



0000018838

COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

ORIGINAL



ARIZONA CORPORATION COMMISSION

22

Arizona Corporation Commission

DOCKETED

DATE: April 8, 2005

APR - 8 2005

DOCKET NO: W-02074A-03-0608

TO ALL PARTIES:

DOCKETED BY	<i>[Signature]</i>
-------------	--------------------

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Opinion and Order on:

BEARDSLEY WATER COMPANY
(CC&N EXTENSION)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

APRIL 18, 2005

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for Open Meeting to be held on:

MAY 3 AND 4, 2005

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

RECEIVED

2005 APR - 8 P 3:14

AZ CORP COMMISSION
DOCUMENT CONTROL

[Signature]
BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 JEFF HATCH-MILLER, Chairman
4 WILLIAM A. MUNDELL
5 MARC SPITZER
6 MIKE GLEASON
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE APPLICATION OF
BEARDSLEY WATER COMPANY TO EXTEND
ITS CERTIFICATE OF CONVENIENCE AND
NECESSITY.

DOCKET NO. W-02074A-03-0608

DECISION NO. _____

OPINION AND ORDER

9 DATE OF HEARING: February 3, 2005
10 PLACE OF HEARING: Phoenix, Arizona
11 ADMINISTRATIVE LAW JUDGE: Marc E. Stern
12 APPEARANCES: Sallquist & Drummond, P.C. by Richard L.
13 Sallquist, on behalf of Beardsley Water
14 Company; and
15 Diane Targovnik, Staff Attorney, Legal Division,
on behalf of the Utilities Division of the Arizona
Corporation Commission.

16 **BY THE COMMISSION:**

17 On August 26, 2003, Beardsley Water Company ("Company" or "Applicant"), filed an
18 application for an extension of its Certificate of Convenience and Necessity ("Certificate") with the
19 Arizona Corporation Commission ("Commission") to provide public water utility service in various
20 parts of Maricopa County, Arizona.

21 On September 18, 2003, the Commission's Utilities Division ("Staff") issued a notice that the
22 application had not met the sufficiency requirements of A.A.C. R14-2-411(C).

23 On October 1, 2004, in lieu of a letter of administrative sufficiency, Staff filed its Staff
24 Report.

25 On October 5, 2004, by Procedural Order, the proceeding was scheduled for hearing on
26 November 4, 2004.

27 On October 18, 2004, pursuant to the Commission's Procedural Order, public notice of the
28 proceeding was provided.

1 On November 4, 2004, Applicant filed a Motion to Continue ("Motion") the proceeding
2 because the parcel of land which is the subject of this proceeding had been sold and placed in escrow.
3 The Company requested an indefinite continuance and requested that the time-frame pursuant to
4 A.A.C. R14-2-411(C) be suspended until the new property owner was ready to go forward. Staff did
5 not oppose the Company's Motion.

6 On November 5, 2004, by Procedural Order, the hearing was continued indefinitely and the
7 time-clock suspended until a Motion to Reschedule was filed.

8 On December 7, 2004, Applicant filed a Motion to Reschedule the hearing.

9 On January 12, 2005, by Procedural Order, the proceeding was rescheduled for hearing on
10 February 3, 2005.

11 On February 3, 2005, a full public hearing was convened before a duly authorized
12 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. The Company and
13 Staff appeared with counsel. At the conclusion of the hearing, the matter was taken under
14 advisement pending Staff filing, not later than 45 days after the hearing, an addendum to Staff's
15 recommendations which clearly sets forth the specific upgrades and/or improvements that Staff
16 believes are required for Applicant's existing system and that includes due dates for compliance
17 filings concerning related construction upgrades and/or improvements.

18 On February 25, 2005, Staff filed a Motion to Admit the Staff Report, Exhibit S-1, which
19 Staff inadvertently failed to move into evidence at the hearing on February 3, 2005. Staff indicated
20 that the Company did not object to this Motion.

21 On March 1, 2005, by Procedural Order, Staff's Motion to admit Exhibit S-1 was granted,
22 Staff was ordered to file the addendum to the Staff Report by March 21, 2005, and the time-clock
23 was suspended pending the issuance of a final Opinion and Order by the Commission.

24 On March 21, 2005, Staff filed the addendum to the Staff Report.

25 * * * * *

26 Having considered the entire record herein and being fully advised in the premises, the
27 Commission finds, concludes, and orders that:

28

FINDINGS OF FACT

1
2 1. Pursuant to authority granted by the Commission in Decision No. 40034 (May 26,
3 1969), the Company is an Arizona corporation which is engaged in the business of providing water
4 service to approximately 295 customers northwest of Phoenix, Maricopa County, Arizona.

5 2. On August 26, 2003, the Company filed an application for an extension of its
6 Certificate in various parts of Maricopa County to provide service to an area which is marked Exhibit
7 A, attached hereto and incorporated herein by reference.

8 3. Notice of the application was provided in accordance with the law.

9 4. On October 11, 2004, Staff filed its Staff Report recommending conditional approval
10 of the application following a hearing.

11 5. The Company has been requested to provide water service to approximately 160 acres
12 of land owned by Manchester Homes which will develop Coyote Trails, a residential subdivision.
13 Coyote Trails is located approximately one-half mile west of Applicant's current certificated service
14 area.

15 6. Applicant projects that future customer growth will result in approximately 117
16 residential connections in the subdivision area in the next five years.

17 7. To provide service to customers in the extension area, Applicant will utilize a new
18 stand alone water system consisting of an eight inch well with an expected production capacity of
19 150 gallons of water per minute ("GPM") and 100,000 gallons of storage capacity. With the addition
20 to the Company's other four water systems, the Company will produce approximately 425 GPM and
21 will have approximately 280,000 gallons of storage capacity.

22 8. To meet the needs of its expanding service area, Applicant is also planning the
23 addition of additional storage and production capacity when needed.

24 9. No other municipal or public service corporations provide water service in the
25 proposed service area described in Exhibit A.

26 10. The Company will provide Staff with a copy of the proposed main extension
27 agreement, a portion of which will be financed through a refundable advance from the developer of
28 Coyote Trails.

1 11. The Company has filed a copy of its expanded Maricopa County franchise which
2 includes the extension area described in Exhibit A.

3 12. The Company will provide service to the extension area at its existing rates and
4 charges on file with the Commission.

5 13. Although the Company has received Commission approval of its Curtailment Tariff, it
6 will have to file a revision to include the proposed extension area.

7 14. Staff reviewed the water production and storage capacity of Applicant and believes
8 that the Company has or will have adequate facilities and the technical expertise to provide service in
9 the requested extension area.

10 15. According to the Staff Report, the Company is not in full compliance with the rules of
11 the Maricopa County Environmental Services Department ("MCESD"), but is providing water which
12 meets the requirements of the Safe Drinking Water Act and the MCL requirements. The Company's
13 water from its four wells does not exceed the new maximum standard for arsenic. Staff indicates that
14 MCESD has reported that all four of Applicant's systems have had minor monitoring and reporting
15 deficiencies and is recommending that any approval of the application be conditioned upon Applicant
16 achieving full compliance with MCESD's monitoring and reporting requirements.

17 16. The Company is current on the payment of its property and sales taxes, and is in
18 compliance with its filing requirements with the Commission.

19 17. Staff believes that there is a public need and necessity for water service to the
20 requested extension area and that the issuance of an extension to Applicant's Certificate is in the
21 public interest.

22 18. Staff is recommending that the Commission approve the Company's application
23 subject to the following conditions:

- 24 1. that the Company charge its existing rates and charges for the proposed
- 25 extension area;
- 26 2. that the Company file, within 365 days of the effective date of this
- 27 Decision, with the Commission's Docket Control and the Director of the
- 28 Commission's Utilities Division, a copy of an executed main extension
- agreement and a revised Curtailment Tariff which includes the proposed
- extension area;

- 3. that the Company file, within 365 days of the effective date of this Decision, with the Commission's Docket Control and the Director of the Commission's Utilities Division, a copy of the developer's Certificate of Assured Water Supply for the proposed extension area;
- 4. that the Company upgrade its system after conducting a cost benefit analysis that compares the following options along with any other option the Company believes will work¹:
 - the interconnection of some or all of its water systems;
 - the installation of additional well(s) for each system;
 - the installation of additional storage capacity for each system.
- 5. that this Decision not become effective until the first day of the month following documentation demonstrating all monitoring and reporting has been accomplished in full compliance per the requirements of the MCESD.

19. Staff further recommends that the Commission's Decision granting the extension of Applicant's certificated service area be considered null and void without further Order from the Commission should the Company fail to timely file the documentation required by the second, third and fourth conditions of Findings of Fact No. 18 above within the time specified.

20. Staff's recommendations in Findings of Fact Nos. 18 and 19 are reasonable with the express understanding that all four of the Company's public water systems must achieve "compliance" status with MCESD requirements before this Decision becomes effective.

CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-252.

2. The Commission has jurisdiction over the Company and the subject matter of the application.

3. Notice of the application was provided in accordance with the law.

4. There is a public need and necessity for water utility service in the proposed service area described in Exhibit A.

5. Applicant is a fit and proper entity to receive an extension of its Certificate.

6. The application to extend the Certificate for the area described in Exhibit A should be

¹ This is consistent with the master water plan that the Company was ordered to file within one year of Decision No. 67576 (February 15, 2005).

1 granted subject to the conditions set forth in Findings of Fact Nos. 18 and 19 above and the Company
2 achieving "full compliance" status with MCESD requirements for all four public water systems prior
3 to this Decision becoming effective.

4 **ORDER**

5 IT IS THEREFORE ORDERED that the application of Beardsley Water Company for an
6 extension of its Certificate of Convenience and Necessity for the operation of a water utility in the
7 area more fully described in Exhibit A be, and is hereby approved, provided that Beardsley Water
8 Company complies with the conditions as set forth in Findings of Fact No. 18 hereinabove in a timely
9 fashion.

10 IT IS FURTHER ORDERED that authorization for the extension of Beardsley Water
11 Company's Certificate of Convenience and Necessity for the area described in Exhibit A shall be null
12 and void without further Order by the Commission if Beardsley Water Company fails to timely
13 comply with the second, third and fourth conditions as set forth in Findings of Fact No. 18 above.

14 ...
15 ...
16 ...
17 ...
18 ...
19 ...
20 ...
21 ...
22 ...
23 ...
24 ...
25 ...
26 ...
27 ...
28 ...

1 IT IS FURTHER ORDERED that the authorization granted hereinabove shall not become
2 effective until Beardsley Water Company files, with the Commission's Docket Control and the
3 Director of the Commission's Utilities Division, documentation from the Maricopa County
4 Environmental Services Department that Beardsley Water Company is operating its four public water
5 systems in full compliance with the department's requirements.

6 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
8
9

10 CHAIRMAN COMMISSIONER COMMISSIONER

11
12
13 COMMISSIONER COMMISSIONER

14
15 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
16 Secretary of the Arizona Corporation Commission, have
17 hereunto set my hand and caused the official seal of the
18 Commission to be affixed at the Capitol, in the City of Phoenix,
19 this ____ day of _____, 2005.

20 BRIAN C. McNEIL
21 EXECUTIVE SECRETARY

22 DISSENT _____

23
24 DISSENT _____

25 MES:mj
26
27
28

1 SERVICE LIST FOR: BEARDSLEY WATER COMPANY

2 DOCKET NO. W-02074A-03-0608

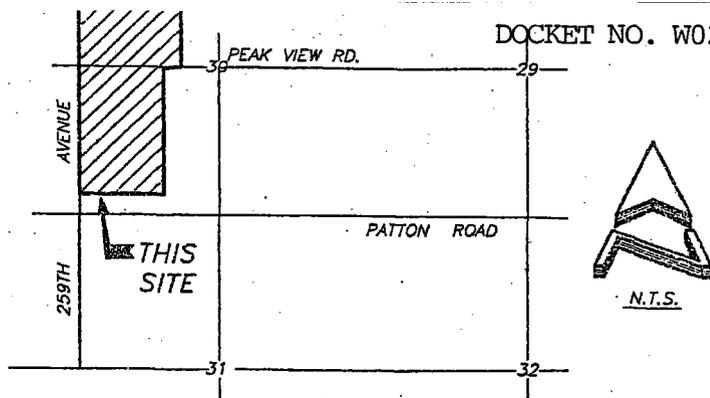
3 Richard L. Sallquist
4 SALLQUIST & DRUMMOND
5 4500 S. Lakeshore Drive, Ste. 339
6 Tempe, AZ 85282
7 Attorneys for Beardsley Water Company

8 Fred T. Wilkinson
9 Beardsley Water Company
10 P.O. Box 1020
11 Apache Junction, AZ 85217

12 Christopher Kempley, Chief Counsel
13 Legal Division
14 ARIZONA CORPORATION COMMISSION
15 1200 West Washington Street
16 Phoenix, Arizona 85007

17 Ernest Johnson, Director
18 Utilities Division
19 ARIZONA CORPORATION COMMISSION
20 1200 West Washington Street
21 Phoenix, Arizona 85007

22
23
24
25
26
27
28



Vicinity Map

LEGAL DESCRIPTION

THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, ALSO KNOWN AS G.L.O. LOT 2, AND THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 30, TOWNSHIP 5 NORTH, RANGE 3 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;
EXCEPT THE EAST 660 FEET;

TOGETHER WITH

THE EAST HALF OF THE WEST TWO-THIRDS OF THE WEST TWO-THIRDS OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 5 NORTH, RANGE 3 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;
EXCEPT THE SOUTH 406.57 FEET;

TOGETHER WITH

THE EAST THIRD OF THE WEST TWO-THIRDS OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 5 NORTH, RANGE 3 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;
EXCEPT THE SOUTH 406.57;

TOGETHER WITH

THE WEST THIRD OF THE WEST TWO-THIRDS OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 5 NORTH, RANGE 3 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA;
EXCEPT THE SOUTH 406.57 FEET.

