

ORIGINAL



0000076537

BEFORE THE ARIZONA CORPORATION C

RECEIVED

Arizona Corporation Commission

DOCKETED

2852

COMMISSIONERS

2007 AUG 27 P 4: 39

AUG 27 2007

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

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY	nr
-------------	----

IN THE MATTER OF THE APPLICATION OF BACA FLOAT WATER COMPANY FOR AN EXTENSION OF ITS EXISTING CERTIFICATE OF CONVENIENCE AND NECESSITY FOR WATER SERVICE.	DOCKET NO. WS-01678A-07-0116 RESPONSE TO STAFF REPORT
---	---

Baca Float Water Company ("Baca Float or the "Company") files this response to the Arizona Corporation Commission's ("Commission") Utilities Division Staff Report, filed August 10, 2007. Staff has recommended approving the extension of Baca Float's certificate of convenience and necessity ("CC&N") subject to several conditions. Baca Float responds to three of Staff's recommended conditions below.

1. Filing a Rate Case. Staff recommends that Baca Float file a rate case within one year of the decision in this proceeding. (Staff Report at 3). With the decision in this matter likely being issued by the end of this year, Baca Float would have to file a rate case by the end of 2008, necessitating a 2007 test year. The Company requests that the condition be modified to require a rate case filing within 18 months of the decision date, which would allow a 2008 test year and provide a more realistic financial view of the Company because it would include more of the completed water service infrastructure. Moreover, a 2007 test year filed at the end of 2008 would be stale.

2. Filing a Modified Designation of Assured Water Supply. Staff recommends that Baca Float file a copy of a modified Designation of Assured Water Supply ("Designation") from the Arizona Department of Water Resources ("ADWR") that includes the area requested in this CC&N extension application. (Staff Report at 3). Baca Float requests that this condition be deleted, because, as explained below, the Designation already covers the Company's service area and any subsequent extensions thereof.

Snell & Wilmer

LAW OFFICES
One Arizona Center, 400 E. Van Buren
Phoenix, Arizona 85004-2202
(602) 382-6000

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 Baca Float's Designation demonstrates that Baca Float has a physically, legally and
2 continuously available supply of 350 acre-feet per year of groundwater to use to serve its
3 customers. Under Arizona law, Baca Float's Designation automatically extends to any area that
4 receives water service from Baca Float, or that includes an "operating distribution system" owned
5 by Baca Float. Pursuant to A.R.S. § 45-402(31), the "service area" of a private water company is
6 that area that is actually being served with water, plus additions to that area which contain an
7 "operating distribution system." As the service area expands through the inclusion of additional
8 areas served by the water company's operating distribution system, those additional areas will be
9 automatically served by the company as a designated water provider. (See attached email from
10 N. Swindle, Esq. of ADWR to C. Ronstadt, dated August 27, 2007).

11 At this point, Baca Float estimates that its total water demand for its service area, including
12 the requested extension area in this proceeding, will remain less than the 350 acre-feet per year
13 available under its Designation. Thus, Baca Float is not required to modify its designation. Baca
14 Float is required, under A.R.S. § 45-498, to periodically update its service area maps on file with
15 ADWR so that ADWR remains informed as to the geographic extent of the Company's service
16 area. Baca Float is willing to file in Docket Control a copy of its next update to ADWR regarding
17 the extension of its service area in this proceeding.

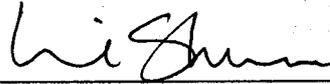
18 3. Filing an Approval of Construction for Storage Tanks with No Time Extension. Staff
19 also recommends that the Company file by May 31, 2008, a copy of the Approval of Construction
20 ("AOC") for the installation of the storage tanks, with no extension allowed. (Staff Report at 3).
21 Baca Float believes that this deadline may not be feasible. With a potential decision issued by the
22 Commission by the end of this year, Baca Float would only have five months or so to obtain the
23 AOC. To date, Baca Float continues to wait for the Arizona Department of Environmental
24 Quality ("ADEQ") to issue its Approval to Construct ("ATC") for the same storage tanks and
25 arsenic removal system, which the Company requested over one year ago. With this regulatory
26 lag, the Company may be only able to demonstrate that it has filed for the AOC by Staff's
27 deadline. The Company requests the Commission to delete its condition of "no extension
28 allowed" and extend the deadline to one year from the decision date.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Baca Float does not object to the remaining conditions contained in the Staff Report.

DATED this 27th day of August, 2007.

SNELL & WILMER L.L.P.

By 

Jeffrey W. Crockett
Marcie A. Shuman
One Arizona Center
400 E. Van Buren
Phoenix, AZ 85004-2202
Attorneys for Baca Float Water Company

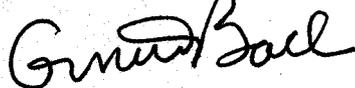
ORIGINAL and thirteen (13) copies filed
this 27th day of August, 2007 with

Docket Control Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Copies mailed this 27th day of August,
2007 to

Mr. Christopher Kempley, Chief Counsel
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007

Mr. Ernest Johnson, Director
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, AZ 85007



2037463.3

Ronstadt, Carlos

From: Nicole Swindle [ndswindle@azwater.gov]
Sent: Monday, August 27, 2007 11:26 AM
To: Ronstadt, Carlos
Cc: J.Scott Miller; Ken Slowinski
Subject: Baca Float Designation

Hi Carlos,

Ken Slowinski passed along your question about the designation of assured water supply for Baca Float Water Company (No. 26-400800.0000).

The current Decision and Order (AWS No. 2004-003) provides that "Baca Float has the legal authority, as granted by the Arizona Corporation Commission, to deliver water to its customers located within the boundaries of its Certificate of Convenience and Necessity as indicated on maps on file with the Department." The designation is intended to cover Baca Float's service area, including any expansions. If the ACC issues an order expanding the boundaries described in the CC&N, the designation would also apply to the service area within the expanded boundaries.

In such a case, Baca Float should notify the Department of the expanded boundaries, preferably by providing a copy of the ACC's Final Decision and Order as well as a new map of the area Baca Float is authorized to serve. However, Baca Float will not be required to modify the designation in order to include the expanded boundaries. If Baca Float's demands increase at a higher rate than anticipated in the designation order and the water supplies described in the order are not sufficient to serve current demand, committed demand, and 2 years' projected demand for at least 100 years, then Baca Float would need to apply for modification of the designation to increase the water supplies.

Please let me know if you have any additional questions.

-- Nicole

Nicole D. Swindle
Deputy Counsel
Arizona Department of Water Resources
Phone: (602) 771-8472
Fax: (602) 771-8683