COMMISSIONERS
JEFF HATCH-MILLER- Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

ARIZONA CORPORATION COMMISSION

Brian C. McNeil
Executive Secretary

May 4, 2005

Commissioner William A. Mundell
Commissioner Marc Spitzer
Commissioner Mike Gleason
Commissioner Kristin Mayes
1200 West Washington Street
Phoenix, Arizona 85007

Re: Arsenic Implementation Deadline
Arizona-American Water Company, Tubac Water District
Docket No. W-01303A-05-0280

Dear Colleagues:

As you know, on January 26, 2006 – which is less than nine months away – the EPA's tougher arsenic standard will take effect. As a result, the affected private water companies in Arizona will have to invest substantial sums of money to achieve compliance. The good news is that many larger water companies (Class A, B and some C) are taking action to meet the upcoming deadline. While, on the other hand, the majority of smaller water companies (Class D and E) appear not to be making much progress.

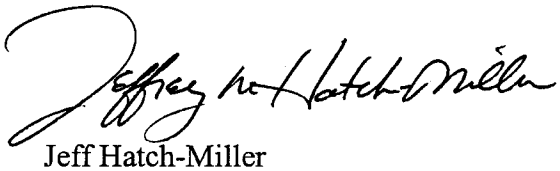
At the April 19, 2005 Staff Meeting, Commissioner Mayes suggested that the Commission hold public comment meetings in Tubac and other communities affected by the new arsenic standard. I support Commissioner Mayes' recommendation with two important clarifications. 1) I would strongly encourage that we invite representatives of ADEQ and WIFA to participate. These agencies can provide valuable information to, and answer questions from, water customers. 2) The public meetings should be held in those communities only after the water companies have filed an application with Commission regarding arsenic compliance.

As the state surrogate for the EPA, ADEQ is primarily responsible for ensuring compliance and issuing violations on water quality issues. In addition, ADEQ developed the Arsenic Master Plan, which matches water providers with best available technologies known at the time for arsenic removal at the lowest cost. At the planned meetings, ADEQ could explain its rules and guidelines on arsenic compliance, including the appropriateness of point-of-use water systems and how a company qualifies for an exemption or extension. WIFA could make a presentation on the availability of technical grants for engineering studies and loans for arsenic treatment projects. Over the past two years, several water companies have been successful in securing WIFA loans for arsenic compliance.

The Commission has worked long and hard to inform the companies we regulate about the fast-approaching compliance deadline. Commission Staff, in conjunction with ADEQ, has held many workshops around the state. The Commissioners have sent letters to all the affected water utilities. We have authored editorial pieces in various newspapers around the state.
We have approved an arsenic cost recovery mechanism, arsenic impact fee, and assorted financing applications for water companies. We have lobbied the members of our Congressional delegation and state Legislature for funding opportunities.

We have done our best to prepare the affected water companies about the EPA mandate and to request financial relief to offset rising rates for arsenic treatment. Our goal is simple and clear: We want to assist private water companies comply with the new arsenic regulation at the most affordable price. At the same time, we need to be mindful of the Commission's proper role. I hope you will support my proposal that we include representatives of ADEQ and WIFA in our public comment meetings regarding the arsenic implementation deadline. The timing of the public comment meetings will be essential. If we act before applications are filed with the Commission, we risk creating confusion with ratepayers or undue expectations that we can unilaterally resolve the problem. Exemptions or extensions of time, as well as changes in treatment technologies and their costs will dictate the cost recovery of arsenic compliance.

Sincerely,



Jeff Hatch-Miller
Chairman

CC: Steve Owens, Director of ADEQ
Jay Spector, Executive Director, WIFA
Brian C. McNeil, Executive Secretary
Ernest Johnson, Director, Utilities Division
Docket Control