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BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION ) DOCKET NO.  
OF JOHNSON UTILITIES COMPANY FOR ) WS-02987A-04-0501  
AN EXTENSION OF ITS EXISTING )  
CERTIFICATE OF CONVENIENCE AND )  
NECESSITY FOR PROVISION OF )  
WASTEWATER SERVICE. )

At: Phoenix, Arizona  
Date: January 5, 2005  
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

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**ORIGINAL**



## 1 INDEX TO EXAMINATIONS

2	WITNESS	PAGE
3	BRIAN PETER TOMPSETT	
4	Direct Examination by Mr. Shapiro	7
	Examination by ACALJ Nodes	10
5	Direct Examination Cont'd by	
	Mr. Shapiro	12
6	Cross-Examination by Mr. Sabo	13
	Further Examination by ACALJ Nodes	21
7	Redirect Examination by Mr. Shapiro	27
	Further Examination by ACALJ Nodes	29
8	Further Redirect Examination by	
	Mr. Shapiro	31
9	Further Examination by ACALJ Nodes	32
10	JIM FISHER	
11	Direct Examination by Mr. Sabo	33
	Cross-Examination by Mr. Shapiro	35
12	Examination ACALJ Nodes	37

13

## 14 INDEX TO EXHIBITS

15	NO.	DESCRIPTION	ID	AD
16	S-1	Staff Report	35	41
17	J-1	Johnson Utilities Company		
		Application for Extension	8	10
18	J-2	Color-coded map	9	10
19	J-3	Line Extension Agreement for		
20		Developer Installed Wastewater		
		Facilities	18	33

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1 ACALJ NODES: Let's go on the record.

2 Good morning. Welcome to the Arizona  
3 Corporation Commission. We're here this morning for a  
4 hearing in Docket No. WS-02987A-04-0501, in the matter  
5 of the application of Johnson Utilities Company for an  
6 extension of its existing Certificate of Convenience  
7 and Necessity for provision of wastewater service.

8 My name is Dwight Nodes. I'm the  
9 Administrative Law Judge assigned to the proceeding.

10 I'll first take appearances on behalf of the  
11 applicant.

12 MR. SHAPIRO: Thank you. Good morning, Your  
13 Honor, and Happy New Year. Jay Shapiro from Fennemore  
14 Craig on behalf of the Applicant, Johnson Utilities  
15 Company. With me is the company's executive vice  
16 president, Mr. Brian Tompsett.

17 ACALJ NODES: And on behalf of Staff?

18 MR. SABO: Your Honor, Tim Sabo on behalf of  
19 Staff. And with me at the counsel table is Mr. Jim  
20 Fisher.

21 ACALJ NODES: Okay. Are there any members of  
22 the public who wish to come forward and be heard this  
23 morning regarding this matter?

24 MR. BLAKE: Yes, Your Honor. Tom Blake with  
25 Taylor Woodrow Homes.

1 ACALJ NODES: If you would please step to the  
2 microphone. Please, make sure the green light is on,  
3 and speak directly into the microphone.

4 And now if you would again just identify  
5 yourself, spell your last name, and say who you're  
6 with.

7 MR. BLAKE: Your Honor, for the record, my name  
8 is Tom Blake, B-L-A-K-E, representing Taylor Woodrow  
9 Homes, 6720 North Scottsdale Road in Scottsdale.

10 ACALJ NODES: Okay. Go ahead with whatever  
11 statement you have.

12 MR. BLAKE: Okay. Actually, I wanted to --  
13 I'll keep it brief. We have the property that is under  
14 review here in escrow, Taylor Woodrow does. We're  
15 simply here to give you a couple of quick seconds about  
16 the property.

17 It's 966 lots. We've been building homes in  
18 Pinal County at the property approximately a mile and a  
19 half to the due west of this property. So we've been  
20 out in Pinal County. We're anxious to get this  
21 property started. We know everyone is busy, but we're  
22 simply here to respectfully request that if -- our  
23 understanding is there's an Open Meeting on February 8,  
24 if there was any way to move this along.

25 We were set to close on the property January

1 15. We have the ability to extend our closing for a  
2 fee, which we will pay, for another 30 days to February  
3 15. This is the last item that we're kind of waiting  
4 on to close. Like all developers, we have staffing  
5 issues and so forth, and it would help to kind of move  
6 our folks from another property to this one and kind of  
7 minimize the inventory gap or lag.

8 And I understand that's something that, you  
9 know, developers deal with. And we're not crying poor,  
10 so to speak, but if there's a way to expedite it, we  
11 would sure appreciate it.

12 ACALJ NODES: And Mr. Blake, is the property  
13 that you are developing the entirety of the CC&N  
14 extension area in this case?

15 MR. BLAKE: Yes, it is.

16 ACALJ NODES: And who is providing water  
17 service to this development?

18 MR. BLAKE: Diversified.

19 ACALJ NODES: Okay. Do you have any other  
20 comments you wish to make?

21 MR. BLAKE: I don't.

22 ACALJ NODES: Okay. We appreciate your  
23 comments this morning. Thank you very much for coming.

24 MR. BLAKE: Thank you very much.

25 ACALJ NODES: Any other members of the public

1 who wish to come forward and be heard this morning?

2 (No response.)

3 ACALJ NODES: Thank you. Mr. Shapiro, did you  
4 have an opening statement?

5 MR. SHAPIRO: No, Your Honor.

6 ACALJ NODES: Okay. Mr. Sabo?

7 MR. SABO: No, Your Honor.

8 ACALJ NODES: Okay. Mr. Shapiro, would you  
9 call your witness.

10 MR. SHAPIRO: Thank you, Judge Nodes. We'll  
11 call Mr. Brian Tompsett.

12

13

BRIAN PETER TOMPSETT,

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

18

19

DIRECT EXAMINATION

20

21 Q. (BY MR. SHAPIRO) Good morning, Mr. Tompsett.  
22 Why don't you go ahead and state your full name for the  
23 record.

24

25

A. My name is Brian Peter Tompsett. I'm the  
executive vice president for Johnson Utilities.

1 Q. And what is your business address?

2 A. Business address is 5230 East Shea Boulevard.  
3 That's Scottsdale, 85254.

4 Q. And as the executive vice president for Johnson  
5 Utilities, do your responsibilities include the  
6 processing and supervising of CC&N extensions?

7 A. They do.

8 Q. Okay. And Johnson Utilities was approached by  
9 Laredo Ranch, LLC concerning the extension of sewer  
10 utilities service to a development known as the Laredo  
11 Ranch?

12 A. We were approached, yes.

13 Q. Okay. and Johnson Utilities has entered into a  
14 line extension agreement with the developer of that  
15 property?

16 A. We have.

17 Q. Okay. And Johnson Utilities has caused an  
18 application to extend its CC&N to be filed with this  
19 Commission; correct?

20 A. Correct.

21 Q. And do you have a copy of what's been marked as  
22 Exhibit J-1 in front of you?

23 A. I do.

24 Q. And is that a true and correct copy of the  
25 application that was filed by Johnson Utilities?

1 A. Yes, it is.

2 Q. And was that prepared under your supervision?

3 A. It was, yes.

4 Q. And you also have in front of you an  
5 Exhibit marked as J-2. Mr. Tompsett, do you have that  
6 there?

7 A. Yes, I do.

8 Q. Could you identify for Judge Nodes where the  
9 property is located in particular in relationship to  
10 the existing CC&N for Johnson Utilities?

11 A. Yes. On the Exhibit J-2, the property is  
12 identified by the red hatched area and labeled Laredo  
13 Ranch. The existing Johnson Utilities CC&N is  
14 indicated by the blue line on the Exhibit J-2. The  
15 blue line indicates the extension of Johnson's existing  
16 sewer CC&N.

17 And the hatched area in the -- that is bounded  
18 by red and black hatching is the CC&N request that we  
19 had prepared and had before Judge Nodes here about a  
20 month ago.

21 Q. That's the AUSS area?

22 A. The AUSS area. Correct.

23 Q. So the Laredo Ranch property is directly  
24 contiguous and adjacent to both your existing CC&N, as  
25 well as the area you're seeking to extend into that is

1 currently certificated to AUSS?

2 A. That is correct.

3 Q. Okay. And from which of the Johnson Utilities  
4 treatment plants would wastewater flow be treated?

5 A. All of Laredo Ranch would be treated by the  
6 Pecan wastewater treatment plant.

7 Q. And subject to the developer constructing the  
8 on-site facilities, is Johnson Utilities in a position  
9 to provide wastewater services to Laredo Ranch?

10 A. We are, yes.

11 MR. SHAPIRO: Your Honor, I would move Exhibits  
12 J-1 and J-2.

13 ACALJ NODES: Any objections?

14 MR. SABO: No objection, Your Honor.

15 ACALJ NODES: Okay. J-1 and J-2 are admitted.

16

17

EXAMINATION

18

19 Q. (BY ACALJ NODES) Mr. Tompsett, real quickly  
20 before we move away from the map, the blue line, you  
21 said that it encompasses Johnson's current CC&N for  
22 wastewater; is that right?

23 A. Your Honor, yes, it does.

24 Q. And I notice that the line appears to stop at  
25 what looks like Gantzel Road, but there's another

1 development west of that area. I assume that area,  
2 Circle Cross, is also within Johnson's CC&N area, or is  
3 that just simply water?

4 A. Your Honor, yes, it is. The railroad, that  
5 kind of diagonal line where the blue line stops, that  
6 runs kind of from the left-hand portion to the bottom  
7 right-hand portion of the property. That is where  
8 Johnson Utilities stops serving water.

9 And the area to the north of that railroad is  
10 area served by either H2O Water or Diversified Water,  
11 and we now only serve sewer in those portions north of  
12 the railroad.

13 Q. Okay. I'm just trying to figure out what the  
14 western boundary of your wastewater CC&N is according  
15 to the map.

16 A. Your Honor, the western boundary is actually  
17 about five or six miles off this map to the west.

18 Q. Okay.

19 A. So we tried to limit it just to the area we  
20 would be discussing today.

21 ACALJ NODES: Okay. That's fine. All right.  
22 Thank you.

23 Go ahead, Mr. Shapiro.

24 MR. SHAPIRO: Thank you, Your Honor.

25

1 DIRECT EXAMINATION (Cont'd)

2

3 Q. (BY MR. SHAPIRO) In fact, there's a large  
4 development known as Circle Cross Ranch just below the  
5 railroad that Johnson Utilities is also serving;  
6 correct?

7 A. Correct. We serve sewer and water to Circle  
8 Cross.

9 Q. And typically it would be Johnson Utilities'  
10 preference to provide both water and sewer service?

11 A. That would be our preference, yes.

12 Q. And in many places you do?

13 A. Yes, we do.

14 Q. But the Laredo Ranch property is already in an  
15 existing certificated area for a water provider,  
16 Diversified?

17 A. Yes, it is.

18 Q. And when you were approached by Laredo Ranch,  
19 you were approached only with a request for sewer  
20 utility service to be extended; correct?

21 A. That's correct.

22 MR. SHAPIRO: Your Honor, I have no further  
23 questions. Thank you, Mr. Tompsett.

24 ACALJ NODES: Okay. Thank you.

25 Mr. Sabo.

1 MR. SABO: Thank you, Your Honor.

2

3

CROSS-EXAMINATION

4

5 Q. (BY MR. SABO) Good morning, Mr. Tompsett.

6 A. Good morning, Mr. Sabo.

7 Q. Happy New Year to you.

8 A. Well, thank you. You too.

9 Q. Let me see if I understand this area, this  
10 Exhibit J-2. The area that's in the red stripes is the  
11 area that we're talking about here today?

12 A. Yes, Mr. Sabo. That's correct.

13 Q. And I see that the area immediately above it  
14 that's surrounded by the red line, that's the AUSS area  
15 that is the subject of another proceeding?

16 A. Yes. That's correct.

17 Q. And then you have an existing CC&N in the area  
18 enclosed by the blue line; is that correct?

19 A. Yeah. The blue line indicates the easternmost  
20 limits of that existing CC&N.

21 Q. And then I see that there is an area to the  
22 south of Laredo Ranch that is not -- it doesn't look  
23 like it's certificated to anyone. Is that the case?

24 A. I believe that's correct, Mr. Sabo. We have  
25 not received any applications to extend our sewer

1 service into that CC&N. But as I recall, that southern  
2 portion of that section is in Diversified's CC&N for  
3 water.

4 Q. Would it also be your intention, then, if you  
5 received requests for service in that area to the south  
6 of Laredo Ranch that you would be willing to provide  
7 that service and come here with a CC&N application,  
8 assuming the terms were agreeable to you?

9 A. Assuming the terms were agreeable and we were  
10 approached to serve that area, Johnson would be willing  
11 to do so, yes, with the approval of the Commission.

12 Q. And sort of what I'm aiming at here is it seems  
13 like Johnson is sort of taking a regional approach to  
14 its development in this area; is that correct?

15 A. Yes, it is, Mr. Sabo. In conversations with  
16 Staff, the ACC Staff, ADEQ, and also Pinal County, we  
17 have been directed to try to take a regional approach  
18 for planning of all wastewater facilities. And based  
19 on that direction, that is our intent and that's what  
20 we've been trying to accomplish.

21 Q. And I see that there is a little area in green  
22 on the map that says that it's the Pecan Water  
23 Reclamation Plant.

24 Is that the plant that will be used to serve  
25 this area for treatment?

1 A. Yes, it is, Mr. Sabo.

2 Q. And can you briefly describe what kind of plant  
3 it is, what the capabilities of the plant are, and so  
4 forth?

5 A. Yes. The pecan plant has currently been  
6 approved for a 208 capacity of approximately 5 million  
7 gallons per day. What has actually been constructed  
8 and approved by ADEQ is a 1 million gallon a day  
9 wastewater treatment plant.

10 It's an aroma design, and it is a concrete  
11 wastewater treatment plant with a building -- a block  
12 wall building over it. And, actually, we're in the  
13 process of putting the roof on as we speak.

14 Johnson has made application to ADEQ to expand  
15 that APP permit to 4 million gallons a day, and we  
16 expect that permit to be approved within the next few  
17 months.

18 Q. And how will the Laredo Ranch be served by  
19 Pecan? Will it sort of -- where will the mains run  
20 that will connect Laredo Ranch to the treatment plant?

21 A. Mr. Sabo, if you look at the Laredo Ranch  
22 design that we've reviewed and approved, basically  
23 gravity flows to the northwest corner of the property  
24 to a lift station that's adjacent to Schnepf Road.

25 The lift station then pumps the wastewater

1 approximately half a mile to the north to -- there's a  
2 black dot immediately east of what is labeled as the --  
3 west of the Castlegate subdivision. That 12-inch sewer  
4 line that is labeled on J-2 is in place today, that's a  
5 gravity line that then delivers wastewater flows all  
6 the way down to the Pecan wastewater plant.

7 Q. Thank you for that explanation.

8 And, Mr. Tompsett, we've heard today from  
9 Taylor Woodrow Homes. You were present when the  
10 gentleman from that company made public comment; is  
11 that correct?

12 A. Yes, I was, Mr. Sabo.

13 Q. And you're extending that -- requesting that  
14 the CC&N be extended at the request of Taylor Woodrow;  
15 is that correct?

16 A. The request was actually made by the -- at that  
17 time the owners of the Laredo Ranch project, but it's  
18 our understanding that Taylor Ranch is purchasing it,  
19 yes.

20 Q. Okay. So who are the current owners of the  
21 property?

22 A. I believe the current landowner is Laredo  
23 Ranch, LLC. And they are -- Taylor Woodrow is under  
24 contract to purchase that property from them.

25 Q. And I see that in your application there is an

1 exhibit that's a letter from Laredo Ranch requesting  
2 service; is that correct?

3 A. That is correct.

4 Q. And it's your understanding that the contract  
5 to sell from Laredo Ranch, LLC to Taylor Woodrow is not  
6 yet closed; is that correct?

7 A. Just based on the testimony I've heard today  
8 from Mr. Blake, I believe that's true.

9 Q. And can you tell us if you have entered into a  
10 main extension agreement for this property or are in  
11 the process of negotiating such an agreement, or how  
12 otherwise the company plans to finance the facilities  
13 necessary for the service to the property.

14 A. Yeah. Mr. Sabo, the service agreement has been  
15 signed. A copy of that agreement, I believe, has been  
16 provided to the ACC Staff.

17 Q. Do you know when that was done?

18 A. Is it here?

19 MR. SHAPIRO: Your Honor, if I can help  
20 clarify. Because it's a sewer extension, it is not  
21 required to be submitted for informal approval as a  
22 water extension has.

23 I do have a copy. If Staff would like one, I'm  
24 happy to give them one.

25 MR. SABO: We would appreciate a copy of it,

1 yes. Thank you for clarifying that Mr. Shapiro.

2 Q. (BY MR. SABO) So then to clarify, the main  
3 extension agreement has, in fact, been signed; is that  
4 correct?

5 A. Yes, it has.

6 MR. SABO: And, Mr. Shapiro, if I could, do you  
7 know how many copies of that you have?

8 MR. SHAPIRO: I have one. If you would like me  
9 to mark one as an exhibit, Your Honor, we can certainly  
10 make a copy. Otherwise, I'll just provide it to Staff.

11 MR. SABO: I think it would be our preference  
12 if it could be marked as an exhibit, and we could maybe  
13 have someone make a copy while we go on to discuss  
14 other matters.

15 ACALJ NODES: Okay. Let's mark it as J-3, and  
16 we'll make the appropriate copies. We can make the  
17 copies during a break, Mr. Sabo, so if you want to go  
18 ahead with your cross.

19 MR. SABO: Thank you, Your Honor.

20 Q. (BY MR. SABO) And, Mr. Tompsett, you're, of  
21 course, familiar with the fact that the Commission has  
22 many rules regarding the provision of wastewater  
23 service?

24 A. Yes, I am.

25 Q. And one of your responsibilities with Johnson

1 is to insure compliance by Johnson with these rules; is  
2 that correct?

3 A. That is correct, yes.

4 Q. And it would be Johnson's intention to comply  
5 with the Commission's rules in providing service to  
6 this area; is that correct?

7 A. That is most definitely our intention.

8 Q. And you probably have reviewed the Staff Report  
9 in this matter; is that correct?

10 A. Yes, I have, Mr. Sabo.

11 Q. And does Johnson agree to abide by all of the  
12 recommendations in the Staff Report?

13 A. Yes, we do.

14 Q. And you're not disputing anything in the Staff  
15 Report, are you?

16 A. No, I'm not.

17 Q. And one issue that we sometimes see when  
18 there's a different water provider than the wastewater  
19 provider is that sometimes some problems can arise out  
20 of that difference.

21 Can you kind of describe the relationship or  
22 arrangements that you have made with the Diversified to  
23 sort of coordinate the providing of service?

24 A. Mr. Sabo, well, at this time, or as of this  
25 hearing, we, Johnson Utilities, is not serving

1 wastewater to any areas within Diversified's existing  
2 CC&N. So as of today, we have not had the opportunity  
3 to coordinate our efforts on that.

4 If this CC&N is approved by the Commission and  
5 proceeds, then we'll obviously work with Diversified to  
6 coordinate our efforts on not only the construction,  
7 but the development of the project.

8 Q. And can you describe like, for example, what  
9 would happen if a customer didn't pay their bills? How  
10 would you terminate service given that you don't  
11 provide the water service?

12 A. Well, that's a question we've been trying to  
13 answer here in our dealings with H2O. At this time, we  
14 don't -- other than liening the existing property, we  
15 do not have an avenue to have the water provider shut  
16 off water service if they're not paying their sewer  
17 bills. That is something we intend to do and address  
18 with the Commission at some point in the future, but we  
19 have not done that to date.

20 Q. So you're exploring the possibility of making a  
21 joint tariff filing with Diversified to the end that if  
22 the bill was not paid, then the water service would be  
23 terminated and, that way, the sewer service would be  
24 terminated?

25 A. We are looking into that possibility, yes.

1 Q. But those arrangements have not yet been made  
2 at this time?

3 A. They have not been made at this time, no.

4 MR. SABO: Your Honor, we have no further  
5 questions. Thank you.

6 ACALJ NODES: Thank you, Mr. Sabo.

7

8

FURTHER EXAMINATION

9

10 Q. (BY ACALJ NODES) Mr. Tompsett, do you by chance  
11 have a copy of the map and legal description that was  
12 filed in the docket by Staff on July 28, 2004 in this  
13 matter?

14 A. Your Honor, yes, I do.

15 ACALJ NODES: And, Mr. Shapiro, do you have a  
16 copy for yourself? Because I'm going to ask some  
17 questions.

18 MR. SHAPIRO: I don't. But if it's okay with  
19 you, I can look at the copy that Mr. Tompsett has.

20 ACALJ NODES: That's fine.

21 MR. SABO: And, Your Honor, that is attached to  
22 our Staff Report, which we did have extra copies of.  
23 So I'll give one to Mr. Shapiro.

24 MR. SHAPIRO: Thank you.

25 ACALJ NODES: Thank you, Mr. Sabo.

1 Q. (BY ACALJ NODES) Here is my question,  
2 Mr. Tompsett. If you compare Staff's map to the map  
3 that has been marked and admitted as J-2, there appears  
4 to be a discrepancy between what you claim to be  
5 requesting for the Laredo Ranch area and what Staff is  
6 stating is being requested in this case.

7 And I actually have a clearer map. It's in  
8 color. It's the one that was formally docketed. And  
9 that may assist you, and I'll hand you that. And if  
10 you would look at it, it appears that at least -- well,  
11 let me ask you.

12 Do you have a reason to question the accuracy  
13 of the map that Staff has submitted?

14 A. Your Honor, no, I don't. I think I can explain  
15 the -- there does appear to be a slight discrepancy,  
16 and I think I can explain it.

17 The map that was prepared by Staff outlined the  
18 exact legal description that was submitted as part of  
19 the Laredo Ranch application. The northern portion of  
20 that area of Section 27 on the map provided by Staff is  
21 an area that is in a floodplain that's known as the  
22 Queen Creek Wash. There will be no housing development  
23 in that area.

24 So the map or the exhibit that was prepared as  
25 J-2 does encroach upon that floodplain area and the

1 Queen Creek Wash, but the intention was just to only  
2 serve the Laredo Ranch. There will be no housing  
3 development in that area.

4 Q. Is that typical that Staff carves out from CC&N  
5 extension areas, areas that include a wash that is  
6 essentially unbuildable? Because if you look at the  
7 map, Staff is saying Diversified has the water CC&N,  
8 which includes that area that is excepted from its map  
9 that you were requesting in this case.

10 A. Yes, Your Honor. I am not aware of what the  
11 legal description was that was prepared or submitted by  
12 Diversified to serve portions of Section 27.

13 But my understanding is that when Staff  
14 prepares a map and reviews legal descriptions, they  
15 plot what has been submitted and verify that the actual  
16 legal description closes.

17 So on Staff's map No. 6, I believe, is an  
18 accurate description of the full Laredo Ranch project.  
19 I agree.

20 Q. Which if I look at Staff's map, the requested  
21 extension area includes the entirety of Section 27,  
22 except for that northernmost area that you were  
23 previously describing.

24 But in the map that's marked J-2, you're only  
25 requesting approximately the northern half of Section

1 27.

2 A. Yes.

3 Q. I think we need to reconcile the discrepancy,  
4 obviously. And the other matter, if you look at  
5 Staff's map, the northern half of Section 34, which is  
6 what Mr. Sabo was asking you about before, it appears  
7 from Staff's map that Johnson already has a sewer CC&N  
8 for that area.

9 MR. SHAPIRO: I'm sorry, Your Honor. I don't  
10 mean to interrupt. Did you say that they already have  
11 the CC&N for the northern half of 34?

12 ACALJ NODES: Well, it's hard to tell when  
13 you're not looking at the colored map. That's why I  
14 showed it to Mr. Tompsett.

15 MR. SHAPIRO: Because on the black and white  
16 map, Your Honor, it looks like that's Diversified's  
17 water area, and then below that the Sun Valley Farms  
18 Water Company area.

19 ACALJ NODES: Right. But like I said, if you  
20 look at the color map, it appears that Staff is saying  
21 that Johnson already has the CC&N at least for the  
22 northern half of Section 34.

23 THE WITNESS: Your Honor, I am looking at this  
24 color map, and I will need to go back and verify that.  
25 I don't recall that as being in our existing CC&N. I

1 would need to verify that.

2 ACALJ NODES: Here is what I would like. I  
3 would like for the company and Staff to get together  
4 and come up with a reconciliation of the area actually  
5 being requested so we have an accurate legal  
6 description and map, and then submit that as a  
7 late-filed exhibit.

8 And, obviously, the sooner the better, but  
9 let's say no later than a week from today. Is that  
10 sufficient time?

11 MR. SHAPIRO: We'll have it filed before that,  
12 Your Honor.

13 ACALJ NODES: Okay. So hopefully that will  
14 clear things up as far as what's being requested.

15 THE WITNESS: Thank you.

16 Q. (BY ACALJ NODES) Let me see. And,  
17 Mr. Tompsett, are there any remaining ADEQ  
18 requirements, approvals, or any other regulatory  
19 approvals that are required for the requested CC&N area  
20 to your knowledge?

21 A. Your Honor, not that I'm aware of, no.

22 Q. The final piece of the regulatory approvals is  
23 the Commission's granting of a CC&N for this area for  
24 wastewater?

25 A. Yes, Your Honor.

1 Q. And that includes the county franchise from  
2 Pinal County; is that correct? You already have an  
3 existing Pinal County franchise that would cover this  
4 area?

5 A. Your Honor, I believe that is true. One thing  
6 maybe I should just clarify, too. When you were asking  
7 about the ADEQ approvals for the Laredo Ranch, I don't  
8 believe there's anything additional needed that Johnson  
9 Utilities needs to have approved.

10 It's my understanding, though, that as of  
11 today, the subdivisions have not received ADEQ  
12 approval. They've been submitted and applied for, but  
13 I don't believe ADEQ has issued the approvals to  
14 construct that yet.

15 Q. So the approvals to construct the wastewater  
16 infrastructure, those have not yet been granted by ADEQ  
17 to your knowledge?

18 A. Your Honor, to my knowledge, they have not.

19 ACALJ NODES: Okay. Mr. Sabo, did you have  
20 anything further before I ask Mr. Shapiro?

21 MR. SABO: No, Your Honor. Thank you.

22 ACALJ NODES: All right. Any redirect?

23 MR. SHAPIRO: Yeah. A few more questions, Your  
24 Honor. Thank you.

25

1 REDIRECT EXAMINATION

2

3 Q. (BY MR. SHAPIRO) The approvals to construct,  
4 those have been applied for by the property developers,  
5 not Johnson Utilities?

6 A. That is correct.

7 Q. Okay. And Johnson Utilities would not be able  
8 to provide service until those approvals to construct  
9 were granted and the facilities subject to them were  
10 complete; correct?

11 A. That's correct.

12 Q. And Mr. Sabo asked you a couple of questions I  
13 just want to follow up on.

14 First, regarding the line extension agreement,  
15 that agreement contemplates the transfer from Laredo  
16 Ranch, LLC to Taylor Woodrow?

17 A. Yes, it does.

18 Q. And I believe you testified that you currently  
19 have approval to treat 1 million gallons of wastewater  
20 per day at the Pecan plant?

21 A. Yes. That's correct.

22 Q. What is the current level of wastewater being  
23 treated at that plant today?

24 A. The current treatment level at the Pecan plant  
25 is about 30 percent or approximately 300,000 gallons.

1 Q. Okay. And Johnson Utilities will add  
2 additional capacity as needed to serve additional  
3 customers?

4 A. Yes. Johnson Utilities has already made an  
5 application to expand that APP application and also to  
6 construct additional facilities at that location. And  
7 it's our intent to build those once we have received  
8 approval from ADEQ.

9 Q. And Johnson Utilities does provide sewer  
10 service today in areas where it does not also provide  
11 water service; correct?

12 A. That's correct. We provide sewer service to  
13 the Castlegate subdivision located immediately north of  
14 this project.

15 Q. And you're aware that the Commission's  
16 regulations have provisions regarding termination of  
17 sewer service for nonpayment?

18 A. Yes.

19 Q. And Johnson Utilities would certainly not  
20 terminate service without following those requirements;  
21 correct?

22 A. That's correct. We would not.

23 Q. And those requirements do allow the company to,  
24 after proper notice, physically disconnect a sewer  
25 customer for nonpayment; correct?

1 A. Yes, they do.

2 Q. So the company could do that if it were willing  
3 to bear the expense?

4 A. Yes, we could.

5 MR. SHAPIRO: Nothing further, Your Honor.

6 ACALJ NODES: Thank you.

7

8

FURTHER EXAMINATION

9

10 Q. (BY ACALJ NODES) Mr. Tompsett, the main  
11 extension agreement you have entered into with the  
12 developer, is it the typical 10 percent refund over 10  
13 years agreement?

14 A. No, Your Honor. The tariff that was approved  
15 for Johnson Utilities is a 5 percent refund per year  
16 until the monies are fully repaid based on revenues.

17 Q. So there's no -- it's an indefinite period?  
18 There's no time limit?

19 A. That's correct, Your Honor.

20 Q. And with respect to the Pecan plant, you said  
21 that it's currently using approximately 30 percent of  
22 its existing capacity; is that correct?

23 A. That's correct, Your Honor.

24 Q. When do you project, based on your growth  
25 projections, that that 1 million maximum capacity in

1 the first phase of the plant will be reached?

2 A. Your Honor, as part of that application, I  
3 believe we showed our best crystal ball guess at what  
4 the projected growth would be, and it showed a need for  
5 additional plant capacity -- I believe it was 2011. I  
6 could check the documents if you want an exact date,  
7 but that's what I recall.

8 If the growth accelerates or if we start  
9 experiencing additional or accelerated absorption of  
10 homes in that area, then we'll obviously move that  
11 construction time up, which is the reason we filed for  
12 the APP application already so that we will have all  
13 the permits in place. If we do need to accelerate that  
14 construction schedule, we can do so.

15 Q. And does your current 30 percent figure include  
16 the AUSS service area treatment flows that are  
17 currently being taken at the Pecan plant by Johnson?

18 A. Yes, it does, Your Honor.

19 ACALJ NODES: Mr. Sabo, any further questions?

20 MR. SABO: No, Your Honor. Thank you.

21 ACALJ NODES: Mr. Shapiro?

22 MR. SHAPIRO: I'm sorry. Yes, Your Honor.

23 Just two.

24

25

## 1 FURTHER REDIRECT EXAMINATION

2

3 Q. (BY MR. SHAPIRO) In fact, Mr. Tompsett, most  
4 of the 30 percent capacity today is being utilized to  
5 treat wastewater flowing under bulk agreements from the  
6 AUSS area; correct?

7 A. That's correct. That's the majority of where  
8 the flows are coming from.

9 Q. And the Johnson sewer treatment system is  
10 interconnected so that if need be, once Laredo Ranch  
11 came online, wastewater flows can actually be sent to  
12 different plants within the system; correct?

13 A. That's correct. The way the system is designed  
14 today is that the wastewater plants are interconnected.

15 For example, if something occurred at Pecan  
16 wastewater treatment plant and we needed to shut it  
17 down, we have the ability to pump wastewater flows from  
18 that facility down to our 11 wastewater treatment  
19 plants or our Precision wastewater treatment plant,  
20 which are located further south of this project.

21 MR. SHAPIRO: Thank you, Mr. Tompsett.

22 Nothing further, Your Honor. Thank you.

23

24

25

## 1 FURTHER EXAMINATION

2

3 Q. (BY ACALJ NODES) Mr. Tompsett, are those other  
4 treatment plants shown on this map? I mean, they're  
5 not physically shown, but are they part of what is  
6 shown on this map?

7 A. Yes, Your Honor. They are further south than  
8 this map indicates.

9 Q. Okay. So you have a form of redundancy,  
10 essentially, in that you can close one or more plants  
11 and still have uninterrupted treatment flows?

12 A. That is the way we have designed it, yes, Your  
13 Honor.

14 Q. And is the Laredo Ranch project currently  
15 within Johnson's CAAG 208 area?

16 A. Yes, it is, Your Honor.

17 ACALJ NODES: Okay. Thank you.

18 Mr. Shapiro, anything further?

19 MR. SHAPIRO: No, Your Honor. Thank you.

20 ACALJ NODES: Okay. Thank you, Mr. Tompsett,  
21 for your testimony.

22 THE WITNESS: Thank you.

23 ACALJ NODES: You're excused.

24 (Mr. Tompsett was excused as a witness.)

25 ACALJ NODES: Mr. Sabo, you may call your

1 witness.

2 MR. SABO: Yes, Your Honor. Staff calls  
3 Mr. Fisher.

4 MR. SHAPIRO: Your Honor, I'm sorry. I don't  
5 think I moved J-3. Since we marked it as J-3, I guess  
6 it's my obligation to move it, so I'll do that now.

7 ACALJ NODES: Okay. Any objection to J-3?

8 MR. SABO: No, Your Honor.

9 ACALJ NODES: Okay. J-3 is admitted.

10 Thank you, Mr. Shapiro.

11

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. SABO) Good morning, Mr. Fisher.

21 A. Good morning, sir.

22 Q. Happy New Year to you as well.

23 A. And it is.

24 Q. If you could state your name and business  
25 address for the record.

1           A.    My name is Jim Fisher.  My business address is  
2 Utilities Division, Arizona Corporation Commission,  
3 Phoenix, Arizona.

4           Q.    And by whom are you employed and in what  
5 capacity?

6           A.    I'm employed by the Utilities Division of the  
7 Arizona Corporation Commission as an Executive  
8 Consultant.  Primarily I work on entitlement processes  
9 for developments with water and wastewater.  I also do  
10 technical writing and analysis.

11          Q.    And as part of your duties in that position, do  
12 you review applications for water and wastewater CC&Ns?

13          A.    Certainly do.

14          Q.    And you have got a number years of experience  
15 in doing that; is that correct?

16          A.    Yes, I do.

17          Q.    And as part of your duties in your position,  
18 were you assigned to work on this docket?

19          A.    Yes, sir.  I was.

20          Q.    And you have reviewed the application submitted  
21 by Johnson Utilities; is that correct?

22          A.    Yes, sir.  I have reviewed the application  
23 submitted in this docket and subject to this hearing.

24          Q.    And did you prepare or have prepared under your  
25 direction the Staff Report that is dated December 3,

1 2004 and which is marked Exhibit S-1?

2 A. Yes, I did.

3 Q. And do you have any modifications or  
4 alterations to that Staff Report?

5 A. As I sit here today, I have none.

6 Q. Do you adopt Exhibit S-1, the Staff Report, as  
7 part of your testimony at this hearing here today?

8 A. Yes, sir.

9 Q. And do you have anything that you would like to  
10 add to your testimony here today?

11 A. No. I do not.

12 MR. SABO: Thank you, Mr. Fisher. That  
13 concludes my direct examination, and Mr. Fisher is  
14 available for cross.

15 ACALJ NODES: Thank you, Mr. Sabo.

16 Mr. Shapiro, questions?

17 MR. SHAPIRO: Thank you.

18

19 CROSS-EXAMINATION

20

21 Q. (BY MR. SHAPIRO) Good morning, Mr. Fisher.

22 A. Good morning sir.

23 Q. Happy New Year.

24 A. Happy New Year to you.

25 Q. Mr. Fisher, in the course of preparing the

1 Staff Report and processing Johnson's application, the  
2 Commission has -- Staff has evaluated the engineering  
3 preparations to serve Laredo Ranch?

4 A. To the extent that Staff evaluated -- and I  
5 believe if you look at the last page of the Staff  
6 Report, there's a discussion of the treatment capacity  
7 of Johnson Utilities. I think we've all become more  
8 sensitized to ADEQ's Aquifer Protection Permit, the  
9 CAAG 208, BADCT applicability and treatment capacity as  
10 a whole.

11 So the idea that Johnson's Pecan plant resolves  
12 its setback issues, has sought additional ADEQ  
13 approvals for a larger aquifer protection permit, and  
14 the redundancy as discussed previously between  
15 Mr. Tompsett and the Judge, Staff reviewed that and  
16 Staff is very positive in its approach or review of  
17 Johnson.

18 Q. Okay. So Staff, subject to the developer  
19 completing the additional facilities that are needed,  
20 and assuming they're properly permitted, Staff has  
21 concluded that Johnson Utilities has adequate  
22 infrastructure to serve the Laredo Ranch development?

23 A. From a treatment capacity, Staff has not done  
24 -- you know, Staff is relying on ADEQ's approval of the  
25 lift station and the collection facilities and routed

1 those appropriately to interconnect with the existing  
2 Johnson facilities.

3 Q. And you would expect those approvals to be part  
4 of the approval to construct process that Mr. Tompsett  
5 discussed earlier in his testimony?

6 A. Certainly.

7 MR. SHAPIRO: Okay. That's all we have, Your  
8 Honor. Thank you, Mr. Fisher.

9 ACALJ NODES: Thank you, Mr. Shapiro.

10

11

EXAMINATION

12

13 Q. (BY ACALJ NODES) Mr. Fisher, the main  
14 extension agreement that has been admitted as J-3, the  
15 5 percent refund to the developer indefinitely, is that  
16 typical for wastewater treatment facilities?

17 A. No, it's not. Oftentimes I've seen wastewater  
18 have no refund whatsoever.

19 By Johnson providing a 5 percent refund, I  
20 think it really balances the interest between the  
21 advancer and the utility in that it will provide a  
22 refund to the developer. Whereas, they'll be out some  
23 time value of money, and Johnson will continue to  
24 levellize his rate base rather than take a large charge  
25 against rate base for a nonrefunded contribution. So

1 oftentimes you'll see a wastewater facility having a  
2 lot more contributed plant than this would envision.

3 Q. And the typical 10 percent over 10 years, is  
4 that usually just for water facilities?

5 A. Yes, sir. The 10 percent for 10 years is the  
6 minimum prescribed in Administrative Code 406, and it's  
7 utilized for water.

8 Q. Okay. I want to refer to your Staff Report,  
9 page 4, where you're discussing the Pecan plant's  
10 capacity. And I'm looking in the middle of the page  
11 where you refer to an encroachment waiver from an  
12 adjunct property owner.

13 A. Yes, sir.

14 Q. Are you aware of whether that encroachment  
15 waiver has been granted?

16 A. Yes. I was provided a copy of the encroachment  
17 waiver. Johnson Utilities, in its discussions with  
18 ADEQ, provided a copy of the waiver by the affected  
19 property owner when they filed with ADEQ for their  
20 increased Aquifer Protection Permit associated with  
21 Pecan.

22 From my discussions with ADEQ, ADEQ was  
23 concerned that Johnson would not be able to expand the  
24 Pecan plant from its current treatment levels without a  
25 waiver from the adjacent property owner. And that was

1 provided and, subject to check, I would say December 22  
2 or so, 2004.

3 Q. And is it your expectation that Johnson and/or  
4 the developer will be able to obtain all of the  
5 necessary regulatory permits required to provide  
6 wastewater service to this area?

7 A. Yes, sir, it is. I have had a number of  
8 discussions with ADEQ regarding Johnson Utilities and  
9 their efforts in resolving the problems with AUSS.  
10 Associated with that were the issues of the  
11 encroachment and the Pecan treatment capacity issue.

12 ADEQ has informed me that they are very pleased  
13 with Johnson's obtaining the waiver and filing for  
14 additional treatment capacity at Pecan. I would  
15 envision that that would facilitate quick resolution of  
16 additional hook-ups to that facility.

17 Q. And Johnson Utilities is required under the  
18 Staff Report to extend service to the property at its  
19 tariffed rates.

20 Do you know what the current wastewater rates  
21 are for Johnson?

22 A. \$45 comes to mind, but I really can't testify  
23 to that. I would have to look at their tariff. And  
24 I'm sorry, I don't know.

25 Q. It is whatever is set forth in their tariff?

1 A. Yes, sir.

2 ACALJ NODES: And Mr. Shapiro, you appear to be  
3 chomping at the bit.

4 THE WITNESS: Chomping.

5 MR. SHAPIRO: For the record, Your Honor, the  
6 monthly fee is \$38.50 per month per customer for  
7 residential.

8 THE WITNESS: It should be 45.

9 MR. SHAPIRO: But if Mr. Fisher would like to  
10 raise it to 45, the company would have no objection.

11 ACALJ NODES: I don't think that Mr. Fisher has  
12 that authority.

13 THE WITNESS: I tried.

14 MR. SHAPIRO: We would agree with that as well,  
15 Your Honor.

16 Q. (BY ACALJ NODES) Mr. Fisher, Staff has no --  
17 given all of the approvals appear to have been met,  
18 there are no specific conditions that need to be  
19 satisfied under Staff's recommendation in order to  
20 extend service to this area by Johnson; is that  
21 correct?

22 A. That's correct, sir. It was difficult to put a  
23 report together that didn't have a whole litany of  
24 conditions and requirements.

25 Q. This is the first one I've seen, I have to

1 admit.

2 A. It's an odd outlier, yes.

3 ACALJ NODES: Okay. Mr. Shapiro, any further  
4 questions for Mr. Fisher?

5 MR. SHAPIRO: No, Your Honor.

6 ACALJ NODES: Mr. Sabo, any redirect?

7 MR. SABO: No. Thank you, Your Honor.

8 ACALJ NODES: Okay. Thank you, Mr. Fisher, for  
9 your testimony. You're excused.

10 THE WITNESS: Thank you, sir.

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

12 ACALJ NODES: Did you move S-1, Mr. Sabo?

13 MR. SABO: I don't recall. I may not have.

14 And if I did not, I move it at this time.

15 ACALJ NODES: Any objection?

16 MR. SHAPIRO: No.

17 ACALJ NODES: S-1 is admitted.

18 Did you have any other exhibits that you wished  
19 to move into evidence, Mr. Sabo?

20 MR. SABO: No, Your Honor.

21 ACALJ NODES: Okay. Well, again, subject to  
22 submission of a joint exhibit, late-filed, regarding  
23 reconciling the discrepancies in the requested CC&N  
24 area, I'll consider the matter submitted on the record.  
25 And I'll look for that late-filed exhibit, and I'll get

1 a recommended order out as soon as I can.

2 MR. SHAPIRO: Thank you, Your Honor.

3 ACALJ NODES: Thank you very much. Well,  
4 anything further anyone else wants to put on the  
5 record? Any closing statements or anything?

6 MR. SHAPIRO: I guess I would just -- for the  
7 record, I would just represent that Johnson Utilities  
8 believes that Exhibit J-3, the line extension  
9 agreement, is consistent with its line extension tariff  
10 on file with the Commission.

11 ACALJ NODES: Okay. Thank you.

12 Mr. Sabo?

13 MR. SABO: No closing statement, Your Honor.  
14 We would note, I guess, to the extent Taylor Woodrow or  
15 Johnson wants to expedite the recommended order, one  
16 thing that they could certainly do, contingent on your  
17 schedule, would be to have an expedited transcript,  
18 which I don't know if that would be useful in this case  
19 or not. But I just wanted to point out that  
20 possibility.

21 MR. SHAPIRO: Your Honor, Mr. Sabo, that  
22 arrangement has already been made prior to the hearing  
23 today and will be expedited.

24 ACALJ NODES: Okay. I'm not sure if I admitted  
25 S-1. If I didn't, it's admitted at this time.

1                   Anything further?   Okay.   Thank you very much.

2   And we'll wait for the late-filed exhibit.   Thank you.

3                   (The Hearing concluded at 10:50 a.m.)

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1 STATE OF ARIZONA )  
 ) ss.  
 2 COUNTY OF MARICOPA )

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I, MICHELE E. BALMER, Certified Court Reporter  
 No. 50489 for the State of Arizona, do hereby certify  
 that the foregoing printed pages constitute a full,  
 true and accurate transcript of the proceedings had in  
 the foregoing matter, all done to the best of my skill  
 and ability.

12

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WITNESS my hand this 5th day of January, 2005.

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*Michele E. Balmer*  
 MICHELE E. BALMER  
 Certified Court Reporter  
 Certificate No. 50489

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