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BEFORE THE ARIZONA CORPORATIO  
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2011 DEC 22 P 3:09

Arizona Corporation Commission

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AZ CORP COMMISSION  
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DEC 22 2011

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IN THE MATTER OF THE APPLICATION OF  
DOUBLE DIAMOND UTILITIES, INC. FOR A  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY TO PROVIDE WATER SERVICE  
AND WASTEWATER SERVICE

Docket No. WS-20543A-07-0435

**MOTION FOR EXTENSION  
OF COMPLIANCE DATES**

11 Double Diamond Utilities, Inc. ("DDU"), through undersigned counsel, hereby moves for  
12 the extension of two compliance dates set forth in Decision No. 70352 (May 16, 2008) and  
13 subsequently modified in Decision No. 70497 (April 7, 2009). Specifically, DDU requests:

- 14 1. That the deadline for procuring a performance bond or irrevocable sight draft letter  
15 of credit in the amount of \$500,000 be extended from December 31, 2011 until 30  
16 days prior to serving its first customer or December 31, 2014, whichever comes  
17 first.
- 18 2. That the deadline for retaining a Certified Operator (and related notification to the  
19 Commission) be extended from December 31, 2011 until six months prior to  
20 serving its first customer or December 31, 2014, whichever comes first.

21 This request arises from the continuing significant downturn in the economy and the  
22 housing development market that has caused a delay in the timetable for the development covered  
23 by DDU's CC&N.

**Background**

24  
25 In Decision No. 70352, DDU received a CC&N to provide water and wastewater service to  
26 the initial phase of The Ranch at White Hills ("White Hills"), a large master planned community  
27 located between Kingman and Las Vegas. As set forth in the Decision, DDU is a developer-

1 owned utility that will ultimately serve the entire White Hills development. The initial phase of  
2 constitutes approximately 10% of the overall development.

3 The Decision set forth numerous compliance requirements that were due at various times  
4 from the issuance of the Decision. DDU has met many of those compliance requirements,  
5 including the filing of its rate tariff, its curtailment tariff, its backflow prevention tariff and its  
6 Water Conservation Plan.

7 There remain several compliance requirements to be met. In addition to the compliance  
8 requirement addressed in this Motion, DDU also must file key permits for the construction of the  
9 water and wastewater systems by December 31, 2012.<sup>1</sup> These permits include the Approval to  
10 Construct for Phase 1 of the water system and the Aquifer Protection Permit for the wastewater  
11 treatment plant. Construction cannot begin until these permits are obtained and it will take  
12 significant time thereafter before the facilities can be constructed and service commenced.

13 As the Commission is well aware, since the issuance of the CC&N in May 2008, the  
14 economy has experienced a precipitous downturn. Housing and development activities have  
15 suffered and finance and credit markets have significantly tightened – and those effects have  
16 continued for several years. The White Hills development had already been delayed due to delays  
17 in the construction of the Hoover Dam bypass bridge.

18 The Mardians, the developer of White Hills, still fully intend to proceed with White Hills  
19 (a letter from the developer confirming that fact is attached). However, common sense and good  
20 judgment continue to dictate that the timeline for the development be pushed back. Moreover, in  
21 these circumstances -- where the utility is a developer owned utility, the developer owns the real  
22 property for the development and the CC&N covers only the initial 10% of the development –it  
23 makes sense to maintain the CC&N (and related conditions) to avoid having to expend  
24 Commission and utility resources to repeat the CC&N process in a few years.

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27 <sup>1</sup> These compliance dates were set in Decision No. 72008 (December 10, 2010), which granted a  
motion for extension of compliance dates filed by DDU.

1           **A.       Extension of the Date for Procuring the Bond.**

2           In Decision No. 70532, the Commission required DDU to procure and file a performance  
3 bond or letter of credit in the amount of \$500,000 by December 31, 2008. The rationale for  
4 requiring the bond, as set forth in the Decision (at 16) is “to ensure that the applicants would be  
5 able to continue operations for a reasonable period of time without a related entity’s financial  
6 support, if necessary.” The Commission extended the compliance deadline to “30 days prior to  
7 servicing its first customer or December 31, 2011, whichever comes first” in Decision No. 70947.

8           DDU now requests that the Commission extend this compliance condition to “30 days  
9 prior to serving its first customer or December 31, 2014, whichever comes first.” Extending the  
10 bond compliance date will still provide the public benefit intended by the bond. Certainly, there  
11 will be no customers receiving service in the near future. Moreover, given the current condition of  
12 the financial and credit markets, DDU believes that the terms of any bond or letter of credit will be  
13 more palatable in the future compared to now. Finally, not restricting funds through the bond or  
14 letter of credit now will allow DDU to move forward with other permitting activities necessary to  
15 emplace the infrastructure that will ultimately serve the customers.

16           **B.       Extension of the Date for Retaining the Certified Operator.**

17           The Commission also initially required DDU to retain a Certified Operator and notify the  
18 Commission of that retention “at least six months before its serves its first customer or by June 30,  
19 2009, whichever comes first.” The Commission subsequently extended the deadline to meet that  
20 condition until “six months prior to serving its first customer or December 31, 2011, whichever  
21 comes first” in Decision No. 70947.

22           DDU welcomes the willingness of the Commission to review DDU’s choice of a Certified  
23 Operator. However, given the anticipated timeline for the development, DDU believes that it  
24 would be premature to retain a Certified Operator now, particularly given other pending  
25 compliance dates. In particular, DDU presently is required to obtain the Aquifer Protection Permit  
26 for its wastewater treatment plant and the Approval to Construct for the water system for Phase 1  
27 of the development by December 31, 2012. Given possible construction time frames, it is unlikely

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there will be any plant to operate until 2014. Moreover, unless there is significant improvement in the economy, it is likely the development (and the construction of any utility infrastructure) may be delayed somewhat further.

DDU now requests that the Commission extend the compliance date for this condition to "until six months prior to serving its first customer or December 31, 2014, whichever comes first." Retaining a Certified Operator too far in advance of the commencement of operation does not make sense, particularly in this economy. DDU believes that it will be difficult to enter into a cost-effective and prudent contract for services that may not be needed for some considerable time. Moreover, given the economy, DDU would prefer to wait until a date closer to the date of operation to contract with the Operator to better ensure that Operator will be able to meet its contractual obligations.

WHEREFORE, DDU requests that two compliance dates be extended as follows:

1. The deadline for procuring a performance bond or irrevocable sight draft letter of credit in the amount of \$500,000 be extended from December 31, 2011 "until 30 days prior to serving its first customer or December 31, 2014, whichever comes first."

2. The deadline for retaining a Certified Operator (and related notification to the Commission) be extended from December 31, 2011 until "six months prior to serving its first customer or December 31, 2014, whichever comes first."

RESPECTFULLY submitted this 22<sup>d</sup> day of December, 2011.

ROSHKA DEWULF & PATTEN, PLC

By   
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1 Original and 13 copies of the foregoing  
2 filed this 22<sup>nd</sup> day of December 2011, with:

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

7 Copy of the foregoing hand-delivered/mailed  
8 this 22<sup>nd</sup> day of December 2011 to:

9 Yvette Kinsey  
10 Administrative Law Judge  
11 Hearing Division  
12 Arizona Corporation Commission  
13 1200 West Washington Street  
14 Phoenix, Arizona 85007

15 Steve Olea  
16 Director, Utilities Division  
17 Arizona Corporation Commission  
18 1200 West Washington Street  
19 Phoenix, Arizona 85007

20 Brian Bozzo  
21 Compliance, Utilities Division  
22 Arizona Corporation Commission  
23 1200 West Washington Street  
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25  
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27

By Mary J. Jopolski

# THE RANCH AT WHITE HILLS

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December 20, 2011

Arizona Corporate Commission  
Utilities Division  
1200 West Washington Street  
Phoenix, AZ 85007

RE; Double Diamond Utilities - WS20543A-07-0435

Continuing Request for Service by The Ranch at White Hills

To Whom it may concern,

I am the developer of the Ranch at White Hills and I am forwarding this letter to confirm my support of Double Diamond Utilities' extension request, and to assure the Commission and Staff that we have every intention of pursuing the development of the Ranch at White Hills. The economic market impacts of the past several years have created a delay in our project development. However, we continue to need the future utility service that will be provided by Double Diamond.

I appreciate your consideration and approval of Double Diamond Utilities' minor extension request. Should you have any questions or comments to this request, please contact Kathy Tackett-Hicks.

Thank you for your consideration.

Sincerely,



Mr. Leonard Mardian  
The Ranch at White Hills

4132 So. Rainbow Blvd., PMB #324, Las Vegas, NV 89103  
702-499-1372