



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

- MIKE GLEASON, Chairman
- WILLIAM A. MUNDELL
- JEFF HATCH-MILLER
- KRISTIN K. MAYES
- GARY PIERCE

APR 16 2007

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IN THE MATTER OF THE APPLICATION OF
 ENTRADA DEL ORO SEWER COMPANY FOR
 AN EXTENSION OF ITS CERTIFICATE OF
 CONVENIENCE AND NECESSITY FOR
 WASTEWATER SERVICES.

DOCKET NO. SW-04316A-06-0382

DECISION NO. 69412

OPINION AND ORDER

- DATE OF HEARING: February 26, 2007
- PLACE OF HEARING: Phoenix, Arizona
- ADMINISTRATIVE LAW JUDGE: Marc E. Stern
- APPEARANCES: Mr. Michael W. Patten, ROSHKA, DEWULF & PATTEN, PLC, on behalf of Entrada Del Oro Sewer Company; and
 Mr. Kevin Torrey, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On June 6, 2006, Entrada Del Oro Sewer Company ("Company" or "Applicant") filed with the Arizona Corporation Commission ("Commission") an application for an extension of its Certificate of Convenience and Necessity ("Certificate") to provide wastewater service to various parts of Pinal County, Arizona.

On July 7, 2006, pursuant to A.A.C. R14-2-610(c), the Commission's Utilities Division ("Staff") issued a notice of insufficiency to the Company that the application had not been deemed sufficient.

On November 13, 2006, Staff issued a letter of administrative completeness.

On November 30, 2006, the Commission issued a Procedural Order which set a hearing on the application for February 26, 2007. The Commission also ordered the Company to publish notice of the proceeding at least once in a newspaper of general circulation in its proposed service territory.

1 On January 26, 2007, Staff filed its Staff Report in this matter. No objections or comments
2 were filed to the Staff Report.

3 On February 26, 2007, a full public hearing was convened before a duly authorized
4 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. Applicant and Staff
5 appeared with counsel. At the conclusion of the hearing, the matter was taken under advisement
6 pending submission of a Recommended Opinion and Order to the Commission.

7 * * * * *

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

10 **FINDINGS OF FACT**

11 1. Pursuant to Decision No. 68306 (November 14, 2005), the Company is authorized to
12 provide public wastewater service to an area approximately two and one-half miles northwest of
13 Florence Junction in Pinal County, Arizona.

14 2. On June 6, 2006, the Company filed an application for an extension of its Certificate
15 in order to provide sewer service to a 160 acre parcel of land approximately one and one-half miles
16 south of the Company's certificated service area. The parcel is being developed by Rancho 160, LLC
17 as a residential development, which area is more fully described in Exhibit A attached hereto, and
18 incorporated herein by reference.

19 3. The Company projects having approximately 550 residential new connections in the
20 extension area described in Exhibit A in five years. Plans also call for the construction of a school
21 which will require wastewater service.

22 4. Residents of the subdivision will receive their water service from Arizona Water
23 Company.

24 5. On November 8, 2006, the Company filed a copy of the Pinal County franchise for the
25 extension area and a copy of a resolution which approves Applicant's 208 Plan amendment issued by
26 the Central Arizona Association Governments ("CAAG") for the extension area.

27 6. On December 18, 2006, Applicant filed certification that it published notice of the
28 application and the hearing thereon as ordered in the Commission's Procedural Order of November

1 30, 2006.

2 7. During the hearing, the Company's president, Charles Kennedy, requested that it be
3 given until June 30, 2009 to file a copy of its Arizona Department of Environmental Quality
4 ("ADEQ") Approval to Construct ("ATC") for the new lift station and main that will be used to
5 provide service in the extension area because of a soft housing market which is slowing development.

6 8. According to the Company's president, the Company has invested approximately \$6
7 million in its existing utility plant which has the capacity to treat up to 300,000 gallons of raw sewage
8 per day. However, because the Company presently serves only approximately 90 to 100 customers, it
9 lacks sufficient waste flows to treat its sewage and instead vaults and hauls its waste to another
10 treatment facility. Mr. Kennedy indicated that, in approximately two months, the Company
11 anticipates having sufficient waste flow to treat its own sewage as more customers are connected to
12 the system.

13 9. The Company is planning for the expansion of its collection system at an estimated
14 cost totaling approximately \$1.4 million to serve the extension area subject to a main extension
15 agreement with the developer of the extension area.

16 10. Other than the sewage treatment facilities to be constructed by the Company, there are
17 no public service corporations authorized to provide wastewater service in the area requested to be
18 certificated herein.

19 11. Presently, the Company has no outstanding compliance issues with respect to the
20 operation of a wastewater utility, as it is not actually treating any effluent.

21 12. Applicant is current on the payment of its taxes, and is in compliance with the
22 Commission's rules and prior Orders.

23 13. Staff is recommending approval of the Company's application for the extension of its
24 Certificate for the area described in Exhibit A. Additionally, Staff is recommending that the
25 Commission condition the issuance of the extension of the Company's Certificate as follows:¹

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27

28 ¹ Staff indicated during the hearing that the Company's November 8, 2006, filing of a copy of the CAAG resolution satisfied an earlier condition of its recommendations in the Staff Report.

- 1 1. that the Company charge its tarified rates and charges in the extension area;
2 and
- 3 2. that the Company file, by June 20, 2009, with Docket Control, as a compliance
4 item in this docket, a copy of ADEQ's ATC.

5 14. Staff further recommends that the Commission's Decision granting the extension of
6 the Certificate to the Company be null and void, after due process, if the Company fails to meet
7 condition number two within the time specified.

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

16 16. Under the circumstances herein, we believe that the Company's application should be
17 approved. We further find that Staff's additional recommendations should be adopted and complied
18 with by the Company.

19 CONCLUSIONS OF LAW

20 1. Applicant is a public service corporation within the meaning of Article XV of the
21 Arizona Constitution and A.R.S. §§ 40-252, 40-281 and 40-282.

22 2. The Commission has jurisdiction over the Company and of the subject matter of the
23 application.

24 3. Notice of the Company's application as described herein was given in the manner
25 prescribed by law.

26 4. The public convenience and necessity require and the public would benefit by the
27 issuance to the Company of an extension of its Certificate to provide certificated sewer service to the
28 area described in Exhibit A.

1 IT IS FURTHER ORDERED that Entrada Del Oro Sewer Company shall annually file as part
2 of its annual report, an affidavit with the Utilities Division attesting that the Company is current in
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 Lawrence S. Stearns [Signature]
CHAIRMAN COMMISSIONER

8

9 [Signature] [Signature] [Signature]
COMMISSIONER COMMISSIONER COMMISSIONER

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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 16th day of April, 2007.

17 [Signature]
18 BRIAN C. McNEIL
19 EXECUTIVE DIRECTOR

20 DISSENT _____

21 DISSENT _____

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1 SERVICE LIST FOR: ENTRADA DEL ORO SEWER COMPANY

2 DOCKET NO.: SW-04316A-06-0382

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EXHIBIT A

LEGAL DESCRIPTION

THAT PORTION OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 10 AND THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 10 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, PINAL COUNTY, ARIZONA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 6, BEING A 3 INCH PINAL COUNTY BRASS CAP STAMPED 1962 FROM WHICH THE SOUTHEAST CORNER OF SAID SECTION 6, BEING A 3 INCH PINAL COUNTY BRASS CAP STAMPED 1962 BEARS SOUTH 00°48'00" EAST, A DISTANCE OF 2654.73 FEET, SAID POINT BEING THE POINT OF BEGINNING.

THENCE ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 6, ALSO BEING THE CENTERLINE OF RANCH 160 BOULEVARD, SOUTH 89°39'15" WEST, A DISTANCE OF 1324.50 FEET TO THE EAST 1/16TH CORNER, A FOUND 1/2 INCH REBAR;

THENCE ALONG THE WEST LINE OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 6, NORTH 00°48'07" WEST, A DISTANCE OF 2656.74 FEET TO A FOUND 1/2 INCH REBAR AT THE CENTER-EAST 1/16TH CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 6;

THENCE NORTH 89°44'27" EAST ALONG THE EAST-WEST MID-SECTION LINE, A DISTANCE OF 1324.61 FEET TO A FOUND 3 INCH PINAL COUNTY BRASS CAP STAMPED 1962 AT THE EAST CORNER OF SAID SECTION 6;

THENCE NORTH 89°27'10" EAST ALONG THE NORTH LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 5 A DISTANCE OF 1327.27 FEET TO A FOUND 3/4 INCH PIPE AT THE CENTER-WEST 1/16TH CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 6;

THENCE SOUTH 00°47'37" EAST ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 5, A DISTANCE OF 2654.99 FEET TO A FOUND 1/2 INCH REBAR WITH A TAG STAMPED LS 2217 AT THE WEST 1/16TH CORNER OF SAID SOUTHWEST QUARTER OF SECTION 5;

THENCE SOUTH 89°27'49" WEST ALONG THE SOUTH LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 5, ALSO BEING THE CENTERLINE OF RANCH 160 BOULEVARD, A DISTANCE OF 1325.98 TO THE SOUTHWEST CORNER OF SAID SECTION 5, SAID POINT BEING THE POINT OF BEGINNING;

CONTAINING 7,038,176 SQUARE FEET (161.57 ACRES) MORE OR LESS

EXCEPTING A PARCEL OF LAND SITUATED WITHIN THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 2 SOUTH, RANGE 10 EAST OF THE GILA AND SALT

RIVER BASE AND MERIDIAN, PINAL COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 6, SAID POINT BEING A BRASS CAP;

THENCE SOUTH 89°39'15" WEST ALONG THE SOUTH LINE OF SAID SECTION 6, A DISTANCE OF 220.63 FEET TO A POINT;

THENCE NORTH 00°01'45" WEST, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING NORTH 00°01'45" WEST, A DISTANCE OF 99.44 FEET TO A POINT ON A 50 FOOT RADIUS OF NON-TANGENT CURVE, CONCAVE TO THE NORTHWEST, WHOSE RADIAL BEARING IS NORTH 20°39'23" EAST;

THENCE EASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 104°47'58", A DISTANCE OF 91.45' TO A POINT;

THENCE SOUTH 84°08'35" EAST, A DISTANCE OF 101.34 FEET TO A POINT 50.00 FEET WEST OF THE EAST LINE OF SECTION 6;

THENCE SOUTH 00°48'00" EAST, A DISTANCE OF 129.77 FEET, RUNNING 50.00 FEET WEST AND PARALLEL WITH THE EAST LINE OF SAID SECTION 6 TO A POINT LYING 50.00 FEET NORTH OF THE SOUTH LINE OF SAID SECTION 6;

THENCE SOUTH 89°39'15" WEST, A DISTANCE OF 169.96 FEET, RUNNING 50.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SECTION 6 TO THE POINT OF BEGINNING;

EXCEPTING ALL URANIUM, THORIUM OR OTHER MATERIALS WHICH ARE OR MAY BE DETERMINED TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIALS, AS RESERVED IN THE PATENT TO THE LAND.

ALSO, EXCEPTING A PARCEL OF LAND SITUATED WITHIN THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 10 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, PINAL COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 5, SAID POINT BEING A BRASS CAP;

THENCE NORTH 89°27'49" EAST ALONG THE SOUTH LINE OF SAID SECTION 5, A DISTANCE OF 1207.43 FEET TO A POINT;

THENCE NORTH 00°32'11" WEST, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING NORTH 00°32'11" WEST, A DISTANCE OF 131.55 FEET TO A POINT;

THENCE NORTH 89°27'49" EAST, A DISTANCE OF 117.73 FEET TO A POINT;

THENCE SOUTH 00°47'37" EAST, A DISTANCE OF 131.55 FEET TO A POINT LYING 50.00 FEET NORTH OF THE SOUTH LINE OF SAID SECTION 5;

THENCE SOUTH 89°27'49" WEST, A DISTANCE OF 118.33 FEET, RUNNING 50.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SECTION 5 TO THE POINT OF BEGINNING;

EXCEPTING ALL URANIUM, THORIUM OR OTHER MATERIALS WHICH ARE OR MAY BE DETERMINED TO BE PECULIARLY ESSENTIAL TO THE PRODUCTION OF FISSIONABLE MATERIALS, AS RESERVED IN THE PATENT TO THE LAND.