

ORIGINAL

OPEN MEETING ITEM



0000098521

MICHAEL P. KEARNS  
Interim Executive Director

COMMISSIONERS  
KRISTIN K. MAYES - Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP



ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

DOCKETED

MAY 29 2009

DATE: MAY 29, 2009  
DOCKET NOS: SW-04210A-06-0220

DOCKETED BY

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Order on:

THE LINKS AT COYOTE WASH, L.L.C.  
(EXTENSION OF TIME DEADLINE  
CONTAINED IN DECISION NO. 69209)

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:

JUNE 8, 2009

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:

JUNE 23, 2009 and JUNE 24, 2009

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 Director's Office at (602) 542-3931.

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ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

MICHAEL P. KEARNS  
INTERIM EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES, Chairman  
4 GARY PIERCE  
5 PAUL NEWMAN  
6 SANDRA D. KENNEDY  
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION OF  
9 THE LINKS AT COYOTE WASH UTILITIES,  
10 L.L.C., FOR AN EXTENSION OF ITS  
11 CERTIFICATE OF CONVENIENCE AND  
12 NECESSITY TO PROVIDE SEWER SERVICE  
13 IN YUMA COUNTY, ARIZONA.

DOCKET NO. SW-04210A-06-0220

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

**ORDER EXTENDING TIME  
DEADLINE CONTAINED IN  
DECISION NO. 69209**

11 Open Meeting  
12 June 23 and 24, 2009  
13 Phoenix, Arizona

14 **BY THE COMMISSION:**

15 \* \* \* \* \*

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

18 **FINDINGS OF FACT**

19 1. On December 21, 2006, the Arizona Corporation Commission ("Commission") issued  
20 Decision No. 69209 which approved the application of the Links at Coyote Wash Utilities, L.L.C.  
21 ("Company" or "Applicant") for an extension of its Certificate of Convenience and Necessity  
22 ("Certificate") to provide public wastewater utility service to 320 acres of land known as the Links at  
23 Coyote Wash Unit Three ("Unit Three") and Unit Four ("Unit Four") in Yuma County, Arizona.

24 2. Two of the conditions of the Commission's approval required the Company to file, by  
25 December 21 and December 31, 2008, respectively, copies of the following: copies of all Approval of  
26 Construction ("AOC") documentation which is issued by the Arizona Department of Environmental  
27 Quality ("ADEQ"); and a copy of the amended Aquifer Protection Permit ("APP") which is issued by  
28 ADEQ for the extension area.

1           3.       On March 31, 2009, the Company filed a Motion for an Extension of Time (“Motion”)  
2 for retroactive approval by the Commission to file copies of the amended APP and the AOC for Unit  
3 Four by August 31, 2010, since concurrently, with the filing of the Company’s Motion, the Company  
4 had filed a copy of the ADEQ AOC for Unit Three.

5           4.       The Company, in its Motion, indicated it has received an Approval to Construct  
6 (“ATC”) from ADEQ and that the Yuma County Department of Development Services has extended  
7 the construction deadline for Unit Four for an AOC until August 2010.

8           5.       The Company further related that additional time is needed to file the amended APP  
9 for the extension area because ADEQ requires additional information from the Company concerning  
10 its application and while its engineering consultant is working with ADEQ, the Company does not  
11 yet know when ADEQ will complete the processing of its application for the amended APP.

12          6.       On May 19, 2009, the Commission’s Utilities Division (“Staff”) filed the Staff  
13 Memorandum responding to the Motion.

14          7.       Attached to the Staff Memorandum was a copy of an April 24, 2009, letter obtained  
15 from the Company. The letter is from the extension area’s developer who is also a manager of the  
16 limited liability company which owns and operates the Applicant which is the “only provider of  
17 sewer service in the area.” The letter indicates a continued need for service and that the developer  
18 has received preliminary plat approval for Unit Four. However, the developer further indicates that  
19 construction of the sewer facilities is projected to commence sometime within the next three years.  
20 Staff notes this inconsistency, since the request for the extension of time to file the AOC for Unit  
21 Four and the APP is only until August 31, 2010.

22          8.       Staff’s Memorandum noted that a December 19, 2008, Company compliance filing  
23 related that “no construction [is] occurring in the extension area, and the developer is believed to be  
24 experiencing financial problems.” Staff states that it “understands the downturn in the economy has  
25 put a damper on much of the development in the state and is concerned with projects being put on hold  
26 and the possibility of development never taking place.” However, Staff recommended approval of the  
27 Company’s Motion based on projected need and on the developer’s continued request for service.

28          9.       Staff further recommended that no further extension of time be granted.



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**ORDER**

IT IS THEREFORE ORDERED that the Links at Coyote Wash Utilities, L.L.C. shall be granted an extension of time, until August 31, 2010, to file copies of the Approval of Construction for Unit Four and the amended Aquifer Protection Permit which were previously ordered to be filed in Decision No. 69209.

IT IS FURTHER ORDERED that no further extension of time to file the aforementioned documents shall be granted absent extraordinary circumstances.

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, MICHAEL P. KEARNS, Interim 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 \_\_\_\_\_, 2009.

\_\_\_\_\_  
MICHAEL P. KEARNS  
INTERIM EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

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SERVICE LIST FOR:

THE LINKS AT COYOTE WASH, L.L.C.

DOCKET NO.:

SW-04210A-06-0220

Patrick J. Black  
FENNEMORE CRAIG  
3003 North Central Avenue, Suite 2600  
Phoenix, AZ 85012

Janice Alward, Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, AZ 85007

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