

ORIGINAL



0000035155

FENNEMORE CRAIG, P.C.

RECEIVED
6008 North Central Avenue, Suite 2600
Phoenix, Arizona 85012-2913
(602) 916-5000

De

2005 NOV 15 P 4: 24

Jay L. Shapiro
Direct Phone: (602) 916-5366
Direct Fax: (602) 916-5566
jshapiro@fclaw.com

AZ CORP COMMISSION
DOCUMENT CONTROL

Law Offices
Phoenix (602) 916-5000
Tucson (520) 879-6800
Nogales (520) 761-4215
Lincoln (402) 323-6200

November 15, 2005

VIA HAND DELIVERY

Ms. Linda Jaress,
Executive Consultant III
Utilities Division
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, Arizona 85007

Re: Balterra Sewer Corp. - Application for a Certificate of Convenience and Necessity; Docket No. SW-20403A-05-0586

Dear Ms. Jaress:

Balterra Sewer Corp. ("Balterra" or "Company") hereby responds to Staff's September 9, 2005 Insufficiency Letter in the above-captioned matter. Balterra is pleased to respond to the request for supplemental information in your letter. I would like to point out, however, that several of the items requested are not required by Arizona Administrative Code R14-2-402, which regulation sets forth the Certificate of Convenience and Necessity ("CC&N") filing requirements established by the Commission. Rather, these items should be sought through discovery. In addition, Staff has requested a number of items that are not yet available, such as a franchise from Maricopa County. Indeed, in my experience, items such as the franchise and similar permits and approvals are often the subject of conditions on the CC&N imposed by the Commission in its final decision. Accordingly, Balterra does not believe its application should have been deemed insufficient.

Nevertheless, Balterra understands Staff's desire to have as much information as possible in order to analyze Balterra's application. It is our hope that this information will allow Staff to not only analyze the application but to support issuance of the requested CC&N. Towards that end, attached hereto (Exhibit A) along with the materials responsive to the Insufficiency Letter is a copy of the Direct Testimony of James L. Condit, P.E.. Mr. Condit is responsible for overseeing the engineering of Balterra's wastewater collection and treatment system and his

FENNEMORE CRAIG, P.C.

Ms. Linda Jaress, Executive Consultant III

November 15, 2005

Page 2

testimony supports Balterra's application with background information on the Company and its efforts to develop into a regional sewer utility service provider.

In order of reference, Balterra responds to each of the items in the Insufficiency Letter as follows:

- 1. This application is to install a new sewer treatment facility in the west Phoenix area. However, there are no design reports or engineering drawings for this treatment plant. The wastewater treatment capacity should be designed to treat five years projected growth. In this case, the plant is capable to treat 2,770 customers. The applicant needs to provide a copy of engineering design report and a copy of preliminary drawings.**

Response: Attached hereto as Exhibit B is the November, 2005 Basis of Design Report ("Report"), authored by Black & Veatch, for the wastewater treatment plant to serve the area requested in Balterra's CC&N application. The Report contains engineering plans and cost estimates for three phases of plant construction, with a schedule of residential development and associated wastewater flows through the first six (6) years of operation, serving up to 3,600 customers. At completion, Balterra will have constructed a 2.2 MGD wastewater treatment plant, on approximately 3.7 acres, in order to serve a master planned community and the surrounding School District. However, because Balterra's long-term plans include expansion of the 2.2 MGD wastewater treatment plant to serve the growing regional wastewater service needs in western Maricopa County, 15 acres has been set aside and will be dedicated to plant expansion.

- 2. The applicant needs to provide a copy of itemized, estimated engineering costs.**

Response: See Exhibit B, Section 10.

- 3. The applicant indicates that a 208 amendment preparation is in process. It appears that there is an existing 208 plan. The applicant should forward a copy of the existing 208 plan.**

Response: Attached hereto as Exhibit C is the existing Maricopa Association of Governments' ("MAG") 208 Water Quality Management Plan that incorporates the Ruth Fisher Elementary School east of the requested area. Balterra will be submitting a MAG 208 amendment application with the Maricopa County Environmental Services Division in December 2005, and will concurrently provide a copy to Staff. As indicated in Balterra's CC&N application, the Ruth Fisher Elementary School has already requested wastewater service from the Company.

FENNEMORE CRAIG, P.C.

Ms. Linda Jaress, Executive Consultant III

November 15, 2005

Page 3

4. **This project will be required to acquire a wastewater discharge permit such as Aquifer Protection ("APP") permit, Reuse permit and/or AZPDES from ADEQ. The applicant fails to show if any discharge permits have been issued yet.**

Response: No discharge permits have yet been issued to Balterra. However, such permits will be required before Balterra can discharge effluent produced from the treatment of wastewater collected in its service area. Reclaimed effluent will be disposed of primarily through discharge. As a secondary method, an AZPDES permit discharge may occur to the local wash. As earlier referenced, Balterra does not believe that these permits must be obtained prior to the issuance of a CC&N, nor are they required in order for Balterra's application to be deemed sufficient. *See also* Mr. Condit's Direct Testimony at Exhibit A.

5. **The applicant indicates an effluent reuse facility will be installed. The applicant fails to provide construction documents of effluent disposal. The applicant needs to provide a copy of design plan and estimate costs of plant items such as effluent transmission lines, effluent lift station, etc.**

Response: Balterra does not anticipate effluent reuse at this time within the Phase 1 planned development. As set forth in the Report, effluent disposal will consist of a combination of recharge basins and injection wells. However, the Report also identifies effluent disposal as a potential future use for "unrestricted access irrigation." *See* Exhibit B, Basis of Design Report. As a secondary method, an AZPDES permit discharge may occur to the local wash.

6. **Please provide schedules listing the individual operating expenses and the amount of each individual expense associated with each expense that is included in the operating expenses grand total for each of the first five years. Provide a separate schedule for each of the first five years.**

Response: *See* Operating Expense Schedules, attached hereto as Exhibit D.

7. **Please provide schedules listing the various sources of revenue and the amounts for each of the five years. Provide a separate schedule for each year.**

Response: *See* Revenue Schedules, attached hereto as Exhibit E.

8. **Provide the franchise from the appropriate county or municipal entity or, if applicable, the status of the application for franchise.**

FENNEMORE CRAIG, P.C.

Ms. Linda Jaress, Executive Consultant III

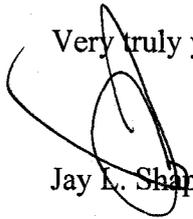
November 15, 2005

Page 4

Response: Attached hereto as Exhibit F is a copy an application for franchise submitted by Balterra to the Maricopa County Board of Supervisors on November 4, 2005.

With the submission of the enclosed materials, Balterra's application is more than sufficient and we ask that Staff promptly issue a sufficiency determination.

Very truly yours,



Jay L. Shapiro

Enclosures

cc: Balterra Sewer Corp. (w/encl.)
Dorothy Haines, Utilities Division-Engineering (w/encl.)
Docket Control (w/o encl.)

1732385/16357.002