



Control Number: 43922



Item Number: 49

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83rd
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

RECEIVED

SOAH DOCKET NO. 2009-0505-UCR
TCEQ DOCKET NO. 2009-0505-UCR
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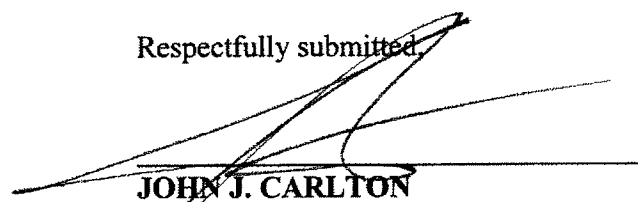
APPLICATION OF DOUBLE §
DIAMOND UTILITIES COMPANY, §
INC. TO CHANGE WATER RATE § STATE OFFICE OF
TARIFF FOR SERVICE IN HILL, §
PALO PINTO, AND JOHNSON §
COUNTIES § ADMINISTRATIVE HEARINGS

**DOUBLE DIAMOND UTILITIES CO.'S FIRST SUPPLEMENTAL RESPONSE 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 this its First Supplemental Response to White Bluff Subdivision Ratepayers' Second Request for Interrogatories and Requests for Production to Double Diamond Utilities Co.

Respectfully submitted,



JOHN J. CARLTON
State Bar No. 03817600
ARMBRUST & BROWN, L.L.P.
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**ATTORNEY FOR DOUBLE DIAMOND
UTILITIES CO.**

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2010 JAN 19 AM 8:15
CHIEF CLERKS OFFICE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was delivered via facsimile, via first class mail, via electronic mail or by hand delivery on the 18th day of January, 2010 to the following:

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

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

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

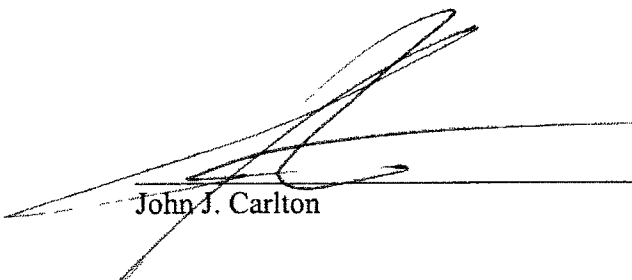
Mr. James Murphy (MC-103)
Office of Public Interest Council
Texas Commission on Environmental Quality
P. O. Box 13087
Austin, Texas 78711-3087

Ms. Stephanie Skogen (MC-173)
Staff Attorney
Texas Commission on Environmental Quality
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Ms. LaDonna Castañuela (MC-105)
Chief Clerk
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TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2010 JAN 19 AM 8:15
CHIEF CLERKS OFFICE



John J. Carlton

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 Armbrust & Brown, L.L.P., 100 Congress Avenue, Suite 1300, 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: For any assets that DDU does not have sufficient documentation for their actual cost at the time of installation, DDU has or will trend the costs of those assets from current cost data back to the date of installation.

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, or its affiliates, paid for all assets using cash on hand or loan proceeds.

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's general policy has been to assign 80% of original construction costs for all systems assets constructed at the time the system, or a portion of the system, was original installed as developer contributions to system assets.

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.

Subject to and without waiving the foregoing objections, DDU responds that documents responsive to this request have already been produced. DDU reserves the right to supplement this response at a later date.

3. Please provide the relevant portions of DDU's general ledgers for any relevant year showing installation of each asset claimed as part of this Application.

RESPONSE:

DDU responds that responsive, non-objectionable documents, if any, have already been or will be produced.

4. Please provide the relevant portions of DDU's general ledgers for any relevant year showing (1) each loan made to DDU at the time the loan was initiated and (2) how the funds from each of those loans were spent.

RESPONSE:

DDU responds that responsive, non-objectionable documents, if any, will be produced.

5. Please provide DDU's books and general ledgers for the test year at issue in this Application.

RESPONSE:

DDU objects to this request as 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 further objects to this request to the extent it calls for irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3. Only documents concerning the White Bluff, Retreat and The Cliffs systems are potentially relevant to DDU's Application.

Subject to and without waiving the foregoing objections, DDU responds that responsive, non-objectionable documents have already been produced. DDU reserves the right to supplement this response.

6. Please provide Double Diamond Delaware, Inc's books and general ledgers for the test year at issue in this Application.

RESPONSE:

DDU objects to this request as overly broad and not properly limited in scope or relation to the facts at issue in this proceeding. DDU further objects to this request to the extent it seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence. All of Double Diamond Delaware, Inc.'s books and general ledgers for the test year are not relevant to DDU's Application.

Subject to and without waiving the foregoing objections, DDU responds that responsive, non-objectionable documents have already been produced. DDU reserves the right to supplement this response.

7. Please provide all data and analysis which DDU intends to use to illustrate that DDU systems are substantially similar as required by Tex. Water Code §13.145(a).

RESPONSE:

DDU objects to this request as overly broad. DDU is not required to marshal its evidence in responding to discovery.

Subject to and without waiving the foregoing objection, DDU responds that responsive, non-objectionable documents have already been or will be produced.

8. Please provide Attachment 1-D (consumption and count by customer class, by month, by consumption block) in larger format and/or electronic format that is legible.

RESPONSE:

DDU objects to this request as vague and ambiguous to the extent that White Bluff does not identify to which document Attachment 1-D is attached. DDU further objects to this request to the extent it requests that DDU create a new document, which is not a proper request for production.

Subject to and without waiving the foregoing objection, DDU responds that assuming White Bluff is referring to Attachment 1-D to its previous responses to White Bluff's discovery requests, an electronic copy of the Attachment 1-D has already been produced.

9. Please provide historical water pumpage data since 2006, by day, by well site.

RESPONSE:

DDU objects to this request as 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 further 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. Only historical water pumpage data for the White Bluff, The Cliffs and Retreat systems are potentially relevant to this matter. Further, only water pumpage data from 2006 and 2007 are potentially relevant to this matter.

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

10. Please all provide invoices or bills and records of payment for all connections serving an affiliate of DDU. Documents provided should include water consumption and meter size for each of the connections to each utility for each of the systems for every DDU affiliate for each billing cycle for the years 2000 through 2009.

RESPONSE:

DDU objects to this request as overly broad, unduly burdensome and harassing 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 further 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. Only connections related to the White Bluff, Retreat or The Cliffs water systems are potentially relevant to DDU's Application. Further, requesting data over a nine-year period of time is excessive and unduly burdensome. Only information for the test year (2007) is potentially relevant to DDU's Application.

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

11. Please provide copies of bank statements, by month, for DDU since 2006.

RESPONSE:

DDU objects to this request as overly broad, unduly burdensome and harassing 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 further 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. Only financial information from test year 2007 is potentially relevant to DDU's Application. Additionally,

information in DDU's bank statements may encompass systems and business not a part of the Application.

12. Please provide documentation of any assets which are part of the Rock Creek water system. Documentation should include purchase price and payment information (e.g., who paid for the asset and where the funds came from to pay for the asset).

RESPONSE:

DDU objects to this request as 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 further 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 system is not a part of DDU's Application and therefore is not relevant to this proceeding.

13. For the test year, please provide any documentation evidencing the time spent by DDU employees or consultants performing work relating to the Rock Creek Water system.

RESPONSE:

DDU objects to this request as 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 further 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 system is not a part of DDU's Application and therefore is not relevant to this proceeding.

14. For every asset which the Applicant is seeking depreciation expense and/or return on investment, for which the Applicant has not provided an original receipt and/or invoice, provide the detailed work-papers, source documents, and analyses which validate the expense for each item.

RESPONSE:

DDU objects to this request as overly broad. DDU is not required to marshal its evidence in responding to discovery.

Subject to and without waiving the foregoing objections, DDU responds that responsive documents have already been or will be produced.

15. For every asset which the Applicant is seeking depreciation expense and/or return on investment, please provide copies of canceled checks which were paid to vendors.

RESPONSE:

DDU objects to this request as overly broad, excessive, unduly burdensome and harassing 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 further 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. This request

constitutes an improper fishing expedition and far exceeds the scope of permissible discovery.

16. For every asset which the Applicant is seeking depreciation expense and/or return on investment, please provide copies of bank statements which detail the expenditure.

RESPONSE:

DDU objects to this request as overly broad, excessive, unduly burdensome and harassing 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 further 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. This request constitutes an improper fishing expedition and far exceeds the scope of permissible discovery.

17. For every asset which the Applicant is seeking depreciation expense and/or return on investment, please provide copies of General Ledgers, Journal Entries, Check Registers, Asset Inventories, and Balance Sheets which document the date and means in which the asset appeared on the Applicants books.

RESPONSE:

DDU objects to this request as overly broad, excessive, unduly burdensome and harassing 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 further 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. This request constitutes an improper fishing expedition and far exceeds the scope of permissible discovery.

18. For every asset which the Applicant is seeking depreciation expense and/or return on investment, please provide any internal reports, work-orders, cost-approval sheets, etc kept by the Application or its subsidiaries.

RESPONSE:

DDU objects to this request as overly broad, excessive, unduly burdensome and harassing 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 further 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. DDU does not maintain possession, custody or control over documentation or records kept by its subsidiaries. This request constitutes an improper fishing expedition and far exceeds the scope of permissible discovery.

19. For every asset which the Applicant is seeking depreciation expense and/or return on investment, please provide copies of any and all documentation not already requested above kept by the Applicant or its subsidiaries, which document the price of the asset, the date of installation, the resort which the asset was installed, the means which the asset was paid for, the account and transaction for which the asset was paid for, description of the asset, plans/specifications for that asset, etc,

RESPONSE:

DDU objects to this request as overly broad, excessive, unduly burdensome and harassing 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 further 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. This request constitutes an improper fishing expedition and far exceeds the scope of permissible discovery.

20. For every expenditure reported in the Application, please provide copies of receipts and/or invoices.

RESPONSE:

DDU objects to this request as overly broad, excessive, unduly burdensome and harassing 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 further 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. DDU further objects to this request to the extent it is duplicative of previous requests. This request constitutes an improper fishing expedition and far exceeds the scope of permissible discovery.

Subject to and without waiving the foregoing objections, DDU responds that responsive, non-objectionable documents have already been produced. DDU reserves the right to supplement this response.

21. For every expenditure included in the Application, please provide copies of canceled checks which were paid to vendors.

RESPONSE:

DDU objects to this request as overly broad, excessive, unduly burdensome and harassing 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 further 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. This request constitutes an improper fishing expedition and far exceeds the scope of permissible discovery.

22. For every expenditure included in the Application, please provide copies of bank statements which detail the expenditure.

RESPONSE:

DDU objects to this request as overly broad, excessive, unduly burdensome and harassing 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 further 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. This request constitutes an improper fishing expedition and far exceeds the scope of permissible discovery.

23. For every expenditure included in the Application, please provide copies of General Ledgers, Journal Entries, Check Registers, Inventories, and Income Statements which document the date and means in which the expenditure appeared on the Applicants books.

RESPONSE:

DDU objects to this request as overly broad, excessive, unduly burdensome and harassing 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 further 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. This request constitutes an improper fishing expedition and far exceeds the scope of permissible discovery.

24. For every expenditure included in the Application, please provide any internal reports, work-orders, cost-approval sheets, etc kept by the Application or its subsidiaries.

RESPONSE:

DDU objects to this request as overly broad, excessive, unduly burdensome and harassing 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 further 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. Additionally, DDU does not maintain possession, custody or control over documentation or records kept by its subsidiaries. This request constitutes an improper fishing expedition and far exceeds the scope of permissible discovery.

25. For every expenditure included in the Application, please provide copies of any and all documentation not already requested above kept by the Applicant or its subsidiaries, which document the expense, what the expense was for, the location of the work performed, the account for which the expense was paid, work-orders, and all other available documentation which validates that expenditure.

RESPONSE:

DDU objects to this request as overly broad, excessive, unduly burdensome and harassing 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 further 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. DDU further objects to this request to the extent it is duplicative of previous requests. This request constitutes an improper fishing expedition and far exceeds the scope of permissible discovery.

Subject to and without waiving the foregoing objections, DDU responds that responsive, non-objectionable documents have already been produced. DDU reserves the right to supplement this response.

26. Please provide copies of all invoices for electricity expenses included in the Application.

RESPONSE:

DDU responds that responsive, non-objectionable documents, if any, will be produced.

27. Please provide documentation showing water consumption and customer count, by month, by individual utility system for 2000 through 2009.

RESPONSE:

DDU objects to this request as overly broad, unduly burdensome and harassing 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 further 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. DDU further objects to this request to the extent it is duplicative of previous requests. Only information pertaining to the White Bluff, Retreat and The Cliffs water systems for test year 2007 are potentially relevant to DDU's Application. Requesting information for a nine-year period of time far exceeds the scope of permissible discovery in this matter and is excessive and unduly burdensome.

Subject to and without waiving the foregoing objections, DDU responds that responsive, non-objectionable documents have already been produced.

28. Please provide documentation showing water consumption and customer count, by individual utility system, for each billing tier requested in the Application, by year for 2000 through 2009.

RESPONSE:

DDU objects to this request as overly broad, unduly burdensome and harassing 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 further 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. DDU further objects to this request to the extent it is duplicative of previous requests. Only information pertaining to the White Bluff, Retreat and The Cliffs water systems for test year 2007 are potentially relevant to DDU's Application. Requesting information for a nine-year period of time far exceeds the scope of permissible discovery in this matter and is excessive and unduly burdensome.

Subject to and without waiving the foregoing objections, DDU responds that responsive, non-objectionable documents have already been produced.

29. Provide all documentation of landscaping requirements for the developments served by the water systems described in the Application.

RESPONSE:

DDU objects to this request as overly broad and not properly limited in time, scope and relation to the facts at issue in this proceeding to the extent that it seeks "all documentation." *K-Mart Corp.*, 937 S.W.2d at 431-32.

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

30. Please provide copies of all documents which have not been produced or that do not fall under the previous requests for production that support or otherwise relate to your answers to each of your responses to the Interrogatories above.

RESPONSE:

DDU objects to this request as overly broad, excessive, unduly burdensome and harassing 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 further 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. DDU further objects to this request to the extent it is duplicative of previous requests. This request constitutes an improper fishing expedition and exceeds the scope of permissible discovery.

CCN/17087/SO

ARMBRUST & BROWN, L.L.P.

ATTORNEYS AND COUNSELORS

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January 25, 2010

VIA EMAIL: sskogen@tceq.state.tx.us

Stefanie Skogen
Staff Attorney MC-173
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Environmental Law Division
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Austin, Texas 78711-3087

VIA EMAIL: sskogen@tceq.state.tx.us

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 Utilities Company, Inc. to Change Water Rate Tariff for Service in Hill, Palo Pinto, and Johnson Counties

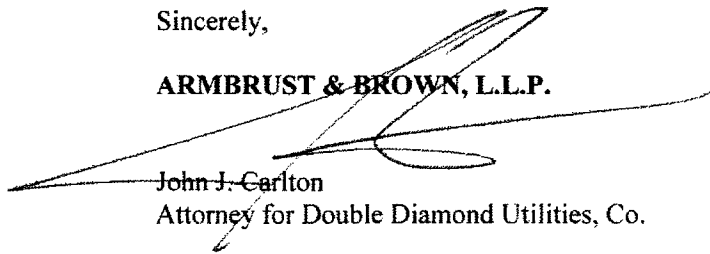
Dear Stefanie and Shari:

Enclosed is an index of Double Diamond Utilities, Co.'s production documents available for viewing at my office with 48-hour notice.

If you have any questions, please do not hesitate to contact me.

Sincerely,

ARMBRUST & BROWN, L.L.P.



John J. Carlton
Attorney for Double Diamond Utilities, Co.

Enclosure

cc: TCEQ Chief Clerk
James B. Murphy
Phillip Day
Jack D. McCartney & John T. Bell

TEXAS
COMMISSION
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2010 JAN 25 PM 3:56
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January 25, 2010

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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

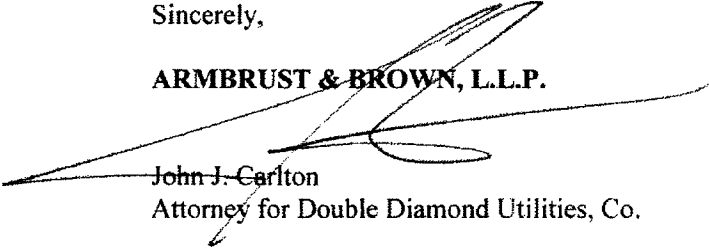
Dear Stefanie and Shari:

Enclosed is an index of Double Diamond Utilities, Co.'s production documents available for viewing at my office with 48-hour notice.

If you have any questions, please do not hesitate to contact me.

Sincerely,

ARMBRUST & BROWN, L.L.P.


John J. Carlton
Attorney for Double Diamond Utilities, Co.

Enclosure

cc: TCEQ Chief Clerk
James B. Murphy
Phillip Day
Jack D. McCartney & John T. Bell

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CHIEF CLERKS OFFICE

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

ARMBRUST & BROWN, L.L.P.

ATTORNEYS AND COUNSELORS

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

FACSIMILE 512-435-2360
FACSIMILE 512-435-2399

JOHN J. CARLTON
(512) 435-2308
jcarlton@abaustin.com

January 18, 2010

**VIA EMAIL: sskogen@tceq.state.tx.us
& VIA FIRST CLASS MAIL**

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

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 Stefanie:

Enclosed please find Double Diamond Utilities, Co.'s First Supplemental Responses to the Executive Director's First Requests for Disclosure, Interrogatories, Requests for Production and Request for Admissions.

If you have any questions, please do not hesitate to contact me.

Sincerely,

ARMBRUST & BROWN, L.L.P.


John J. Carlton
Attorney for Double Diamond Utilities, Co.

Enclosures

cc: TCEQ Chief Clerk
Shari Heino
James B. Murphy
Phillip Day
Jack D. McCartney & John T. Bell

TEXAS
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ON ENVIRONMENTAL
QUALITY
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CHIEF CLERKS OFFICE

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

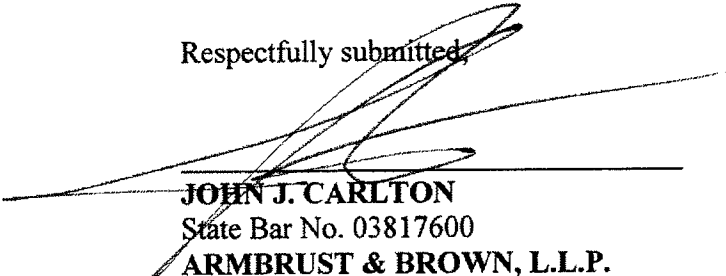
APPLICATION OF DOUBLE § BEFORE THE
DIAMOND UTILITIES CO. §
TO CHANGE WATER RATE § STATE OFFICE OF
TARIFF FOR SERVICE IN HILL, §
PALO PINTO, AND JOHNSON §
COUNTIES § ADMINISTRATIVE HEARINGS

DOUBLE DIAMOND UTILITIES CO.'S FIRST SUPPLEMENTAL RESPONSE TO THE EXECUTIVE DIRECTOR'S FIRST REQUESTS FOR DISCLOSURE, INTERROGATORIES, REQUESTS FOR PRODUCTION, AND REQUESTS FOR ADMISSION TO DOUBLE DIAMOND UTILITIES CO.

TO: The Executive Director of the Texas Commission on Environmental Quality, by and through his attorney of record, Stefanie Skogen, Environmental Law Division, P.O. Box 13087, MC-173 Austin, Texas 78711

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 this its First Supplemental Response to the Executive Director's ("ED") First Request for Disclosure, Interrogatories, Requests for Production, and Requests for Admission to Double Diamond Utilities Co.

Respectfully submitted,



JOHN J. CARLTON
State Bar No. 03817600
ARMBRUST & BROWN, L.L.P.
100 Congress Avenue, Suite 1300
Austin, Texas 78701-2744
(512) 435-2300 – Telephone
(512) 436-2360 – Telecopy

ATTORNEY FOR DOUBLE DIAMOND UTILITIES CO.

CHIEF CLERKS OFFICE

2010 JAN 19 AM 8:10

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QUALITY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was delivered via facsimile, via first class mail, via electronic mail or by hand delivery on the 18th day of January, 2010 to the following:

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

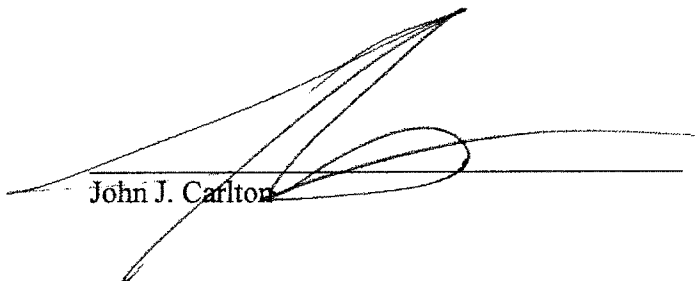
Mr. Philip Day
Representative for the Cliffs Utility Committee
90 Glen Abbey Drive S
Graford, Texas 76449

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

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

Ms. Stephanie Skogen (MC-173)
Staff Attorney
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


John J. Carlton

2010 JAN 19 AM 8:11
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OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

1. DDU objects to the ED'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 ED. DDU will produce non-objectionable, non-privileged documents for inspection and copying at a mutually agreed upon time at the offices of Armbrust & Brown, L.L.P., 100 Congress Avenue, Suite 1300, Austin, Texas 78701.
3. DDU objects to the ED's entire definition of "DDU" 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. ED has defined "DDU" to include 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 ED that such privileged documents and responses, if any, will be withheld.

REQUESTS FOR DISCLOSURE

Pursuant to Texas Rule of Civil Procedure 194, you are requested to disclose the information or material described in Rule 194.2(b)-(c), (e)-(f), (h), and (i) as follows:

(b) the name, address, and telephone number of any potential parties;

RESPONSE:

DDU is not aware of any potential parties at this time.

(c) the legal theories and, in general, the factual bases of the responding party's claims or defenses;

RESPONSE:

DDU is a retail public utility and has been issued CCN No. 12087. DDU operates water systems in Johnson (The Retreat), Hill (White Bluff), and Palo Pinto (The Cliffs) Counties. DDU filed with the Commission an original application for a rate change dated October 24, 2008 (the "Application"). DDU provided notice of the proposed rate change by mail to all affected utility customers within at least 60 days of the proposed effective date of the rate change. DDU has proposed to consolidate the rates of The Retreat and White Bluff. The consolidation of these water systems is in compliance with statutory and legal requirements, as well as TCEQ precedent.

Rates are based on the utility's cost of rendering service. DDU's costs of rendering water service are set forth in the Application. DDU can meet its burden of proof with respect to these costs. In fixing rates of a utility, the Commission must fix the overall revenues at a level which will permit the retail public utility a reasonable

opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public, over and above its reasonable and necessary operating expenses. The Commission must also ensure that the rates that it fixes preserve the financial integrity of the utility. The rate design proposed by DDU meets these requirements.

(e) the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case;

RESPONSE:

Randy Gracy
10100 N. Central Expressway
Suite 600
Dallas, Texas 75231
(214) 706-9801
Mr. Gracy is the President of DDU.

Donald McKinney
Address and Telephone Unknown
Mr. McKinney was the former Regional Director of Utilities for DDU. Mr. McKinney is no longer employed by DDU or any of its affiliated entities.

Chris Ekrut
J. Stowe & Co.
1300 E. Lookout Dr., Ste. 100
Richardson, Texas 75082
(972) 680.2000
Mr. Ekrut has been involved in the preparation of the Application and has provided consulting services to DDU.

Jack Stowe
J. Stowe & Co.
1300 E. Lookout Dr., Ste. 100
Richardson, Texas 75082
(972) 680.2000
Mr. Stowe has provided consulting services to DDU.

Kevin Shea
10100 N. Central Expressway
Suite 600
Dallas, Texas 75231
(214) 706-9801
Mr. Shea is the Assistant Controller.

R. Jeffrey Schmidt
10100 N. Central Expressway
Suite 600
Dallas, Texas 75231
(214) 706-9801
Mr. Schmidt is the Senior Vice President and General Counsel of Double Diamond Companies.

Michael Skahan
10100 N. Central Expressway
Suite 600
Dallas, Texas 75231
(214) 706-9801
Mr. Skahan is the Associate General Counsel of Double Diamond Companies.

Harry Shearhouse
Address and Phone Unknown
Mr. Shearhouse is the former Regional Director of Utilities for DDU and is no longer employed by DDU or any of its affiliated entities.

Pat Gibson
10100 N. Central Expressway
Suite 600
Dallas, Texas 75231
(214) 706-9801
Ms. Gibson is the Accounts Receivable Supervisor for DDU and has information regarding DDU's billing practices.

Bassam Abusad
10100 N. Central Expressway
Suite 600
Dallas, Texas 75231
(214) 706-9801
Mr. Abusad is a project manager for Double Diamond Companies and has had some involvement in collecting information relevant to the Application.

R. Mike Ward
10100 N. Central Expressway
Suite 600
Dallas, Texas 75231
(214) 706-9801
Mr. Ward is President of Double Diamond Delaware and a Vice President of DDU.

Victoria Harkins
Harkins Engineering, Inc.
3300 Lost Oasis Hollow
Austin, Texas 78739
(512) 291-8219
Ms. Harkins is President of Harkins Engineering and has provided consulting services to DDU.

(f) for any testifying expert:

(1) the expert's name, address, and telephone number;

RESPONSE:

1. **Chris Ekrut**

(1) the expert's name, address, and telephone number;

**Chris Ekrut
J. Stowe & Co.
1300 E. Lookout Dr., Ste. 100
Richardson, Texas 75082
(972) 680.2000**

(2) the subject matter on which the expert will testify;

Mr. Ekrut prepared the Application the subject of this proceeding and will testify regarding the specific components of the Application, including but not limited to cost of service and all components thereof, and similarities in the cost of service, quality of service and facilities of certain systems. Additionally, Mr. Ekrut will testify regarding the rate design used by DDU in its Application.

(3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to your control, documents reflecting such information;

Mr. Ekrut is of the general opinion that DDU's Application is compliant with all statutes and regulations and that the proposed rates should be granted by the Commission. Mr. Ekrut is further of the opinion that the rates proposed by DDU are just and reasonable, are not unreasonably preferential, prejudicial, or discriminatory and are sufficient, equitable and consistent in application to each class of consumers. Additionally, Mr. Ekrut is of the opinion that the proposed rates will permit DDU a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public over and above its reasonable and necessary operating expenses and preserve the financial integrity of the utility. DDU reserves the right to supplement this response.

(4) if the expert is retained by, employed by, or otherwise subject to your control:

(A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and

(B) the expert's current resume and bibliography;

Documents responsive to this request will be produced. Information reviewed by Mr. Ekrut that is publicly available is listed on Attachment 1-A. A copy of Mr. Ekrut's current resume is attached to this response as Attachment 1-B.

2. **Jack Stowe**

- (1) the expert's name, address, and telephone number;

**Jack Stowe
J. Stowe & Co.
1300 E. Lookout Dr., Ste. 100
Richardson, Texas 75082
(972) 680.2000**

- (2) the subject matter on which the expert will testify;

Mr. Stowe will testify regarding selected aspects of the cost of service calculation offered by DDU in the Application, including but not limited to the concept of regulatory asset, as well as the rate design set forth in the Application. Mr. Stowe may also provide expert testimony regarding accounting principles and DDU's allocation of costs, expenses and debt.

- (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to your control, documents reflecting such information;

Mr. Stowe is of the general opinion that DDU's Application is compliant with all statutes and regulations and that the proposed rates set forth in the Application should be granted by the Commission. Mr. Stowe is further of the opinion that the rates proposed by DDU are just and reasonable, are not unreasonably preferential, prejudicial, or discriminatory and are sufficient, equitable and consistent in application to each class of consumers. Additionally, Mr. Stowe is of the opinion that the proposed rates will permit DDU a reasonable opportunity to earn a reasonable return on its invested capital used and useful in rendering service to the public over and above its reasonable and necessary operating expenses and preserve the financial integrity of the utility. DDU reserves the right to supplement this response.

- (4) if the expert is retained by, employed by, or otherwise subject to your control:

(A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and

(B) the expert's current resume and bibliography;

Documents responsive to this request will be produced. A copy of Mr. Stowe's current resume is attached to this response as Attachment 1-C.

3. **Randy Gracy**

- (1) the expert's name, address, and telephone number;

**Randy Gracy
10100 N. Central Expressway
Suite 600
Dallas, Texas 75231
(214) 706-9801**

- (2) the subject matter on which the expert will testify;

Mr. Gracy is expected to testify regarding the usual and customary operations and development of an investor-owned water utility. Mr. Gracy may also provide testimony concerning DDU's specific operations and development of its water utility systems the subject of the Application.

- (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to your control, documents reflecting such information;

Mr. Gracy is of the general opinion that the Application is compliant with applicable statutes and regulations and should be granted. Mr. Gracy is further of the opinion that DDU's operations and development of its water systems at issue in the Application are consistent with the usual and customary practices of similarly situated investor-owned water utilities. DDU reserves the right to supplement this response.

- (4) if the expert is retained by, employed by, or otherwise subject to your control:

(A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and

(B) the expert's current resume and bibliography;

DDU will supplement this response with responsive documents.

4. **Victoria Harkins**

- (1) the expert's name, address, and telephone number;

**Harkins Engineering, Inc.
3300 Lost Oasis Hollow
Austin, Texas 78739
(512) 291-8219**

- (2) the subject matter on which the expert will testify;

Ms. Harkins is expected to testify regarding the rate base for each of DDU's systems, including the original and current values of the assets and the amount for

annual depreciation. Ms. Harkins may also provide testimony about the statutes and regulations that apply to the application and whether it meets those requirements.

(3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to your control, documents reflecting such information;

Ms. Harkins has not yet finalized her opinion, but she is of the general opinion that DDU's assets are generally sufficient to support DDU's requested rate base and depreciation. Ms. Harkins has reviewed invoices and other documents supporting the value of DDU's assets and visited the DDU systems to conduct an onsite inspection and inventory of system assets to arrive at her opinion. DDU reserves the right to supplement this response.

(4) if the expert is retained by, employed by, or otherwise subject to your control:

(A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and

(B) the expert's current resume and bibliography;

Documents responsive to this request will be produced.

(h) any discoverable settlement agreements; and

RESPONSE:

None.

(i) any discoverable witness statements.

RESPONSE:

None.

INTERROGATORIES

Interrogatory No. 1: For each person you expect to call as a fact witness at the evidentiary hearing in this matter, please provide (a) the person's name, business address, and telephone number and (b) a brief description of the testimony you expect that person to provide.

ANSWER:

DDU answers as follows: DDU anticipates that it will call Randy Gracy and Kevin Shea as fact witnesses in this case. Mr. Shea will likely testify regarding factual matters related to DDU's accounting and billing practices. DDU refers the ED to its responses to the Request for Disclosure for additional information responsive to this interrogatory.

Interrogatory No. 2: For each expert not listed in your responses to the Requests for Disclosure who you have consulted and whose mental impressions and opinions have been reviewed by an expert you expect to testify in this matter, please provide (a) the consulting expert's name, business address, and telephone number; (b) the facts known by the expert that relate to or form the basis of the expert's mental impressions and opinions formed or made in connection with this matter, regardless of when and how the factual information was acquired; (c) the expert's mental impressions and opinions formed or made in connection with this matter and any methods used to derive them; and (d) a curriculum vitae or other detailed description of the expert's qualifications.

ANSWER:

DDU answers as follows: At this time, DDU is not aware of any consulting expert whose mental impressions and opinions have been reviewed by a testifying expert in this proceeding.

Interrogatory No. 3: For the expense items listed in Attachment 10 to your application, please explain why you did not charge those expenses separately to the water and sewer systems so they could be identified directly as being a water expense or a sewer expense rather than charging them to the water and sewer systems together and having to allocate them later.

ANSWER:

DDU objects to this request because it seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence. Why DDU chose to record its expenses collectively and allocate between water and sewer later in its Application is not relevant to whether DDU has met its burden in proving that it should receive the proposed rates specified in the Application.

Subject to and without waiving the foregoing objections, DDU answers as follows: DDU has not kept separate accounts for water expense and sewer expense but rather has utilized certain allocation factors to show the allocation of expenses between water and sewer, as provided on Attachment 10 to the Application. DDU believes that these allocations will allow for an accurate calculation of the cost of service for its utility systems.

Interrogatory No. 4: For each employee listed in Attachment 3 to your application, please indicate which subdivision the employee worked for and the percentage of time the employee spent working for the water system, sewer system, and anything other than the water and sewer systems.

ANSWER:

DDU answers as follows: DDU employees during the test year are listed in the table below, along with their work location. A description of the employee's job function is also included. DDU employees currently do not track their time according to function of work (i.e., water or sewer). The cost associated with the employees at the home office is allocated to the individual subdivisions through labor transfers as part of DDU's budget process. DDU's 2007 budget worksheets for labor transfers are attached as Attachment 1-D. DDU reserves the right to supplement this response.

<u>Employee</u>	<u>Location</u>	<u>Job Function</u>
Terry Hafer	Home Office	Oversee all water utility operations, work with State, Federal, and Regulatory Agencies, Prepare Budgets and Reports
Harry Shearhouse	Home Office	Oversee all water and sewer utility operations, work with State, Federal, and Regulatory Agencies, Prepare Budgets and Reports
Pat Gibson	Home Office	Utility Accounting, Billing, Customer Service, Revenue Collection
Monica Leon	Home Office	Billing, Customer Service, Revenue Collection
Donald Lewis	The Cliffs	Order Parts / Supplies, Schedule Daily Activities, Prioritize repairs and daily functions

Robert Bailey	The Cliffs	General labor / equipment operator, install taps and repair leaks, respond to customer calls
Timothy Leggett	The Cliffs	General labor / equipment operator, install taps and repair leaks, respond to customer calls
Donald Harris	The Cliffs	General labor / equipment operator, install taps and repair leaks, respond to customer calls
Michael Russell	The Cliffs	General labor / equipment operator, install taps and repair leaks, respond to customer calls
Raymond Hyden	The Cliffs	General labor / equipment operator, install taps and repair leaks, respond to customer calls
James Lyles	Home Office / The Retreat	Oversee all sewer utility operations, work with State, Federal, and Regulatory Agencies, Prepare Budgets and Reports. Order Parts / Supplies, Schedule Daily Activities, Prioritize repairs and daily functions.

John Henderson	The Retreat	General labor / equipment operator, install taps and repair leaks, respond to customer calls
Lane Westbrook	The Retreat	Order Parts / Supplies, Schedule Daily Activities, Prioritize repairs and daily functions
Jack Gore	The Retreat	General labor / equipment operator, install taps and repair leaks, respond to customer calls
John Holzmeir	The Retreat	General labor / equipment operator, install taps and repair leaks, respond to customer calls
Richard Zint	White Bluff	Order Parts / Supplies, Schedule Daily Activities, Prioritize repairs and daily functions
Kim Harston	White Bluff	General labor / equipment operator, install taps and repair leaks, respond to customer calls
Benjamin Austin	White Bluff	General labor / equipment operator, install taps and repair leaks, respond to customer calls
Cody Clinard	White Bluff	General labor / equipment operator, install taps and repair leaks, respond to customer calls

Geoffrey Young	White Bluff	General labor / equipment operator, install taps and repair leaks, respond to customer calls
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In developing the employee costs included in the Application, the employee related costs which were booked to each subdivision in the test year were allocated to the water and sewer functions based on a specific allocation factor as indicated in the chart below.

Account	Allocation Factor
6001 – Employee Compensation	Gross water / sewer plant in service
6010 – Referral Bonus	Gross water / sewer plant in service
6030 – Bonus / Commission	Gross water / sewer plant in service
6050 – Hourly Wages	Gross water / sewer plant in service
6100 – Labor Transfers	Direct Assignment based on accounting description / Items that could not be directly assigned were allocated based upon the total percentage of directly assigned expenses

A reconciliation between DDU's 2007 booked costs for employee expense (i.e., Accounts 6001 through 6100) and the amounts included and allocated in the application, by employee or labor transfer is included in Attachment 1-E.

The costs associated with contractors who worked for DDU during the Test Year are booked to accounts 8190 – Contract Labor and 8250 – Professional Fees, respectively. DDU books the costs for contractors to the specific subdivision receiving service from that contractor. The table below illustrates the method by which these accounts were allocated to the individual water and sewer functions.

Account	Allocation Factor
8190 – Contract Labor	Direct Assignment based on accounting description
8250 – Professional Fees	Number of Customers

Interrogatory No. 5: On your document titled "Summary Time Sheet," employees Terry Hafer and James Lyle were listed under both "Payroll Dept. No. DDC-3210 Construction" and "Payroll Dept. No. DDC-3210 Utilities." Please explain the job functions these two employees performed for "Payroll Dept. No. DDC-3210 Construction" and for "Payroll Dept. No. DDC-3210 Utilities."

ANSWER:

DDU answers as follows: Employees Terry Hafer and James Lyle served as Regional Director of Utilities, which entailed overseeing all utility operations, working with State, Federal and Regulatory Agencies, and preparing budgets and reports. Discovery is ongoing in this proceeding, and DDU reserves the right to supplement this response.

Interrogatory No. 6: On page 11 of your application in section IV.A, you listed an equity amount of \$111,852,358. Please explain how your equity is \$111,852,358 when (a) the total original cost of your assets as listed on page 10 of your application is only \$4,222,142 and (b) the notes payable amount listed in Attachments 7 and 9 of your application is only \$644,729.

ANSWER:

DDU answers as follows: DDU is a wholly-owned subsidiary of Double Diamond Delaware and depends on Double Diamond Delaware for its capital needs. Pursuant to Commission precedent set in TCEQ Docket Nos. 2004-1671-UCR and 2004-1120-UCR, *Applicant by Aqua Utilities, Inc. and AquaSource Development Company d/b/a Aqua Texas, Inc., To Change Their Water and Sewer Tariffs and Rates in Various Counties and Appeal of Rate-Making Actions of Various Municipalities Denying Requested Changes to Water and Sewer Tariffs and Rates*, Double Diamond Utilities is requesting as part of this Application to employ a hypothetical capital structure of 50.47% debt and 49.52% equity, which is equivalent to the capital structure of Double Diamond Delaware. Double Diamond Delaware's shareholder equity is \$111,852,358 as shown on Page 3 of Attachment 8 to the Application.

Interrogatory No. 7: Please explain the difference of \$112,840,327 between the debt amount of \$113,997,749 found on page 12 of your application and the total original balance of the notes payable of \$1,157,422 listed in Attachment 9 of your application.

ANSWER:

DDU answers as follows: DDU is a wholly-owned subsidiary of Double Diamond Delaware and depends on Double Diamond Delaware for its capital needs. Pursuant to Commission precedent set in TCEQ Docket Nos. 2004-1671-UCR and 2004-1120-UCR, *Applicant by Aqua Utilities, Inc. and AquaSource Development Company d/b/a Aqua Texas, Inc., To Change Their Water and Sewer Tariffs and Rates in Various Counties and Appeal of Rate-Making Actions of Various Municipalities Denying Requested Changes to Water and Sewer Tariffs and Rates*, Double Diamond Utilities is requesting as part of this Application to employ a hypothetical capital structure of 50.47% debt and 49.52% equity, which is equivalent to the capital structure of Double Diamond Delaware. Double Diamond Delaware's debt is comprised of \$113,897,749 in notes payable and \$100,000 in notes payable to affiliates as shown on Page 3 of Attachment 8 to the Application.

Interrogatory No. 8: For each loan listed in Attachment 9 of your application, other than cash advances, please identify which subdivision the loan was for and whether that loan was for the water system, sewer system, or both.

ANSWER:

DDU answers as follows: DDU refers the ED to the document marked up Attachment 9 which is being produced. Discovery is ongoing and DDU will supplement this response.

Interrogatory No. 9: Please indicate which loan(s) listed on pages 11-17 under the heading "Note G – Notes Payable" in Attachment 8 of your application Double Diamond-Delaware loaned to you at an interest rate of 10%.

ANSWER:

DDU answers as follows: None of the loans, other than cash advances, listed in Attachment 8 of DDU's Application, pp. 11-17, under the heading "Note G – Notes Payable" are loans from Double Diamond Delaware to DDU.

Interrogatory No. 10: Please explain why in your document titled "Chart of Accounts" you did not break down the listed accounts further into separate water and sewer accounts.

ANSWER:

DDU answers as follows: DDU does not maintain its accounts as separate water and sewer accounts. The "Chart of Accounts" reflects DDU's accounts as they are actually maintained.

Interrogatory No. 11: Please explain why you are attempting to recoup \$61,475 for cash advances as a known and measurable change to your annual depreciation and amortization, found on page 14, table VI.A, line O of your application.

ANSWER:

DDU answers as follows: From 1997 through 2000, DDU received cash advances from its parent company, Double Diamond Delaware, to cover operational shortfalls and to provide for operating capital. Such funding was necessary to maintain and operate the system.

With this Application, DDU is requesting Commission approval to recover these cash advances. DDU is proposing that this recovery be affected through the creation of a regulatory asset amortized over five (5) years, beginning in 2006. For further information, please see Attachment 10 to Page 22 of the Application, WP-15.

Interrogatory No. 12: Please explain what each cash advance listed on page 22 of Attachment 10 to your application was used for, including which subdivision the advance was used for and whether the advance was used for the water system, sewer system, or both.

ANSWER:

DDU answers as follows: The cash advances received by DDU are allocated to the individual subdivision for which the cash advance was utilized, as illustrated in the

attached document labeled Attachment 1-F. Once allocated to the individual subdivision, the amount is then further allocated to the water and sewer functions based on the number of customers.

Interrogatory No. 13: Please explain how The Retreat and White Bluff water systems are substantially similar in terms of facilities, quality of service, and cost of service and how their proposed tariff provides for rates that promote water conservation for single-family residences and landscape irrigation.

ANSWER:

DDU objects to this interrogatory as compound and overly broad and improperly combining multiple interrogatories into one question. DDU is not required to marshal its evidence in responding to discovery.

Subject to and without waiving the foregoing objections, DDU answers as follows: The Retreat and White Bluff water systems are substantially similar in terms of facilities, quality of service, and cost of service for the following reasons, among others:

both are groundwater systems subject to the administration of the same groundwater conservation district;

both meet the minimum water system design standards of the TCEQ;

both possess wells, ground storage tanks, pressure tanks, and the necessary distribution mains, lines, and customer services to provide continuous and adequate service to customers;

both systems use some type of chlorination for water treatment;

both systems were constructed following the same general design guidelines and construction practices;

both systems are owned and operated by the same company, and management, customer service and billing functions for both systems have been centralized in one location;

both systems have onsite operators capable of responding quickly to any service issues; and

both systems will ultimately serve similarly sized communities and the cost of service for both systems will be substantially similar over time since they utilize similar facilities and will serve similarly sized communities.

The Retreat and White Bluff water systems proposed tariff provides for rates that promote water conservation for single-family residences and landscape irrigation by using an inverted block rate design, which discourages water usage at higher volumes by charging more for that higher volume usage, and by not including any gallons of water usage in the minimum bill.

Interrogatory No. 14: For each asset listed on page 10 and in Attachment 5 of your application, please state whether the asset was paid for by you, a developer(s), or a customer(s). If an asset was paid for by a combination of payors, please state the amount paid by each payor.

ANSWER:

DDU answers as follows: DDU refers the ED to its Application and to the documents entitled "Asset Work Papers," which were previously produced to the ED in this matter.

Interrogatory No. 15: Please provide your water CCN number(s) for the systems in your application, which was requested on page 5 of your application.

ANSWER:

DDU answers as follows: CCN Number 12087, which was specified on page 34 of the Application.

Interrogatory No. 16: Please explain why your system losses are 24.8%, as listed on page 16 of your application.

ANSWER:

DDU answers as follows: DDU refers the ED to page 16 of its Application, which explains the formula used to determine the system losses. DDU has been unable to determine the cause of the water loss at this time.

Interrogatory No. 17: Please explain why you identified thirty-seven connections added during the test year on page 15 of your application but identified forty-two taps added during the test year on page 3 of your response to the Executive Director's staff's request for information.

ANSWER:

DDU answers as follows: Discovery is ongoing and DDU will supplement this response.

REQUESTS FOR PRODUCTION

Request for Production No. 1: For each consulting expert listed in your response to Interrogatory No. 2, please provide all documents, reports, models, and data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of a testifying expert's testimony.

RESPONSE:

DDU objects to this request as overly broad and confusing as worded.

Subject to and without waiving the foregoing objections, DDU responds that it does not have any documents responsive to this request at this time. DDU reserves the right to supplement this response at a later date.

Request for Production No. 2: For each system listed in your application, please complete and provide the rate of return calculation worksheet, which was on pages 26-27 of the instructions to your application.

RESPONSE:

DDU objects to this request as an improper request for production. DDU is not required to create a document in response to a request for production. See *In re Colonial Pipeline Co.*, 968 S.W.2d 938, 942 (Tex. 1998).

Subject to and without waiving the foregoing objection, DDU responds that the rate of return calculation worksheet for each system will be produced.

Request for Production No. 3: For each system listed in your application, please provide an electronic copy, in Excel format, of the monthly summaries of water gallons pumped and purchased.

RESPONSE:

DDU objects to this request to the extent that it seeks to improperly require DDU to create a document in response to a request for production or otherwise specifies the method or manner by which certain information must be presented (i.e., "in Excel format"). See *In re Colonial Pipeline Co.*, 968 S.W.2d at 942.

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

Request for Production No. 4: For each rate case expense you intend to try to recoup from your customers, please provide a detailed itemization of the expense, including the expense amount, who the amount was paid to, the date of service, the amount of time spent earning that expense, the accounting classification for the expense, and any applicable hourly fee.

RESPONSE:

DDU objects to this request as an improper request for production. DDU is not required to create a document in response to a request for production. See *In re Colonial Pipeline Co.*, 968 S.W.2d at 942. This request is phrased as an interrogatory not a request for production.

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

Request for Production No. 5: For each asset listed on page 10 and in Attachment 5 of your application, please produce all invoices for the asset, including any installation dates, original costs, and capacities.

RESPONSE:

DDU objects to this request as an improper request for production. DDU further objects to this request as overly broad, vague and confusing as worded. This request seeks to define

what information must be in a document produced rather than requesting documents that include the requested information.

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

Request for Production No. 6: Please provide any and all documentation that supports your responses to Interrogatory Nos. 11 and 12, including any signed notes for the cash advances.

RESPONSE:

DDU objects to this request as overly broad to the extent that it seeks all documentation.

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

Request for Production No. 7: Please provide any and all invoices related to the forty-two taps installed during the test year.

RESPONSE:

DDU objects to this request as overly broad to the extent that it seeks any and all documents.

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

Request for Production No. 8: Please provide the following documents related to your annual inspection reports:

- a. For The Cliffs water system, please provide the most recent public water system annual inspection report letter from the TCEQ and a written explanation detailing how and when you will comply with all noted deficiencies.
- b. For The Retreat water system, please provide pages 2 and 3 of the Summary of Investigation Findings dated July 19, 2007, page 1 of which is located in Attachment 2 of your application.
- c. For the White Bluff water system, please provide the original inspection report letter for the investigation that occurred on August 24, 2006, the follow-up letter to which is located in Attachment 2 of your application.

RESPONSE:

DDU objects to this request as compound and improperly including three separate requests for production into one request. DDU further objects to this request to the extent that it seeks documentation created by TCEQ, which is information already within the possession, custody or control of the ED or otherwise readily available to the ED. DDU further objects to this request to the extent that it improperly attempts to disguise an interrogatory as a

request for production as specified in subpart a. DDU is not required to create documents in response to a request for production. *See In re Colonial Pipeline Co.*, 968 S.W.2d at 942.

Request for Production No. 9: For each water system listed in your application, please provide the Monthly Water Usage Report, in Excel format, for each month of the test year, listing for each account number the name or description on the account, meter number, previous meter reading, current meter reading, total gallons, meter size, water rate, sewer rate, transfer date, and any comments.

RESPONSE:

DDU objects to this request to the extent that it seeks to improperly require DDU to create a document in response to a request for production or otherwise specifies the method or manner by which certain information must be presented (i.e., "in Excel format"). *See In re Colonial Pipeline Co.*, 968 S.W.2d at 942.

Subject to and without waiving the foregoing objections, DDU responds that non-objectionable, responsive documents, if any, have already been or will be produced.

REQUESTS FOR ADMISSION

Request for Admission No. 1: A cash advance is not property owned by a utility.

RESPONSE:

DDU objects to this request as improperly calling for a legal conclusion and asking DDU to admit a proposition of law.

Subject to and without waiving the foregoing objections, DDU responds that it is without sufficient information to properly admit or deny this request.

Request for Admission No. 2: You can file a rate application every twelve months.

RESPONSE:

DDU objects to this request as improperly calling for a legal conclusion and asking DDU to admit a proposition of law. DDU further objects to this request to the extent that it asks for an admission of a matter that is specified by statute or rule.

Subject to and without waiving the foregoing objections, DDU admits this request.

Request for Admission No. 3: It is the applicant's burden to demonstrate that the applicant paid the original cost of the applicant's plant and property claimed in its water rate change application.

RESPONSE:

DDU objects to this request as improperly calling for a legal conclusion and asking for DDU to admit a proposition of law. DDU further objects to this request to the extent it calls for an admission of a matter that is specified by statute or rule. The statute and/or rule speaks for itself.

Subject to and without waiving the foregoing objections, DDU responds that it is without sufficient information to properly admit or deny this request.

Request for Admission No. 4: A utility may not recover any rate case expenses incurred after the date of a written settlement offer by all ratepayer parties if the revenue generated by the just and reasonable rate determined by the Commission after a contested case hearing is less than or equal to the revenue that would have been generated by the rate contained in the written settlement offer.

RESPONSE:

DDU objects to this request as improperly calling for a legal conclusion and asking DDU to admit a proposition of law. DDU further objects to this request to the extent it calls for an admission of a matter that is specified by statute or rule. The statute and/or rule speaks for itself.

Subject to and without waiving the foregoing objections, DDU responds that it is without sufficient information to properly admit or deny this request.

Request for Admission No. 5: A utility may not recover any rate case expenses if the increase in revenue generated by the just and reasonable rate determined by the Commission after a contested case hearing is less than 51% of the increase in revenue that would have been generated by a utility's proposed rate.

RESPONSE:

DDU objects to this request as improperly calling for a legal conclusion and asking DDU to admit a proposition of law. DDU further objects to this request to the extent it calls for an admission of a matter that is specified by statute or rule. The statute and/or rule speaks for itself.

Subject to and without waiving the foregoing objections, DDU responds that it is without sufficient information to properly admit or deny this request.

Request for Admission No. 6: The gallonage range for the \$5.25 per 1,000 gallons charge listed on page 35 of your application should begin at 15,001 gallons for all three systems, not at 15,000 gallons.

RESPONSE:

DDU admits that the \$5.25 per 1,000 gallon charge listed on page 35 of its Application should begin at 15,001 gallons as to The Retreat and White Bluff. No \$5.25 per 1,000 gallon charge is noted for The Cliffs and therefore the remainder of this request is denied.

Request for Admission No. 7: The cash advances listed on page 22 of Attachment 10 to your application were used to pay for the construction of water and sewer assets.

RESPONSE:

Deny.

Request for Admission No. 8: A portion of the cash advances listed on page 22 of Attachment 10 to your application were used to pay for the construction of water and sewer assets.

RESPONSE:

Admit.

Request for Admission No. 9: In your application, you claimed depreciation on the equipment that was paid for at least in part with cash advances.

RESPONSE:

DDU admits that it claimed depreciation on the equipment that may have been paid for, at least in part, with cash advances. Otherwise, this request is denied.

Request for Admission No. 10: The cash advances listed on page 22 of Attachment 10 to your application were used to pay for operating expenses.

RESPONSE:

Deny.

Request for Admission No. 11: A portion of the cash advances listed on page 22 of Attachment 10 to your application were used to pay for operating expenses.

RESPONSE:

Admit.