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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

GARY PIERCE- Chairman
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PAUL NEWMAN
BRENDA BURNS

2012 MAR 14 P 12: 53

AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF
DII-EMERALD SPRINGS, LLC FOR
APPROVAL OF A CERTIFICATE OF
CONVENIENCE AND NECESSITY TO
PROVIDE WASTEWATER SERVICES

DOCKET NO. WS-20794A-11-0140

IN THE MATTER OF THE APPLICATION OF
DII-EMERALD SPRINGS, LLC FOR
APPROVAL OF A RATE INCREASE

DOCKET NO. WS-20794A-11-0279

**STAFF'S NOTICE OF FILING
SUPPLEMENTAL STAFF REPORT**

Staff Counsel on behalf of the Utilities Division Staff of the Arizona Corporation Commission ("Staff") hereby provides a supplement to the previously filed Staff Report (Attachment A) in the above docket. Staff has recently become aware that DII-Emerald Springs ("Emerald Springs") is no longer providing wastewater treatment services to the Emerald Springs Homeowners Association ("HOA"). The HOA is currently receiving service from the Doyle Thompson wastewater system. Because, Emerald Spring's only customer is no longer receiving service from Emerald Springs, but is now being provided service by Doyle Thompson, Staff believes that Doyle Thompson may be a necessary party that needs to be joined in this CC&N Application and Rate Application proceeding.

Staff requests that this issue be further discussed at the March 20, 2012 Procedural Conference.

RESPECTFULLY SUBMITTED this 14th day of March 2012.

Arizona Corporation Commission
DOCKETED

MAR 14 2012

DOCKETED BY

Kimberly A. Ruht, Attorney
Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007
(602) 542-3402

1 Original and thirteen (13) copies
2 of the foregoing filed this
14th day of March 2012 with:

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

6 Copies of the foregoing mailed this
14th day of March 2012 to:

7 Mr. Henry Melendez
8 DII-Emerald Springs, LLC
212 East Rowland Street # 423
9 Covina, California 91723

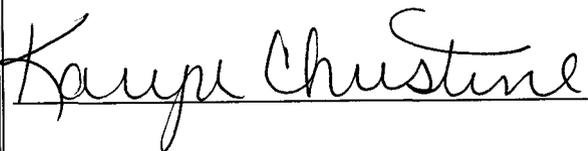
10 Julie A. LaBenz
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12 Attorney for Emerald Springs
Homeowners Association

13 Steve Wene, Esq.
14 Moyes Sellers & Hendricks Ltd
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15 Phoenix, Arizona 85004
16 Attorney for Robhana, Inc.
and Charles Dunn Capital, Inc.

17 Courtesy Copy provided by mail to:

18 Dennis Price
19 Post Office Box 1125
Ehrenberg, Arizona 85334-1125

20 Doyle Thompson, Jr.
21 c/o Copper State Mobile Home & RV Park
48998 Sourdough Road
22 Ehrenburg, Arizona 85334

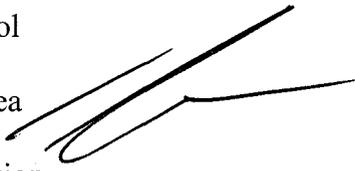
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ATTACHMENT A

MEMORANDUM

TO: Docket Control

FROM: Steven M. Olea
Director
Utilities Division



DATE: March 14, 2012

RE: **SUPPLEMENT TO STAFF REPORT FOR DII - EMERALD SPRINGS, LLC'S APPLICATIONS FOR A PERMANENT RATE INCREASE (DOCKET NO. SW-20794A-11-0279) AND FOR ISSUANCE OF A NEW CERTIFICATE OF CONVENIENCE AND NECESSITY (DOCKET NO. SW-20794A-11-0140)**

On March 6, 2012, Arizona Corporation Commission ("Commission") Utilities Division Staff ("Staff") was informed that the Emerald Springs Homeowners' Association ("HOA") had disconnected its wastewater service from DII – Emerald Springs, LLC (DII) and reconnected to the Doyle Thompson wastewater system ("Thompson system"). Consequently, over the next several days, Staff conducted further investigation and now provides the following additional updated information.

On March 6, 2012, Henry Melendez, president of DII, notified Staff that he had received a letter from the HOA notifying him that the HOA wastewater service to the DII system would be temporarily disconnected in order for the HOA to conduct a test/pilot program with another sewer provider. Mr. Melendez stated that, subsequent to receipt of that letter, his certified operator had called to inform him that the wastewater service had in fact already been disconnected that morning from his system and redirected to the Thompson system. Mr. Melendez said he then contacted Bob Manley at the Arizona Department of Environmental Quality ("ADEQ") about the matter.

Staff spoke with Jim Grimes, the certified operator for both the DII and Thompson systems. Mr. Grimes indicated that he was not told about the disconnection/reconnection construction between the systems prior to the work being performed, nor did he have any knowledge regarding how the test/pilot program was to be conducted.

On March 8, 2012, Staff spoke with Doyle Thompson Jr., owner of the Thompson system. Mr. Thompson confirmed that, on the morning of March 6, 2012, he and three HOA members had disconnected the wastewater service from the DII system and reconnected to the Thompson system. Mr. Thompson further indicated that the "temporary" connection to his system is to conduct a test/pilot program to determine if his plant capacity can handle the wastewater flows from the HOA. Mr. Thompson stated that he had signed a one-year agreement

with the HOA to conduct this program. Mr. Thompson also stated that he had contacted ADEQ before disconnecting from DII and reconnecting to his system.

Staff advised Mr. Thompson that, since he was providing sewer services to the HOA, under Commission rules he was considered a public service corporation and, as such, was regulated by and subject to the jurisdiction of the Commission. Staff also advised Mr. Thompson that he would need to apply for a Certificate of Convenience and Necessity ("CC&N") and that, regardless of the terms of any agreement, his utility rates would be set by the Commission. Mr. Thompson was then provided with information on how to access the Commission's Sewer Rules and Application for a CC&N. He was also given appropriate contact information for Staff.

Staff then spoke with Bob Manley at ADEQ. Mr. Manley indicated that Mr. Thompson had contacted ADEQ before the disconnection/reconnection construction was to happen. Mr. Manley confirmed that ADEQ had told Mr. Thompson that the disconnection/reconnection construction was okay as long as Thompson's wastewater treatment plant had the treatment capacity and the general permit was not violated. (Thompson's plant is an older plant that only requires a general permit and not an aquifer protection permit like DII.)

Based on the above, it is Staff's understanding that the HOA is not presently connected to DII and is now receiving service from the Thompson system.

SMO:MSJ:VW:NS:kdh

Originators: Marlin Scott, Jr.
Vicki Wallace
Nancy Scott