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BEFORE THE ARIZONA CORPORATION CC

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**COMMISSIONERS**

SUSAN BITTER SMITH - Chairman  
BOB STUMP  
BOB BURNS  
DOUG LITTLE  
TOM FORESE

Arizona Corporation Commission  
**DOCKETED**

MAR 20 2015

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AZ CORP COMMISSION  
DOCKET CONTROL

2015 MAR 20 PM 12 10

DOCKETED BY  
BAU

IN THE MATTER OF THE APPLICATION OF HALCYON ACRES ANNEX NO. 2 WATER COMPANY, INC., AN ARIZONA CORPORATION, FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO OPERATE A PUBLIC SERVICE UTILITY FOR THE SALE AND DISTRIBUTION OF WATER FOR DOMESTIC USE. DOCKET NO. W-02312A-14-0325

**STAFF'S NOTICE OF FILING STAFF REPORT AND REQUEST FOR A PROCEDURAL ORDER**

Pursuant to the Second Joint Status Update filed February 20, 2015, Staff hereby submits its Staff Report. As set forth in greater detail therein, Staff recommends that Halcyon Acres Annex No. 2 Water Company, Inc.'s ("Company" or "Halcyon") Application to Amend or Alter Decision No. 48650, filed pursuant to A.R.S. § 40-252, be granted and the six customers located to the north of Old Spanish Trail (the "subject connections"), omitted from the Company's Certificate of Convenience and Necessity ("CC&N") in Decision No. 48650, be included in the CC&N on a going forward basis.

In accordance with Administrative Law Judge Martin's request at the December 16, 2014, procedural conference, Staff submits that proceeding under A.R.S. § 40-252 and reopening Decision No. 48650 is the appropriate procedural course of action in this matter given the special circumstances of the case and the fiscal inequities that would follow should the Company and, ultimately, its 36 customers be required to bear the expense of a full blown application process for a CC&N under A.C.C. R14-2-402.

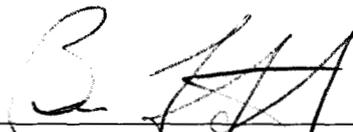
In this instance, Halcyon has been providing quality water service to its customers, including the subject connections, for many years based upon available information. Until a 2014 hearing involving the deletion of a portion of Halcyon's CC&N in Docket No. W-02312A-13-0326, the Company's owner, Gene Wilcox, believed that the subject connections were a part of its CC&N.

1 Staff subsequently determined that the legal description for Halcyon's CC&N did not include the  
2 subject connections and brought it to the Company's attention. In an effort to bring continuity to a  
3 theretofore unknown inconsistency, Halcyon discussed with Staff the best course of action to rectify  
4 the situation. Unfortunately, despite diligent research by Staff and the Company's representatives, no  
5 documentation and/or other evidence satisfactorily explains the omission of the subject connections  
6 from the Halcyon CC&N although Staff believes it was not due to a typographical error.

7 Notwithstanding the apparent intentional exclusion of these connections contained in the  
8 documentation attendant to Decision No. 48650 as set forth in the Staff Report, it would be  
9 inequitable and against the public interest to require Halcyon's 36 customers to bear the expense of a  
10 new application for a CC&N to incorporate the subject connections north of Old Spanish Trail which  
11 have been the beneficiaries of many years of service. Moreover, as pointed out in the Staff Report,  
12 the six subject connections have expressly related their desire to continue to be served by Halcyon.  
13 In essence, the instant proceeding is simply an effort to clean up an inconsistency between what the  
14 Company's CC&N reflects and what service is being and has been provided for many years to  
15 everyone's satisfaction. Staff recommends that the requirements of R14-2-402 be waived in this  
16 instance and that the matter proceed under A.R.S. § 40-252. Staff believes such course of action is in  
17 the public interest.

18 Based on the foregoing and the content of the Staff Report, Staff requests that this matter  
19 proceed pursuant to A.R.S. § 40-252 and that the Company's CC&N be extended to include the area  
20 in question.

21 RESPECTFULLY SUBMITTED this 20<sup>th</sup> day of March 2015.

22  
23  
24   
25 Brian E. Smith, Attorney  
26 Legal Division  
27 Arizona Corporation Commission  
28 1200 West Washington Street  
Phoenix, Arizona 85007  
(602) 542-3402

1 Original and thirteen (13) copies  
2 of the foregoing filed this  
20<sup>th</sup> day of March 2015 with:

3 Docket Control  
4 Arizona Corporation Commission  
1200 West Washington Street  
5 Phoenix, Arizona 85007

6 Copy of the foregoing emailed/mailed this  
20<sup>th</sup> day of March 2015 to:

7 Gregory E. Good  
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MEMORANDUM

TO: Docket Control Center

FROM: Steven M. Olea   
Director  
Utilities Division

DATE: March 20, 2015

RE: STAFF REPORT FOR HALCYON ACRES ANNEX NO. 2 WATER COMPANY, INC. APPLICATION FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY TO OPERATE A PUBLIC SERVICE UTILITY FOR THE SALE AND DISTRIBUTION OF WATER FOR DOMESTIC USE (DOCKET NO. W-02312A-14-0325)

Attached is the Staff Report for Halycon Acres Annex No. 2 Water Company Inc. application to amend or alter Decision No. 48650. Staff recommends approval of the amendment of Decision No. 48650 to include the area north of Old Spanish Trail as discussed in the Staff Report

SMO:RGG:red\BES

Originator: Robert G. Gray

Service List for: HALCYON ACRES ANNEX NO. 2 WATER COMPANY, INC.  
Docket No. W-02312A-14-0325

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Attorney for Halcyon Acres Annex No. 2  
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**STAFF REPORT  
UTILITIES DIVISION  
ARIZONA CORPORATION COMMISSION**

**HALCYON ACRES ANNEX NO. 2 WATER COMPANY, INC.**

**DOCKET NO. W-02312A-14-0325**

**APPLICATION TO AMEND OR ALTER DECISION NO. 48650**

**MARCH 20, 2015**

## STAFF ACKNOWLEDGMENT

The Staff Report for Halcyon Acres Annex No. 2 Water Company Inc. ("Halcyon"), Docket No. W-02312A-14-0325, was the responsibility of the Staff member listed below. Robert Gray was responsible for the review and analyses of the Company's application.

A handwritten signature in black ink, appearing to read 'R. G. Gray', with a long horizontal flourish extending to the right.

Robert G Gray  
Executive Consultant III

**EXECUTIVE SUMMARY**  
**HALCYON ACRES ANNEX NO. 2 WATER COMPANY, INC.**  
**DOCKET NO. W-02312A-14-0325**

Halcyon filed an application to amend or alter Decision No. 48650 (January 26, 1978) to include the area north of Old Spanish Trail within Halcyon's service territory. Staff reviewed the filing and recommends inclusion of the area north of Old Spanish Trail in Halcyon's service territory, as discussed herein.

## TABLE OF CONTENTS

	PAGE
INTRODUCTION.....	1
REVIEW OF THE 1977 CC&N PROCEEDING .....	1
SERVICE AREA IN QUESTION.....	2
WATER SYSTEM .....	2
ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY (“ADEQ”) COMPLIANCE .....	2
ARIZONA DEPARTMENT OF WATER RESOURCES (“ADWR”) COMPLIANCE.....	3
CURTAILMENT TARIFF.....	3
BACKFLOW PREVENTION TARIFF .....	3
RECOMMENDATIONS .....	3

## EXHIBITS

Data Request Response from Halcyon Acres Annex No. 2.....	1
Engineering Map .....	2

## **INTRODUCTION**

Halcyon Acres Annex No. 2 Water Company (“Halcyon” or “Company”) is a small water company that serves 36 customers on the northeast side of Tucson, Arizona. Halcyon received its initial Certificate of Convenience and Necessity (“CC&N”) from the Arizona Corporation Commission (“ACC” or “Commission”) in Decision No. 48650 on January 26, 1978. Halcyon’s CC&N is within the City of Tucson city limits and covers approximately 106 acres.

In Docket No. W-02312A-13-0326, an application was filed for Commission approval of the deletion of a small portion of Halcyon’s service area from its CC&N where Presidio Trails Development, LLC wished to construct an apartment complex. The Commission approved the deletion in Decision No. 74745 on September 15, 2014. However, at the hearing on the deletion application, Gene Wilcox, President of Halcyon, testified that maps of Halcyon’s service area filed in the case were in error, as he believed Halcyon’s service area includes some land north of Old Spanish Trail.

Following the hearing Staff reviewed information Staff had on file regarding Halcyon’s service area including documentation from the original 1977 proceeding that granted Halcyon its initial CC&N. Order No. 48650 actually includes language that specifically excluded the area north of Old Spanish Trail from Halcyon’s CC&N. Staff brought this matter to Halcyon’s attention and after several discussions with Staff, Halcyon filed an application (Docket No. W-02312A-14-0325) pursuant to A.R.S. §40-252 to amend or alter Decision No. 48650 to include the area north of Old Spanish Trail in Halcyon’s CC&N. On October 16, 2014, the Commission granted Halcyon’s application and directed the Hearing Division to set a procedural schedule.

During the December 22, 2014, procedural conference there was discussion regarding whether a §40-252 process was appropriate or whether a full CC&N extension application is necessary under Halcyon’s circumstances. The Administrative Law Judge also asked Staff to further investigate the 1977 proceeding granting Halcyon’s initial CC&N to try to determine if the exclusion of the area north of Old Spanish Trail was inadvertent or purposeful and if there was any explanation in the 1977 proceeding of why this area was not included in the CC&N. On January 20, 2015, Staff issued a set of data requests to Halcyon to gather further information. On January 30, 2015, Staff and Halcyon made a joint filing indicating that additional time was needed for Staff to gather the necessary information and complete its review of the matter. On February 17, 2015, Halcyon provided responses to Staff’s data requests. During Staff’s review of Halcyon’s application, Staff realized that the legal description provided by Halcyon in its application would have unintentionally added back the portion of Halcyon’s CC&N that was deleted in Decision No. 74745. Staff discussed this matter with Halcyon. On March 5, 2015, Halcyon filed an amended legal description for Halcyon’s CC&N, reflecting the deletion which occurred in Decision No. 74745.

## **REVIEW OF THE 1977 CC&N PROCEEDING**

Staff reviewed records contained in the Commission’s Docket Control related to Docket No. U-2312 which are contained on microfiche. The records on microfiche include the initial application from Halcyon, a number of other documents related to the matter, and the

Commission's decision on the matter. The transcript of the hearing was not on microfiche, and Staff confirmed with Docket Control that the transcript for the hearing on the 1977 matter is not available.

The Company's initial application in Docket No. U-2312 references the exclusion of the area north of Old Spanish Trail a number of times including in Schedule A, in the attached franchise document from Pima County, and the legal description. The map of the area to be certificated, attached to the application, also excludes the area north of Old Spanish Trail. Exclusion of the area north of Old Spanish Trail is also shown in a map filed by Commission Staff as well as the Commission's Decision in the matter. It is clear to Staff that the exclusion of the area north of Old Spanish Trail from the CC&N being granted to Halcyon was referenced throughout key documents available from that proceeding, and there is no evidence that inclusion of that area was contemplated. Staff did not find any information discussing or explaining the exclusion of the area north of Old Spanish Trail from the CC&N being granted and thus the reasoning for and significance of its exclusion is unknown at this time. It is clear to Staff that exclusion of the area north of Old Spanish Trail from Halcyon's CC&N during the 1977 proceeding was not a typographical error, but rather was contemplated throughout the proceeding. Halcyon has indicated that the Company does not have any records or recollection explaining the exclusion of the area north of Old Spanish Trail.

### **SERVICE AREA IN QUESTION**

The area north of Old Spanish Trail involves approximately 13 acres, six parcels, and six customers. Halcyon has indicated in a data response to Staff that it believes it has served the area since well before 1960 and that no other water company has ever served the area. Attached as Exhibit 1 is a map showing the current Commission-approved CC&N and the area to be added.

### **WATER SYSTEM**

Halcyon's current water system consists of one well, one pressure tank, and a distribution system. Halcyon has an emergency interconnection with the City of Tucson Water system and this interconnect can be used to supplement Halcyon's water supply as needed. Fire flow is provided by the City of Tucson's existing pipelines and fire hydrants located throughout Halcyon's service area.

Attached as Exhibit 2 is a letter from Mr. Wilcox, with signatures from the six landowners located north of Old Spanish Trail indicating their continued willingness to take service from Halcyon. Staff views this letter as being roughly equivalent to the requests for service water companies file with the Commission as part of a request for approval of a CC&N extension.

### **ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY ("ADEQ") COMPLIANCE**

As of October 13, 2013, ADEQ has reported that the Company's water system is currently delivering water that meets water quality standards required by 40 C.F.R. 14 (National Primary Drinking Water Regulations) and Arizona Administrative Code, Title 18, Chapter 4.

## **ARIZONA DEPARTMENT OF WATER RESOURCES (“ADWR”) COMPLIANCE**

The water system is located in the Tucson Active Management District. According to an ADWR compliance status report dated November 12, 2014, ADWR has determined that the Company’s water system is in compliance with ADWR requirements.

### **CURTAILMENT TARIFF**

The Company has an approved Curtailment Tariff.

### **BACKFLOW PREVENTION TARIFF**

The Company has an approved Backflow Prevention Tariff.

### **RECOMMENDATIONS**

1. Staff recommends that Decision No. 48650 be amended to reflect that the area north of Old Spanish Trail is part of Halcyon’s CC&N, as reflected in Exhibit 2.

**HALCYON ACRES ANNEX NO. 2 WATER COMPANY, INC.**

**8715 E. 20th**

**TUCSON, ARIZONA 85710**

**Gene Wilcox, President**

**February 10, 2015**

**Dear Halcyon Acres Customer:**

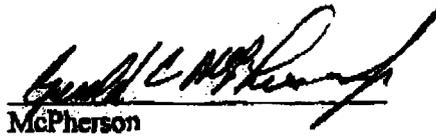
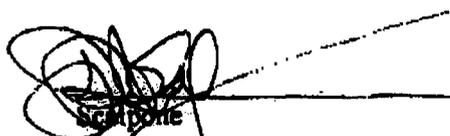
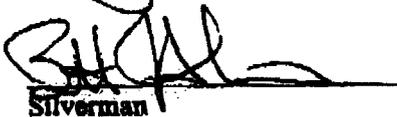
The water company administration has learned that due to a clerical error, the properties north of Old Spanish Trail were not included in the legal description of the water company going back to 1977. Your property has been served by Halcyon Acres Water Company since well before 1960. In order to correct this historic error in the legal description, the Staff at the Arizona Corporation Commission has asked that each of the properties north of Old Spanish Trail sign a letter indicating their continued willingness to be served by Halcyon Acres Annex No. 2 Water Company. Accordingly, please sign below.

Sincerely,



Gene Wilcox, President  
Halcyon Acres Annex No. 2 Water Company, Inc.

Kathy Good, Trustee  
Zimmermann Family Trust  
Good/Zimmermann

  
McPherson  
Roush  
Scarpone  
Turkin  
Silverman

MEMORANDUM

TO: Bob Gray  
Executive Consultant III  
Utilities Division

FROM: Lori H. Miller   
GIS Specialist  
Utilities Division

THRU: Del Smith   
Engineering Supervisor  
Utilities Division

DATE: March 11, 2015

RE: **HALCYON ACRES ANNEX NO. 2 WATER COMPANY, INC.**  
**(DOCKET NO. W-02312A-14-0325)**  
**AMENDED LEGAL DESCRIPTION**

The area requested by Halcyon to amend or alter Decision No. 48650 has been plotted with no complications using the amended legal description filed on March 5, 2015 (a copy of which is attached).

Also attached is a copy of the map for your files.

/lhm

Attachments

cc: Mr. Gregory E. Good  
Ms. Katrin Stukov  
Ms. Deb Person (Hand Carried)  
File

**RANGE 15 East**

**TOWNSHIP 14 South**

	<b>W-02312A (1)</b> Halcyon Acres Annex #2 Water Company, Inc.
	<b>W-01953A (1)</b> Halcyon Acres Water Users Association
	<b>(8)</b> City of Tucson (Nonjurisdictional)
	<b>W-02312A (1)</b> Halcyon Acres Annex #2 Water Company, Inc Docket No. W-02312A-14-0325 Application to Amend Decision No. 48650 (Amended Application)

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Prepared by:  
Arizona Corporation Commission  
Utilities Division  
Engineering Section/GIS Mapping  
602-542-4251



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NORTHERLY UPON THE ARC OF SAID CURVE TO THE RIGHT,  
HAVING A RADIUS OF 35.00 FEET AND A CENTRAL ANGLE OF 27°48'42",  
FOR AN ARC DISTANCE OF 16.99 FEET TO A TANGENT LINE;

NORTH 27°19'31" EAST 165.87 FEET TO A TANGENT CURVE  
CONCAVE SOUTHERLY;

EASTERLY UPON THE ARC OF SAID CURVE TO THE RIGHT, HAVING  
A RADIUS OF 25.00 FEET AND A CENTRAL ANGLE OF 84°04'44", FOR AN  
ARC DISTANCE OF 36.69 FEET TO A TANGENT LINE;

SOUTH 68°35'45" EAST 269.55 FEET TO A TANGENT CURVE CONCAVE  
SOUTHWESTERLY;

SOUTHEASTERLY UPON THE ARC OF SAID CURVE TO THE RIGHT,  
HAVING A RADIUS OF 666.20 FEET AND A CENTRAL ANGLE OF 16°02'39",  
FOR AN ARC DISTANCE OF 186.55 FEET TO A TANGENT LINE;

SOUTH 52°33'06" EAST 192.16 FEET TO A TANGENT CURVE CONCAVE  
NORTHEASTERLY;

AND SOUTHEASTERLY UPON THE ARC OF SAID CURVE TO THE  
LEFT, HAVING A RADIUS OF 766.20 FEET AND A CENTRAL ANGLE OF  
14°10'53" FOR AN ARC DISTANCE OF 189.64 FEET TO THE **POINT OF  
BEGINNING.**

CONTAINING 10.8 ACRES MORE OR LESS