

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In re:)	
)	
Arizona Public Services Company)	Appeal No. NPDES 19-06
)	
NPDES Permit No. NN0000019)	
)	
)	

Revised Certified Administrative Record Index

Pursuant to the Environmental Appeals Board (“EAB” or “Board”) January 9, 2020 Order Granting Motion to Strike and Notice of Service By E-mail (“Order”), Environmental Protection Agency (“EPA”) Region 9 is filing a revised Administrative Record Index. The revised Administrative Record Index does not include the document that was referenced in the Order and has some formatting changes and minor revisions noted below.

EPA did not oppose the Motion to Strike because the document was not relied upon for EPA’s permitting decision. The document was added to the Administrative Record to address an issue that Petitioner raised for the first time in its November 1, 2019 Petition (“Petition”). As noted in EPA’s December 18, 2019 Response at pages 41-42, Petitioner referred to a report titled “*Pinnacle West Capital Corporation – Water 2018*” for the first time in its Petition (*See* Attachment # 66 to the Petition). This report was not raised in Petitioners July 1, 2019 Comments on the draft permit and Petitioner does not explain or justify why it is appropriate to cite it for the first time in the Petition. EPA included the document removed from Administrative Record in order to respond to the issue that Petitioner improperly raised.

Petitioner requested that EPA voluntarily remove the document that was added to the Administrative Record prior to filing his December 30, 2019 Motion to Strike. EPA responded that EPA would remove the document from the Administrative Record if Petitioner would agree to remove Attachment # 66 or identify where it was referred to in Petitioner’s Comments. (*See* attached 12/27/2019 email). Petitioner declined to withdraw Exhibit 66 and did not indicate that the report was referred to in Petitioner’s Comments. *Id.* Although EPA is not filing a motion to strike Exhibit 66, EPA notes that Petitioner has not provided any basis to support referring to it in the Petition.

Petitioner also requested that EPA add the 77 attachments to Petitioners Comments on the draft permit to the Administrative Record. EPA considered the attachments part of the Administrative Record, but added a reference to them in revised Administrative Record Index. *See,*

Administrative Record at 20.1(a) and *Attachment 4 to Petitioners Consolidated Reply* (containing the January 10, 2020 email between John Barth and Dustin Minor.)

EPA also cleaned up the formatting of the Administrative Record and included 14.b.-d. which were inadvertently left off the Certified Index of the Administrative Record.

The revised Certified Administrative Record Index is attached.

Date: January 16, 2020

Respectfully submitted,

/S/ Dustin Minor

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Certificate of Service

I hereby certify that I caused a copy of the attached **REVISED CERTIFIED ADMINISTRATIVE RECORD INDEX** to be served by electronic mail upon the persons listed below.

Dated: January 16, 2020

/s/ Dustin Minor

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