



Control Number: 43922



Item Number: 34

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83<sup>rd</sup>  
Legislature, Regular Session, transferred the functions  
relating to the economic regulation of water and sewer  
utilities from the TCEQ to the PUC effective  
September 1, 2014

43922



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PUBLIC UTILITY CODE 3912197 (Direct Fax)  
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aabazari@jw.com

November 19, 2009

CHIEF CLERKS OFFICE  
NOV 19 PM 4:41  
TEXAS  
COMMISSION ON ENVIRONMENTAL QUALITY

VIA U.S. Mail

Ms. Shari Heino  
Mathews & Freeland, L.L.P.  
327 Congress Avenue, Suite 300  
Austin, Texas 78701

RE: SOAH Docket No. 582-09-4288; TCEQ Docket No. 2009-0505-UCR; Application of Double Diamond Utilities Co. to change Water Rate Tariff for Service in Hill, Palo Pinto, and Johnson Counties

Dear Ms. Heino:

Enclosed please find Double Diamond Utilities Co.'s Objections and Responses to White Bluffs Subdivision Ratepayers' Second Set of Interrogatories and Requests for Production in connection with the above-referenced docket.

Sincerely,

*Ali Abazari*  
Ali Abazari *by Cec*

Enclosures

cc: Ms. Stefanie Skogen (MC-173)  
Environmental Law Division  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3087

Mr. Philip Day  
90 Glen Abbey Drive S  
Graford, Texas 76449

Mr. Jack D. McCartney and  
Mr. John T. Bell  
6300 Annahill Street  
Cleburne, Texas 76033-8957

Ms. Shari Heino  
November 19, 2009  
Page 2

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Mr. James Murphy (MC-103)  
Office of Public Interest Council  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3087

Ms. LaDonna Castañuela (MC-105)  
Chief Clerk  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3087

SOAH DOCKET NO. 582-09-4288  
TCEQ DOCKET NO. 2009-0505-UCR

APPLICATION OF DOUBLE  
DIAMOND UTILITIES COMPANY,  
INC. TO CHANGE WATER RATE  
TARIFF FOR SERVICE IN HILL,  
PALO PINTO, AND JOHNSON  
COUNTIES

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BEFORE THE  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS

NOV 27 PM 4:42

CHIEF CLERK'S OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

**DOUBLE DIAMOND UTILITIES CO. OBJECTIONS AND  
RESPONSES TO WHITE BLUFF SUBDIVISION RATEPAYERS' SECOND  
REQUESTS FOR INTERROGATORIES AND REQUESTS FOR PRODUCTION  
TO DOUBLE DIAMOND UTILITIES CO.**

TO: White Bluff Subdivision Ratepayers, by and through their attorney of record, Shari Heino, MATHEWS & FREELAND, L.L.P., 327 Congress Avenue, Suite 300, Austin, Texas 78701

Pursuant to Chapter 2001 of the Texas Government Code, the Texas Rules of Civil Procedure, and applicable rules and regulations of the TCEQ and the State Office of Administrative Hearings ("SOAH"), Double Diamond Utilities Co. ("DDU") submits the following Answers and Responses to White Bluff Subdivision Ratepayers' Second Request for Interrogatories and Requests for Production to Double Diamond Utilities Co.

Respectfully submitted,

JACKSON WALKER L.L.P.  
100 Congress Avenue, Suite 1100  
Austin, Texas 78701  
Telephone: (512) 236-2000  
Facsimile: (512) 236-2002

By: Courtney E. Cox  
Ali Abazari  
State Bar No. 00796094  
Courtney E. Cox  
State Bar No. 24045711

ATTORNEYS FOR DOUBLE DIAMOND  
UTILITIES CO.

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing document has been forwarded to the following as indicated below on the 19th day of November, 2009:

Ms. Shari Heino *VIA U.S. Mail*  
Mathews & Freeland, L.L.P.  
327 Congress Avenue, Suite 300  
Austin, Texas 78701  
Fax: 512-703-2785

Mr. Philip Day *VIA U.S. Mail*  
Representative for the Cliffs Utility Committee  
90 Glen Abbey Drive S  
Graford, Texas 76449

Mr. Jack D. McCartney and *VIA U.S. Mail*  
Mr. John T. Bell  
Representatives for the Retreat Homeowners Group  
6300 Annahill Street  
Cleburne, Texas 76033-8957

Mr. James Murphy (MC-103) *VIA U.S. Mail*  
Office of Public Interest Council  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3087

Ms. Stephanie Skogen (MC-173) *VIA U.S. Mail*  
Staff Attorney  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3087

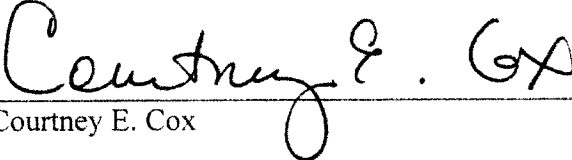
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NOV 19 PM 4:12

TEXAS  
COMMISSION ON ENVIRONMENTAL QUALITY

Ms. LaDonna Castañuela (MC-105)  
Chief Clerk  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3087  
Fax: 512/239-3311

*VIA Electronic Filing*

  
\_\_\_\_\_  
Courtney E. Cox

**OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS**

1. DDU objects to White Bluff's definitions and instructions to the extent that they purport to place duties and requirements on DDU that exceed those required by the Texas Rules of Civil Procedure in violation of Rule 192.3(a).
2. DDU objects to the time and place of production as specified by White Bluff. DDU will produce non-objectionable, non-privileged documents for inspection and copying at a mutually agreed upon time at the offices of Jackson Walker L.L.P., 100 Congress Avenue, Suite 1100, Austin, Texas 78701.
3. DDU objects to White Bluff's entire definition of "The Applicant" on the grounds that it is overly broad and exceeds the permissible scope of discovery allowed by the Texas Rules of Civil Procedure in violation of Rule 192.3. White Bluff has defined "Applicant" to include present and former attorneys and representatives of DDU, which in the context of the requests calls for information that is shielded from discovery under the work product, attorney work product or attorney-client communication privileges. To the extent privileged documents are requested, DDU asserts its privilege and notifies White Bluff that such privileged documents and responses, if any, will be withheld.

## INTERROGATORIES

1. For any assets that are included in the Application for which DDU does not have original invoices and proof of payment from DDU (e.g., canceled check), please describe DDU's method for validating the claimed purchase price.

**ANSWER:**

**DDU answers as follows: DDU will supplement this response.**

2. For each asset that is included in the Application, please describe how DDU paid for these assets (e.g., via its own funds and/or customer or developer contribution).

**ANSWER:**

**DDU answers as follows: DDU will supplement this response.**

3. Please describe DDU's policy regarding developer contributions to system assets.

**ANSWER:**

**DDU objects to this interrogatory because it is overly broad and not properly limited in time, scope or relation to the facts at issue in this proceeding. *K-Mart Corp. v. Sanderson*, 937 S.W.2d 429, 431-32 (Tex. 1996). DDU further objects to this request to the extent that it seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3. Only the assets pertaining to the White Bluff, Retreat and The Cliffs water systems are relevant to this proceeding.**

**Subject to and without waiving the foregoing objections, DDU answers as follows: DDU will supplement this response.**

4. Please identify any employee or consultant of DDU who has spent time performing work relating to the Rock Creek development (water system) in the test year (2007), 2008 and 2009.

**ANSWER:**

**DDU objects to this interrogatory because it exceeds the number of permissible interrogatories in this proceeding as provided in Order No. 1 and SOAH Rule 155.251. DDU further objects to this interrogatory because it is overly broad and not properly limited in time, scope or relation to the facts at issue in this proceeding. *K-Mart Corp.*, 937 S.W.2d at 431-32. DDU objects to this request to the extent it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3. The Rock Creek development is not a part of DDU's Application and is not relevant to this**

proceeding. Further, only information from the test year (2007) is potentially relevant to this proceeding.

5. For DDU employees/consultants performing work relating to the Rock Creek development in the test year, what allocation was made of their salary and/or other personnel-related expenditures for work performed for the Rock Creek development?

**ANSWER:**

DDU objects to this interrogatory because it exceeds the number of permissible interrogatories in this proceeding as provided in Order No. 1 and SOAH Rule 155.251. DDU further objects to this interrogatory because it is overly broad and not properly limited in time, scope or relation to the facts at issue in this proceeding. *K-Mart Corp.*, 937 S.W.2d at 431-32. DDU objects to this request to the extent it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3. The Rock Creek development is not a part of DDU's Application and is not relevant to this proceeding.

**REQUESTS FOR PRODUCTION**

1. Provide all documentation available for each labor transfer included in the Application.

**RESPONSE:**

DDU objects to this request as overly broad to the extent it calls for "all documentation."

Subject to and without waiving the foregoing objection, DDU responds that responsive, non-objectionable and non-privileged documents, if any, will be produced.

2. Provide all documentation and workpapers demonstrating the allocation of resort overhead for purposes of the application.

**RESPONSE:**

DDU objects to this request as overly broad to the extent it calls for "all documentation and workpapers." DDU further objects to this request as not properly limited in time, scope or relation to the facts at issue in this proceeding. *K-Mart Corp.*, 937 S.W.2d at 431-32. DDU further objects to this request to the extent that it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3. Resort overhead is not a part of or relevant to DDU's Application.



**ARMBRUST & BROWN, L.L.P.**

ATTORNEYS AND COUNSELORS

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JOHN J. CARLTON  
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jcarlton@ababrown.com

December 8, 2009

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY  
2009 DEC -8 PM 2:46  
CHIEF CLERKS OFFICE

VIA FACSIMILE: (512) 475-4994

Richard Wilfong  
Administrative Law Judge  
State Office of Administrative Hearings  
300 W. 15<sup>th</sup> Street, Suite 502  
Austin, Texas 78701

Re: SOAH Docket No. 582-09-4288; TCEQ Docket No. 2009-0505-UCR; Application of Double Utilities Company, Inc. to Change Water Rate Tariff for Service in Hill, Palo Pinto, and Johnson Counties

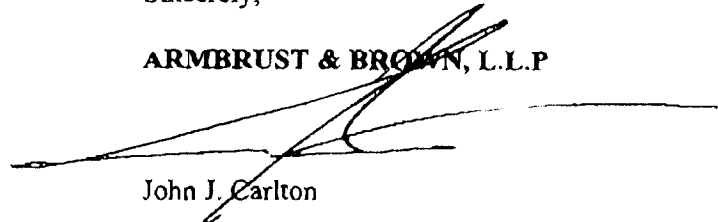
Dear Judge Wilfong

Double Diamond Utilities Co. and Stefanie Skogen, attorney for the Executive Director in the above referenced matter have entered into a Rule 11 Agreement to extend Double Diamond Utilities Co.'s responses to the Executive Director's Second Interrogatories, Requests for Admissions, and Requests for Production. A copy of the Rule 11 Agreement is attached for filing.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me

Sincerely,

ARMBRUST & BROWN, L.L.P.



John J. Carlton

Enclosure

cc: All Parties of Record

**ARMBRUST & BROWN, L.L.P.**

ATTORNEYS AND COUNSELORS

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2009 DEC -8 PM 2:46  
CHIEF CLERKS OFFICE

TEXAS  
COMMISSION  
ON ENVIRONMENTAL  
QUALITY

December 7, 2009

VIA EMAIL: [sskogen@tceq.state.texas.gov](mailto:sskogen@tceq.state.texas.gov)

Stefanie Skogen  
Staff Attorney  
Texas Commission on Environmental Quality  
Environmental Law Division  
MC-173, P.O. Box 13087  
Austin, Texas 78711-3087

Re: SOAH Docket No. 582-09-4288; TCEQ Docket No. 2009-0505-UCR; Application of Double Diamond Utilities Company, Inc. to Change Water Rate Tariff for Service in Hill, Palo Pinto, and Johnson Counties

Dear Stefanie:

Pursuant to Texas Rules of Civil Procedure 11 and 191.1, and TCEQ Rule 80.125, the parties hereby agree that this letter serves to extend Double Diamond Utilities Company, Inc.'s responses to the Executive Director's Second Interrogatories, Requests for Admissions, and Requests for Production from December 7, 2009 to December 14, 2009.


Upon your review and agreement to the proposal set forth in this letter, please memorialize this agreement by your signature below.

Sincerely,

ARMBRUST & BROWN, L.L.P.

John J. Carlton

AGREED TO:

  
Stefanie Skogen

**ARMBRUST & BROWN, L.L.P.**  
ATTORNEYS AND COUNSELORS

100 CONGRESS AVENUE, SUITE 1300  
AUSTIN, TEXAS 78701-2744  
512-435-2300

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**FACSIMILE COVER PAGE**

Date: December 8, 2009

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
2009 DEC -8 PM 2:46  
CHIEF CLERKS OFFICE

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Stefanie Skogen	TCEQ	512.239.0606	512.239.0575
Shari Heino	Mathews & Freeland, LLP	512.703.2785	512.404.7800
James Murphy	OPIC	512.239.6377	512.239.4014
Philip Day		First class mail	
Jack D. McCartney John T. Bell		First class mail	

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From: John J. Carltoin	Telephone No.: 512.435.2360
Client/Matter No.:30410.0102	Total No. of Pages Sent 3

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**RE: SOAH Docket No. 582-09-4288; TCEQ Docket No. 2009-0505-UCR; Application of Double Diamond Utilities Company, Inc. to Change Water Rate Tariff for Service in Hill, Palo Pinto, and Johnson Counties**

**ATTACHMENTS Rule 11 Agreement**

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE (COLLECT), AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U. S. POSTAL SERVICE. THANK YOU.  
375252-1 12/03/2009