

MOHAVE COUNTY WATER AUTHORITY

2031 Highway 95, Suite 1, Bullhead City, AZ 86442
Telephone No. (928) 763-6969

May 21, 2020

Via email sscantlebury@azwater.gov

Director Thomas Buschatzke
Arizona Department of Water Resources
Attn: Sharon Scantlebury, Docket Supervisor
P. O. Box 36020
Phoenix, Arizona 85067-6020

Re: Mohave County Water Authority Comments to the Response to Comments filed on
May 7, 2020 by Town of Queen Creek and GSC Farm, LLC

Dear Director Buschatzke:

The Department's Substantive Policy Statement CR10- Policy and Procedure for Transferring an Entitlement of Colorado River Water ("Transfer Policy") is intended to foster collaborative management of Colorado River entitlements. The Transfer Policy contemplates the transferring and /or receiving entity will consult in good faith with individuals and entities claiming negative impacts in an attempt to negotiate resolution or mitigation of those impacts. The Transfer Policy expressly affords applicants an additional 90 days to "to attempt to resolve or mitigate the claimed impacts and to provide information to the Secretary." See page 7 of the Transfer Policy. (emphasis added.).

The Department of Water Resources ("Department"), by communication dated February 10, 2020 afforded GSC Farms and the Town of Queen Creek ("Applicants") 90 days under the Transfer Policy for the limited purpose "to review the public comments in detail and to attempt to address any concern of negative impact from the proposed transfer action that have been expressed." In said communication , the Applicants were advised that at the end of the 90-day period, May 10, 2020, they must inform the Department of their attempts to resolve and/or respond to any claims of negative impacts from the proposed transfer action." (emphasis added.).

We write to advise you the Applicants made no attempt to contact the Mohave

County Water Authority ("MCWA") to resolve or respond to our claims of negative impact. Rather than consult with us, or to our knowledge any other objector, to attempt to resolve claimed negative impacts, the Applicants filed a 281-page document arguably to respond to public comments. Rather than respond with an effort to mitigate claimed negative impacts, the filing simply rebuts the public comments objecting to the transfer. No attempt was made to address our concerns. To our knowledge, no attempt was made to address the concerns of any other objector. The Transfer Policy does not provide for a rebuttal filing. Accordingly, this 281-page document, purportedly a response to public comments, should not be accepted by the Department as a part of the transfer process record due to its failure to comply with the Transfer Policy.

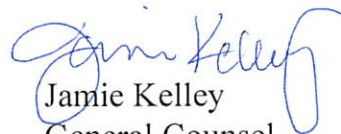
MCWA complied with the spirit of the Transfer Policy in a previous transaction when it acquired, with the intent to transfer the water north along the mainstem, land and a water entitlement in Cibola Valley. As a part of its transfer process, MCWA met and negotiated with impacted parties to resolve claimed negative impacts. As a result of those discussions/negotiations with impacted parties, MCWA left 2 acre-feet of water on the land, contracted to sell water to impacted parties and transferred water to the Multi-Species Conservation Program. Conversely, because no such "attempt to resolve or mitigate the claimed impacts" of the proposed transfer were made by the Applicants as required by the Transfer Policy, the Department should reject Applicants' rebuttal of public comments.

The Applicants appear to have not used the 90 Days as the Department intended or as the Transfer Policy contemplates. Accordingly, the Response to Comments should be rejected. If the Response to Comments is not rejected, its failure to comply with the Transfer Policy, which requires consultation and negotiation with individuals and entities claiming negative impacts, should be taken into account.

Thank you for your consideration.



Mark R. Clark CCM
Chairman
Mohave County Water Authority
Bullhead City Council Member



Jamie Kelley
General Counsel
Mohave County Water Authority