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BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

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COMMISSIONERS

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

DOCKETED BY *car*

IN THE MATTER OF THE APPLICATION OF  
MARK GRAPP dba SERVICEBERRY WATER  
COMPANY FOR APPROVAL TO DELETE A  
PORTION OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO PROVIDE  
WATER SERVICE TO FLYING W RANCH.

DOCKET NO. W-02481A-05-0446

DECISION NO. 68335

OPINION AND ORDER

DATE OF HEARING: October 25, 2005  
PLACE OF HEARING: Phoenix, Arizona  
ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey  
APPEARANCES: Mark Grapp, on behalf of Serviceberry Water Company;  
and  
Keith Layton, Staff Attorney, Legal Division on behalf  
of the Utilities Division of the Arizona Corporation  
Commission.

BY THE COMMISSION:

On June 21, 2005, Mark Grapp, dba Serviceberry Water Company ("Company" or "Serviceberry" or "Applicant"), filed with the Arizona Corporation Commission ("Commission") an application for authority to delete a portion of its Certificate of Convenience and Necessity ("Certificate" or "CC&N"). The area which the Company proposes to delete has been used for dry farming purposes by Flying W Ranch. Flying W Ranch has requested deletion from the Applicant's service area because the area is located closer to the Vernon Water Improvement District facilities. The Company's application further states that it has no facilities or customers in the proposed deleted service area, and that it is willing to delete the area from its Certificate.

On August 17, 2005, the Staff of the Commission's Utilities Division ("Staff") filed a letter indicating that Applicant's application has met the sufficiency requirements as outlined in the Arizona Administrative Code.

1 On September 1, 2005, by Procedural Order, a hearing was scheduled for October 25, 2005.

2 On September 28, 2005, Staff filed its Staff Report recommending approval subject to certain  
3 compliance issues.

4 On October 20, 2005, Serviceberry filed an updated legal description for the deletion area.

5 On October 25, 2005, a full public hearing was held before a duly authorized Administrative  
6 Law Judge of the Commission at its offices in Phoenix, Arizona. Applicant appeared and gave  
7 testimony. Staff appeared with counsel and presented evidence and testimony. No members of the  
8 public were present to give public comment. At the conclusion of the hearing, the matter was taken  
9 under advisement pending submission of a Recommended Opinion and Order to the Commission.

10 \* \* \* \* \*

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

13 **FINDINGS OF FACT**

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15 1. Pursuant to the authority granted by the Commission, Serviceberry is an Arizona  
16 corporation which provides water service in Apache County.

17 2. On June 21, 2005, Serviceberry filed an application for authority to delete a portion of  
18 its CC&N, in Apache County which is more fully described in Exhibit A, attached hereto and  
19 incorporated herein by reference. The proposed deletion area consists of one-sixteenth square mile of  
20 the Applicant's existing certificated area, which comprises roughly two square miles.

21  
22 3. Serviceberry is located approximately sixteen miles east of Show Low in Apache  
23 County.

24 4. Serviceberry has no facilities or customers in the deletion area.

25 5. Flying W. Ranch, a potential customer, has requested deletion from Applicant's  
26 service territory because the area is located closer to the Vernon Water Improvement District facility.

27 6. According to Staff's Report, Serviceberry has one well in existence that has a total  
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1 production capacity of 25 gallons per minute, 10,000 gallons of storage capacity, booster pumps, a  
2 pressure tank and a distribution system serving 22 connections.

3 7. Based on historical growth rates, Staff believes that the existing service area would  
4 have 32 total customers at the end of five years.

5 8. Staff believes that Serviceberry has adequate system production and storage capacity  
6 to serve its existing customer base.

7  
8 9. According to Staff's Report, the Arizona Department of Environmental Quality  
9 ("ADEQ") reported major deficiencies regarding Serviceberry's monitoring and reporting status. Due  
10 to those deficiencies ADEQ could not determine if the Serviceberry system was delivering water that  
11 meets water quality standards as required by the Arizona Administrative Code<sup>1</sup>.

12 10. At the hearing, Serviceberry's witness testified that in reviewing the issue, he believed  
13 that the testing had been done in a timely manner; however, he could not verify that reports had been  
14 submitted to ADEQ as required. He further testified that since Staff's Report the Company had  
15 forwarded all testing reports to ADEQ.  
16

17 11. Staff's witness testified that Staff had not received updated information from ADEQ,  
18 regarding Applicant's missing reports; therefore, Staff could not verify that the test results had been  
19 submitted as Applicant's witness testified.

20 12. Staff's Report recommended that Serviceberry file with the Commission's Docket  
21 Control its monthly lab results for the total coliform analysis required by ADEQ, for a period of 24-  
22 months following the effective date of the Commission's Decision in this matter and that each  
23 monthly filing occurs within 45 days from the end of the month reported.  
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25 13. Based on the testimony from both Applicant and Staff, it is unclear whether  
26 Serviceberry is in compliance with ADEQ's coliform reporting requirements. Additionally, because  
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28 <sup>1</sup> Arizona Administrative Code, Title 18, Chapter 4.

1 of the potential risk to the public due to Serviceberry's failure to submit its coliform test results to  
2 ADEQ in a timely manner, we find that Staff's recommendation that Serviceberry docket its coliform  
3 test results for 24 months is reasonable.

4 14. Serviceberry is in compliance with the new arsenic standard of 10 micrograms per  
5 liter, which becomes effective on January 23, 2006.

6 15. Serviceberry is not within any Active Management Area, and is not subject to  
7 reporting and conservation rules.

8 16. Staff reported that the Utilities Division Compliance Section found no outstanding  
9 compliance issues for the company.

10 17. Serviceberry has an approved Curtailment Tariff that has been in effect since August  
11 25, 2004.

12 18. Staff believes that the approval of the application would be in the public interest, as it  
13 would facilitate the potential customer's request that it be served by the Vernon Water Improvement  
14 District facility.

15 19. Because an allowance for the property tax expense of Serviceberry is included in the  
16 Company's rates and will be collected from its customers, the Commission seeks assurances from the  
17 Company that any taxes collected from ratepayers have been remitted to the appropriate taxing  
18 authority. It has come to the Commission's attention that a number of water companies have been  
19 unwilling or unable to fulfill their obligation to pay the taxes that were collected from ratepayers,  
20 some for as many as twenty years. It is reasonable, therefore, that as a preventive measure  
21 Serviceberry shall annually file, as part of its annual report, an affidavit with the Utilities Division  
22 attesting that the company is current in paying its property taxes in Arizona.

#### 23 CONCLUSIONS OF LAW

24 1. Serviceberry is a public service corporation within the meaning of Article XV of the  
25

1 Arizona Constitution and A.R.S. § 40-252, 40-281 and 40-282.

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

4 3. The public convenience and necessity require that the public would benefit from the  
5 deletion of the area described in Exhibit A.

6 4. Notice of the application and hearing thereon was given in accordance with the law.

7 5. The recommendations set forth in Findings of Fact No. 12 are reasonable and should  
8 be adopted.  
9

10 **ORDER**

11 IT IS THEREFORE ORDERED that the application of Mark Grapp dba Serviceberry Water  
12 Company for a deletion of the lands encompassed with its Certificate of Convenience and Necessity  
13 as described in Exhibit A be, and is hereby, approved.

14 IT IS FURTHER ORDERED that Mark Grapp, dba Serviceberry Water Company shall, for  
15 24-months following the effective date of this Order, docket with the Commission's Docket Control,  
16 as a compliance item, its monthly lab results for the total coliform analysis required by the Arizona  
17 Department of Environmental Quality and each monthly filing shall be docketed within 45 days from  
18 the end of the month reported.  
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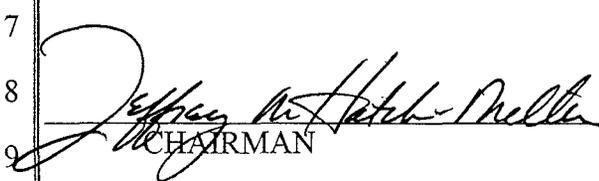
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1 IT IS FURTHER ORDERED that Mark Grapp, dba Serviceberry Water Company shall  
2 annually file as part of its annual report, an affidavit with the Utilities Division attesting that the  
3 Company is current in paying its property taxes in Arizona.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.  
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8   
9 CHAIRMAN

  
COMMISSIONER

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12 COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

13  
14 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
15 Director of the Arizona Corporation Commission, have  
16 hereunto set my hand and caused the official seal of the  
17 Commission to be affixed at the Capitol, in the City of Phoenix,  
18 this 9<sup>th</sup> day of Dec., 2005.

  
BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

21 DISSENT \_\_\_\_\_

23 DISSENT \_\_\_\_\_

24 YK:mj

25

26

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1 SERVICE LIST FOR: SERVICEBERRY WATER COMPANY

2

3 DOCKET NO.: W-02481A-05-0446

4 Mark Grapp  
5 Serviceberry Water Company  
6 P.O. Box 1270  
7 Show Low, AZ 85902

8 Christopher Kempley, Chief Counsel  
9 Legal Division  
10 ARIZONA CORPORATION COMMISSION  
11 1200 West Washington Street  
12 Phoenix, AZ 85007

13 Ernest G. Johnson, Director  
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# Serviceberry Water Co.

PO Box 1270, Show Low, AZ 85902 (928) 537-8739

HEARING  
RECEIVED

2005 OCT 20 (P 12: 20

October 17, 2005

AZ CORP COMMISSION  
DOCUMENT CONTROL

Docket Control  
Arizona Corporation Commission  
1200 West Washington  
Phoenix Arizona 85007

RECEIVED

OCT 20 2005

ARIZONA CORPORATION COMMISSION  
HEARING DIVISION

RE: CC&N Deletion Docket No. W-02481A-05-0446.

Dear Commission,

This letter is to provide another updated legal description. Legal description provided last did not go the correct directions. This is for a CC&N deletion filed under Docket No. W-02481A-05-0446.

Starting at the Northeast corner of Section 21, T10N R25E, thence S 89°14' 12" W, 1183.88 feet his being the Point of Beginning. Thence continue on that same bearing 956.58 feet, Thence S00°07'24"E, 1341.32 feet, thence N88°58'03"E, 943.73 feet, thence N00°25'43"E, 1336.80 feet, back to the Point of Beginning

Any questions or comments please call me. Thank you.

Sincerely,



Mark Grapp