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IDAHO PUBLIC  
UTILITIES COMMISSION

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Attorney for the Commission Staff

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

<b>IN THE MATTER OF THE APPLICATION</b>	)	
<b>OF CDS STONERIDGE UTILITIES, LLC FOR</b>	)	<b>CASE NO. SWS-W-03-1</b>
<b>APPROVAL OF AN AMENDMENT TO ITS</b>	)	
<b>CERTIFICATE OF PUBLIC CONVIENCE AND</b>	)	
<b>NECESSITY TO INTERCONNECT WITH AND</b>	)	<b>COMMENTS OF THE</b>
<b>ACQUIRE THE SERVICE TERRITORY OF</b>	)	<b>COMMISSION STAFF</b>
<b>HAPPY VALLEY RANCHOS, INC. AND TO</b>	)	
<b>IMPLEMENT A SURCHARGE.</b>	)	

**COMES NOW** the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, John Hammond, Deputy Attorney General, and in response to the Notice of Application, Notice of Public Workshop, Notice of Modified Procedure, and Notice of Written Comment Deadlines, issued on June 5, 2003, submits the following comments. Order No. 29254.

### BACKGROUND

On March 17, 2003, CDS Stoneridge Utilities LLC (Stoneridge; Company; SU) filed an Application seeking Commission authorization to acquire the service territory of Happy Valley Ranchos, Inc. (HVR), a Homeowners Association Water System, to complete an interconnection between the existing Stoneridge water system and the neighboring HVR system, to amend its Certificate of Public Convenience and Necessity to include the HVR customers within the Stoneridge service territory and to implement a surcharge on the rates for connecting HVR

customers to service the debt that will be incurred for the interconnection project. Attached to the Application are eight exhibits.

The Commission by Order No. 29254 suspended the Company's Application and determined that Stoneridge shall continue charging only the current Stoneridge customers existing Commission-approved rates and charges until such time as the Commission issues an Order accepting, rejecting or modifying the Company's Application and the HVR customers are actually being provided water service by Stoneridge. Order No. 29254 at 1.

## **STAFF EVALUATION**

### **Company Proposal**

Stoneridge Utilities requests approval to interconnect the SU water system and the neighboring Happy Valley Ranchos Inc. water system. HVR initiated discussions with SU regarding possible interconnection between the two systems in order to obtain better quality water. The HVR system supply is of limited quantity and has experienced water quality problems in the form of high iron concentration that requires fairly expensive filtration. The Stoneridge system in comparison has two wells of good quality and quantity (600 and 800 gallons per minute), an existing chlorination system and a substantial amount of storage. After comprehensive negotiations between the two companies, SU agreed to interconnect subject to Commission approval and receipt of Idaho Department of Environmental Quality (DEQ) financing.

Stoneridge Utilities is working with the DEQ for approval of the interconnection. It has also requested a loan from the State Drinking Water Revolving Fund to finance the engineering and construction of the interconnection. The Company has obtained the services of James A. Sewell and Associates consulting engineers to assist them with project engineering and agency review. The Company's engineering consultant filed a report with the Commission and DEQ entitled "CDS Stoneridge Utilities L.L.C. & Happy Valley Ranchos Water System Connection 2003 Engineering Report" on May 15, 2003. The engineering report provides the detailed engineering calculations for the design of the interconnection project and some minor HVR system upgrades. It also includes a detailed cost estimate for the project as well as a recommended recovery method for the construction costs.

The report estimates the total project cost to be \$213,500. Stoneridge Utilities has requested an equivalent loan amount from the State Drinking Water Revolving Fund that is administered by DEQ to pay for all of the interconnection costs. The Company proposes to recover the financing

costs by implementing a surcharge of \$12.65 per month from each customer benefiting from the interconnection. Presently that includes only the existing Happy Valley Ranchos water customers. However, the Company also proposed to apply the surcharge to any new customers connecting to the system downstream of the booster pump station serving the Happy Valley Ranchos system. The surcharge is intended to recover only the debt service costs (principal and interest) to amortize the State Revolving Fund loan over 20-years.

Once the interconnection is complete, the Company proposes to merge the operations of the Happy Valley Ranchos system with the Stoneridge Utilities system. Stoneridge will cancel the existing HVR rates and charges and begin charging the HVR customers all existing Stoneridge Utilities approved rates and charges plus the surcharge. The Company is not proposing any changes in rates at this time to the existing Stoneridge Utilities customers. The following is a comparison of the existing HVR and SU rate schedules together with the surcharge proposed to collect the debt service costs:

**Existing Happy Valley Ranchos**

Base Charge	\$ 5.00	Existing loan surcharge	Monthly	
Base Charge	\$ 24.00	including the first	20,000	gallons
	\$ 2.50	per 1000 gal for the next	10,000	gallons
	\$ 5.25	per 1000 gal for the next	10,000	gallons
	\$ 8.50	per 1000 gal for over	40,000	gallons

**Existing Stoneridge Rates**

Base Charge	\$ 14.00	Monthly
Commodity Charge	\$ 0.30	per 1000 gal

**Proposed Happy Valley Ranchos Rates**

Base Charge	\$ 14.00	Monthly
Commodity Charge	\$ 0.30	per 1000 gal
Proposed Surcharge	\$ 12.65	Monthly

**The Interconnection Project**

Commission Staff has reviewed the Engineering Report, performed an onsite investigation of the physical system, had lengthy discussions with DEQ, the Company, its engineer, and held a public workshop at the Stoneridge Event Center in Blanchard, Idaho on June 23, 2003. The interconnection project is composed of approximately 3500 lineal feet of 8-inch transmission main, a fire hydrant, associated valves and fittings. Because the HVR system is higher in elevation, a duplex 150 gallon-per-minute 125 psi booster pump station is required between the two systems.

The booster station is scheduled adjacent to the existing Stoneridge 315,000-gallon reservoir. The project also includes some minor system improvements to the Happy Valley Ranchos system. The HVR system's existing 32,000-gallon storage tanks are to be cleaned and additional system flushing blow-offs are to be installed.

The project is scheduled to begin construction once the DEQ loan is finalized and the project receives agency approval. The initial project construction schedule anticipated completion by fall of 2003 but because of likely weather concerns a more realistic schedule will be final project completion in spring of 2004. Once the interconnection project is completed and water can begin flowing, the existing HVR well will be disconnected from the system and properly abandoned. Given the amount of iron residue and iron bacteria in the HVR system, additional tank cleaning and improved flushing ability provided by the interconnection will be needed to achieve water quality approaching that of the Stoneridge system. It may take as much as a year or more of working with the HVR system before the majority of the iron will be completely removed. Therefore, the two systems will remain isolated to avoid cross contamination.

The existing Stoneridge supply and storage appears to be adequate to serve both systems. The Stoneridge system is designed for a much larger customer base yet development has not occurred at the rate initially anticipated. Therefore, there remains excess storage and pumping capacity available to serve additional customers. If at some point in the future water production becomes a problem, the Stoneridge system is located over the Rathdrum Prairie Aquifer. This Aquifer is known to contain huge reserves of high quality water. However, it is evident that the HVR system is not located over the same aquifer. HVR has attempted four times to find higher quality water and has been unsuccessful. Therefore, the proposed interconnection and merger of the Stoneridge and Happy Valley Ranchos systems appears to be the most practical and technically feasible method of providing a satisfactory water supply to the HVR homeowners.

The engineering report was professionally completed and the engineer has answered all of Staff's questions regarding service supply and design. The proposed interconnection design appears capable of adequately serving the HVR system without detrimentally affecting service to the existing Stoneridge customers. DEQ has reviewed the proposed project and found it sufficiently favorable to recommend an interest rate reduction for the requested loan. DEQ is proposing an interest rate reduction to 2% from the traditional 3.75% revolving fund loan rate because the project consolidates two systems and it believes will provide significant public benefit. At the public workshop, customers in attendance spoke in favor of the merger and were generally in agreement

with the surcharge rates proposed. Based on the foregoing, Staff believes the project solves problems for the HVR customers without harming customers of Stoneridge.

### **The Surcharge**

The Company is proposing that all the project-financing costs be recovered through a dedicated surcharge. Based on the engineer's estimate of \$213,500 and a loan rate of 2% for 20 years the Company estimates the surcharge to be \$12.65 per month for each of the 86 existing HVR customers.

Staff and the Company agree that the surcharge should neither harm nor benefit the Company. Thus it should only be authorized to recover the project financing costs. Staff recommends that the actual surcharge be implemented only after construction is completed, the loan is closed, all costs are known and service is rendered through the interconnection. Even though Staff believes that all interconnection construction and financing costs should be included in the surcharge calculation, Staff cautions the Company and its engineer to make every attempt to control construction costs. The proposed surcharge is the third surcharge estimate provided to the HVR customers and the costs have increased with each estimate. One customer at the public workshop expressed concern about the increasing costs but still supported the interconnection because of the significant benefits that resulted from the project even though the surcharge had increased. Staff recommends that the Company provide Staff with the results of the project construction bids and resulting surcharge estimate. The additional information should provide Staff with an additional degree of certainty for final construction costs. If costs have increased significantly from those proposed, additional review might be warranted before construction costs are expended. Staff recommends that the Commission keep the case open and reserve final approval of the surcharge amount until construction is completed, the interconnection is operational and all financing costs are known and measurable.

Staff and the Company agreed that the surcharge should be charged to all customers taking service downstream of the interconnection between the Stoneridge and the Happy Valley Ranchos system.<sup>1</sup> Any new customers that connect to the Happy Valley Ranchos side of the system would also pay the surcharge. Staff recommends that these additional proceeds be used to prepay principal on the loan. Principal prepayment would help shorten the life of the loan and the surcharge.

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<sup>1</sup> The location of the interconnection between the Stoneridge and the Happy Valley Ranchos system is agreed to be the

Attempting to adjust surcharge rates with each new customer connection would be overly burdensome for the Company and would not provide sufficient benefit for the level of effort.

Staff will continue to work with the Company to establish proper accounting procedures for recording surcharge funds and expenditures. Staff will further assist the Company to properly record the improvements and revenues in the Company's annual reports.

### **Customer Rates**

The Commission in Case No. GNR-W-98-1, Order No 28206 approved the existing SU rates of \$14 per month plus \$.30 per 1000 gallons. These rates were based on 23 residential customers, 2 commercial customers, the condominium association and the golf course. The number of customers has grown slowly since the rate case. Currently there are 36 residential and 13 commercial customers and by interconnecting the HVR system, SU will add the 86 HVR residential customers. Water companies generally experience economies of scale with increases in number of customers and Staff believes that Stoneridge will likely experience unit cost savings as a result of the acquisition of these 86 customers. Therefore, Staff recommends that the Stoneridge rates be reviewed in two years from the time of the interconnection to ensure that the Company is not over earning from the addition of the HVR customers.

Staff has also reviewed the effect of the surcharge together with the existing Stoneridge rates on Happy Valley Ranchos customers. The existing SU rates are significantly below the existing HVR rates. Even with the proposed surcharge the cost to HVR customers may be less than their existing rates depending on customer usage. The greatest rate increase for HVR customers would be at a usage of 20,000 gallons per month. The increase at 20,000 gallons is less than \$4.00 per month for a much improved water supply. HVR customers using more than approximately 22,000 gallons per month would see a rate decrease, and those using from 7,800 to 21,700 would see an increase of less than \$4.00 per month. Attachment A is a comparison of the existing rates for both systems and the proposed rates for the HVR customers after the interconnection at various levels of consumption.

### **CONSUMER ISSUES**

The Commission sent individual notice of the proposed merger to each customer of both Stoneridge and HVR. A public workshop attended by 11 customers, representatives of the Commission Staff, both water companies and DEQ was held June 23, 2003 in Blanchard.

By June 30, 2003 nine customers of the Happy Valley Ranchos Water System had filed written comments. Those comments are now part of the official case record. As an indication of support by the parties for the merger and interconnection project, Staff includes as Attachment B, a signed Water System Transfer and Acceptance Agreement signed by Happy Valley Ranchos board of directors and Stoneridge Utilities.

If the merger is approved, residents of Happy Valley Ranchos Water System will become customers of Stoneridge Water Company. Stoneridge Utilities is in compliance with the rules and regulations of the Idaho Public Utilities Commission, including the Utility Customer Relations Rules, (IDAPA 31.21.01000), Utility Customer Information Rules, (IDAPA 31.21.02000) and Small Water Company Policies, (IDAPA 31.36.01000). The portion of the existing HVR homeowners association by-laws applicable to the water system will be superceded by Stoneridge Utilities tariffs. Stoneridge has prepared a rules summary, which will be sent to all customers following approval of the merger. IPUC rules can be reviewed at the local office of Stoneridge Water Company, or on line at <http://www.puc.state.id.us/Rules.htm>.

Rates charged for water are determined by the IPUC and can be found in approved tariffs. Rates cannot change without notice to customers, Application to and approval by the IPUC. Stoneridge's current tariffs can be found on the Commission's website. However, the current tariffs will not include the surcharge for Happy Valley Ranchos Water customers until the Commission has determined the appropriate surcharge. Staff will work with Stoneridge to prepare a new tariff showing the surcharge for Happy Valley Ranchos Water System customers at the completion of this case.

## **OTHER ISSUES**

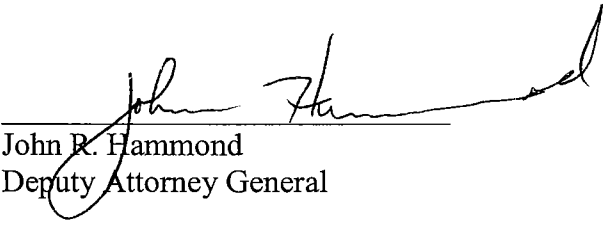
The Stoneridge Development is operated and controlled under a number of different organizations. The parent company has added a strictly utility-limited liability company since the initial certificate was issued and has operated the utility solely through this company since its inception. Staff believes that this organization will facilitate the review of utility finances and potentially avoid the commingling of funds between the development company, golf course, or any other of the operations and the water utility.

## STAFF RECOMMENDATION

Based on the foregoing, Staff recommends the following:

1. The Commission approve the acquisition of Happy Valley Ranchos Water System by Stoneridge Utilities.
2. The Commission approve the interconnection project and authorize debt financing from the State Drinking Water Revolving Fund when approved by the Department of Environmental Quality.
3. The Commission keep the case open and reserve approval of the surcharge amount until all financing costs are known and measurable.
4. The Commission require Stoneridge to file the construction bid costs and revised surcharge calculation once bids are received.
5. The Commission authorize the use of existing Stoneridge Utilities rates for all former Happy Valley Ranchos customers and apply a surcharge only to those customers downstream of the booster pump station adjacent to the existing Stoneridge storage reservoir once service is provided to them.
6. The Commission require that all surcharge funds be used exclusively for the payment or prepayment of the State Drinking Water Revolving Fund loan.
7. The Commission change the name on Certificate No. 395 from CDS Stoneridge Associates-Land L.L.C. to CDS Stoneridge Utilities, L.L.C.
8. The Commission amend Certificate No. 395 to include the Happy Valley Ranchos service territory within the certificated area.

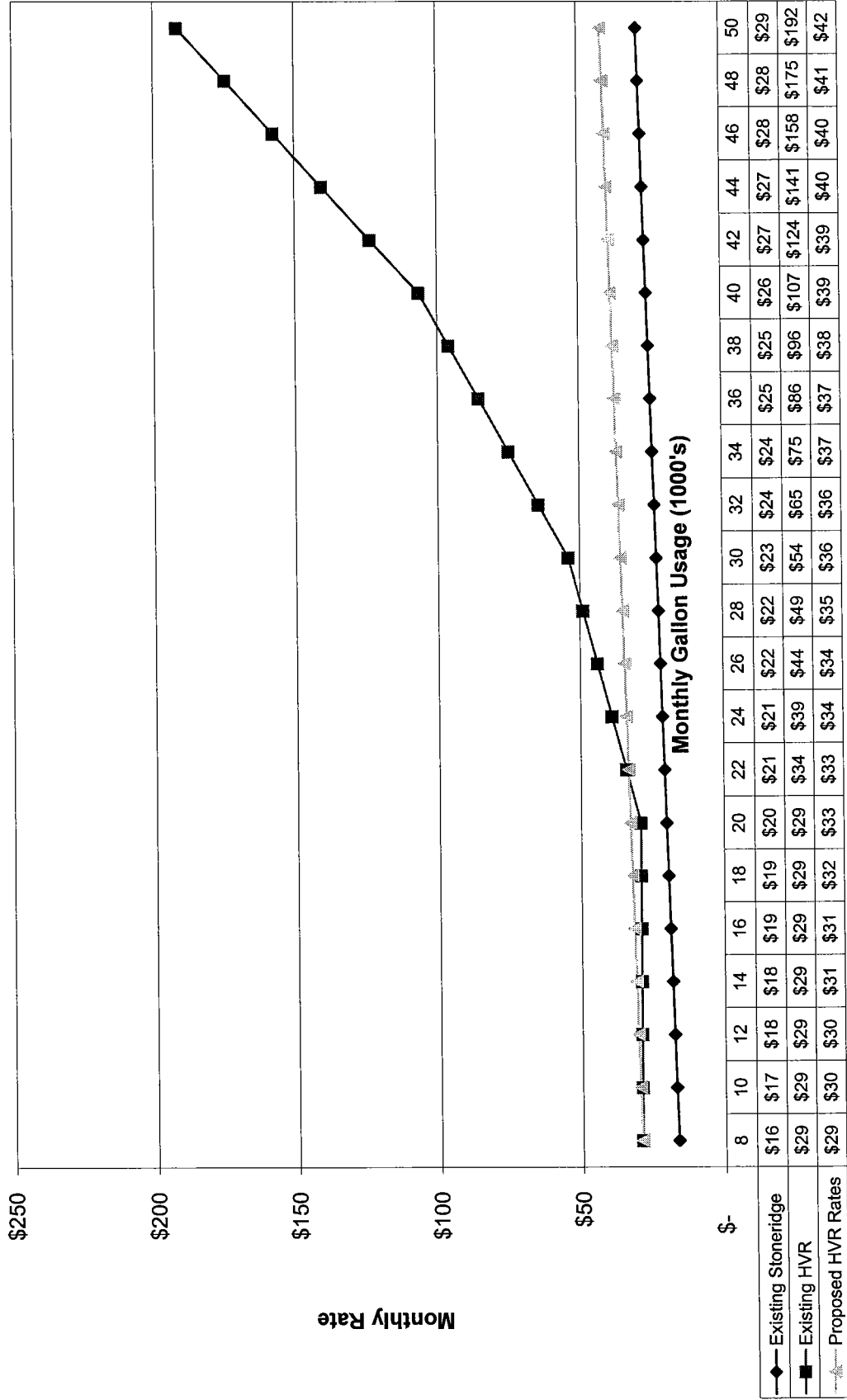
Respectively submitted this 7<sup>th</sup> day of July 2003.

  
John R. Hammond  
Deputy Attorney General

Technical Staff: Bob Smith  
Michael Fuss  
Marge Maxwell



# Rate Comparison



## WATER SYSTEM TRANSFER AND ACCEPTANCE AGREEMENT

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of March, 2003, by and between CDS STONERIDGE UTILITIES, LLC ("SU") ("Transferee") and HAPPY VALLEY RANCHOS WATER, INC., ("HVR").

WHEREAS, HVR is the owner of that certain parcel of property and those certain easements ("the Land") located in Bonner County, Idaho, property, assets and fixtures, commonly known as the HVR Water System (the "Water System") and more particularly described on Exhibits A and B attached hereto; and

WHEREAS, HVR has reached an agreement with SU, as contained within a Letter of Understanding dated February 6, 2003 (the "Letter") regarding the transfer of the Water System to SU; and

WHEREAS, SU and HVR wish to further set forth their understandings and agreement regarding the terms and conditions of the transfer of the Water System;

NOW, THEREFORE, in consideration of the terms and conditions of this Agreement, and the mutual covenants herein contained, SU and HVR do hereby agree as follows:

HVR shall transfer and convey to SU, and SU shall accept from HVR, upon and subject to the terms and conditions set forth in this Agreement, all of HVR's property that is used and useful in providing service from the Water System. The final acceptance by SU of the Water System is subject to the satisfaction of certain conditions as set forth herein. Notwithstanding any other provisions set forth herein, the election to accept transfer of the water system rests solely with SU. If, in its sole discretion, SU determines that it will accept the Water System, the parties shall mutually establish a date upon which the transfer is to occur (the "Closing Date"). It is understood that after the "Closing Date" SU will provide water service and ongoing maintenance to HVR users from SU's current water supply subject to IPUC regulations.

### SECTION 1. SALE OF ASSETS.

HVR agrees to transfer and SU agrees to accept all property and assets of HVR useful or necessary for the operation and maintenance of the Water System. The Assets include, but are not limited to, those items described on Exhibit A, attached hereto and made a part hereof (the "Assets").

## **SECTION 2. TRANSFER OF LAND AND IMPROVEMENTS.**

HVR agrees to transfer and SU agrees to accept certain real property owned by HVR that is useful and necessary in operating and maintaining the Water System (the "Land"). The Land includes the easements also described in Exhibit B, together with all the buildings, easements, appurtenances, rights, privileges and improvements thereunto belonging or appurtenant to the Land (the "Improvements"); all personal property owned by HVR and located on or used in connection with the Land or the Improvements, including, but not limited to the personal property listed on Exhibit A attached hereto and all fixtures, equipment and appliances useful or necessary for normal operation of the Water System; all trees, shrubbery and plants now in or on the Land; all rights, titles and interests of HVR in and to all alleys and strips; all rights, titles and interests of HVR in and to all leases, licenses or other agreements concerning occupancy of the Land or the Improvements; all rights, titles and interests of HVR in and to all rights-of-way, rights of ingress or egress or other interests in, on, or to, any property, highway, street, road, or avenue, open or proposed, in, on, or across, in front of, abutting or adjoining the Land; all rights, titles and interests of HVR, if any, in and to any unpaid awards for damage thereto, if any; all insurance proceeds payable by reason of fire or other casualty occurring on or with respect to the Water System, Improvements, or Land after the date of this Agreement; and all permits, certificates, approvals and licenses with respect to the Water System, Land and Improvements, including, but not limited to, certificates of occupancy and conditional use and other permits (all of the foregoing being hereinafter referred to collectively as the "Property").

## **SECTION 3. TERMINATION OF AGREEMENT.**

SU shall be entitled to perform any due diligence it deems necessary, in its sole and absolute discretion, and shall be entitled to terminate this Agreement by written notice to HVR at any time prior to closing.

Reasons for termination may include, but not be limited to, the following:

- (a) Inability to complete all due diligence review in a manner or on a schedule as identified by SU; or
- (b) Identification that the Water System, or any portion of it, is in worse condition than has been understood by SU; or
- (c) Failure to obtain unqualified approval for either the transfer of the Water System by HVR to SU, or the operation of the Water System after the transfer by appropriate State of Idaho and public health regulatory bodies; or
- (d) The availability of funds from Idaho Department of Environmental Quality ("DEQ") in an amount sufficient to finance necessary repairs to the Water System at an interest rate and under terms acceptable to SU; or
- (e) The development of a plan acceptable to SU to provide adequate and acceptable security to DEQ for the repayment of the loan, which may include some form of special assessment which may involve a lien against a delinquent individual's property or properties specially benefited by the improvements. ; or
- (f) Failure to satisfy any other terms or conditions of the Letter, which terms or conditions are incorporated herein as if fully set forth.

#### **SECTION 4. HVR REPRESENTATIONS AND WARRANTIES.**

HVR hereby makes the following representations and warranties, which representations and warranties shall be deemed made by HVR to SU also as of the Closing Date and shall survive the Closing Date.

- (a) Disclosure of Material Facts. HVR represents that it has provided SU with all information, including supporting documentation, and has not made any misstatements or omissions material to the transfer contemplated by this Agreement. HVR further warrants that

should the existence of additional documents that are or may be material become known to HVR, that it shall immediately notify SU and make the documents or materials available as quickly as is practicably possible.

(b) Authentication of Documents. HVR represents that the documentation it has provided to SU in conjunction with the transfer contemplated by this Agreement is authentic and complete in all material respects.

(c) Parties in Possession. HVR is the owner of all Assets and Property being transferred herein and the Assets and Property are being transferred free of any lien, claim of lien or encumbrance. There are no parties or trespassers in possession or which have a right to possession of all or any portion of the Assets or Property and there are no leases or licenses affecting the Assets or Property.

(d) Taxes. HVR shall pay all taxes, if applicable, incurred on the Assets, Property prior to the date of transfer by virtue of either its ownership thereof, or operation of the Water System. HVR has paid all taxes attributable to any period of time prior to the Closing Date, including but not limited to, real taxes, and any and all taxes that could become a charge on the Assets as of the Closing Date.

(e) Water System Claims. HVR warrants that there are no claims nor set of facts giving rise to a claim which exists at the time of the Closing Date which claims arise out of the operation of the Water System or its sale of water.

(f) Compliance. HVR has complied with all applicable state, local and federal rules, laws, ordinances and regulations relating to the Property, Assets and Water Rights as of the Closing Date.

(g) Good Repair. HVR warrants that the equipment, Assets and Improvements being transferred are in reasonably good repair, considering reasonable wear and tear, except for mutually agreed upon specific equipment and improvements to be repaired or replaced at actual costs with the proceeds of any financing from DEQ.

(h) Authority of HVR. HVR has the power and authority to enter into this Agreement and be bound according to its terms, and the signatory hereto is duly authorized to execute and deliver this Agreement and to perform all of HVR's obligations hereunder.

(i) Condemnation or Assessment. HVR warrants that there is no pending condemnation or similar proceeding or assessment affecting the Property or Assets, or any part thereof, nor, to HVR's knowledge, is there any such proceeding or assessment contemplated by any governmental authority.

(j) Access. HVR warrants that the Land abuts upon and/or has access to and from public streets. There is no pending or threatened governmental proceeding which would impair or curtail full and free access to the Land from public highways, streets or roads.

(k) Construction Liens. HVR will provide an affidavit of title acceptable to SU that no labor, material or services have been furnished in, on or about the Land or any part thereof as a result of which any enforceable mechanics', laborer's or materialmen's liens or claims might arise.

(l) Service Contracts. There exist no employment, union, service or maintenance contracts or any other contracts, licenses and permits ("Contracts") affecting the Property. HVR shall indemnify, defend and hold SU harmless from any claim made or cause of action brought under any such service contract, other than such a claim or cause of action arising out of events occurring after the Closing Date with respect to any contract of HVR expressly assumed by SU. Notwithstanding the foregoing, if such a contract exists, SU at its sole discretion may continue said Contract although it is under no obligation to.

(m) Assumption of Liabilities. SU, by virtue of the acceptance of the Assets, and Property, will not be required to satisfy any obligation of HVR arising prior to Closing other than those to be expressly assumed by SU pursuant to this Agreement. HVR will pay and discharge any and all liabilities of each and every kind arising out of or by virtue of the possession, ownership or use of the Assets and Property prior to the Closing Date, and shall indemnify, defend and hold SU harmless therefrom.

(n) Insurance. HVR certifies that policies of property and liability insurance are presently in full force and effect with respect to the Property and Assets. HVR shall maintain in force all policies, if any, of fire and other casualty and liability insurance maintained as of the date hereof with respect to the Assets or the Property until the Closing Date.

(o) Defaults. To the best of HVR's knowledge, HVR is not in default and there has occurred no uncured event which, with notice, the passage of time or both would be a default, under any contract, transaction, agreement, lease, encumbrance, or instrument pertaining to the Assets or Property.

(p) Litigation. There is no litigation or, to the best of HVR's knowledge, threatened litigation which could now or in the future in any way (1) constitute a lien, claim, or obligation of any kind on the Assets or Property; (2) affect the use, ownership or operation of the Assets or Property; or (3) otherwise adversely affect the Assets or Property. For purposes of this clause, litigation includes lawsuits, actions, administrative proceedings, governmental investigations and all other proceedings before any tribunal having jurisdiction over the Assets or Property.

(q) Hazardous Substances. To the best of HVR's knowledge, the Land is not in violation of any law, ordinance, rule or regulation relating to the environmental conditions thereon. Moreover, to the best of HVR's knowledge, there is no hazardous waste or other substance, including but not limited to those that would be a hazardous substance or toxic substance, as defined under the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et. seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1802; and the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et. seq., and the regulations promulgated thereunder, or under any applicable local or state environmental ordinance, statute, law, rule or regulation, on or in the vicinity of the Land, or on any parcels of property which abut the Land. Further, to the best of HVR's knowledge, there are no substances or conditions in or on the Property or any other parcels of property which may affect the Property or use thereof which may support a claim or

cause of action under any federal, state or local environmental statute, regulation, ordinance or other environmental regulatory requirements and to the best of HVR's knowledge, there is no asbestos, PCBs or underground storage tanks located on the Property or which have been removed therefrom. Except for underground water tanks to remain part of the operations.

(r) Option to Acquire Assets or Property. No person or entity has any right of first refusal or option to acquire any interest in the Assets or Property or any part thereof, and HVR has not sold or contracted to transfer the Assets or Property or any portion thereof or interest therein other than as set forth herein.

(s) Violations. HVR has not received nor is HVR aware of any notification from the Department of Building and Safety, Health Department, or such other city, county, state, or federal authority having jurisdiction, requiring any work to be done on the Property or advising of any condition (including, without limitation, hazardous wastes) which would render the Property or the Water System unusable or affect the usability of the Property or any part thereof for the purposes of SU.

(t) Foreign Person. HVR is not a foreign person and is a "United States Person" as such term is defined in Section 7701(a) (30) of the Internal Revenue Code of 1986, as amended (the "Code"). HVR shall deliver to SU prior to the Closing Date an Affidavit prepared by SU evidencing such fact and such other documents as may be required under the Code.

(u) Non-Contravention of Existing Documents. To the best of HVR's knowledge, neither the execution or delivery of this Agreement, nor consummation of the transactions contemplated hereby, nor fulfillment of or compliance with the terms and conditions hereof, contravenes any provision of any law, statute, rule or ordinance to which the HVR or the Property is subject, or conflicts with or results in a breach of, or constitutes a default under, any of the terms, conditions, or provisions of any agreement or instrument to which HVR is a party or by which it is bound, or constitutes a default under any of the foregoing and there exists no default in respect of any obligation pertaining to the Assets or Property.



(v) Agreements. HVR shall not enter into any leases, trust deeds, mortgages, restrictions, encumbrances, liens, licenses or other instruments or agreements affecting the Property without the prior written consent of SU from and after the date of this Agreement.

**SECTION 5. HOLD HARMLESS.**

SU agrees to hold HVR harmless from any and all claims of whatever nature which arise out of facts and circumstances associated with the Assets or Property which occur after the date of Closing, to the extent permitted by law, except to the extent such claims arise from HVR's negligent or wrongful acts or omissions.

HVR agrees to hold SU harmless from any and all claims of whatever nature which arise out of facts and circumstances associated with the Assets or Property which occur prior to the Closing Date.

**SECTION 6. COVENANTS OF HVR.**

HVR covenants and agrees, from the date of this Agreement to the Closing Date, as follows:

(a) HVR will perform all of its monetary and non-monetary obligations (whether for borrowed money or otherwise) and the liens securing same pertaining to the Assets or Property or any portion thereof, if any;

(b) HVR will not allow any lien to attach to the Property or Assets or any part thereof except the lien for ad valorem taxes which are not due and payable and any liens which result from the activities of SU in connection with the Assets or the Property, nor will HVR grant, create, or voluntarily allow the creating of, or amend, extend, modify or change, any easement, right-of-way, encumbrance, restriction, covenant, lease, license, option or other right affecting the Assets or Property, or any part thereof, nor shall HVR enter any agreement or contract affecting the Water System without SU's written consent first having been obtained;

(c) HVR will notify SU of each material event of which HVR becomes aware affecting the Assets or Property, or any part thereof, promptly upon learning of the occurrence of such event; and

(d) HVR shall cooperate and assist SU in obtaining all governmental or regulatory permits and approvals of transfer SU deems necessary to effectuate the transfer contemplated herein. In the event any governmental or regulatory body requires actions by the HVR after the Closing Date, HVR hereby covenants to take such reasonable actions as may be required. The officers and directors of HVR represent both individually and as representatives of HVR, that they will execute necessary documents as may be requested.

If HVR defaults in the performance of its obligations under this section, SU (without any obligation to do so) may, upon ten (10) days' prior written notice to HVR and HVR's failure to cure said default prior to the expiration of said ten (10) day period, cure such default and may seek reimbursement for the cost of said cure from HVR.

#### **SECTION 7. WARRANTIES BY SU.**

(a) SU has legal authority to enter into this Agreement and be bound according to its terms. If SU receives a claim covered by the HVR's hold harmless provision or is making a claim itself for breach of HVR's warranties, it must promptly give HVR written notice of the facts which it possesses which give rise to the claim; and

(b) Until such time that a determination is made as to the validity of the claim by a court of competent jurisdiction, SU and/or HVR in all instances shall have the right to defend all claims.

#### **SECTION 8. CLOSING.**

(a) Time and Place. Provided that all the contingencies set forth in this Agreement have been fulfilled in a manner acceptable to SU (in its sole discretion), the Closing Date shall take place no later than September 30, 2003, unless mutually extended in writing by the parties or unless this Agreement is terminated by SU as provided in Section 4 herein.

(b) Documents to be Delivered to SU. For and in consideration of, and as a condition precedent to, the acceptance by SU of the Water System, HVR shall obtain and deliver to SU at Closing the following documents (all of which shall be duly executed and acknowledged where required and shall survive the Closing):

(i) Corporate Authority. All documents reasonably necessary to show that HVR is properly organized and existing pursuant to the laws of the State of Idaho, and that the signatories are authorized to enter into this transaction. Such documents shall include, but are not necessarily limited to, a Certificate of Good Standing issued by the Secretary of State's Office, and a resolution duly adopted and executed by HVR's Board of Directors.

(ii) Warranty Deed. Statutory warranty deeds in recordable form and otherwise in form and substance acceptable to SU containing the legal description of the Land in such form as will convey to SU good, marketable and indefeasible title to the Land, free and clear of all liens, encumbrances, conditions, easements, assignments, and restrictions, except for general real estate taxes not yet due and payable and the exceptions permitted by SU.

(iii) No Water Rights. There are no water rights as part of this agreement.

(iv) Title Documents. Such other documents, including, without limitation, lien waivers, indemnity bonds, indemnification agreements, and certificates of good standing as may be required (and reasonably approved by HVR) as a condition to its insuring SU's good and marketable title to the Land free of any exceptions other than the exceptions permitted by SU, if title insurance is acquired.

(v) Authority. Appropriate evidence as to authority of HVR to convey the Land to SU.

(vi) Assignment of Leases. To the extent held by HVR, all original leases of, and licenses with respect to all or any portion of the Assets or the Property then in effect and an assignment of same in form and content satisfactory to SU, and a notice to each of the lessees and licensees having rights thereunder to the effect that the Property

has been transferred to SU and directing such lessees and licensees thereafter to remit all rent, license fees and other payments required to be made thereunder directly to SU.

(vii) Assignment of Agreements with Customers of Water System and Service Contracts. All original agreements with respect to service provided by the Water System, including any set forth in Exhibit A hereto, and an assignment of same in form and content satisfactory to SU, and a notice to each of the customers having rights thereunder to the effect that the service agreements are being transferred to SU and directing such customers thereafter to remit all payments directly to SU.

(viii) Notice to Idaho Public Utilities Commission ("IPUC") of Transfer. To the extent required, HVR shall notify the IPUC of the conveyance of the Water System.

(ix) Warranty Bill of Sale. All Assets shall be conveyed to SU by Warranty (as to title) Bill of Sale, Assignment of Warranties, Guaranties and Intangibles in form and content satisfactory to SU and HVR which shall state that good and marketable title to such property is transferred free and clear of all liens and encumbrances.

(x) Surveys. Such surveys, site plans, maps and plans and specifications relating to the Property as are in the possession or control of HVR. Water meters, valves and blowoffs will be shown on such documents.

(xi) Notice to Department of Health of Transfer. HVR shall notify the Panhandle Health District and IDEQ of the conveyance of the Water System.

(xii) UCC Filings Certificate. Any UCC filing certificates necessary to effect the transfer.

(c) Payment of Costs. At Closing, HVR and SU shall pay their own respective costs incurred with respect to the consummation of the transfer of the Assets and Property. Any transfer tax on personal or real property incident to the conveyance of title to the

Property to SU shall be paid by HVR. HVR shall pay the recording fees and any other fees required to effectuate the transfer of the Water System to SU.

(d) Prior to Closing. HVR shall agree to provide operator training to SU.

**SECTION 9. ATTORNEYS' FEES.**

If either SU or HVR brings suit to enforce the provisions of this Agreement, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and costs in connection with such lawsuit in an amount which the court deems just.

**SECTION 10. COMPLETE AGREEMENT.**

This Agreement, along with the attachments hereto and the Letter, constitutes the entire understanding and agreement of the parties with respect to its subject matter and any and all prior agreements, understandings or representations with respect to its subject matter are hereby canceled in their entirety and are of no further force or effect.

**SECTION 11 CONTRACT MODIFICATIONS.**

No amendment, change or modification of this Agreement shall be valid, unless in writing and signed by all of the parties hereto.

**SECTION 12. NOTICES.**

Any notice required to be served in accordance with the terms of this Agreement shall be sent by registered mail, return receipt requested, addressed to the parties as follows:

To SU:

Dean Allara  
Managing Member,  
CDS Stoneridge Utilities, LLC  
60 East 3rd Avenue  
Suite 112  
San Mateo, CA 94401

To the HVR:

Happy Valley Ranchos Water, Inc.  
Attn: Steve Hites, President  
PO Box 370  
Blanchard, ID 83804

**SECTION 13.           CASUALTY.**

If any fire, windstorm or casualty occurs and materially affects all or any portion of the Assets or Property on or after the date of this Agreement and prior to the Closing, SU may elect, by written notice to HVR, to terminate this Agreement and be relieved of any obligation to accept the Water System. If SU makes such election, neither SU nor HVR has any further liability to the other and shall be relieved of all obligations hereunder.

**SECTION 14.           EVENT OF DEFAULT.**

In the event of a default under this Agreement by HVR (including a breach of any representation, warranty or covenant set forth herein), SU shall be entitled to seek specific performance of HVR's obligations hereunder and/or monetary damages against HVR. In the event of a default under this Agreement by SU (including a breach of any representation, warranty or covenant set forth herein) HVR shall be entitled to seek specific performance of SU's obligations hereunder and/or monetary damages against SU. The parties acknowledge that SU shall have no obligation to assume ownership of or responsibility for the operation of the Water System until contingencies set forth herein are met to the satisfaction of SU.

**SECTION 15.           APPLICABLE LAW.**

This Agreement shall be governed by the laws of the State of Idaho.

**SECTION 16.           RELATIONSHIP OF PARTIES.**

Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third person to create the relationship of principal and agent or partnership or joint venture or of any association between any of the parties hereto other than independent contracting parties.

**SECTION 17.           DOCUMENTS.**

Each party to this Agreement shall perform any and all acts and execute and deliver any and all documents as may be necessary and proper under the circumstances in order to accomplish the intents and purposes of this Agreement and to carry out its provisions. The closing statement will be derived from this agreement.

**SECTION 18.**            **VALIDITY.**

In case any term of this Agreement shall be invalid, illegal, or unenforceable, in whole or in part, the validity of any of the other terms of this Agreement shall not in any way be affected thereby.

**SECTION 19.**            **COUNTERPARTS.**

This Agreement may be signed in counterparts, any one of which shall be deemed to be an original.

**SECTION 20.**            **INDEPENDENT COUNSEL.**

The parties hereto acknowledge and agree that they have each been represented in the negotiations and preparation of this Agreement by independent counsel of their choice, or have been advised to seek independent counsel to represent their individual interests, and that they have read this Agreement, have had its contents fully explained to them by such counsel, if any, and are fully aware of the contents hereof and of its legal effect.

**SECTION 21.**            **UNAVOIDABLE CIRCUMSTANCES.**

Neither party hereto shall be deemed to be in breach or in violation of this Agreement if either is prevented from performing any of its obligations hereunder for any reason beyond its reasonable control including and without limitation acts of God, riots, strikes, fires, storms, public disturbances, or any regulation of any federal, state or local government or any agency thereof.

**SECTION 22.**            **EXHIBITS.**

All exhibits attached hereto are incorporated by reference.

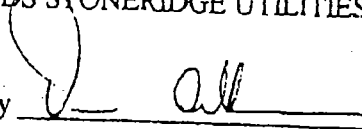
**SECTION 23.**            **HEADINGS.**

The captions and paragraph headings used in this Agreement are inserted for convenience of reference only and are not intended to define, limit or affect the interpretation or construction of any term or provision hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

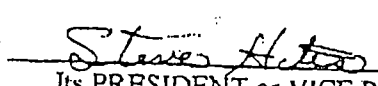
TRANSFEREE:

CDS STONERIDGE UTILITIES, LLC

By   
Its MANAGING MEMBER Dan Allman

HVR:

HAPPY VALLEY RANCHOS, INC.

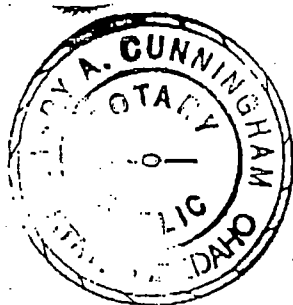
By   
Its PRESIDENT or VICE PRESIDENT



STATE OF Idaho )  
County of Bonner ) ss.

I certify that I know or have satisfactory evidence that DEAN ALLARA is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Managing Member of CDS Stoneridge Utilities, LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 2<sup>nd</sup> day of May, 2003.



[Signature]  
Notary Public in and for the State of Idaho  
residing at Blanchard

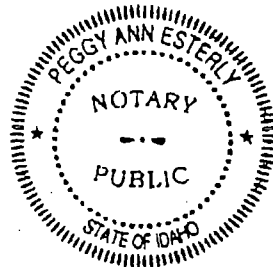
Larry A. Cunningham  
[Printed Name]

My commission expires: 7/10/09

STATE OF IDAHO )  
County of Kootenai ) ss.

I certify that I know or have satisfactory evidence that STEVE HITES is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President of Happy Valley Ranchos Water, Inc. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 3<sup>rd</sup> day of May, 2003.



[Signature]  
Notary Public in and for the State of Idaho, residing  
at Spirit Lake, Idaho 83869

Peggy Ann Esterly  
[Printed Name]

MY COMMISSION EXPIRES  
April 1, 2006

My commission expires: NOTED THIRD NOTARY PUBLIC (NO WRITERS)

LIST OF EXHIBITS

\* Exhibit A: Personal Property and Assets

\*\*\* Exhibit B: Legal Description of Land

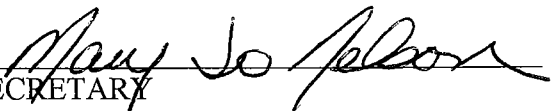
\* Exhibit A:  
Parts List from Happy Valley Ranchos Water  
Map - Happy Valley Ranchos Water System 1, 2, and 3 General Layout

\*\*\* Exhibit B:  
Easement # 578523 LINDSTROM  
Easement # 582870 Harris  
Easement # 578522 Gustin  
Happy Valley Ranchos - Unit 2 , Pages 1 and 2

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 7TH DAY OF JULY 2003,  
SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN  
CASE NO. SWS-W-03-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID,  
TO THE FOLLOWING:

DEAN ALLARA, MGR. MEMBER  
CDS STONERIDGE UTILITIES LLC  
364 STONERIDGE RD  
PO BOX 280  
BLANCHARD, ID 83804

  
SECRETARY