July 19, 1993

Mr. Rita Pearson, Director
Arizona Department of Water Resources
15 South Fifteenth Avenue
Phoenix, Arizona 85007

Re: ADWR's Position on Adequacy Letters
Issued in the Sierra Vista Area

Dear Ms. Pearson:

For the past few years, the Department of Water Resources has consistently advised the Department of Real Estate that due to issues related to the general adjudication that the Department is unable to issue a positive adequacy statement for subdivisions in the Sierra Vista area. The official finding of the Department is that adequate water supplies appear to be physically available but may not be legally available.

The Department’s policy of issuing inadequacy letters in the Sierra Vista area appears discriminatory and inconsistent with its policy in other areas of the state. Two-thirds of the entire state is embroiled in the general adjudication; therefore, the legality of all water supplies is, to some extent, at issue.

There is a presumption under current Arizona law that water withdrawn from underneath the ground constitutes groundwater. Any change in the law must either be forthcoming from a reinterpretation of the existing law from the Arizona Supreme Court or from a legislative enactment.

We request a formal written explanation as to why the Department is able to issue adequacy letters and assured water supply certificates in other areas of the state despite the pendency of the general adjudication but is unwilling to do so in the Sierra Vista area.
Your prompt attention to this inquiry will be deeply appreciated.

Very truly yours,

William P. Sullivan
For the Firm

WPS/knc