

ORIGINAL



0000004703

MEMORANDUM

RECEIVED
2004 MAY 17 A 10:09

30

TO: Docket Control
Arizona Corporation Commission

AZ CORP COMMISSION
DOCUMENT CONTROL

FROM: Ernest G. Johnson
Director
Utilities Division

Date: May 14, 2004

RE: ARIZONA UTILITY SUPPLY & SERVICES, INC. AMENDED
APPLICATION FOR TRANSFER OF A PORTION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY TO JOHNSON UTILITIES L.L.C.
(DOCKET NO. SW-04002A-02-0837 AND WS-02987A-02-0837)

Attached is the Staff Report for Arizona Utility Supply & Services, Inc. application for the Transfer of a Portion of its Certificate of Convenience and Necessity to Johnson Utilities L.L.C. Staff recommends approval of the transfer of a portion of the Certificate of Convenience and Necessity.

EGJ:JEF:hml

Originator: Jim Fisher

Arizona Corporation Commission
DOCKETED

MAY 17 2004

DOCKETED BY *nae*

Service List for: Arizona Utility Supply & Services, Inc. and Johnson Utilities, L.L.C.
Docket Nos. SW-04002A-02-0837 and WS-02987A-02-0837

Mr. Maurice Lee
Managing Member
Arizona Utility Supply & Services, Inc.
4002 E. Taro Lane
Phoenix, Arizona 85050

Mr. George Johnson
Johnson Utilities Company
5230 East Shea Boulevard
Phoenix, Arizona 85253

Mr. Jay L. Shapiro
Fennemore Craig
3003 North Central Ave.
Suite 2600
Phoenix, Arizona 85012
Attorney of Johnson Utilities L.L.C.

Mr. Christopher C. Kempley
Chief, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief, Hearing Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION

ARIZONA UTILITY SUPPLY & SERVICES, INC.
APPLICATION FOR APPROVAL OF THE TRANSFER
OF A PORTION OF ITS CERTIFICATE OF CONVENIENCE
AND NECESSITY TO JOHNSON UTILITIES L.L.C.

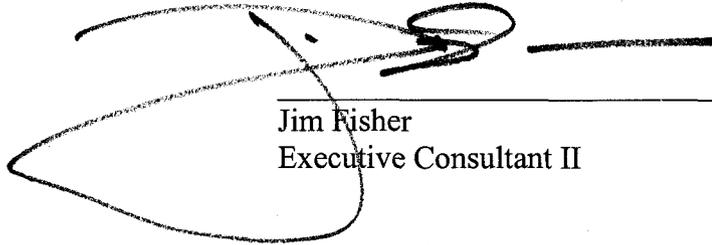
DOCKET NOS.
SW-04002A-02-0837
AND
WS-02987A-02-0837

May 2004

STAFF ACKNOWLEDGEMENT

The Staff Report for Arizona Utility Supply & Services, L.L.C. (Docket Nos. SW-04002A-02-837 WS-02987A-02-0837) was the responsibility of the Staff members listed below. Jim Fisher was responsible for the review and analyses of the Company's application. Lyndon Hammon was responsible for the engineering and technical analysis.

Contributing Staff:



Jim Fisher
Executive Consultant II



Lyndon Hammon
Utilities Engineer

EXECUTIVE SUMMARY
ARIZONA UTILITY SUPPLY & SERVICES, L.L.C.
DOCKET NOS. SW-04002A-02-837
WS-02987A-02-0837

On February 22, 2002, Arizona Utility Supply and Service, L.L.C. ("AUSS" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") to modify Decision No. 64288 (December 31, 2001). On November 12, 2002, AUSS filed an application with the Commission requesting approval of the transfer of a portion of its Certificate of Convenience and Necessity ("CC&N") to Johnson Utilities Companies ("Johnson"), an authorized water and wastewater provider in portions of Pinal county.

In Decision No. 64288 (December 31, 2001) the Commission authorized AUSS to provide wastewater service to five sections within Pinal County. AUSS has requested the Commission modify its conditions for approval to be consistent with the regional wastewater plan approved in the Central Arizona Association of Governments ("CAAG") 208 Plan. AUSS is also seeking Commission authority to transfer Section 22 of its authorized CC&N to Johnson, as the CAAG 208 Plan has authorized Johnson to serve Section 22.

The Clean Water Act is a commitment by the federal government to the elimination of pollution in the nation's waters. Each state is required, under Section 208 of the Clean Water Act, to develop and implement area-wide water quality management plans for pollution control. CAAG has been designated the area wide water quality management planning agency for the Pinal and Gila County areas.

In conjunction with the requirements of the Clean Water Act, ADEQ issued Johnson an Aquifer Protection Permit ("APP"). On October 23, 2003, ADEQ completed its last Annual Compliance Inspection for Johnson's Wastewater Treatment Plant ("WWTP") to ensure Johnson was operating per the requirements of the APP and Reuse Permit. ADEQ found Johnson in compliance with all requirements.

The CAAG 208 Plan determined that Section 22 will be better served by a larger regional water reclamation plant, Pecan Water Reclamation Plant ("WRP"). AUSS intended that wastewater flows from its service areas would be treated by existing smaller plants, Cambria and Castlegate. AUSS informed ADEQ on June 12, 2003, that the Company and Johnson have entered into an agreement to treat wastewater flows intended for the Castlegate at the regional Pecan WRP.

On December 29, 2003, AUSS requested the Commission provide the Company until December 29, 2004, to obtain 208 Plan conformance as required by Decision No. 64288. AUSS also informed the Commission that the Castlegate and the Cambria wastewater treatment plants are no longer under consideration for construction, and therefore, any compliance issues should be removed.

On November 20, 2003, ADEQ conducted an annual inspection of the Meadow Vista WWTP. ADEQ issued AUSS a Notice of Violation ("NOV") for its failure to operate a

subsurface disposal of effluent. ADEQ found that standing effluent of approximately two (2) feet deep was in the leach field. ADEQ believes that AUSS has directed excess effluent to the leach field and caused standing effluent. ADEQ's November 20, 2003, NOV also found AUSS had not complied with operation and maintenance requirements, nor complied with monitoring and reporting requirements.

Staff recommends that the Commission modify Decision No. 64288 to remove the condition that AUSS file, within 365 days of the effective date of the decision, a copy of the ADEQ Certificate of Approval to Construct the Cambria Plant and the Castlegate Plant.

Staff recommends that the Commission approve AUSS Application to Transfer Section 22 of Township 2 South and Range 8 East to Johnson Utilities Company.

Staff recommends that the Commission Cancel AUSS CC&N for Section 22 of Township 2 South and Range 8 East.

Staff further recommends that the Commission require AUSS to show cause that the Commission should not revoke the CC&N provided in Decision No. 64288.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
BACKGROUND	1
AUSS FAILURE TO FILE ACC ANNUAL REPORT	2
AUSS - NOTICE OF VIOLATION	2
JOHNSON UTILITIES	3
JOHNSON’S ADEQ COMPLIANCE STATUS	3
JOHNSON’S ACC COMPLIANCE STATUS	4
AUSS REQUEST TO MODIFY DECISION NO. 64288	5
CAAG 208 APPROVAL	6
ADEQ PERMITS	7
PECAN WATER RECLAMATION PLANT	8
AUSS PROPOSED TRANSFER TO JOHNSON	9
SUMMARY	9
RECOMMENDATIONS	10

ATTACHMENTS

ENGINEERING MAP	1
------------------------------	---

Introduction

On February 22, 2002, Arizona Utility Supply and Service, L.L.C. ("AUSS" or "Company") filed an application with the Arizona Corporation Commission ("ACC" or "Commission") to modify Decision No. 64288 (December 31, 2001). On February 25, 2002, AUSS requested that the Commission modify Decision No. 64288 to provide the Company two (2) years with which to evidence ownership of property on which wastewater treatment plant assets are located, rather than the sixty (60) days provided by the Commission in the original decision.

On November 12, 2002, AUSS filed an application with the Arizona Corporation Commission ("ACC" or "Commission") requesting approval of the transfer of a portion of its Certificate of Convenience and Necessity ("CC&N") to Johnson Utilities Companies ("Johnson").

On April 16, 2003, AUSS filed a request with the Utilities Division to request an extension of time in which to file its 2002 Annual Report per the requirements of the Arizona Administrative Code ("A.A.C.") R14-2-610.D.4. On May 16, 2003, AUSS filed its revenue statements.

On August 27, 2003, AUSS filed an amended application with the Commission requesting approval of the transfer of a portion of its CC&N to Johnson. On September 26, 2003, Staff informed AUSS that the Amended Application was insufficient for administrative purposes and requested additional information from the applicant. On August 27, 2003, AUSS also filed an application with the Commission requesting approval to extend its CC&N to include two parcels contiguous to the northern boundary of its current CC&N.

On December 29, 2003, AUSS filed an amended request, asking the Commission to provide the Company until December 29, 2004 to obtain 208 Plan conformance as required by Decision No. 64288 (December 31, 2001).

On March 17, 2004, AUSS withdrew its application with the Commission requesting approval to extend its CC&N to include two parcels contiguous to the northern boundary of its current CC&N.

Background

In Decision No. 64288 (December 31, 2001) the Commission authorized AUSS to provide wastewater service to five sections within Pinal County, specifically Sections 19, 20, 21, 22 and 30 of Township 2 South of Range 8 East.

By this application AUSS is seeking Commission authorization to modify the compliance requirements of Decision No. 64288 and transfer Section 22 of its CC&N to Johnson. The transfer area is generally located one mile north of Combs road, bounded on the east by Schneff Road, and south of Rittenhouse Auxillary Airfield.

AUSS is a Commission authorized wastewater provider and subject to the rules and regulations of the Commission. AUSS is currently providing service to the public.

AUSS Failure to File ACC Annual Report

AUSS is required to file an Annual Report with the Commission by April 15 of each year per the requirements of the Arizona Administrative Code ("A.A.C.") R14-2-610.D.4. To date AUSS has not filed its Annual Report due April 15, 2003. On April 16, 2003, AUSS filed a request with the Utilities Division to request an extension of time in which to file its 2002 Annual Report.

On April 16, 2003, Staff informed AUSS the Annual Report was due April 15 of each year and that any variance of the rule would require an order from the Commission. Staff further informed AUSS of the need to file the report and the related statements of revenue by May 1, 2003. AUSS was informed that statements of revenue are required by Arizona law to enable Staff to calculate the regulatory assessment.

On May 16, 2003, AUSS filed its revenue statements informing the Commission that the Company had obtained \$452,411 for the year ending December 31, 2002.

As of April 14, 2004, AUSS has not filed the required Annual Report or requested any variance from A.A.C. R14.-2-610.D.4.

AUSS - Notice of Violation

On September 17, 2002, the Arizona Department of Environmental Quality ("ADEQ") issued AUSS a Notice of Violation ("NOV") based on a site inspection of the Links Estates Wastewater Treatment Plant ("Links WWTP"). On September 16, 2003, ADEQ informed AUSS that most of the items of the NOV had been resolved, except for the transfer of the Aquifer Protection Permit ("APP") to AUSS.

On November 13, 2003, ADEQ issued AUSS another NOV for the unauthorized discharge of effluent to a common area of the Links WWTP. ADEQ had received a complaint of odor and conducted an inspection. On January 27, 2004, ADEQ informed AUSS that the NOV was closed as the Company had complied with ADEQ's requirements.

Subsequently, AUSS directed additional sewage flows to the Links WWTP. As a result the Links WWTP was unable to properly treat the sewage, resulting in what ADEQ has termed an "intolerable situation." On May 6, 2004, ADEQ confirmed an agreement with Johnson Utilities to assist ADEQ in resolving the problems with the AUSS system. Johnson Utilities agreed to accept wastewater and effluent from the AUSS service territory, and according to ADEQ will not be responsible for the odor, operational, or any violations occurring in the AUSS territory. As of May 14, 2004, Johnson Utilities was treating the wastewater and effluent of AUSS without compensation.

The Meadow Vista WWTP is owned and operated by AUSS to serve a portion of the CC&N. AUSS purchased the plant but failed to report to ADEQ in violation of the Arizona Administrative Code. On November 20, 2003, ADEQ conducted an annual inspection of the Meadow Vista WWTP and issued AUSS a NOV for failure to report a change in ownership. ADEQ's also found AUSS had not complied with operation and maintenance requirements, nor had it complied with monitoring and reporting requirements.

On November 20, 2003, ADEQ issued AUSS a NOV for its failure to operate a subsurface disposal of effluent. According to ADEQ, excess effluent from the Links WWTP (discussed above) was transported to the Meadow Vista WWTP for process. In addition, ADEQ previously issued AUSS a temporary permit to "vault and haul" sewage from the Castlegate subdivision, to the Meadows WWTP for treatment. ADEQ found that standing effluent of approximately two (2) feet deep was in the leach field and was caused by AUSS directing excess effluent to the leach field and caused standing effluent.

The ADEQ NOV has not been resolved by AUSS.

Johnson Utilities

Johnson is a public service corporation providing water and wastewater service to a portion of the state of Arizona. The Commission provided Johnson with its original CC&N in Decision No. 60223 (May 27, 1997), and subsequently extended the CC&Ns in Decision Nos. 61069 (August 7, 1998) 62087 (November 19, 1999), 63960 (September 4, 2001) and 64062 (October 4, 2001).

The Commission has also denied previous Johnson requests to extend its CC&N, particularly Decision No. 64288 (December 28, 2001) which authorized AUSS the territory subject to this application.

According to Johnson's most recent Annual Report filing with the Commission's Utilities Division, Johnson has installed approximately \$45.8 million in water and wastewater plant to serve the current and future customers in the service area. Johnson reports a combined water and wastewater revenue of \$5.23 million, and reports a combined long term debt of less than \$1 million.

Johnson's ADEQ Compliance Status

As fully explained below, wastewater treatment plants are regulated under a federal, state, and regional system to ensure the proper technology is deployed to meet the current and future needs of the community. Any owner and operator of a WWTP must obtain regional, state and federal approval of the WWTP and its operations, as part of the Clean Water Act.

In conjunction with the requirements of the Clean Water Act, the ADEQ issued Johnson Aquifer Protection Permit ("APP") No. P103081 and Reuse Permit No. R103081 as part of the

environmental permitting required for Johnson's Section 11 Wastewater Treatment Plant. On October 23, 2003, ADEQ completed its most recent Annual Compliance Inspection for Johnson's WWTP to ensure Johnson was operating per the requirements of the APP and Reuse Permit.

According to the ADEQ, 3,689 homes are connected to the sewer system. The WWTP was operating adequately and peak flows have exceeded 450,000 gallons per day ("GPD"). The facility has a design capacity of 1.6 million GPD, and CC&N is anticipated to eventually produce 2.4 million GPD.

The APP was amended June 12, 2002 and required construction of a new compliance monitoring well. Johnson has constructed the required compliance well and submitted the required data to ADEQ. ADEQ noted deficiencies from an October 6, 2003 file review were satisfied by Johnson in the October 23, 2003 inspection.

ADEQ reported that Johnson holds a Reuse Permit which allows the utility to discharge treated effluent, however, Johnson has not discharged to the reuse area, due to the use of the recharge basins.

The Compliance Summary of ADEQ for Johnson shows that the Monitoring and Reporting Requirements, the Reuse Permit, the Operator Certification Requirements, and Operation & Maintenance Requirements are in compliance.

Johnson's ACC Compliance Status

In Decision No. 60233, Johnson was required to comply with eight separate conditions. According to the Utilities Division Compliance Section, Johnson complied with all of the conditions.

In Decision No. 62087, Johnson was required to comply with three separate conditions. According to the Utilities Division Compliance Section, Johnson complied with all of the conditions.

In Decision No. 62284, Johnson was required to demonstrate compliance with ADEQ. According to the Utilities Division Compliance Section, Johnson demonstrated ADEQ compliance on August 25, 2000.

In Decision No. 64062, Johnson was required to comply with seven separate conditions. According to the Utilities Division Compliance Section, Johnson complied with all of the conditions.

In Decision No. 65480 (April 22, 2003) the Commission found that Johnson had failed to comply with ADEQ requirements and failed to timely inform the Commission of its ADEQ status as required. The Commission recognized Johnson's ADEQ civil penalty of \$80,000, and Consent Agreement as resolution of the compliance issues. The Commission further required

Johnson to file documentation demonstrating ADEQ compliance or any ADEQ violation. In addition the Commission required Staff to conduct an investigation into Johnson and recommend whether an Order to Show Cause against Johnson was warranted.

Johnson has consistently demonstrated that it is providing water and wastewater service to the public in accordance with the rules and regulations of the Commission, and in compliance with ADEQ.

AUSS Request to Modify Decision No. 64288

In Decision No. 64288 (December 31, 2001) the Commission authorized AUSS to provide wastewater service to a portion of Pinal County, subject to compliance with eight (8) conditions, AUSS has complied with three of the conditions and shown good reason why certain conditions are no longer needed in light of the changed circumstances related to the CAAG 208 regional planning for wastewater treatment.

The 8 conditions imposed on AUSS in Decision No. 64288 were:

1. That AUSS file a tariff of the authorized rates. (Complied)
2. That AUSS refund unauthorized hook-up fees of approximately \$185,000. (Complied)
3. That AUSS file, within 365 days of the effective date of the decision, a copy of its Pinal County franchise. (Complied)
4. That AUSS file, within 365 days of the effective date of the decision a copy of its approved EPA 208 Plan and ADEQ APP. (Non-compliance)
5. That AUSS file, within 365 days of the effective date of the decision a copy of the ADEQ Certificate of Approval to Construct the Cambria Plant. (Requirement is Moot based on AUSS use of Pecan WTP)
6. That AUSS file, within 2 years of the effective date of the decision a copy of the ADEQ Certificate of Approval to Construct the Castlegate Plant. (Requirement is Moot based on AUSS use of Pecan WTP and Commission transfer of Section 22)
7. That AUSS file, within 5 years of the effective date of the decision a copy of the ADEQ Certificate of Approval to Construct the regional treatment plants. (Requirement should be revised to reflect Pecan WTP)
8. That AUSS file documentation that it has acquired the Links wastewater plant, and the Cambria wastewater plant within sixty days of the decision in this matter, in the event such documentation was not provided in a timely manner,

the Certificate of Convenience and Necessity shall be rendered null and void without further order by the Commission. (Non-compliance)

On February 22, 2002, AUSS filed a status report on compliance with the Commission's Order. AUSS timely filed the tariff rates as required in Finding of Fact No. 78. (Condition 1). Utilities Division Staff found it in compliance with ACC requirements. AUSS also provided a copy of a check in the amount of \$183,467 demonstrating a full refund of the unauthorized Hook-up charges as required by Finding of Fact No. 82. (Condition 2). In addition the Company filed with copies of its Pinal County franchise as required. (Condition 3).

The February 22, 2002 AUSS compliance filing also included the Company's request for a 90 day extension of time to complete negotiations for the transfer of certain wastewater treatment assets to AUSS to comply with Decision No. 64288. (Condition 8)

On February 25, 2002, the Company modified its requested extension of time to comply with evidencing ownership of the utility assets. AUSS requested that the Commission modify Decision No. 64288 to provide the Company two (2) years with which to evidence ownership of property on which the Links assets are located, rather than the sixty (60) days provided by the Commission.

To support the request for an extension of time AUSS provided copies of a February 21, 2002 Bill of Sale for the Links system, however, the treatment facility is located on leased property. Pursuant to the agreement with the Ocotillo Homeowners Association, the Company obtained two years with which to relocate the facilities from the leased property.

On December 29, 2003, AUSS requested the Commission provide the Company until December 29, 2004 to obtain 208 Plan conformance as required by Decision No. 64288. AUSS also informed the Commission that the Castlegate and the Cambria wastewater treatment plants are no longer under consideration for construction and therefore any compliance issues should be removed.

CAAG 208 Approval

The Water Quality Act of 1987 ("Clean Water Act") is a commitment by the federal government towards the elimination of pollution in the nation's waters. Each state is required, under Section 208 of the Clean Water Act, to develop and implement area-wide water quality management plans for pollution control.

In Arizona, 6 Councils of Government, ("COGs") have been designated by the Governor as "Water Quality Management Planning Agencies" under Section 208 of the Clean Water Act. The Central Arizona Association of Governments ("CAAG") has been designated the area wide water quality management planning agency for the Pinal and Gila County areas. Therefore, AUSS and Johnson are required to offer wastewater service consistent with the CAAG 208 Plan.

The guidelines for 208 planning set forth in the Clean Water Act are fairly broad so that the various water quality issues in different areas of the nation can be addressed appropriately. Each 208 Plan must identify the water quality management needs in its planning area and provide a program to develop solutions. The CAAG 208 planning process is an ongoing effort in response to changing water resource issues, regulations, treatment technologies and changing demographics.

ADEQ Permits

A major effort of the CAAG 208 Plan is the Point Source Plan. Point Source planning is primarily directed at compiling the preferred wastewater collection and treatment system for the Pinal county area through the year 2020. Toward that end, the Point Source Plan examines population and wastewater flow projections, treatment methods, effluent disposal, reclaimed water reuse and sludge management.

ADEQ defines, monitors and enforces water quality standards for protected uses of surface waters, aquifers and public water supplies. The ADEQ permit framework for point source management consists of three primary elements consisting of Arizona Pollutant Discharge Elimination System ("AZPDES") the APP and the reclaimed water reuse permit program. The purpose of the AZPDES permit programs is to regulate the quality of point source discharges into the waters of the nation. Based on specific criteria, discharges to rivers, dry washes and various lakes and canals within the affected area are subject to the AZPDES permit program provisions.

The APP was established by the Environmental Quality Act of 1986 and implemented by rule in 1989. The purpose of the APP program is to protect the groundwater quality and public health from potential environmental risks posed by the facilities that discharge pollutants to the land surface, underlying soil, or groundwater that have a potential to reach an aquifer.

The APP permitting requirements are determined based on the type of facility or land use, capacity of the facility, and/or the type of discharges that the facility will produce. The most crucial requirements for obtaining an APP are demonstrating that the Best Available Demonstrated Control Technology ("BADCT") will be used to minimize the discharge of pollutants, Aquifer Water Quality Standards will not be violated and that the facility processes the financial and technical capability to comply with the permit conditions.

The Environmental Quality Act requires that all domestic wastewater and disposal facilities requiring an APP use BADCT as part of their wastewater treatment process. The ADEQ adopted BADCT requirements for new sewage treatment facilities. The design review of sewage treatment facilities has been consolidated into the APP application review process. The BADCT requirements are defined within the rules for secondary treatment, pathogen removal for new facilities and major modifications to older facilities. The APP rule took effect January 2001.

The reclaimed water use permit program, established in 1985, allows the reuse of reclaimed water for a variety of applications such as agriculture, urban lakes, golf course irrigation, ponds and industrial uses. Water reclamation plants are required by rules to have a reuse permit for the release of reclaimed water for reuse purposes.

There are two main categories of reclaimed water reuse including direct non-potable reuse and indirect reuse. Direct reuse consists of irrigation and makeup water for urban lakes. Indirect reuse typically involves aquifer recharge and recovery. The indirect reuse of reclaimed water usually involves recharge to an aquifer for storage and future recovery. The reclaimed water is typically allowed to infiltrate through the dry soils above the aquifer allowing additional treatment. Recharge projects using reclaimed water are required to obtain an APP.

Pecan Water Reclamation Plant

AUSS has requested the Commission modify its conditions for approval to be consistent with the regional wastewater plan approved in the CAAG 208 Plan. AUSS intended to serve its CC&N with wastewater treatment plants at the Cambria and at Castlegate. AUSS no longer has any need for the construction, or approval of Cambria or Castlewood wastewater treatment plants to participate in Pecan WRP, a larger, CAAG 208 approved regional water reclamation plant.

The CAAG 208 Plan has found that the service area will be better served by a larger regional water reclamation plant, Pecan WRP. AUSS intended that wastewater flows from its service areas would be treated by existing smaller plants, Cambria and Castlegate. AUSS informed the ADEQ on June 12, 2003, that the Company and Johnson have entered into an agreement to treat wastewater flows intended for the Castlegate at the regional Pecan WRP.

AUSS and Johnson jointly constructed the Pecan WRP. Johnson and AUSS have entered into service agreements by which the companies respective service areas will be served by a regional treatment plant, rather than the previously authorized small plants. Johnson and AUSS have worked cooperatively to obtain regulatory approvals, construct the regional plant, and reconfigure collection facilities to ensure proper service to the community. AUSS and Johnson have also entered into an agreement in which AUSS will construct collection facilities to direct wastewater flows to be treated at the Pecan WRP.

CAAG recognized the long term treatment capabilities of the Pecan WRP will provide a greater benefit to the service area, than would the previously approved smaller waste water treatment plants, including Castlegate and Cambria.

According to the AUSS 208 Plan Amendment of September 2003, the Pecan WRP will be located in Section 29 and initially service approximately 1,280 acres in the planned area development. When the plant is fully developed Pecan WRP will provide service for approximately 10,000 acres of mixed use development extending from Ellsworth Road to Sierra Vista Drive, and Germann Road to Roberts Road.

As described above, the CAAG 208 approval process, in conjunction with state certification, requires that the owners and operators of Pecan WRP obtain the necessary APP, Reuse Permits, BADCT conformance, and AZPDES permit. Staff recommends that the Commission require Johnson to file a copy of the ADEQ APP for the Pecan WRP within 365 days of any decision in this matter.

AUSS Proposed Transfer to Johnson

AUSS is seeking Commission authority to transfer Section 22 of its authorized CC&N, generally located one mile north of Combs road, bounded on the east by Schneff Road, and south of Rittenhouse Auxillary Airfield to Johnson. On January 23, 2002, CAAG refused to approve AUSS's Plan 208 Amendment to serve Section 22. The CAAG 208 Plan has authorized Johnson to serve Section 22.

According to the AUSS Amended Application to the Commission, the Company has not begun serving any customers in the proposed transfer area. Therefore, no security deposits have been collected by AUSS in Section 22. In addition, AUSS has not entered into any Main Extension Agreements nor are there any service line refunds due to any customer in Section 22.

On December 29, 2003, AUSS filed a copy of its September 2003 Plan Amendment for the Central Arizona Association of Governments 208 Water Quality approval process. According to AUSS amendment, Section 22 has two Planned Area Developments ("PAD"), Castlegate and Summer Ridge.

Castlegate is located in the northern half of the section and is to consist of approximately 276 acres. The subdivision is to consist of 1,409 medium to high density residential dwelling units, some commercial sites, and a 12-acre elementary school site. The elementary school site is to be developed in 10 phases.

Summer Ridge is a proposed subdivision of approximately 100 acres that is to be developed in 350 single family homes.

Section 22 also includes a gravel mine of approximately 237 acres. The mine is regulated by ADEQ and Pinal County for runoff associated with the chemicals used.

Summary

As discussed above, ADEQ has issued AUSS NOVs for its operation of wastewater treatment plants in violation of applicable codes. AUSS has failed to transfer ownership and has failed to monitor and report the performance of its treatment plants as required by the terms of the APP.

Staff believes that AUSS has failed to meet its obligations as a public service company authorized in Commission Decision No. 64288. AUSS has failed to transfer assets, operate assets, report and comply with ADEQ and the Commission.

Staff recommends the Commission require AUSS to show cause (i.e. produce evidence) that it is a fit and proper entity and that it is in the public interest to retain the CC&N issued in Decision No. 64288.

Recommendations

Staff recommends that the Commission modify Decision No. 64288 to remove the condition that AUSS file, within 365 days of the effective date of the decision a copy of the ADEQ Certificate of Approval to Construct the Cambria Plant and the Castlegate Plant.

Staff recommends that the Commission approve AUSS Application to Transfer Section 22 of Township 2 South and Range 8 East to Johnson Utilities Company.

Staff recommends that the Commission cancel AUSS's CC&N for Section 22 of Township 2 South and Range 8 East.

Staff further recommends that the Commission require AUSS to Show Cause that the Commission should not revoke the CC&N provided in Decision No. 64288.

MEMORANDUM

TO: Jim Fisher
Executive Consultant II
Utilities Division

FROM: Barb Wells 
Information Technology Specialist
Utilities Division

THRU: Del Smith 
Engineering Supervisor
Utilities Division

DATE: September 18, 2003

RE: **ARIZONA UTILITY SUPPLY & SERVICES, LLC (DOCKET NO. SW-04002A-02-0837)**
JOHNSON UTILITIES (DOCKET NO. WS-02987A-02-0837)

Arizona Utility has filed an application to transfer part of its CC#N to Johnson Utilities. Attached is an amended legal description for the area that is to be transferred. This amended description has been docketed by the company and should be used in place of the original description submitted with the application.

Also attached is a copy of the map for your files.

:bsw

Attachments

cc: Docket Control
Mr. Maurice Lee
Deb Person (Hand-Carried)
File

COUNTY: Pinal

RANGE 8 East

TOWNSHIP 2 South

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
				23	24
				26	25
				35	36



WS-2987 (6)

Johnson Utilities Company



SW-4002 (1)

Arizona Utility Supply & Services, LLC



Arizona Utility Supply & Services
Docket No. SW-4002-02-837
Application to Transfer to Johnson Utilities
Docket No. WS-2987-02-837

T. List names and addresses of any other public utility interest Transferee has:

1. To be furnished by Transferee by 12/1/02
2. _____

U. Indicate the date that notice of the application was sent, or will be sent to the customers.

December 1, 2003

Note:

This application is necessary as Arizona Utility Supply & Services, LLC has been unable to acquire the 208 Amendment by Central Arizona Association of Governments (CAAG)

AREA TO BE TRANSFERED

LEGAL DESCRIPTION

**ALL OF SECTION 22 TOWNSHIP 2 SOUTH, RANGE
8 EAST OF THE GILA AND SALT RIVER BASE and
MERIDIAN, PINAL COUNTY, ARIZONA.**