BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

JUL 20 2005

IN THE MATTER OF THE APPLICATION OF SOUTHLAND SANITATION CO. FOR DELETION OF PART OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY TO PROVIDE WASTEWATER SERVICE IN COCHISE COUNTY.	DOCKET NO. SW-02390A-05-0097 DECISION NO. 67987 **OPINION AND ORDER**

DATE OF HEARING:	June 16, 2005
PLACE OF HEARING:	Tucson, Arizona
ADMINISTRATIVE LAW JUDGE:	Jane L. Rodda
APPEARANCES:	Sidney Mendelsohn, Jr., on behalf of Southland Sanitation Co.; and David Ronald, Commission Legal Division for the Utilities Division.

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

1. On February 14, 2005, Southland Sanitation Company, ("Southland" or "Company") filed an application with the Commission requesting to delete a portion of its Certificate of Convenience and Necessity ("CC&N") to provide sewer service in Cochise County.

2. Southland is an Arizona C corporation authorized by Decision No. 52546 (October 22, 1981) to provide wastewater service in a portion of Cochise County in and adjacent to the City of Sierra Vista.

3. Southland's service area currently encompasses 880 acres and it serves approximately 295 sewer customers.

4. By its Application, Southland requests authorization to delete approximately 111 acres of its current CC&N. The legal description of the area to be deleted is set forth in Exhibit A hereto and incorporated by reference.

5. The City of Sierra Vista has agreed to serve a new development in the proposed deletion area.

6. Southland's sister company, Southland Utilities Company, Inc. is certificated to provide water service in the same CC&N area and will retain its CC&N to provide water service in the affected area.

7. Pursuant to A.A.C. R14-2-610.C, the Application was deemed sufficient on March 17, 2005.

8. On March 24, 2005, the Commission issued a Procedural Order that set the matter for hearing in Tucson, Arizona on June 16, 2005 and required the Company to publish the notice of the hearing and send a copy to all property owners in the area to be deleted.

9. On April 19, 2005, Southland filed an Affidavit of Publication from the *Bisbee Observer*, a newspaper of general circulation in the Company's service area, and a certificate of mailing that indicates the Company mailed the notice to property owners as required by the March 24, 2005 Procedural Order.

10. On May 18, 2005, the Commission's Utility Division Staff ("Staff") filed a Staff Report recommending approval of the Application.

11. The Commission has not received any comments on the application nor requests for intervention.

12. The hearing convened as scheduled on June 16, 2005, before a duly authorized Administrative Law Judge.

13. The parcel to be deleted is planned to be developed by D.R. Horton Homes for residential use.

14. On January 27, 2005, the City of Sierra Vista approved annexation of the deletion parcel. The City has wastewater facilities bordering the subject parcel, and development of wastewater facilities within the parcel would be more efficiently accomplished by the City than by Southland.

15. Currently Southland has no customers within the proposed deletion area. The Company has not received any customer deposits for service in the deletion area.

16. Approving the application will bifurcate Southland's CC&N. Deleting the 111 acres that are the subject of this application will result in approximately 70 acres within Southlands service area being separated from the main portion of its service territory. Southland does not currently serve any customers in the affected 70 acres.

17. Staff expressed concern that future service by Southland in the non-contiguous parcel could result in redundant facilities within utility easements, and that service within the 70 acres by Southland might be uneconomical in comparison with service by the City of Sierra Vista. Staff believes that although Southland could obtain an easement to serve the 70 acres, this non-contiguous parcel would be better served by the City. Thus, Staff recommends that the Company work with the City to obtain an agreement that the City will serve the non-contiguous parcel. Staff further recommends that Southland be required to file an application to delete the non-contiguous 70 acres by December 31, 2006, or a detailed explanation discussing why such a filing could not be accomplished.

18. Southland reported that it is in current negotiations with the City to acquire all of Southland's wastewater facilities, and not just the non-contiguous 70 acres. It did not object to filing either an application to delete the non-contiguous section, or a report keeping the Commission informed of the status of its negotiations.

19. At the time the Staff Report was filed, the Arizona Department of Environmental Quality ("ADEQ") notified the Commission that Southland was not in compliance with ADEQ regulations. There was a pending Notice of Violation ("NOV") regarding testing and monitoring issued on December 17, 2004.

20. Staff received a compliance status report from ADEQ that the City of Sierra Vista Wastewater Treatment Plant was in total compliance with ADEQ regulations.

21. The Commission's Utilities Division Compliance Section reports that there are no current delinquencies for the Company.

22. In a letter dated June 13, 2005, ADEQ reports that in an inspection performed on June 9, 2005, no deficiencies were found in the operation and maintenance of the Southland wastewater system and the Company is currently in compliance with ADEQ regulations.

CONCLUSIONS OF LAW

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

2. The Commission has jurisdiction over Southland and the subject matter of its Application.

3. Notice of the application was given in accordance with the law.

4. There is a need for wastewater service in the proposed deletion area.

5. The City of Sierra Vista is a fit and proper entity to operate a wastewater system within the proposed deletion area.

6. The recommendation set forth in Findings of Fact No. 17 is reasonable and should be adopted.

7. It is in the public interest for the proposed deletion and for the City of Sierra Vista to provide wastewater service within the area.

ORDER

IT IS THEREFORE ORDERED that the application of Southland Sanitation Company to delete the area described in Exhibit A is approved and Southland Sanitation Company's Certificate of Convenience and Necessity for the area described in Exhibit A shall be canceled without further Order of the Commission.

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IT IS FURTHER ORDERED that Southland Sanitation Company shall continue to keep the Commission informed on the status of its discussions with the City of Sierra Vista to acquire its Wastewater facilities and shall either file a detailed status report of its discussion or an Application to delete the non-contiguous portion of its Certificate of Convenience and Necessity, if not its entire Wastewater Certificate, by December 31, 2006.

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

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN COMMISSIONER

COMMISSIONER COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary 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 18th day of July, 2005.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____

JR:mlj

SERVICE LIST FOR: SOUTHLAND SANITATION COMPANY

DOCKET NO.: SW-02390A-05-0097

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Description of Golden Acres Drive Parcel.

A part of the Northeast quarter and Southeast quarter of Section 19, Township 22 South, Range 21 East, Gila and Salt River Meridian, Cochise County, Arizona, described as follows:

BEGINNING at the nail and disk 8028 in a concrete post monumenting the Southwest corner of said Northeast quarter as shown on Record of Survey Book 1 at Page 12, Cochise County Recorder's Office;

THENCE N 00°03'19" W along the West line of said Northeast quarter a distance of 1,985.40 feet to a found PK nail in the concrete base for a fence post;

THENCE S 89°36'40" E 330.19 feet to a found ACP 16525;

THENCE S 89°50'15" E 661.29 feet to a found nail and disk 11845 in the concrete base for a fence post at the Southwest corner of the land described in Docket 1742 at Page 387;

THENCE continue S 89°50'15" E 60.06 feet to the East line of said land;

THENCE S 00°02'15" E along the Southerly prolongation of the East line of said land a distance of 548.42 feet to a found 1/2" iron rod capped 29869;

THENCE S 89°44'43" E 1,590.71 feet to the East line of said Northeast quarter, passing through a found 1/2" iron rod capped 28737, which is 0.13' West of the East line;

THENCE S 00°02'20" E along said East line a distance of 1,035.77 feet to a set ACP 12122;

THENCE S 59°50'58" W 124.36 feet to a set ACP 12122 at the Southeast corner of the land described in Docket 1728 at Page 215;

THENCE N 11°14'22" W along the East line of said land a distance of 423.60 feet to a set ACP 12122 at the Northeast corner of said land;

THENCE S 64°01'48" W along the North line of said land a distance of 495.89 feet to a set ACP 12122 at the Northwest corner of said land;

THENCE S 20°42'26" E along the West line of said land a distance of 442.89 feet to a set ACP 12122 at the Southwest corner of said land;

THENCE S 59°50'58" W 358.79 feet to a set ACP 12122;

THENCE S 00°13'13" E 49.87 feet to a found 3/4" iron rod with added tag 12122 on the North line of the plat of GOLDEN ACRES MOBILE HOME PARK UNIT 2, as recorded in Book 9 of Maps and Plats at Page 22, Cochise County Recorder's Office;

THENCE S 14°32'17" W along said North line a distance of 25.13 feet to a found bent 3/4" iron rod with added tag 12122, being a point on the arc of a non-tangent curve concave to the West, a radial line of said curve through said point having a bearing of S 75°45'07" E;

THENCE Southerly along said North line, along the arc of said curve, to the right, having a radius of 332.44 feet, with a chord of S 14°25'12" W 1.99 feet, and a central angle of 00°20'37" for an arc distance of 1.99 feet to a found bent 3/4" iron rod with added tag 12122 on a non-tangent line;

THENCE N 72°38'59" W along said North line a distance of 101.48 feet to a set ACP 12122 on a corner of said plat;

THENCE N 42°43'27" W along said North line a distance of 100.00 feet to a set ACP 12122;

THENCE S 47°17'17" W along said North line a distance of 486.20 feet to a set ACP 12122;

THENCE S 67°29'37" W along said North line a distance of 705.68 feet and passing through a 1/2" iron rod capped 1780, which is 0.19 Northeasterly of the North line of Golden Acres Drive as shown on the plat of GOLDEN ACRES MOBILE HOME PARK, as recorded in Book 7 of Maps and Plats at Page 15, being a point on the arc of a non-tangent curve concave to the South, a radial line of said curve through said point having a bearing of N 13°35'00" E;

THENCE Westerly along said North line, along the arc of said curve, to the left, having a radius of 1,984.86 feet, with a chord of N 83°07'47" W 464.05 feet, and a central angle of 13°25'34" for an arc distance of 465.11 feet to set ACP 12122 at a point of tangency;

THENCE N 89°50'34" W along said North line a distance of 210.00 feet to a set ACP 12122 on the West line of said Southwest quarter;

THENCE N 00°03'30" W along said West line a distance of 585.00 feet to the POINT OF BEGINNING.

Containing 111.5504 acres or 4,859,135 square feet, more or less.