Decision **PROPOSED DECISION OF ALJ DEBERRY** (Mailed 4/5/2010)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Golden Hills Sanitation Co., Inc., a California corporation for a Certificate of Public Convenience and Necessity to Maintain and Operate an existing Public Utility Wastewater System for the Golden Hills Community near Tehachapi in Kern County and to Affirm Rates for Service and Issue Stock.	Application 08-08-011 (Filed August 19, 2008)

DECISION GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, AFFIRMING EXISTING RATES AND AUTHORIZING MEMORANDUM ACCOUNTS

1. Summary

Today's decision grants a certificate of public convenience and necessity (CPCN) to Golden Hills Sanitation Company (GHSC), affirms existing sanitation rates, authorizes GHSC to issue stock and authorizes memorandum accounts.

This decision finds that no California Environmental Quality Act (CEQA) review is required as a condition of granting the CPCN to GHSC. However, if GHSC expands its service territory or requests an increase in existing service rates, a new application will be necessary and it may be necessary for GHSC to perform a CEQA review.

This decision allows GHSC to establish certain memorandum accounts and provides that GHSC may file Tier 3 advice letters to request authority to establish other memorandum accounts.

This proceeding is closed.

2. Background

Golden Hills Sanitation Company (GHSC) is a privately-owned wastewater facility providing sewer service to 168 connections[1] in the community of Golden Hills near Tehachapi, California. In 1980, GHSC entered into an agreement (District Agreement) with the Golden Hills Community Services District (District) to build a wastewater treatment plant on land owned by the District. Construction of the wastewater treatment plant was finished in 1984. The plant was constructed to a maximum discharge of 100,000 gallons per day.

On May 12, 1981, the California Regional Water Quality Control Board (RWQCB) made a California Environmental Quality Act (CEQA) determination which adopted a negative declaration for the wastewater treatment plant. The RWQCB determination allowed for a maximum wastewater discharge of 200,000 gallons per day. GHSC planned to discharge wastewater on a golf course from irrigation water pumped from Tom Sawyer Lake (TSL); however, the golf course was not constructed, and treated effluent wastewater is currently discharged into TSL consistent with RWQCB Order No. 81-123.

The District Agreement anticipated that the District would acquire the wastewater facility. However, in 2001 the District quitclaimed the real property

[1] GHSC qualifies as a Class D sewer company (those serving less than 500 customers).

and sewer system to GHSC. Since 2001 GHSC has been the sole provider of sewer service in the Golden Hills Community.[2] Golden Hills Community residents who are not customers of GHSC operate privately-owned septic systems for disposal of wastewater.

3. Procedural Background

GHSC filed A.08-08-011 (Application) on August 19, 2008, requesting a certificate of public convenience and necessity (CPCN), expansion of its service territory, and an increase in current rates. The Application was initially processed by the Commission's Division of Water and Audits (DWA), and later transferred to the Administrative Law Judge (ALJ) Division in late April 2009.[3]

A prehearing conference (PHC) was held on May 29, 2009. During the PHC, the assigned ALJ indicated that the Application was deficient in certain respects, and therefore an amendment to the Application was necessary. At the PHC, the ALJ determined that the first phase of the proceeding should address granting a CPCN, and a later phase would consider GHSC's request to expand its service territory and increase existing rates.

On May 29, 2009, the District protested the Application.

On June 5, 2009, an ALJ ruling granted the District's request for late-filing its May 29, 2009 protest, and requested information from the District regarding certain statements made at the PHC and in the District's protest. The District responded to the June 5, 2009 ALJ ruling on June 19, 2009.

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[2] Application (A.) 08-08-011 at 1-3.

[3] During the time that the Application was processed in DWA, DWA requested information from GHSC and held an informal public participation hearing (PPH) in November 2008.

On June 29, 2009, GHSC replied to the District's protest and to the information provided by the District in response to the June 5, 2009 ALJ ruling.

On July 21, 2009, GHSC filed an Amendment to Application (Amended Application). The Amended Application provides additional information and makes major changes in the Application. These changes eliminate GHSC's request to expand its service territory and its request to increase existing sanitation rates. The Amended Application requests a CPCN, affirmation of existing rates, authority to issue stock, and also requests authority to establish certain memorandum accounts.

On August 18, 2009, an ALJ ruling required that GHSC provide a defined service territory map. GHSC provided its service territory map on September 3, 2009. (See Attachment A.)

On August 20, 2009, the Amended Application was timely protested by the District, AB Land Development, Inc. (AB Land), and the County of Kern (County). GHSC replied to the protests on August 31, 2009.

On September 8, 2009, a second PHC was held to discuss the issues, develop a schedule, and consider holding a PPH. At the second PHC GHSC stated that it would consider filing a future separate application regarding expansion of its service territory and an increase in rates. The ALJ noted that GHSC's current summary of earnings reflects negative income.[4] GHSC indicated it would provide a revised summary of earnings and a declaration by GHSC's majority owner regarding GHSC's financial condition. Parties at the second

[4] Amended Application at 30.

PHC indicated that they did not believe evidentiary hearings were required but that issues could be addressed through briefs.

On September 11, 2009, Assigned Commissioner John A. Bohn issued a Scoping Memo and Ruling (Scoping Memo). The Scoping Memo states that the scope of the proceeding will consider whether a CEQA review is required as a condition of granting a CPCN, the financial viability of GHSC, and affirmation of existing rates.

On October 9, 2009, GHSC provided a revised summary of earnings and a Declaration by Carlie Smith affirming financial support.[5]

Opening and reply briefs were filed by GHSC, the County, AB Land and the District, on October 14, and October 26, 2009, respectively.

A Public Participation Hearing (PPH) was held on October 21, 2009. The hearing was attended by over 250 people, and about 30 of the attendees spoke. Many attendees who are not GHSC customers expressed a concern that this proceeding would require forced wastewater connections to GHSC's system or that GHSC would be authorized to expand its service territory. We thank each person who attended the PPH, and those who spoke. We expect that these attendees understand that the action we take in this proceeding is not an expansion of GHSC's service territory or an action to force non-customers to connect to GHSC involuntarily.

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[5] The revised summary of earnings (Appendix A to the Amended Application) indicates that GHSC would require approximately $100,000 in additional revenue in order for the rate of return to equate to 0.0%. The Declaration of Carlie Smith (Appendix B) states that he owns about 77% of GHSC common stock and that he is committed to pay for GHSC's operating expenses, exclusive of catastrophic expenses, for a period of two years.

On January 25, 2010, GHSC filed a supplemental response to the September 8, 2009 ALJ ruling. This supplemental response notes that Carlie Smith passed away on December 26, 2009. The supplemental response includes a declaration of Cody Tellis affirming financial support for GHSC[6] which replaces the declaration of Carlie Smith filed on October 9, 2009.

This proceeding was submitted on January 25, 2010.

4. Discussion

4.1. CPCN Requirements

For a small sewer company like GHSC, the provisions of the Public Utilities Code,[7] the Commission's Rules of Practice and Procedure (Rules), and Resolution M-4708 (August 28, 1979) set forth requirements and criteria that must be satisfied before a CPCN is granted.

4.2. Pub. Util. Code

The Pub. Util. Code contains both substantive and procedural requirements for an entity to be considered a public utility and issued a CPCN. Section 216 defines a Commission-regulated sewer utility as one "where the service is performed for, or the commodity is delivered to, the public or any portion thereof for which any compensation or payment whatsoever is received." Section 216(b) states that when any person or corporation performs a service or delivers a commodity to the public for which compensation or

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[6] The Declaration of Cody Tellis, the present Trustee for Carlie Smith, states that the Estates of Lillian and Carlie Smith are committed to continue paying for a minimum of two years the operating expenses of GHSC.

[7] All references to Codes are to the California Public Utilities Code unless otherwise noted.

payment is received, that corporation is a public utility subject to the jurisdiction, control and regulation of the Commission.

In this proceeding, GHSC affirmatively seeks public utility status. GHSC's Amended Application indicates it will continue to provide sanitation service to approximately 168 existing customers. GHSC proposes that its sanitation service be provided under rates approved by the Commission. Under the substantive law, GHSC will operate as a public utility.

The Public Utilities Code also includes procedural requirements. The applicant for public utility status must file a certified copy of its articles of incorporation or charter and evidence that the applicant has received any necessary consent of public agencies. (Pub. Util. Code § 1004.) The code also requires that the Commission, in evaluating the application, consider the potential impact of utility operations on community values, recreation and park areas, historical and aesthetic values, and the environment. (*Id.*, Section 1002(a).)

In its Application, GHSC provided its Certification of Incorporation[8] issued by the Secretary of State. Under GHSC's Articles of Incorporation it is authorized to issue 25,000 shares of common stock. GHSC states that there are currently 238 shares outstanding, and that the principal shareholders are Carlie and Lillian Smith. GHSC also states that its only indebtedness is a secured promissory note for $343,075, for which interest is deferred to July 1, 2010. Finally, GHSC has provided RWQCB Order 81-122[9] which provides wastewater

[8] *See*, Application, Exhibit A (incorporated by reference).

[9] *Id.*, Exhibit E (incorporated by reference).

discharge requirements for GHSC,[10] and a permit to operate from the Kern County Air Pollution Control District.[11] GHSC has submitted all of the formal documentation required by statute for issuance of a CPCN.

4.3. Potential Impact on Community Values, Recreation, Historical and Aesthetic Values[12]

Because we are issuing a CPCN to an existing sewer system, there are no identified impacts to recreation and park areas or historical and aesthetic values. Any impact to the environment is addressed under the discussion of CEQA below.

4.4. Rules of Practice and Procedure

Rules 2 and 3 set forth requirements that must be satisfied as part of an application for a CPCN and to authorize rates. The relevant requirements of Rule 3 include a full description and map of the system, identification of potential competitors, financial information, ratesetting information, and facts supporting the issuance of a CPCN. An important provision of Rule 3 is the requirement that the application demonstrate "[f]acts showing that public convenience and necessity require…the proposed construction or extension, and its operation," or in this case, the operation of the existing sewer system as a

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[10] Although the County and AB Land contend there are problems with the current discharge of wastewater into TSL (see, Opening Brief, County of Kern at 2-4, and AB Land Brief) the granting of a CPCN does not determine the discharge site for current wastewater. The authority for the regulation of a wastewater discharge site clearly rests with the RWQCB. Disputes arising between the parties regarding the discharge site should be addressed before the RWQCB.

[11] *See*, Application, Exhibit I (incorporated by reference).

[12] *See*, Pub. Util. Code § 1002(a).

public utility. The Amended Application demonstrates that public utility regulation is necessary to safeguard a number of customers who have no sanitation system alternatives, ensure reasonable and fair rates for both the ratepayers and the company, and monitor sanitation service and quality in an area where the alternative is installation of privately-owned septic systems.

Rule 2 requires more specific financial information and Rule 2.4 addresses CEQA matters as discussed later in this decision. GHSC's Amended Application provides the information required by these rules.

4.5. Resolution M-4708

Resolution M-4708 sets forth six basic criteria that are used to evaluate the application of small water companies (Class D companies, i.e., those serving less that 500 customers), which we will apply to a small sewer company such as GHSC. As pertinent to this application, the resolution specifies that the Commission will issue CPCNs only when the water or sewer company is able to render adequate service; remain financially viable; and no other existing viable water or sewer provider is available to serve the proposed area.

In this instance, GHSC fulfills the requirements of the resolution as it is an existing sewer system and there are no other sewer systems capable of serving the proposed area. GHSC's financial viability is discussed elsewhere in this decision (see, Part 6., below).

5. The California Environmental Quality Act (CEQA)[13]

In addition to other requirements, we must consider whether the Commission's approval of GHSC's Amended Application for a CPCN triggers CEQA and, if so, what steps must be taken to satisfy the statute's requirements.

CEQA (Pub. Resources Code §§ 21000, *et. seq.*) applies to discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to "inform governmental decision-makers and the public about the potential, significant environmental effects of the proposed activities." (Title 14 of the California Code of Regulations, hereafter "CEQA Guidelines," Section 15002.) CEQA defines a project as "an activity which may cause a direct change in the environment, or reasonably foreseeable change in the environment, and which is…, an activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by one or more public agencies." (Pub. Resources Code § 21065.)

We have previously determined that the issuance of a CPCN is a project since it involves the discretionary governmental activity in issuing a "certificate or other entitlement." Furthermore, a CPCN is an entitlement since it allows an entity to operate as a public utility within a specified service area.[14] While the Commission has previously held that the mere granting of a CPCN involving existing facilities is exempt from CEQA,[15] this exemption was based on a finding that there was no possibility that granting the relief requested would have a

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[13] *See*, Rule 2.4, CEQA Compliance.

[14] See, Decision (D.) 05-11-030, November 18, 2005 at 17-18.

[15] D.02-06-005 at 18.

significant impact on the environment.[16] The remaining question is whether the issuance of a CPCN in this proceeding will cause a direct or reasonably foreseeable indirect physical change in the environment.

The District, the County and AB Land contend that the "project" in this case includes not only granting the CPCN, but also an increase in customers either by expansion of GHSC's service territory boundaries or addition of new customers within a defined service territory through the operation of the Plumbing Code.[17]

5.1. The Amended Application Does Not Request Expansion of Service Territory

The District,[18] the County[19] and AB Land[20] contend that GHSC requests expansion of its service territory. In this regard, AB Land and the County argue that granting a CPCN constitutes "piecemealing"[21] of the true project. Piecemealing of projects is prohibited under CEQA. Consequently, the County,

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[16] *Id.*, Finding of Fact 23 at 22.

[17] The Plumbing Code (Section 713, Title 24 of the California Code of Regulations, also referred to as the California Building Standards Code) states that no permit will be issued to build, alter or change a private sewer system if a public sewer is within 200 feet from the proposed building. When drainage to the public sewer is hindered, there is an exception to this rule which provides that the building may remain connected to the private sewer disposal system.

[18] District Opening Brief at 7.

[19] County Reply Brief at 2.

[20] AB Land Brief at 4.

[21] "Piecemealing" refers to the separation of a project into individual projects in order to avoid the responsibility for considering the environmental impact of the project as a whole. (District Opening Brief at 6).

AB Land and the District conclude that CEQA categorical exemptions[22] do not apply to GHSC's Amended Application.

Contrary to the assertions of parties opposed to granting the CPCN, the relief requested by the Amended Application is clear. The Amended Application requests that GHSC be granted a CPCN for a defined service territory using an existing wastewater system. Although the County and the District argue that GHSC intends to use the granting of a CPCN as a first step in expanding its service territory, these arguments are conjecture. The Application as originally filed requested service territory expansion and an increase in existing rates. However, the Amended Application which we approve does not request that relief. It may be that GHSC will file a later application to expand its service territory or to increase existing rates, but it is supposition to conclude that GHSC will undertake a specific future action. Furthermore, our granting of a CPCN is not piecemealing of a larger project when there are no firm descriptions of the larger project. If GHSC does file an application to expand its service territory, we expect such actions will be in accordance with all legal requirements including those under CEQA.

5.2. Granting a CPCN Does Not Cause Enforcement of the Plumbing Code

The County and the District argue that the Plumbing Code would require new customer connections to GHSC's existing mains when permits to construct or change a private sewer system are issued for any new or existing system which is within 200 feet of a GHSC main. In this way, the granting of a CPCN

[22] CEQA Guidelines provide categorical exemptions. (CEQA Guidelines, Section 15061.)

and invocation of the Plumbing Code would result in new or forced GHSC sewer connections even if the service territory boundaries are not expanded. The District, the County, and AB Land contend new connections constitute an expansion of service territory which results in environmental effects.[23] This argument assumes that implementation of the Plumbing Code is dependent on granting the CPCN. However, the parties opposing granting the CPCN have not demonstrated the causal relationship between the Plumbing Code and the granting of a CPCN. If the Commission does not issue a CPCN, would permits for new construction or permits for rehabilitation of existing private sewer systems not be subject to the connection requirements of the Plumbing Code? That is, why would the granting of a CPCN to GHSC invoke the Plumbing Code if the Plumbing Code is not already being applied where appropriate? We conclude that our granting of a CPCN does not affect how the Plumbing Code is being implemented or enforced where appropriate. Therefore on this issue we disagree with the County and the District that granting a CPCN changes the way in which the Plumbing Code is applied which might otherwise cause an environmental effect.[24] As GHSC points out the Plumbing Code is not an environmental effect caused by the Amended Application.[25] The Plumbing Code does not change the project requested by GHSC, which is the granting of a CPCN.

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[23] District Opening Brief at 9.

[24] We also note that under Section 713, *et seq.* of the Plumbing Code the enforcement agency is the building department in the city or county of the dispute.

[25] GHSC Reply Brief at 10.

5.3. CEQA Exemption

The project in this proceeding is the issuance of a CPCN to GHSC for the operation of an existing sanitation system. Since it can be seen with certainty that there is no possibility that granting the relief requested will have a significant impact on the environment, the project qualifies for an exemption from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines. Therefore, no further environmental review by the Commission is required.

6. Financial Ability

The Amended Application requests authority to issue stock, approve a promissory note of $343,075 and establish existing rates. Although no party opposes any of these requests, the financial statements provided in the Amended Application[26] indicate that GHSC's current operations will operate at significant negative net income. In order to clarify this financial condition, the ALJ requested that GHSC file a revised summary of earnings and a declaration by the majority owner of GHSC addressing GHSC's ability to finance its operations.[27]

In response,[28] GHSC provided a revised summary of earnings which indicates that GHSC would require about $100,000 in additional revenues above revenues at existing rates to achieve a 0% return on estimated rate base. GHSC also provided the Declaration of Carly Smith now superseded by the Declaration of Cody Tellis which states that the estates of Lillian and Carlie Smith own

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[26] *See*, pp. 29-30.

[27] TR 165-168.

[28] *See*, Response of GHSC to ALJ Ruling Requesting Revised Summary of Earnings and Declaration of Carlie Smith (October 9, 2009).

approximately 77% of GHSC's common stock,[29] and that these estates are committed to pay for GHSC operating expenses, exclusive of catastrophic expenses, for a period of two years from September 2009. Although the declaration of Cody Tellis provides some assurance to current GHSC ratepayers regarding the financial viability of GHSC, it is apparent that GHSC will have to address its long-term financial viability. Although we do not direct GHSC to take specific actions with regard to future financial viability, we expect that GHSC will adhere to all of the requirements of a California public utility including appropriate accounting, applicable Commission general orders and standard practices.

As the issuance of stock and the promissory note occurred prior to GHSC's application for a CPCN it is not necessary to include an approval of these actions in our decision. However, this decision does not authorize GHSC to issue any additional stock, or incur additional debt, and the issuance of any additional stock or incurrence of debt must comply with the requirements under Section 816, *et. seq*.

7. Proposed Wastewater Service Rates

GHSC currently assesses a flat rate fee for sewer services from its wastewater treatment facility. GHSC currently provides wastewater service to 142 residential customers, one motel utilizing 4 service connections, one apartment building utilizing 22 service connections and 87 undeveloped properties not in service which each pay a monthly service commitment fee. These fees by class of customer are:

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[29] The Declaration of Carlie Smith has been superseded by the Declaration of Cody

Footnote continued on next page

Customer Class	Monthly Fee per Connection
Single Family Resident Sewer Service	$58.00
Apartment Service Connection	52.87
Motel Service Connection	56.25
Service Commitment Fee	10.00

No party opposes the current monthly service rates. We will adopt GHSC's existing rates.

8. Memorandum Accounts

GHSC requests authority to establish eight memorandum accounts for the following costs:

1. Unanticipated Repair Costs
2. Catastrophic Events
3. Infrastructure Act
4. Purchased Power
5. Payroll, payroll tax, and contract work for operation and maintenance of plant facilities
6. Litigation expense
7. Water contamination litigation expense
8. Necessary costs to comply with lawful orders affecting plant operations.

Commission Resolution W-4467, adopted April 22, 2004, allows a Class D sewer company such as GHSC to establish memorandum accounts to track purchased power expenses, and unanticipated changes beyond the utility's

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Tellis, the current Trustee for the Estates of Lillian and Carlie Smith.

control in payroll, payroll taxes, and that portion of contract work that is for operation and maintenance of the plant facilities.[30] Class D sewer companies are also allowed to establish an unanticipated repair cost memorandum account.[31]

Commission Resolution E-3238, adopted July 24, 1991, provides that all utilities may establish a catastrophic event memorandum account to record costs resulting from declared disasters.

We will allow GHSC to establish memorandum accounts for unanticipated repair costs, catastrophic events, and unanticipated changes beyond the utility's control in payroll, payroll taxes and that portion of contract work that is for operation and maintenance of the plant facilities. GHSC may request authority to establish other memorandum accounts by filing a Tier 2 advice letter.

While these advice letters should be filed as Tier 2 advice letters pursuant to the Water Industry Rules,[32] pursuant to the general rules[33] if the decision regarding whether to approve the memorandum account requires an exercise of discretion, staff will prepare a resolution so that the Commission may determine the issue.

A memorandum account allows a utility to track costs arising from events that were not reasonably foreseen when existing rates were set, e.g., in the utility's last general rate case. By tracking these costs in a memorandum account, a utility preserves the opportunity to seek recovery of these costs at a later date without raising retroactive ratemaking issues. Authorization of a

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[30] Res. W-4467 at 7, Ordering Paragraph (O.P.) 4.

[31] *Id.*, O.P. 6.

[32] See, Decision 07-01-024, Appendix C (Water Industry Rules).

[33] *Id.*, Appendix A.

memorandum account does not mean that the Commission has decided that the types of costs to be recorded in the account should be recoverable in addition to rates that have been otherwise authorized, unless specified. Instead, the utility shall bear the burden when it requests recovery of the recorded costs, to show that separate recovery of the types of costs recorded in the account is appropriate, that the utility acted prudently when it incurred these costs and that the level of costs is reasonable.

9. Conclusion

For all of the foregoing reasons, GHSC should be granted a CPCN and authorized to charge existing sewer rates and establish certain memorandum accounts.

10. Comments of Proposed Decision

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

11. Assignment of Proceeding

John A. Bohn is the assigned Commissioner and Bruce DeBerry is the assigned ALJ in this proceeding.

Findings of Fact

1. GHSC is a privately-owned wastewater facility providing sewer service to approximately 168 connections in the community of Golden Hills near Tehachapi, California.
2. GHSC's wastewater facility began operation in 1984.

3. GHSC's wastewater treatment plant was built to a capacity of 100,000 gallons per day, but current maximum discharge is approximately 24,000 gallons per day.

4. In 1981 the RWQCB made a CEQA determination which adopted a negative declaration for the wastewater treatment plant.

5. RWQCB Order No. 81-123 provides for a maximum wastewater discharge of 200,000 gallons per day.

6. Since 2001 GHSC has been the sole provider of sewer service in the Golden Hills Community. Golden Hills' residents who are not customers of GHSC operate privately-owned septic systems for disposal of wastewater.

7. GHSC's initial Application filed on August 19, 2008, requested a CPCN, expansion of service territory, authorization to issue stock, and an increase in existing sewer rates.

8. GHSC filed an Amended Application on July 21, 2009. The Amended Application requests a CPCN, adoption of existing sewer rates, authority to issue stock and authority to establish certain memorandum accounts.

9. Because GHSC has been in operation since 1984, the issuance of a CPCN will not affect recreation, park areas, or historical or aesthetic values.

10. GHSC's revised summary of earnings indicates that under existing rates and sewer connections GHSC will operate at significant negative net income.

11. GHSC would require about $100,000 in additional revenues to achieve a 0% return on rate base.

12. The Declaration of Cody Tellis, the current Trustee for the estates of Lillian and Carlie Smith, states that the estates will pay operating expenses, exclusive of catastrophic expenses, for a period of two years from September 2009, and thus provides financial assurance to current GHSC customers.

13. There are no other sewer systems capable of serving GHSC's proposed service territory.

14. GHSC has filed its Amended Application for a CPCN and supplemental information and documents including certified copies of its articles of incorporation, service territory map, financial information, and existing sewer rates.

15. GHSC has been operating the sanitation system since 2001 and now seeks to do so in conformity with the Public Utilities Code. The Commission's granting of a CPCN will only establish the service area, authorize existing sewer rates, grant authority to issue stock, and grant authority to establish certain memorandum accounts. The Commission's decision will not authorize any construction or modification of the system.

16. Granting a CPCN to GHSC will not invoke the Plumbing Code.

17. The Plumbing Code is not an environmental effect caused by the Amended Application.

18. Under these circumstances, we find with certainty that there is no possibility that the granting of a CPCN in this proceeding will have a significant impact on the environment. Therefore, no further environmental review by the Commission is required.

Conclusions of Law

1. GHSC has satisfied all of the applicable requirements of Pub. Util. Code §§ 1002(a) and 1004 and Rules 2 and 3.

2. Once granted a CPCN, GHSC will be classified as a Class D sewer utility.

3. GHSC has satisfied all of the applicable requirements of Commission Resolution M-4708 which applies to water utilities, but which also are appropriate to apply to a small sewer company such as GHSC.

4. Public utility regulation of GHSC is necessary and convenient to provide protection to existing GHSC customers who have no sewer alternatives.

5. GHSC should be granted a CPCN authorizing it to operate as a public utility within the State of California with all the rights and obligations thereof.

6. In being granted a CPCN, GHSC assumes the obligation to serve as set forth in the Public Utilities Code (including but not limited to Section 451).

7. Commission Resolution W-4467 provides that a Class D sewer company may establish memorandum accounts to track purchased power expense, unanticipated changes beyond the utility's control in payroll, payroll taxes and that portion of contract work that is for operation and maintenance of the plant facilities.

8. Commission Resolution E-3238 provides that all utilities may establish a catastrophic event memorandum account to record costs resulting from declared disasters.

9. The issuance of a CPCN to GHSC is exempt from CEQA because it can be seen with certainty that there is no possibility that granting the CPCN will have a significant impact on the environment.

O R D E R

IT IS ORDERED that:

1. Golden Hills Sanitation Company, Inc. is granted a certificate of public convenience and necessity to provide sewer service to the Golden Hills Community as defined in the attached service territory map (Attachment A). Golden Hills Sanitation Company shall fulfill its obligation to serve, as set forth in the Public Utilities Code and prior decisions and orders of the Commission.

2. Golden Hills Sanitation Company shall establish and maintain a set of accounts in accordance with the Commission's Uniform System of Accounts for its sewer service.

3. Golden Hills Sanitation Company shall file an annual report with the Director of the Division of Water and Audits in compliance with General Order 104-A on a calendar-year basis.

4. Golden Hills Sanitation Company is authorized to charge its existing rates for sewer service.

5. Golden Hills Sanitation Company is authorized to make Tier 3 advice letter filing to establish memorandum accounts for purchased power expenses; unanticipated changes beyond the utility's control for catastrophic events; payroll, payroll taxes and contract work for operation and maintenance of plant facilities; and unanticipated repair costs.

6. Golden Hills Sanitation Company shall make a Tier 3 advice letter filing within 30 days after the effective date of this order, to establish tariffs consistent with General Order 96-B reflecting its authorized rates for sewer service.

7. Golden Hills Sanitation Company may file Tier 3 advice letters to request establishment of memorandum accounts in addition to those authorized in Ordering Paragraph 5.

8. Application 08-08-011 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

DeBerry Attachment A