

Date: October 31, 2018
City of Sedona Mayor and Council
Director of Community Development
102 Roadrunner Drive
Sedona, AZ 86336

**Re. Appeal from Commission's Recommendation of Arizona Water Company's Permit
Application for Water Treatment Plant with Chemical Storage Facility in Single
Family Residential District**

Dear Madams and Sirs:

I. Introduction

I am a resident of 20 Cathedral Rock Trail and I submit this letter to appeal the Commission's action on Arizona Water Company's conditional use permit. In addition to the contents of this letter, this appeal relies on my letters of August 2 and October 15 (attached) to the Commission, the evidence submitted with those letters, and the issues and evidence raised in opposition to the permit application. In particular, my prior letters are incorporated herein by reference.

The AWC applied for a water tank permit to build an industrial water treatment plant with hazardous chemical storage and a 1.5 million gallon underground reservoir in a residential district. In addition, the AWC proposed to build a surface building structure that is not a residence and does not fall within any permitted or conditionally permitted use. The treatment plant also includes an electrical facility, and a pumping facility for the reservoir. The Code provides no category of conditionally permitted use for an industrial water treatment plant with a chemical storage and feed system in the district. For at least the reasons below, the Commission's decision to allow the plant and the hazardous chemical store and feed system in a residential neighborhood is arbitrary and capricious, violates explicit prohibitions in the zoning law, and lacks the factual basis mandated by the zoning laws.

The Commission also violated the zoning law because it made no factual findings based on the evidence adduced at the hearings and on the public comment. The zoning law explicitly requires the Commission to conduct a public hearing and from the hearing make findings on the issues set forth at 402.06 (A-E) of the Code. The Commission made no such findings, written or oral, on these issues, let alone findings based on the public hearings.

In response to an inquiry, the Director ("Director" refers to the Office of the Director)

contends parts of the Department's Preliminary Report issued *before* the public hearing counts as the Commission's findings. But only the Commission can make the 402.06 findings and it can only make them based on the hearings and comments. The Code doesn't empower the Commission to delegate the fact-finding requirement to the Director. Likewise, the Director's authority ends at providing a preliminary report. Nothing in the code permits the Director to reach §402.06 findings. The Commission's failure to make finding requires overturning the Commission's action.

The evaluations are grossly inadequate, unsupported and erroneous. The pre-hearing report fails to factually address the requirements of §402.06 and ignores the evidence and comment raised during the hearing concerning the hazards, disruption, construction traffic volume, and incompatibility with the zoning in the district. In other words, the pre-hearing report doesn't constitute findings at all, and, even as a preliminary report, misses major issues—such as breezing over if not totally overlooking the chemical storage and feed facility—brought to light during the hearing.

As this resident explained in a detailed analyses provided to the Commission, the City of Sedona ("City") lacks the legal authority to grant the conditional use permit under the zoning laws because an industrial water plant—which is what AWC wants to build—is not permitted under the residential zoning applicable in the district in which the site is located. The pre-hearing report ignores that no category of conditional uses permits the plant taken as a whole. It sometimes treats the project as a water tank, sometimes as a pumping station, but it never compares the whole project to the conditional use permit code. Even taking each facility separately, no category of conditional use permits a hazardous chemical feed and storage facility, the building with offices or the electrical plant to support them. The Director's preliminary report ignores these issues as did the Commission.

II. The Commission Made No Findings Under §402.06

The Commission's failure to make findings violates §402.06 of the zoning laws. Subsections 402.04 to 402.06 sets forth the Commission's authority and responsibilities to hold hearings and make findings on a conditional use permit application. Only the Commission is authorized by §402.04 to conduct the hearings, collect and hear evidence, consider the public comment and evaluate the hearing materials. "At the public hearing, *the Commission* shall review the application and materials submitted and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained, particularly with respect to the findings set forth in subsection 402.06 of this section." §402.04. The Commission's charge to make its findings based on the *hearing* is mandatory ("the Commission shall ...") and no other entity has the authority to do what the Commission members must do together.

Subsections 402.05 and 402.06 also set forth the Commission's authority and duty concerning the approval of a conditional use permit. In §402.05 the Commission is authorized to grant a permit only under very specific conditions, including the finding the Commission—and only the Commission—makes under §402.06. The findings required under §402.06 are detailed and complex. They include making findings concerning the public safety, hazards, compatibility with district zoning, traffic and other important issues.

The Commission made no findings based on the hearings. This resident requested the findings to prepare this appeal letter, both from other residents and from the Department. Rather than either receiving the findings from the Commission or being directed to findings the Commission prepared based on the hearings, the Department advised via email that the findings were in the Director's preliminary report beginning on page 46. (See email attached). There are no Commission findings on page 46 of the preliminary report. There are the "Staff Evaluations" of application as related to the requirements of §402.06. The Staff Evaluations do not even purport to be findings. Where the report purports to have findings, they are not §402.06 related. The Commission, therefore, failed to make findings based on the hearing and its action violates the mandatory obligations of §§402.04-402.06.

Even if the Commission wished to delegate its obligations to the Director or Staff and even if the Staff actually prepared a report based on the hearing, the delegation would be illegal. The Code makes the Commission's responsibility mandatory, and provides no authority to the Director or Staff to make findings. Subsection 402.02 authorizes and limits the Director's role with respect to evaluating a conditional use permit. The Director explains the conditional use permit application in a pre-application consultation (A); reviews and evaluates the formal requirements of the application (B(1-20)); conducts a preliminary review of a submitted application (C); and conducts a formal review and prepares a report that must be published 7 days before the hearing (C). Thus, the Code explicitly ends the Director's role in a conditional use permit application to no later than 7 days before the hearing. While the Code is non-specific as to the contents of the Director's report, it grants no authority to make findings under §402.06 based on the hearing. The Code leaves that to the Commission Members to make their independent determinations and provide their reasons to the public.

A moment's consideration reveals that the Director's preliminary report can never count as findings under §402.06. By definition, the preliminary report excludes any consideration of the materials adduced at the hearing because it is prepared before the hearing. And by definition, §402.06 findings can only be based on the materials adduced at the hearings. As a result, the Director making "findings" would be the very definition of arbitrary and unreasonable. Likewise, the "Staff Evaluations" can't be findings under the Code. The Commission therefore failed to follow its mandated process for considering the AWC's application, and the Council should vacate the action and deny the AWC's petition.

III. The Staff Evaluation in the Preliminary Report Are Not Findings

The preliminary report's Staff Evaluations contain numerous mistakes on the zoning law and the contents of the application. And they of course omit any consideration of the materials adduced at the hearing. As a result, numerous Staff Evaluations on the §402.06 are erroneous and wouldn't support a legally issued conditional use permit in this case, even if they were legally reached.

§402.06(A)

According to the zoning laws, the Commission must make specific findings “[t]hat the proposed location of the conditional use is in accordance with the objectives of this Code *and the purpose of the zoning district in which the site is located.*” 402.06(A) (emphasis added). The Code makes the purpose of single-family residential zoning (RS-18b) explicit:

605.01 Purpose. This district is intended to promote and preserve low density single-family residential development. The principal land use is single-family dwellings and incidental or accessory uses.

The district at issue appears on the zoning map for the City, and it encompasses a small geographic portion of the City. The AWC never argued that the project was intended to meet the purpose of the district zoning, and always conceded that its massive project was for the entire City. AWC presented no evidence or argument that the proposed project promotes or preserves single family residential as the district zoning states and §402.06(A) requires. The AWC conceived of this project without any regard to the district's zoning purpose, as it only touts that the project is needed for all of East Sedona. Obviously the district doesn't need a water industrial plant and the AWC makes no argument that it does. The residents of the district don't want it and the AWC has not presented evidence that further development in this district depends on this project. Thus there is no basis to make a finding that the project promotes single family residential in the district in which the site is located.

The evidence at the hearings showed that the proposed project neither preserved nor promoted single-family dwellings in the district. The AWC purchased at least one and perhaps two lots for the project. So the district and the City *lost* buildable residential lots that have not been available for development since the Company bought them. A permanent removal of the lots from development of single-family residences violates the zoning law.

§402.06(A)'s requirement that the conditional use serve the district's zoning's purpose stops exactly what the Commission allowed here: using a conditional use permit to build a regional or city-wide project where it doesn't belong. In other words, the AWC proposed an industrial and factory use designed for half the city for a residential district by running roughshod over

the explicit constraints on conditional use permits. A 1.5 million gallon industrial water plant promotes no single family residences in the district. A project for all of East Sedona must go where the zoning permits projects of that scope and size. (AWC only wants to build it in the residential neighborhood because it will be cheaper for AWC.) Because there is no finding and no evidence in the record that this project promotes single-family residential development in the district or even in the city, the Council must vacate the Commission's action and deny the permit.

The preliminary report Staff Evaluation doesn't evaluate the AWC's application on this point, because the AWC never argued that its project promoted single family residential at all, let alone in the district. Instead the Staff Evaluation mistakes the zoning requirement as merely requiring that it be desirable for the City, and then justifies its evaluation without considering how the project promotes single family residential in the district or even at all.

The Staff Evaluation ignores any factual discussion of this requirement in favor of irrelevant generalities. It says that "the proposed public utility and public service substation, water tank, and pumping plant is located to support the overall purpose for promoting and preserving residential development within the community." Notice here that the Staff Evaluation subtly changed the zoning requirements as applying to the district to applying to the broader "community." This is so the report can ignore that this is a city-wide project instead of a district project. This subtle maneuver restates the zoning requirement. But still there is no analysis how the project promotes single family residential under any standard. What single family residences will be preserved? Where are they? Which ones will be promoted? Where are they? How does this project promote or preserve them and can it be done in a properly zoned district? The AWC application, the preliminary report and the Commission's action say nothing on this point.

Next, the Staff Evaluation says, "public utility and public service substations, water tanks, and pumping plants are listed as a conditional use in all of Sedona's residentially zoned districts." So what? *All* of the conditional use language in *every* residential category is the same. From subsection 600 to 609, the conditional use permit language was copied. Daycare institutions? The same. Model homes? The same. Parks? The same. Religious institutions? The same. "Public utility and public service substations, water tanks, and pumping plants" get no special treatment.

What does the copying of a whole ordinance provision have to do with whether the proposed project promotes or preserves single-family residential zoning in the district of its location, or even anywhere? Subsection 402.06(A) requires a finding that the *particular* project accords with the district zoning purpose, not an observation that all the residential zones have the same requirement. Presumably if the project were proposed for a different district there would be a different factual analysis. The real point becomes clear in the report's next sentence

where the Staff Evaluation argues that the copying of this provision means there is something special about water industrial plant projects.

The Staff Evaluation continues with “[t]he inclusion of these uses as conditional uses *recognizes the necessity of their location throughout the community to serve all development and residential specifically*, as residential development comprises approximately 74% of the total developable land area in Sedona.” The copying “recognizes” a “necessity?!” The whole conditional use permit provision was copied over and over. The only thing it recognizes is that the drafts-person didn’t want to rewrite the conditional use permit provisions for each residential district. Now the report’s attempt at rewriting the Code becomes clear. The Staff Evaluation, having nothing to say how the project satisfies the zoning purpose has simply chosen to ignore the constraint by saying the Code’s copying of the provision means it serves the purpose.

The fallacy of this argument turns on believing the conditional use provision treats water plants differently than other conditional uses. That is why the report ignores that the all of the conditional uses were copied across the provisions for each category of single family residential. One could insert any of the other copied conditional uses to see the argument makes no sense. Does the code recognize the necessity of locating parks throughout the community to serve all residential? How about model homes? The Staff Evaluations relied on an unsupportable reading of the code. What the Code makes explicit is that any water tank over 650 gallons may not serve the purpose of the zoning in the district; therefore, separate findings are required in the permit process. This tank alone is over 1 million gallons, or around time larger than size of a tank that triggers the requirement. And then of course there are the other facilities.

But even assuming the Code actually stated this policy, it has nothing to with whether this particular project preserves and promotes single family residential. The Staff Evaluation amounts to contending that all conditionally permitted projects promote single family residential; therefore, it need not examine the particulars of any project. This of course is a direct violation of the zoning law, which requires the Commission to make findings based on the application and the evidence at the hearing. So even if the Commission had made a finding based on the Staff Evaluation’s faulty reasoning, the Council would be obligated to vacate it. There is simply no examination anywhere concerning whether and how the AWC’s project preserves or promotes single family residential in the district or anywhere in Sedona.

The Staff Evaluation also is wrong about what the zoning law requires. The requirements are district and site specific. Where §402.06 requires that the proposed project accord with the purpose of the zoning of the district in which the site is located, the requirement preserves and protects the zoning of that district. It will not do to say that it is in accord with the purpose of the zoning as applied to some other district. Following the Staff’s interpretation of the law would be a flat legal error.

§402.06(B)(1-3)

This subsection addresses findings the Commission must make concerning the public health and welfare. The AWC's project is unprecedented in size, design and scope in Sedona. The 196 page application raised numerous public health issues, and the preliminary report provides no analysis of them. The residents raised even more issues during the hearing, and they are unaddressed. Space doesn't permit reviewing each public safety detail in this subsection, but the Council can easily note that the Staff Evaluations fail to address all the items in the zoning requirement.

The residents raised multiple issues via letter during the hearing. In the first case, the Staff Evaluations fail to address at all the traffic and public safety issues raised by the construction itself. The AWC intends to dig a 1.5 million gallon hole into red rock and truck the debris from the site. This will entail on the order of 1200 dump truck runs. Common sense says this will run roughshod on traffic.

Here is a rough calculation supporting the dump truck disruption: 1.5 million gallons converts to 7427 yds. of material. This is material that will have to be removed because it represents the volume of the water. However, AWC is not simply excavating the volume of the tank. There is a 10 foot ring that goes around the tank that will provide construction access to the outside of the tank and will be used by the wire winding machine once the tank walls get stood up. This ring goes to the full depth of the tank excavation. This calculation ignores the volumes that will need to be removed to accommodate access roads to the bottom of the hole. The largest dump trucks that will be used to remove the spoils from the excavation will be rated 20 tons. The native rock is close to 2 tons/yd. If 9000 yds. of material is removed from the site, it yields 18000 tons removed. With a max loading of 20 tons/load, there will be 900 loaded trucks leaving the site. For every loaded truck that leaves the site, an empty one will replace it. In reality, truckers do not load their trucks to the max because they would need to weigh every truck to avoid overloading. Also, the material loaded will be broken rock so the actual load likely will be closer to 15 tons. At 15 tons/truck, there are 1200 loaded trucks leaving and 1200 empty trucks returning. All this neglects the heavy equipment initially brought in to blast and dig that hole. And then there are the concrete trucks brought in to pour the floor and internal walls of the tank, the flat bed trucks bringing in the precast wall sections, the large crane brought in to lift and stack the wall sections.

At the time of the application, the AWC had no traffic plan in place as of yet for the Staff to evaluate. (This should have resulted in the Director considering the application incomplete). As such, the Staff Evaluations only address traffic impact after construction. But nothing in the zoning law excuses the Commission from assessing the traffic impacts during construction, which the above calculation shows will be unprecedented. And so no findings exist on this

subsection as it relates to the traffic construction. This violates the laws of conditional use permits applications.

In advance of this appeal, the Director advised this resident that the ADOT is currently evaluating traffic proposals. (See attached). As such, it's not possible for the Commission to complete its findings concerning the application, as it would need to assess the final accepted traffic plan to properly evaluate the project. Concluding the hearing and approving the permit before the traffic plan for the construction is complete is arbitrary, capricious and warrants vacating the Commission's actions.

As to the Staff Evaluations based on the traffic impact of the concluded project, it turns out the assumptions in the AWC application concerning the number of trucks into and out of the site was wrong. The application states, and the Staff Evaluations assume, that the AWC will send only one or two trucks per week. Again, the Director advised on October 30 that the AWC will send at least one truck per day. So the assumptions have changed and there are no findings dealing with new assumptions.

In previous submissions, this resident raised additional hazards. No findings exist as to these concerns despite the mandate in the zoning law. Dangers will continue after the site is built. Obviously, there is a huge electrical feed. There is chemical storage and spill containment. The hazardous chemicals will need to be replenished. Equipment will need repairs. Some large piece of equipment will be needed to lift and lower the huge pumps through the roof hatches. Water plants are known attractive nuisances and require enhanced security. The Staff Evaluation on security and chemical storage warranted almost no attention. ("[AWC] will provide a secure area to store the associated chemicals necessary for water treatment and protect the equipment from unauthorized personnel.")

None of these hazards were the subject of Commission findings or evaluations in view of the concerns raised at the hearing. For example, this resident pointed out that the chemicals proposed for storage were considered hazardous by various agencies. Materials were provided including material safety data sheets and discussions of the various risks for exposure, like burning skin. An engineer's letter was provided indicating that the AWC mistakenly classified the chemical storage room as Factory F1 for use and occupancy when sodium hypochlorite storage is classified as H4 High Hazard. (See attached). These use and occupancy codes have different design criteria. The letter submitting this also pointed out that the Department should have identified this mis-classification. (For more information on sodium hypochlorite, please see attached.) The preliminary report deals with none of this. The Commission's lack of findings after the hearing warrants vacating the Commission's action.

§402.06(C)

This subsection requires the Commission to find that the proposed use as conditioned is reasonably compatible with the uses in the surrounding area. The only actual uses in the surrounding area are single-family residential. The zoning creates a nicely populated neighborhood of families that promote and create Sedona's character as a small town community in the Red Rocks. The zoning requirements contemplate families living in detached dwellings according to the building restrictions in the area. The families and residents form the communities that make up Sedona. Sedona created other zones for water pumping, chemical storage and large water tanks. Sedona's creation of industrial and commercial zones underscores the incompatibility of industrial or commercial uses with low-density single-family living.

The proposed use is an industrial water plant with hazardous chemical feed and storage:

- The pump room houses 4 massive pumps, a hydropneumatics tank and piping. The pumps are so large the Company needed to design in-roof hatches just to get the pumps into and out of the pump building. Hydropneumatic tanks are themselves under pressure, and apparently work with the pumps.
- What the Company soft sells as "The Chemical Room" is in reality a full blown chemical storage and feed facility that must be designed to a separate building code. The AWC stated that the Use and Occupancy Classification is Factory Group, F-1. It is actually H4, High Hazard.
- The chemical storage houses Sodium Hypochlorite. A simple internet search reveals that Sodium Hypochlorite is a danger when inhaled. It irritates and burns skin and eyes; causes dizziness, nausea and vomiting; and worsens respiratory conditions. The DOT, IARC and EPA appear to consider it a hazardous substance. Applicable workplace controls are too numerous to list here. Sodium Hypochlorite enhances the combustion of other substances. In the presence of fire, it produces poisonous gases including sodium oxide and chlorine gas. It can ignite combustibles such as wood and paper. This stuff is dangerous and the Company's proposal includes spill containment. Doesn't spill containment indicate a hazardous chemical?
- The industrial plant needs an Electrical Building with a 2500 Amp main switch panel and other unspecified electrical equipment. A typical home has a 250 amp service. The Company's power demands are that of 10 homes or more. No wonder the Electrical Building is also classified F-1 for Factory Group and must comport to a separate design code. 2500 Amps is so much juice the clearance requirement for the electrical panel is 4 feet and the electrical facility needs 4-hour rated firewalls.

The Staff Evaluation ignored the characteristics of the plant's *uses* and instead addressed the

physical appearance and design of the plant. The use of the water treatment plant involves an industrial application where workers administer and operate an industrial facility including handling sophisticated equipment and hazardous chemicals. There are offices and ultimately the AWC is a private, for profit enterprise. The use of the plant is to make money. As pointed out to the Commission, the appearance of the property is simply irrelevant to the compatibility of the uses. A casino, a dentist office, a pet store, a criminal enterprise can all be conducted from the building the AWC proposes to build. None of them would be compatible uses. So, in addition to all the reasons previously discussed, both the Staff Evaluations and the Commission failed to properly follow this code provision and evaluate uses rather than appearances.

§402.06(D)

To grant a permit, the Commission must make findings that the proposed use complies with the Code and other Ordinances. The Staff Evaluation states almost nothing in regard to this provision. It just repeats the words of the subsection and states that the application would comply. There are no findings whatsoever.

As was explained to the Commission and as set forth below, the proposed use did not comply with the Code. The project taken as a whole fits with no conditionally permitted use. As two engineers and the AWC's own documentation showed, the project is not a water tank project. It is an industrial water treatment plant with chemical storage and feed. There is no conditional use in the Code for such an application. Additionally, the Code explicitly prohibits chemical storage and office uses, both of which are within the application. Thus the uses violate the Code's prohibition on these uses. Both of these issues are addressed further below. With respect to §402.06(D), neither the Staff Evaluations nor the Commission made finding with respect to these issues although both were raised to the Commission. The lack of findings of warrants vacating the Commission's action.

IV. §604.02 Has No Category For The Proposed Industrial Plant

The AWC called its industrial project the East Sedona Water Tank, Pumping Station and Related Appurtenances. It did this to front the water tank and pumping station which are conditional uses mentioned in the Code, while breezing over the chemical storage, office and electrical supply facilities which are not permissible. The plant includes a Sodium Hypochlorite storage facility and feed room for storing and processing dangerous chemicals. This is undisputed. Another part of the plant has an electrical building for delivering a mind boggling 2500 amps of electrical current. (Most residences have something like a 250 amp service.) Yet another aspect of the plant includes an office for workers. Still another aspect of the plant includes an outsized physical structure with thick walls and chemical spill containment areas, which are not permitted conditional uses.

The Commission should have denied the application because the zoning laws do not provide for a water company plant use. The AWC proceeded under §604.02(B)(6), which provides for conditionally permitting 1) public utility and public service substations; 2) water tanks; and 3) pumping plants 650 square feet or greater. This subsection explicitly states that in no case are storage facilities, repair facilities, or offices permissible. *Id.* The proposed project as a whole falls into none of the permissible categories, as it is more than a water tank, more than a pumping plant, and includes the prohibited storage facilities and offices.

The AWC's Annual Reports filed with the Arizona Corporation Commission refer to sites such as the one proposed as "Water Company Plants." (See examples at Arizona Corporation Commission website). The AWC uses the term "plant" to refer to the totality of equipment, structures and storage facilities. Likewise, the American Water Works Association publishes a design tome called "Water Treatment Plant Design" covering the design of water industrial plants like the AWC proposes here. In it, the Commission will see that water plants include tanks, but the projects are considered industrial plants not simple water tanks. During the hearing, this resident provided the Commission 2 engineering letters where the engineers explained that the project was not a simple water tank project but a full blown industrial plant. (See attachment).

Water plants, or "water company plants" as the AWC calls them in its annual reports, are not conditionally permitted uses at all. Water plants are not conditionally permitted uses; therefore, the Commission should have denied the application as prohibited by the zoning laws. There are no Commission findings determining that the project as a whole fits within the water tank subcategory as such would be unsupportable.

As shown, this project includes other facilities—pumping station, electrical room, sodium hypochlorite storage and feed systems, and a physical building—that are not part of a water tank. The Company's own proposal shows that these are separately classified use and occupancy facilities that must meet their own codes and specifications. (According to the Company, they are classified F1 Factory). As such, they are individually non-permitted uses that the Commission and Sedona lack the legal authority to approve them just because the Company called them a water tank.

Mr. Sudol, an engineer, further explained that these facilities are not "appurtenances" to the tank. He states that the pump room, electrical room, and sodium hypochlorite storage facilities are not tank appurtenances. "An engineer would consider them facilities in the overall plant design. This is made clear in the proposal as each of these are the subject of separate design criteria, specifications, codes, planning, costing etc. An appurtenance to a tank are small attachments, like valves, covers etc."

The building itself is also not a water tank. Water tanks do not entail building facilities to enclose them. This is a separate physical system. Because the building is not the tank and not an appurtenance to the tank, it must be a separately permissible use. But there is no permitted

or permissible use for a building to hide a water tank and to house the other uses in the application. And therefore the application should be denied.

Applying §604.02(B)(6), the AWC water plant falls into no conditional use permit category. The AWC didn't attempt to show the facilities were a public utility substation or public service substation. The project includes a 1.5M gallon tank, but also includes the other facilities of a water plant. (The project is no more a water tank project than a residential house is a water tank project. Most residences have 2 water tanks.) The project has a pumping plant but the application is not for a pumping plant alone because it includes a water tank and other facilities. Thus, the project taken as whole falls into no conditional use category.

What about taking the facilities piecemeal? A water tank can be conditionally permitted and a pump station can be conditionally permitted. However, there is no category for the chemical storage and feed room and no category for the exterior structure. So the project can't be fit into conditional use permit categories piecemeal. Consequently, there is no authority in the Code to conditionally permit this project in this district. The Commission should have denied the project out of hand. This resident provided this analysis to the Commission; however, the Commission made no findings on the issue. The Council should vacate the Commission's action and deny the permit because no category of conditional use permits the project.

V. §604.02(B)(6) Prohibits the Chemical Storage Facilities and Offices

The Commission also should have denied the application because the proposal calls for a chemical storage facility. Subsection 604.02(B)(6) excludes storage facilities of any kind from conditionally permitted uses. The AWC's industrial plant explicitly includes a storage facility for hazardous chemicals. While the AWC craftily calls it a "chemical room" in heading 2.7.2.2 of its first presentation, the text admits the "chemical room" is a "storage" facility and that leaves the Commission no discretion but to deny the application. The Company writes, "The *chemical storage* and feed system will be housed indoor..." At 6 (emphasis added). Table 2 is called the "Chemical Facility Design Criteria" and under the "Parameter" column the Commission will find the entry "**Storage Location**," as the Company wrote. So, according to the Company's own submission, the project includes impermissible storage facilities.

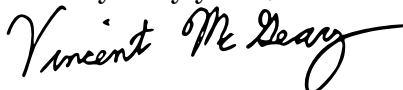
The AWC tried to wordsmith its way around this conclusion by calling the storage facility a "room" and by titling its application the "East Sedona Water Storage Tank, Booster Pump Station and Related Appurtenances." The application's text shows that it is an unallowable storage facility and chemical feed system. The AWC also incorrectly advised the Commission that the chemical storage room fell into an F1, Factory Use and Occupancy Code, when the appropriate Use and Occupancy Code was H4, High Hazard. This resident provided the Commission with both an engineer's letter identifying the mistake and a Material Safety Data Sheet for sodium hypochlorite demonstrating the hazard. The zoning laws require the Commission to deny the application because it includes a storage facility.

Mr. Sudol explained that sodium hypochlorite is actually a “corrosive” and that the correct use and occupancy code should be H4-High Hazard, not F1-Factory as the Company represented to the Commission. (He provided a Material Safety Data Sheet to the Commission, which is attached here.) Mr. Sudol stated that the Sodium Hypochlorite should be a closed system. “This dictates the type, construction and spacing of the buildings that would be required. Because Arizona Water incorrectly designated the storage facility as F1 instead of H4, its proposal failed to address these design criteria.” For more information on sodium hypochlorite, please see what is attached to this appeal.

The Staff Evaluations simply ignore the zoning laws as they may apply to the chemical storage and feed facility, except to at one point say the AWC will “provide a secure area to store the associated chemicals.” Otherwise, there is simply no analysis of whether the chemical feed and storage facility is a conditionally permitted use at all. This lack of analysis led the Commission to erroneously grant a permit for a use for storing hazardous chemicals although such a use is not permitted.

The Commission also ignores that the facility includes offices for the workers. Subsection 604.02(B)(6) also explicitly excludes offices from conditionally permitted uses. So again, the Commission had no authority to grant an application that includes offices. The Council should vacate the Commission’s action and deny the application for these additional reasons as well.

Very truly yours,

A handwritten signature in black ink that reads "Vincent McGear". The signature is written in a cursive, flowing style.

Vincent McGear

Date: August 2, 2018
City of Sedona
Community Development Department
Planning and Zoning Commission
102 Roadrunner Drive
Sedona, AZ 86336

Re. Objections to Arizona Water Company's Permit Application for Water Treatment Plant with Chemical Storage Facility in Single Family Residential District

Dear Commission Members:

I. Introduction

I am a resident of 20 Cathedral Rock Trail. I understand the hearing scheduled for August 7th has been canceled. As I advised two members of the planning department when they visited my property last year, I object to Arizona Water Company's (Company's) proposed industrial water plant project. This letter sets forth some, but not all, of my reasons.

The Commission should deny the Company's conditional use permit because an industrial water plant is not permitted under the residential zoning applicable in the district in which the site is located. The zoning "is intended to promote and preserve low density single-family residential development." The Company's proposed project destroys, rather than preserves and promotes, single-family residential development. The Company purchased at least one and perhaps two buildable lots and seeks to convert them to its commercial enterprise, resulting in the immediate and long-term violation of the zoning in the district. Based on the scope and purpose of the Company's outsized facility, the Commission should find that the project violates the current zoning requirements, and should deny the application.

The project is no simple water tank. The Company disingenuously stylized its project as a water storage tank and pumping station in a transparent attempt to play word matching with the zoning laws. In reality, the Company intends to build a massive underground and above ground tank surrounded by an industrial facility for storing hazardous chemicals, maintaining an office, and operating pumps and treatment equipment. The project, taken as a whole, is an industrial grade water plant with 2500 amp service and chemical storage and feed apparatus. This is not a permitted conditional use. Sedona's zoning designates separate districts for industrial plants.

The Commission also should deny the application because it includes prohibited uses. The

Code explicitly precludes the storage facility and office uses included in the proposed project. The Company wants to store chemicals on site, but it would make no difference if it wanted to store benign material. The Code precludes storage facilities.

The Company wrongly believes that residential zoning has only superficial meaning. To the Company, if the facility looks like a house from the road it meets residential zoning requirements. The Company's myopic reading of the zoning law flatly ignores the explicit purpose of the district's zoning. Residential zoning preserves a way of living and of using the designated land. It's not a "how-to" guide for curb appeal. Casinos, massage parlors, dentist offices, law offices, stock brokerages, pet stores, and countless other non-permitted uses can be carried out in an actual house. All violate the residential zoning requirement. The Company's water treatment and chemical storage plant likewise fails zoning requirements, even if it looks like a house. (It doesn't look like a house).

II. The Company Is a For Profit Corporation Managed from California

The Arizona Water Company is not a person. It's not a family owned business. It's not a resident of the district in which it wishes to place its water plant. And it is not a resident of Sedona. According to the Arizona Corporation Commission, the Company is a C corporation organized "for profit". As a for profit corporation, Arizona Water Company is a collection of faceless and nameless shareholders or investors. The citizens and residents of the district do not own it, and neither do the citizens of Sedona or even of Arizona. As with all for profit corporations, management's only mission—indeed their sole obligation—is to make money for the shareholders. It has no reason to optimize benefits and service for the people. The California management team only answers to people the Commission will never know: shareholders.

The Company surely will attempt to "put a face on the company" in an effort to make the Commission feel like it is dealing with a person or small group of persons. The Commission should even expect some local Arizona or Sedona flavor. "Personalizing" and "localizing" a corporation are routine rhetorical tropes intended to change the decision maker's perception of the stakes. In reality, the Company has no personal or local stakes. The CEO lives in California. One corporate Secretary lives in California. Almost all of the Directors have addresses in El Monte, California.

The Company's conduct in this application reveals its singular pursuit of corporate profits. It bought the property quietly, perhaps surreptitiously. Did the Company ask to originally schedule the August 7th meeting for the middle of the summer when seasonal residents are away and when permanent residents take northern vacation to escape the heat? Its application is colorful and full of corporate speak. Even the way the Company provided notice to us was designed to avoid review. We asked for mailed notice so it would be forwarded to us when we

were away. Instead the Company left notices on our door and declined to send us mail.

III. District Residents

On the other hand, people committed to Sedona own the other property in the district. Unlike Arizona Water Company, the residents live in the district to spend their time—not to turn a profit for distant investors. They walk in the streets, hike in the Red Rocks, visit with neighbors and do all the things that give Sedona a small town character. We purchased our property in 2011 and have lived at the property from January through April every year since then. Our neighbor behind us is a full time resident and our neighbor to the right also spends at least the same months of the year here as we do. We don't rent the property for money and we hope to eventually make the property our full-time residence.

When we purchased the house we relied on Sedona's residential zoning and its commitment to keeping the town's small town, outdoor character. If we wanted to purchase property in a district zoned for industrial sized water storage and treatment plants, we would have done so. We want people for neighbors—not C corporations managed from California for the profit of unknown shareholders.

The Commission here stands between the district residents and the Company's profit seeking plan to impose a major construction on a quiet residential area. Here, the zoning laws prohibit a use that does not preserve and promote the objectives of the zoning *in the district*. While the Company wants to convince the Commission that the project will be good for Sedona overall, the Commission, under the law, must protect the single family zoning in the district.

IV. Requirements of Single Family Residential Zoning

According to the zoning law, "[t]his district is intended to promote and preserve low density *single-family residential development*. The principal land use is single-family dwellings and incidental or accessory uses." The zoning laws enumerate the permitted uses, and all of them promote single-family residential development. Even the restrictions promote a particular character of single-family living. Swimming pools cannot be in the front yard. Pet structures cannot be commercial. A guesthouse must connect to the single-family residence it serves and it cannot have a kitchen.

What exactly is "single-family" living? Certainly it means more than what a building looks like. The historic Cottonwood jail looked like a single-family residence from the outside, but it was a prison. The Commission wouldn't consider permitting a jail in this district even if it looked just like a house. So the Commission shouldn't be taken in by the Company's insistence that its sprawling water treatment, pump house and chemical storage plant looks like a house. (It doesn't look like a house. It looks like the big industrial plant it is.)

Single-family residential zoning in the district creates a nicely populated neighborhood of families that promote and create Sedona's character as a small town community in the Red Rocks. The zoning requirements contemplate families living in detached dwellings according to the building restrictions in the area. The families and residents form the communities that make up Sedona. Sedona created other zones for water pumping, chemical storage and large water tanks. Sedona's creation of industrial and commercial zones underscores the incompatibility of industrial or commercial uses with low-density single-family living.

The Code also says that the Commission must find "the proposed location of the conditional use is in accordance with the objectives of this Code and the purpose of the zoning district in which the site is located." So, not only must the conditional use meet the objectives of the Code, the proposed use must be in accordance with "the purpose of the zoning district" in which the site is located. Here, the explicit purposes under the Code are to "preserve" and to "promote" single-family residences. If a proposed conditional use doesn't preserve or promote single-family residences in the district, it cannot be permitted.

Accordingly, uses that facially appear consistent with single-family residential zoning can be rejected. For example, a model home or sales office unnecessary for the district would not be allowed. Presumably the Commission could not permit a daycare facility that would destroy two residences unless the facility promoted more single-family homes in the district. Likewise, a use that would compel residents to leave a district would not be permitted.

On this aspect of the permit inquiry, any arguments as to the benefits to Sedona are simply irrelevant. The Code compels an additional district and site-specific inquiry. Likewise, the hardship or convenience to the site owner is also irrelevant to this part of the inquiry. A property owner doesn't get to build a school in this residential district just because it would be easier and cheaper than building it somewhere else. If the school fails to preserve or promote single-family residences in the district the Commission can't legally approve it.

V. The Proposed Industrial Plant

A. It's Not a Water Tank—It's an Industrial Plant

The Company craftily calls its industrial project the East Sedona Water Tank, Pumping Station and Related Appurtenances. It does this because it wants to front the water tank and pumping station—which it believes the Commission will think are permissible—while breezing over the chemical storage, office and electrical supply facilities which are not permissible. The Commission shouldn't be fooled by the clever title. As its application shows, the Company proposes a large industrial plant. True, the industrial plant includes a water tank. (The tank capacity is 1.5 million gallons and despite the planned extensive blasting and digging it still

will not fit underground). But the plant also includes a large booster pumping station capable of pumping 4000 gallons per minute. (That pumping capacity would fill a 30,000-gallon pool in less than 10 minutes). And the plant also includes a Sodium Hypochlorite storage facility and feed room for storing and processing dangerous chlorine chemicals. Another part of the plant has an electrical building for delivering a mind boggling 2500 amps of electrical current. (Most residences have something like a 250 amp service.) Yet another aspect of the plant includes an office for workers. There also is a large driveway, enough for about 4 or 5 pickup trucks at least. Still another aspect of the plant includes an outsized physical structure with thick walls and chemical spill containment areas.

Characterized honestly, the Company intends to build an industrial plant that happens to have a water tank. It is not an application for a tank that happens to have a tool chest attached to it. The Commission must be on its guard against the Company's careful word craft.

To get a better sense of this plant, the Commission should consider how these outrageous specifications impact a residential neighborhood:

- The pump room houses 4 massive pumps, a hydropneumatics tank and piping. The pumps are so large the Company needed to design in-roof hatches just to get the pumps into and out of the pump building. Hydropneumatic tanks are themselves under pressure, and apparently work with the pumps.
- What the Company soft sells as "The Chemical Room" is in reality a full blown chemical storage and feed facility that must be designed to a separate building code. The Use and Occupancy Classification is Factory Group, F-1. I believe Factory Group, F-1 is a moderate hazard industrial use. No surprise. The application is for a hazardous industrial plant.
- The chemical storage houses Sodium Hypochlorite. A simple internet search reveals that Sodium Hypochlorite is a danger when inhaled. It irritates and burns skin and eyes; causes dizziness, nausea and vomiting; and worsens respiratory conditions. The DOT, IARC and EPA appear to consider it a hazardous substance. Applicable workplace controls are too numerous to list here. Sodium Hypochlorite enhances the combustion of other substances. In the presence of fire, it produces poisonous gases including sodium oxide and chlorine gas. It can ignite combustibles such as wood and paper. This stuff is dangerous and the Company's proposal includes spill containment. Doesn't spill containment indicate a hazardous chemical? The Commission will find none of this information in the Company's presentation.
- The industrial plant needs an Electrical Building with a 2500 Amp main switch panel and other unspecified electrical equipment. A typical home has a 250 amp

service. The Company's power demands are that of 10 homes or more. No wonder the Electrical Building is also classified F-1 for Factory Group and must comport to a separate design code. 2500 Amps is so much juice the clearance requirement for the electrical panel is 4 feet and the electrical facility needs 4-hour rated firewalls. This is no residential electrical box. A guesthouse can't have a kitchen but the Company wants an electrical powerhouse on site.

As even a cursory read of the Company's application and a moderate amount of internet research shows, the Company has not presented a "water tank" permit for the Commission to consider. It's a multi-faceted industrial plant, and industrial plants are not permitted.

B. The Company's Stealth Planning

The Company's conduct, like its word-craft, has been less than forthright. It purchased the property without alerting all of the residents to its plans, and apparently made sure the seller did not solicit offers from anyone else. When the Company first approached this resident, its representatives made two misleading statements. The Company said it was basically building a facility that would be just like a house further down the hill near Mallard. Second, it acted as if the facility was already approved and that notifying us was a courtesy call. I had to learn from my neighbor how close the facility was to my house, the massive scope of the project, and that it had not been approved at all.

More than once its representative alluded to possible incentives if we went along with their construction plans. They implied the Company could repave my driveway or place a gate at the street entrance to my driveway. This is troubling. The Commission should immediately inquire whether the Company has offered other incentives to residents in the district.

The Company has not made any of its internal files available for review. I specifically asked for its internal documents relating to all aspects of its application, including the need for the facility, its pursuit of alternatives, its communications with the planning department members and with residents, its internal meeting minutes and its financial assessments. None has been forthcoming. Instead the Company populates its website with self-serving presentations and precisely honed non-answers to questions. Everything the Company feeds to the Commission and to the residents appears to come from the "getting to yes" playbook.

The Company's behavior descends down to serving notice on us. It always uses hand delivery to send this resident notice, although we asked them to use regular mail because we are away part of the year. Instead it seems to make its deliveries when we are likely to be away, as our presence is seasonal. I could be mistaken but I can't help but suspect that the Company asked to schedule this hearing in the middle of summer, when seasonal residents are away and full-time residents would likely be traveling for summer.

C. The Company Short Shifts the Hazards

I understand others have raised concerns over the dangers this project presents. Obviously, I share all those concerns. It should be common sense to the Commission that the dangers of hundreds to thousands of dump trucks moving in and out of a residential neighborhood heavily populated with walkers and sightseers presents a risk the Commission members cannot afford to take. The proposed property site sits directly across from Elephant Rock. Everyday, visitors use Cathedral Rock Trail to take photos of Elephant Rock and the sunset lighting the rocks from the west. More turn in to visit residents or to explore. People walk the streets near the site, including children. Cyclists bike there. There is no possibility of making the proposed construction safe at the currently proposed site.

Dangers will continue after the site is built. Obviously, there is a huge electrical feed. There is chemical storage spill containment. The Company admits trucks will be going into and out of the site at least a few times per week. (Does the Commission doubt the truck traffic will be much more?). The hazardous chemicals will need to be replenished. Equipment will need repairs. Some large piece of equipment will be needed to lift and lower the huge pumps through the roof hatches. Water plants are known attractive nuisances and require enhanced security. The Company wants the Commission to approve an industrial complex smack in the middle of the neighborhood. Does the Commission have the expertise to evaluate these hazards?

D. The Project Has No Purpose in the District Other Than to Make Profits

The Introduction to the Company's application says the Master Plan for all of Sedona calls for an east Sedona facility:

Arizona Water Company recently completed a water master plan for the east Sedona area to address water demands, water supply sources, storage, and booster pump station requirements. The master plan recommended the East Sedona Water Facility to provide water storage and pumping facility.

The application contains no separate analysis of the district, its needs, or even the zoning requirements for the district. The application treats the zoning code as if it were a mere nuisance that requires the Company to make its industrial complex look like a house. There is no district-based reason to put a water facility for all of east Sedona in this residential district. What's clear from the application is that the facility can be located anywhere, including existing districts already zoned for industry or in locations well away from existing residences. If the project was for the benefit of the district, then the application would present evidence that the project *had* to be on the site to fulfill the district's purpose. We already know that the

project can go anywhere as far as the so-called master plan is concerned.¹

This should be no surprise to the Commission. The Company's only reason for existence is to make money. The Company's management doesn't (in fact, can't) make decisions that do not profit its shareholders. The only reason the Company wants this site as opposed to another properly zoned location is to increase profits.

When pressed on the location for the water plant, the Company's representatives, careful not to say "most profitable site," say the site "meets our criteria" or this site "meets our criteria very well". Everywhere the Commission reads or hears "this site meets our criteria" from the Company, it should understand the Company means "meets our profit goals" or "makes us the most money."

The Company documentation from the meeting of January 10 includes photos from other industrial locations that are apparently intended to show it is common to locate water plants in residential communities. The Company presents photographs of industrial eyesores perhaps hoping that people will be too polite to say what the photos really show. The industrial eyesore photos are proof that the Commission should reject this project and consign the Company to appropriately zoned industrial sites.

The Company of course provided no other context to its photos. The Commission should assume that the depicted areas were zoned industrial or commercial. In any event, the question isn't whether any water industrial facility stands near a residence. The question is whether the Company should be permitted to build its massive water storage, chemical storage and pump plant on the proposed site.

I simply do not have time or resources to unpack all the Company's tricky language. But one more clever Company comment deserves the Commission's attention. The Company says there is "no evidence" the proposed project will lower district property values. This is misleading. All property values in Sedona are climbing, as a simple internet search will show. A negative impact on property values can come in the form of less growth, or even decreased

¹ I can't keep track of the Company's putative reasons for building such a massive facility. At one point its representatives said that a single pipe carries water from West Sedona over the creek to East Sedona. Should that pipe break or fail, they said, East Sedona would be without water. When asked why not just build a redundant pipe or pipes, the engineers stared blankly and changed the subject. I suspect by the time the Commission reads this letter, the Company will have more reasons to build the facility in a residential district. But the fact remains, the Company can build its storage and pump facility anywhere there is industrial zoning and pay to run the pipe to connect to the mains. It doesn't have to build among homes to make its project work.

demand for homes due to the project.

More to the point, under the law the Company must demonstrate the project will not negatively impact property values. It is not the Commission's or residents' job to show anything. The Company's "no evidence" position reveals that the Company hasn't analyzed the issue or that it hopes to slip the application by the Commission hoping no one raises it. What's clear is that the Company has no evidence to demonstrate its industrialization of the area will not negatively impact property values. Absent any proofs from the Company, the Commission should conclude the Company failed to make a required showing on this point. This is reason by itself to deny the permit.

Also, contrary to the Company's self-serving "no evidence" assertion, there is ample evidence that indicates property values may be negatively impacted. The evidence comes in the form of the opposition to the project by the existing residents in the district. The residents oppose the project because they do not want to live next to an industrial facility. So let this resident be clear: if I fathomed the Commission would even consider this project in my neighborhood, I would not have placed the same value on the house that I did when I purchased. So there is the Commission's evidence. If the Company truly believed its project would not negatively impact property values, it would be offering a guarantee for every resident in the district. Or the other residential districts in Sedona would be clamoring for the project. I suspect the Commission has not been overwhelmed by requests to relocate the project from the other residents of Sedona.

The Commission should be clear by now that residents of the district oppose this industrial facility. I, along with my neighbors, met last year with Mr. Kessler and another staff member at the site and I voiced my objection. Staff members who attended the community meeting heard the opposition. Let me reiterate: this resident opposes any industrial complex, including the proposed project.

VI. Industrial Water Treatment Plants Are Not Conditionally Permitted Uses

The Commission should deny the application because the zoning laws do not provide for a water company plant use. The Company proceeds under 604.02(B)(6), which provides for conditionally permitting 1) public utility and public service substations; 2) water tanks; and 3) pumping plants 650 square feet or greater. But in no case are storage facilities, pumping houses, electrical supply plants, or offices permissible. *Id.* The proposed project falls into none of the permissible categories.²

The Company disingenuously calls the project a water tank project. It is not a water tank project, for the reasons I explained. The project includes chemical storage, treatment

² The Commission does not contend the project is a public utility or public service substation.

equipment, offices, electrical supply facilities, multiple pumps, large physical enclosures, parking lots and the like. Such projects are industrial plants and are known as such. If the Commission reviews the Company's Annual Reports filed with the Arizona Corporation Commission, the Commission will see that the Company refers to sites such as the one proposed as "Water Company Plants." The Commission will also see that the Company uses the term "plant" to refer to the totality of equipment, structures and storage facilities. Likewise, the American Water Works Association publishes a design tome called "Water Treatment Plant Design" covering the design of water industrial plants like the Company proposes here. In it, the Commission will see that water plants include tanks, but the projects are considered industrial plants not simple water tanks.

Water plants, or "water company plants" as the Company calls them in its annual reports, are not conditionally permitted uses at all. It's unfortunate that the Company has chosen to call the project a mere water tank in the hopes that the Commission will proceed with a superficial analysis instead of looking at what this monstrous project actually entails. Water plants are not conditionally permitted uses; therefore, the Commission should deny the application as prohibited by the zoning laws.

VII. Storage Facilities, Including Chemical Storage Facilities, Are Not Allowed

The Commission also should deny the application because the proposal calls for a chemical storage facility. 604.02(B)(6) excludes storage facilities of any kind from conditionally permitted uses. The Company's industrial plant explicitly includes a storage facility for hazardous chemicals. While the Company craftily calls it a "chemical room" in heading 2.7.2.2, the text admits the "chemical room" is a storage facility and that leaves the Commission no discretion but to deny the application. The Company writes, "The *chemical storage* and feed system will be housed indoor..." At 6 (emphasis added). Table 2 is called the "Chemical Facility Design Criteria" and under the "Parameter" column the Commission will find the entry "**Storage Location**," as the Company wrote. So, according to the Company's own submission, the project includes impermissible storage facilities.

The Company tried to wordsmith its way around this conclusion by calling the storage facility a "room" and by titling its application the "East Sedona Water Storage Tank, Booster Pump Station and Related Appurtenances." The Company's "creativity" should always raise the Commission's concern. Here the Company tries to belittle the chemical storage facility by calling it a room or a "related appurtenance." A little digging shows that it is an unallowable storage facility and chemical feed system. The entire project is an industrial plant for water storage and treatment and the chemical storage is an integral part of it. The zoning laws require the Commission to deny the application because it includes a storage facility.³

³ The Company camouflages the chemical storage facility while trying to convince the Commission that the project concerns a mere water tank. A search for the chemical, sodium

VIII. The Project Neither Preserves Nor Promotes Single Family Residential In the District

The Company presents no evidence that the proposed project promotes or preserves the purpose of the zoning in the district. According to the zoning laws, the Commission must make specific findings “[t]hat the proposed location of the conditional use is in accordance with the objectives of this Code *and the purpose of the zoning district in which the site is located.*” 402.06(A) (emphasis added). The Code makes the purpose of single-family residential zoning explicit:

604.01 Purpose. This district is intended to promote and preserve low density single-family residential development. The principal land use is single-family dwellings and incidental or accessory uses.

Here, no basis exists to make the required finding. The Company conceived of this project without any regard to the district as the Company only touts that the project is needed for all of East Sedona. Obviously the district doesn’t need a water industrial plant and the Company makes no argument that it does. The residents of the district don’t want it and the Company has not presented evidence that further development in this district depends on this project.

To the extent the Company presented evidence, it shows that the proposed project will neither preserve nor promote single-family dwellings in the district. As the Commission knows, the Company purchased at least one and perhaps two lots for the project. So the district lost buildable lots that have not been available for development since the Company bought them. A permanent removal of the lots from development of single-family residences violates the zoning law.

Even if the Company now tried to show its project would promote or preserve single family development in the district, the Commission would be required to make sure the size and scope of any project was limited to the district’s needs. For example, if the Company argued that despite losing two lots in the district, a water tank would promote the building of 3 additional lots somewhere else in the district, resulting in the promotion of 1 single family residence, then this showing would only support a project sufficient to add 1 lot. It should be obvious that a 1.5 million gallon industrial water facility is not needed to promote single family residences in the district. But in the event the Company pivots and starts arguing that the district needs a water project, the Commission must make sure the project is sized for the district. A project for all of

hypochlorite, on the EPA website yields 6300 results including numerous safety alerts. If the Company provided the Commission with its internal documents concerning safety, employee training, emergency protocols, material safety data sheets and the like, then the Commission would better appreciate that the chemical storage of sodium hypochlorite is no mere “related appurtenance”.

East Sedona must go where the zoning permits projects of that scope and size.

As the Commission should appreciate, this aspect of the zoning law stops exactly what the Company is trying to do here: using a conditional use permit to build a regional or city wide project where it doesn't belong. In other words, the Company is trying to shoehorn an industrial and factory use designed for half the city into a residential district by running roughshod over the explicit constraints on conditional use permits. Even if a water tank would benefit the district, the Commission cannot, consistent with the law, permit a project in excess of the scope and capacity necessary to promote the purpose of the zoning in the district. Because there is no evidence in the record on which the Commission could find the gross size and scope of this project is necessary to promote single-family residential development in the district, the Commission should deny the permit.

IX. The Commission Should Insist on the Company's Internal Documents

The Commission has other reasons it should deny the application, and I reserve my right to raise further objections should the Commission continue to consider this matter. Likewise, I understand that others are raising objections as well, and nothing in this letter should be read as stating my position on those concerns. I reserve all my rights to rely on those objections or to raise them myself in this or other proceedings.

The Company skillfully honed its glitzy presentations. The application shows plenty of colors, bullet points, drawings and carefully lawyered sentences. But it lacks evidence backing up the glitz and it lacks any appreciation of the zoning laws. For the Company, if it looks like a house, then it complies with residential zoning.

The Company's lack of evidence hampers our ability to fully address the issues raised in the Company's application. In particular, I request, and expect the Commission to request, full disclosure of all the Company's internally generated documents, reports, analyses, meeting minutes, projections, profitability analysis and internal and external communications of whatever kind related to the project, its construction and safety. I am interested in and request construction project analyses, alternative site evaluations, cost estimates, rejected site documents, schedules, communications with and about residents (including emails), communications with planning department persons or members of local government of Sedona (including texts and emails), excavation and blasting calculations, and any records or documentation the Company has pertaining to any assertion it makes about the proposed project. All prior drafts of the application should be produced as well. The Company has no basis to withhold them because its own assertions have placed these records at issue.

The Company makes myriad unsubstantiated assertions concerning the scope, benefits, alternatives, and costs associated with the proposed project. The Company backs none of the

assertions with source documents and has not made available any documents from which the assertions can be evaluated. A project of this size cannot be approved without internal corporate evaluations and approvals. Until the Company produces all those documents, the Commission should assume those documents tell a far different story than the Commission hears from the Company. The undocumented assertions from the Company should be ignored for lack of reliable first-hand evidence.

Very truly yours,

A handwritten signature in black ink that reads "Vincent McGear". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

Vincent McGear

Date: October 15, 2018
City of Sedona
Community Development Department
Planning and Zoning Commission
102 Roadrunner Drive
Sedona, AZ 86336

Re. Objections to Arizona Water Company's Permit Application for Water Treatment Plant with Chemical Storage Facility in Single Family Residential District

Dear Commission Members:

I. Introduction and Request for Postponement

I am writing in response to the AWC's additional conditional use permit submission. This letter states further reasons why the Commission doesn't have the authority to grant the AWC's permit.

Initially, on its face the Company's submission should be considered a new application. The so-called simple water tank project that initially necessitated a less than 50 page proposal has revealed itself to be a monstrously complex proposal for a treatment plant covering nearly 200 pages. Incredibly, the Commission has decided to consider this exceedingly complex engineering document in 3 weeks. Given the sheer volume of material, the Commission should consider this a brand new application. It is not conceivable that the Commission could adequately accomplish its task of reviewing this proposal and dealing with the myriad issues it raises in such a short time.

The Commission cannot reasonably expect the citizens to review this vast and complex submission in a matter of weeks. The Company, with all its resources, has been working on it for months if not years. Absent the Commission considering it a new application, I request a 6 month postponement to the hearing to consider the Company's new submission.

II. Sedona Lacks the Legal Authority to Grant the Permit

In my previous letter I explained why Sedona lacks the legal authority under the zoning laws to grant the requested permit. The Company's monstrous application proves exactly what I pointed out in my letter. The Company proposes a large industrial treatment plant, not a water tank project. This should be readily apparent to any fair-minded reader of the Company's complex application. I've provided a letter from an engineer, Mr. George Sudol, explaining that

this is not a simple water tank project.

As shown, this project includes facilities—pumping station, electrical room, sodium hypochlorite storage and feed systems, and a physical building—that are not part of a water tank. The Company’s own proposal shows that these are separately classified use and occupancy facilities that must meet their own codes and specifications. (According to the Company, they are classified F1 Factory). As such, they are individually non-permitted uses that the Commission and Sedona lack the legal authority to approve just because the Company calls them a water tank.

Mr. Sudol further explains that these facilities are not “appurtenances” to the tank. He states that the pump room, electrical room, and sodium hypochlorite storage facilities are not tank appurtenances. “An engineer would consider them facilities in the overall plant design. This is made clear in the proposal as each of these are the subject of separate design criteria, specifications, codes, planning, costing etc. An appurtenance to a tank are small attachments, like valves, covers etc.” The Commission must reject the Company’s attempt to avoid the zoning laws governing these uses by relabeling them “appurtenances.”

The building itself is also not a water tank. Water tanks do not entail building facilities to enclose them. This is a separate physical system. Because the building is not the tank and not an appurtenance to the tank, it must be a separately permissible use. But there is no permitted or permissible use for a building to hide a water tank and to house the other uses in the application. And therefore the application should be denied.

III. The Company Incorrectly Classified the Chemical Feed System as “Factory”

The Company tells the Commission that the sodium hypochlorite storage and feed facility are classified as F or Factory use and occupancy. This alone warrants denial of the application because the Company admits that the sodium hypochlorite storage and feed facility requires a separate use and occupancy classification than a water tank. Thus it requires its own permit procedure, which would be denied out of hand because factory uses are not permitted. The Company blatantly seeks to avoid the permit process for this use by enveloping it under a water tank use. It is transparent and illegal and the Commission should stop the Company on this basis alone.

But it gets worse. Mr. Sudol explains that sodium hypochlorite is actually a “corrosive” and that the correct use and occupancy code should be H4-High Hazard, not F1-Factory as the Company represented to the Commission. (He provided me with a Material Safety Data Sheet which the Commission should review.) A High Hazard Use and Occupancy requires much different design criteria than the Company is telling the Commission. Mr. Sudol states that the Sodium Hypochlorite should be a closed system, meaning it should not be integrated with the

other systems and buildings as proposed. “This dictates the type, construction and spacing of the buildings that would be required. Because Arizona Water incorrectly designated the storage facility as F1 instead of H4, its proposal failed to address these design criteria.”

Frankly, neither the Commission nor the residents should be put to the task of engaging experts to unravel the Company’s byzantine application. The application plainly tells the Commission that it includes additional use and occupancy codes that ought to be the subject of separate applications and these would be denied on their face. Nevertheless, if the Commission believes it has the authority and the expertise to review this application, then it must undertake the review in painstaking detail. We can graciously call the Company’s misstating the use and occupancy code for the sodium hypochlorite storage and feed system an oversight or mistake on the Company’s part. But are there other mistakes that happen to work in the Company’s favor? Likely.

IV. The Project Neither Preserves Nor Promotes Single Family Residential In the District

I showed in my last letter that the project doesn’t promote single family residential in the district. The Company’s renewed application presents no evidence that the proposed project promotes or preserves the purpose of the zoning in the district “in which the site is located.” Thus there is nothing in the record for this Commission to base the mandatory fact-findings it must make.

It should be obvious to the Commission that the proposed site presents unique views of Sedona’s Red Rocks. The views of Elephant Rock can’t be duplicated anywhere else. Legally speaking, placing an industrial facility there deprives the district of those lots for the district’s purpose, and this warrants denying the permit. A permanent removal of the lots from development of single-family residences violates the zoning law.

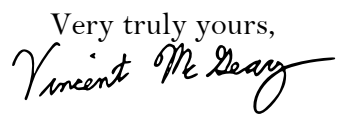
But the Commission can also apply common sense. And common sense dictates that no one should place an industrial facility on a unique location with sight lines to Elephant Rock. It would be a blight on the legacy of the Commission to approve it.

V. The Company Lacks Evidence Showing its Project Will not Harm Property Values

My last letter points out that the Company provided a single power point slide stating it is not aware of any evidence showing the project will hurt property values. I showed that this is not enough under the law because the Company has the burden to prove its project will not negatively impact the existing properties. In addition to the arguments and evidence I presented in my previous letter, I now understand that any residential real estate appraisal, particularly for a mortgage, must consider proximity to industrial facilities such as water tanks

in appraising the property. The Company has an affirmative burden to show no property owner will suffer decreased values due to the project. It has not met this burden and the Commission should deny the permit for this reason as well.

Very truly yours,

A handwritten signature in black ink that reads "Vincent McGear". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Vincent McGear

From: Michelle McGeary notvhs@aol.com
Subject: Re: Water treatment facility
Date: October 30, 2018 at 10:44 PM
To: vincentm@me.com



-----Original Message-----

From: Warren Campbell <WCampbell@sedonaaz.gov>
To: Michelle McGeary <NOTVHS@aol.com>
Sent: Tue, Oct 30, 2018 10:00 am
Subject: Re: Water treatment facility

Mrs. McGeary,

Good Morning.

With regard to the proposed access to W. Mallard Drive please see slide 29 of the attached presentation. It shows a temporary construction road exiting the site on the northeast corner and connecting to W. Mallard Drive near the intersection with SR179. I also attached a copy of the email provided from ADOT identifying their initial thoughts on the preliminary review of the proposed access design by Vernon Dumbeck. If ADC does not approve the plan the applicant would use their legal access off Bell Rock Trail.

The restriction on the number of 55-gallon drums that can be held in reserve on the site does not change the number or frequency of site visits. The start of normal operations on the site will include a daily visit by Water Company employees. When needed the daily visit would include bringing a replacement drum.

The fees charged by the Community Development Department were adopted via Ordinance 2003-11 (attached). Within this fee schedule Appeals are identified as having a \$150 fee.

Please let me know if there is anything else I can assist you with.

Sincerely,

Warren Campbell

From: Michelle McGeary <NOTVHS@aol.com>
Sent: Monday, October 29, 2018 8:26:05 PM
To: Warren Campbell
Subject: Re: Water treatment facility

Dear Mr. Campbell,

Thank you for your comments.

Please let me know the specifics with regard to the construction access you mentioned. Telling me that it will connect with W. Mallard Drive is imprecise. Where, precisely, will the construction access road begin, sh it be approved by the ADOT? In the event that the ADOT does not permit the construction access, what is the alternative plan? This seems to be a key component to the City's evaluation of the project, so I am surp that any approval could be given with gaping questions being left open.

Please provide me with the contact information for the person at ADOT who is reviewing this matter.

With the proviso that only one 55-gallon drum of hazardous chemicals can be on the site, will this increase the number of trucks that need to enter and exit the property on a regular basis after construction is complt

Finally, please provide a reference for the \$150.00 fee to appeal the approval on 16 October 2018. I do not see it in the information you provided nor on your website.

Thank you.

Very truly yours,

Michelle Filippone McGeary

On Oct 29, 2018, at 3:44 PM, Warren Campbell <WCampbell@sedonaaz.gov> wrote:

Mrs. McGeary,

Yes, the Conditional Use Permit and Development Review applications for the AZ Water Tank Facility were approved on October 16th by a vote of 4-1-0 with conditions. The conditions are, as you stated, to reduce the height of the structures by a minimum of 18 inches and a restriction to one (1) 55-gallon drum of sodium hypochloride (water treatment chemical) on the site.

Your submitted request to postpone the hearing, along with all other public comment, including the submitted engineering reports were provided to the Planning and Zoning Commission in advance of the public hearing for consideration. The Commission did move forward with the continuation of the August 21st public hearing on the evening of October 16th with all the public comment included as a part of the public recd

The applicant, in their presentation, spoke specifically to the engineering report prepared by CD&E and dated October 10, 2018 provided by Desiree Brackin.

The audio file for the public hearing can be found at the following link

<http://www.sedonaaz.gov/your-government/council-commissions-committees-boards/meetings-video-audio/commissions/planning-and-zoning>

City of Sedona : Planning and Zoning

www.sedonaaz.gov

All video and audio content is owned and copyrighted by the City of Sedona. To post a video or audio recording, use the "share" tab to link or embed and list the City of Sedona as the owner.

I cannot speak to the overall knowledge regarding the project throughout the community. The adopted Code requires a mailing to property owners within 300 feet and a physical posting on the property. Due to the location of the property and its access being significantly hidden from view the city did seek, receive, and installed an additional physical posting within the Arizona Department of transportation (ADOT) right-of-way along SR179 adjacent to the property which provided greater visibility for the submitted project.

The impact to the neighborhood with regard to construction activity was discussed. Construction access, if ultimately approved by ADOT, will primarily utilize a temporary construction access road which will parall SR179 and connect with W. Mallard Drive. As a part of this access there will be construction traffic control to assist the construction traffic exiting onto SR 179. The existing traffic concern is understood and documented as a result of the recent traffic study that was performed and opportunities will be sought to mitigate the impact of construction traffic on the overall traffic system.

In your email you state that you would like the email to serve as a formal appeal of the decision. The email you sent cannot serve as an official appeal of the Planning and Zoning Commission decision. Should yc desire to submit a formal appeal please provide a letter (email can be accepted) which details what is being appealed (October 16th P&Z Decision regarding the AZ Water Tank is being appealed to the City Council). Pursuant to Sections 401.10 and 402.08 (included below) an appeal must be submitted within 15 days of the decision. Fifteen days from October 16th is October 31st. Should you wish to file an appeal please provide a letter (or email) detailing the requested appeal, appeal fee of \$150 (we can take a credit card over the phone) by October 31st @ 6:00 PM (the close of business).

I believe this email addresses your questions. Should you need anything else please do not hesitate to ask.

401 Development review

401.10 Appeals.

A. A decision of the Director on a development review application may be appealed to the Commission.

B. A decision of the Commission on a development review application may be appealed to the Council.

C. The applicant or any member of the general public may file a written appeal, clearly stating the reasons for such appeal, within 15 days of the final action of the Director or the Commission regarding the development review application.

402 Conditional uses

402.08 Appeal to the Council. A decision of the Commission may be appealed to the Council within 15 days of the Commission's decision, by the applicant or any member of the general public. The Council shall f

a public hearing on a conditional use permit if an appeal has been filed within the 15-day appeal period. The decision of the Council shall be final. Based upon the findings prescribed in subsection [402.06](#) of this section, and with consideration given to the applicable goals, objectives and recommendations described in the Sedona Community Plan and specific plans, the Council may grant a conditional use permit as appl for or in a modified form, or the application may be denied. Further, a conditional use permit may be granted for a limited time period or may be granted subject to such conditions as the Council may prescribe, effective upon the satisfaction of certain conditions. A conditional use permit may also be revoked subject to the provisions of subsection [402.10](#) of this section.

Sincerely,

Warren Campbell
Assistant Director of Community Development
928-203-5044

From: Michelle McGeary <NOTVHS@aol.com>

Sent: Sunday, October 28, 2018 1:29 AM

To: Warren Campbell; Matthew Kessler

Subject: Water treatment facility

Dear Mr. Campbell,

I have been advised that the proposed water treatment facility in our neighborhood has been approved 4 to 1 with conditions, and that not all members were present for the vote. The conditions were that the struc has to be lowered 18 inches and only one 55-gallon can of hazardous chemicals would be permitted. Is this correct? I am at a loss as to why there has been no communication from the City of Sedona to the many people who will be affected by this, detailing the opinion (that will change their lives).

As you are aware, not everyone affected could be present for the meeting. My request that the meeting be postponed was ignored. Were the engineering reports against the water treatment facility ever even considered?

Please direct me as to where I can secure the meeting minutes, and please give me the courtesy of acknowledging my comments. In light of the very limited information I have at hand, please accept this correspondence as a more formal appeal of the decision, preserving all of our rights and remedies available under the law.

I recently learned from social media that most of the community is completely unaware that this project has been proposed. It is one of many aspects of this situation that are alarming. With the extraordinary traffic problems being faced in our community, many of the people who sit in traffic on 179 have no idea that a massive construction project, that will make an untenable situation even worse for them, is being planned.

I look forward to hearing from you very soon. In the event that there is someone else at the City of Sedona to whom I should direct my appeal and my concerns, please advise me accordingly. Thank you.

Very truly yours,

Michelle Filippone McGeary

Sedona City Hall is open for business Monday through Thursday from 7 a.m. to 6 p.m. and closed on Fridays. The Wastewater system maintenance remain on a Monday through Friday, 8 a.m. to 5 p.m. schedule. Police and maintenance services are not impacted.

Sedona City Hall is open for business Monday through Thursday from 7 a.m. to 6 p.m. and closed on Fridays. The Wastewater system maintenance remain on a Monday through Friday, 8 a.m. to 5 p.m. schedule. Police and maintenance services are not impacted.

From: Matthew Kessler MKessler@sedonaaz.gov
Subject: Re: Water Plant Project
Date: October 29, 2018 at 4:47 PM
To: Vincent McGeary vmcgearyster@gmail.com
Cc: Warren Campbell WCampbell@sedonaaz.gov

MK

Mr. McGeary,

The findings are included in Staff's report dated August 21, 2018. This may be viewed online at <http://www.sedonaaz.gov/Home/ShowDocument?id=35389>; the findings discussion begins on page 46 of the linked document. I believe Warren has responded to an email sent by Michelle, highlighting the appeal process and how to apply. If needed, we can forward that response to you as well.

Please let me know if you have any questions.

Thank you,

Matt Kessler

Associate Planner, City of Sedona
(928) 203-5090 | [Community Development](#)

From: Vincent McGeary <vmcgearyster@gmail.com>
Sent: Sunday, October 28, 2018 6:34 PM
To: Matthew Kessler
Subject: Water Plant Project

Matt, can you please direct me or have someone at the City direct me to precisely where the following findings can be found related to the project. Alternatively, please send me whatever written findings were made. I intent to lodge an appeal with the Director and Council.

402.06 Findings. The following findings shall be made before granting a conditional use permit:

- A. That the proposed location of the conditional use is in accordance with the objectives of this Code and the purpose of the zoning district in which the site is located.
- B. That the granting of the conditional use permit will not be materially detrimental to the public health, safety or welfare. The factors to be considered in evaluating this application shall include:
 1. Property damage or nuisance resulting from noise, smoke, odor, dust, vibration or illumination;
 2. Any hazard to persons and property from possible explosion, contamination, fire or flood;

3. Any impact on surrounding area resulting from unusual volume or character of traffic.

C. That the characteristics of the use as proposed and as may be conditioned are reasonably compatible with the types of use permitted in the surrounding area.

D. That the proposed use, as it may be conditioned, will comply with the applicable provisions of this Code, and other ordinances.

E. That the proposed expansion or change of a nonconforming use (if applicable) is no more deleterious to other properties in the surrounding area than the existing use.

Sedona City Hall is open for business Monday through Thursday from 7 a.m. to 6 p.m. and closed on Fridays. The Wastewater system maintenance remain on a Monday through Friday, 8 a.m. to 5 p.m. schedule. Police and maintenance services are not impacted.

George Sudol (Mech. Engineer)
c/o Vincent McGeary
31 Kingsridge Rd.
Frenchtown, NJ 08825

Vincent McGeary
31 Kingsridge Rd.
Frenchtown, NJ 08825

Dear Mr. McGeary:

You asked me to review the Arizona Water Company's conditional use permit application to the Sedona Planning Commission and your letter to the Commission regarding them. You then asked me to address whether I, as an engineer, would consider the proposed project a water tank project; whether the pump room, electrical room and sodium hypochlorite facility are appurtenances of the tank; and whether the building could be considered a tank or appurtenance.

An engineer would not consider this a water tank project. This is a water plant and treatment facility. This is a project of very considerable engineering complexity with multiple interacting systems. These systems include the physical structure to enclose the tank, the electrical supply systems, the pumping systems, the chemical storage and feed systems, fire safety systems, physical safety systems and the like. This is demonstrated at least by the Company's 196 page application.

The proposed pump room, electrical room, and sodium hypochlorite storage facilities are not "appurtenances" to a water tank. An engineer would consider them facilities in the overall plant design. This is made clear in the proposal as each of these are the subject of separate design criteria, specifications, codes, planning, costing etc. An appurtenance to a tank are small attachments, like valves, covers etc.

This project is not just a water tank but as Arizona Water states in their proposal it is a 1.5 million gallon reservoir with a complete water treatment and distribution and pumping system.

In reviewing your letter from an engineer's perspective, I generally agree with your comments on the proposal. You should further note that Arizona Water's proposal in section 3 page 6 lists the pump building and the Sodium Hypochlorite storage facility and designates them as International Code Council Use and Occupancy Classification as F1 - Factory. **Because Sodium Hypochlorite is a Corrosive, the correct Use and Occupancy Code should be H4 - High Hazard.** The Sodium Hypochlorite should also be a closed system, meaning it should not be integrated with the other systems and buildings as proposed. I included a MSDS for Sodium Hypochlorite 12.5%. This dictates the type, construction and spacing of the buildings that would be required. Because Arizona Water incorrectly designated the storage facility as F1 instead of H4, its proposal failed to address these design criteria. Understand that AWC operates these kind

of systems in other states but this is in a residential area. I feel that they have not addressed the issue storage and control of hazardous material in case of fire or spillage. As you can see from the MSDS Sodium Hypochlorite turns into Chlorine gas when heated. My concern is that the 4 motors will generate a significant amount of heat and the control and cooling of that building is not addressed in the proposal.

Although I am not a civil engineer, I have the requisite expertise to make the statements and evaluations in this letter. I was awarded a Masters of Science in Mechanical Engineering from the New Jersey Institute of Technology in 1985. I have been employed from 1987 to present as a Mechanical Engineer by the Munitions Engineering and Technology Center of the U.S. Army RDECOM-Armament Research and Engineering Center at Picatinny Arsenal, NJ. I currently lead an engineering team engaged in the research and development of Countermine and IED Defeat technologies.

Very truly yours,

/s George Sudol

George Sudol

Safety Data Sheet



1. IDENTIFICATION OF THE MATERIAL AND SUPPLIER

Product Name: **SODIUM HYPOCHLORITE SOLUTION (10-15% AVAILABLE CHLORINE)**

Recommended Use of the Chemical and Restrictions on Use Water treatment: Sanitising agent.
Available chlorine = 10 - 15%.

Supplier: Ixom Operations Pty Ltd
ABN: 51 600 546 512
Street Address: Level 8, 1 Nicholson Street
East Melbourne Victoria 3002
Australia

Telephone Number: +61 3 9906 3000
Emergency Telephone: **1 800 033 111 (ALL HOURS)**

Please ensure you refer to the limitations of this Safety Data Sheet as set out in the "Other Information" section at the end of this Data Sheet.

2. HAZARDS IDENTIFICATION

Classified as Dangerous Goods by the criteria of the Australian Dangerous Goods Code (ADG Code) for Transport by Road and Rail; DANGEROUS GOODS.

This material is hazardous according to Safe Work Australia; HAZARDOUS CHEMICAL.

Classification of the chemical:

Skin Corrosion - Sub-category 1B
Eye Damage - Category 1

The following health/environmental hazard categories fall outside the scope of the Workplace Health and Safety Regulations:
Acute Aquatic Toxicity - Category 1

SIGNAL WORD: DANGER



Hazard Statement(s):

H314 Causes severe skin burns and eye damage.

Precautionary Statement(s):

Prevention:

P260 Do not breathe mist, vapours, spray.
P264 Wash hands thoroughly after handling.
P280 Wear protective gloves / protective clothing / eye protection / face protection.

Safety Data Sheet



Response:

P301+P330+P331 IF SWALLOWED: Rinse mouth. Do NOT induce vomiting.
P303+P361+P353 IF ON SKIN (or hair): Take off immediately all contaminated clothing. Rinse skin with water/shower.
P321 Specific treatment (see First Aid Measures on Safety Data Sheet).
P363 Wash contaminated clothing before re-use.
P304+P340 IF INHALED: Remove person to fresh air and keep comfortable for breathing.
P310 Immediately call a POISON CENTER or doctor/physician.
P305+P351+P338 IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing.

Storage:

P405 Store locked up.

Disposal:

P501 Dispose of contents and container in accordance with local, regional, national, international regulations.

Other Hazards:

AUH031 Contact with acids liberates toxic gas.

Poisons Schedule (SUSMP): S5 Caution.

3. COMPOSITION AND INFORMATION ON INGREDIENTS

Components	CAS Number	Proportion	Hazard Codes
Water	7732-18-5	>60%	-
Sodium hypochlorite	7681-52-9	10-<30%	H314 H400
Sodium hydroxide	1310-73-2	<1%	H290 H314 H318

4. FIRST AID MEASURES

For advice, contact a Poisons Information Centre (e.g. phone Australia 131 126; New Zealand 0800 764 766) or a doctor.

Inhalation:

Remove victim from area of exposure - avoid becoming a casualty. Remove contaminated clothing and loosen remaining clothing. Allow patient to assume most comfortable position and keep warm. Keep at rest until fully recovered. If patient finds breathing difficult and develops a bluish discolouration of the skin (which suggests a lack of oxygen in the blood - cyanosis), ensure airways are clear of any obstruction and have a qualified person give oxygen through a face mask. Apply artificial respiration if patient is not breathing. Seek immediate medical advice.

Skin Contact:

If spilt on large areas of skin or hair, immediately drench with running water and remove clothing. Continue to wash skin and hair with plenty of water (and soap if material is insoluble) until advised to stop by the Poisons Information Centre or a doctor.

Eye Contact:

Immediately wash in and around the eye area with large amounts of water for at least 15 minutes. Eyelids to be held apart. Remove clothing if contaminated and wash skin. Urgently seek medical assistance. Transport promptly to hospital or medical centre. Continue to wash with large amounts of water until medical help is available.

Ingestion:

Immediately rinse mouth with water. If swallowed, do NOT induce vomiting. Give a glass of water. Seek immediate medical assistance.

Product Name: SODIUM HYPOCHLORITE SOLUTION (10-15% AVAILABLE CHLORINE)
Substance No: 000034421401

Issued: 09/07/2018

Version: 11

Safety Data Sheet



Indication of immediate medical attention and special treatment needed:

Treat symptomatically. Can cause corneal burns. Delayed pulmonary oedema may result.

5. FIRE FIGHTING MEASURES

Suitable Extinguishing Media:

Not combustible, however, if material is involved in a fire use: Fine water spray, normal foam, dry agent (carbon dioxide, dry chemical powder).

Hazchem or Emergency Action Code: 2X

Specific hazards arising from the chemical:

Non-combustible material. Corrosive chemical. Environmentally hazardous.

Special protective equipment and precautions for fire-fighters:

Decomposes on heating emitting toxic fumes, including those of chlorine. Fire fighters to wear self-contained breathing apparatus and suitable protective clothing if risk of exposure to products of decomposition.

6. ACCIDENTAL RELEASE MEASURES

Emergency procedures/Environmental precautions:

Clear area of all unprotected personnel. Do not allow container or product to get into drains, sewers, streams or ponds. If contamination of sewers or waterways has occurred advise local emergency services.

Personal precautions/Protective equipment/Methods and materials for containment and cleaning up:

Slippery when spilt. Avoid accidents, clean up immediately. Wear protective equipment to prevent skin and eye contact and breathing in vapours. Work up wind or increase ventilation. Contain - prevent run off into drains and waterways. Use absorbent (soil, sand or other inert material). Collect and seal in properly labelled containers or drums for disposal. For small amounts, in case of spillage flush with large quantities of water.

7. HANDLING AND STORAGE

This material is a Scheduled Poison S5 and must be stored, maintained and used in accordance with the relevant regulations.

Precautions for safe handling:

Avoid skin and eye contact and breathing in vapour, mists and aerosols. Keep out of reach of children.

Conditions for safe storage, including any incompatibilities:

Store in a cool, dry, well ventilated place. Store away from foodstuffs. Store away from acids. Store away from incompatible materials described in Section 10. Keep containers closed when not in use - check regularly for leaks.

8. EXPOSURE CONTROLS/PERSONAL PROTECTION

Control Parameters: No value assigned for this specific material by Safe Work Australia. However, Workplace Exposure Standard(s) for constituent(s) and decomposition product(s):

Sodium hydroxide: Peak Limitation = 2 mg/m³

Chlorine: Peak Limitation = 3 mg/m³ (1 ppm)

Safety Data Sheet



As published by Safe Work Australia Workplace Exposure Standards for Airborne Contaminants.

Peak Limitation - a maximum or peak airborne concentration of a particular substance determined over the shortest analytically practicable period of time which does not exceed 15 minutes.

These Workplace Exposure Standards are guides to be used in the control of occupational health hazards. All atmospheric contamination should be kept to as low a level as is workable. These workplace exposure standards should not be used as fine dividing lines between safe and dangerous concentrations of chemicals. They are not a measure of relative toxicity.

Appropriate engineering controls:

Ensure ventilation is adequate and that air concentrations of components are controlled below quoted Workplace Exposure Standards. Keep containers closed when not in use.

If in the handling and application of this material, safe exposure levels could be exceeded, the use of engineering controls such as local exhaust ventilation must be considered and the results documented. If achieving safe exposure levels does not require engineering controls, then a detailed and documented risk assessment using the relevant Personal Protective Equipment (PPE) (refer to PPE section below) as a basis must be carried out to determine the minimum PPE requirements.

Individual protection measures, such as Personal Protective Equipment (PPE):

The selection of PPE is dependent on a detailed risk assessment. The risk assessment should consider the work situation, the physical form of the chemical, the handling methods, and environmental factors.

OVERALLS, CHEMICAL GOGGLES, FACE SHIELD, GLOVES (Long), APRON, RUBBER BOOTS.



Wear overalls, chemical goggles, face shield, elbow-length impervious gloves, splash apron or equivalent chemical impervious outer garment, and rubber boots. Always wash hands before smoking, eating, drinking or using the toilet. Wash contaminated clothing and other protective equipment before storage or re-use.

If determined by a risk assessment an inhalation risk exists, wear an air supplied respirator meeting the requirements of AS/NZS 1715 and AS/NZS 1716.

9. PHYSICAL AND CHEMICAL PROPERTIES

Physical state:	Liquid
Colour:	Pale Yellow - Green
Odour:	Chlorine
Solubility:	Miscible in water.
Specific Gravity:	1.2 @20°C
Relative Vapour Density (air=1):	Not available
Vapour Pressure (20 °C):	Not available
Flash Point (°C):	Not applicable
Flammability Limits (%):	Not applicable
Autoignition Temperature (°C):	Not available
Boiling Point/Range (°C):	Not available

Product Name: SODIUM HYPOCHLORITE SOLUTION (10-15% AVAILABLE CHLORINE)
Substance No: 000034421401

Issued: 09/07/2018

Version: 11

Safety Data Sheet



pH: 12.5 (1% w/w)

10. STABILITY AND REACTIVITY

Reactivity:	Contact with acids liberates toxic gas.
Chemical stability:	Stable under normal ambient and anticipated storage and handling conditions of temperature and pressure. The amount of available chlorine diminishes over time.
Possibility of hazardous reactions:	Hazardous polymerisation will not occur. Reacts exothermically with acids . Reacts with ammonia, amines, or ammonium salts to produce chloramines. Decomposes on heating to produce chlorine gas.
Conditions to avoid:	Avoid contact with foodstuffs. Avoid exposure to heat, sources of ignition, and open flame. Avoid exposure to light. Avoid contact with other chemicals. Avoid contact with acids .
Incompatible materials:	Incompatible with acids , metals , metal salts , peroxides , reducing agents , ethylene diamine tetraacetic acid , methanol , aziridine , urea . Incompatible with ammonia and ammonium compounds such as amines and ammonium salts.
Hazardous decomposition products:	Chlorine.

11. TOXICOLOGICAL INFORMATION

No adverse health effects expected if the product is handled in accordance with this Safety Data Sheet and the product label. Symptoms or effects that may arise if the product is mishandled and overexposure occurs are:

Ingestion:	Swallowing can result in nausea, vomiting, diarrhoea, abdominal pain and chemical burns to the gastrointestinal tract.
Eye contact:	A severe eye irritant. Corrosive to eyes; contact can cause corneal burns. Contamination of eyes can result in permanent injury.
Skin contact:	Contact with skin will result in severe irritation. Corrosive to skin - may cause skin burns.
Inhalation:	Breathing in mists or aerosols may produce respiratory irritation. Delayed (up to 48 hours) fluid build up in the lungs may occur.
Acute toxicity:	No LD50 data available for the product. For the constituent SODIUM HYPOCHLORITE: Oral LD50 (mice): 5800 mg/kg
Serious eye damage/irritation:	Moderate irritant (rabbit). Standard Draize test
Respiratory or skin sensitisation:	No information available.
Chronic effects:	No information available for the product.
Aspiration hazard:	No information available.

12. ECOLOGICAL INFORMATION

Product Name: SODIUM HYPOCHLORITE SOLUTION (10-15% AVAILABLE CHLORINE)
Substance No: 000034421401

Issued: 09/07/2018

Version: 11

Safety Data Sheet



Ecotoxicity	Avoid contaminating waterways.
Persistence/degradability:	This material is biodegradable.
Bioaccumulative potential:	Does not bioaccumulate.
Mobility in soil:	No information available.
Aquatic toxicity:	Very toxic to aquatic organisms.
96hr LC50 (fish):	0.065 mg/L (for sodium hypochlorite)

13. DISPOSAL CONSIDERATIONS

Disposal methods:

Refer to Waste Management Authority. Dispose of material through a licensed waste contractor. Decontamination and destruction of containers should be considered.

14. TRANSPORT INFORMATION

Road and Rail Transport

Classified as Dangerous Goods by the criteria of the Australian Dangerous Goods Code (ADG Code) for Transport by Road and Rail; DANGEROUS GOODS.



UN No:	1791
Transport Hazard Class:	8 Corrosive
Packing Group:	II
Proper Shipping Name or Technical Name:	HYPOCHLORITE SOLUTION
Hazchem or Emergency Action Code:	2X

Marine Transport

Classified as Dangerous Goods by the criteria of the International Maritime Dangerous Goods Code (IMDG Code) for transport by sea; DANGEROUS GOODS.

UN No:	1791
Transport Hazard Class:	8 Corrosive
Packing Group:	II
Proper Shipping Name or Technical Name:	HYPOCHLORITE SOLUTION

IMDG EMS Fire:	F-A
IMDG EMS Spill:	S-B

Air Transport

Classified as Dangerous Goods by the criteria of the International Air Transport Association (IATA) Dangerous Goods Regulations for transport by air; DANGEROUS GOODS.

UN No:	1791
---------------	------

Product Name: SODIUM HYPOCHLORITE SOLUTION (10-15% AVAILABLE CHLORINE)
Substance No: 000034421401

Issued: 09/07/2018

Version: 11

Safety Data Sheet



Transport Hazard Class: 8 Corrosive
Packing Group: II
Proper Shipping Name or Technical Name: HYPOCHLORITE SOLUTION

15. REGULATORY INFORMATION

Classification:

This material is hazardous according to Safe Work Australia; HAZARDOUS CHEMICAL.

Classification of the chemical:

Skin Corrosion - Sub-category 1B

Eye Damage - Category 1

The following health/environmental hazard categories fall outside the scope of the Workplace Health and Safety Regulations:

Acute Aquatic Toxicity - Category 1

Hazard Statement(s):

H314 Causes severe skin burns and eye damage.

Poisons Schedule (SUSMP): S5 Caution.

All the constituents of this material are listed on the Australian Inventory of Chemical Substances (AICS).

16. OTHER INFORMATION

'Registry of Toxic Effects of Chemical Substances'. Ed. D. Sweet, US Dept. of Health & Human Services: Cincinnati, 2018.

This safety data sheet has been prepared by Ixom Operations Pty Ltd Toxicology & SDS Services.

Reason(s) for Issue:

Revised Primary SDS

Change in Stability and Reactivity

This SDS summarises to our best knowledge at the date of issue, the chemical health and safety hazards of the material and general guidance on how to safely handle the material in the workplace. Since Ixom Operations Pty Ltd cannot anticipate or control the conditions under which the product may be used, each user must, prior to usage, assess and control the risks arising from its use of the material.

If clarification or further information is needed, the user should contact their Ixom representative or Ixom Operations Pty Ltd at the contact details on page 1.

Ixom Operations Pty Ltd's responsibility for the material as sold is subject to the terms and conditions of sale, a copy of which is available upon request.



James F. Murnane II, PE

NJ Lic No. 24GE03664800

Professional Engineering Consulting

October 16, 2018

Vincent McGeary
20 Cathedral Rock Trail
Sedona, AZ 86336

RE: Plans for Water Treatment Plant
By Arizona Water Company

Mr. McGeary,

I have performed a brief engineering review of the above referenced plan for the construction of the Water Treatment Plant proposed by the Arizona Water Company.

After my review, and taking under consideration the aspects delineated in your letter, it would appear that the project for all intents and purposes would be considered a treatment plant and not a simple water tank. It would also appear that the pump room, electrical room and sodium hydrochlorite treatment facilities are not simply supporting equipment of the tank. In my professional opinion, this proposal is a more complicated project than portrayed in the application.

I would encourage the Community Development Department Planning and Zoning Commission of the city of Sedona to pause on a decision to approve this project until (1) a further detailed assessment is performed by a multi-disciplinary team of subject matter experts to properly evaluate all the technical aspects of the project and (2) experts are consulted in the area of the planning/zoning aspects to evaluate the need, appropriateness and environmental impact to the community.

Sincerely,

James F. Murnane, II
NJ Lic No GE36648