

OPEN MEETING ITEM



0000052983

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

ORIGINAL



ARIZONA CORPORATION COMMISSION

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2006 MAY -9 P 2: 08

DATE: May 9, 2006

DOCKET NO.: SW-02390A-05-0097  
TO ALL PARTIES:

AZ CORP COMMISSION  
DOCUMENT CONTROL

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

SOUTHLAND SANITATION CO.

(DELETION OF PORTION OF CC&N)

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:

MAY 18, 2006

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 the Commission's Open Meeting to be held on:

MAY 31 AND JUNE 1, 2006

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

BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

**COMMISSIONERS**

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

IN THE MATTER OF THE APPLICATION OF  
SOUTHLAND SANITATION CO. FOR  
DELETION OF PART OF ITS CERTIFICATE OF  
CONVENIENCE AND NECESSITY TO PROVIDE  
WASTEWATER SERVICE IN COCHISE  
COUNTY.

DOCKET NO. SW-02390A-05-0097

DECISION NO. \_\_\_\_\_

**OPINION AND ORDER**

DATE OF HEARING: June 16, 2005  
PLACE OF HEARING: Tucson, Arizona  
ADMINISTRATIVE LAW JUDGE: Jane L. Rodda  
APPEARANCES: Sidney Mendelsohn, Jr., on behalf of  
Southland Sanitation Co.; and  
David Ronald, Commission Legal  
Division for the Utilities Division.

**BY THE COMMISSION:**

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

**FINDINGS OF FACT**

1. On February 14, 2005, Southland Sanitation Company, ("Southland" or "Company") filed an application with the Commission requesting to delete a portion of its Certificate of Convenience and Necessity ("CC&N") to provide sewer service in Cochise County.
2. Southland is an Arizona C corporation authorized by Decision No. 52546 (October 22, 1981) to provide wastewater service in a portion of Cochise County in and adjacent to the City of Sierra Vista.

1           3.       Southland's service area currently encompasses 880 acres and it serves approximately  
2 295 sewer customers.

3           4.       By its Application, Southland requests authorization to delete approximately 111 acres  
4 of its current CC&N. The legal description of the area to be deleted is set forth in Exhibit A hereto  
5 and incorporated by reference.

6           5.       The City of Sierra Vista has agreed to serve a new development in the proposed  
7 deletion area.

8           6.       Southland's sister company, Southland Utilities Company, Inc. is certificated to  
9 provide water service in the same CC&N area and will retain its CC&N to provide water service in  
10 the affected area.

11          7.       Pursuant to A.A.C. R14-2-610.C, the Application was deemed sufficient on March 17,  
12 2005.

13          8.       On March 24, 2005, the Commission issued a Procedural Order that set the matter for  
14 hearing in Tucson, Arizona on June 16, 2005 and required the Company to publish the notice of the  
15 hearing and send a copy to all property owners in the area to be deleted.

16          9.       On April 19, 2005, Southland filed an Affidavit of Publication from the *Bisbee*  
17 *Observer*, a newspaper of general circulation in the Company's service area, and a certificate of  
18 mailing that indicates the Company mailed the notice to property owners as required by the March  
19 24, 2005 Procedural Order.

20          10.      On May 18, 2005, the Commission's Utility Division Staff ("Staff") filed a Staff  
21 Report recommending approval of the Application.

22          11.      The Commission has not received any comments on the application nor requests for  
23 intervention.

24          12.      The hearing convened as scheduled on June 16, 2005, before a duly authorized  
25 Administrative Law Judge.

26          13.      The parcel to be deleted is planned to be developed by D.R. Horton Homes for  
27 residential use.

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1           14.     On January 27, 2005, the City of Sierra Vista approved annexation of the deletion  
2 parcel. The City has wastewater facilities bordering the subject parcel, and development of  
3 wastewater facilities within the parcel would be more efficiently accomplished by the City than by  
4 Southland.

5           15.     Currently Southland has no customers within the proposed deletion area. The  
6 Company has not received any customer deposits for service in the deletion area.

7           16.     Approving the application will bifurcate Southland's CC&N. Deleting the 111 acres  
8 that are the subject of this application will result in approximately 70 acres within Southlands service  
9 area being separated from the main portion of its service territory. Southland does not currently serve  
10 any customers in the affected 70 acres.

11           17.     Staff expressed concern that future service by Southland in the non-contiguous parcel  
12 could result in redundant facilities within utility easements, and that service within the 70 acres by  
13 Southland might be uneconomical in comparison with service by the City of Sierra Vista. Staff  
14 believes that although Southland could obtain an easement to serve the 70 acres, this non-contiguous  
15 parcel would be better served by the City. Thus, Staff recommends that the Company work with the  
16 City to obtain an agreement that the City will serve the non-contiguous parcel. Staff further  
17 recommends that Southland be required to file an application to delete the non-contiguous 70 acres  
18 by December 31, 2006, or a detailed explanation discussing why such a filing could not be  
19 accomplished.

20           18.     Southland reported that it is in current negotiations with the City to acquire all of  
21 Southland's wastewater facilities, and not just the non-contiguous 70 acres. It did not object to filing  
22 either an application to delete the non-contiguous section, or a report keeping the Commission  
23 informed of the status of its negotiations.

24           19.     At the time the Staff Report was filed, the Arizona Department of Environmental  
25 Quality ("ADEQ") notified the Commission that Southland was not in compliance with ADEQ  
26 regulations. There was a pending Notice of Violation ("NOV") regarding testing and monitoring  
27 issued on December 17, 2004.

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1 IT IS FURTHER ORDERED that Southland Sanitation Company shall continue to keep the  
2 Commission informed on the status of its discussions with the City of Sierra Vista to acquire its  
3 Wastewater facilities and shall either file a detailed status report of its discussion or an Application to  
4 delete the non-contiguous portion of its Certificate of Convenience and Necessity, if not its entire  
5 Wastewater Certificate, by December 31, 2006.

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

7 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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10 CHAIRMAN

COMMISSIONER

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13 COMMISSIONER

COMMISSIONER

COMMISSIONER

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15 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
16 Director 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 \_\_\_\_\_, 2006.

20 BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

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

22  
23 DISSENT \_\_\_\_\_

24  
25 JR:mj

1 SERVICE LIST FOR: SOUTHLAND SANITATION COMPANY

2 DOCKET NO.: SW-02390A-05-0097

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Utilities Division  
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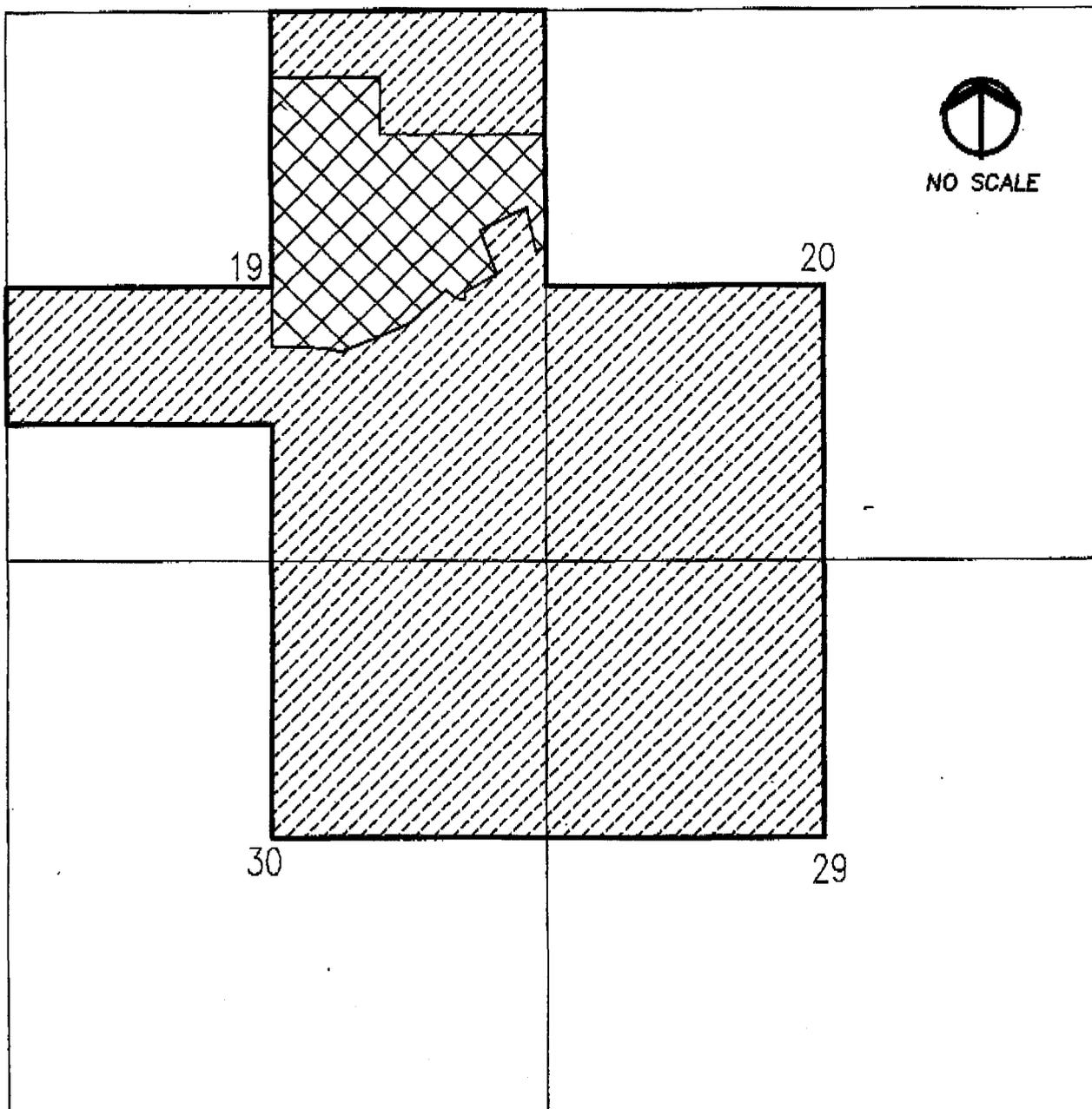
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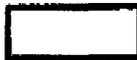
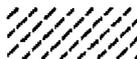
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SKETCH SHOWING EXISTING AND PROPOSED  
 STATUS OF CC&N OF SOUTHLAND SANITATION  
 COMPANY LOCATED IN PORTIONS OF SECTIONS  
 19, 20, 29 AND 30, R-21-E T-22-S, G. & S.R.M.  
 COCHISE COUNTY, ARIZONA

-  BOUNDARY OF ORIGINAL CC&N  
DOCKET No.U-2390-8181
-  PROPOSED DELETION FROM CC&N
-  DELETION FROM CC&N  
DOCKET No.SW-02390A-05-0097



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 4826 E. FT. LOWELL RD.  
 TUCSON, ARIZONA 85712 520-321-4826

CAD

EEC 203129

DECISION NO. \_\_\_\_\_