

**ORIGINAL**

**OPEN MEETING ITEM**



0000052995

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



**ARIZONA CORPORATION COMMISSION**

22

DATE: May 10, 2006

DOCKET NO.: SW-02390A-05-0796

TO ALL PARTIES:

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 19, 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.

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AZ CORP COMMISSION  
DOCUMENT CONTROL

BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

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  
9 SOUTHLAND SANITATION CO. FOR  
10 DELETION OF A PORTION OF ITS  
11 CERTIFICATE OF CONVENIENCE AND  
12 NECESSITY TO PROVIDE WASTEWATER  
13 SERVICE IN COCHISE COUNTY.

DOCKET NO. SW-02390A-05-0796

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

14 OPINION AND ORDER

15 DATE OF HEARING:

March 9, 2006

16 PLACE OF HEARING:

Tucson, Arizona

17 ADMINISTRATIVE LAW JUDGE:

Jane L. Rodda

18 APPEARANCES:

Sidney Mendelsohn, Jr., Mendelsohn &  
Oseran PLC, on behalf of Southland  
Sanitation Co.; and

Linda Fisher, Commission Legal  
Division for the Utilities Division.

19 **BY THE COMMISSION:**

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

22 FINDINGS OF FACT

23 1. On October 21, 2005, Southland Sanitation Company, ("Southland" or "Company")  
24 filed an application with the Commission requesting to delete a portion of its Certificate of  
25 Convenience and Necessity ("CC&N") to provide sewer service in Cochise County.

26 2. Southland is an Arizona C corporation authorized by Decision No. 52546 (October 22,  
27 1981) to provide wastewater service in a portion of Cochise County in and adjacent to the City of  
28 Sierra Vista (the "City" or "Sierra Vista").

3. Southland currently provides wastewater service to approximately 300 customers.

1           4.     In its Application, Southland requested authorization to delete approximately four  
2 square miles of its CC&N, and transfer it to the City. The area to be deleted included all of  
3 Southland's existing wastewater customers. Southland planned to retain a portion of the certificated  
4 area, consisting of approximately 100 acres. The area to be retained is currently undeveloped. The  
5 topography of this 100 acres is hilly and requires a lift station and boosters to transport wastewater to  
6 the treatment plant, and Sierra Vista did not want to operate such facilities. Southland planned to  
7 retain this area and construct distribution lines and a lift station to transport the wastewater for  
8 treatment by the City.

9           5.     On December 9, 2005, the Commission's Utility Division Staff ("Staff") notified the  
10 Company that its Application was sufficient under the Arizona Administrative Code.

11          6.     By Procedural Orders dated December 16, 2005 and January 6, 2006, the matter was  
12 set for hearing on April 3, 2006, at the Commission's Tucson office.

13          7.     On February 16, 2006, the Company filed notice that it had mailed to its customers  
14 and published in the *Bisbee Observer*, notice of the hearing as required by the January 6, 2006  
15 Procedural Order.

16          8.     The Commission has not received any comments on the application nor requests for  
17 intervention.

18          9.     On March 17, 2006, Staff filed its Staff Report, recommending approval of the  
19 deletion.

20          10.    At the hearing, the Company announced that it had reached an agreement with Sierra  
21 Vista for the City to acquire Southland's entire CC&N service area, and that it wished to modify its  
22 application accordingly. Staff did not object.

23          11.    Southland offered the following witnesses in support of its application: Andrew  
24 Romo, president, director and shareholder of Southland; Ed Geiser, a professional engineer with  
25 Engineering Environmental Consultants ("EEC"); and Mary Jacobs, the Assistant City Manager for  
26 the City.

27          12.    Ms. Linda Jaress testified on behalf of Staff. Staff also called Mike Hemesath, the  
28 Director of Public Works for the City.

1           13.     On April 10, 2006, Southland filed as late-filed exhibits, the Board of Directors  
2 Resolution that authorizes the deletion of the entire wastewater CC&N and an updated legal  
3 description of the area sought to be deleted. The revised legal description is attached hereto as  
4 Exhibit A.

5           14.     Tucson Sierra Properties PLC ("Tucson Sierra"), is the sole property owner of the 100  
6 acres that the Company had originally planned to retain, but which is now being proposed to be  
7 transferred to the City. Mr. Romo is a limited partner, and one of the partners on the management  
8 committee, of Tucson Sierra. Tucson Sierra supports the transfer.

9           15.     In order for the City to serve the Southland service territory, Tucson Sierra, will  
10 construct the additional lines needed to interconnect with the City's treatment facilities. Tucson  
11 Sierra will also construct the pump station necessary to transport wastewater from the currently  
12 undeveloped portion of the service territory to the City for treatment. Then Tucson Sierra, or a third  
13 as yet to be determined entity, will operate the pump facilities.

14           16.     The City operates a gravity-fed system and intends to remain that way. (TR at 20).  
15 The City does not want the expense of operating a lift station, and does not believe it fair to pass  
16 along the costs of operating the station to all of its customers when it benefits only the customers  
17 located in the 100 acre parcel. (TR at 25). The City supports the revised application and has the  
18 capacity to treat the entire Southland service area. (TR at 22).

19           17.     According to the City resolution approving the sale of facilities, the Southland  
20 customers would be required to repay the City's purchase price over a period of approximately eight  
21 years. (Ex A-2). Although the City's monthly rates are less than Southland's current monthly rates,  
22 the City will continue to bill Southland customers at their current rates until the purchase price of the  
23 system (\$198,000) is paid off. (Id.) By this means, the City states it does not pass the cost of the  
24 system on to its current customers, and the Southland customers pay their share of hooking into the  
25 City's system. When the costs of acquiring the facilities are recovered, existing Southland customers  
26 will be charged the City's regular monthly rates, which are currently lower than Southland's rates.  
27 Newly constructed homes would be required to pay the same hook-up charges as all other City  
28 customers. (TR at 29-31 and 33).

1 18. Southland's current rates are \$17.78 per month for sewer service for all customers.  
2 Sierra Vista currently charges \$26.62 bi-monthly (\$13.31 per month) for sewer service. The City  
3 allows customers to prepay their bill for an entire year and gives them a 10 percent discount.

4 19. The City has annexed the 100 acre parcel within the city limits, and will be able to  
5 exercise control over the master-planning of the development.

6 20. The City expects to get an additional 60 to 70 acre feet of effluent for recharge from  
7 treating the wastewater of Southland's current customers. (TR at 26).

8 21. After an inspection in November 2005, the Arizona Department of Environmental  
9 Quality ("ADEQ") found that the City was deficient in reporting its hexachloride benzene lab test  
10 results. Consequently, ADEQ found the City's system to only be in substantial compliance with  
11 ADEQ's regulations. The City explains that the company that had tested for hexachloride benzene  
12 misreported the concentration of that substance at .005 mg/l, the lowest its meter could record. In  
13 actuality, the true concentration was lower than .005 mg/l, and should have been reported as "non-  
14 detectable." The City explained the problem to ADEQ in December 2005, and Mr. Hemesath,  
15 testified the City is now in total compliance. (TR at 38).

16 22. The City has current capacity to serve the current and anticipated customers in the  
17 Southland service area.

18 23. Southland owns and operates a lagoon system consisting of two aerated ponds.  
19 Southland is in compliance with ADEQ. The Company does not currently recharge effluent.

20 24. After interconnection is complete, Southland will decommission the oxidation ponds.  
21 The Company expects the entire process, which includes having a plan approved by ADEQ,  
22 physically drying the ponds, and disposing of the sludge, to take about a year.

23 25. Southland is current on its property taxes, and is in compliance with the Corporations  
24 Division. Staff reports there have been no complaints filed against Southland from 2002 until the  
25 present, and there are no outstanding compliance issues.

26 26. Southland currently holds 20 security deposits, which total approximately \$750,  
27 including interest. The security deposits will be transferred to the City which will refund them. (TR  
28 at 15 and 23).



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**ORDER**

IT IS THEREFORE ORDERED that the application of Southland Sanitation Company to delete the area described in Exhibit A is approved subject to the conditions herein.

IT IS FURTHER ORDERED that Southland Sanitation Company shall file in Docket Control as a compliance item, a copy of the executed final sales agreement with the City of Sierra Vista.

IT IS FURTHER ORDERED that Southland Sanitation Company's Certificate of Convenience and Necessity shall be canceled without further Order of the Commission after the Company files the final sales agreement with the City of Sierra Vista.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN		COMMISSIONER
COMMISSIONER	COMMISSIONER	COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

JR:mj

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SERVICE LIST FOR: SOUTHLAND SANITATION COMPANY

DOCKET NO.: SW-02390A-05-0796

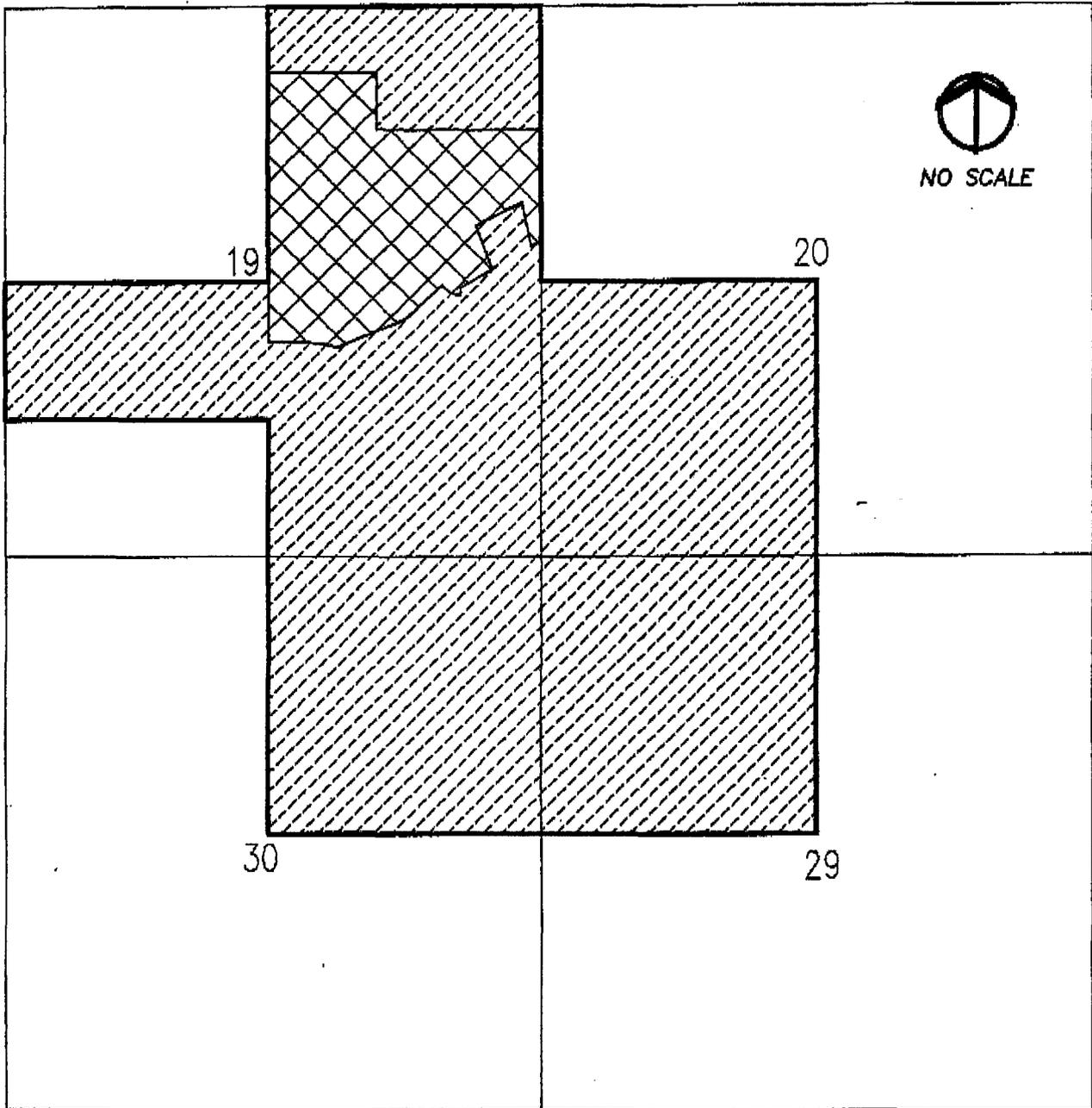
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Southland Sanitation Co.  
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ARIZONA CORPORATION COMMISSION  
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Ernest Johnson, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007





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



Engineering and Environmental Consultants, Inc.  
 4825 E. FT. LOWELL RD.  
 TUCSON, ARIZONA 85712 520-321-4825  
 CAD

EEC 203129

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