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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

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

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IN THE MATTER OF THE APPLICATION OF
BACA FLOAT WATER COMPANY, INC FOR AN
EXTENSION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY IN SANTA
CRUZ COUNTY.

DOCKET NO. WS-01678A-07-0459

DECISION NO. 70290

OPINION AND ORDER

DATE OF HEARING: February 20, 2008

PLACE OF HEARING: Tucson, Arizona

ADMINISTRATIVE LAW JUDGE: Belinda A. Martin

APPEARANCES: Marcie A. Shuman, SNELL & WILMER L.L.P., on behalf of Baca Float Water Company; and
Kevin O. Torrey, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On August 2, 2007, Baca Float Water Company ("BFWC" or "Company") filed with the Arizona Corporation Commission ("Commission") an Application for an Extension of its Certificate of Convenience and Necessity ("CC&N" or "Certificate") to provide sewer service in Santa Cruz County, Arizona.

On August 31, 2007, the Commission's Utilities Division Staff ("Staff") notified the Company that its application was not sufficient pursuant to the Arizona Administrative Code.

On October 30, 2007, BFWC responded to Staff's Insufficiency Letter.

On November 30, 2007, Staff notified the Company that its Application is sufficient pursuant to the Arizona Administrative Code.

On January 22, 2008, the Company filed a Notice of Filing Affidavit of Publication and Affidavit of Mailing.

On January 28, 2008, Staff filed its Staff Report in this matter recommending approval of the

1 application with conditions.

2 On February 13, 2008, the Company filed its Response to Staff Report noting that it had no
3 comments or objections.

4 On February 20, 2008, a full public hearing was convened before a duly authorized
5 Administrative Law Judge of the Commission at its offices in Tucson, Arizona. BFWC and Staff
6 appeared through counsel and presented evidence and testimony. No members of the public appeared
7 to give public comment. All matters were taken under advisement at the conclusion of the hearing.

8 * * * * *

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

11 **FINDINGS OF FACT**

12 1. Pursuant to authority granted by the Commission, BFWC is an Arizona corporation
13 engaged in the business of providing water and wastewater services in portions of Santa Cruz
14 County.

15 2. BWFC was incorporated on December 1, 1959 and it is owned by Baca Float Land
16 Development Limited Partnership. BFWC's officers are Mr. Gary Brasher (President) and Mr.
17 Richard Lockwood (Secretary). Mr. Brasher is also a General Partner of Baca Float Land
18 Development Limited Partnership.

19 3. BFWC originally received Commission authority to provide wastewater utility
20 services in Decision Nos. 32233 (May 31, 1960) and 60721 (March 23, 1998).

21 4. BFWC currently provides wastewater utility service to approximately 350 customers
22 and water service to approximately 271 customers in portions of Santa Cruz County, Arizona.¹

23 5. In early 2007, Tubac 40, L.L.C., an Arizona limited liability company ("Tubac 40"),
24 contacted BFWC and requested BFWC to provide sewer service to approximately 40 acres of land,
25 comprised of 82 lots. Mr. Brasher is a member of Tubac 40, but Baca Float Development Limited
26 Partnership has no interest in Tubac 40.

27 _____
28 ¹ *Staff Report, Page 1.* The Company's witness, Gary Brasher, testified that the Company has "a little over 300 customers currently."

1 6. On August 2, 2007, BFWC filed an application seeking Commission authority to add
2 the approximately 40 non-contiguous acres to its current certificated area. The existing system is
3 approximately 1.5 miles south of the requested extension area. As such, the Company intends to
4 construct a new facility for the development. The legal description for the proposed extension area
5 for BFWC is set forth in Exhibit A attached hereto and incorporated herein by reference.

6 **Wastewater System**

7 7. With respect to BFWC's current wastewater system, BFWC owns and operates a
8 100,000 gallon per day ("GPD") sub-surface constructed wetland treatment plant and a collection
9 system serving approximately 350 connections.

10 8. In the proposed extension area, BWFC anticipates serving 10 customers in the first
11 year and 82 customers by the fifth year. The Company's representative testified that the beginning of
12 construction has been pushed back from summer of 2008 to summer of 2009. Arizona-American
13 Water Company, currently certificated to provide water service to the proposed extension area, will
14 provide water service to the development.

15 9. The sewer system will consist of a 19,000 GPD sub-surface constructed wetland
16 treatment system with sub-surface trench disposal that will serve the 82 lots. This type system is
17 similar to the one currently operated in the Company's certificated area. Staff concluded that the
18 proposed system will have adequate sewer treatment capacity to serve the proposed extension area.

19 10. The new system will be financed through advances in aid of construction and the use
20 of main extension agreements with the developers.

21 11. The estimated cost to construct the wetland and disposal system is \$722,525 and the
22 cost of the collection system is \$320,500. Staff reviewed the proposed sewer plant facilities and the
23 related costs and concluded that the facilities and the costs are reasonable. However, Staff noted that
24 no "used and useful" determination was made and that no conclusions should be inferred for rate
25 making or rate base purposes.

26 12. The Company will apply for a Type 4 General Permit. This will be filed with the
27 Arizona Department of Environmental Quality ("ADEQ") in lieu of applying for an amendment to
28

1 the Areawide Water Quality Management Plan, or a 208 Plan. A 208 Consistency Review Form will
2 be included as part of the Type 4 General Permit Application.

3 13. The General Permit Application has not been submitted by the Company.

4 14. The Company's current system is in compliance with ADEQ requirements.

5 15. According to Staff's Report, the Utilities Division Compliance Section found no
6 outstanding compliance issues for BFWC. The Company is current in its property taxes.

7 16. BFWC will provide wastewater utility service in the extension area at its existing rates
8 and charges. However, pursuant to Decision No. 69949 (October 30, 2007), the Company must file a
9 rate case by May 31, 2009, using a 2008 test year.

10 17. Although the Company asserts that the requested extension area is within the
11 boundaries of BFWC's existing Franchise Agreement with Santa Cruz County, there is no evidence
12 of the Franchise Agreement.

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

- 15 a. That BFWC charge its authorized rates and charges in the extension area.
- 16 b. That BFWC file with Docket Control, as a compliance item in this docket,
17 within 365 days of the Decision in this matter, a copy of the Franchise
18 Agreement with Santa Cruz County which includes the extension area.
- 19 c. That BFWC file with Docket Control, as a compliance item in this docket,
20 within two years of a Decision in this matter, copies of the General Permits for
21 (a) the wetland treatment facility, and (b) the collection system for the
development in the requested area.
- 22 d. That if BFWC fails to comply with the above items within the specified
timeframes, the CC&N extension, after due process, shall be considered null
and void.

23 19. Staff recommendations as set forth in Findings of Fact No. 18 are reasonable and shall
be adopted.

CONCLUSIONS OF LAW

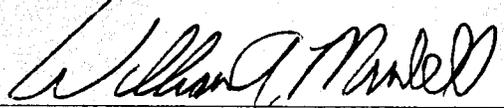
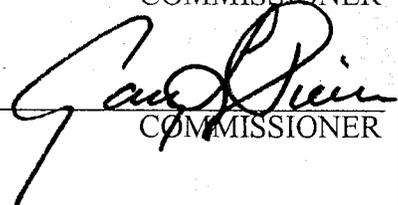
25 1. Baca Float Water Company is a public service corporation within the meaning of
26 Article XV of the Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-285.

27 2. The Commission has jurisdiction over Baca Float Water Company and the subject
28 matter of the application.

1 IT IS FURTHER ORDERED that failure by Baca Float Water Company to comply with the
2 Staff's recommendations, within the specified time frames set forth above, will render the Certificate
3 extension null and void, after due process.

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

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
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7
8  CHAIRMAN  COMMISSIONER
9
10  COMMISSIONER  COMMISSIONER  COMMISSIONER
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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 20th day of April, 2008.

17 
18 BRIAN C. McNEIL
19 EXECUTIVE DIRECTOR

20 DISSENT _____

21 DISSENT _____
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1 SERVICE LIST FOR: BACA FLOAT WATER COMPANY

2 DOCKET NO.: WS-01678A-07-0459

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