

ORIGINAL



0000133484

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

Arizona Corporation Commission

DOCKETED

2012 JAN 18 A 9:29

JAN 18 2012

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY	
-------------	--

COMMISSIONERS

- GARY PIERCE - Chairman
- BOB STUMP
- SANDRA D. KENNEDY
- PAUL NEWMAN
- BRENDA BURNS

IN THE MATTER OF THE APPLICATION OF RANCHO SAHUARITA WATER COMPANY, L.L.C., FOR THE TRANSFER OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO SAHUARITA WATER COMPANY, L.L.C., AND EXTENSION OF THE CERTIFICATE OF CONVENIENCE AND NECESSITY FOR WATER SERVICE.

DOCKET NO. W-03718A-07-0687

PROCEDURAL ORDER

BY THE COMMISSION:

On November 19, 2008, the Commission issued Decision No. 70620, granting Rancho Sahuarita Water Company, L.L.C.'s request for the transfer of its water service Certificate of Convenience and Necessity ("CC&N") to Sahuarita Water Company, L.L.C. ("Sahuarita" or "Company") and for an extension of the CC&N.

Pursuant to that Decision, Sahuarita was required to file within three years of the effective date of the Decision, "copies of the Approval to Construct from the Arizona Department of Environmental Quality for well(s), storage tanks(s), booster pump station(s), and the distribution system necessary to serve the initial subdivision in the extension area."¹ Based on the effective date of the Decision, the Approval to Construct ("ATC") would have been due to be filed on or about November 19, 2011.

On November 4, 2011, prior to the ATC filing deadline, Sahuarita filed a Motion for Further Extension of Compliance Filing Deadline ("Motion") with the Commission requesting an extension of time to file the ATC.

The approved CC&N extension covered three parcels from three different owners and the plan was to develop the largest parcel first, with the remaining two parcels to be completed afterward.

¹ Decision No 70620, page 11.

1 The owner of the first parcel, Mission Peaks 4000, L.L.C., intended to construct a large residential
2 subdivision called Mission Peaks Master Planned Community (“Mission Peaks”). The second parcel
3 is owned by Sahuarita Mission Partners (“SMP”) and the third is owned by the Arizona State Land
4 Department (“ASLD”). Residential subdivisions were planned for these two parcels.

5 According to the Motion, the 2008 economic downturn affected the plans for Mission Peaks,
6 and, in turn, the plans for the SMP parcel and the ASLD parcel. Because of the depressed real estate
7 market, Mission Peaks 4000, L.L.C. sold its acreage to Freeport-McMoRan Copper and Gold
8 (“Freeport-McMoRan”), and terminated the Mission Peaks project. As a result, SMP and ASLD
9 have had to re-evaluate the development of their respective parcels and their plans have not been
10 finalized. This also will necessitate Sahuarita to evaluate how the designs for its water system must
11 be changed and constructed to best accommodate the two remaining parcels.

12 In its Motion, Sahuarita states that it is currently in discussions about the type of water service
13 Freeport-McMoRan might wish to obtain from the Company for the certificated Mission Peaks area.
14 Sahuarita acknowledges that it is not in a position to know what water facilities and infrastructure
15 design would be appropriate to serve Freeport-McMoRan’s parcel.

16 Attached to the Motion are letters from Freeport-McMoRan, SMP and ASLD indicating that
17 they would like for Sahuarita to continue to be the future water provider for their respective parcels.
18 Sahuarita stated that it still wishes to provide water service within the currently certificated areas.

19 Sahuarita points out that it has satisfied all other requirements of the Decision, including a
20 Modification of Designation of Assured Water Supply and approval by the Commission of its Best
21 Management Practices in Decision No. 72177 (February 11, 2011).

22 Sahuarita requests that the Commission grant its request and extend the time for filing the
23 required ATC for the water system facilities necessary to provide the initial phase of service to and
24 within the Freeport McMoRan parcel, SMP parcel and ASLD parcel, from November 19, 2011, to
25 November 19, 2013.

26 On January 3, 2012, the Commission’s Utilities Division Staff (“Staff”) filed its Staff Report
27 stating that, based on the information provided by the Company, Staff recommends approval of
28 Sahuarita’s Motion to extend the ATC filing deadline from November 19, 2011, to November 19,

1 2013.

2 The Decision granting an extension of Sahuarita's CC&N was based on the facts of the
3 Company's application and the evidence, exhibits and testimony presented at hearing that each of the
4 three parcels would be used primarily for residential development, with some commercial use.

5 The information provided in the Motion demonstrates that the ultimate uses of the parcels
6 may be very different from those presented to the Commission and upon which the Commission
7 based its Decision. The purchase of the largest parcel by Freeport McMoRan may change the
8 purposes of the water use significantly. Also, if the Freeport McMoRan parcel is used for mining
9 purposes, it's possible the SMP and ASLD parcels may no longer be viable for residential
10 subdivisions. Without more information, the potential significant deviation from the Findings of Fact
11 upon which the Decision was based is a cause for concern.

12 Accordingly, a procedural conference should be held on Sahuarita's Motion in order to obtain
13 more information and background on the matter. Sahuarita is encouraged to have present at the
14 procedural conference representatives for each of the three parcel owners to discuss their concerns
15 and plans.

16 Because of the uncertainty by all three parcel owners and the Company about what will be
17 happening with the parcels, Staff and Sahuarita should be prepared to discuss whether it would be
18 more advisable to hold a hearing to determine whether Decision No. 70620 should be declared null
19 and void.

20 IT IS THEREFORE ORDERED that a **Procedural Conference** shall commence on **March 1,**
21 **2012, at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's Tucson offices, 400
22 West Congress, Room 222.

23 IT IS FURTHER ORDERED that the parties shall be prepared at the Procedural Conference
24 to discuss Sahuarita's plans and the parcel owners' plans for their respective parcels and whether
25 Decision No. 70620 should be declared null and void.

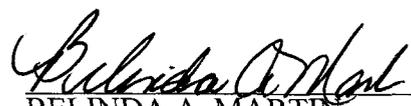
26 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
27 Communications) applies to this proceeding as the matter is now set for public hearing.

28 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive

1 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

2 Dated this 17th day of January, 2012.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


BELINDA A. MARTIN
ADMINISTRATIVE LAW JUDGE

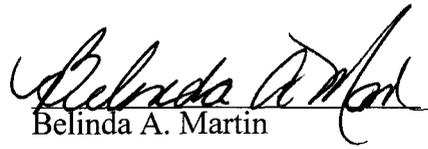
Copies of the foregoing mailed/delivered
this 17th day of January, 2012, to:

Lawrence V. Robertson, Jr., Esq.
P. O. Box 1448
Tubac, AZ 85646

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

Steven M. Olea, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, AZ 85007

ARIZONA REPORTING SERVICE, INC.
2200 N. Central Ave., Suite 502
Phoenix, AZ 85004

By: 
Belinda A. Martin