

Control Number: 43922



Item Number: 50

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

43922

ARMBRUST & BROWN, L.L.P.

ATTORNEYS AT LAW

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January 18, 2010

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

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 Shari:

Enclosed please find the following:

- Double Diamond Utilities, Co.'s First Supplemental Responses to White Bluff Subdivision Ratepayers' First Requests for Disclosure, Interrogatories, Requests for Production and Request for Admissions; and
- Double Diamond Utilities, Co.'s First Supplemental Responses to White Bluff Subdivision Ratepayers' Second Set of Interrogatories and Requests for Production.

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.

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QUALITY
2010 JAN 19 AM 8:12
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Enclosures

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

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

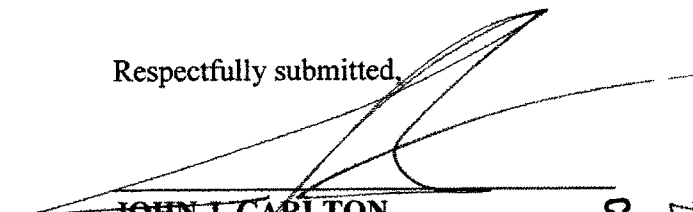
APPLICATION OF DOUBLE § BEFORE THE
DIAMOND UTILITIES COMPANY, §
INC. TO CHANGE WATER RATE § STATE OFFICE OF
TARIFF FOR SERVICE IN HILL, §
PALO PINTO, AND JOHNSON §
COUNTIES § ADMINISTRATIVE HEARINGS

**DOUBLE DIAMOND UTILITIES CO. FIRST SUPPLEMENTAL RESPONSE TO
WHITE BLUFF SUBDIVISION RATEPAYERS' FIRST REQUESTS FOR
DISCLOSURE, INTERROGATORIES, REQUESTS FOR PRODUCTION, AND
REQUESTS FOR ADMISSION TO DOUBLE DIAMOND UTILITIES CO.**

TO: White Bluff Subdivision Ratepayers by and through its 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 its First Supplemental Response to White Bluff Subdivision Ratepayers' 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.**

2010 JAN 19 AM 8:13
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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

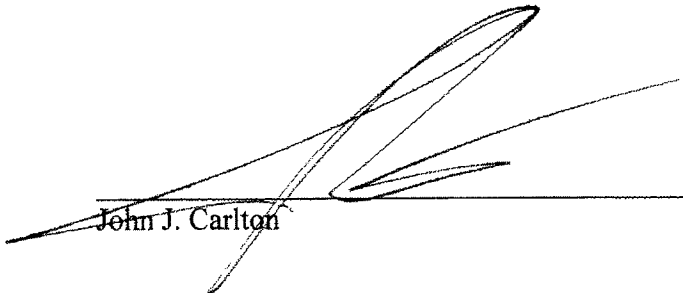
Mr. Jack D. McCartney and
Mr. John T. Bell
Representatives for the Retreat Homeowners Group
6300 Annahill Street
Cleburne, Texas 76033-8957

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

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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.

REQUESTS FOR DISCLOSURE

- (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 and supporting documents. 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.

- (d) The amount and any method of calculating economic damages;

RESPONSE:

None.

- (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.

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:

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 may 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.

(g) Any discoverable indemnity and insuring agreements;

RESPONSE:

None.

(h) any discoverable settlement agreements; and

RESPONSE:

None.

(i) any discoverable witness statements.

RESPONSE:

None.

INTERROGATORIES

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 and 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. DDU refers White Bluff to its responses to the Request for Disclosure for additional information responsive to this interrogatory.

2. For each expert not listed in the response to the Requests for Disclosures above who you have consulted and whose mental impressions and opinions have been reviewed by a testifying expert, please provide: (a) the consulting expert's name and 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 as 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.

3. For the water systems described in DDU's application filed in this docket ("the Application") and any new water utility systems under development by DDU, please provide a listing of assets which are either partially or fully funded by the subdivision developer(s) (*i.e.*, any person responsible for any development, design or construction of the subdivisions served by the water systems). Please describe each such asset, the amount/value of developer contribution, and the subdivision serviced by that asset.

ANSWER:

DDU objects to this request 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; *K-Mart-Corp.*, 937 S.W.2d at 431-32. New water systems under development by DDU have no relevance to the subject matter of a rate proceeding that is based on a specified test year.

Subject to and without waiving the foregoing objections, DDU answers as follows: DDU refers White Bluff to Attachments 5 and 6 of the Application.

4. For the water system described in DDU's application filed in this docket and any new water utility systems under development by DDU, please provide a listing of all monetary contributions received from customers for infrastructure contributions; including, but not limited to, infrastructure improvement fees, impact fees, capital recovery fees, etc. Please indicate the subdivision in which each customer making such contribution resides.

ANSWER:

DDU objects to this request 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. For purposes of this request, the only time period relevant to this Application is the test year of 2007. Additionally, only customer contributions from and relating to the water systems at issue in this proceeding and DDU's Application are permissible. DDU objects to this request to the extent that it seeks irrelevant information that is not reasonably calculated to lead to discovery of admissible evidence. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Other water utility systems under development by DDU that are outside of the areas at issue in the Application the subject of this docket are not relevant and have no bearing on the facts at issue in this proceeding.

Subject to and without waiving the foregoing objections, DDU answers as follows: DDU charges a tap fee of \$675 to each customer at the time DDU begins service to the customer. This fee is included in DDU's tariff and is uniformly applicable to all subdivisions at issue in this proceeding.

5. For the water systems referenced in the Application, please provide a listing of all assets which DDU has included in the rate base calculation in its Application. Please indicate which subdivision is served by each asset.

ANSWER:

Information responsive to this request is contained in a file entitled "Asset Workpapers" and will be produced. Additional information regarding the assets can be found in the asset documents reviewed by Ms. Harkins and will be produced.

6. Please provide a monthly summary of water gallons billed, pumped, and purchased, by tier of water usage consistent with the usage tiers used in Attachment 11 of the Application (each a "consumption tier"), for each individual water system identified in the Application, by individual system by year for 2005, 2006, 2007, 2008 and 2009. The format should be similar to that used for Attachment 11 in the Application.

ANSWER:

DDU objects to this request as overly broad in that it is not sufficiently limited in time. *K-Mart Corp.*, 937 S.W.2d at 431-32. For purposes of this request, only data from 2006 and 2007 may be relevant to DDU's Application in this docket.

Subject to and without waiving the foregoing objection, DDU answers as follows: DDU refers White Bluff to documents attached as Attachment 1-D. DDU reserves the right to supplement this response.

7. Please provide a monthly summary of customer count, by meter size, by consumption tier, for each individual water system identified in the Application, by individual system, by year 2005, 2006, 2007, 2008 and 2009. The format should be similar to that used for Attachment 11 in the Application.

ANSWER:

DDU objects to this request as overly broad in that it is not sufficiently limited in time. *K-Mart Corp.*, 937 S.W.2d at 431-32. For the purposes of this request, only data from the test year 2007 may be relevant to DDU's Application in this docket.

Subject to and without waiving the foregoing objection, DDU answers as follows: DDU refers White Bluff to documents attached as Attachment 1-D. DDU reserves the right to supplement this response.

8. For the areas described in the Application, please indicate any and all connections which receive water service, that are not billed for that service. Please provide the connection, account number, name or owner of the connection, justification for providing service without charge, and consumption history, by month, since 2004, for each connection. Please also indicate the subdivision in which that connection resides.

ANSWER:

DDU objects to this request as overly broad in that it is not sufficiently limited in time. *K-Mart Corp.*, 937 S.W.2d at 431-32. For the purposes of this request, only data from 2006 and 2007 may be relevant to DDU's Application in this docket.

Subject to and without waiving the foregoing objection, DDU answers as follows: For the areas described in DDU's Application, every connection is being billed for water service that they receive.

9. For the areas described in the Application, please indicate any and all connections which receive water service for which the customer is affiliated with DDU. Please provide the connection, account number, name or owner of the connection, and consumption history, and billing and payment history by month, since 2004, for each connection. Please also indicate the subdivision in which that connection takes service.

ANSWER:

DDU objects to this request as overly broad in that it is not sufficiently limited in time. *K-Mart Corp.*, 937 S.W.2d at 431-32. For purposes of this request, only data from 2007 may be relevant to DDU's Application in this docket.

Subject to and without waiving the foregoing objection, DDU answers as follows: DDU refers White Bluff to documents attached at Attachment 1-E.

10. Please describe the current organizational structure of DDU, its parent companies and affiliates, including ownership percentages. Please include an organization chart in the description.

ANSWER:

DDU objects to this request as overly broad in that it is not sufficiently limited in 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 because it seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. The organizational structure and ownership percentages for affiliates of DDU are not relevant to and are beyond the scope of this proceeding.

Subject to and without waiving the foregoing objections, DDU answers as follows: DDU refers White Bluff to documents attached as Attachment 1-F.

11. With respect to employees and contractors providing services for DDU for the water systems referenced in the Application, specify if each employee (or contractor) worked on tasks pertaining to DDU's water or sewer utility, and specifically for which subdivision they worked (White Bluff, Retreat, Cliffs, Rock Creek, etc.). If they worked for both water and sewer, or for more than one subdivision, please specify how much time was spent on each. For each employee (or contractor), please provide a detailed explanation of the job function.

ANSWER:

DDU objects to this request because it is compound and improperly consists of at least three separate interrogatories disguised as a single request. DDU further objects to this request because it is overly broad as worded 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 because it seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. For purposes of this request, only data for 2007 may be relevant to this proceeding. Further, the Rock Creek development is not a part of DDU's Application and has no relevance to this proceeding.

Subject to and without waiving the foregoing objections, 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-G.

Employee	Location	Job Function
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 Westbrooks	The Retreat	Order Parts / Supplies, Schedule Daily Activities, Prioritize repairs and daily functions

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-H.

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

12. Does DDU maintain its books and records in accordance with the Financial Accounting Standards Board (FASB)? If not, why not?

ANSWER:

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; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Neither the Texas Water Code nor TCEQ Rules require that a water utility's books and records be maintained in accordance with the FASB.

Subject to and without waiving the foregoing objection, DDU answers as follows: DDU maintains its books and records in compliance with the requirements of Chapter 291 of title 30 of the Texas Administrative Code.

13. For each employee or contractor whose salary/labor cost is included as a cost in whole or in part in the Application, please provide a detailed description of the means in which their salary was allocated to the application. Please include how the cost was allocated among the utility systems and other developer activities, how the cost was allocated between the subdivisions utility systems (White Bluff, Retreat, Cliffs, Rock Creek, etc.), and how the cost was allocated between the water and wastewater utilities.

ANSWER:

DDU objects to this request as overly broad, compound and confusing as worded. DDU further objects to this request as not properly limited in scope and relation to the facts at issue in this proceeding. *K-Mart Corp.*, 937 S.W.2d at 431-32. The Rock Creek development is not a part of DDU's Application and has no relevance to this proceeding. 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; *K-Mart-Corp.*, 937 S.W.2d at 431-32.

Subject to and without waiving the foregoing objections, DDU answers as follows: Employee and contractor costs contained within the Application are reflective of the actual costs booked to DDU during the test year. The cost per pay period for an employee or contractor is booked to the specific subdivision where that employee is located or the subdivision receiving the services of that contractor. For employees assigned to the home office, a labor transfer is established during the DDU budgeting process to transfer the time for that employee to the subdivisions. The DDU budget worksheets for labor transfers for the test year are included as an attachment to DDU's response to INT 1-11. For information on how employee and contractor costs were allocated to the water and sewer functions at each subdivision, please see the response provided in INT 1-11 and Attachment 10 of the Application.

14. Please describe in detail how utility system infrastructure costs are allocated between the developer(s) of the subdivisions served by DDU and DDU.

ANSWER:

DDU objects to this interrogatory 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 because it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32.

15. Please describe in detail how costs are allocated among each water and wastewater system for such subdivision served by DDU.

ANSWER:

DDU objects to this interrogatory 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 because it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. For the purposes of this request, only data from test year 2007 is relevant to this proceeding. Additionally, only information concerning White Bluff, The Cliffs and The Retreat is relevant in this matter.

Subject to and without waiving the foregoing objections, DDU answers as follows: The following chart lists the allocation factor, and a description of the factor, used to allocate each line-item of cost in DDU's statement of operations to the water or sewer function for each subdivision. When ground water ("GW") and surface water ("SW") factors are utilized, ground water factors were applied to costs booked to The Retreat and White Bluff, while surface water factors were applied to costs booked to The Cliffs. For more information, and to see the numerical result of the allocation factor, please refer to Attachment 10 of the Application.

Account	Allocation Factor	Factor Description
6001 – Employee Compensation	GWPLANT / SWPLANT	Gross Water / Wastewater Plant in Service
6010 – Referral Bonus	GWPLANT / SWPLANT	Gross Water / Wastewater Plant in Service
6030 – Bonus / Commission	GWPLANT / SWPLANT	Gross Water / Wastewater Plant in Service
6050 – Hourly Wages	GWPLANT / SWPLANT	Gross Water / Wastewater Plant in Service

6100 – Labor Transfers	Direct Assignment	Directly assigned based on accounting description. Items that could not be directly assigned were allocated based on the total percentage of directly assigned expenses
6200 – Payroll Burden	GWPLANT / SWPLANT	Gross Water / Wastewater Plant in Service
6600 – Other Employee Expense	GWPLANT / SWPLANT	Gross Water / Wastewater Plant in Service
7010 – Electricity Expense	Direct Assignment	Directly assigned based on accounting description. Items that could not be directly assigned were allocated based upon the total percentage of directly assigned expenses
7020 – Gas/ Propane	Direct Assignment	Directly assigned based on accounting description.
7030 – Water / Sewer	Direct Assignment	Directly assigned based on accounting description.
7040 – Trash Removal	GWCUST / SWCUST	Number of Customers
8001 – Cleaning Supplies	GWCUST / SWCUST	Number of Customers
8005 – Smallwares / Tools	GWCUST / SWCUST	Number of Customers
8010 – Uniforms	GWCUST / SWCUST	Number of Customers
8015 – Office Supplies	GWCUST / SWCUST	Number of Customers
8018 – Safety Supplies	GWCUST / SWCUST	Number of Customers
8020 – Other Supplies	GWCUST / SWCUST	Number of Customers
8025 – Printing	GWCUST / SWCUST	Number of Customers

8030 – Computer Expense	GWCUST / SWCUST	Number of Customers
8035 – Postage & Delivery	GWCUST / SWCUST	Number of Customers
8040 – Telephone	GWCUST / SWCUST	Number of Customers
8045 – Mobile Phone / Pagers	GWCUST / SWCUST	Number of Customers
8050 – Travel	GWCUST / SWCUST	Number of Customers
8055 – Meals & Entertainment	GWCUST / SWCUST	Number of Customers
8060 – Refreshments	GWCUST / SWCUST	Number of Customers
8065 – Vehicle Expense	GWPLANT / SWPLANT	Gross Water / Wastewater Plant in Service
8070 – Vehicle Fuel Expense	GWPLANT / SWPLANT	Gross Water / Wastewater Plant in Service
8075 – Equipment Fuel Expense	GWPLANT / SWPLANT	Gross Water / Wastewater Plant in Service
8120 – Equipment Lease Payment	GWPLANT / SWPLANT	Gross Water / Wastewater Plant in Service
8190 – Other Contract Services	GWCUST / SWCUST	Number of Customers
8210 – Training & Education	Direct Assignment	Directly assigned based on accounting description. Items that could not be directly assigned were allocated equally to water / sewer
8220 – Taxes & Licenses	Direct Assignment	Directly assigned based on accounting description. Items that could not be directly assigned were allocated based on gross water / sewer plant in service

8230 – Property Taxes	Direct Assignment	Directly assigned based on accounting description. Items that could not be directly assigned were allocated based upon the total percentage of directly assigned expenses
8250 – Professional Fees	GW CUST / SW CUST	Number of Customers
8260 – Insurance Expense	GW PLANT / SW PLANT	Gross Water / Wastewater Plant in Service
8305 – Bank Charges	GW CUST / SW CUST	Number of Customers
8310 – Credit Card Fees	GW CUST / SW CUST	Number of Customers
8385 – Late Fees	GW CUST / SW CUST	Number of Customers
8400 – R&M Building	GW PLANT / SW PLANT	Gross Water / Wastewater Plant in Service
8410 – R&M Equipment	GW PLANT / SW PLANT	Gross Water / Wastewater Plant in Service
8421 – R&M Chemicals	GW VOL / SW VOL	Total volume of Water Pumped / Purchased – Total volume of Wastewater Treated
8450 – R&M – Water Plant	Water	100% to Water
8455 – R&M – Sewer Plant	Sewer	100% to Sewer
8460 – R&M – Distribution Lines	Water	100% to Water
8465 – R&M – Collection Lines	Sewer	100% to Sewer
8500 – Water Tests	Water	100% to Water
8510 – Water Tap Expense	Water	100% to Water
8512 – Regulatory Water Fees	Water	100% to Water
8515 – Sewer Tests	Sewer	100% to Sewer
8520 – Sewer Tap Expense	Sewer	100% to Sewer
8522 – Regulatory Sewer Fees	Sewer	100% to Sewer
8950 – Allocated Resort Overhead	Composite Factor	Allocated based on composite of total allocated water / sewer O&M expenses

16. Please provide a detailed description of the water and sewer systems for each subdivision now served, or planned to be served in the future by DDU (White Bluff, Retreat, Cliffs, Rock Creek, etc.), including planned build-out, utility infrastructure which has been installed to date, current lots sold, current lots platted, and homes built to-date.

ANSWER:

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 because it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. DDU's sewer systems and service are not at issue in this proceeding. Additionally, only the subdivisions of White Bluff, The Retreat, and The Cliffs are relevant to and at issue in this proceeding.

Subject to and without waiving the foregoing objections, DDU answers as follows: Information sought by this request is available in the public records of the Commission. Further, business records produced in response to Requests for Production are also responsive to this request. There are approximately 454 unsold lots in The Retreat, 329 in The Cliffs and 231 in White Bluff.

17. Please list names of all employees whose time is spent in whole or in part on the Rock Creek system.

ANSWER:

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 because it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. The Rock Creek development or water system are not a part of the Application and are not relevant to or at issue in this docket.

18. Please describe the size/capacity of all assets included in rate base of the Application. Include linear feet of main, and corresponding diameter, plant capacities, pump station capacities, etc. Please separate between each subdivision (White Bluff, Retreat, Cliffs, Rock Creek, etc.).

ANSWER:

DDU objects to this request as overly broad and not properly limited 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; *K-Mart-Corp.*, 937 S.W.2d at 431-32. The Rock Creek

subdivision is not a part of DDU's Application and is not relevant to or at issue in this proceeding.

Subject to and without waiving the foregoing objections, DDU answers as follows: Information sought by this request is available in the public records of the Commission. Documents containing information responsive to this request will be produced.

19. Explain the reasoning for the known and measurable change in annual depreciation and amortization as listed on Section VI., A. line [O], page 14 of the Application.

ANSWER:

DDU answers as follows: The known and measurable change of \$61,475 in annual depreciation reflects the requested deferred accounting treatment of the cash advances issued by Double Diamond Delaware ("DDD") to DDU. This treatment is illustrated on Attachment 10, WP-15 of the Application.

As part of the Application, DDU is requesting deferred accounting treatment, through the creation of a regulatory asset, of the cash advances payable to DDD by DDU. This treatment is necessary in as much as these cash advances were used for operational purposes and are not associated with capital investment. For purposes of the Application, it is assumed that the asset is created in 2006 and amortized over a five-year period.

20. Explain the reason for the allocation among the water systems of the amortization schedule listed on p. 22 of Attachment 10 of the Application.

ANSWER:

DDU answers as follows: See response to INT 1-19. 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-I. Once allocated to the individual subdivision, the amount is then further allocated to the water and sewer functions based on the number of customers. <<LJS_A_3>>

REQUESTS FOR PRODUCTION

1. Please provide invoices, or comparable documents if invoices are unavailable, relating to the purchase of each water system asset in the water systems referenced in the Application.

RESPONSE:

To the extent responsive documents exist, such documents will be produced.

2. Please provide "as filed" tax returns for DDU and all affiliates since tax year 2007.

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. For purposes of this request, only data from test year 2007 is at issue in this proceeding. Additionally, the tax returns of "all affiliates" of DDU are not relevant to this proceeding. Only data concerning DDU and DDD may be relevant to this proceeding.

Subject to and without waiving the foregoing objections, DDU responds that "as filed" tax returns for tax year 2007 for DDD will be produced.

3. Please provide DDU profit and loss statements, and any comparable documents, by year, for each year since 2007, for each individual subdivision referenced in the Application.

RESPONSE:

DDU objects to this request as overly broad and not properly limited in time. *K-Mart Corp.*, 937 S.W.2d at 431-32. For purposes of this request, only data from test year 2007 is at issue in this proceeding.

Subject to and without waiving the foregoing objection, DDU responds that DDU 2007 profit and loss statements, or comparable documents, will be produced.

4. Please provide hard copies of the general ledgers for DDU for 2007, 2008 and 2009 including the ledgers for each individual utility subdivision of DDU (e.g., White Bluff, Retreat, Cliffs, Rock Creek, etc.).

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 that it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Only data from test year 2007 is at issue in this Application and this docket. Additionally, only the subdivisions of White Bluff, The Retreat, and The Cliffs are relevant to this proceeding. Rock Creek subdivision is not a part of DDU's Application.

Subject to and without waiving the foregoing objections, DDU responds that the general ledger for DDU for 2007 for each of the utility subdivisions of White Bluff, The Retreat and The Cliffs will be produced.

5. Please provide copies of W-2's and 1099's for salaries and contract labor for DDU for 2007.

RESPONSE:

DDU responds that responsive documents will be produced.

6. Provide copies of time cards and any other time tracking documentation for each individual whose salary or labor cost is included in DDU's costs in the Application.

RESPONSE:

DDU responds that responsive documents will be produced.

7. Provide copies of time cards and any other time tracking documentation for each individual who has provided services for the development or operation of the Rock Creek utility 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 because it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. The Rock Creek utility system is not a part of DDU's Application and has no relevance to this proceeding.

8. Provide job descriptions for each individual whose salary or labor cost is included in DDU's costs in the Application.

RESPONSE:

DDU responds that responsive documents will be produced.

9. Provide an employee manual and other documentation of any procedure which describes how employees and contractors should report their time, and allocations thereof to various activities and various utility systems, to DDU.

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 that it seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32.

Subject to and without waiving the foregoing objections, DDU responds that, after a diligent search, it does not have any documents responsive to this request at this time. If responsive documents are located a later time, DDU reserves the right to supplement this response at such time.

10. Please provide the amortization schedule for DDU's outstanding debt owed, by issuance, and identify the entity issuing such debt to DDU. Documentation should indicate for what purpose these funds were used (including distinguishing between water versus sewer uses).

RESPONSE:

DDU objects to this request as inappropriately requesting that DDU create a document that includes information sought by the request.

Subject to and without waiving the objection, DDU refers White Bluff to Attachment 9 of the Application for response to this request. To the extent responsive documents are found at a later time, if any, such documents will be produced.

11. Please provide documentation evidencing each payment made by DDU for principal or interest on any loan to DDU since DDU's inception. Documentation should include identification showing which loan issuance the payment addressed.

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 that it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. For purposes of this request, only financial data concerning test year 2007 is relevant to this proceeding. Only loan payments during that time period are potentially relevant to this matter.

Subject to and without waiving the foregoing objections, DDU responds that responsive documents for 2007, if any, will be produced.

12. With respect to the Application, please provide copies of all contracts for services performed by outside contractors/vendors, including those persons which are affiliated with DDU.

RESPONSE:

DDU objects to this request to the extent it seeks irrelevant information that is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. DDU further objects to this request as overly broad. *K-Mart Corp.*, 937 S.W.2d at 431-32. Only the invoice or amount paid to contractors/vendors may be relevant to this matter. The contracts for services and terms outside of payment are not relevant to this ratemaking proceeding.

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

13. Please provide all work papers used in calculating the proposed rates for each individual subdivision as submitted in the Application.

RESPONSE:

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

14. Please provide detailed DDU balance sheets and any comparable documents, by year, effective December 31st, for each year since 2007. The documents to be provided should list each individual asset, its original purchase price, its accumulated depreciation and its current book value.

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. *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; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Only data for test year 2007 is potentially relevant to this proceeding. DDU further objects to this request as compound and improperly encompassing multiple, distinct document requests in one request. Such a request is inappropriate in that it requests the creation of a document.

Subject to and without waiving the foregoing objections, DDU responds that responsive documents will be produced. For further response, DDU refers White Bluff to Attachment 7 of the Application.

15. Please provide supporting documents on the cost of service allocated to DDU from the parent or affiliated companies, if any.

RESPONSE:

DDU responds that responsive documents will be produced.

16. Please provide the payroll ledger for 2007 for DDU, or comparable document if a ledger is unavailable, indicating the name of the employee, annual salaries, benefits, number of hours worked per week, hire dates, and termination dates (if applicable).

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. *K-Mart Corp.*, 937 S.W.2d at 431-32. Only employee information working for the utility systems for White Bluff, The Retreat, and The Cliffs are potentially relevant to this matter.

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

17. Please provide a copy of the any report or correspondence from any inspection or investigation since 2003 by the TCEQ region office on any DDU public water system facility that may be used to provide service to the areas listed in the 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; *K-Mart-Corp.*, 937 S.W.2d at 431-32. For purposes of this request, only documents from test year 2007 and related to White Bluff, The Retreat and The Cliffs water system is potentially relevant to this matter. DDU further objects to this request to the extent it calls for information that is publicly available or otherwise readily accessible to White Bluff. The information sought by this request is a matter of public record and available from TCEQ.

18. Please provide any and all documents relating to TCEQ, County and/or all other regulatory agency approvals required by DDU's existing and proposed water utility service facilities which are used in providing service to the areas proposed in the Application.

RESPONSE:

DDU objects to this request as overly broad. *K-Mart Corp.*, 937 S.W.2d at 431-32. DDU further objects to the extent this request seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. DDU further objects to this request to the extent that it seeks information that is publicly available or otherwise readily accessible to White Bluff.

19. Please provide a copy of the audited annual financial statements of DDU and its parent company for the fiscal years ended 2007 and 2008. If audited financials have not been prepared, please provide copies of the compilation financials for the above time period(s).

RESPONSE:

DDU objects to this request as overly broad and not properly limited in time. *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; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Financial data from 2008 is not relevant to or a part of DDU's Application.

Subject to and without waiving the foregoing objections, DDU responds that audited annual financial statements for DDU and DDD for 2006 and 2007 are attached to the Application as Attachment 8.

20. Please provide year-to-date 2009 financial statements for DDU.

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; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Financial data from 2009 is not relevant to DDU's Application or this ratemaking proceeding.

21. Please provide all documents provided to the TCEQ in reference to this Application.

RESPONSE:

DDU objects to this request to the extent it seeks information that is publicly available or otherwise readily accessible to White Bluff. Documents provided to TCEQ in reference to this Application are a matter of public record and may be readily obtained by White Bluff.

22. Please provide a copy of all water and sewer rate applications, along with any supporting documents, made by DDU since 1999.

RESPONSE:

DDU objects to this request as overly broad, unduly burdensome, 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. This request amounts to an impermissible fishing expedition. 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; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Previous water and sewer rate applications filed by DDU are not relevant to the current DDU Application or this ratemaking proceeding. DDU further objects to this request to the extent it seeks information that is publicly available or otherwise readily accessible to White Bluff and the burden of deriving or ascertaining these documents is substantially the same for White Bluff as for DDU.

23. Please provide documents evidencing a monthly summary of water gallons billed, pumped, and purchased, for each individual water system identified in the Application, by consumption tier, by individual system by year for 2005, 2006, 2007, 2008 and 2009. If monthly data is not available, provide all documents showing the date in whatever form the data is available, including but not limited to any daily or annual summaries.

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 docket. *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; *K-Mart-Corp.*, 937 S.W.2d at 431-32. As to water usage and billed

volumes, only information from test year 2007 and the year 2006 is potentially relevant to this proceeding.

Subject to and without waiving the foregoing objections, DDU responds that responsive documents will be produced concerning years 2006 and 2007.

24. Please provide documents evidencing a monthly summary of customer count, by meter size, for each individual water system identified in the Application, by consumption tier, by individual system, by year 2005, 2006, 2007, 2008 and 2009. If monthly data is not available, provide all documents showing the date in whatever for the data is available, including but not limited to any daily or annual summaries.

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 docket. *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; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Only customer count data for test year 2007 is potentially relevant to this proceeding.

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

25. For any debt related to the water systems in the Application, please provide documents evidencing any such loans or credit to or from DDU and any of its affiliated entities.

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; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Only debt at issue during the test year 2007 is potentially relevant to this matter. Additionally, only a small segment of debt from one or more affiliated entities may, if at all, be relevant to this matter. Requesting documents pertaining to "any debt" to or from any of DDU's "affiliated entities" over an unlimited period of time is not reasonable and exceeds the scope of permissible discovery.

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

26. Please provide copies of invoices for electricity expense reported in the Application for the test year. Please indicate the service location and what is operated at that location (e.g. pump station, maintenance building, etc.).

RESPONSE:

DDU objects to this request to the extent that it improperly interjects an interrogatory into a request for production.

Subject to and without waiving the foregoing objection, DDU responds that responsive documents will be produced.

27. Provide documents showing the location, area, types of customers served (residential, commercial, etc.), and monthly water production for each well site for each subdivision for 2005, 2006, 2007, 2008 and 2009.

RESPONSE:

DDU objects to this request because it is overly broad, confusing as worded 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 that it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Only water production data for test year 2007 and 2006 may be relevant to this proceeding. In addition, information regarding location and area of well sites has no relevance in this proceeding because it does not relate to the cost of service for a specific test year.

Subject to and without waiving the foregoing objection, DDU responds that responsive documents will be produced.

28. 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, unduly burdensome and harassing. *K-Mart Corp.*, 937 S.W.2d at 431-32. DDU is not required to marshal its evidence in responding to discovery.

29. Please provide copies of all emails, communications and data exchanged between any DDU representative and any TCEQ representative relating to the Application filed in this docket.

RESPONSE:

DDU responds that responsive documents will be produced.

30. Please provide copies of all work papers DDU or its consultant(s) used to develop the information provided in the Application, including attachments, and any revisions thereto.

RESPONSE:

DDU objects to this request as overly broad. *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; *K-Mart-Corp.*, 937 S.W.2d at 431-32. DDU further objects to this request to the extent it seeks information that is duplicative of information sought by other requests.

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

31. For any employee(s) or consultant(s) who assisted in the preparation of the Application, please provide copies of all emails, communications and data exchanged between such person(s) to and from DDU (or other DDU employees or representatives) relating to the 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 that it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. DDU further objects to this request to the extent it calls for information or documents shielded from discovery as attorney-client privileged communications and work product privileged information. To the extent responsive documents are privileged, DDU hereby asserts its privilege and notifies White Bluff that such documents, if any, will be withheld.

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

32. Provide any rate studies or analyses, with all supporting documents, for years 2005 and beyond performed by or on behalf of DDU for the systems in the Application.

RESPONSE:

DDU objects to this request as overly broad, unduly burdensome 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 that it calls for irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. For purposes of this request, only data for test year 2007 is potentially relevant to this matter. Rate studies or analyses that were performed in 2005, 2006, 2008, or 2009 are not relevant to this Application. DDU further objects to this

request as vague and ambiguous to the extent that "rate studies or analyses" is undefined and incapable of any precise interpretation.

Subject to and without waiving the foregoing objections, DDU responds that after a diligent search, DDU does not have documents responsive to this request.

33. Provide any documents showing that increased rates have resulted in decreased water consumption for any system the subject of 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 seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Only data from test year 2007 is potentially relevant to this proceeding.

Subject to and without waiving the foregoing objections, DDU responds that after a diligent search, no responsive documents have been located.

34. Provide any documents showing that an inclining block rate structure has resulted in decreased water consumption for any system the subject of 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 seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. For purposes of this request, only data from test year 2007 is potentially relevant to this proceeding.

Subject to and without waiving the foregoing objections, DDU responds that after a diligent search, DDU does not have documents responsive to this request.

35. Provide documents demonstrating the allocation among the water systems of the amortization schedule listed on p. 22 of Attachment 10 of the Application.

RESPONSE:

DDU responds that responsive documents will be produced.

36. Provide all documentation available for each labor transfer included in the application on page 1 of Attachment 9 of the Application.

RESPONSE:

DDU objects to this request as vague, ambiguous and confusing as drafted. No labor transfers are included on page 1 of Attachment 9 of the Application.

37. Provide all documentation and work papers demonstrating the allocation of resort overhead p. 2 of Attachment 9 of the Application.

RESPONSE:

DDU objects to this request as vague, ambiguous and confusing as drafted. There is no page 2 of Attachment 9 of the Application.

38. Provide all documentation showing allocations for any costs (whether capital or operating costs, and specifically including employee and contractor costs) which are shared between the water and sewer systems run by DDU. In response to this request, include any documentation showing derivation of any allocation factor used.

RESPONSE:

DDU objects to this request 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 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; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Only information from test year 2007 is potentially relevant to this proceeding concerning allocations for costs. Additionally, only DDU's water systems for White Bluff, The Retreat and The Cliffs are at issue in this proceeding. Information concerning sewer systems or water systems run by DDU for other subdivisions is not relevant to this docket.

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

39. Provide all documentation showing allocations for any costs (whether capital or operating costs, and specifically including employee and contractor costs) which are shared between the water systems run by DDU (White Bluff, Retreat, Cliffs, Rock Creek, etc.). In response to this request, include any documentation showing derivation of any allocation factor used.

RESPONSE:

DDU objects to this request 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 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; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Only information from test year 2007 is potentially relevant to this proceeding concerning allocations for costs. Additionally, only DDU's water systems for White Bluff, The Retreat and The Cliffs are at issue in this proceeding. Information concerning sewer systems or water systems run by DDU for other subdivisions, such as Rock Creek, is not relevant to this docket.

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

40. Please provide the detailed analysis(es) which demonstrate how various costs (whether capital or operating costs) are allocated/accounted for among the developer(s) of the subdivisions served by DDU and DDU's utility system.

RESPONSE:

DDU objects to this request 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 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; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Only information from test year 2007 is potentially relevant to this proceeding concerning allocations for costs. Additionally, only DDU's water systems for White Bluff, The Retreat and The Cliffs are at issue in this proceeding. Information concerning developers of other subdivisions is not relevant to this docket.

Subject to and without waiving the foregoing objections, DDU responds that Attachment 6 to the Application includes a listing of developer contribution by asset.

41. Please provide an organizational chart or other comparable document identifying and describing all of DDU's parent and affiliate relationships.

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; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Only affiliate relationships with DDU that relate to the Application may be relevant and potentially within the scope of this proceeding.

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

42. Please provide all documents which provide analysis to support the position that DDU has been operating at a loss in any of the following years: 2006, 2007, 2008 and 2009.

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; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Only loss data for DDU for the test year 2007 is potentially relevant to this Application and docket.

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

43. Please provide all documents which provide analysis to support the position that Double Diamond Delaware Inc. has been operating at a loss in any of the following years: 2006, 2007, 2008 and 2009.

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; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Only information for test year 2007 is potentially relevant to this proceeding. Additionally, there has been no claim or allegation that DDD is or has been operating at a loss.

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

44. Please provide all documents which provide evidence or analysis to support the position that DDU is entitled to combine any or all of the systems identified in the Application for purposes of determining revenue requirements and/or rate-setting.

RESPONSE:

DDU responds that responsive documents will be produced.

45. Please provide copies of all documents referenced and/or relied upon in the preparation of the direct testimony to be filed on behalf of DDU in this docket.

RESPONSE:

DDU responds that responsive documents will be produced. DDU reserves the right to supplement this request at a later time.

REQUESTS FOR ADMISSIONS

1. Admit or deny: Based on a comparison of the twelve months prior and the twelve months following the date in question, average per capita water consumption decreased for the White Bluff system when DDU implemented the rate increases which are the subject of TCEQ Application No. SOAH DOCKET NO. 582-08-0698, TCEQ DOCKET NO. 2007-1708-UCR.

RESPONSE:

DDU objects to this request because it is vague and confusing as worded in that the phrase "date in question" is not defined for purposes of this request. Consequently, this request is incapable of any precise interpretation, and DDU is without sufficient information to admit or deny this request. DDU further objects to this request because it seeks information that is wholly irrelevant to this proceeding. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. This request specifically seeks information regarding rate increases the subject of a previous ratemaking application filed by DDU that is not the subject of the current docket and has no bearing on DDU's current Application.

2. Admit or deny: Based on a comparison of the twelve months prior and the twelve months following the date in question, average per capita water consumption decreased for the Retreat system when DDU implemented the rate increases which are the subject of TCEQ Application No. SOAH DOCKET NO. 582-08-0698, TCEQ DOCKET NO. 2007-1708-UCR.

RESPONSE:

DDU objects to this request because it is vague and confusing as worded in that the phrase "date in question" is not defined for purposes of this request. Consequently, this request is incapable of any precise interpretation, and DDU is without sufficient information to admit or deny this request. DDU further objects to this request because it seeks information that is wholly irrelevant to this proceeding. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. This request specifically seeks information regarding rate increases the subject of a previous ratemaking application filed by DDU that is not the subject of the current docket and has no bearing on DDU's current Application.

3. Admit or deny: Based on a comparison of the twelve months prior and the twelve months following the date in question, average per capital water consumption decreased for the Cliffs system when DDU implemented the rate increases which are the subject of TCEQ Application No. SOAH DOCKET NO. 582-08-0698, TCEQ DOCKET NO. 2007-1708-UCR.

RESPONSE:

DDU objects to this request because it is vague and confusing as worded in that the phrase "date in question" is not defined for purposes of this request. Consequently, this request is incapable of any precise interpretation, and DDU is without sufficient information to admit or deny this request. DDU further objects to this request

because it seeks information that is wholly irrelevant to this proceeding. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. This request specifically seeks information regarding rate increases the subject of a previous ratemaking application filed by DDU that is not the subject of the current docket and has no bearing on DDU's current Application.

4. Admit or deny: Based on a comparison of the twelve months prior and the period following the date in question, average per capita water consumption decreased for the Cliffs system when DDU implemented the rate increase which is the subject of this Application.

RESPONSE:

DDU objects to this request because it is vague and confusing as worded in that the phrase "date in question" is not defined for purposes of this request. Consequently, this request is incapable of any precise interpretation, and DDU is without sufficient information to admit or deny this request.

5. Admit or deny: Based on a comparison of the twelve months prior and the period following the date in question, average per capita water consumption decreased for the White Bluff system when DDU implemented the rate increases which are the subject of this Application.

RESPONSE:

DDU objects to this request because it is vague and confusing as worded in that the phrase "date in question" is not defined for purposes of this request. Consequently, this request is incapable of any precise interpretation, and DDU is without sufficient information to admit or deny this request.

6. Admit or deny: Based on a comparison of the twelve months prior and the period following the date in question, average per capita water consumption decreased for the Retreat system when DDU implemented the rate increases which are the subject of this Application.

RESPONSE:

DDU objects to this request because it is vague and confusing as worded in that the phrase "date in question" is not defined for purposes of this request. Consequently, this request is incapable of any precise interpretation, and DDU is without sufficient information to admit or deny this request.

7. Admit or deny: Double Diamond Delaware Inc. is the parent company of DDU.

RESPONSE:

Admit.

8. Admit or deny: DDU included equity attributable to Double Diamond Delaware Inc. in the rate of return calculation worksheet on p. 11, Section 4, line A of the Application.

RESPONSE:

Admit.

9. Admit or deny: DDU included debt (notes payable) attributable to entities other than DDU itself in the rate of return calculation worksheet on p. 12, Section 4, line D of the Application.

RESPONSE:

Admit that DDU included debt attributable to its parent company, DDD, in the rate of return calculation worksheet on p. 12, Section 4, line D of the Application. Otherwise, this request is denied.

10. Admit or deny: DDU included equity attributable to entities other than DDU itself in the rate of return calculation worksheet on p. 11, Section 4, line A of the Application.

RESPONSE:

Admit that DDU included equity attributable to its parent company, DDD, in the rate of return calculation worksheet on p. 11, Section 4, line A of the Application. Otherwise, this request is denied.

11. Admit or deny: DDU included debt (notes payable) attributable to entities other than DDU itself in the rate of return calculation worksheet on p. 12, Section 4, line D of the Application.

RESPONSE:

DDU objects to this request because it is duplicative of Request for Admission No. 9.

Subject to and without waiving the foregoing objection, DDU admits that it included debt attributable to its parent company, DDD, in the rate of return calculation worksheet on p. 12, Section 4, line D of the Application. Otherwise, this request is denied.

12. Admit or deny: DDU itself has no equity.

RESPONSE:

Admit.

13. Admit or deny: The debt DDU owes to Double Diamond Delaware Inc. has been used to pay operating costs of DDU.

RESPONSE:

Admit that a portion of the debt DDU owes to DDD has been used to pay for operating costs of DDU. Otherwise, this request is denied.

14. Admit or deny: Randy Gracy is an employee of Double Diamond Delaware Inc.

RESPONSE:

Deny.

15. Admit or deny: Randy Gracy is an employee of DDU.

RESPONSE:

Deny.

16. Admit or deny: Randy Gracy's job duties include activities other than responsibilities for DDU.

RESPONSE:

DDU objects to this request as vague and ambiguous because the terms "job duties," "activities," and "responsibilities" are not defined. Therefore, this request is incapable of any precise determination or interpretation and DDU is unable to admit or deny this request with certainty.

17. Admit or deny: Randy Gracy's job duties include development activities for Double Diamond Delaware Inc.

RESPONSE:

DDU objects to this request as vague and ambiguous because the terms "job duties" and "development activities" are not defined. Therefore, this request is incapable of any precise determination or interpretation.

Subject to and without waiving the foregoing objections, this request is denied.

18. Admit or deny: Randy Gracy's job duties include development activities for entities other than DDU.

RESPONSE:

DDU objects to this request as vague and ambiguous because the terms "job duties" and "development activities" are not defined. Therefore, this request is incapable of any precise determination or interpretation and DDU is unable to admit or deny this request with certainty.

19. Admit or deny: Randy Gracy's job duties include development activities for water systems other than White Bluff, the Retreat and the Cliffs.

RESPONSE:

DDU objects to this request as vague and ambiguous because the terms "job duties" and "development activities" are not defined. Therefore, this request is incapable of any precise determination or interpretation and DDU is unable to admit or deny this request with certainty.

20. Admit or deny: Employees (or an employee) whose salaries are included in the revenue requirements of this application have performed activities relating to the development of the Rock Creek subdivision and/or its utilities.

RESPONSE:

DDU objects to this request to the extent that it seeks information that is irrelevant to this proceeding. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. The Rock Creek subdivision and/or its utilities are not a part of the Application at issue in this proceeding.

21. Admit or deny: Double Diamond Delaware Inc. operated at a loss in 2006.

RESPONSE:

DDU objects to this request because it seeks information that is irrelevant to this proceeding. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Whether DDD operated at a loss in 2006 is not relevant to DDU's Application or this proceeding.

Subject to and without waiving the foregoing objection, DDU denies this request.

22. Admit or deny: Double Diamond Delaware Inc. operated at a loss in 2007.

RESPONSE:

DDU objects to this request because it seeks information that is irrelevant to this proceeding. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Whether DDD operated at a loss in 2007 is not relevant to DDU's Application or this proceeding.

Subject to and without waiving the foregoing objection, DDU denies this request.

23. Admit or deny: Double Diamond Delaware Inc. operated at a loss in 2008.

RESPONSE:

DDU objects to this request because it seeks information that is irrelevant to this proceeding. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. Whether DDD operated at a loss in 2008 is not relevant to DDU's Application or this proceeding.

Subject to and without waiving the foregoing objection, DDU denies this request.

24. Admit or deny: DDU operated at a loss in 2006.

RESPONSE:

DDU objects to this request because it seeks information that is irrelevant to this docket. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. The test year for this Application is 2007, and whether DDU operated at a loss in 2006 is therefore irrelevant.

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

25. Admit or deny: DDU operated at a loss in 2007.

RESPONSE:

Admit.

26. Admit or deny: DDU operated at a loss in 2008.

RESPONSE:

DDU objects to this request because it seeks information that is irrelevant to this docket. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. The test year for this Application is 2007, and whether DDU operated at a loss in 2008 is therefore irrelevant. DDU further objects to this request because it exceeds the permissible number of Requests for Admission allowed by the ALJ in this docket under Order No. 1 dated August 10, 2009.

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

27. Admit or deny: Double Diamond Delaware Inc. has more gross income associated with subdivision development activities than with utility operation.

RESPONSE:

DDU objects to this request because it seeks information that is irrelevant to this docket. Tex. R. Civ. P. 192.3; *K-Mart-Corp.*, 937 S.W.2d at 431-32. The source of DDD's gross income has no bearing on this proceeding. DDU further objects to this request because it exceeds the permissible number of Requests for Admission allowed by the ALJ in this docket under Order No. 1 dated August 10, 2009.