



**FOR  
INTERNAL  
&  
INTERAGENCY  
USE  
ONLY**

Pursuant to the contract with Arizona Reporting Service all transcripts are available electronically for internal agency use only.

Do not copy, forward or transmit outside the Arizona Corporation Commission.



24000006

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

INDEX TO EXAMINATIONS

WITNESS	PAGE
CHRIS MONSON	
Direct Examination by Mr. McNulty	6
Cross-Examination by Mr. Ronald	10
Examination by ALJ Rodda	12
MARGARET PHILLIPS	
Direct Examination by Mr. McNulty	16
Cross-Examination by Mr. Ronald	17
JIM FISHER	
Direct Examination by Mr. Ronald	19
Examination by ALJ Rodda	24

INDEX TO EXHIBITS

NO.	DESCRIPTION	ID	AD
A-1	Saguaro Water Company Hearing Exhibits	6	19
S-1	Staff Report	20	22

1 BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on regularly to be heard before  
3 the Arizona Corporation Commission, 400 West Congress  
4 Street, Tucson, Arizona, commencing at 10:00 a.m. on  
5 the 5th day of May, 2004.

6  
7 BEFORE: JANE L. RODDA, Administrative Law Judge

8 APPEARANCES:

9 For the Arizona Corporation Commission Staff:

10 DAVID RONALD  
11 Staff Attorney, Legal Division  
12 1200 West Washington Street  
13 Phoenix, Arizona 85007

14 For Saguaro Water Company:

15 LEWIS AND ROCA, L.L.P.  
16 By: Mr. Michael F. McNulty  
17 One South Church Avenue, Suite 85701  
18 Tucson, Arizona 85701

19  
20  
21  
22  
23  
24  
25  
MICHELE E. BALMER  
Certified Court Reporter  
Certificate No. 50489

1 ALJ RODDA: This is the time set for the  
2 hearing in Docket W-01790A-03-768. It is the matter of  
3 the application of Saguaro Water Company for an  
4 extension of its CC&N.

5 Good morning, everyone. My name is Jane Rodda,  
6 and I'm the Administrative Law Judge assigned to the  
7 matter.

8 And let's take appearances of the parties.  
9 Since you're flipped, I have to think backwards. So on  
10 behalf of Saguaro Water Company?

11 MR. McNULTY: Michael McNulty with Lewis and  
12 Roca on behalf of Saguaro Water Company. And with me  
13 is Chris Monson, the president of the water company.

14 ALJ RODDA: Good morning.

15 And on behalf of Commission Staff?

16 MR. RONALD: David Ronald here for Staff of the  
17 Arizona Corporation Commission.

18 ALJ RODDA: Great. Welcome to Tucson to you,  
19 too.

20 I don't see that we have any pending motions,  
21 so is there anything you want to discuss preliminarily  
22 or just -- no.

23 So this is the time set for public comment.  
24 I'll ask if there are any members of the public present  
25 who wish to make comment on this application?

1 (No response.)

2 ALJ RODDA: And we'll let the record reflect  
3 that there are no members of the public present this  
4 morning wishing to make public comment.

5 And I'll ask Mr. McNulty, do you have an  
6 opening that you want to make this morning?

7 MR. McNULTY: I don't believe so. I think this  
8 will be a very perfunctory hearing.

9 ALJ RODDA: Mr. Ronald?

10 MR. RONALD: No opening, Your Honor. Thank  
11 you.

12 ALJ RODDA: Great.

13 And Mr. Monson will be your witness,  
14 Mr. McNulty?

15 MR. McNULTY: Yes. And I intend to call the  
16 owner of the property briefly. We have Margaret  
17 Phillips here of the Jacaranda Village Division.

18 ALJ RODDA: Excellent. Thank you. Who do you  
19 want to call first?

20 MR. McNULTY: Mr. Monson.

21 ALJ RODDA: Great.

22

23

24

25

1 CHRIS MONSON,  
2 called as a witness on behalf of the Applicant, having  
3 been first duly sworn by the Certified Court Reporter  
4 to speak the whole truth and nothing but the truth, was  
5 examined and testified as follows:

6

7

## DIRECT EXAMINATION

8

9 Q. (BY MR. McNULTY) Mr. Monson, would you  
10 identify yourself and your address and your title.

11 A. Chris Monson. I'm president of Saguaro Water  
12 Company. My address is 2960 North Swan Road, Suite  
13 300.

14 Q. At this time I would like to have the  
15 Applicant's first exhibit marked.

16 Mr. Monson, I'm presenting you with what's been  
17 marked as Applicant's Exhibit A-1. And I would like to  
18 simply go through each of the items within this  
19 notebook so that we can identify them one by one.

20 Behind what is called Tab Exhibit 1, is that a  
21 copy of the application for an extension of the  
22 Certificate of Convenience and Necessity for the  
23 Saguaro Water Company?

24 A. Yes.

25 Q. And did you direct your legal counsel to submit

1 this on behalf of the water company?

2 A. I did.

3 Q. Behind Exhibit 1 there is a Tab A. Is that the  
4 certificate of good standing of the water company?

5 A. Yes.

6 Q. To your knowledge, is the water company still  
7 in good standing?

8 A. Yes.

9 Q. Behind Tab B, did the board of directors of the  
10 water company meet in August of last year to authorize  
11 you to file applications for a CC&N and for a franchise  
12 with Pima County?

13 A. Yes.

14 Q. Behind Tab C, would that be an accurate legal  
15 description of the property that you seek to include  
16 within your CC&N?

17 A. Yes.

18 Q. Behind Tab D, does that reflect the existing  
19 CC&N of the water company and the area that you want to  
20 include?

21 A. Yes.

22 Q. There is some territory in between the two.  
23 Have you received any applications from the landowners  
24 in between to include them also?

25 A. Not at this time.

1 Q. Behind Tab E, does that reflect the balance  
2 sheet of the water company as of the end of July of  
3 last year?

4 A. Yes, it does.

5 Q. Behind Tab F, is that a water use data sheet  
6 from June of 2002 through June of 2003?

7 A. Yes, it is.

8 Q. Was it prepared at your direction?

9 A. Yes.

10 Q. Behind what is now Exhibit 2, does that reflect  
11 the fact that your legal counsel had notice of the  
12 application delivered to the owner of the property?

13 A. My legal counsel has notice of everything we  
14 do.

15 Q. Thank you. Behind Exhibit 3, does that reflect  
16 the fact that the application was also delivered to the  
17 customers of the water company?

18 A. Yes, it does.

19 Q. Who is Diane Davis?

20 A. Diane Davis is my assistant, and she helps  
21 coordinate the administrative affairs of the water  
22 company.

23 Q. All right. Behind the tab marked Exhibit 4,  
24 would that be the request from the owner of the  
25 property to include the subdivision within the CC&N?

1 A. Yes, it is.

2 Q. Behind Exhibit 5, would that be the franchise  
3 that Pima County has granted to the water company to  
4 serve that territory and additional territory?

5 A. Yes.

6 Q. Behind tab Exhibit 6, is that the Staff Report  
7 issued in this matter?

8 A. Yes, it is.

9 Q. Would you go to the fifth page of that exhibit.  
10 In the middle of that page you'll see five items that  
11 the Staff is recommending to be done in this matter.

12 If you would just take two minutes and go  
13 through that and see if you have any objections to  
14 attending to each of those matters.

15 A. I think those things are all in order. We  
16 don't have a problem with any of those.

17 Q. Very good. Behind Exhibit 7, did you authorize  
18 your legal counsel to notify the property owner of this  
19 hearing?

20 A. Yes.

21 Q. Behind Exhibit 8, did the water company notify  
22 all of its customers of this hearing?

23 A. Yes.

24 Q. Did you receive any objection from any of your  
25 customers?

1 A. None that I'm aware of.

2 Q. To your knowledge, is the water company current  
3 on the payment of its taxes?

4 A. Yes.

5 MR. McNULTY: I don't believe I have any more  
6 questions.

7 ALJ RODDA: Thank you, Mr. McNulty.

8 Mr. Ronald, do you have any questions?

9 MR. RONALD: Yes. Thank you, Your Honor.

10

11

CROSS-EXAMINATION

12

13 Q. (BY MR. RONALD) Good morning, Mr. Monson.

14 A. Good morning.

15 Q. So the proposed development, that's Jacaranda  
16 Villages?

17 A. Yes.

18 Q. Did I pronounce that right?

19 A. I believe so.

20 Q. And you're proposing to have about 36  
21 additional connections?

22 A. They're proposing that. We're proposing -- you  
23 know, we're agreeing to provide that service.

24 Q. And right now you have about 250 customers?

25 A. Yes.

1 Q. And I understand that you're going to need some  
2 easements?

3 A. Yes. But the easements are really across lands  
4 that we control under other entities.

5 Q. So you don't anticipate any problems getting  
6 those easements?

7 A. No.

8 Q. And you are going to be filing a curtailment  
9 tariff?

10 A. Yes.

11 Q. And I noticed there's actually several water  
12 companies in the general area. Isn't that true?

13 A. I don't know how you define several. I mean, I  
14 know of -- I'm very familiar with at least one other  
15 one or two other ones there. You know, we have the  
16 Spanish Trail Water Company that is immediately north  
17 of that.

18 Q. So the extension area that you're seeking is  
19 actually adjacent to the Spanish Trail Water Company?

20 A. It is.

21 Q. And is there a particular reason why they are  
22 not serving that area?

23 A. Yes. They're really more focused on the  
24 Rocking K Holding, and reserving a lot of their  
25 capacity for that at this time. And the Saguaro

1 Company is simply more prepared to deal with multiple  
2 subscribers and is more in place right now to serve it  
3 at this time.

4 At another time, it would probably be able to  
5 do that. But we have the service already established  
6 for Antler Crest, which is just to the east of this  
7 project. And so it's simply more consistent with the  
8 delivery system we already have in place.

9 Q. Are you the owner of Spanish Trail also?

10 A. I'm the president of Spanish Trail.

11 Q. Looking at a cost effective basis, is it better  
12 for this property to be served by Saguaro Water Company  
13 than Spanish Trail?

14 A. At this stage, it is. As I mentioned, the time  
15 may come when that would change. But right now we  
16 don't have that service in the area to provide service  
17 to this particular subdivision.

18 MR. RONALD: No further questions, Your Honor.

19 ALJ RODDA: Okay. Thank you. Just a follow-up  
20 on that line of questioning.

21

22

EXAMINATION

23

24 Q. (BY ALJ RODDA) You mentioned you -- what I'm  
25 looking at, just so you know, do you have a copy of

1 this colored map that --

2 A. I didn't get a colored. I just got black and  
3 white.

4 Q. This is from Barb Wells at the Commission's  
5 Utility Division.

6 A. Okay.

7 Q. I'm just going to let you look at it so you can  
8 see what I'm looking at.

9 A. Okay.

10 Q. On this map, the extension area is this little  
11 blue square.

12 A. Right.

13 Q. And I think what I understand from your  
14 testimony is that in this section, is it 28 which is  
15 being served by Spanish Trail? That you don't have  
16 facilities in that?

17 A. There's no -- yeah. That's exactly correct.  
18 That's vacant land at this point. So we serve this  
19 area here, and we serve these other areas. And we have  
20 our capacity with our reservoir right here to serve  
21 this much more easily than that from Spanish Trail.

22 Q. And so that other -- the development that you  
23 just mentioned, that wasn't Jacaranda, but one that  
24 you're currently serving.

25 A. Antler Crest is this one right here.

1 Q. When he says right here, he means Section 34,  
2 which is the closest Saguaro section to the --

3 A. Correct. And much closer than any of the  
4 Spanish Trail service areas that are connected within  
5 that service area today.

6 Q. Okay. And when you were contacted by the  
7 developer, did they express -- -- I guess we have them  
8 here today, but did they express a preference?

9 A. They did not. To my understanding, they don't  
10 have preference. They simply were interested in their  
11 consumers, making sure they had the most cost efficient  
12 delivery that they could so they didn't have to pass on  
13 increased costs.

14 Q. Okay. And I believe you testified that the  
15 Spanish Trail Water Company and the Saguaro Water  
16 Company have a common ownership; is that right?

17 A. No. I didn't say that.

18 Q. You were just the president?

19 A. I'm president of both. They have separate --  
20 They're different ownerships. They have some common  
21 denominators.

22 Q. Okay. They have you in common anyway?

23 A. That's right.

24 Q. I'm just looking at my questions. I think you  
25 answered most of them. Okay.

1           And would this developer be required to get a  
2 certificate of assured water supply?

3           A.    Yes.  In fact, I think any developer today has  
4 to.

5           Q.    Okay.  And I think Mr. McNulty asked you if you  
6 were current on your property taxes, and you said you  
7 were.  And does that include sales taxes, too?

8           A.    You know, to my knowledge we are.  I mean, I  
9 usually -- I manage that more by exception than by  
10 focus.  But to my understanding, we're totally current.

11           ALJ RODDA:  Okay.  I don't think I have  
12 anything further.

13                    Did you have anything else?  Any redirect,  
14 Mr. McNulty?

15           MR. McNULTY:  No, ma'am.

16           ALJ RODDA:  All right.  Well, thank you  
17 Mr. Monson.

18           THE WITNESS:  Thank you.

19           ALJ RODDA:  It's been a while since you've been  
20 here.  It's nice to see you again.

21                    (Mr. Monson was excused as a witness.)

22           MR. McNULTY:  I would like to call Margaret  
23 Phillips.

24

25

1 MARGARET PHILLIPS,  
2 called as a witness on behalf of the Applicant, having  
3 been first duly sworn by the Certified Court Reporter  
4 to speak the whole truth and nothing but the truth, was  
5 examined and testified as follows:

6

7

## DIRECT EXAMINATION

8

9 Q. (BY MR. McNULTY) Could you state your name and  
10 address for the record.

11 A. My name is Margaret Phillips. My address is  
12 8444 North Oracle Road, Suite 150, Tucson, 85704.

13 Q. The Applicant's exhibit contained a letter from  
14 you requesting service to a property called Jacaranda  
15 Village at Tewa Trails; is that right?

16 A. That's correct. Yes.

17 Q. And you were the sole owner at that time?

18 A. At that time I was, yes.

19 Q. And since then has there been any changes to  
20 that?

21 A. Right now the ownership is in an L.L.C.  
22 Jacaranda Villages at Tewa Trail, L.L.C. And I am a  
23 member of that L.L.C., and the other member is Kevin  
24 Tomkiel who is sitting over there.

25 Q. Is it the case that in order to plat the

1 property you're going to need a certificate of assured  
2 supply?

3 A. That's correct, yes.

4 Q. And to get a certificate of assured supply, is  
5 it correct that you need to have the CC&N extended to  
6 serve the property?

7 A. That is also correct, yes.

8 Q. And if you had both o f those things in hand  
9 today, would you be prepared to move forward to develop  
10 the property?

11 A. Absolutely. Yes.

12 Q. How imminent is the development of property?

13 A. We're a tentative plat currently. And we do  
14 have a builder who has his plans approved and who is  
15 ready to construct right now as soon as we get this  
16 water supply.

17 MR. McNULTY: Very good. For purposes of the  
18 record, Madam Hearing Officer, I don't think I need ask  
19 her anything else. So I'll turn it over to Mr. Ronald.

20 ALJ RODDA: Mr. Ronald.

21 MR. RONALD: Thank you, Your Honor.

22

23 CROSS-EXAMINATION

24

25 Q. (BY MR. RONALD) Good morning, Ms. Phillips.

1 A. Good morning, sir.

2 Q. Is it also your intention to enter into a main  
3 extension agreement with Saguaro Water Company?

4 A. Yes, it is.

5 Q. To set up the financing?

6 A. Actually, I think we have a line extension  
7 agreement currently. We had executed that and it has  
8 been approved.

9 MR. McNULTY: Subject to the extension notice.

10 Q. (BY MR. RONALD) And it's true that your  
11 development did not have a preference as to which water  
12 company in your area served you?

13 A. That is accurate, yes.

14 Q. Who is going to be providing the wastewater  
15 service for this development?

16 A. I believe it's septic tank, each one. It's a  
17 one-acre lot, and so each one will have a septic tank.

18 MR. RONALD: No further questions, Your Honor.

19 ALJ RODDA: Okay. I don't think I have any  
20 questions. I think you covered it all.

21 THE WITNESS: Thank you.

22 ALJ RODDA: So unless Mr. McNulty has anything  
23 further, you're excused.

24 MR. McNULTY: Nothing further.

25 ALJ RODDA: All right. Thank you. It's always

1 nice to have the property owner appear, so I appreciate  
2 you arranging that.

3 (Ms. Phillips was excused as a witness.)

4 ALJ RODDA: Do you want to move to have Exhibit  
5 A-1 admitted?

6 MR. McNULTY: Thank you. I would so move.

7 ALJ RODDA: Okay. Hearing no objection,  
8 Exhibit A-1 is admitted.

9 Mr. Ronald, do you want to call Mr. Fisher?

10 MR. RONALD: Yes, Your Honor. Staff calls  
11 Mr. Jim Fisher.

12 JIM FISHER,

13 called as a witness on behalf of Staff, having been  
14 first duly sworn by the Certified Court Reporter to  
15 speak the whole truth and nothing but the truth, was  
16 examined and testified as follows:

17

18 DIRECT EXAMINATION

19

20 Q. (BY MR. RONALD) Good morning, Mr. Fisher.

21 A. Good morning, Mr. Ronald.

22 Q. Please tell us your name and business address.

23 A. My name is Jim Fisher. My business address is  
24 Arizona Corporation Commission, Utilities Division,  
25 1200 West Washington, Phoenix, Arizona.

1 Q. And how long have you been with the Corporation  
2 Commission?

3 A. I've been there since 1987.

4 Q. And what are your current duties?

5 A. My current duties include, as an Executive  
6 Consultant in the Utilities Division, I'm responsible  
7 for the review and analyses and recommendation for the  
8 Staff position in matters regarding Certificates of  
9 Convenience and Necessity and extensions of  
10 certificates for water and wastewater, as well as a  
11 number of other duties.

12 Q. And as an Executive Consultant, did you review  
13 an application from Saguaro Water Company for an  
14 extension of their Certificate of Convenience and  
15 Necessity?

16 A. Yes, sir. I did.

17 Q. Did you prepare a Staff Report?

18 A. Yes.

19 Q. You have in front of you what's previously been  
20 marked as S-1. Could you tell us what that is?

21 A. Yes. S-1 is a February 27, 2004 Staff Report  
22 for Saguaro Water Company regarding its application for  
23 an extension of Certificate of Convenience and  
24 Necessity to provide water service in Pima County.

25 Q. Were you assisted by any other Staff persons to

1 prepare that report?

2 A. Yes, I was.

3 Q. Who else assisted you?

4 A. Heidi Lopez was the administrative assistant,  
5 and my engineer assistant was Dorothy Hains.

6 Q. And will you be --

7 A. As well as Barb Wells on the map.

8 Q. And will you be testifying on behalf of those  
9 other Staff persons today?

10 A. Certainly.

11 Q. Are there any changes to S-1 that you need to  
12 make today?

13 A. Yes, there is. If you look at the Executive  
14 Summary on the second paragraph, the second sentence  
15 indicates the company currently serves 350. That  
16 should be 250 to correspond with the first sentence in  
17 the third paragraph.

18 Other than that, I don't know of any  
19 corrections additions or anything like that.

20 Q. And do you adopt S-1 as your sworn testimony  
21 with the change that you just made?

22 A. Certainly.

23 MR. RONALD: Your Honor, at this time I move  
24 for the admission of S-1.

25 ALJ RODDA: Okay.

1 MR. McNULTY: No objection.

2 ALJ RODDA: Hearing no objections, S-1 is  
3 admitted.

4 Q. (BY MR. RONALD) Mr. Fisher, would you briefly  
5 summarize your recommendations.

6 A. Certainly. It's Staff's position that Saguaro  
7 is a company in good standing, and that there's an  
8 appropriate request for service from the property  
9 owner. It is our opinion that it is in the public  
10 interest that the CC&N extension be granted, subject to  
11 compliance with five conditions.

12 Those five conditions are enunciated in the  
13 Executive Summary as well as in the final portion of  
14 the Staff Report. Staff's conditions include that the  
15 water company should be required to charge its existing  
16 rates and charges in the extension area; that the  
17 company be required or the company file a curtailment  
18 tariff consistent with Commission policy within 90 days  
19 of any decision in this matter; to require the company  
20 to file with the Director a copy of the developer's  
21 certificate of assured water supply related to the  
22 proposed extension area within 365 days; to require the  
23 company to file a main extension agreement associated  
24 with the proposed extension area; and to require the  
25 company to file a county franchise with the Division

1 Director within 365 days.

2 Q. And does Staff believe that this company is a  
3 fit and proper entity?

4 A. Certainly. It's in compliance with ADEQ. It  
5 is current on its property taxes. It is currently  
6 serving the public and meeting the needs. It's been  
7 approached by a property owner seeking to develop a  
8 nearby property. It's ready to go.

9 Q. And is it currently in compliance with all  
10 Commission orders?

11 A. Yes, it is.

12 Q. You heard the testimony this morning by  
13 Mr. Monson and Ms. Phillips. Does Staff have any  
14 concerns about Mr. Monson being the president of both  
15 water companies that were talked about this morning?

16 A. Not at all.

17 Q. Do you have anything to add to your testimony?

18 A. No, I don't.

19 MR. RONALD: Thank you, Mr. Fisher.

20 No further questions, Your Honor.

21 ALJ RODDA: Did you have any questions,  
22 Mr. McNulty?

23 MR. McNULTY: No. Thank you.

24 THE WITNESS: All the way down here and --

25 ALJ RODDA: All the way down here.



1 extension area.

2 ALJ RODDA: Okay. I was trying to compare  
3 them, but I just couldn't do it quickly enough. So I  
4 see.

5 MR. McNULTY: That's a very small part of what  
6 the franchise is.

7 ALJ RODDA: Excellent. But since you were so  
8 thorough before, Mr. Fisher, I can't think of anything  
9 to grill you on, unless your attorney has something  
10 more.

11 THE WITNESS: And ma'am, looking at Exhibit A  
12 of that franchise agreement, it does indicate Township  
13 16 South, Range 16 East, Sections 1 through 36 is in  
14 there. I know we've got Township 15 South, Range 16  
15 East, Sections 1 through 36. This is in 16 East, 15  
16 South, Section 33. So I would concur with  
17 Mr. McNulty's representations.

18 ALJ RODDA: Great. Thank you, Mr. Fisher.

19 THE WITNESS: Sure.

20 ALJ RODDA: We'll try to think of more  
21 questions for you on the 11:00.

22 THE WITNESS: Good. Thank you.

23 (Mr. Fisher was excused as a witness.)

24 ALJ RODDA: Did you have anything in closing,  
25 Mr. McNulty?

2940000006

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

MR. McNULTY: No, Your Honor.

ALJ RODDA: Mr. Ronald?

MR. RONALD: No, Your Honor. Thank you.

ALJ RODDA: All right. Well, then, I'll take the matter under advisement pending the submission of my recommended opinion and order. And thank you all for such an efficient hearing.

(The Hearing concluded at 10:30 a.m.)

