

ORIGINAL

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



0000102176

Executive Director

ARIZONA CORPORATION COMMISSION

DATE: SEPTEMBER 2, 2009

DOCKET NO: SW-20576A-08-0067

TO ALL PARTIES:

Arizona Corporation Commission

DOCKETED

SEP - 2 2009

DOCKETED BY [Signature]

Enclosed please find the recommendation of Administrative Law Judge Sarah N. Harpring. The recommendation has been filed in the form of an Order on:

SACRAMENTO UTILITIES, L.L.C.
(AMENDS DECISION NO. 71119)

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:

SEPTEMBER 11, 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:

SEPTEMBER 22, 2009 and SEPTEMBER 23, 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

[Signature]
ERNEST G. JOHNSON
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 SACRAMENTO UTILITIES, L.L.C., FOR A
10 CERTIFICATE OF CONVENIENCE AND
11 NECESSITY TO PROVIDE WASTEWATER
12 SERVICE IN MOHAVE COUNTY, ARIZONA.

DOCKET NO. SW-20576A-08-0067

DECISION NO. _____

ORDER AMENDING
DECISION NO. 71119

10 Open Meeting
11 September 22 and 23, 2009
12 Phoenix, Arizona

13 **BY THE COMMISSION:**

14 Having considered the entire record herein and being fully advised in the premises, the
15 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

16 **FINDINGS OF FACT**

17 1. On February 4, 2008, Sacramento Utilities, L.L.C. ("Sacramento") filed with the
18 Arizona Corporation Commission ("Commission") an Application for a Certificate of Convenience
19 and Necessity ("CC&N") to provide wastewater service in an area of Mohave County, Arizona.

20 2. On June 5, 2009, the Commission issued Decision No. 71119, granting Sacramento a
21 CC&N to provide wastewater utility service in an area including four separate parcels, referred to as
22 Parcel 1—Shipp Estates, Parcel 2—Oliver Estates, Parcel 5—The Patterson Parcel, and Parcel 6—
23 Villa Serena. Exhibit A to Decision No. 71119 provides a legal description for each of the four
24 parcels along with maps showing their locations.¹

25 3. On August 7, 2009, Sacramento filed an Application to Amend Decision No. 71119
26 Pursuant to A.R.S. § 40-252 ("Application to Amend"), explaining that Exhibit A to Decision No.
27 71119 includes an incorrect legal description for Parcel 1.² Sacramento included with its Application

28 ¹ The parcels are not labeled by number on the maps, but are all reflected on the maps.

² The legal description for Parcel 1 included in Decision No. 71119 only describes 25 acres of land.

1 to Amend a revised legal description for Parcel 1, which is attached hereto as Exhibit 1 and
2 incorporated herein. Exhibit 1 shows that Parcel 1 contains 49.75 acres. Sacramento also included a
3 revised version of the legal descriptions for the other three parcels included in the CC&N service
4 area, because Exhibit A to Decision No. 71119 includes references to Parcels 3 and 4 even though
5 Sacramento withdrew its request to have Parcels 3 and 4 included in its CC&N service area during
6 the pendency of this matter. The revised version of the legal descriptions for Parcels 2, 5, and 6 is
7 attached hereto as Exhibit 2 and incorporated herein.³ Sacramento requested in its Application to
8 Amend that the Commission amend Exhibit A to Decision No. 71119 by replacing it with the
9 documents attached hereto as Exhibit 1 and Exhibit 2. Sacramento explained that the developer of
10 Parcel 1 is awaiting Final Plat approval and that Mohave County cannot consider the matter until the
11 legal description for Parcel 1 has been corrected in the Commission's Decision. Sacramento
12 expressly waived any right to another hearing in this matter.

13 4. At the Commission Staff Open Meeting on August 11, 2009, the Commission
14 discussed the Application to Amend, voted to reopen Decision No. 71119 under A.R.S. § 40-252, and
15 directed the Hearing Division to conduct appropriate proceedings. The Commission expressed
16 concern regarding whether notice had been provided to the property owners for the acreage
17 previously excluded from the legal description for Parcel 1 and indicated that the issue of notice
18 should be explored and, if necessary, addressed.

19 5. On August 12, 2009, a Procedural Order was issued scheduling a procedural
20 conference to be held on August 20, 2009, for the purposes of discussing the issue of notice to the
21 property owners for the acreage previously excluded from the legal description for Parcel 1 and
22 discussing the timing and process to be followed in this matter.

23 6. On August 20, 2009, a procedural conference was held before a duly authorized
24 Administrative Law Judge of the Commission at the Commission's offices in Phoenix, Arizona.

25
26
27 ³ Sacramento filed a corrected revised version of the legal description for Parcels 2, 5, and 6 on August 31, 2009, as the
28 version included in its Application to Amend had omitted the Township and Range references for Parcel 2. That
corrected version is attached hereto as Exhibit 2, modified by deleting a remaining reference to parcel 4 and by deleting
an erroneous plural reference to Parcel 2.

1 Sacramento and the Commission's Utilities Division ("Staff") appeared through counsel, and Dwight
2 Zemp, the managing member of the company that manages Sacramento, attended telephonically.

3 7. During the procedural conference, Sacramento provided a copy of an October 2007
4 letter to Sacramento from BL Shuffler and Sons, stating that BL Shuffler and Sons owns the entire
5 49.75-acre parcel of land known as Tract 3310 in Mohave County, intends to develop the parcel into
6 approximately 146 single-family residential lots, and desires to receive wastewater service from
7 Sacramento.⁴ Tract 3310 is Parcel 1, as shown in Exhibit 1 hereto.

8 8. Sacramento confirmed during the procedural conference that BL Shuffler and Sons
9 was provided notice of the application and hearing in this matter by U.S. mail at the same time as the
10 other property owners for the service area were provided notice.⁵ Staff agreed that there is no need
11 for additional notice to be provided to the property owner for Parcel 1.

12 9. During the procedural conference, Sacramento and Staff agreed that inclusion of the
13 incorrect legal description for Parcel 1 was essentially a manifest typographical error, as the parties
14 had understood during the proceedings that Parcel 1 was approximately 48 to 50 acres in size. This
15 position is consistent with the record in this matter. During the hearing on January 26, 2009, Mr.
16 Zemp testified that Parcel 1, referred to as the Shipp Estates, is an approximately 50-acre parcel of
17 land to be developed for approximately 146 to 150 residences. (Tr. at 9, 25.) In the Staff Report,
18 Staff referred to the Shipp Estates as a 48-acre parcel to be developed into 152 lots. (Ex. S-1,
19 Engineer's Memorandum at 1.) In addition, the discussion of Parcel 1 in Decision No. 71119 itself
20 includes the figures from the Staff Report.⁶

21 10. During the procedural conference, Staff also indicated that the maps included in
22 Exhibit A to Decision No. 71119 should be replaced to show the correct area for Parcel 1, as they
23 were created using the legal description for Parcel 1 contained in Exhibit A to Decision No. 71119.
24 Staff stated that new maps would be generated using the revised legal description for Parcel 1. The
25 new maps provided by Staff, which portray Parcel 1 in accordance with Exhibit 1 hereto, are attached
26 hereto as Exhibit 3 and incorporated herein.

27 ⁴ This letter was included as part of Sacramento's original application. (Ex. A-1 at Tab C.)

28 ⁵ See Ex. A-5; Tr. at 8-9.

⁶ See Decision No. 71119, Findings of Fact Nos. 3 and 4.

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ORDER

IT IS THEREFORE ORDERED that Exhibit A to Decision No. 71119 is hereby amended by replacing it in its entirety with Exhibit 1, Exhibit 2, and Exhibit 3 hereto, which together shall be deemed Exhibit A to Decision No. 71119.

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, ERNEST G. JOHNSON, 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.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

SNH:db

1 SERVICE LIST FOR: SACRAMENTO UTILITIES, L.L.C.

2 DOCKET NO.: DOCKET NO. SW-20576A-08-0067

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18 Steve Olea, Director
19 Utilities Division
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EXHIBIT 1

Sacramento Utilities Company
Amended Legal Description

Parcel 1 (Shipp Estates)

DESCRIPTION FOR SHIPP ESTATES TRACT 3310

A parcel of land located within the South half of Section 12, Township 21 North, Range 19 West of the Gila and Salt River Meridian, Mohave County, Arizona and being more particularly described as follows:

Commencing at the Southeast Section Corner of said Section 12 and running thence, South 89°43'52" West, along the South Line of said Section 12, a distance of 1325.19 feet to the true POINT OF BEGINNING;

Thence, South 89°43'52" West, along the South Line of said Section 12, a distance of 1325.19 feet to the South One-quarter Section Corner of said Section 12;

Thence, South 89°43'01" West, along the South Line of said Section 12, a distance of 1323.90 feet to the centerline of Davis Road;

Thence, North 00°08'17" West, along the centerline of Davis Road, a distance of 330.15 feet;

Thence, North 89°41'09" East, 1324.02 feet to a point on the centerline of Glen Canyon Road;

Thence, North 00°07'02" West, along the centerline of Glen Canyon Road, a distance of 989.17 feet to a point on the centerline of Brook Drive;

Thence, North 89°43'15" East, along the centerline of Brook Drive, a distance of 1295.26 feet to a point;

Thence, South 00°06'52" East, along the West right-of-way boundary of Morman Flat Road, a distance of 660.13 feet;

Thence, North 89°44'56" East, 30.00 feet to a point on the centerline of Morman Flat Road;

Thence, South 00°06'52" East, along the centerline of Morman Flat Road, a distance of 660.14 feet to the POINT OF BEGINNING.

The parcel of land herein described containing 49.75 acres, more or less.

05-620SHIP.DOC



Christopher Thomas R.
EXP 6/30/2011

DECISION NO. _____

EXHIBIT 2

**Sacramento Utilities Company
Amended Legal Description**

PARCEL 2 (Oliver Estates)

The Southwest quarter of the Southeast quarter of the Southeast quarter (10 acres), and
The West half of the Southeast quarter of the Southeast quarter of the Southeast quarter
(5 acres), all in Section 12

Parcel 2 all being in Township 21 North, Range 19 West, G&SRB&M,
Mohave County, Arizona.

PARCEL 5 (The Patterson Parcel)

The Southwest quarter of the Southwest quarter (40 acres), all in Section 7

PARCEL 6 (Villa Serena)

The Northeast quarter of the Southeast quarter (40 acres), and

The Northwest quarter of the Southeast quarter (40 acres), except the Northeast quarter of
the Northeast quarter of the Northwest quarter of the Southeast quarter (2.5 acres), and

The West half of the Southeast quarter of the Southwest quarter of the Northeast quarter
(5 acres), and

The South half of the Southeast quarter of the Northeast quarter (20 acres), and

The North half of the Southwest quarter of the Southeast quarter (20 acres), and

The North half of the Southwest quarter of the Southwest quarter of the Southeast quarter
(5 acres) all in Section 7,

Parcels 5 and 6 all being in Township 21 North, Range 18 West, G&SRB&M,
Mohave County, Arizona.

EXHIBIT 3



(2)

Sacramento Utilities, LLC
Docket No. SW-20576A-08-0067
2nd Amended Application for CC&N for Sewer

TOWNSHIP 21 North

RANGE 19 West

06	05	04	03	02	01
07	08	09	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36



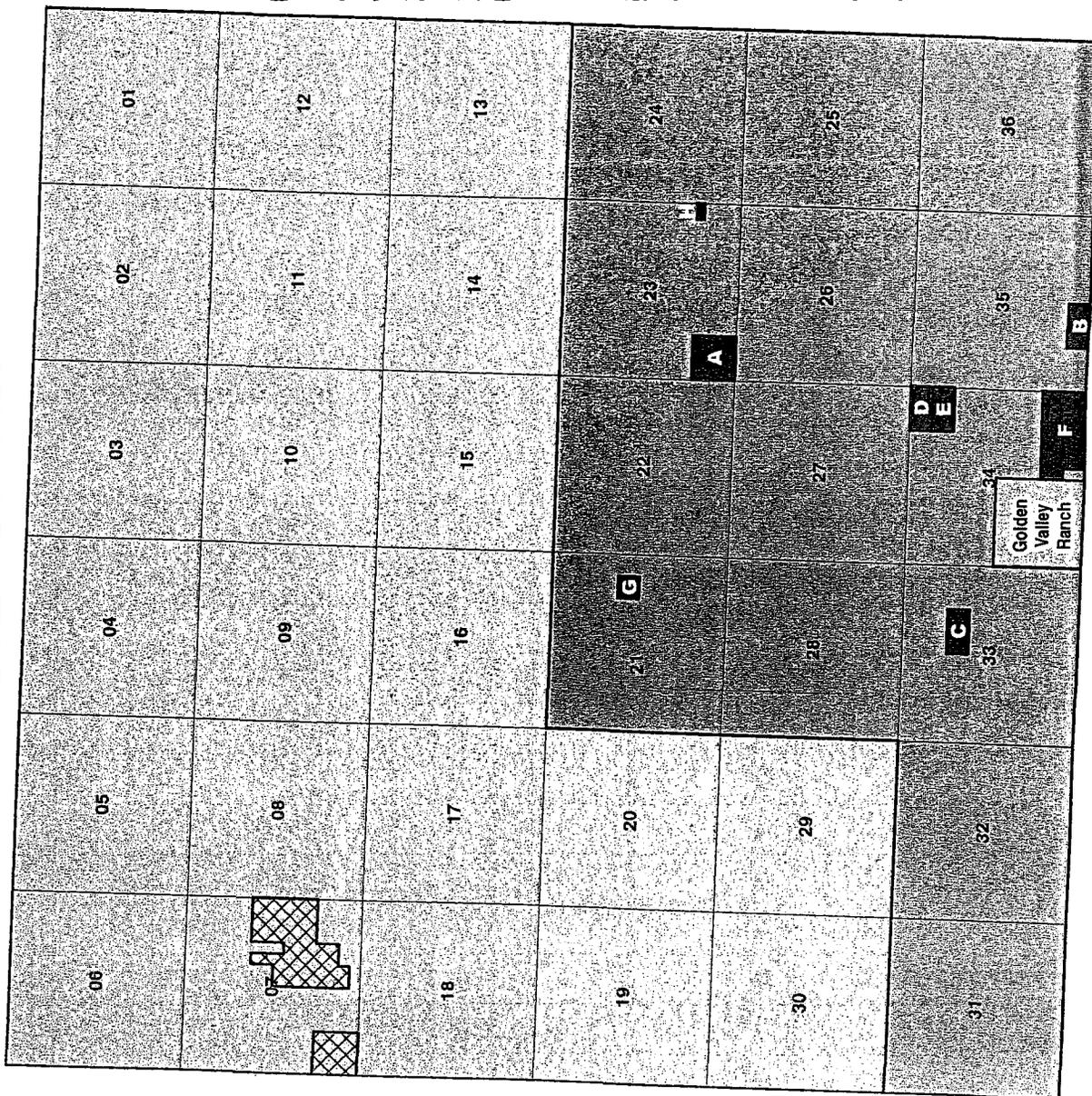
MOHAVE COUNTY

DECISION NO

MOHAVE COUNTY

RANGE 18 West

TOWNSHIP 21 North



- 
W-2033 (2)
 Valley Pioneer's Water Company, Inc.
- 
(4)
 Perkins Mountain Water Company
 Docket No. W-20380A-05-0490
 Perkins Mountain Utility Company
 Docket No. SW-20379A-05-0489
 Application for CC&N - 4th Amended
- 
(1)
 Valley Pioneer's Water Company, Inc.
 Docket No. W-02033A-06-0262
 Application for Extension
- 
(1)
 Valley Pioneer's Water Company, Inc.
 Docket No. W-02033A-06-0262
 Staff's Recommended Extension Area
- 
(2)
 Sacramento Utilities, LLC
 Docket No. SW-20576A-08-0067
 2nd Amended Application for CC&N for Sewer