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BEFORE THE ARIZONA CORPORATION

Arizona Corporation Commission

COMMISSIONERS

DOCKETED

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

AUG 1 8 2013

DOCKETED BY
nr

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

DOCKET NO. WS-20543A-07-0435

DECISION NO. 74042

**ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NOS. 70352, 70947, 72008,
and 73134.**

Open Meeting
August 13 and 14, 2013
Phoenix, Arizona

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On July 23, 2007, Double Diamond Utilities, Inc. ("DDU" or "Double Diamond") filed with the Arizona Corporation Commission ("Commission") an application for a Certificate of Convenience and Necessity ("CC&N") to provide water and wastewater services for a master planned community known as The Ranch at White Hills ("White Hills") in Mohave County, Arizona.

2. On May 16, 2008, the Commission issued Decision No. 70352, which approved DDU's application for CC&Ns to provide water and wastewater services to White Hills. Decision No. 70352 required DDU, among other things, to file by December 31, 2008, a performance bond or irrevocable sight draft letter of credit ("ISDLC") in the amount of \$500,000 for its water and wastewater CC&Ns, and to retain a Certified Operator at least six months before it serves its first customer or by June 30, 2009, whichever occurred first.

1 3. On December 17, 2008, DDU filed a Motion for Extension of Compliance Dates to
2 file the performance bond or ISDLC and to retain a Certified Operator. DDU's motion stated that
3 DDU had complied with other requirements in Decision No. 70352, which included filing its rate
4 tariff, curtailment tariff, backflow prevention tariff, and Water Conservation Plan. The motion
5 further stated that due to a downturn in the economy, the finance and credit markets had tightened,
6 which had delayed the development at White Hills. DDU further requested that it be allowed to file
7 the performance bond or ISDLC at least 15 days prior to providing water and wastewater utility
8 service to any customers.

9 4. On April 7, 2009, the Commission issued Decision No. 70947 granting DDU an
10 extension of time, until 30 days prior to serving its first customer or by December 31, 2011,
11 whichever comes first, to procure and file proof of a performance bond or ISDLC in the amount of
12 \$500,000, pursuant to Commission Decision No. 70352. Decision No. 70947 also extended the
13 timeframe for DDU to retain a Certified Operator for its water and wastewater systems to December
14 31, 2011 or six months before DDU serves its first customer, whichever occurred first.

15 5. On April 30, 2010, DDU filed a motion for an extension of time to file: 1) copies of the
16 water division's Approval to Construct ("ATC") for Phase 1; 2) copies of the wastewater division's
17 General Permits for Phase 1; and 3) a copy of the Aquifer Protection Permit for the wastewater division.
18 Pursuant to Decision No. 70352, the above compliance items were due to be completed by May 16, 2010.
19 DDU's motion requested an extension of time, until December 31, 2012, to file the above compliance
20 items.

21 6. On December 10, 2010, the Commission issued Decision No. 72008 granting DDU an
22 extension of time, until December 31, 2012, to comply with Commission Decision No. 70352 by
23 filing copies of the water division's ATC for Phase 1, copies of the wastewater division's General
24 Permits for Phase 1, and a copy of the Aquifer Protection Permit for the wastewater division.

25 7. On December 22, 2011, DDU filed its fourth Motion for Extension of Compliance
26 Dates, requesting that the deadlines for procuring a performance bond or ISDLC in the amount of
27 \$500,000 be extended from December 31, 2011, to December 31, 2014, or 30 days prior to DDU
28 serving its first customer, whichever occurs first. DDU also requested that the deadline for it to retain

1 a Certified Operator be extended from December 31, 2011, until six months prior to serving its first
2 customer or December 31, 2014, whichever occurs first. DDU stated that the reason for the extension
3 request is that there has been a continuing downturn in the economy and the housing market that has
4 caused delay in the timetable for the development covered by DDU's CCN.

5 8. DDU attached to its motion a letter from the developer/owner expressing a continuing
6 desire to have DDU provide water and wastewater services in the CC&N area.

7 9. On March 6, 2012, Staff filed a Memorandum in response to DDU's Motion for
8 Extension of Compliance Dates. Staff recommended approval of the request for an extension of the
9 deadlines for DDU to procure a performance bond or ISDLC and to obtain a Certified Operator.
10 Staff based its recommendation on the Company's belief that there would not likely be any plant in
11 operation until 2014; that procurement of a performance bond or ISDLC or retaining a Certified
12 Operator was premature; and that there was a continuing desire to have DDU provide water and
13 wastewater services in the CC&N extension areas. Therefore, Staff recommended that the due date
14 for procurement of the performance bond or ISDLC be extended to 30 days prior to DDU serving its
15 first customer or December 31, 2014, whichever occurred first; and that the due date for DDU to
16 obtain a Certified Operator be extended until six months prior to DDU serving its first customer or
17 December 31, 2014, whichever occurred first. Staff also recommended that no additional time
18 extension be granted.

19 10. On May 1, 2012, the Commission issued Decision No. 73134 granting DDU an
20 extension of time for the procurement of a performance bond or ISDLC to 30 days prior to DDU
21 serving its first customer or December 31, 2014, whichever occurred first; and extending the deadline
22 for DDU to obtain a Certified Operator until six months prior to DDU serving its first customer or
23 December 31, 2014, whichever occurred first.

24 11. On January 7, 2013, DDU filed a Motion for Extension of Compliance Dates,
25 requesting an extension of compliance deadlines set forth in Decision No. 70352. DDU's motion
26 requests an extension of the compliance deadlines from December 31, 2012 to December 31, 2014 to
27 file: 1) copies of the ATC for the water system for Phase 1 of the initial phase of the Ranch at White
28 Hills project; 2) copies of the General Permits for Phase 1 of the initial phase of the wastewater plant

1 for the Ranch at White Hills; and 3) a copy of the Aquifer Protection Permit for the wastewater
2 division.

3 12. DDU's motion states that an extension of time is necessary due to the continuing
4 downturn in the economy, particularly the housing and development markets in Mohave County;
5 DDU does not believe it is prudent at this time to incur expenses related to the compliance items; that
6 the overall plans for the development may be modified to meet the new demands of the recovering
7 markets and the emerging renewable energy development in the vicinity of the Ranch at White Hills;
8 that changes in the market could affect the location of plant, water production and wastewater
9 treatment facilities; and that premature engineering could result in increased and unnecessary costs.

10 13. DDU attached to its motion a copy of a letter (dated December 20, 2011) from the
11 developer in the CC&N area stating that he has a continuing need for water and wastewater services
12 in the CC&N area, and that he would like for DDU to provide those services to the development.

13 14. On July 8, 2013, Staff docketed a Memorandum in response to DDU's latest request
14 for an extension of the compliance deadlines. Staff recommends approval of the extension of the time
15 deadlines from December 31, 2012 to December 31, 2014 for DDU to comply with the above
16 mentioned compliance deadlines. Staff notes that DDU did provide an updated request for service
17 from the developer and Staff recommends that no further extensions of time to meet the compliance
18 deadlines be granted¹.

19 15. On August 9, 2013, DDU docketed an updated request for service letter from the
20 developer, stating that he intends to pursue development of the Ranch at White Hills and that he has a
21 continuing need for service by DDU.

22 16. Although we are not adopting Staff's recommendation that no further requests for
23 extension of time to comply with Decision No. 70352 be granted, we will put DDU on notice that any
24 further requests for extensions of time to comply must demonstrate that extraordinary circumstances
25 exist that warrant additional time.

26 17. DDU's request for an extension of time to comply is reasonable and should be

27 ¹ Although Staff states that DDU filed an updated request for service letter from the developer, the letter attached to
28 DDU's motion was dated December 20, 2011, and had been previously filed with DDU's fourth request for an extension
of time.

1 adopted.

2 **CONCLUSIONS OF LAW**

3 1. Double Diamond is a public service corporation within the meaning of Article XV of
4 the Arizona Constitution and A.R.S. §§40-281 and 40-282.

5 2. The Commission has jurisdiction over Double Diamond and the subject matter to
6 extend the time for compliance as set forth in Commission Decision No. 70352.

7 3. Staff's recommendation that Double Diamond receive an extension of time to comply,
8 is reasonable and should be adopted.

9 **ORDER**

10 IT IS THEREFORE ORDERED that Double Diamond Utilities, Inc., is hereby granted an
11 extension of time, until December 31, 2014, to file copies of the Approval to Construct for the water
12 system for Phase 1 of the initial phase of the Ranch at White Hills project; copies of the General
13 Permits for Phase 1 of the initial phase of the wastewater plant for the Ranch at White Hills; and a
14 copy of the Aquifer Protection Permit for the wastewater division, in accordance with Decision No.
15 70352 (May 16, 2008).

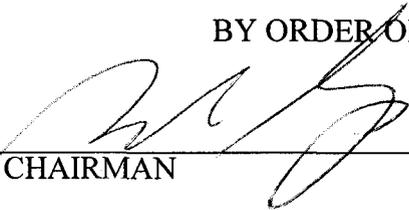
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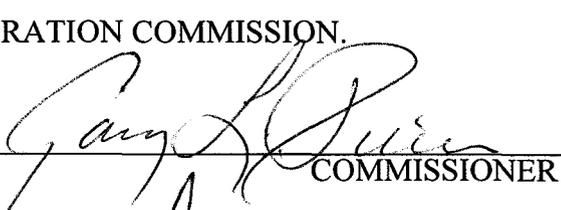
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IT IS FURTHER ORDERED that Double Diamond Utilities, Inc., is hereby on notice that any future requests for extensions of time to comply with Decision No. 70352, shall demonstrate that extraordinary circumstances exist that warrant additional time.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

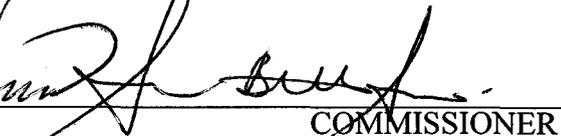
BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

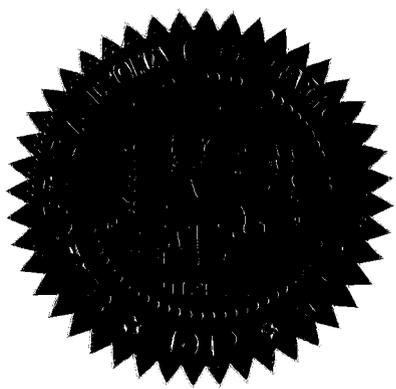

CHAIRMAN


COMMISSIONER


COMMISSIONER


COMMISSIONER


COMMISSIONER



IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 11th day of August, 2013.


JODI JERICH
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

1 SERVICE LIST FOR: DOUBLE DIAMOND UTILITIES, INC.

2 DOCKET NO.: WS-20543A-07-0435

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