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ARIZONA CORPORATION COMMISSION

JAMES MATTHEWS  
EXECUTIVE SECRETARY  
SECURITIES DIVISION  
1300 West Washington  
Third Floor  
TELEPHONE: (602) 542-4242  
FAX: (602) 542-3583

February 10, 1994

Sheila Hawes, Esq.  
Kutak Rock  
The Omaha Building  
1650 Farnam Street  
Omaha, Nebraska 68102-2186

RE: City of Willets, Refunding Certificates of Participation  
(Willets Municipal Water System Improvement Project)  
Series 1994  
A.R.S. § 44-1843(A)(1)

Dear Ms. Hawes:

On the basis of the facts set forth in your letters of January 21 and February 7, 1994, and in reliance upon your opinion as counsel, the Securities Division will not recommend enforcement action for violation of the Securities Act of Arizona should the transaction take place as set forth in your letters.

As this position is premised upon the facts set forth in your letters, it should not be relied on for any other set of facts or by any other person. Please also note that this position applies only to the registration requirements of the Act; the anti-fraud provisions of the Act continue to be applicable.

Please be aware that dealer registration is required for securities exempt under A.R.S. § 44-1843(A)(1), as set forth in the provisions of A.A.C. R14-4-104(A)(5).

We have attached a photocopy of your letters. By doing this we are able to avoid having to recite or summarize the facts set forth therein.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Dee Ridgell Harris".

DEE RIDDELL HARRIS  
Director of Securities

DRH:lb  
Attachment

**KUTAK ROCK**  
A PARTNERSHIP  
INCLUDING PROFESSIONAL CORPORATIONS  
THE OMAHA BUILDING  
1650 FARNAM STREET  
OMAHA, NEBRASKA 68102-2188  
(402) 346-6000  
FACSIMILE (402) 346-1148

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PITTSBURGH  
WASHINGTON

February 7, 1994

**AIRBORNE**

Mr. Dee R. Harris  
Director  
Securities Division  
Arizona Corporation Commission  
1300 West Washington, 3rd Floor  
Phoenix, AZ 85007

Re: \$4,735,000\* Refunding Certificates of Participation (Willits Municipal Water System Improvement Project), Series 1994, Evidencing the Interests of the Owners thereof in Installment Payments to be Made by the City of Willits (California) Pursuant to an Installment Purchase Agreement with City of Willits Public Facilities Corporation

Dear Mr. Harris:

This letter supplements, amends and restates our letter of January 21, 1994 regarding the matter referenced above.

We request a no action letter with respect to whether the exemption provided by Section 44-1843(A)(1) of the Arizona Revised Statutes (the "Act") is available with respect to the municipal securities (i.e., certificates of participation) referenced above. We have previously submitted for your information a copy of the Preliminary Official Statement and our firm check in the amount of \$200 for your fee.

**Facts**

In the proposed transaction, the City of Willits (the "City") will enter into an Installment Purchase Agreement with The City of Willits Public Facilities Corporation (the "Corporation"), a nonprofit public benefit corporation duly organized and existing under the laws of the State of California. The Corporation was formed for the purpose of providing financial assistance to the City by acquiring, constructing, rehabilitating, remodeling, improving, installing and financing various facilities, land and equipment, and the leasing of facilities, land and equipment.

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Mr. Dee R. Harris  
February 7, 1994  
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for the use, benefit and enjoyment of the public served by the City and any other purpose incidental thereto.

The certificates of participation (the "Certificates") to be issued evidence interests of the owners thereof in the installment payments to be made by the City pursuant to the Installment Purchase Agreement. The installment payments are designed to be sufficient to pay, when due, the principal and interest with respect to the Certificates. The Corporation's rights to receive installment payments under the Installment Purchase Agreement will be assigned to State Bank & Trust Company of California, N.A., as trustee (the "Trustee") for the benefit of the certificate holders. The Certificates will be executed and delivered pursuant to a Trust Agreement, dated as of January 15, 1994 (the "Trust Agreement"), by and among the City, the Corporation and the Trustee.

The Certificates are being executed and delivered to finance (i) the defeasance of certificates of participation previously executed and delivered to finance the acquisition, construction and improvement of the Willits Municipal Water System (the "1987 Project") currently outstanding in the aggregate principal amount of \$4,030,000, (ii) the establishment of a debt service reserve fund for the Certificates and (iii) the payment of the costs of issuance in connection with the delivery of the Certificates.

Under the terms of the Installment Purchase Agreement, the City will purchase the 1987 Project from the Corporation, and the City has covenanted and agreed to fix, prescribe and collect rates and charges for the Willits Municipal Water System which will be at least sufficient to yield in each fiscal year net revenues equal to 115% of the debt service for such fiscal year. The City may not, under the Installment Purchase Agreement, issue or incur any future obligations payable from net revenues which would create a lien superior to the lien of the Installment Purchase Agreement.

Payments of the principal and interest with respect to the Certificates when due will be insured by a financial guaranty insurance policy to be issued simultaneously with the delivery of the Certificates by Municipal Bond Investors Assurance Corporation.

The obligation of the City to make installment payments is a special obligation of the City payable solely from net revenues and other funds as described in the Installment Purchase Agreement, and does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation.

**KUTAK ROCK**

Mr. Dee R. Harris  
February 7, 1994  
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**Discussion**

Section 44-1843(A)(1) of the Act provides an exemption from the provisions of Section 44-1841 and Section 44-1842 of the Act for "[s]ecurities issued or guaranteed by . . . any state [of the United States], or by any political subdivision of such state . . . or by any agency or instrumentality of one or more of any of the foregoing." The Certificates evidence proportionate interests of the holders thereof in the City's obligation to make payments under the Installment Purchase Agreement, which obligation constitutes an indebtedness of a governmental entity (i.e., a political subdivision of a state) which is exempt under Section 44-1843(A)(1) of the Act. Thus, the Certificates should be considered exempt under Section 44-1843(A)(1) of the Act.

We therefore request that you take a no-action position with respect to this claim of exemption for the Certificates. If you have any questions please feel free to call me at our expense.

Very truly yours,



Sheila Phillips Hawes

Enclosures

**KUTAK ROCK**  
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WASHINGTON

January 21, 1994

**AIRBORNE**

Mr. Dee R. Harris  
Director  
Securities Division  
Arizona Corporation Commission  
1300 West Washington, 3rd Floor  
Phoenix, AZ 85007

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Dear Mr. Harris:

We request confirmation that the exemption provided by Section 44-1843(A)(1) of the Arizona Revised Statutes (the "Act") is available with respect to the municipal securities (i.e., certificates of participation) referenced above (the "Certificates").

It appears to us that the Certificates are clearly entitled to the governmental securities exemption contained in Section 44-1843(A)(1) of the Act, but we would appreciate confirmation with respect to this particular offering. We enclose for your information a copy of the Preliminary Official Statement and our firm check in the amount of \$200 for your fee.

In the proposed transaction, the City of Willits (the "City") will enter into an Installment Purchase Agreement with The City of Willits Public Facilities Corporation (the "Corporation"), a nonprofit public benefit corporation duly organized and existing under the laws of the State of California. The Corporation was formed for the purpose of providing financial assistance to the City by acquiring, constructing, rehabilitating, remodeling, improving, installing and financing various facilities, land and equipment, and the leasing of facilities, land and equipment for the use, benefit and enjoyment of the public served by the City and any other purpose incidental thereto.

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Mr. Dec R. Harris  
January 21, 1994  
Page 2

Certificates of participation (the "Certificates") evidence interests of the owners thereof in the installment payments to be made by the City pursuant to the Installment Purchase Agreement. The installment payments are designed to be sufficient to pay, when due, the principal and interest with respect to the Certificates. The Corporation's rights to receive installment payments under the Installment Purchase Agreement will be assigned to State Bank & Trust Company of California, N.A., as trustee (the "Trustee") for the benefit of the certificate holders. The Certificates will be executed and delivered pursuant to a Trust Agreement, dated as of January 15, 1994 (the "Trust Agreement"), by and among the City, the Corporation and the Trustee.

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The obligation of the City to make installment payments is a special obligation of the City payable solely from net revenues and other funds as described in the Installment Purchase Agreement, and does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation.

The City's obligation to make payments under the Installment Purchase Agreement is an indebtedness of a governmental entity that is exempt under Section 44-1843(A)(1) of the Act and it is that obligation that is evidenced by the Certificates.

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Mr. Dee R. Harris  
January 21, 1994  
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We would appreciate your confirmation of this claim of exemption for Certificates such as those described herein. If you have any questions please feel free to call me at our expense.

Very truly yours,

A handwritten signature in cursive script that reads "Sheila Phillips Hawes". The signature is written in black ink and is positioned above the printed name.

Sheila Phillips Hawes

Enclosures