

OPEN MEETING ITEM

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



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ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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DOCKET NO.:

WS-20543A-07-0435

CORP COMMISSION  
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TO ALL PARTIES:

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Enclosed please find the recommendation of Administrative Law Judge Sasha Paternoster. The recommendation has been filed in the form of an Order on:

DOUBLE DIAMOND UTILITIES, INC.  
(ORDER EXTENDING TIME DEADLINE ORDERED IN DECISION NO. 70352)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

JANUARY 2, 2014

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

JANUARY 13, 2015 and JANUARY 14, 2015

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

JODI JERICH  
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET; PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET; TUCSON, ARIZONA 85701-1347  
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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail [SABernal@azcc.gov](mailto:SABernal@azcc.gov).

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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  
DOUBLE DIAMOND UTILITIES, INC. FOR  
CERTIFICATES OF CONVENIENCE AND  
NECESSITY TO PROVIDE WATER SERVICE  
AND WASTEWATER SERVICE IN MOHAVE  
COUNTY.

DOCKET NO. WS-20543A-07-0435

DECISION NO. \_\_\_\_\_

**ORDER EXTENDING TIME  
DEADLINE ORDERED IN DECISION  
NO. 70352**

Open Meeting  
January 13 and 14, 2015  
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 May 16, 2008, the Commission issued Decision No. 70352, which approved the application of Double Diamond Utilities, Inc. (“Double Diamond” or “Company”) for Certificates of Convenience and Necessity (“CC&N”) to provide water and wastewater utility service in Mohave County, Arizona. Pursuant to Commission Decision No. 70352, Double Diamond was required to file, among other items, the following:

- i. copies of the Approval to Construct (“ATC”) for Phase 1 of the initial phase of the Ranch at White Hills project (“White Hills”) when received by the Company, but not later than two years after the effective date of the Decision;
- ii. copies of General Permits for Phase 1 of the initial phase of wastewater plant for White Hills when received by the Company, but not later than two years after the

1 effective date of the Decision;

2 iii. a copy of the Aquifer Protection Permit ("APP") for the wastewater division  
3 within two years of the effective date of the Decision;

4 iv. a performance bond or irrevocable sight draft letter of credit ("ISDLC") in the  
5 amount of \$500,000 by December 31, 2008; and

6 v. retain a Certified Operator and file notification of such as a compliance item at  
7 least six months before it serves its first customer or by June 30, 2009, whichever  
8 comes first.

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

17 3. On April 7, 2009, the Commission issued Decision No. 70947 granting Double  
18 Diamond an extension of time, until 30 days prior to serving its first customer or by December 31,  
19 2011, whichever comes first, to procure and file proof of a performance bond or ISDLC in the  
20 amount of \$500,000 pursuant to Decision No. 70352. Decision No. 70947 also extended the  
21 timeframe for the Company to retain a Certified Operator for its water and wastewater systems to  
22 December 31, 2011 or six months before Double Diamond serves its first customer, whichever  
23 occurred first.

24 4. On April 30, 2010, Double Diamond filed a motion for a Motion for Extension of  
25 Compliance Dates related to: i) copies of the water division's ATC for Phase 1; ii) copies of the  
26 wastewater division's General Permits for Phase 1; and iii) a copy of the APP for the wastewater  
27 division, until December 31, 2012. Pursuant to Decision No. 70352, these compliance items were  
28 due to be completed by May 16, 2010.

1           5.       On December 10, 2010, the Commission issued Decision No. 72008 granting the  
2 Company an extension of time, until December 31, 2012, to comply with Commission Decision No.  
3 70352 by filing copies of the water division's ATC for Phase 1, copies of the wastewater division's  
4 General Permits for Phase 1, and a copy of the APP for the wastewater division.

5           6.       On December 22, 2011, Double Diamond filed another Motion for Extension of  
6 Compliance Dates, requesting that the deadlines for procuring a performance bond or ISDLC in the  
7 amount of \$500,000 be extended from December 31, 2011, to December 31, 2014, or 30 days prior to  
8 Double Diamond serving its first customer, whichever occurs first. The Company also requested that  
9 the deadline for it to retain a Certified Operator be extended from December 31, 2011, to six months  
10 prior to serving its first customer or December 31, 2014, whichever occurs first. Double Diamond  
11 stated that the reason for the extension request was that there had been a continuing downturn in the  
12 economy and the housing market that caused delay in the timetable for the development covered by  
13 the Company's CC&N. Attached to its Motion was a letter from the developer/owner expressing a  
14 continuing desire to have Double Diamond provide water and wastewater services in the CC&N area.

15           7.       On May 1, 2012, the Commission issued Decision No. 73134 granting Double  
16 Diamond an extension of time for the procurement of a performance bond or ISDLC to 30 days prior  
17 to Double Diamond serving its first customer or December 31, 2014, whichever occurred first; and  
18 extending the deadline for Double Diamond to obtain a Certified Operator until six months prior to  
19 the Company serving its first customer or December 31, 2014, whichever occurred first.

20           8.       On January 7, 2013, Double Diamond filed a Motion for Extension of Compliance  
21 Dates, requesting an extension of compliance deadlines set forth in Decision No. 70352. The  
22 Company's motion requested an extension of compliance deadlines from December 31, 2012 to  
23 December 31, 2014 to file: i) copies of the ATC for the water system for Phase 1 of the initial phase  
24 of White Hills; ii) copies of the General Permits for Phase 1 of the initial phase of the wastewater  
25 plant for White Hills; and iii) a copy of the APP for the wastewater division. The Company stated  
26 the reason for its request was due to the ongoing downturn in the real estate market.

27           9.       On August 16, 2013, the Commission issued Decision No. 74042 granting Double  
28 Diamond an extension of time, until December 31, 2014, to comply with Commission Decision No.

1 70352 by filing copies of the water division's ATC for Phase 1, copies of the wastewater division's  
2 General Permits for Phase 1, and a copy of the APP for the wastewater division.

3 10. On August 13, 2014, Double Diamond filed a Motion for Extension of Compliance  
4 Dates, requesting additional time to comply with compliance deadlines in Decision No. 70352. The  
5 Company's motion requests an extension of the compliance deadlines to file the items as follows:

- 6 i. copies of the ATC for Phase 1 of the initial phase of White Hills project by  
7 December 31, 2019;
- 8 ii. copies of General Permits for Phase 1 of the initial phase of wastewater plant for  
9 White Hills project by December 31, 2019;
- 10 iii. a copy of the APP for the wastewater division by December 31, 2019;
- 11 iv. a performance bond or ISDLC in the amount of \$500,000 30 days prior to serving  
12 its first customer or December 31, 2019, whichever comes first; and
- 13 v. retain a Certified Operator and file notification of such as a compliance item at  
14 least six months before it serves its first customer or by December 31, 2019,  
15 whichever comes first.

16 11. The application states that an extension of time is necessary due to the continuing  
17 downturn in the economy, particularly the housing and development markets in Mohave County;  
18 Double Diamond does not believe it is prudent at this time to incur expenses related to the  
19 compliance items; that the overall plans for the development may be modified to meet the new  
20 demands of the recovering markets and the emerging renewable energy development in the vicinity  
21 of White Hills; that changes in the market could affect the location of plant, water productions, and  
22 wastewater treatment facilities; and that premature engineering could result in increased and  
23 unnecessary costs.

24 12. The Company attached to its motion a copy of a letter, dated July 2, 2014, from the  
25 developer in the CC&N area stating that he has a continuing need for water and wastewater services  
26 in the CC&N area, and that he would like for Double Diamond to provide those services to the  
27 development. Also attached to the motion are copies of the costs the Company has incurred to drill  
28 wells (\$3,293,774), letters of analysis of adequate water supply from the Arizona Department of

1 Water Resources, and diagrams identifying the location for water and wastewater infrastructure for  
2 the initial phase.

3 13. On August 14, 2014, Staff filed a Memorandum stating that it does not object to the  
4 Company's request for an extension of time to comply with Decision No. 70352. However, Staff  
5 recommends two year extensions of time until December 31, 2016 for the compliance items. Staff's  
6 recommendations are as follows:

- 7 i. copies of the ATC for Phase 1 of the initial phase of White Hills project by  
8 December 31, 2016;
- 9 ii. copies of General Permits for Phase 1 of the initial phase of wastewater plant for  
10 White Hills project by December 31, 2016;
- 11 iii. a copy of the APP for the wastewater division by December 31, 2016;
- 12 iv. a performance bond or ISDLC in the amount of \$500,000 30 days prior to serving  
13 its first customer or December 31, 2016, whichever comes first; and
- 14 v. retain a Certified Operator and file notification of such as a compliance item at  
15 least six months before it serves its first customer or by December 31, 2016,  
16 whichever comes first.

17 14. Based on the owner's intent demonstrating a continuing need for service and the effect  
18 of the economy on development in the area, we find that Double Diamond's request for an extension  
19 of time to comply with Decision No. 70352 is reasonable and should be granted.

#### 20 CONCLUSIONS OF LAW

21 1. Double Diamond Utilities, Inc. is a public service corporations within the meaning of  
22 Article XV of the Arizona Constitution and A.R.S. §§40-281 and 40-282.

23 2. The Commission has jurisdiction over Double Diamond Utilities, Inc. and the subject  
24 matter described herein.

25 3. Staff's recommendation that Double Diamond Utilities, Inc. receive an extension of  
26 time to comply, is reasonable and should be granted.

27 ...

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**ORDER**

IT IS THEREFORE ORDERED that Double Diamond Utilities, Inc. is hereby granted an extension of time, until December 31, 2016, to comply with all compliance deadlines in Commission Decision No. 70352, and modified by Decision Nos. 70947, 72008, 73134, and 74042.

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 \_\_\_\_\_ day of \_\_\_\_\_ 2015.

\_\_\_\_\_  
JODI JERICH  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_  
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1 SERVICE LIST FOR: DOUBLE DIAMOND UTILITIES, INC.

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