





1 BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on regularly to be heard before  
3 the Arizona Corporation Commission, 400 West Congress  
4 Street, Tucson, Arizona, commencing at 10:05 a.m. on  
5 the 2nd day of September, 2004.

6 BEFORE: JANE L. RODDA, Administrative Law Judge  
7

8 APPEARANCES:

9 For the Arizona Corporation Commission Staff:

10 DAVID RONALD  
11 Staff Attorney, Legal Division  
12 1200 West Washington Street  
13 Phoenix, Arizona 85007

14 For Red Rock Utilities:

15 LEWIS AND ROCA, LLP  
16 By: Ms. Mary Beth Savel  
17 Suite 700  
18 One South Church Avenue  
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20 MICHELE E. BALMER  
21 Certified Court Reporter  
22 Certificate No. 50489  
23  
24  
25

1 ALJ RODDA: Let's go on the record then.  
2 And this is the time set for the hearing in docket  
3 WS-04245A-04-184, which is the matter of the  
4 application of Red Rock Utilities, LLC, for a CC&N to  
5 provide water and wastewater service to a portion of  
6 Pinal County.

7 Good morning everyone. My name is Jane Rodda,  
8 and I'm the Administrative Law Judge assigned to this  
9 matter.

10 And first thing we'll do this morning is to  
11 take appearances of the parties. So on behalf of Red  
12 Rock Utilities.

13 MS. SAVEL: Judge Rodda, my name is Mary Beth  
14 Savel with Lewis and Roca, One South Church Street,  
15 700, Tucson, 85701.

16 ALJ RODDA: Welcome to the Arizona Corporation  
17 Commission.

18 MS. SAVEL: Thank you, Judge. And with me is  
19 Mark Weinberg from Red Rock Utility, LLC, and the  
20 master developer, Diamond Ventures, Inc.

21 ALJ RODDA: Great.

22 And on behalf of Commission Staff?

23 MR. RONALD: Good morning, Your Honor. David  
24 Ronald representing Commission Staff of the Arizona  
25 Corporation Commission. With me is Jim Fisher.

1 ALJ RODDA: And welcome to Tucson.

2 All right. Before we get started, do we have  
3 any preliminary issues we need to discuss in this  
4 matter?

5 MR. RONALD: No.

6 ALJ RODDA: I know we extended slightly the  
7 date for Staff, I think, to file the Staff Report. Was  
8 that it? Was that this case? We did. And then the  
9 company was granted an extension to file any comments.  
10 Did you have any?

11 MS. SAVEL: Judge, the original deadline was  
12 last Friday, and we had until Monday. We did file a  
13 response.

14 ALJ RODDA: Did you?

15 MS. SAVEL: And it was supposed to have been  
16 hand-delivered to everyone. I can give you a copy if  
17 you would like.

18 ALJ RODDA: That would be great. Because I  
19 never received that. And it might just be because I  
20 was in Phoenix Tuesday and telecommuting on Wednesday.

21 Thank you.

22 MS. SAVEL: You're welcome.

23 ALJ RODDA: All right. So this is the time  
24 when I ask the empty room if there are any members of  
25 the public present who wish to make comment on this

1 application. And so if there are any members of the  
2 public present who wish to make comment, would you  
3 please come forward.

4 And we'll let the record reflect that there are  
5 no members of the public present this morning to make  
6 comment on the application.

7 With that, I'll ask Ms. Savel, do you have an  
8 opening statement you would like to make this morning?

9 MS. SAVEL: A short one, Your Honor. And also  
10 I apologize. I didn't introduce one of the other  
11 consultants for Red Rock Utilities. Tom Bourassa is  
12 our accountant. He's here today not necessarily as a  
13 witness, but, if the Court or if Staff had any  
14 questions, as a resource for us.

15 ALJ RODDA: Great. Thank you.

16 MS. SAVEL: Red Rock Utilities is here today to  
17 seek and request approval of a Certificate of  
18 Convenience and Necessity for Red Rock Utilities, LLC,  
19 which will provide water and wastewater utility  
20 services to Red Rock Village and the surrounding area.

21 Red Rock Village is going to be a  
22 master-planned community located right around the Red  
23 Rock interchange along Interstate 10. And the Staff  
24 Report has done a great job of summarizing what Red  
25 Rock Village is going to be about, its size, the

1 components. Mr. Weinberg can talk to those questions  
2 if the Judge has any additional ones. I'm not going to  
3 repeat them because they're well-summarized in the  
4 Staff Report.

5 How I want to propose to proceed is as follows.  
6 I want to give a quick procedural update on where we  
7 stand on getting some of the nuts and bolts of Red Rock  
8 Utilities completed. And then I would like to present  
9 as Applicant's Exhibit A-1, the transcript of testimony  
10 from Doug Dunham, who is the Manager of Assured Water  
11 Supply for the Arizona Department of Water Resources.

12 Mr. Dunham testified last fall in the Voyager  
13 Water Company CC&N extension hearing. And his  
14 testimony presented to the court information about the  
15 process of ADWR's analysis of assured water supply and  
16 certificate of assured water supply. That was very  
17 useful testimony just to provide background and  
18 understanding about how ADWR handles the assured water  
19 supply issue.

20 And Mr. Dunham's testimony is in support of two  
21 of -- of one of the requests for modification that the  
22 Applicant has submitted in our response. And so rather  
23 than drag him down from Phoenix and have him repeat his  
24 testimony, we gave a call to Staff and we decided to go  
25 ahead and just submit his transcript.

1 I have designated the pages. At the time we  
2 submit that, I have designated the pages of the  
3 transcript that discuss the general topics of assured  
4 water supply, as opposed to the specifics of the  
5 Voyager Water Company.

6 And we can either, at the Court's discretion,  
7 if you want to read those into the record, or merely  
8 leave copies and have you take a look at it at your own  
9 convenience. It's not that much. It's about 17 pages.  
10 So it is a pretty fast read, if I do say so. I ran him  
11 through the questions pretty darn quick.

12 ALJ RODDA: Depends on how fast I read though;  
13 right?

14 MS. SAVEL: Well, you know, pretty chatty  
15 stuff, since I have a minimal understanding of how this  
16 all works. So I have to keep it at my level as opposed  
17 to his level.

18 And then, finally, I'm going to -- I want to  
19 propose to present Mr. Weinberg to answer some  
20 questions just generally about some exhibits that we  
21 want to make sure are on the record for the purposes of  
22 the record, and then talk a little bit about the  
23 process of development of Red Rock Village, and also in  
24 response to some of our modifications in the response.

25 Now, if Staff wants to go ahead and accept our

1 proposed response modifications and the Court doesn't  
2 have any questions, we can short-circuit all of this.  
3 But I think in terms of establishing a record and  
4 providing information to the Court as to the process of  
5 development, we're happy to go forward.

6 ALJ RODDA: Well, I certainly want to go  
7 forward. I can't really --

8 MS. SAVEL: Okay. Great.

9 ALJ RODDA: I don't know if Staff has questions  
10 or not.

11 MS. SAVEL: Let me go ahead and get started on  
12 a quick summary of the procedural background, and we'll  
13 get moving from there.

14 The Red Rock Utilities application for CC&N was  
15 submitted to the ACC on March 10, 2004, and  
16 supplemented during the month of April on a couple of  
17 different occasions with additional materials.

18 What you'll see in the record include copies of  
19 the Pinal County franchises for both the water and  
20 wastewater utility services that were approved last  
21 year in 2003.

22 We've got the Central Arizona Association of  
23 Governments, or CAAG, 208 Plan amendment that was dated  
24 September 2003, and has been approved by ADEQ pursuant  
25 to the letter dated March 2004 from Steve Owens, the

1 Director of ADEQ. So the CAAG 208 Plan amendment for  
2 the wastewater facility has been approved by the state.

3 We also included the master wastewater design  
4 report and some additional information that was part of  
5 that. We gave Staff, and it's included in the record,  
6 the master water system plan, dated February 2003.

7 We've also provided the water quality reporting  
8 that was prepared by Westland Resources in June of 2001  
9 that talked about the actual value and analytical  
10 quality of the water that will be used by Red Rock  
11 Utilities. And then we provided construction cost  
12 estimates for the water and wastewater systems.

13 ALJ RODDA: I'm sorry. When you say these were  
14 submitted, were these submitted to Staff?

15 MS. SAVEL: Yes.

16 ALJ RODDA: Were they ever filed, or are they  
17 exhibits that you're going to have?

18 MS. SAVEL: They were submitted as part of the  
19 application for the CC&N. I don't know. I mean, I  
20 assume that the Staff has included them in the file as  
21 a resource. Certainly they have reviewed them in the  
22 preparation of the Staff Report.

23 ALJ RODDA: Okay.

24 MS. SAVEL: Finally, and probably most  
25 important for the details, on August 12 we -- we had

1 been working with Staff to finalize the legal  
2 descriptions for both the water and wastewater CC&N  
3 areas. So we did a supplemental filing on August 12  
4 with the updated legal descriptions for both of those  
5 areas. And that will be -- we will present those as  
6 part of the package of hearing exhibits to make sure  
7 that they are reflected properly on the record.

8 ALJ RODDA: Great.

9 MS. SAVEL: Finally, on Monday we submitted a  
10 response to the Staff Report. I will tell the Court  
11 that the Red Rock Utilities is in accordance with the  
12 recommendation of the Staff Report with four  
13 exceptions, and the four exceptions are detailed in the  
14 Staff Report.

15 One of them has to do with the timing and the  
16 submittal of the certificate of assured water supply  
17 for the entire CC&N area. The Staff Report suggests  
18 that we docket the certificate within 24 months of  
19 decision. We've proposed an alternative. We propose  
20 that we use the same alternative as was approved for  
21 Voyager Water Company. And we will provide more  
22 information, and I'll talk about that in a little bit  
23 more detail after Mr. Weinberg has talked a little bit  
24 and given some factual basis.

25 Additionally, the Staff proposed docketing the

1 ADEQ approvals to construct for the CC&N area within 12  
2 months of the decision. And, again, we have a proposal  
3 that modifies that similar to what was approved for  
4 Voyager Water Company. And we will present some  
5 information and factual basis to support that, and I'll  
6 give a little explanation later on.

7 And then, finally, there's a couple of  
8 housekeeping accounting issues that are in the  
9 response, and I'll explain those a little bit later on.  
10 They're not terrifically vital, but they're just a  
11 tidying up of some of the line items of accounting in  
12 the Staff Report.

13 So at this point, unless anyone has any  
14 questions, I would like to just go ahead and submit the  
15 testimony of Mr. Dunham.

16 ALJ RODDA: Oh, okay. Yes. He's the ADEQ?

17 MS. SAVEL: He's the ADEQ.

18 ALJ RODDA: Okay.

19 MS. SAVEL: I'm sorry. ADWR. I apologize.

20 MR. RONALD: No objection from Staff, Your  
21 Honor.

22 ALJ RODDA: And Mr. Ronald, you have already  
23 seen this testimony?

24 MR. RONALD: I mean, I saw it before as part of  
25 the case.

1 ALJ RODDA: As part of the Voyager case?

2 MR. RONALD: Right.

3 MS. SAVEL: Your Honor, the beauty of this is  
4 that everyone here today was here for the Voyager  
5 hearing, except for the Court.

6 This is marked Applicant's Exhibit A-1. And  
7 the insert in the front cover are the designated pages  
8 of the testimony.

9 ALJ RODDA: Okay.

10 MS. SAVEL: I've got a copy right here for  
11 Mr. Ronald and also for Mr. Fisher.

12 ALJ RODDA: And so, Mr. Ronald, you said you  
13 had no objection to the admission of the testimony?

14 MR. RONALD: That's correct, Your Honor.

15 ALJ RODDA: Okay. Then we'll admit A-1.  
16 And that's your opening?

17 MS. SAVEL: That's my opening.

18 ALJ RODDA: Okay. Mr. Ronald, did you want to  
19 make an opening statement?

20 MR. RONALD: Just briefly, Your Honor. Staff  
21 supports the application. Staff has Mr. Jim Fisher to  
22 testify about the Staff Report.

23 Staff has also reviewed the Applicant's  
24 response to the Staff Report that was filed, I believe,  
25 Monday. Staff has reviewed that, and Mr. Fisher will

1 comment on that also. And Mr. Fisher will be here to  
2 answer any questions with regard to the testimony --  
3 with regard to the Staff Report and the portions that  
4 were completed by Lyndon Hammon and Charles Myhlhousen.

5 That's all. Thank you.

6 ALJ RODDA: Okay. Is Mr. Weinberg going to be  
7 your witness this morning?

8 MS. SAVEL: Mr. Weinberg is here. And if  
9 you're ready to proceed, we'll go ahead.

10 ALJ RODDA: Why don't you come on over,  
11 Mr. Weinberg.

12

13

14 MARK WEINBERG,  
15 called as a witness on behalf of the Applicant, having  
16 been first duly sworn by the Certified Court Reporter  
17 to speak the whole truth and nothing but the truth, was  
18 examined and testified as follows:

19

20

DIRECT EXAMINATION

21

22 Q. (BY MS. SAVEL) Mr. Weinberg, would you please  
23 state your full name and address.

24

25 A. Mark Evan Weinberg. Address 550 West Orange  
26 Grove Road, Tucson, Arizona, 85704.

27

Q. Mr. Weinberg, I'm going to ask you a few

1 questions just to give the court some background as to  
2 who you are and what you do.

3 So could you please first explain your position  
4 with Red Rock Utilities.

5 A. My position with Diamond Ventures is I'm vice  
6 president of development for Diamond Ventures. And  
7 with respect to the Red Rock project, I'm project  
8 manager for the Red Rock project, which includes the  
9 utility company which I'll oversee the operation.

10 Q. And how long have you been working on the Red  
11 Rock utility project?

12 A. Been working on the project for about three  
13 years.

14 Q. Let's talk a little bit just to get a sense of  
15 your background. What is your background in  
16 development and also in the utility company?

17 A. I've been in real estate development for 24  
18 years. And with respect to utility companies, I  
19 started out in 1981 managing a development company that  
20 also owned a utility company. And I managed this  
21 utility company called Canada Hills Water Company for  
22 12 years from 1981 to 1993.

23 Canada Hills utility company included a water  
24 company, a wastewater treatment company, and a cable TV  
25 company. And during the time that I managed the

1 company, it went from 300 connections to over 6,000  
2 connections.

3 Q. And what happened to Canada Hills?

4 A. In 1993, the Town of Oro Valley acquired the  
5 utility company.

6 MS. SAVEL: Before we get into any more  
7 details, what I would like to do is just show  
8 Mr. Weinberg some of the hearing exhibits that we would  
9 like to have admitted and have him verify those for the  
10 record. And those exhibits will be marked Applicant's  
11 Exhibit A-2.

12 ALJ RODDA: You got to like Lewis and Roca.

13 MR. FISHER: They should do a seminar.

14 MS. SAVEL: Well, you have to thank my  
15 secretary, who is the most organized and tidy person in  
16 the world.

17 Q. (BY MS. SAVEL) Mr. Weinberg, I would like you  
18 to turn to Exhibit No. 1 first, and confirm to us that  
19 Exhibit No. 1 is a certificate of good standing for Red  
20 Rock Utilities establishing the formation and standing  
21 of the company.

22 A. Yes.

23 Q. If you'll turn to Exhibit No. 2, is this  
24 Exhibit 2 a certified copy of the corporate resolution  
25 by the board of Diamond Ventures consenting to the

1 application for CC&N for Red Rock Utilities?

2 A. Yes, it is.

3 Q. Exhibit No. 3, please. Is Exhibit No. 3 the  
4 legal description and depiction, dated August 11, 2004,  
5 for the water CC&N area for Red Rock Utilities?

6 A. Yes, it is.

7 Q. Exhibit No. 4, please. Is this the legal  
8 description and depiction for Red Rock Utilities of the  
9 wastewater CC&N area, dated August 3, 2004?

10 A. Yes.

11 Q. Exhibit No. 5, please. Is this a copy of the  
12 Red Rock Utilities water utility franchise granted by  
13 Pinal County?

14 A. Yes, it is.

15 Q. And Exhibit No. 6, is this a copy of the Red  
16 Rock Utilities wastewater utility franchise awarded by  
17 Pinal County?

18 A. Yes.

19 MS. SAVEL: Thank you. At this time I would  
20 like to go ahead and introduce the hearing Exhibits 1  
21 through 6 as Applicant's Exhibit A-2.

22 ALJ RODDA: Okay. Any objections to A-2?

23 MR. RONALD: No, Your Honor.

24 ALJ RODDA: Then A-2 is admitted.

25 MS. SAVEL: Thank you, Your Honor. This time I

1 remembered. The last time I forgot to introduce all of  
2 the exhibits.

3 ALJ RODDA: Okay.

4 Q. (BY MS. SAVEL) Mr. Weinberg, thank you for  
5 taking us through the exhibits. I would like to talk  
6 to you a little bit now about what's going to be  
7 happening at Red Rock Village and the development  
8 timeline for Red Rock Village.

9 First of all, would you tell us, when did  
10 Diamond Ventures, which is the master developer,  
11 acquire the Red Rock Village property?

12 A. We acquired the property mid-year 2003.

13 Q. And then what happened next in terms of what  
14 your development of the property was going to be?

15 A. Well, right before we actually closed on the  
16 property, we tied it up, we had an escrow. And during  
17 the feasibility period, we prepared a zoning document,  
18 a Planned Area Development, and we took it through the  
19 zoning process in Pinal County. So when we closed on  
20 the property in mid-2003, we closed with a fully  
21 entitled project.

22 Q. How long did that process of getting the  
23 entitlement from Pinal County take?

24 A. It took almost a year.

25 Q. So what exactly was this PAD that you got

1 entitled through Pinal County? What does that give you  
2 for Red Rock Village?

3 A. What the PAD gives us is a zoning entitlement  
4 to construct a 1,280-acre project, including about  
5 approximately 3,800 homes, 60 acres of commercial  
6 development, and about 300 acres of commercial and  
7 industrial development along the east side of the  
8 freeway, along with parks and trails and open space and  
9 designated school sites. But it essentially gives you  
10 the zoning to build a small community.

11 Q. Now, is Diamond Ventures the master developer?  
12 Are you going to be building that all at one time, or  
13 how is that going to work?

14 A. Diamond Ventures is the master developer, but  
15 we'll build the community in phases. Diamond Ventures  
16 isn't a homebuilder. We do everything up to but not  
17 including building homes.

18 What we do is we'll master plan the site, we'll  
19 design all of the parks, the trails. We'll in some  
20 cases plat subdivisions, but at some point we'll sell  
21 the land to homebuilders and the builders will build  
22 their own lots and construct their own homes.

23 Q. So in the process of getting to that point of  
24 building homes and getting people moved in, where is  
25 the master developer in that process now?

1 A. Well, at this point we have -- we're working on  
2 forming the utility companies, as you know. We've met  
3 with our market analysts. We've talked to some home  
4 builders. We're master planning the overall site, and  
5 we're tying down the plan for the first phase of the  
6 project, which will contain about 1,000 homes and a  
7 park and trails and a school site and the utility  
8 infrastructure.

9 Q. You mentioned the first phase of the project.  
10 How many phases do you anticipate having in total?

11 A. The project will ultimately have six phases.  
12 We'll have four residential phases of about 1,000 homes  
13 each, and then there will be a phase for commercial  
14 development. And then our last phase will likely be  
15 the commercial and industrial land on the east side of  
16 the freeway.

17 Q. Do you have any additional zoning entitlements  
18 or any other types of zoning approvals that need to be  
19 acquired before you can move forward?

20 A. No, we don't. The property is fully entitled  
21 at this point.

22 Q. What is the next step in the process of  
23 preparing the property for development that you're  
24 involved in?

25 A. The next step in the process is to finalize all

1 of our engineering plans to design the subdivisions.  
2 As I mentioned earlier, to design the road alignments,  
3 the parks, the open space, the trails; to design the  
4 wastewater treatment plant, which is the longest lead  
5 item that we have with this project.

6 To design and construct a wastewater treatment  
7 plant takes about a year. So we have started the  
8 initial design of the plant, but there's still several  
9 months of design work left to go, and then about nine  
10 months following the design and permitting to construct  
11 the plant.

12 Q. At what point are you in getting the plan  
13 approvals for the wastewater treatment plant?

14 A. Well, we're at about 15 percent plans with the  
15 plant. In about three months the plant will be  
16 designed, and at that point the design plans are  
17 submitted to Department of Environmental Quality, and  
18 presumably will be permitted within a month or two of  
19 submittal. And at that point we'll begin construction.

20 Q. Okay. In terms of the water infrastructure,  
21 where are you in the process of getting that completed?

22 A. We designed and obtained approval for our first  
23 two wells from the Arizona Department of Environmental  
24 Quality. And we drilled the first two wells and had  
25 them test pumped, and also had the water quality

1 analysis taken. But that's as far as we've gone with  
2 the water system improvements. We still have to equip  
3 the wells, build reservoirs, and design those  
4 facilities. And that work will be done over the next  
5 six months.

6 Q. As the master developer, will you also be doing  
7 any kind of platting, subdivision platting, or block  
8 platting, or anything like that?

9 A. Our plan with Red Rock Village is to plat -- is  
10 to likely plat the lots in the first phase. We'll  
11 build the offsite roadways, the onsite spine roads, the  
12 utility infrastructure and the main roads.

13 And we'll likely plat most of 1,000 lots in  
14 Phase I, and then sell platted lots to builders. And  
15 also construct all of the infrastructure improvements,  
16 construct the park, construct the main spine road, the  
17 master trunk sewer lines, trunk water lines, and  
18 electric, telephone, and gas infrastructure feeder  
19 lines.

20 Q. When do you expect to be at the point where you  
21 begin to start selling out blocks or phases or portions  
22 of the entire community?

23 A. I would expect that we'll begin sales in about  
24 nine months. I think generally we like to wait until  
25 the project is far enough along that a builder can see

1 it taking shape. That we've gone out and we have a  
2 wastewater plant that's maybe 50 percent complete with  
3 construction, and we have graded in the roads and we've  
4 started working on the park, and we have a subdivision  
5 layout that a builder can see so we can take them out  
6 to the site and we can show them what we want to  
7 create.

8 And at that point it's an easier decision for a  
9 builder to choose whether or not they want to be in the  
10 community, and where in the community they may want to  
11 be and what size lots they may want to buy.

12 Q. So after the builder comes in and starts to  
13 purchase lots, what then is the master developer's role  
14 in that after they start buying lots?

15 A. Well, our role as master developer is to  
16 control what happens in the community. It's a  
17 multiphase project that will likely take 10 years to  
18 develop. And what we do is make sure that the builders  
19 all build within the design guidelines that we have  
20 created for the site.

21 We review the architecture for the homes. We  
22 make sure that the homes are painted certain colors and  
23 that they have certain types of roof tile. That they  
24 use certain theme walls around the perimeter of their  
25 site and other walls interior, and generally design in

1 keeping with the standard for this project.

2 Q. In connection with the water and wastewater  
3 units, because that's why we're here, what will the  
4 master developer be responsible for for water and  
5 wastewater, and what will the individual subdivision  
6 developers be responsible for?

7 A. The master developer typically constructs the  
8 master -- the main feeder lines, the large trunk sewer  
9 and water lines that run in the main boulevards up to  
10 and adjacent to a subdivision. And the homebuilder  
11 generally designs the water system from that point, and  
12 designs the water and sewer system within its own  
13 subdivision.

14 Q. And how do you then -- how does that process go  
15 on? I'm going to ask you to switch real quick here.

16 From the perspective of the wastewater and  
17 water utility, how do they coordinate that internal  
18 process within the subdivision?

19 A. Well, when the builder designs its subdivision,  
20 it submits plans to the water utility, the wastewater  
21 utility. And our utility company has a consulting  
22 engineering firm that reviews all of the plans that are  
23 submitted to it. And so the process is that the  
24 builder designs their infrastructure, submits it to the  
25 utility company, the utility company comments on the

1 plans, and eventually agree and approve a set of  
2 construction plans for the onsite improvements.

3 Q. Does the master developer have any involvement  
4 in that process?

5 A. Sometimes. Sometimes the master developer  
6 chooses to design the lots in the subdivision and  
7 sometimes we don't.

8 I think early on in a project like Red Rock  
9 Village where it's 10 miles outside of the nearest  
10 development, I believe we'll likely have to design a  
11 lot of the lots in the first phase as an inducement to  
12 get a builder to build there.

13 But once the first phase is underway and homes  
14 are built, I think the builders will be more apt to  
15 design their own projects, buy a block of land, and  
16 then do their own design.

17 Q. Mr. Weinberg, in your experience in Pinal  
18 County, once an individual builder buys a block of  
19 land, how long will it take them to get their  
20 subdivision plat approved so that they can move forward  
21 on development?

22 A. It takes anywhere from six to nine months to  
23 prepare a set of plans and get all of the required  
24 approvals through Pinal County to build a subdivision.

25 Q. Thank you. Now, I want to ask you a couple of

1 questions about the assured water supply process for  
2 Red Rock Utilities and for the master developer.

3 Will Red Rock Utilities and the master  
4 developer be applying for an analysis of assured water  
5 supply?

6 A. Red Rock Utilities has already applied for an  
7 analysis of assured water supply for the entire CC&N of  
8 the utility.

9 Q. And what exactly is the purpose of the analysis  
10 of assured water supply for Red Rock Utilities?

11 A. The analysis of assured water supply is a way  
12 to determine if the project has enough water to serve  
13 the ultimate buildout. And there's a lot of hydraulic  
14 studies and engineering studies and well pump data and  
15 water quality tests.

16 A lot of information goes into a report that's  
17 submitted to the Department of Water Resources. And  
18 they determine, after reviewing all of this data,  
19 whether or not the project has an adequate supply over  
20 -- I believe it's a 10-year period is the precursor to  
21 getting certificates to serve a development.

22 Q. Now, what is the difference in your  
23 understanding between an analysis of assured water  
24 supply and a certificate of assured water supply to  
25 begin development?

1 A. As I understand it, the analysis is the first  
2 step. And it determines if there's available water for  
3 a 10-year period for an area.

4 The certificate of assured water supply can  
5 only be applied for after a tentative plat is approved  
6 by a municipality. And it's based upon an exact number  
7 of lots, an exact amount of common area, and exact  
8 amount of water usage. And it's granted to the end  
9 user of a subdivision, and it provides the  
10 subdivider/owner with an assured water supply for that  
11 project.

12 Q. Is there any reason why the master developer  
13 wouldn't apply for a certificate of assured water  
14 supply?

15 A. Well, there are a couple of reasons. The main  
16 reason is that you can only apply for the certificate  
17 after all of the lots are platted. And the master  
18 developer will plat this project over the course of 8  
19 or 10 years, because it's a 3,800-lot project.

20 So you're unable to apply for certificates for  
21 a certificate of assured water supply until after you  
22 have platted the property and you have a tentative  
23 plat. So it takes a long time to do that.

24 That's why in Item 2 the certificate has to be  
25 in the name of the subdivider. So if the master

1 developer applied for the certificate of assured water  
2 supply when it sells a subdivision to a homebuilder,  
3 the homebuilder has to reapply to the Department and go  
4 through essentially the same process that the original  
5 developer went through in order to get a certificate  
6 transferred in their name.

7 And that's why, as I understand it, the  
8 Department of Water Resources prefers that a developer  
9 of a master-planned community get an analysis of  
10 assured water supply for the entire area and then let  
11 the individual subdividers apply for certificates of  
12 assured water supply, rather than have a developer plat  
13 the entire subdivision and then have to come back in  
14 and get certificates for each plat later on.

15 Q. Thank you. Now, finally, I'm going to ask you  
16 a few questions about the process of getting approvals  
17 to construct.

18 You talked a little bit about where we are in  
19 the process of designing the construction plans for  
20 water and wastewater.

21 Is there a distinction between getting  
22 approvals to construct for offsite facilities and  
23 onsite facilities, and how does that work?

24 A. Prior to constructing any utility, any water or  
25 sewer line, you design the plans. And one of the

1 approvals that you get after the plans are designed is  
2 a certificate of approval to construct from Department  
3 of Environmental Quality. So every water and sewer  
4 line constructed in a project has to have an  
5 accompanying approval to construct.

6 With a 4,000-lot project that's built over 8 or  
7 10 years, there likely will be 20 or 30 or 40 different  
8 sets of water and sewer plans that are designed and  
9 constructed in the course of the project. So each time  
10 you design a water line or a sewer line, you have to  
11 get an approval to construct.

12 Q. Is it possible for a master developer to get an  
13 approval to construct for the entire project?

14 A. Well, yes and no. If you designed the entire  
15 project up front, then I guess you could get a  
16 certificate of approval to construct for all of the  
17 utility lines in the entire project. But, you know,  
18 they expire in a year, and you're not going to build a  
19 4,000-lot project in a year. So then you would have to  
20 reapply after they expired each year.

21 And the amount of money it would cost to design  
22 a 4,000-lot project, in addition to trying to be  
23 clairvoyant enough to know what the market is going to  
24 want 8 or 10 years from now, is a major deterrent for  
25 designing that much of a project up front. Generally,

1 developers try to design a one- or two-year supply of  
2 lots.

3 Q. Where is the master developer in getting any of  
4 the approvals to construct?

5 A. We haven't started designing water plans yet.  
6 We're doing our master planning. We're laying out  
7 roads in our first phase, trying to decide where the  
8 roads will go, and where the lots will go and what size  
9 they'll be, and how the first phase will lay out.

10 And at that point, once we know -- once we have  
11 a good land plan, then we'll start designing the road  
12 ways. And when you design the roadways -- after the  
13 roads are designed, you know what elevation the road is  
14 going to be and the location of the roads, then you  
15 design the sewer plans and the water plans and the  
16 other utility plans. Because all of the utilities need  
17 to be designed in certain locations to have separation  
18 from one another, both in a horizontal and vertical  
19 separation.

20 So that process is just started, and will  
21 likely take us a better part of a year to complete for  
22 the first phase.

23 Q. Will you then do the design? Then what happens  
24 with these subsequent phases?

25 A. Well, when the first phase is designed, let's

1 say, for example, the first phase contains 1,000 lots.  
2 We'll sell as much of the first phase as we can to home  
3 builders. And as they build through the first phase,  
4 at an appropriate time we'll start designing the second  
5 phase.

6 And my guess is that after two years, the  
7 builders will be through -- will sell through about  
8 half of the first phase, and that will be about the  
9 right time to start designing the second phase so that  
10 the builders always have a supply of lots. There's  
11 never a period where there's a lull and there isn't any  
12 product available for them to sell.

13 Q. Will the master developer acquire approvals to  
14 construct for all of the development within an  
15 individual phase, or will that be shared with somebody  
16 -- with the individual developers?

17 A. I think it will be shared. The master  
18 developer will clearly design all of the master feeder  
19 line infrastructure, the main sewer lines and the water  
20 lines in the main boulevards, and the water reservoirs,  
21 wells and booster stations in the site that also  
22 require approvals to construct, and the wastewater  
23 treat plant.

24 And then with respect to the individual  
25 subdivisions, the master developer will design some of

1 the subdivisions, and in those cases will get approvals  
2 to construct. But in other cases, home builders will  
3 design their own subdivisions, and in those instances  
4 the builder will obtain an approval to construct  
5 themselves.

6 MS. SAVEL: Mr. Weinberg, thank you. I don't  
7 have any more questions.

8 ALJ RODDA: Okay. Mr. Ronald?

9 MR. RONALD: Thank you, Your Honor.

10

11

CROSS-EXAMINATION

12

13 Q. (BY MR. RONALD) Good morning, Mr. Weinberg.

14 A. Good morning.

15 Q. Now, when do you anticipate that the water  
16 company will first be serving new customers?

17 A. Well, as I mentioned earlier, the longest lead  
18 item is the construction of the wastewater treatment  
19 plant, and the treatment plant will take about a year  
20 to build. And it takes a homebuilder probably nine  
21 months to build a subdivision and to build a home for  
22 occupancy.

23 I mean, they can start building a home and the  
24 subdivision is half done. So I think the first  
25 customer will be served somewhere between a year and

1 nine months and two years from now.

2 Q. And have you reviewed the Staff Report in this  
3 case?

4 A. Yes, I have.

5 Q. And other than the items that were mentioned in  
6 the company's response, do you agree with the  
7 recommendations?

8 A. Yes, I do.

9 Q. And do you also agree that the company will not  
10 be seeking to charge the hook-up fee tariffs?

11 A. Yes.

12 Q. It's my understanding you're going to be --  
13 you've elected to be taxed as a C-corporation?

14 A. That's correct.

15 Q. And does this company have any problem with  
16 arsenic?

17 A. We tested our first two wells. And as I  
18 understand it, we came up with a non-detectable level  
19 of arsenic.

20 Q. As far as the individual approvals to  
21 construct, will those be submitted along with the main  
22 extension agreement?

23 A. Yes. They will be.

24 Q. And will you have any problem getting those  
25 submitted within the 24-month period?

1 A. Well, I think we can submit the first approval  
2 to construct within a 24-month period, and then phase  
3 them in over time.

4 Q. So that would be for the first phase?

5 A. Correct. Yes. We can do that.

6

7

EXAMINATION

8

9 Q. (BY ALJ RODDA) I'm sorry. When you're saying  
10 that, you don't mean for all of the --

11 A. No.

12 Q. -- subdivisions. You mean for the main -- or  
13 when you say -- what approvals to construct? Maybe  
14 that's what I need to know.

15 A. What I mean is that we will -- within the first  
16 24 months, we'll design at least one water line or  
17 water system improvement that we'll have an approval to  
18 construct that we could submit to the Commission.

19 Q. But is that for transmission, or is that for  
20 distribution? Do you know what I mean?

21 A. It will likely be for a transmission main and  
22 for a water reservoir.

23 Q. Because you won't know until you sell to the  
24 builders.

25 A. Right. We don't know until we sell to the



1 construction will be 33 percent and construction -- or  
2 contributions another 32 percent, and then equity for  
3 35 percent or so.

4 Do you see that?

5 A. Yes, Your Honor.

6 Q. So because in this case, I guess, you're  
7 agreeing to forego the request for hook-up fees, was  
8 the hook-up fees going to be part of that contribution?

9 A. Not in the initial phase. The hook-up fees  
10 would have helped finance the expansion of the system  
11 in later phases.

12 Because as you know, you only collect hook-up  
13 fees as homes are built. And after the first phase of  
14 homes are constructed and the company collected the  
15 hook-up fees for those homes, it could use that money  
16 towards expansion of the facilities but not for the  
17 initial construction of the Phase I improvements.

18 Q. Okay. So were the advances in aid of  
19 construction, was that what typically you would see  
20 when the subdevelopers would come in? That they would  
21 make advances for the main expenses that would go out  
22 to their individual subdivisions?

23 A. Yes, your Honor.

24 Q. And then how about the contributions? Who is  
25 making those contributions?

1 A. I believe the contributions are made by the  
2 master developer for the master infrastructure. For  
3 the main feeder lines that go into the main roads.

4 Q. Okay.

5 A. That don't have service lines attached to them  
6 and, therefore, don't qualify for refunds.

7 Q. Okay. Can you tell me a little bit about  
8 Diamond Ventures? You know, I live in Pima County and  
9 I'm familiar with Diamond Ventures, but maybe you could  
10 tell me a little bit about how many developments they  
11 have around town.

12 A. Well, Diamond Ventures is a real estate  
13 development and investment company. We have quite a  
14 few projects that we have constructed in Tucson, and  
15 I'll name some of them.

16 We've developed The Canyons, which is a custom  
17 lot subdivision in the foothills; Pima Canyon, also in  
18 the central foothills; coyote Ridge in the Town of Oro  
19 Valley; Tucson Mountain Reserve on the west side of  
20 town; Madera Reserve in Green Valley; Continental  
21 Reserve and Ironwood Reserve in the Town of Marana.

22 We've developed projects in Sedona. Crimson  
23 View in Casa Contenta. We're currently developing a  
24 project in Casa Grande called Vilago, which is a  
25 1,700-acre master planned community. Construction on

1 that project will start later this year.

2 We have commercial projects in various parts of  
3 town. Steam Pump Village in the Town of Oro Valley;  
4 Madera Marketplace in the Town of Sahuarita; Riverside  
5 Crossing at River Road and La Cholla Boulevard.

6 We have a 6,000-acre master plan in Peoria  
7 that's been titled and is in the planning phases now.  
8 Red Rock Village that we talked about today. And we  
9 have numerous other projects that we're doing planning  
10 on. We have a 2,000-acre project in Cochise County.  
11 We have an 850-acre project in North Marana that we're  
12 planning called Sanders Village.

13 So we have a lot of different projects, and we  
14 have a lot of other land that we're looking at to see  
15 if they're suitable for projects.

16 Q. Okay. I presume that when Diamond -- well,  
17 when Diamond Ventures goes in and does a project, that  
18 they have various partnerships that they form or LLCs  
19 that actually do the individual -- or LLCs that  
20 actually do the individual projects.

21 But maybe you could tell me a little bit --  
22 what I'm getting at, basically, is the financial  
23 strength of Diamond Ventures. I don't know if you can  
24 tell me how many or the value of the assets they have  
25 under their control or what you can tell me, but as far

1 as -- I don't see anything in the record that I have  
2 that talks anything about the financial strength of  
3 Diamond Ventures. Not that it wasn't provided to Staff  
4 but --

5 A. I'm not an accountant, so it's a difficult  
6 question for me to answer.

7 Q. I understand.

8 A. But I know that, you know, we -- I mean, we  
9 must have a half a billion dollars in real estate in  
10 inventory, you know, if that answers your question. We  
11 have a lot of projects. We've been very successful.  
12 We're one of the, if not the largest real estate  
13 development company in Tucson.

14 As far as the financial strength, I can't give  
15 you a number. I just know that we have a lot of  
16 banking relationships, and our financial capability has  
17 never been an issue in any project we've ever  
18 developed.

19 Q. Okay. How long has the company been around?

20 A. I think it's been around almost 20 years. And  
21 I've been with the company for 10 years.

22 Q. Okay. Do you know why there are different  
23 legal descriptions for the water and the wastewater  
24 CC&Ns?

25 A. That's a good question. As I understand the

1 issue, the wastewater CC&N can't have any holes in it  
2 so --

3 Q. That's good.

4 A. So DEQ made us describe the wastewater CC&N so  
5 that it contained all of the lands inside its  
6 boundaries. And the water CC&N contains primarily the  
7 land that we own and not land that we don't own. And  
8 that's the reason for the difference in the two.

9 Q. So that leads to another question. The notice  
10 that was sent out in this case was supposed to be sent  
11 to all landowners in the affected area.

12 Was that anything other than Diamond Ventures?

13 A. Well, I believe it was sent out -- it was to  
14 others. The notice that was sent out for the  
15 wastewater CC&N would have included land that's other  
16 than the land we own.

17 The 300 acres, as an example, east of the  
18 freeway is owned by another company. It's not owned by  
19 us. So I mean, we asked them early on if they wanted  
20 to be included in the CC&N, and they wanted to.

21 And in the CAAG 208 amendment process, there  
22 were lots of public notices sent out because the CC&Ns  
23 were identified. And we had people show up at our CAAG  
24 208 public hearings.

25 Q. Okay. It's just that the copy of the notice

1 that I have that was filed usually lists the  
2 property -- unless there's like thousands of them, it  
3 usually lists the property owners. And this one didn't  
4 contain a list. So I'll just mention that.

5 MS. SAVEL: You know, Judge, I could supplement  
6 if we didn't include a list. I can check our files and  
7 supplement and find out.

8 ALJ RODDA: Yeah. If you had that.

9 MS. SAVEL: Because we did research all of the  
10 property owners within the CC&N area to make sure that  
11 that notice was sent out. So I can check our file and  
12 see what was provided.

13 ALJ RODDA: That would be helpful. I'll just  
14 tell you, notice is a tricky issue these days.

15 Q. (BY ALJ RODDA) In terms of design of the  
16 wastewater treatment plant, I know you weren't at the  
17 Open Meeting that we just had, but who is going to do  
18 the design work on the wastewater treatment plant?

19 A. We're finalizing a contract with PERC. And  
20 PERC is a highly respected company that designs and  
21 operates wastewater treatment plants.

22 And this particular design is for an SBR plant,  
23 which is a -- I think it's called a sequencing batch  
24 reactor plant, which is state of the art. The effluent  
25 is produced to A-plus quality. It has odor control,

1 denitrification. And as I understand it, it's the most  
2 state of the art wastewater plant that you can build.

3 Q. And when you say PERC, how do you spell that?

4 A. It's P-E-R-C.

5 Q. And they haven't been building wastewater  
6 treatment plants 40 miles from the Arctic Circle, have  
7 they?

8 A. That I don't know. I know that they designed a  
9 plant in Avondale that I looked at, and it's an 18 MGD  
10 plant. And interestingly, it has its -- the LPSCO  
11 company operates this treatment facility, but their  
12 offices are on top of the wastewater treatment plant.  
13 And when you go to the plant, you don't even know  
14 you're at a wastewater plant. You can't smell any  
15 odor. It's really well-run.

16 And having operated a plant 20 years ago that  
17 was an oxidation ditch plant that had no odor control,  
18 that was surrounded by a neighborhood, that's since  
19 been taken out of service, I'm very sensitive to those  
20 kinds of issues.

21 So we made sure that we interviewed several  
22 different companies, and then finally decided on one  
23 that we felt built the best facility. And we have a  
24 lot of consultants that we use, and we rely on their  
25 opinions. And everyone agreed that this PERC SBR plant

1 was the best plant to build and operate.

2 Q. I admit that because I just received it this  
3 morning, I haven't had a chance to read your comments  
4 to the Staff Report. And I understand you're not the  
5 accountant, but you're up here on the stand.

6 And from what I take from some statements made  
7 by your attorney, one of the issues -- or maybe she  
8 didn't. There were some accounting issues. Maybe it  
9 was just in my perusal of the response while you were  
10 testifying.

11 The accounting issues had to do with the way  
12 the company is going to file income taxes, and I don't  
13 recall what the other one was.

14 But do you know, do your exceptions to the  
15 Staff Report affect the rates that you are seeking?  
16 The initial rates that you're seeking?

17 A. I don't know the answer to that question.

18 Q. Okay.

19 A. But Tom Bourassa is in the audience. And he's  
20 our accountant who's done work on this, and he's  
21 shaking his head no. So I think he could -- I guess he  
22 could probably testify.

23 Q. Do you take his shaking of his head to mean  
24 that you're accepting Staff's proposed initial rates?

25 A. Yes. We are accepting Staff's proposed initial

1 rates.

2 Q. Okay. Which my understanding -- and this is  
3 another accounting question. I'm sorry. But which my  
4 understanding was Staff basically reviewed the  
5 information that the company submitted on -- or  
6 estimated revenue and expenses, which I understand is  
7 all hypothetical since we don't have any customers.

8 But do you know when the company was submitting  
9 those rates --- I guess my question -- I forgot what  
10 the rates are, but why, you know, when you see -- I  
11 suppose I should look at what the rate is.

12 For the wastewater rate, going off of the  
13 Staff's schedule, the initial rate was \$39.50, which  
14 actually looks like that was the company's proposed  
15 rate.

16 A. Yes, it was.

17 Q. When the company is designing initial rates,  
18 why \$39.50 versus \$40 versus \$25? Do you know what  
19 goes into that analysis?

20 A. We met with our consulting engineers designing  
21 the wastewater treatment plant and got some information  
22 on what it costs to operate the plant, on what it costs  
23 to operate a wastewater utility company with respect to  
24 office equipment, staffing, vehicles, maintenance of  
25 lines.

1           And then we met with Tom Bourassa and Ron  
2 Kozoman, and they took the information, analyzed it,  
3 and based upon their experience working on rate  
4 structures with other utilities and the cost  
5 information that we gathered, recommended that this  
6 rate was an adequate rate to operate this utility  
7 company.

8           But you're right. It's all very hypothetical  
9 and theoretical, and so it's -- I mean, it's hard to  
10 know if that's the right rate. But that's the rate  
11 that they recommended.

12          Q. Okay. So I take it from your analysis of how  
13 much time it's going to take to do the additional  
14 design work and to sell off subdivisions to builders,  
15 that this company is not going to see -- probably won't  
16 see a customer before two years from now?

17          A. Your Honor, I think that's accurate. I think  
18 the soonest we would see a customer would be in a year  
19 and a half, and that's if we just went as quickly as we  
20 could possibly go and everything fell into place, which  
21 likely doesn't happen in our business. So my best  
22 guess is that we'll see our first customer in about two  
23 years.

24           ALJ RODDA: All right. I don't think I have  
25 anything further.

1 Did you have any redirect?

2 MS. SAVEL: Your Honor, I just have one  
3 question for Mr. Weinberg.

4

5

REDIRECT EXAMINATION

6

7 Q. (BY MS. SAVEL) You were asked some questions  
8 about Diamond Ventures and their holdings and things,  
9 Mr. Weinberg.

10 Does Diamond Ventures have an interest or  
11 involvement in any other private water companies in  
12 Arizona?

13 A. An affiliated company owns two small water  
14 companies on the east side of Tucson. Old Spanish  
15 Trail and --

16 ALJ RODDA: Saguaro.

17 THE WITNESS: Saguaro. Thank you.

18 Q. (BY MS. SAVEL) Do you know how long those have  
19 been in operation?

20 A. A long time. More than 10 years. Because I  
21 know when I started with the company, they operated  
22 those utility companies.

23 MS. SAVEL: Thank you. No further questions.

24 ALJ RODDA: Okay. Did you have anything  
25 further, Mr. Ronald?

1 MR. RONALD: No, Your Honor.

2 ALJ RODDA: Thank you, Mr. Weinberg.

3 THE WITNESS: Thank you, Your Honor.

4 (Mr. Weinberg was excused as a witness.)

5 ALJ RODDA: Ms. Savel, what is your  
6 recommendation? I mean, you have stated -- and maybe  
7 it's in your filing. But what is your recommendation  
8 concerning the approvals to construct on the  
9 certificate of assured water supply? I mean, your  
10 actual recommendation.

11 MS. SAVEL: The actual recommendations are  
12 twofold. It's a two part. In terms of the -- on the  
13 approvals to construct, we recommend that the ACC  
14 direct docketing of the approvals to construct the  
15 offsite infrastructure within -- I think we calculated  
16 within 12 months. Well, for the first phase within 12  
17 months.

18 And then to direct the filing of approvals to  
19 construct as the phases of the developments go in,  
20 rather than -- because the current recommendation just  
21 says docket the approvals to construct within 12 months  
22 of any decision in this matter.

23 And we want to make clear that there's going to  
24 be a phased process over 10 years where lots of  
25 approvals to construct are going to be coming in over

1 that period of time. And so we want to break it out  
2 and say, we'll get the first phase in within 12 months,  
3 and then all future phases and future infrastructure  
4 development approvals to construct need to come in when  
5 they're ready for phases. And individual subdividers  
6 who are going to be doing their onsite construction  
7 will also need to submit their approvals to construct  
8 as those phases or as those subdivisions go into play.  
9 So that's on the approvals to construct.

10 On the assured water supply issue, we propose  
11 that the ACC direct us to docket an analysis of assured  
12 water supply within 12 months of the decision that  
13 covers the entire CC&N area, and then to require future  
14 subdividers to obtain and submit their own certificates  
15 of assured water supply as the individual subdivisions  
16 receive plat approval from Pinal County.

17 That may include, as Mr. Weinberg testified,  
18 that may include the master developer in the first  
19 phase if they go ahead and do some individual  
20 subdivision platting. Because then they'll be kind of  
21 switching hats from master developer to subdivision  
22 developer.

23 So, again, that's a twofold. Analysis of  
24 assured water supply for the whole area, certificates  
25 for the individual areas as those are ready for

1 construction. That way we're not duplicating work for  
2 both the developers and for the Department of Water  
3 Resources.

4 ALJ RODDA: Thank you.

5 MS. SAVEL: One other thing, Your Honor. Let  
6 me correct myself on the approvals to construct. For  
7 the onsite improvements, we also agree with the  
8 original proposal in Voyager. That as the onsite  
9 approvals for the individual subdivisions are filed,  
10 they'll be filed in connection with the main extension  
11 agreements, and include the legal descriptions for  
12 those areas so it's very clear what's being affected by  
13 that approval to construct.

14 ALJ RODDA: Thank you. Here is another  
15 question. I don't want to ask Mr. Weinberg because  
16 he's not a lawyer. But this is a question for lawyers.

17 I think that there's a request as part of this  
18 application that the certificate that had earlier been  
19 granted to Red Rock Water be dissolved. And I think  
20 the company's gone to effort to track down officers or  
21 owners of that former utility, which has never done  
22 business. But my question is more -- and I understand  
23 that. My question is more legal.

24 Can we do that? Dissolve the CC&N without  
25 notice and opportunity for hearing? Have you thought

1 about that?

2 MS. SAVEL: Well, Your Honor, we didn't discuss  
3 notice and opportunity for hearing, in large part  
4 because there's never been a customer for that water  
5 company.

6 So to the extent that notice and opportunity  
7 for hearing would be available to somebody who would be  
8 affected by the decision --

9 ALJ RODDA: Well, the owner of the water  
10 company. It's not the customers I'm worried about.

11 MS. SAVEL: We have provided notice to the  
12 owner of the water company. They've been included on  
13 the mailing list for the request that was submitted to  
14 the ACC as part of this package.

15 So they received notification of all of the  
16 pleadings that were filed requesting the dissolution of  
17 the water company.

18 ALJ RODDA: Okay. That's good.

19 MR. RONALD: Your Honor, I believe there were  
20 statements also from the previous owner.

21 MS. SAVEL: Yeah. There were verified or sworn  
22 affidavits from the water company owner saying we've  
23 passed on -- we don't have an interest any longer. We  
24 don't have any customers. We don't have any assets. I  
25 actually have them. I can show them to you. They're

1 in the file. And they were submitted to the Staff as  
2 part of our filings.

3 ALJ RODDA: Okay. I think I have seen a  
4 statement similar to that, but it was more of an  
5 assignment of interest as opposed to --

6 MS. SAVEL: There was an assignment.

7 ALJ RODDA: Which really has no effect unless  
8 the Commission approves any transfer or assignment of  
9 interest in CC&N.

10 But I just want assurances from the lawyers  
11 that when I -- if I put this in the order that it's  
12 going to be legal.

13 MR. RONALD: Your Honor, we have worked with  
14 this company prior to this hearing. And from Staff's  
15 point of view, they made every effort to make sure that  
16 they had given the proper notice to previous owners,  
17 any potential customers. And it seems like they had  
18 done everything possible to, you know, afford due  
19 process in this case and make sure that this  
20 cancellation of the prior CC&N would happen the proper  
21 way.

22 ALJ RODDA: Well, I'm very comforted by the  
23 fact that you had sent notice of pleadings. So I think  
24 that's a good thing and probably sufficient notice.

25 No more witnesses; right?

1 MS. SAVEL: No more witnesses, Your Honor.

2 ALJ RODDA: Any more exhibits?

3 MS. SAVEL: No more exhibits either.

4 ALJ RODDA: Okay. Mr. Ronald, you want to call  
5 Mr. Fisher?

6 MR. RONALD: Thank you, Your Honor. Staff  
7 calls Mr. Jim Fisher.

8

9

JIM FISHER,

10 called as a witness on behalf of Staff, having been  
11 first duly sworn by the Certified Court Reporter to  
12 speak the whole truth and nothing but the truth, was  
13 examined and testified as follows:

14

15

DIRECT EXAMINATION

16

17 Q. (BY MR. RONALD) Good morning, Mr. Fisher.  
18 Please tell us your name and business address.

19

20 A. Good morning, Mr. Ronald. My name is Jim  
21 Fisher. My address is the Arizona Corporation  
22 Commission, Utilities Division, 1200 West Washington,  
23 Phoenix, Arizona.

23

Q. And how long have you been with the Commission?

24

25 A. I began my time at the Commission in August of  
1987.

1 Q. And what are your current job responsibilities  
2 at the Commission?

3 A. Currently, I'm an Executive Consultant with the  
4 Utilities Division. Part of my duties are as a  
5 technical writer or as an analyst. Fundamentally, I'm  
6 looking at Certificates of Convenience and Necessity  
7 for water and wastewater, extensions and transfers and  
8 the like.

9 Q. And did you review an application from Red Rock  
10 Utilities for a Certificate of Convenience and  
11 Necessity?

12 A. Yes, I did.

13 Q. Did you prepare a Staff Report prior to this  
14 hearing?

15 A. Yes, sir.

16 Q. You should have in front of you what's  
17 previously been marked as S-1 underneath that binder up  
18 there. Can you identify what that is for us?

19 A. Yes, sir. This is an August 20, 2004 Staff  
20 Report for Red Rock Utilities, LLC, prepared by myself  
21 and a couple other Staff members for a recommendation  
22 in this matter.

23 Q. And were the other Staff members Charles  
24 Myhlhausen and Lyndon Hammon?

25 A. Yes, they were. Or yes, they are.

1 Q. Do you have any changes or corrections to make  
2 to the Staff Report today?

3 A. I have no changes or corrections to make to the  
4 Staff Report as I sit here today. There are a couple  
5 of recommendations that I would want to go over.

6 Q. And do you adopt S-1 as your sworn testimony  
7 today?

8 A. I certainly do.

9 MR. RONALD: Your Honor, I move for the  
10 admission of S-1.

11 ALJ RODDA: Okay. Any objection to S-1?

12 MS. SAVEL: No objection, Your Honor.

13 ALJ RODDA: S-1 is admitted.

14 Q. (BY MR. RONALD) Mr. Fisher, would you  
15 summarize your recommendations and any changes that you  
16 have.

17 A. Certainly. Fundamentally, Staff fully supports  
18 Red Rock Utilities, LLC obtaining a CC&N for both water  
19 and wastewater.

20 Your Honor should know that the company was  
21 very forthcoming and, in fact, my favorite engineer,  
22 Lyndon Hammon, was overjoyed with the way the company  
23 was able to evidence its work on the water and  
24 wastewater side.

25 Staff is recommending approval on the water

1 side. If you would look at the executive summary, or  
2 if you look at page 10 of the Staff Report, Staff has  
3 -- excuse me -- Staff has --I think it's 12 conditions.

4 And quickly those conditions include the  
5 following: That the fair value on Red Rock Utilities,  
6 LLC water service should be determined to be \$1.498  
7 million; that the Commission authorize the Red Rock  
8 Utilities water rates as shown on Schedule CRM-W-4;  
9 that the Commission require Red Rock to docket a tariff  
10 consistent with those rates and charges within 30 days  
11 of any decision in this matter; that the Commission  
12 require Red Rock to file a rate application no later  
13 than three months following the fifth anniversary of  
14 any decision in this matter; that the Commission  
15 require Red Rock to docket a copy of the ADEQ approval  
16 to construct in Docket Control within 13 months of any  
17 decision in this matter, and I would like to address  
18 that further.

19 During discussion on this, the company has  
20 indicated that they will file approvals to construct on  
21 the offsites within 12 months. That's what we want to  
22 see. We don't believe that -- and the reason we want  
23 that is we want to make sure that that is, in fact, a  
24 need. A Certificate of Convenience and Necessity, we  
25 want to see that that need has been demonstrated.

1 We do, however, do not need to have our  
2 compliance database and the company file for -- file  
3 every certificate of approval to construct just to  
4 insure that their certificate is appropriate.

5 So we believe that having the company comply  
6 with the recommendation that a certificate of approval  
7 to construct is issued and filed within 12 months is  
8 fine, and that thereafter any approval to construct is  
9 filed with the appropriate main extension agreement,  
10 which would evidence their further compliance. So  
11 there's that explanation.

12 Let's see. Where was I? Which number?

13 ALJ RODDA: 7.

14 THE WITNESS: Number 7. We also would want the  
15 Commission to require Red Rock to docket a report on  
16 the arsenic levels of the production wells within 365  
17 days to insure that they're meeting the criterium.

18 That a copy of the developer's certificate of  
19 assured water supply for the requested area within 24  
20 months on number 8. Staff is very comfortable with  
21 Mr. Dunham's testimony and what was accomplished in  
22 Voyager.

23 The Department of Water Resources has a  
24 significant chore, and complicating that chore by  
25 having a master developer obtain the certificate of

1 assured water supply will not gain us anything in this  
2 matter. Having the analysis is good for us. It  
3 accomplishes our goals for our agency and helps DWR  
4 accomplish its goals. And then having the particular  
5 developer for the particular subdivision that has to  
6 show the hard math, the hard math of that there is an  
7 assured water supply for this number of houses for that  
8 particular subdivision, is a better way of doing  
9 things. And we fully support the company looking for  
10 that adjustment to our recommendation.

11 Number 9, keep the books and records with  
12 NARUC. I'm sure they'll be able to do that.

13 Number 10, that they notify the Utilities  
14 Division Director within 30 days of initiating service.

15 That they use the -- that the Commission  
16 authorize Red Rock Utilities to use the depreciation  
17 rates as filed; and that the Commission deny the Red  
18 Rock Utilities request for hook-up fees.

19 As to the wastewater, Staff also recommends  
20 approval of the request by Red Rock Utilities for a  
21 wastewater Certificate of Convenience and Necessity,  
22 consistent with the nine conditions as delineated on  
23 page 11 and page 12 of the Staff Report.

24 Those would include that the Commission find  
25 that Red Rock Utilities' fair value for the property

1 devoted to wastewater service would be \$4.657 million;  
2 that the Commission authorize the utility the  
3 wastewater rates and charges as shown on Schedule  
4 CRM-WW-4; that the Commission Require Red Rock to  
5 docket a tariff consistent with those rates and charges  
6 with Docket Control within 30 days of the decision in  
7 this matter; that the Commission require Red Rock to  
8 docket a copy of the ADEQ aquifer protection permit for  
9 this facility within 24 months of any decision in this  
10 matter; that the Commission require Red Rock to file a  
11 rate application no later than three months following  
12 the fifth anniversary of any decision; that Red Rock  
13 file -- or I'm sorry -- maintain its books and records  
14 within the NARUC system of accounts; that Red Rock  
15 notify the Director of the Utilities Division within 30  
16 days of initiating service; that Red Rock use the  
17 depreciation rates as filed; and that the Commission  
18 deny Red Rock Utilities' request for hook-up fees.

19 That's pretty much my summary.

20 Q. And Mr. Fisher, are you satisfied that this  
21 Applicant is capable of providing service to this area?

22 A. Yes. The Applicant has provided Staff with its  
23 history as a developer and owner and operator of other  
24 utilities. It has demonstrated a need. It has  
25 demonstrated that it has gone through the full panoply

1 of related regulatory approval processes, including  
2 ADEQ and Central Arizona Association of Governments.

3 We believe that they have demonstrated that  
4 they are a fit and proper entity with the financial and  
5 technical capabilities to provide service to this  
6 portion of Pinal County.

7 Q. And as far as you know, is the Applicant  
8 current with all property taxes?

9 A. Red Rock Utilities, the Applicant, yes, as far  
10 as I know. I have no evidence that they are not.

11 Q. And as far as you know, is the Applicant in  
12 compliance with all previous Commission orders?

13 A. As this would be their first Commission order,  
14 yes, I believe they are, sir.

15 Q. And do you believe that the rates are fair and  
16 nondiscriminatory in this case?

17 A. Yeah. I believe that I'm very comfortable with  
18 the proposed rates, that everyone will receive notice  
19 of these proposed rates, and that there is no other  
20 utility willing or able to provide service.

21 Q. And Mr. Fisher, you did review the Applicant's  
22 response to the Staff Report?

23 A. Yes, I did.

24 Q. And would it be fair to say that there are  
25 three areas that it deals with? One, the ADEQ

1 approvals to construct, which you have already  
2 discussed. And Staff is comfortable with that?

3 A. Yes. Unfortunately, when we write our  
4 recommendations, sometimes it's overly broad. And with  
5 the scope and breath of the development, we should have  
6 been more attuned to what we were truly looking for.

7 Q. And Staff is also comfortable with the analysis  
8 of assured water supply as you previously testified to?

9 A. Yes, sir. We certainly are.

10 Q. As far as the modification to the depreciation  
11 rates, can you just explain how the disallowance of the  
12 hook-up fees would have an effect on depreciation  
13 rates?

14 A. Yes, sir. I mean, from -- though it is not my  
15 technical --- I'm not a subject matter expert on taxes  
16 or rates from a general perspective, Your Honor is  
17 familiar with the components of the rate base. And  
18 when you adjust one, you will adjust other aspects on  
19 the expenses.

20 Since we are going to not allow for  
21 contributions and contributions do not have a  
22 depreciation expense, we will therefore be increasing a  
23 depreciation expense associated with either the equity  
24 component or the advanced component.

25 According to Staff's analysis, that increase in

1 the depreciation expense by virtue of disallowing the  
2 hook-up fees or the contributions will not have a  
3 material effect on the projected income streams and  
4 expenses. So we have not adjusted rates to mirror any  
5 hook-up fee disallowance.

6 Q. And Mr. Fisher, Staff is comfortable with the  
7 company electing to be taxed as a C-corporation?

8 A. We are comfortable that, you know, that is what  
9 they are electing to do. Obviously, you know, there  
10 will be a rate case in five years, and that election  
11 will be open to discussion and review.

12 Q. As far as the discussion about the prior CC&N  
13 for a company with a similar name from Decision 41719,  
14 is Staff comfortable that the Applicant has done pretty  
15 much everything it could think of to assure that the  
16 proper notice has been provided to all involved parties  
17 in that prior decision?

18 A. Mr. Ronald, I'm very confident that counsel for  
19 the company has a lot of creativity. And everything  
20 they could think of was probably not disclosed to me,  
21 but I believe that they have taken every effort that I  
22 can think of to resolve this situation.

23 And Staff is supportive of eliminating that  
24 CC&N, because the company is not in operation and is  
25 not filing any regulatory issues with the Commission.

1 It does not offer service to the public. It is not  
2 acting as a public service corporation. And,  
3 therefore, I don't believe any CC&N is justified for  
4 its retention, and Staff fully supports deleting that  
5 CC&N.

6 Q. Mr. Fisher, you heard Judge Rodda's earlier  
7 questions regarding notice in this case on this  
8 particular application from Red Rock Utilities.

9 Did Staff have any comments to add to the  
10 notice in this case for this application?

11 A. I am not familiar with -- on seeing a property  
12 list for the Red Rock wastewater. I am familiar with  
13 the Judge's concerns, and am very familiar with other  
14 utilities that have been in similar situations and  
15 providing a list such as you describe listing out the  
16 parcel numbers and the address to which the notice was  
17 provided.

18 As I sit here today, I have not looked through  
19 my file to see if something like that was provided. If  
20 the company were kind enough to provide that as a  
21 late-filed exhibit, I think that might help us.

22 Q. Mr. Fisher, did you have any comments on the  
23 financial strength of Diamond Ventures?

24 A. No. I believe that the longevity and success  
25 of Diamond Ventures speaks for itself. The idea that

1 the company is able to own and operate two other water  
2 companies that are good regulatory entities speaks for  
3 itself. I believe they have demonstrated that they are  
4 technically capable and fit.

5 Q. Do you have anything else to add at this time?

6 A. No. I think I've talked myself out.

7 MR. RONALD: Thank you, Mr. Fisher.

8 No further questions, Your Honor.

9 ALJ RODDA: Did you have any questions,  
10 Ms. Savel?

11 MS. SAVEL: Your Honor, I don't have any  
12 questions. Thank you.

13

14

EXAMINATION

15

16 Q. (BY ALJ RODDA) Okay. Mr. Fisher, I'm just  
17 looking at something on page 2 of the Staff Report, and  
18 it's under that Arizona Department of Environmental  
19 Quality, Capacity Development Section.

20 A. Yes, ma'am.

21 Q. I guess I haven't done a new CC&N in a long  
22 time, but there's a lot of information in this Staff  
23 Report I haven't seen in a long time.

24 A. We just keep trying to get you a better  
25 product.

1 Q. It just keeps getting better. But anyway, you  
2 talk in there in that first paragraph about ADEQ will  
3 accept a financial determination made by this  
4 Commission as meeting the financial capacity  
5 requirements for new water systems under the  
6 jurisdiction of the Commission.

7 What do you mean by a financial determination?

8 A. ADEQ looks at a new water system to insure that  
9 it can develop capacity to meet additional customers as  
10 they come online. One of those issues that they're  
11 looking for is that it's financially capable.

12 ADEQ, rather than having its own rates people  
13 or finance people, says, is it a municipality, or is it  
14 an investor-owned utility? And if it's an investor-  
15 owned utility, has the Commission authorized a  
16 Certificate of Convenience and Necessity?

17 If the Commission has authorized a Certificate  
18 of Convenience and Necessity, it has had its Staff go  
19 through and perform the analysis that it has the  
20 financial capabilities.

21 So while we will also do a determination -- we  
22 the Utilities Division -- on a technical fit just as  
23 ADEQ will, ADEQ relies on Commission determination that  
24 this entity is good enough to obtain a certificate to  
25 have demonstrated its financial capabilities for system

1 capacity and development rules.

2 Q. And so your previous testimony just a few  
3 moments ago was your -- your analysis is that, yes, it  
4 does have that financial capacity?

5 A. Yes, ma'am. That's true.

6 Q. And I'm just curious about Staff not being its  
7 general policy that hook-up fees aren't approved for  
8 new entities.

9 Do you know what the philosophy is behind that  
10 or the policy? What the policy concerns?

11 A. The consensus among Staff is that on a new  
12 Certificate of Convenience and Necessity, the  
13 developer, the utility, should finance it itself, and  
14 that subsequent hook-up fees can be authorized.

15 In this matter, there were lengthy discussions  
16 regarding Red Rock's proposal to have a discrete  
17 portion of its plant paid for through hook-up fees  
18 through other interested parties. Because, you know,  
19 there are a number of meritorious arguments or policy  
20 issues associated with that.

21 Staff's consensus stuck with the no hook-up  
22 fees policy.

23 Q. Okay. That's fine. Luckily it's not an issue.

24 A. I'm just glad I was able to skate on through.  
25 Thank you.

1 Q. I was just curious.

2 A. Yeah.

3 ALJ RODDA: I don't have anything further.

4 Did you have any redirect, Mr. Ronald?

5 MR. RONALD: No, Your Honor.

6 ALJ RODDA: All right. Well, thank you,

7 Mr. Fisher, once again --

8 THE WITNESS: Thank you, ma'am.

9 ALJ RODDA: -- for coming on down the freeway.

10 THE WITNESS: Thank you.

11 (Mr. Fisher was excused as a witness.)

12 ALJ RODDA: And so I think we come to the end  
13 of another hearing.

14 Do you have anything you wanted to state in  
15 closing?

16 MS. SAVEL: Your Honor, I think we've said it  
17 all, presented the witnesses, the evidence and the  
18 testimony. We appreciate the cooperation of Staff,  
19 both Mr. Ronald and Mr. Fisher, and Charles and Lyndon  
20 and their assistance in this process. And we look  
21 forward to starting our water and wastewater utility  
22 companies and starting to develop Red Rock Village.

23 ALJ RODDA: I look forward to seeing that  
24 development as I go up and down the freeway.

25 Mr. Ronald, do you have anything in closing?

ARIZONA REPORTING SERVICE

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MR. RONALD: No, Your Honor. Thank you.

ALJ RODDA: All right. Well, thank you all for a smooth hearing. And I'll take the matter under advisement pending my submission of a recommended opinion and order.

(The Hearing concluded at 11:30 a.m.)

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1 STATE OF ARIZONA )  
2 ) ss.  
3 COUNTY OF MARICOPA )  
4  
5

6 I, MICHELE E. BALMER, Certified Court Reporter  
7 No. 50489 for the State of Arizona, do hereby certify  
8 that the foregoing printed pages constitute a full,  
9 true and accurate transcript of the proceedings had in  
10 the foregoing matter, all done to the best of my skill  
11 and ability.  
12

13 WITNESS my hand this 15th day of September,  
14 2004.  
15

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19 Certified Court Reporter  
20 Certificate No. 50489  
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