

1 **RYLEY CARLOCK & APPLEWHITE,**
 A PROFESSIONAL ASSOCIATION
 2 One North Central Avenue, Suite 1200
 Phoenix, Arizona 85004-4417
 3 Telephone: 602-258-7701
 Telecopier: 602-257-9582
 4 John C. Lemaster (AZ Bar #011588)
jlemaster@rcalaw.com
 5 William B. McManus (AZ Bar #013607)
wmcmanus@rcalaw.com
 6 Robert J. Pohlman (AZ Bar #004601)
rpohlman@rcalaw.com
 7 Rodolfo Parga, Jr. (AZ Bar #015514)
rparga@rcalaw.com
 8 John M. Fry (AZ Bar #020455)
jfry@rcalaw.com
 9 Kara A. Ricupero (AZ Bar #020647)
kricupero@rcalaw.com
 10 Peter J. Borns (AZ Bar #020998)
pborns@rcalaw.com
 11 Sean T. Hood (AZ Bar #022789)
shood@rcalaw.com
 12 Attorneys for Plaintiff

13
 14 **UNITED STATES DISTRICT COURT**
 15 **DISTRICT OF ARIZONA**

16 TRANSWESTERN PIPELINE COMPANY,
 LLC, a Delaware limited liability company,

17 Plaintiff,

18 vs.

19 .71 acre, more or less, of permanent easement
 20 located in Pinal County; .71 acre, more or
 less, of temporary construction easement
 21 located in Pinal County; EDWIN C.
 DENHAM AND ERIA JANE DENHAM,
 22 husband and wife; and UNKNOWN
 OWNERS,

23 Defendants.

No. ____

Parcel No. PN-249

**VERIFIED COMPLAINT AND
 DEMAND FOR JURY TRIAL**

24
 25 For its Complaint, Plaintiff Transwestern Pipeline Company, LLC
 26 (“Transwestern”) alleges as follows:

27 **PARTIES, JURISDICTION AND VENUE**

28 1. Transwestern is a Delaware limited liability company, and is authorized to

1 transact and has been transacting business in the State of Arizona at all times relevant
2 hereto.

3 2. On or about November 15, 2007, the Federal Energy Regulatory
4 Commission (“FERC”), the successor of the Federal Power Commission, voted to issue a
5 Certificate of Public Convenience and Necessity (“Certificate”) to Transwestern after
6 determining that it is necessary and in the public interest to expand Transwestern’s
7 existing pipeline by constructing a new segment of pipeline through Yavapai, Maricopa,
8 and Pinal Counties within Arizona, and all appliances, appurtenances, fixtures,
9 equipment, and facilities, whether above or below ground, necessary or desirable in
10 connection with the certificated pipeline (the “Phoenix Expansion Pipeline”). A true and
11 accurate copy of the Certificate is attached hereto as Exhibit 1.

12 3. The Certificate imposes certain conditions upon Transwestern that
13 Transwestern has already met or is in the process of meeting.

14 4. Transwestern, as holder of the Certificate, is an agent of the United States.

15 5. The defendant property (the “Property”) described in Exhibit 2, which is
16 incorporated herein by reference, is located within Pinal County. Transwestern has not
17 been granted a perpetual easement and right-of-way in, over, upon, across and under the
18 Property for the construction of or access to the Phoenix Expansion Pipeline by its
19 owners.

20 6. The defendant property (the “Property”) described in Exhibit 2, which is
21 incorporated herein by reference, is located within Pinal County. Transwestern has not
22 been granted permission to use the Property as a temporary workspace for the
23 construction of or access to the Phoenix Expansion Pipeline by its owner.

24 7. Transwestern has conducted a reasonably diligent search of public records,
25 including records maintained by the County Assessor of Pinal County, and has conducted
26 a reasonably diligent inquiry to ascertain all parties owning or claiming an interest in the
27 Property. Upon information and belief, Transwestern has identified at least one of the
28 landowners of some part of or interest in the Property, and specifically, Transwestern has

1 identified Defendants Edwin C. Denham and Eria Jane Denham as claiming an
2 ownership interest in this property. These persons will be referred to herein as the
3 “Owners.”

4 8. Despite the reasonably diligent efforts described in the paragraph above,
5 Transwestern may have been unable to identify one or more persons who claim to own or
6 hold an interest in the Property, and Transwestern hereby joins all such persons to this
7 action through the designation “Unknown Owners.”

8 9. The Natural Gas Act, and specifically section 15 U.S.C. § 717f(h), as well
9 as 28 U.S.C. § 1331, confers subject matter jurisdiction upon this Court.

10 10. The amount claimed by the Owners for a perpetual easement and right-of-
11 way in, over, upon, across and under and for a temporary workspace upon the Property
12 exceeds \$3,000.00.

13 11. The Property is located within the District of Arizona and venue in this
14 District is proper pursuant to 28 U.S.C. § 1391(b).

15 **GENERAL ALLEGATIONS**

16 12. Transwestern owns and operates a natural gas pipeline system, which
17 currently services western States, including Texas, New Mexico, Arizona, Nevada and
18 California. The Arizona portion of Transwestern’s existing pipeline generally runs
19 parallel to Interstate 40 through the northern third of the State.

20 13. Transwestern identified a steadily increasing demand and need for natural
21 gas in the Phoenix metropolitan area and surrounding areas, and applied to FERC to
22 expand its existing pipeline by constructing the 36- to 42-inch wide and approximately
23 260-mile long Phoenix Expansion Pipeline through portions of Yavapai, Maricopa and
24 Pinal Counties.

25 14. The Certificate issued by FERC authorizes Transwestern to construct the
26 Phoenix Expansion Pipeline, and reflects that the public interest will be furthered by its
27 construction.

28

1 consistent with the terms of Exhibit 3, the terms of which are incorporated herein.

2 22. Transwestern is entitled to be granted a perpetual easement and right-of-
3 way in, over, upon, across and under the Property for the purposes, presently and at such
4 time in the future as Transwestern may elect, of constructing, maintaining, operating,
5 repairing, relocating, removing and/or replacing the certificated Phoenix Expansion
6 Pipeline in a manner consistent with FERC's regulations, for the transportation of natural
7 gas.

8 23. Transwestern is also entitled to be granted an interest of limited, reasonable
9 ingress and egress over and across the Property for the use of reasonable and necessary
10 pre-construction activities, including, but not limited to, surveys, examinations and tests,
11 for construction activities, and for post-construction activities, including maintenance,
12 operation, repair, relocation, removal and/or replacement of the pipeline, and clearance of
13 trees and plants, undergrowth and other natural or manmade obstruction that may injure
14 or endanger the Phoenix Expansion Pipeline or interfere with Transwestern's ability to
15 access, monitor, maintain, operate, repair, relocate, remove or replace any portion of the
16 Phoenix Expansion Pipeline.

17 24. Transwestern is not entitled to and does not seek to disturb the Owners'
18 rights to cultivate or otherwise make use of the Property for purposes in a manner which
19 will not interfere with the enjoyment of use of the rights, easement, and estate sought by
20 Transwestern, but Transwestern is entitled to be granted the right to preclude anyone
21 from constructing or locating any houses, buildings, walls, structures, lakes, ponds,
22 trenches or any other obstruction on or over each right-of-way, or any part thereof, as
23 surveyed and finally determined.

24 25. Transwestern is also entitled to be granted the full right and authority to
25 lease, sell, assign, transfer, encumber and/or convey to others the right-of-way, estate,
26 interest, rights, and privileges related to the Phoenix Expansion Pipeline granted to
27 Transwestern through the power of eminent domain.
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DATED this 19th day of November, 2007.

RYLEY CARLOCK & APPLEWHITE,
A Professional Association

By /s/ John C. Lemaster
John C. Lemaster
William B. McManus
Robert J. Pohlman
Rodolfo Parga, Jr.
John M. Fry
Kara A. Ricupero
Peter J. Borns
Sean T. Hood
Attorneys for Plaintiff