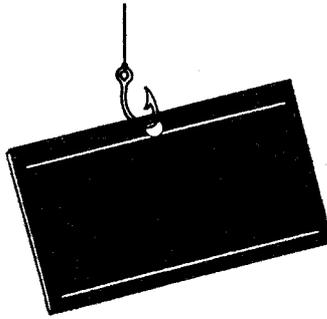


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2011 MAR -9 P 3:47

FISHER'S LANDING WATER & SEWER WORKS, LLC

AZ CORP. COM. SEC.
DOCKET CONTROL

March 1, 2011

Arizona Corporation Commission
DOCKETED

MAR 9 2011



AZ Corporation Commission
Docket Control Center
1200 West Washington Street
Phoenix, AZ 85007

Attention: Carmel Hood

RE: Docket No: WS-04047A-07-0700 / WS-04047A-07-0708
Decision No: 71231

Dear Carmel:

Per your instructions, the original and 13 copies of the documents that Docket Control requested are attached for your disbursement.

In review, the Arizona State Land Department controls all improvements on State Land (ie: Fisher's Landing Inc.). As noted in the attached letter, they refuse to grant us permission to place improvements required by the Corporation Commission in decision No. 71231.

It is our desire to comply with the Corporation Commission's request but we cannot do this without going into Default with the Arizona State Land Commission.

If you have any influence over the AZ State Land Department and can assist us in complying with the above noted Decision, we would appreciate your input and help.

Sincerely,

Charles Bush



**ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
CERTIFICATE OF APPROVAL TO CONSTRUCT
WATER FACILITIES**

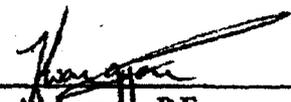
Page 1 Of 2

ADEQ File No: 20060798	LTF No: 41442
System Name: Fisher'S Landing Water Co	System Number: 14039
Project Owner: Gregory M. Brown	
Address: 10765 Woodside Ave., Ste. A, Santos, CA 92071	
Project Location: Yuma	County: Yuma
Description: FISHER'S LANDING WATER AND SEWER WORKS, LLC. INSTALLATION OF FOUR (4) NEW 25,696 GALLON/EACH STEEL WATER STORAGE TANKS AND ASSOCIATED PIPING. TO INCREASE WATER STORAGE CAPACITY FROM APPROXIMATELY 10,000 GALLONS TO 90,000 GALLONS.	

Approval to construct the above-described facilities as represented in the approved documents on file with the Arizona Department of Environmental Quality is hereby given subject to provisions 1 through 8 continued on page 2 through 2

1. This project must be constructed in accordance with all applicable laws, including Title 49, Chapter 2, Article 9 of the Arizona Revised Statutes and Title 18, Chapter 5, Article 5 of the Arizona Administrative Code.
2. Upon completion of construction, the engineer shall fill out the Engineer's Certificate of Completion and forward it to the Central Regional Office located in Phoenix. If all requirements have been completed, that unit will issue a Certificate of Approval of Construction. R18-5-507(B), Ariz. Admin. Code. At the project owner's request, the Department may conduct the final inspection required pursuant to R18-5-507(B); such a request must be made in writing in accordance with the time requirements of R18-5-507(C), Ariz. Admin. Code.
3. This certificate will be void if construction has not started within one year after the Certificate of Approval to Construct is issued, there is a halt in construction of more than one year, or construction is not completed within three years of the approval date. Upon receipt of a written request for an extension of time, the Department may grant an extension of time; an extension of time must be in writing. R18-5-505(E), Ariz. Admin. Code.
4. Operation of a newly constructed facility shall not begin until a Certificate of Approval of Construction has been issued by the Department. R18-5-507(A), Ariz. Admin. Code.

Reviewed by:

By:  12/05/06
 Kwame A. Agyare, P.E. Date
 Manager, Drinking Water and
 Wastewater Engineering Review
 Water Quality Division

cc: File No: 20060798
 Regional Office: Central
 Owner: Gregory M. Brown
 County Health Department: Yuma
 Engineer: James Davey & Associates
 Planning and Zoning/Az Corp. Commission
 Engineering Review Database - Etr021

**APPROVAL TO CONSTRUCT
STORAGE TANKS
ADEQ FILE No. 20060798
PAGE 2 OF 2: PROVISIONS CONTINUED**

5. Approval of Construction (AOC) will not be issued until data is obtained and verified for Pressure and Leakage Tests and Disinfection Sampling of constructed water lines and all other facilities. It is recommended that the Engineer's Certificate of Completion (ECC) Data Required Sheet be completed in full, showing actual pressures and sampling data. Data required with ECC sheet can be found under heading - Safe Drinking Water and subheading - Technical Engineering/Plan Reviews
<http://www.azdeq.gov/function/forms/appswater.html#sdw>.
6. The public water system shall ensure that backflow-prevention is in accordance with A.A.C. R18-4-115.
7. Operation of a newly constructed facility shall not begin until a Certificate of Approval of Construction has been issued by the Department.
8. Before construction of a modification, expansion, or alteration of this distribution system begins, a separate Approval to Construct applicable to each addition must be obtained. A.A.C. R18-5-505(B).



Janet Napolitano
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • azdeq.gov



Stephen A. Owens
Director

November 28, 2007

Daniel E. Long, P.E.
James Davey and Associates
204 S. 1st Ave.
Yuma, AZ 85364

Re: Fisher's Landing Water & Sewer Works, LLC
Time Extension for Approval to Construct (ATC)
ADEQ File No. 20060798
LTF #46162

Dear Mr. Long:

Your request dated November 27, 2007 for a time extension of the above referenced ATC is approved and the time limit to begin construction is extended up to December 5, 2008. All the work should be consistent with the plans and specifications approved by ADEQ and the approval certificate issued on December 5, 2006. Please be advised that time extensions are not automatic or certain. If this time extension approval expires, a new ATC may be required to be obtained.

If you have any questions, please call (602) 771-4677.

Sincerely,

A handwritten signature in black ink, appearing to read "Kwame Agyare".

Kwame Agyare, P.E., Manager
Engineering Review Unit
Drinking Water Section

KA:cc

cc: Mr. Gregory M. Brown, FLW&SW, LLC

Northern Regional Office
1515 East Cedar Avenue • Suite F • Flagstaff, AZ
86004

Southern Regional Office
400 West Congress Street • Suite 433 • Tucson, AZ
85701

STATE LAND DEPARTMENT OF THE STATE OF ARIZONA
BEFORE THE STATE LAND COMMISSIONER

IN THE MATTER OF APPLICATION TO
PLACE IMPROVEMENTS ON COMMERCIAL
LEASE NO. 03-101133 (DATED JANUARY 4,
2007) FOR THE STATE LAND DESCRIBED AS:

ORDER NO. 193-2006/2007

DENIAL OF
APPLICATION TO PLACE
IMPROVEMENTS

M&B IN SE, SECTION 19, TOWNSHIP 5 SOUTH,
RANGE 21 WEST, 63.34 ACRES, YUMA
COUNTY, ARIZONA.

LESSEE: FISHERS LANDING INC.

FINDINGS OF FACT

Fishers Landing Inc. submitted an Application to Place Improvements on Commercial Lease No. 03-101133 to the Arizona State Land Department (the "Department") on January 3, 2007, for the purpose of increasing the capacity of the existing well site.

A review of the application and Department records reflect the following facts:

- 1) The proposed improvements (additional water storage tanks) will serve land other than Trust land.
- 2) The current lease expires May 31, 2007.
- 3) Applicant (lessee) seeks to place improvements having a cost in excess of \$200,000.00.
- 4) The water storage tanks are to be used by an off-site utility, which is an entity other than the Department's lessee.
- 5) Not only does the current lease expire in the near future, but the Department is preparing to lease or sell some or all of the leased property, which may include the parcel on which the applicant seeks to place the proposed improvements. It would not be in the best interest of the Trust to burden property that is about to be auctioned with improvements that do not enhance the value of the property, and if reimbursable would probably decrease the value of the property at auction.

With regard to obtaining approval from the Department prior to placing improvements on leased Trust land, pursuant to A.R.S. § 37-321(A) in part, "...The application shall be allowed or rejected as the best interest of the state requires as determined by the department...". It is clearly not in the best interest of the Trust to approve the proposed improvements.

Order No. 193-2006/2007
Denial of Application to Place Improvements
Page 2

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ORDER

IT IS ORDERED that the Application to Place Improvements on Commercial Lease No. 03-101133 submitted January 3, 2007, is hereby denied.

GIVEN under my hand and the official seal of the Arizona State Land Department this 5th day of March, 2007.



MARK WINKLEMAN
State Land Commissioner

by: *[Signature]*

Notice of Appealable Agency Action

This is an appealable agency action. Pursuant to A.R.S. § 41-1092.03, if you are directly or adversely affected by this decision, the party may request a hearing within thirty (30) days of the date the notice is received. A request for a hearing must be in writing and filed with the Department, and must state the appellant's name and address, the specific action or actions of the Department which are the basis of the hearing request, and a concise statement of the reasons for this appeal. The appellant also has the right to an informal settlement conference pursuant to A.R.S. § 41-1092.06, if it is requested in writing and filed with the Department no later than twenty (20) days before the hearing.

The request must be sent to the State Land Department, Attention: Director, Land Information Title & Transfer Division. If the request for a hearing is not timely filed, the decision of the Commissioner may be final and not subject to further review.

In accordance with Title II of the Americans with Disabilities Act (ADA), the Arizona State Land Department does not discriminate on the basis of disability in the provision of its programs, services and activities.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter by contacting the Department's ADA Coordinator at (602) 542-2636. Request should be made as early as possible to allow time to arrange the accommodation.

**Order No. 193-2006/2007
Denial of Application to Place Improvements
Page 3**

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Copy of the foregoing mailed/
delivered this 5th day of
March, 2007, to:

Certified No. 91 7108 2133 3931 8305 9952

**FISHERS LANDING INC
ATTN DON FISHER
P O BOX 72188
YUMA AZ 85365**

Copy to: **Attorney General's Office, Natural Resources Section/attn: Mary Grier
Real Estate Div./Sales & Commercial Leasing Sect./attn: Ruben Ojeda
Real Estate Div./Sales & Commercial Leasing Sect./attn: Sandy Kelley
File No. 03-101133**

Dawn Sullivan

1 DECONCINI McDONALD YETWIN & LACY, P.C.
2 2525 EAST BROADWAY BLVD., SUITE 200
3 TUCSON, AZ 85716-5300
4 (520) 322-5000

5 John C. Lacy (AZ # 2084)
6 Shefali Milczarek-Desai (AZ # 21237)
7 Attorneys for Fisher's Landing, Inc.

8 **STATE LAND DEPARTMENT OF THE STATE OF ARIZONA**
9 **BEFORE THE STATE LAND COMMISSIONER**

10 **IN THE MATTER OF APPLICATION**
11 **TO PLACE IMPROVEMENTS ON**
12 **COMMERCIAL LEASE NO. 03-**
13 **101133 (DATED JANUARY 4, 2007)**
14 **FOR THE STATE LAND DESCRIBED**
15 **AS:**

16 **M&B IN SE, SECTION 19,**
17 **TOWNSHIP 5 SOUTH, RANGE 21**
18 **WEST, 63.34 ACRES, YUMA**
19 **COUNTY, ARIZONA.**

20 **LESSEE: FISHER'S LANDING, INC.**

ORDER NO. 193-2006/2007

NOTICE OF APPEAL AND REQUEST
FOR HEARING RE: DENIAL OF
APPLICATION TO PLACE
IMPROVEMENTS

21 Lessee Fisher's Landing, Inc. ("Fisher"), by and through counsel undersigned,
22 hereby appeals the Denial of Application to Place Improvements dated March 5, 2007, and
23 received on March __, 2007 (the "Denial"), and requests that a hearing be set for such
24 appeal. This appeal and request for hearing is made pursuant to A.R.S. § 41-1092.03 and is
25 timely. For the reasons set forth below, Fisher respectfully requests that the State Land
26 Department (the "SLD") allow its Application to Place Improvements on Commercial
Lease No. 03-101133 dated January 3, 2007 (the "Application").

BASIS FOR HEARING REQUEST AND REASONS FOR APPEAL

I. Factual Background and History.

-Background on Fisher; 50 year lease with SLD

-In 1998, SLD encouraged Fisher to file for application of long-term lease

DECONCINI MCDONALD YETWIN & LACY, P.C.
2525 East Broadway Blvd., Suite 200
Tucson, AZ 85716-5300

1 - SLD indicated that it would be beneficial for Fisher's long-term lease application if
2 Fisher dealt with sewage problems caused at Martinez Lake by another unrelated entity

3 -Fisher agreed to help with Martinez issue and determined best way to do this would
4 be to create a sewage/water utility (?)

5 -Fisher applied to Arizona Corporation Commission ("ACC") for a Certificate of
6 Convenience and Necessity ("CCN") for the proposed utility. SLD sent a letter in support
7 of Fisher's application to the ACC. SLD was aware that Fisher was applying for a CNN so
8 that it could form a sewage/water utility. SLD did not air any objections to the utility and in
9 fact supported its formation by sending a letter of support to ACC on Fisher's behalf.

10 -ACC awarded the CNN and the utility was formed.

11 -Utility is very important to the public interest because it provides water service to
12 individuals who purchased state lands for which there was no water service. Also performs
13 a crucial sewer service; explain Martinez Lake issue

14 -ACC is requiring that the utility be improved by the addition of water tanks.
15 Without this improvement, the ACC will revoke Fisher's CNN and the utility will cease to
16 operate.

17 -If the utility doesn't operate, this will be very detrimental to the entire area because
18 it will mean that there won't be any modern water or sewage service available.

19 **II. It is in the State's Best Interest to Approve the Application for Improvements.**

20 -The public interest will not be served if the CNN is revoked and the utility can no
21 longer provide water/sewer service to the area. ^{NO} ALTERNATIVE

22 **III. The Facts Cited in the Denial do not Support the Denial.**

23 The Denial sets forth five facts, apparently in support of the Denial. The facts
24 contained in the Denial, however, do not support a denial of the Application. The following
25 lists each fact stated in the Denial in italics and then explains why the fact does not support
26 the Denial.

1 1. *The proposed improvements (additional water storage tanks) will serve land*
2 *other than Trust Land.*

3 -For the utility to be economically viable, it needs to also service land outside of
4 state land; economies of scale are at work here

5 -The fact that it will also benefit non-state land does not diminish the substantial
6 value it provides to the state and those residing on state land

7 -The utility already serves private land in its provision of sewer facilities (Martinez
8 Lake example); this has been something SLD has never had concerns about and in fact, has
9 encouraged and is one of the main reasons Fisher sought to create a utility in the first place

10 2. *The current lease expires May 31, 2007.*

11 -The expiration of the lease is irrelevant to the need to provide water/sewer services;
12 whether lease expires or not, these services will have to be provided

13 -SLD and Fisher have come to an agreement for how the services can continue, and
14 the utility can be transferred to new ownership, in the event the lease is auctioned to a
15 bidder other than Fisher after May 31, 2007

16 3. *Applicant (lessee) seeks to place improvements having a cost in excess of*
17 *\$200,000.00.*

18 -This is irrelevant to the need to provide water/sewer service

19 -These improvements will only increase the value of the state land

20 4. *The water storage tanks are to be used by an off-site utility, which is an entity*
21 *other than the Department's lessee.*

22 -Once again, this is irrelevant to the need to provide water/service service

23 -SLD and Fisher have come to an agreement about how this can be dealt with at a
24 public auction. and these services will have to be provided

25 5. *Not only does the current lease expire in the near future, but the Department*
26 *is preparing to lease or sell some or all of the leased property, which may include the*
 parcel on which the applicant seeks to place the proposed improvements. It would not be in

1 *the best interest of the Trust to burden property that is about to be auctioned with*
2 *improvements that do not enhance the value of the property, and if reimbursable would*
3 *probably decrease the value of the property at auction.*

4 -The public interest demands that there be viable water/sewer service in the area and
5 the only way to do this is to permit the improvements because without them, there is no
6 utility to provide water/sewer. So, it is in the best interest of the state to permit these
7 improvements.

8 -Improvements increase value of state property (How?)

9 -Agreement between SLD and Fisher ensures that the improvements would not be
10 reimbursable by the state, but rather, by the successful bidder.

11 **III. Fisher's Application for Improvements was Made Based on and is Required**
12 **Due to Representations Made by the SLD to Fisher.**

13 -Fisher decided to form a utility at SLD's urging that Fisher resolve sewage
14 problems at Martinez Lake

15 -SLD indicated that it approved of Fisher forming a utility and did not voice any
16 concern over the formation of the utility; in fact, SLD wrote letter of support to ACC on
17 Fisher's behalf for a CNN

18 -It was only after Fisher had formed the utility and obtained a CNN that SLD began
19 to voice concern regarding the utility. Fisher reasonably and, if this appeal is denied to its
20 detriment, relied on SLD's representations that Fisher would be able to run a utility. Fisher
21 cannot continue to run the utility, which it has put millions of dollars into, if the
22 improvements are not approved.

23 **IV. Conclusion.**

24 DATED this ___ day of March, 2007.

25 DECONCINI McDONALD YETWIN & LACY, P.C.

26 By: _____

DECONCINI MCDONALD YETWIN & LACY, P.C.
2525 East Broadway Blvd., Suite 200
Tucson, AZ 85716-5300

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John C. Lacy
Shefali Milczarek-Desai
2525 E. Broadway Blvd., Suite 200
Tucson, AZ 85716-5300

Janet Napolitano
Governor

Mark Windeman
State Land
Commissioner

ARIZONA STATE  LAND DEPARTMENT

May 19, 2008

Mr. Greg Brown
10765 Woodside Ave.
Santee, CA 92071

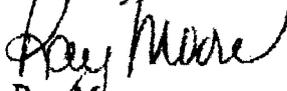
Dear Greg:

The Fisher's Landing Water and Sewer Company has been a major factor in organizing the 150 acre Arizona State Trust land parcel for auction of a 35 year commercial lease. As we have spoke in the past, a logical and amenable solution is to identify the primary lines associated with the water and sewer service and then determine appropriate connection points beyond which becomes the responsibility of the commercial lease holder. The primary lines would then need to be within a right of way. The segregated lines would be considered improvements to the commercial lease holder.

This system allows the Water and Sewer Company to remain without affecting the commercial lease property and allows the subject ground of the lease to be developed without the constraints of the existing system. The primary lines would have to be within a legal right of way paid for and maintained by Fisher's Landing Water and Sewer Company.

Application must be made for these primary line rights of way to the Arizona State Land Department within 30 days of the date of this letter. As part of the rights of way application(s), creating legal descriptions for the primary lines needed to provide service will be necessary. If you fail to make application, or if you fail to pursue the application in good faith, I will need to recommend the application for long term lease be denied.

Sincerely,


Ray Moore

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



ERNEST G. JOHNSON
Executive Director

ARIZONA CORPORATION COMMISSION

ARIZONA CORPORATION
UTILITIES DIVISION
1200 W. WASHINGTON STREET
PHOENIX, AZ 85007

Notice of Future Compliance

December 1, 2010

Fisher's Landing Water & Sewer Works, LLC
PO Box 72188
Yuma, AZ 85365-0000

RE: DOCKET WS-04047A-07-0700

DECISION NO: 71231

This is not a letter of delinquency. This letter is being sent to you as a courtesy to provide you with notice of certain compliance actions ordered by the Arizona Corporation Commission (Commission) that WILL become due in the near future. Attached is a Compliance Notice that describes certain compliance actions that will require you to file documents by certain due dates and/or time schedules. In addition to the included items, the Decision may also contain provisions that require compliance, but does not have compliance dates or time schedules. Please read the Decision carefully and comply with all of its provisions. Also included is a Compliance Filing Instruction sheet to assist you in filing documents appropriately.

If you have any questions, please contact Carmel Hood at (602) 542-0847 or Shannon Kanlan at (602) 542-0895 in the Compliance section.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian K. Bozzo", written over a large, stylized flourish.

Brian K. Bozzo
Manager, Compliance and Enforcement
Utilities Division

Enclosure/s

Future Compliance Due within 30 days: 12/1/2010

UTILITY: Fisher's Landing Water & Sewer Works, L.L.C.

DOCKET: WS-04047A-07-0700 **DECISION #** 71231

RULE:

ACTION: The deadline to file an ADEQ APPROVAL OF CONSTRUCTION shall be December 31, 2010.

DUE: 12/31/2010

PERIOD: NONE
