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212 E. Rowland Street #423
Covina, CA 91723

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March 21, 2013

2013 MAR 21 A 11: 26

Docket Control Center
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

CORP COMMISSION
DOCKET CONTROL

RE: RESPONSE TO INTERVENOR HOA MOTION TO CONTINUE HEARING SET APRIL 2-3, 2013
Docket Nos. **WS-20794A-11-0140, WS-20794A-11-0279, and WS-20851A-12-0226**

DII-Emerald Springs, LLC ("DII") responds to the above mentioned Motion as follows:

On March 19, 2013, Emerald Springs Homeowner's Association (HOA) filed a motion to continue hearing set for April 2-3, 2013 for another 30-60 days.

DII opposes any continuation unless it is necessary due to the lack of compliance by Mr. Thompson as stated on procedural ordered dated March 19, 2013.

DII believes the HOA is once again delaying this process. If the HOA was concern and felt the need of additional time; they should of have filed this request within a couple of days of Staff filing the consolidated report on March 8, 2013 and not waiting until March 19th. The HOA has had access to all documents filed by Mr. Thompson and did not protest or had any concerns to any of his filing or data provided or not provided by Mr. Thompson.

The HOA has employed all type of tactics to delay this process from the beginning when they refused to intervene to now. This request is one more of their tactics by waiting to the last few days.

DII is very concern and believes there may be a play book between the HOA and Mr. Thompson as to what to do and not to do; to delay the process for as long as possible. If the HOA has issues with consolidated staff report; the HOA should address those concerns by responding by the due date.

Based upon the foregoing, DII Respectfully requests this Motion by the HOA be denied. DII also requests that if Mr. Thompson continues to be in violation and not complying with the procedural orders, his application be either cancel or withdrawn in order to move forward with DII application.

If additional information is required, please contact me at 626-664-0602.

Sincerely;

Henry Melendez

DII-Emerald Springs, LLC
Henry Melendez, President

Arizona Corporation Commission
DOCKETED

MAR 21 2013

DOCKETED BY

AM

DII-Emerald Springs, LLC
212 E. Rowland Street #423
Covina, CA 91723

March 21, 2013

Docket Control Center
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

RE: RESPONSE TO CONSOLIDATED STAFF REPORT DATED 3/8/2011
Docket Nos. WS-20794A-11-0140, WS-20794A-11-0279, and ~~WS-20851A-12-0226~~
SW

DII-Emerald Springs, LLC ("DII") as per PROCEDURAL ORDER dated 3/1/2013 files the following response to the Consolidated Staff Report dated 3/8/2013:

1. DII disagrees with staff's recommendation to deny its CC&N and Rate application; under the basis that DII is the only applicant that definitely has demonstrated the ability to service the community without any interruptions of service, without any threats of termination and has worked with ADEQ to provide a legal with capacity sewer provider to Emerald Springs since 2004.
2. DII serviced the HOA since 2004 until 3-8-12 when the HOA unilaterally and in violation of an existing agreement disconnected the flow. During the approximate 8 years of service; the HOA never had one (1) service problem, not even one (1) complaint; or any threats of termination from DII. In fact, DII did not have any discord with the HOA until a notice of increase was provided to the HOA after 5 years of no increases.
3. DII disagrees with Staff's statement when Staff says: "There are no assurances at this point that DII can provide effective customer service to the HOA". DII believes; the almost 8 years of service to the HOA without any complaint or interruption of service during that many years; only demonstrates the apposite of staff's statement.
4. DII disagrees with Staff's statement about not having any information documenting a formal lease on the 2 acres of property occupied by DII's WWTP. On June 11, 2012 (Image # 0000137417) the attorney of the current property owner (Robhana & WALTCO) filed a statement indicating the following on page 2; line 18-22: "If the Commission indicates that it is going to grant DII's application, then Robhana will negotiate a lease to allow DII to operate and maintain the wastewater system located on property controlled by Robhana". DII believes this eliminates 1 of the 2 reasons Staff is recommending denying DII's applications. Staff's second reason is because DII is still not in compliance with ADEQ regulations. On this issue, DII will provide documentation and direct testimony from ADEQ on hearing date. DII has subpoena ADEQ and their records (attached is a copy of the subpoenas issued). DII is certain that the evidence ad testimony to be presented will clarify this issue and show DII has not disregarded the regulations, instead; DII has been very active with ADEQ to reach an acceptable solution on the uniqueness of this community since 2004. Outstanding issues have been related to testing requirements and the costs that would be incurred by the HOA which DII was trying to avoid by finding an alternative with ADEQ.
5. DII would like to clarify the peak flow during Sept 2010 was 5,910 GPD for approximately 15 out of 40 active houses at that time, as the other houses were vacant and in foreclosure.

Now the community has 41 active houses. This only indicates the current peak flow from this community is around 15000-16,400 GPD based on the 41 active houses versus the 15 from 2010.

6. DII clarifies that Thompson did not just have problems with the HOA in 2004. Thompson had problems with the community since the first lot was sold around 2001-2002. The arguments, disagreements, and problems were constant throughout the years Thompson provided sewer service to developers and then the HOA.
7. Attachment B (Staff Report on Thompson) page 5; heading "Sewer Flows", line 2 says "...Staff concluded that Thompson's WWTP is near its restricted capacity of 20,000 GPD with a peak data flow of 18,922 GPD in December 2012". Line 5 says "...If all 40 of the existing HOA homes become occupied, the Thompson WWTP would need more than the restricted 20,000 GPD. When Thompson's WWTP reaches the restricted 20,000 GPD capacity, under Type 1.09 General Permit, Mr. Thompson will need to apply for an Individual APP. The cost of filing this ADEQ APP is estimated at \$50,000. This cost would be in addition to any plant modification costs incurred at the Thompson WWTP that would be needed to meet the APP's Best Available Demonstrated Control Technology and the Aquifer Water Quality Standard requirements."

DII has the following issues with the above statement: Thompson's WWTP is not near its restricted capacity of 20,000 GPD, it is already excessively over by around 5,000-7,500 GPD. The peak data flow of December 2012 does not represent the peak time of the HOA. The peak time for the HOA is during the summer months and specifically 3-4 day holidays such as 4th of July, Easter, Memorial and Labor Day. Based on DII experience and actual history of this community during these holiday weekends; it is generating around 375-450 GPD per house. The community now has 41 active houses compared to 15 from 2008-2010. At an average of 375 GPD per House totals 15,375 GPD at minimum; at 400 GPD it equals to 16,400 GPD. The methodology of a timer to calculate the flow is not an acceptable practice; you must have a flow meter for this function. However; if the total flow for December 2012 was 18,922 GPD on low season; imagine what will it be on peak season; at least double or for sure much higher than the 20,000GPD permitted by Thompson's general permit.

DII has subpoena the water usage of Emerald Springs from EIA Water Department for Jan 2008 to Feb 2013 in an effort to better document the flows generated from the HOA; as the flows provided by Thompson are faulty and do not represent the actual peak flows (see attached subpoena).

DII wants to remind staff of its own investigation performed on March 28, 2012 and filed on April 9, 2012 as image # 0000135725. Page 2 of such investigation report clearly states that on April 2011 Thompson had his peak month for a total of 339,000 gallons for the month / 30 days = 11,300 GPD. If this 11,300 GPD is Thompson's peak, now add the 15,375 GPD from the HOA = 26,675 GPD on a low average, which is much higher than the 20,000 GPD permitted by his permit. Therefore, it is clear Thompson is already in violation of his general permit and requires a new permit with ADEQ.

Attachment B, page 6; heading "Financial Capability"; Line 4 reflects a total recommended charge to the HOA of \$149.85 per lot. This amount does not consider the minimum of \$50,000 for the permit application Thompson must submit to ADEQ; nor does this figure includes the potential modification costs that may reach anywhere from \$100,000 to \$250,000 in addition to the \$50,000 application fee. Therefore, this calculation is not faulty. In fact, the base of \$149.85 is already much higher than the amount calculated for DII. No doubt these additional costs would be passed along to the HOA, not Thompson's trailer park community. This would result in a potential base rate of around double or even higher than the base rate of \$149.85 recommended by Staff to the Emerald Springs homeowner.

Staff has absolutely no assurances Thompson will follow the process or will ever submit the APP permit application, not to mention perform the modifications required. To date, requests for compliance or documentation from Thompson have required multiple extensions and/or substandard compliance. DII has been held to standards for compliance by ADEQ and ACC which Thompson has not. When requested to provide a flow meter, he did not, and the only conclusion would be, Thompson is aware he is already over the limit provided by his existing permit, when actual flow computations from historical data is utilized. DII knows the history of this community and has worked with ADEQ continually to become the sewer provider for Emerald Springs, which Thompson has not. DII participated in various Emerald Springs HOA meetings over the years to keep the community aware of ADEQ requirements being placed upon the community. The HOA members wanted no part of the process and encouraged DII to settle the matters without their involvement and to keep costs to the HOA at a minimum. Until Thompson can prove the capability to provide the same level of sewer service to Emerald Springs as DII has provided, DII believes Staff recommendation of allowing Thompson to continue as the sewer provider is premature and it appears Staff is endorsing non-compliance behavior from Thompson.

It is important to Emerald Springs to have a legal and reliable sewer provider as evident by their homeowner phone calls to ADEQ in 2012. DII has been in constant contact with ADEQ over many years to provide this service. When DII originally purchased 33 lots in Emerald Springs, the Public Report on record stated Thompson as the sewer provider and DII was not required to create a sewer service. When the HOA was established, members eventually came to DII to get help with problems they were having related to Thompson. DII jumped in immediately to provide a level of service at an acceptable cost which was not necessary for DII at that time. Members felt Thompson could never handle the volume of the community when it expanded and DII agreed it was in both interests to create a sewer service specifically for Emerald Springs. Over the years many issues related to ADEQ requirements never properly fit the Emerald Springs community. Costs incurred by DII to establish, maintain and continue the process with ADEQ to find a testing process that would work were never passed on to the community. New owners have come into the community and their understanding of the uniqueness of the area is not fully understood.

DII requests that with all of the information stated above, the Commission grants DII's applications, as it is the only applicant with sufficient treatment capacity; and has demonstrated the ability to service the community now and in the future without any interruptions of service and without any complaints over the past approximate 8 years.

If additional information is required, please contact me directly at 626-664-0602.

Sincerely;



DII-Emerald Springs, LLC
Henry Melendez, President

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

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

DOCKET NO. WS-20794A-11-0140 &
WS-20794A-11-0279 &
WS-20851S-12-0226

IN THE MATTER OF THE APPLICATION OF
DII-EMERALD SPRINGS, LLC FOR
APPROVAL OF RATES

**APPLICATION FOR ADMINISTRATIVE
SUBPOENA DUCES TECUM**

IN THE MATTER OF THE APPLICATION OF
DOYLE THOMPSON FOR APPROVAL OF A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE SEWER
SERVICES

DII-Emerald Springs, LLC requests the issuance of a subpoena duces tecum to ARIZONA DEPARTMENT OF ENVIRONMENT QUALITY, pursuant to A.R.S. §§ 40-241, 40-244, A.A.C. R14-3-109, and Ariz. R. Civ. P. 30 and 45 in connection with the administrative hearing in the above-captioned action.

DATED this 12th day of March, 2013.

DII-Emerald Springs, LLC
212 E. Rowland Street #423
Covina, CA 91723
Telephone: 626-664-0602
E-mail: Diigroup@aol.com

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 BOB STUMP - Chairman
4 GARY PIERCE
5 BRENDA BURNS
6 BOB BURNS
7 SUSAN BITTER SMITH

8 IN THE MATTER OF THE APPLICATION OF
9 DII-EMERALD SPRINGS, LLC FOR
10 APPROVAL OF A CERTIFICATE OF
11 CONVENIENCE AND NECESSITY TO
12 PROVIDE WASTE WATER SERVICES

DOCKET NO. WS-20794A-11-0140 &
WS-20794A-11-0279 &
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9 IN THE MATTER OF THE APPLICATION OF
10 DII-EMERALD SPRINGS, LLC FOR
11 APPROVAL OF RATES

**ADMINISTRATIVE
SUBPOENA DUCES TECUM**

11 IN THE MATTER OF THE APPLICATION OF
12 DOYLE THOMPSON FOR APPROVAL OF A
13 CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE SEWER
SERVICES

14 TO: ARIZONA DEPARTMENT OF ENVIRONMENT QUALITY
15 WATER QUALITY DIVISION
16 LINDA TAUNT, DEPUTY DIRECTOR
17 1110 WEST WASHINGTON STREET
18 PHOENIX, ARIZONA 85007

19 YOU ARE HEREBY COMMANDED, pursuant to A.R.S. §§ 40-241, 40-244, A.A.C. R14-3-
20 109 and Ariz. R. Civ. P. 30 and 45 to appear and testify under oath in connection with the
21 administrative hearing in the above-captioned action.

22 BEFORE WHOM APPEARANCE TO BE MADE: Arizona Corporation Commission

23 DATE AND TIME OF APPEARANCE: April 2, 2013 at 10:00 a.m.

24 PLACE OF APPEARANCE: Arizona Corporation Commission
25 Hearing Room No. 1
26 1200 West Washington Street
27 Phoenix, Arizona 85007

28 YOU ARE COMMANDED to appear and give testimony concerning:

The history of the approval process, the modification of frequency request, the reasons and communications-meetings as to the violations of the permit issued to DII-Emerald Springs, LLC.

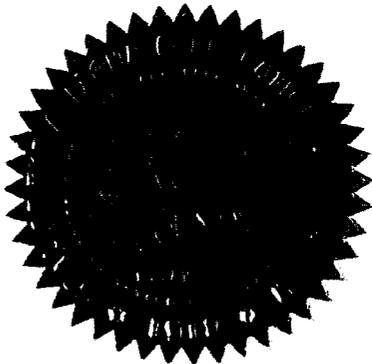
1 YOU ARE COMMANDED to bring with you and produce for inspection and copying the
2 following:

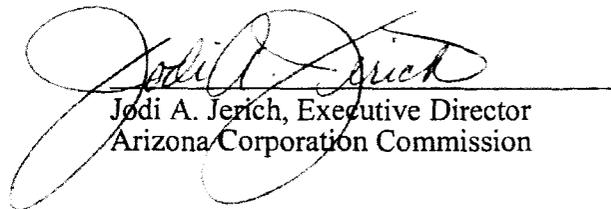
3 Any and all communication and minutes of any meetings, emails, etc. documenting
4 DII-Emerald Springs, LLC was always concern, in touch, and in communication with ADEQ
5 Regarding the violations, issues, circumstances, and difficulties of such violations.

6 YOU HAVE BEEN SUBPOENED BY: DII-Emerald Springs, LLC
7 212 E. Rowland Street #423
8 Covina, CA 91723
9 Telephone: 626-664-0602
10 E-mail: Diigroup@aol.com

11 DISOBEDIENCE OF THIS SUBPOENA constitutes contempt of the Arizona Corporation
12 Commission and may subject you to further proceedings and penalties under law, pursuant to A.R.S.
13 § 40-424.

14 Given under by hand the seal of the Arizona Corporation Commission this 12th day of March
15 12, 2013.



16 
17 Jodi A. Jerich, Executive Director
18 Arizona Corporation Commission

27 Persons with a disability may request a reasonable accommodation such as a sign language
28 interpreter, as well as request this document in an alternative format, by contacting Shaylin A. Bernal,
Executive Assistant to the Executive Director, voice phone number 602-542-3931, e-mail
sabernal@azcc.gov. Requests should be made as early as possible to allow time to arrange the
accommodation.

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BEFORE THE ARIZONA CORPORATION COMMISSION

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BOB STUMP - Chairman
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IN THE MATTER OF THE APPLICATION OF
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DOCKET NO. WS-20794A-11-0140 &
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**APPLICATION FOR ADMINISTRATIVE
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IN THE MATTER OF THE APPLICATION OF
DOYLE THOMPSON FOR APPROVAL OF A
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SERVICES

DII-Emerald Springs, LLC requests the issuance of a subpoena duces tecum to EIA WATER DEPARTMENT, pursuant to A.R.S. §§ 40-241, 40-244, A.A.C. R14-3-109, and Ariz. R. Civ. P. 30 and 45 in connection with the administrative hearing in the above-captioned action.

DATED this 12th day of March, 2013.

DII-Emerald Springs, LLC
212 E. Rowland Street #423
Covina, CA 91723
Telephone: 626-664-0602
E-mail: Diigroup@aol.com

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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

IN THE MATTER OF THE APPLICATION OF
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DII-EMERALD SPRINGS, LLC FOR
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**ADMINISTRATIVE
SUBPOENA DUCES TECUM**

IN THE MATTER OF THE APPLICATION OF
DOYLE THOMPSON FOR APPROVAL OF A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE SEWER
SERVICES

TO: EIA WATER DEPARTMENT
OPERATIONS MANAGER
P.O.BOX 50
EHRENBERG, AZ 85334
928-923-9388

YOU ARE HEREBY COMMANDED, pursuant to A.R.S. §§ 40-241, 40-244, A.A.C. R14-3-109 and Ariz. R. Civ. P. 30 and 45 to appear and testify under oath in connection with the administrative hearing in the above-captioned action.

BEFORE WHOM APPEARANCE TO BE MADE: Arizona Corporation Commission

DATE AND TIME OF APPEARANCE: April 2, 2013 at 10:00 a.m.

PLACE OF APPEARANCE: Arizona Corporation Commission
Hearing Room No. 1
1200 West Washington Street
Phoenix, Arizona 85007

YOU ARE COMMANDED to appear and give testimony concerning:

The presence of a person is not required; just the documentation requested below.

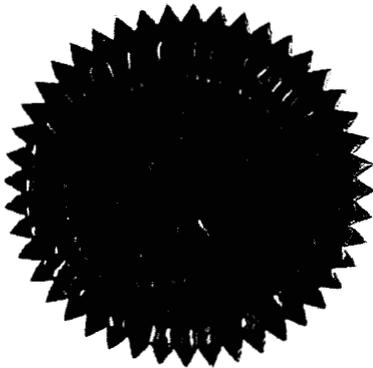
1 YOU ARE COMMANDED to bring with you and produce for inspection and copying the
2 following:

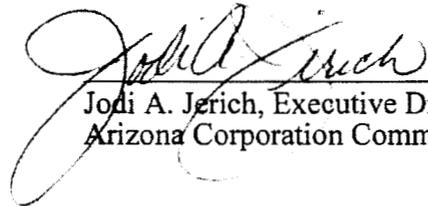
3 We need the water usage of each lot within the Emerald Springs Subdivision (only the lots
4 With structures-houses on it) from January 2008 to February 2013 month by month.
5 If possible provide it electronically in excel format in a manner that; it is easy to compare each
6 Lot usage for each month of each year.

7 YOU HAVE BEEN SUBPOENED BY: DII-Emerald Springs, LLC
8 212 E. Rowland Street #423
9 Covina, CA 91723
10 Telephone: 626-664-0602
11 E-mail: Diigroup@aol.com

12 DISOBEDIENCE OF THIS SUBPOENA constitutes contempt of the Arizona Corporation
13 Commission and may subject you to further proceedings and penalties under law, pursuant to A.R.S.
14 § 40-424.

15 Given under by hand the seal of the Arizona Corporation Commission; this 12th day of March
16 12, 2013.



17 
18 Jodi A. Jerich, Executive Director
19 Arizona Corporation Commission

28 Persons with a disability may request a reasonable accommodation such as a sign language
interpreter, as well as request this document in an alternative format, by contacting Shaylin A. Bernal,
Executive Assistant to the Executive Director, voice phone number 602-542-3931, e-mail
sabernal@azcc.gov. Requests should be made as early as possible to allow time to arrange the
accommodation.

BEFORE THE ARIZONA CORPORATION COMMISSION

RE: IN THE MATTER OF THE APPLICATION
FOR DII EMERALD SPRINGS, LLC FOR
APPROVAL OF RATES

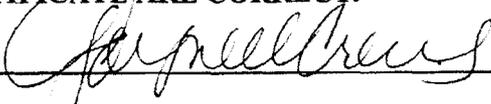
EIA WATER DEPARTMENT)
OPERATIONS MANAGER) **CERTIFICATE OF DELIVERY OF NOTICE**
P.O. BOX 50)
EHRENBERG, AZ 85344)
_____)

I declare that I am a citizen of the United States, over the age of eighteen, and not a party to this action. And that within the boundaries of the state where service was affected, I was authorized to perform said service.

On March 14, 2013, I received the following documents: APPLICATION FOR ADMININSTRATIVE DUCES TECUM, ADMINSTRATIVE DUCES TECUM
Copies of which I personally delivered as follows:

By delivering true and accurate copies of the above documents to EIA Water Department Manager, Dennis Price on March 15, 2013 at 10:00 A.M. at 49100 Ehrenberg Poston Highway, Ehrenberg, AZ 85334.

**I DECLARE UNDER PENALTY OF PERJURY THAT THE STATEMENTS IN THIS
CERTIFICATE ARE CORRECT.**



Gaynell Crews, Certified Mohave County PS 2012016

**CREWS PROCESS SERVING
3991 BLACK HILL DR.
LAKE HAVASU CITY, AZ 86406
(928) 208-1017**