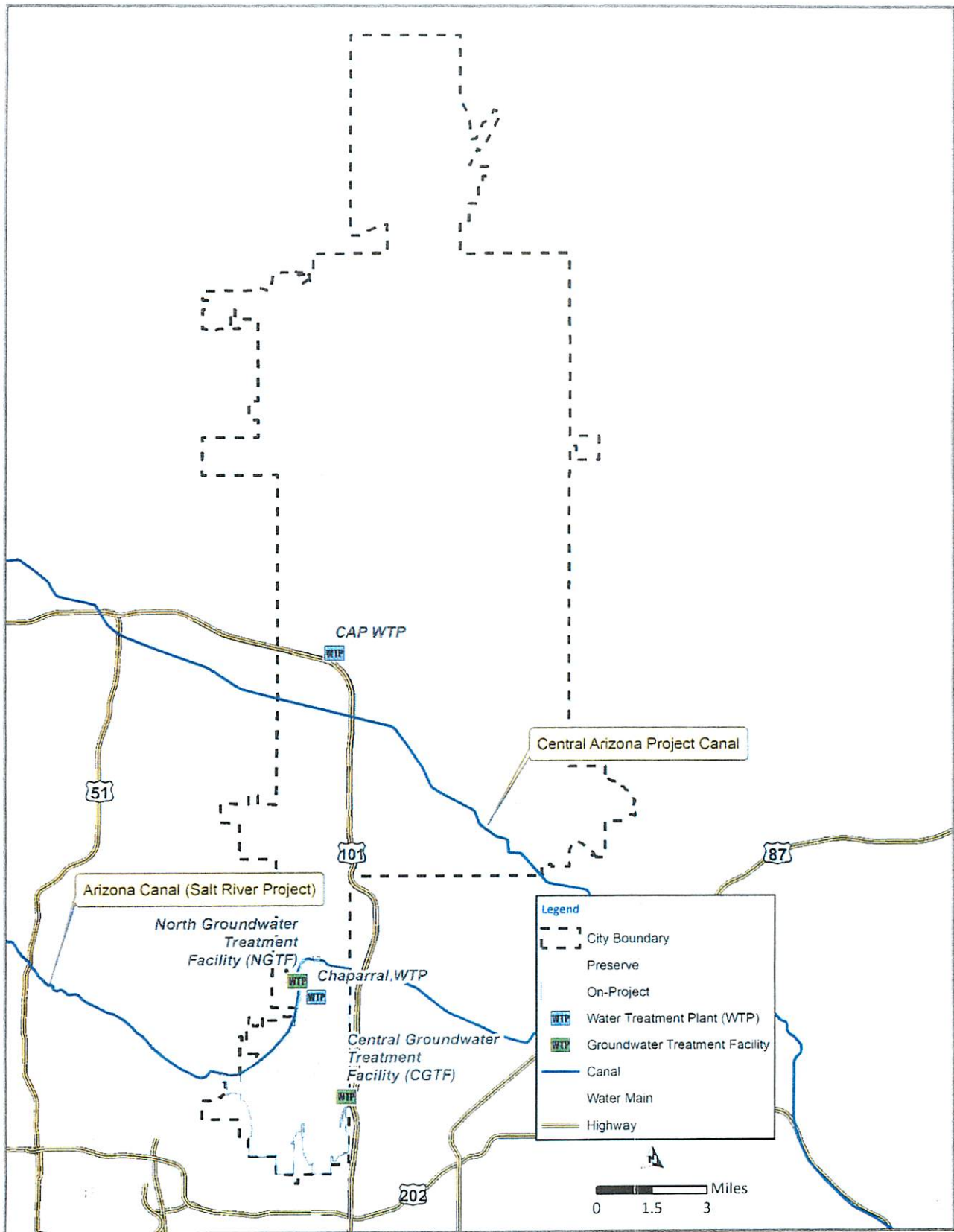


FIGURE 1 - SCOTTDALE'S WATER SERVICE AREA

Colorado River Water Supply

The Colorado River basin is divided into two basins, the upper and lower. The Upper Basin includes the states of Colorado, New Mexico, Utah and Wyoming. The Lower Basin includes Arizona, California and Nevada (Figure 2). Lake Powell (located in Arizona and Utah), is the second largest reservoir on the Colorado River and releases water into the largest Colorado River reservoir, Lake Mead (located along the Arizona/Nevada border). The water level elevation of Lake Mead is used to determine when shortages are declared for the Lower Basin states. The operation of Lake Powell and Lake Mead are controlled by the U.S. Bureau of Reclamation (BOR). Central and southern Arizona receive their apportionments of Colorado River water from Lake Havasu, which is transported via the CAP aqueduct (a 336-mile conveyance system comprised of a canal, pump stations and pipelines).

Colorado River water is Scottsdale's largest renewable surface water supply. Scottsdale's allocation of Colorado River water is delivered through the CAP canal to Scottsdale's CAP Water Treatment Plant. It is then treated to drinking water standards and delivered to water customers through water distribution lines located throughout the city. Scottsdale has access to 81,216 AF of CAP water annually, which is approximately 65-70 percent of its total water supply. This annual access volume includes Scottsdale's 52,810 AF municipal allocation and 28,406 AF in other assignments and tribal lease agreements.



FIGURE 2 - COLORADO RIVER BASIN

Salt River Project Water Supply

SRP water supplies originate from the Salt and Verde River watersheds (Figure 3). These systems are fed from precipitation and snowpack located in the northeastern and central areas of Arizona. SRP's available surface water supplies vary from year to year and are dependent upon annual snowpack and spring runoff.

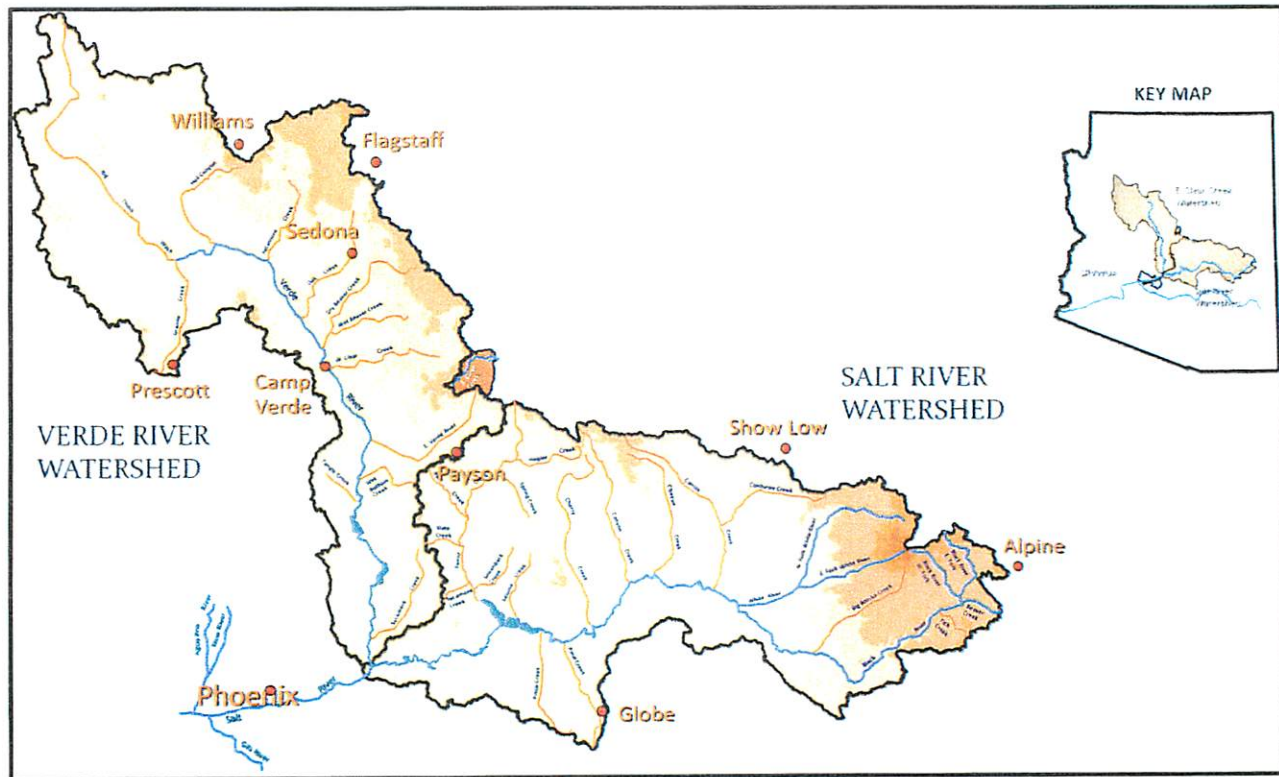


FIGURE 3 - SALT RIVER PROJECT WATERSHED

SRP surface water is stored in a series of reservoirs and delivered to Scottsdale through SRP's canals (Figure 4) to Scottsdale's Chaparral Water Treatment Plant. SRP's water supply also consists of an allocation of groundwater pumped from wells owned by SRP and located on SRP lands.

SRP supplies are appurtenant to the land, meaning the water can only be used to serve customers within the SRP service area (referred to as "On-Project" lands). SRP lands are located in the southern most section of Scottsdale's service area. During normal water supply years, Scottsdale's SRP lands – 6,095 acres – are entitled to a total of 3.0 AF per acre of land, equating to 18,285 AF/year. The 3.0 AF/acre allocation includes both surface water and groundwater. The amount of each source changes year to year and is determined by SRP reservoir levels and projected hydrology in the watershed. Scottsdale's average On-Project water demand is approximately 2.5 AF/acre, or 15,238 AF/year. In a year when the surface water allocation is lower than 2.5 AF/acre, SRP pumps groundwater from its wells and transports it through the canal system for delivery to the Chaparral Water Treatment Plant, thereby offsetting a portion

of a surface water deficiency on the SRP system and providing Scottsdale's required On-Project supply.

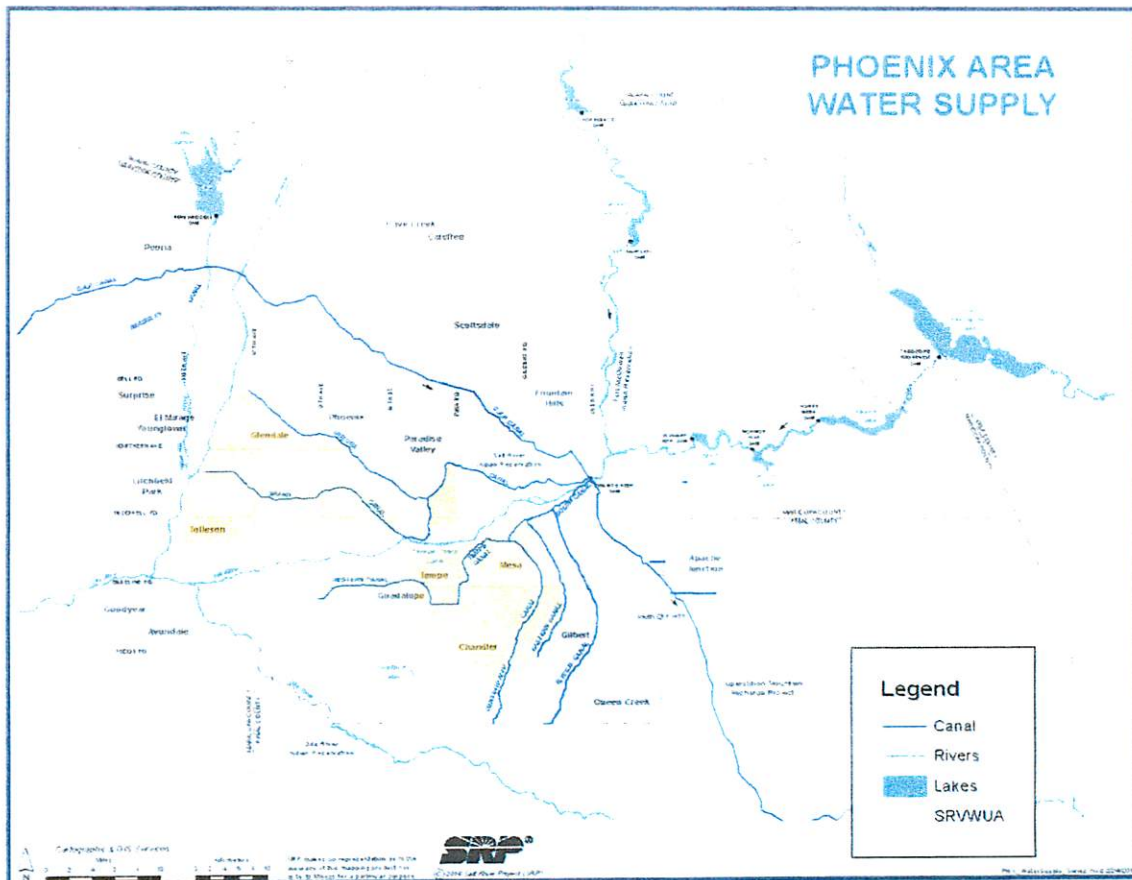


FIGURE 4 - SRP CANAL DELIVERY SYSTEMS

Groundwater

The ADWR regulates water use in the state through the Groundwater Code, including delineation of five Active Management Areas (AMA). The AMAs are areas of the state identified in the 1980 Groundwater Management Act as having the most serious trends of groundwater overdraft and continued potential for increased overdraft due to large existing and projected population centers. Scottsdale is located within the Phoenix AMA, where the ADWR has established a goal of "Safe Yield" by year 2025. Safe Yield refers to the concept of balancing the amount of water pumped from the aquifer with the amount of water recharged into the aquifer.

Scottsdale meets the majority of its customers' water demands with surface water. Scottsdale also utilizes groundwater for operational performance to meet peak demand and for other operations issues. Groundwater utilization represents approximately 5 to 10 percent of the total water delivered to meet demands under normal conditions. However, during times of drought and/or a supply shortage declaration, Scottsdale may need to increase groundwater production. Due to the regulatory framework of how groundwater is managed in Arizona,

increased groundwater pumping would mean recovery of groundwater recharge credits. These credits are created from renewable supplies previously recharged into the aquifer for which Scottsdale received Long Term Storage Credits. Although Scottsdale has groundwater credits to recover in times of drought/shortage and has built the infrastructure to deliver this water to customers, it is inherent in the planning process to be prudent with recovery of non-renewable stored supplies. It is for this reason demand management in times of increasing shortage is a part of the toolbox for managing prolonged shortage for a resilient water supply.

Recycled Water Supply

Recycled water is an important component in Scottsdale's water resources portfolio. Planning for the use of recycled water in Scottsdale is accomplished within the framework of integrated water resource management with a focus on meeting irrigation demands, maintaining Safe Yield and maximizing recharge opportunities. Scottsdale has implemented strategic efforts in order to maximize its ability to locally recharge and utilize recycled water. After treatment, recycled water is either used for turf irrigation or recharged into the ground through wells into the aquifer. Recharging recycled water increases the amount of groundwater below the city's service area, which can then be pumped back out during surface water supply shortages.

Water Demand

The City of Scottsdale has several different customer types, which all utilize water to add value to the city's economy and way of life. The majority of Scottsdale's customers fall into the residential class of either Single Family Residence (SFR) or Multi-Family Residence (MFR). These customers represent approximately 65 percent of the city's total water demand. Commercial, industrial, government, construction and other metered users represent approximately 19 percent of total water demand. Turf Irrigation represents the remaining 16 percent of Scottsdale's total water demand. Customer use trends are important to understand when developing demand management strategies and identifying the tools that can be utilized in a water shortage scenario.

In the Superior Court of the State of Arizona

In and for the County of Maricopa

Case Number CV 2023-000545

CIVIL COVER SHEET- NEW FILING ONLY
(Please Type or Print)

Plaintiff's Attorney Francis J. Slavin

Attorney Bar Number 002971

Is Interpreter Needed? ☐ Yes ☒ No

If yes, what language(s):

COPY

JAN 12 2023



CLERK OF THE SUPERIOR COURT
M. PATTERSON
DEPUTY CLERK

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Phone #:

Email Address:

b.slavin@fjslegal.co

Vance E. Walker

2198 E. Camelback Rd 602-381-8700

b.slavin@fjslegal.co

SEE ATTACHED

(List additional Plaintiffs on page two and/or attach a separate sheet).

Defendant's Name(s): (List All)

City of Scottsdale

(List additional Defendants on page two and/or attach a separate sheet)

RULE 26.2 DISCOVERY TIER OR MONETARY RELIEF CLAIMED:

IMPORTANT: Any case category that has an asterisk (*) **MUST** have a dollar amount claimed or Tier selected. State the monetary amount in controversy or place an "X" next to the discovery tier to which the pleadings allege the case would belong under Rule 26.2.

☐ Amount Claimed \$ _____

☐ Tier 1

☒ Tier 2

☐ Tier 3

NATURE OF ACTION

Place an "X" next to the **one** case category that most accurately describes your primary case. Any case category that has an asterisk (*) **MUST** have a dollar amount claimed or Tier selected as indicated above.

100 TORT MOTOR VEHICLE:

☐ 101 Non-Death/Personal Injury*

☐ 102 Property Damage*

☐ 103 Wrongful Death*

110 TORT NON-MOTOR VEHICLE:

☐ 111 Negligence*

☐ 112 Product Liability – Asbestos*

☐ 112 Product Liability – Tobacco*

☐ 112 Product Liability – Toxic/Other*

☐ 113 Intentional Tort*

- ☐ 114 Property Damage*
☐ 115 Legal Malpractice*
☐ 115 Malpractice – Other professional*
☐ 117 Premises Liability*
☐ 118 Slander/Libel/Defamation*
☐ 119 Recovery of Damages under A.R.S. §12-514* (Please provide Plaintiff DOB
 ____/____/____)
☐ 116 Other (Specify) _____*

120 MEDICAL MALPRACTICE:

- ☐ 121 Physician M.D.* ☐ 123 Hospital*
☐ 122 Physician D.O.* ☐ 124 Other*

130 & 197 CONTRACTS:

- ☐ 131 Account (Open or Stated)*
☐ 132 Promissory Note*
☐ 133 Foreclosure*
☐ 138 Buyer-Plaintiff*
☐ 139 Fraud*
☐ 134 Other Contract (e.g., Breach of Contract)*
☐ 135 Excess Proceeds-Sale*
☐ Construction Defects
 (Residential/Commercial)*
☐ 136 Six to Nineteen Structures*
☐ 137 Twenty or More Structures*
☐ 197 Credit Card Debt (Maricopa County Filings Only)*

145 & 150-199 OTHER CIVIL CASE TYPES:

- ☐ 156 Eminent Domain/Condemnation*
☐ 151 Eviction Actions (Forcible and Special Detainers)*
☐ 152 Change of Name
☐ 153 Transcript of Judgment
☐ 154 Foreign Judgment

- ☐ 158 Quiet Title*
☐ 160 Forfeiture*
☐ 175 Election Challenge
☐ 179 NCC-Employer Sanction Action (A.R.S. §23-212)*
☐ 180 Injunction against Workplace Harassment
☐ 181 Injunction against Harassment
☐ 182 Civil Penalty
☐ 186 Water Rights (Not General Stream Adjudication)*
☐ 187 Real Property *
☒ 145 Special Action
☐ 194 Immigration Enforcement Challenge (A.R.S. §§1-501, 1-502, 11-1051)
☐ 199 Expungement
☐ 202 Out of State Restoration of Civil Rights
☐ 201 Seal Criminal Case Records (A.R.S. §13-911)

144 & 150-199 UNCLASSIFIED CIVIL:

- ☐ Administrative Review
 (See Lower Court Appeals cover sheet in Maricopa)
☐ 150 Tax Appeal
 (All other tax matters must be filed in the AZ Tax Court)
☐ 155 Declaratory Judgment
☐ 157 Habeas Corpus
☐ 184 Landlord Tenant Dispute – Other*
☐ 190 Declaration of Factual Innocence (A.R.S. §12-771)
☐ 191 Declaration of Factual Improper Party Status
☐ 193 Vulnerable Adult (A.R.S. §46-451)*
☐ 165 Tribal Judgment
☐ 167 Structured Settlement (A.R.S. §12-2901)
☐ 169 Attorney Conservatorships (State Bar)
☐ 170 Unauthorized Practice of Law (State Bar)
☐ 171 Out-of-State Deposition for Foreign Jurisdiction

Case No: _____

- ☐ 172 Secure Attendance of Prisoner
- ☐ 173 Assurance of Discontinuance
- ☐ 174 In-State Deposition for Foreign Jurisdiction
- ☐ 176 Eminent Domain– Light Rail Only*
- ☐ 177 Interpleader– Automobile Only*
- ☐ 178 Delayed Birth Certificate (A.R.S. §36-333.03)
- ☐ 183 Employment Dispute – Discrimination*
- ☐ 185 Employment Dispute – Other*
- ☐ 198 Verified Rule 27(a) Petition*

- ☐ 196 Verified Rule 45.2 Petition
- ☐ 195(a) Amendment of Marriage License (Maricopa County Filings Only)
- ☐ 195(b) Amendment of Birth Certificate
- ☐ 200 Application/Motion Objecting to Foreign Subpoena
- ☐ 163 Other* _____
(Specify)

EMERGENCY ORDER SOUGHT

- ☒ Temporary Restraining Order ☐ Provisional Remedy ☐ OSC ☐ Election Challenge
- ☐ Employer Sanction ☒ Other (Specify) Temporary Interlocutory Stay

COMMERCIAL COURT (Maricopa County Only)

- ☐ This case is eligible for the Commercial Court under Rule 8.1, and Plaintiff requests assignment of this case to the Commercial Court. More information on the Commercial Court, including the most recent forms, are available on the Court's website at:
<https://www.superiorcourt.maricopa.gov/commercial-court/>.

Additional Plaintiff(s):

Additional Defendant(s):

CV 2023-000545

**In the Superior Court of the State of Arizona
In and For the County of Maricopa**

COPY

JAN 12 2023



**CLERK OF THE SUPERIOR COURT
M. PATTERSON
DEPUTY CLERK**

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3939 N. Drinkwater Blvd.
Scottsdale, AZ 85251

Discovery Tier t2

Case Category: Other Civil Case Categories
Case Subcategory: Termination of Water Service

Emergency Type: Order to Show Cause (OSC), Other (specify): Temporary Interlocutory Stay