

OPEN MEETING ITEM

COMMISSIONERS
BOB STUMP – Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH



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ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
DOCKET CONTROL

DATE: SEPTEMBER 16, 2014

DOCKET NO.: SW-20403A-05-0586

2014 SEP 16 PM 1 50

TO ALL PARTIES:

ORIGINAL

Enclosed please find the recommendation of Administrative Law Judge Scott M. Hesla. The recommendation has been filed in the form of an Order on:

BALTERRA SEWER CORPORATION
(ORDER EXTENDING TIME DEADLINE IN DECISION NOS. 68742 AND 71474)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

SEPTEMBER 25, 2014

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

OCTOBER 16, 2014

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission
DOCKETED

SEP 16 2014

DOCKETED BY 


JODI JERICHI
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET; PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET; TUCSON, ARIZONA 85701-1347
www.azcc.gov

This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov.

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

IN THE MATTER OF THE APPLICATION OF
BALTERRA SEWER CORPORATION FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE WASTEWATER
SERVICE IN MARICOPA COUNTY, ARIZONA.

DOCKET NO. SW-20403A-05-0586

DECISION NO. _____

**ORDER EXTENDING TIME
DEADLINE IN DECISION NOS.
68742 AND 71474**

Open Meeting
October 16, 2014
Phoenix, Arizona

BY THE COMMISSION:

* * * * *

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

FINDINGS OF FACT

Background

1. In Decision No. 68742 (June 5, 2006), the Commission approved the application of Balterra Sewer Corporation ("Company") for a Certificate of Convenience and Necessity ("CC&N") to provide public wastewater utility service in the vicinity of 411th Avenue and Camelback Road in Maricopa County, Arizona.
2. The Company was acquired by Global Water Resources, Inc. ("Global Water") in a transaction approved by the Commission in Decision No. 70310 (April 24, 2008).
3. As part of Decision No. 68742, the Company was ordered to file, no later than March 31, 2008, a copy of the Certificate of Approval of Construction ("AOC") issued by the Maricopa County Environmental Services Department ("MCESD") for the Company's Phase I wastewater collection system.

1 4. By Procedural Order dated May 21, 2007, the deadline for filing the AOC was
2 extended to September 30, 2009. Decision No. 71474 (January 26, 2010) further extended the
3 deadline to September 30, 2013.

4 5. On September 30, 2013, the Company filed a Motion for Extension of Time
5 (“Motion”) requesting that the deadline for filing the AOC be extended for five additional years, from
6 September 30, 2013 to September 30, 2018.

7 6. In its Motion, the Company states that the delay in obtaining the AOC is due to the
8 downturn in the Arizona housing market and that to construct the Phase I facilities before they are
9 needed would be premature and expensive. According to the Company, the public interest is best
10 served by an extension of time that will allow construction to proceed closer to the time of
11 development.

12 7. The Company reports that on April 11, 2013, the landowners in the Company’s
13 CC&N territory obtained a renewal of the Designated Master Plan (“DMP”) from Maricopa County.
14 The Company states that the landowners listed Global Water as their provider of water and
15 wastewater service. According to the Company, the DMP renewal demonstrates that the landowners
16 continue to pursue development and need wastewater service from the Company. The Company
17 further reports that it obtained a renewal of the Special Use Permit (“SUP”) for its wastewater plant
18 site on January 15, 2013.

19 8. The Company indicates that it is requesting a five year extension of time in order to
20 synchronize the requested AOC deadline with the requirements for the SUP and DMP, both of which
21 require the filing of a status report within five years.

22 9. On April 7, 2014, the Commission’s Utilities Division (“Staff”) filed a Memorandum
23 recommending denial of the requested extension because the Motion did not include updated request
24 for service letters from the landowners. Although the Company submitted the DMP as evidence that
25 the landowners desire wastewater service from the Company, Staff states that the DMP does not
26 provide the information needed to process the requested extension.

27 10. On April 11, 2014, the Company filed a Notice of Filing Requests for Service
28 indicating that the Company secured requests for service for 22 of the 24 parcels in the Company’s

1 certificated area. According to the Company, the remaining landowners, Ruth Fisher Elementary
2 School District No. 90 ("School District")¹ and Balterra Holdings, LLC, had not responded to the
3 Company as of the date of filing. The Company stated that it would continue to attempt to contact
4 the remaining landowners and file a corresponding update.

5 11. On April 22, 2014, the Company filed a Status Report and Response to Staff
6 Memorandum stating that the School District does not request service from the Company because the
7 School District is served by its own wastewater package plant.² As a result, the Company
8 recommends that the parcel of land owned by the School District, Maricopa County Parcel No. 506-
9 45-032T ("Parcel 24"), be deleted from the Company's CC&N. The Company requested additional
10 time to contact Balterra Holdings, LLC.

11 12. On April 30, 2014, the Company filed an additional Notice of Filing Requests for
12 Service indicating that the Company secured a request for service from Balterra Holdings, LLC. The
13 Company notes that it has submitted requests for service for 23 of the 24 parcels in its certificated
14 area.

15 13. On July 24, 2014, a Procedural Order was issued requiring Staff to update its initial
16 recommendation in light of the subsequent filings by the Company.

17 14. On August 7, 2014, Staff filed a Supplemental Memorandum recommending that the
18 deadline for filing the AOC be extended for three additional years, from September 30, 2013 to
19 September 30, 2016. Staff further recommends that Parcel 24 be deleted from the Company's
20 CC&N.³ Although Staff recommends that no further extensions of time be granted in this matter,
21 Staff states that any future requests for extensions of time should be filed at least 90 days prior to the
22 existing deadline and be accompanied by request for service letters from all landowners.

23 Resolution

24 15. The delay in the development of the area contained in the Company's CC&N is not
25 atypical of other developments in Arizona over the past few years. It appears that an intent to

26 ¹ According to Decision No. 68742, the registered landowner is the Saddle Mountain Unified School District No. 90.
27 Ruth Fisher Elementary is one of the schools within the Saddle Mountain Unified School District No. 90.

28 ² The Company also states there is no Commission rule or written policy requiring renewed request for service letters to
support a motion for extension of time.

³ According to Staff, the Company is not required to file a new application to delete Parcel 24 from its certificated area.

1 develop the CC&N territory remains, and that the landowners (with the exception of the School
 2 District) desire the Company to provide wastewater utility service to that area. Accordingly, we find
 3 that the Company's request for a five year extension of time to comply with Decision Nos. 68742 and
 4 71474 is reasonable and should be granted.

5 16. Although the Company and Staff recommend that Parcel 24 be deleted from the
 6 Company's certificated area, we find there is insufficient information to determine whether that
 7 recommendation is in the public interest. Notably, the Company did not submit the information
 8 required by A.A.C. R14-2-602(D)⁴ and there has been no notice provided to the public. Moreover,
 9 since the Company refers to the Saddle Mountain Unified School District No. 90 as the "Ruth Fisher
 10 Elementary School District No. 90,"⁵ it is unclear whether the correct landowner was contacted.
 11 Accordingly, we decline to adopt the recommendation to delete Parcel 24 at this time. To the extent
 12 the Company desires to renew its request for authority to delete Parcel 24 from its CC&N territory,
 13 we find it reasonable to require the Company to file a new application pursuant to A.A.C. R14-2-
 14 602(D).

15 CONCLUSIONS OF LAW

16 1. Balterra Sewer Corporation is a public service corporation within the meaning of
 17 Article XV of the Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-285.

18 2. The Commission has jurisdiction over Balterra Sewer Corporation and the subject
 19 matter of the Motion.

20 3. An extension of time to comply with the requirements of Decision Nos. 68742 and
 21 71474, as discussed herein, is fair and reasonable and in the public interest.

22 4. Any further request of Balterra Sewer Corporation for authority to delete Maricopa
 23 County Parcel No. 506-45-032T from its certificated area shall be filed as a new application pursuant
 24 to A.A.C. R14-2-602(D).

25 ...
 26 ...
 27 ⁴ A.A.C. R14-2-602(D) governs the abandonment of wastewater operation in a utility's certificated area.

28 ⁵ As previously discussed, Ruth Fisher Elementary is one of the schools within the Saddle Mountain Unified School District No. 90.

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ORDER

IT IS THEREFORE ORDERED that the deadline for Balterra Sewer Corporation to file the Approval of Construction, as required by Decision Nos. 68742 and 71474, is hereby extended to September 30, 2018.

IT IS FURTHER ORDERED that, to the extent Balterra Sewer Corporation desires to renew its request for authority to delete Maricopa County Parcel No. 506-45-032T from its certificated area, the Company shall file a new application pursuant to A.A.C. R14-2-602(D).

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN	COMMISSIONER	COMMISSIONER
COMMISSIONER	COMMISSIONER	COMMISSIONER

IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____ 2014.

JODI JERICH
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____
SMH:ru

1 SERVICE LIST FOR: BALTERRA SEWER CORPORATION

2 DOCKET NO. SW-20403A-05-0586

3 Timothy J. Sabo
4 ROSHKA DEWULF & PATTEN, PLC
5 One Arizona Center
6 400 East Van Buren Street, Suite 800
7 Phoenix, AZ 85004-2262
8 Attorneys for Balterra Sewer Corporation

9 Janice Alward, Chief Counsel
10 Legal Division
11 ARIZONA CORPORATION COMMISSION
12 1200 West Washington Street
13 Phoenix, Arizona 85007

14 Steve Olea, Director
15 Utilities Division
16 ARIZONA CORPORATION COMMISSION
17 1200 West Washington Street
18 Phoenix, Arizona 85007

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