

OPEN MEETING ITEM



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ORIGINAL



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

22

ARIZONA CORPORATION COMMISSION

DATE: JULY 10, 2006  
DOCKET NO: SW-02519A-06-0078  
TO ALL PARTIES:

Arizona Corporation Commission

DOCKETED

JUL 10 2006

DOCKETED BY	<i>nr</i>
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Enclosed please find the recommendation of Administrative Law Judge Yvette Kinsey. The recommendation has been filed in the form of an Opinion and Order on:

GOLD CANYON SEWER 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 ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

JULY 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 Working Session and Open Meeting to be held on:

JULY 25, 2006 and JULY 26, 2006

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.

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AZ CORP COMMISSION  
DOCUMENT CONTROL

*Brian C. McNeil*  
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 GOLD CANYON SEWER COMPANY FOR AN  
10 EXTENSION OF ITS CERTIFICATE OF  
11 CONVENIENCE AND NECESSITY IN PINAL  
12 COUNTY.

DOCKET NO. SW-02519A-06-0078

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

OPINION AND ORDER

9 DATE OF HEARING: June 15, 2006  
10 PLACE OF HEARING: Phoenix, Arizona  
11 ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey  
12 APPEARANCES: Patrick J. Black, FENNEMORE CRAIG, on behalf of  
13 Gold Canyon Sewer Company; and  
14 David Ronald, Staff Attorney, Legal Division, on behalf  
15 of the Utilities Division of the Arizona Corporation  
16 Commission.

16 **BY THE COMMISSION:**

17 On February 8, 2006, Gold Canyon Sewer Company ("Gold Canyon" or "Applicant" or  
18 "Company"), filed with the Arizona Corporation Commission ("Commission") an application for an  
19 extension of its Certificate of Convenience and Necessity ("Certificate" or "CC&N") in Pinal  
20 County, Arizona.

21 On April 21, 2006, Staff filed a Sufficiency Letter in this docket indicating that the  
22 Applicant's application has met the sufficiency requirements as outlined in the Arizona  
23 Administrative Code.

24 On April 25, 2006, by Procedural Order, filing deadlines and a hearing were scheduled.

25 On May 11, 2006, Staff filed a request for an extension to file its Staff Report which was  
26 originally scheduled to be filed on or before May 15, 2006. Staff stated that Applicant had no  
27 objection to this request.

28 On May 17, 2006, by Procedural Order, Staff's request was granted.

1 On May 22, 2006, Applicant filed a Notice of Filing Certification of Publication and Proof of  
2 Mailing.

3 On May 22, 2006, Staff filed its Staff Report in this matter recommending approval of the  
4 application with conditions.

5 On June 15, 2006, a full public hearing was convened before a duly authorized Administrative  
6 Law Judge of the Commission at its offices in Phoenix, Arizona. Gold Canyon and Staff appeared  
7 through counsel and presented evidence and testimony. No members of the public appeared to give  
8 public comment. Pending late-filed exhibits, all matters were taken under advisement at the  
9 conclusion of the hearing.

10 On June 21, 2006, Applicant filed a Notice of Late-Filed Exhibit.

11 \* \* \* \* \*

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

14 **FINDINGS OF FACT**

15 1. Pursuant to authority granted by the Commission, Gold Canyon is an Arizona  
16 Corporation engaged in the business of providing wastewater services in portions of Pinal County.

17 2. Gold Canyon is owned by Algonquin Water Resources of America,  
18 Inc. ("Algonquin").<sup>1</sup> Gold Canyon originally received Commission authority to provide wastewater  
19 utility services in Decision No. 56631 (September 14, 1989).

20 3. Gold Canyon currently provides wastewater utility service to approximately 5,300  
21 customers in portions of Pinal County, Arizona.

22 4. On February 8, 2006, Gold Canyon filed an application seeking Commission authority  
23 to add approximately 19 acres adjacent to its current certificated area. The legal description for the  
24 proposed extension area for Gold Canyon is set forth in Exhibit A attached hereto and incorporated  
25 herein by reference.

26 5. According to the Company's application, since 2004, Gold Canyon has been providing

27 \_\_\_\_\_  
28 <sup>1</sup> Algonquin Water Resources of America, Inc., is a subsidiary of Algonquin Power Income Fund. According to Staff's Report, Algonquin owns five Arizona water and/or wastewater utilities.

1 wastewater service to the Hieroglyphic Trails subdivision through a temporary Bulk Wastewater  
2 Treatment Service Agreement with the Hieroglyphic Trails Homeowners Association. The  
3 application further states that in January 2005, Gold Canyon entered into a wastewater facilities  
4 agreement with the developer, and that the installed infrastructure now serves ten homes within the  
5 subdivision and expects to serve fourteen additional customers within five years.

6 6. Gold Canyon's application also states the Company has invested more than \$16  
7 million to improve its wastewater collection and treatment system.

### 8 Wastewater System

9 7. With respect to Gold Canyon's wastewater system, Gold Canyon owns and operates a  
10 new 1.9 million gallon per day ("MGD") wastewater treatment plant ("WWTP"). According to  
11 Staff's Report, the principal treatment of this WWTP is based on biological nutrient remediation  
12 technology, which consists of two bioreactors for nitrification/denitrification, two secondary  
13 clarifiers, sludge digester, filter and chlorine disinfection/dechlorination devices.

14 8. Staff's Report states that the treated effluent is discharged to three effluent recharged  
15 ponds for groundwater recharge and irrigation of golf courses and that currently Gold Canyon treats  
16 0.65 MGD of wastewater for its existing 5,300 customers. Additionally, Staff concluded that the  
17 Company's existing system has adequate treatment capacity to serve its existing customers and the  
18 proposed CC&N extension area.

19 9. Staff also concluded that the cost of the line, force mains and manholes necessary to  
20 serve the extension area has been estimated at \$86,528 and that the cost is reasonable and appropriate  
21 for this project. However, Staff noted that no "used and useful" determination was made and that no  
22 conclusions should be inferred for rate making or rate base purposes.

23 10. In October 2005, the Arizona Department of Environmental Quality issued its  
24 Approval to Construct to Gold Canyon and Staff found that the Company is in compliance with the  
25 conditions of its Aquifer Protection Permit.

26 11. According to Staff's Report, the Company proposes to install 2,410 feet of 8-inch  
27 sewer collection line, 1,025 feet of 3-inch force main and 13 manholes to serve the proposed  
28 extension area. Staff recommends that within six months of the effective date of the Decision in this

1 matter, Gold Canyon file the Discharge Authorization documentation from ADEQ that the new  
2 facilities needed to serve the proposed extension area are in service.

3 12. According to Staff's Report, the Utilities Division Compliance Section found no  
4 outstanding compliance issues for Gold Canyon.

5 13. Staff recommends that Gold Canyon file a copy of its Franchise Agreement with Pinal  
6 County within 365 days after the date of the Decision in this matter as the Company has not yet filed  
7 an application to include the extension area within its franchise.

8 14. Gold Canyon has provided Staff with documentation from the Central Arizona  
9 Association of Governments ("CAAG") stating that CAAG 208 amendment is not required for the  
10 proposed extension area.

11 15. Gold Canyon will provide wastewater utility service in the extension area at its  
12 existing rates and charges.

13 16. In the Company's late-filed exhibit, the Company submitted copies of letters that were  
14 mailed to each of the property owners in the proposed extension area, which notified the Company  
15 has a pending rate case before the Commission in Docket No. SW02519A-06-0015. The Commission  
16 has received no responses to that notice in this docket.

17 17. Staff recommends approval of Gold Canyon's application for an extension of its  
18 CC&N to provide wastewater service, subject to compliance with the following conditions:

19 a. That Gold Canyon charge its authorized rates and charges in the extension  
20 area.

21 b. That Gold Canyon file with Docket Control, as a compliance item in this  
22 docket, within 365 days of the Decision in this matter, a copy of the Franchise  
23 Agreement with Pinal County which includes the extension area.

24 c. That Gold Canyon file with Docket Control, as a compliance item in this  
25 docket, within 180 of a Decision in this matter the Discharge Authorization  
26 documentation from ADEQ that the facilities needed to serve the extension  
27 area are in service.

28

1           18.     Staff recommendations as set forth in Findings of Fact No. 17 are reasonable, except  
2 that we find that if Gold Canyon fails to comply with the above items within the specified timeframes  
3 the CC&N extension shall be considered null and void after due process.

4           19.     Because an allowance for the property tax expense for Gold Canyon is included in the  
5 Company's rates and will be collected from its customers, the Commission seeks assurances from the  
6 Company that any taxes collected from ratepayers have been remitted to the appropriate taxing  
7 authority. It has come to the Commission's attention that a number of water and/or wastewater  
8 companies have been unwilling or unable to fulfill their obligation to pay the taxes that were  
9 collected from ratepayers, some for as many as twenty years. It is reasonable, therefore, that as a  
10 preventive measure Gold Canyon should annually file, as part of its annual report, an affidavit with  
11 the Utilities Division attesting that the Company is current in paying its property taxes in Arizona.

#### CONCLUSIONS OF LAW

12  
13           1.     Gold Canyon is a public service corporation within the meaning of Article XV of the  
14 Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-285.

15           2.     The Commission has jurisdiction over Gold Canyon and the subject matter of the  
16 application.

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

18           4.     There is a public need and necessity for wastewater service in the proposed service  
19 territory as set forth in Exhibit A attached hereto and incorporated herein by reference.

20           5.     Subject to compliance with the above-stated conditions, Gold Canyon is a fit and  
21 proper entity to receive an extension of its wastewater Certificate, for the proposed extension area in  
22 Pinal County set forth in Exhibit A.

23           6.     Staff's recommendations, as modified by Finding of Fact No. 17, are reasonable and  
24 shall be adopted.

#### ORDER

25  
26           IT IS THEREFORE ORDERED that the application of Gold Canyon Sewer Company to  
27 extend its Certificate of Convenience and Necessity to provide wastewater utility service in Pinal  
28 County as described in Exhibit A attached hereto and incorporated herein by reference is approved

1 subject to the conditions and requirements by Staff and found in the following ordering paragraphs.

2 IT IS FURTHER ORDERED that Gold Canyon Sewer Company shall charge its existing  
3 rates and charges in the extension area, until further Order of the Commission.

4 IT IS FURTHER ORDERED that Gold Canyon Sewer Company shall file with Docket  
5 Control, as a compliance item in this docket, within 365 days of the Decision in this matter, a copy of  
6 the Franchise Agreement with Pinal County which includes the extension area.

7 IT IS FURTHER ORDERED that Gold Canyon Sewer Company shall file with Docket  
8 Control, as a compliance item in this docket, within 180 days of a Decision in this matter, the  
9 Discharge Authorization documentation from ADEQ that the facilities needed to serve the extension  
10 area are in service.

11 IT IS FURTHER ORDERED that failure by Gold Canyon Sewer Company to comply with  
12 the Staff's recommendations, within the specified time frames, set forth above, will render the  
13 Certificate extension null and void, after due process.

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1 IT IS FURTHER ORDERED that Gold Canyon Sewer Company shall annually file as part of  
2 its annual report, an affidavit with the Utilities Division attesting that the Company is current on  
3 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.

6  
7  
8 CHAIRMAN \_\_\_\_\_ COMMISSIONER

9  
10 COMMISSIONER \_\_\_\_\_ COMMISSIONER \_\_\_\_\_ COMMISSIONER

11  
12 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
13 Director of the Arizona Corporation Commission, have  
14 hereunto set my hand and caused the official seal of the  
15 Commission to be affixed at the Capitol, in the City of Phoenix,  
16 this \_\_\_\_ day of \_\_\_\_\_, 2006.

17  
18 \_\_\_\_\_  
19 BRIAN C. McNEIL  
20 EXECUTIVE DIRECTOR

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1 SERVICE LIST FOR:

GOLD CANYON SEWER COMPANY

2 DOCKET NO.:

SW-02519A-06-0078

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4 Patrick J. Black  
FENNEMORE CRAIG  
3003 N. Central Avenue, Ste. 2600  
5 Phoenix, AZ 85012

6 Christopher Kempley, Chief Counsel  
Legal Division  
7 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
8 Phoenix, AZ 85007

9 Ernest G. Johnson, Director  
Utilities Division  
10 ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
11 Phoenix, AZ 85007

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## EXHIBIT A

**LEGAL DESCRIPTION  
HIEROGLYPHIC TRAILS  
FOR USE BY ALGONQUIN WATER RESOURCES  
PINAL COUNTY, ARIZONA**

Hieroglyphic Trails, a subdivision recorded in Cabinet C, Slide 134, Official Records of Pinal County, Arizona, lying within a portion of the Northeast quarter of Section 4, Township 1 South, Range 9 East, of the Gila and Salt River Base and Meridian, Pinal County, Arizona, described as follows:

**COMMENCING** at the Northeast corner of Section 4;  
 Thence South 0 degrees 03 minutes 29 seconds East, 1,150.00 feet along the east line of Section 4 to the northeast corner of Hieroglyphic Trails and the **POINT OF BEGINNING**;  
 Thence the following 18 courses along the boundary of said Hieroglyphic Trails:

- thence South 0 degrees 03 minutes 29 seconds East, 209.51 feet;
- thence North 86 degrees 32 minutes 26 seconds West, 250.32 feet;
- thence South 89 degrees 45 minutes 01 seconds West, 303.51 feet;
- thence North 72 degrees 15 minutes 32 seconds West, 229.47 feet;
- thence North 89 degrees 25 minutes 01 seconds West, 81.09 feet;
- thence South 71 degrees 50 minutes 33 seconds West, 280.42 feet;
- thence South 47 degrees 41 minutes 15 seconds West, 83.58 feet;
- thence South 38 degrees 56 minutes 02 seconds West, 300.31 feet;
- thence South 78 degrees 44 minutes 06 seconds West, 268.60 feet;
- thence North 67 degrees 09 minutes 16 seconds West, 176.05 feet;
- thence South 79 degrees 22 minutes 45 seconds West, 164.51 feet;
- thence North 71 degrees 08 minutes 59 seconds West, 246.39 feet;
- thence North 73 degrees 11 minutes 10 seconds West, 83.46 feet;
- thence South 61 degrees 56 minutes 08 seconds West, 50.00 feet to the beginning of a non-tangent curve, concave Southwest, from which the radius point bears South 61 degrees 56 minutes 08 seconds West a distance of 337.03 feet;
- thence Northwesterly 166.89 feet along the arc of said curve to the left through a central angle of 28 degrees 22 minutes 20 seconds;
- thence North 56 degrees 26 minutes 12 seconds West, 73.66 feet to the beginning of a curve, concave Northeast, having a radius of 337.03 feet;
- thence Northwesterly 322.04 feet along the arc of said curve to the right through a central angle of 54 degrees 44 minutes 49 seconds;
- thence on a non-tangent line North 89 degrees 56 minutes 41 seconds East, 2637.34 feet to the **POINT OF BEGINNING**.

Containing 19.284 acres, more or less.