

Control Number: 44267



Item Number: 17

Addendum StartPage: 0

APPLICATION OF DOUBLE
DIAMOND DBA THE CLIFFS
RESORT TO OBTAIN OR AMEND A
WATER/SEWER CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
PALO PINTO COUNTY

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PUBLIC UTILITY COMMISSION
OF TEXAS

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COMMISSION STAFF'S RESPONSE TO ORDER NO. 5

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest and files this Response to Order No. 5. In support thereof, Staff shows the following:

I. BACKGROUND

On January 13, 2015, Double Diamond d/b/a The Cliffs Resort (Double Diamond) filed an application to amend its water and sewer certificates of convenience and necessity (CCN) in Palo Pinto County, Texas. Double Diamond seeks to amend its CCNs to include an area developed subsequent to the original development and where services are already provided. Double Diamond provided supplemental information on April 10 and September 22, 2015.

On May 29, 2015, Order No. 5 was issued, requiring Staff to file a supplemental recommendation regarding administrative completeness of the amended application and notice, along with a proposed procedural schedule, if appropriate, by October 28, 2015. Therefore, this Response is timely filed.

II. COMMENTS ON ADMINISTRATIVE COMPLETENESS

The review for administrative completeness of CCN applications is provided by 16 Tex. Admin. Code § 24.8 (TAC). If the Commission determines material deficiencies exist in the application, the application may be rejected.¹ The Commission's required contents of a CCN application are provided by 16 TAC §§ 24.102 and 24.105 -.107.

As detailed in the attached memo from Mary Lupo, in the Commission's Water Utilities Division, Staff has reviewed the application and finds that Double Diamond has cured all

¹ 16 TAC § 24.8(a).

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application and mapping deficiencies. Therefore, Staff recommends the application be deemed administratively complete.

The Commission's notice requirements for CCN applications are provided by 16 TAC § 24.106. Specifically, Staff recommends that Double Diamond be directed to provide the attached notice to the following:

- a) any districts, groundwater conservation districts, counties, utilities, cities, cities with an extraterritorial jurisdiction within two miles of the proposed service area;
- b) any city with an extraterritorial jurisdiction which overlaps the proposed service area;
- c) county judge of each county;
- d) any groundwater conservation district that is wholly or partly included in the proposed area;
- e) notice to the public which must be published once each week for two (2) consecutive weeks in a newspaper of general circulation in Palo Pinto County; and
- f) landowners with more than 25 acres and any affected parties in the proposed CCN area. The landowner information may be obtained from the county appraisal district tax rolls for the county or counties in which the proposed CCN lies.

In addition to the above entities, Double Diamond should provide notice to the following: Brazos River Authority and Palo Pinto County WCID 1. Further, Staff recommends that Double Diamond be ordered to include a copy of a map showing the proposed service area with the individual notices to neighboring utilities and other affected parties. Information related to districts including addresses can be obtained from the TCEQ web site located at <http://www.14.tceq.texas.gov/iwud/>.

III. PROPOSED PROCEDURAL SCHEDULE

Staff recommends the following procedural schedule:

Event	Date
Deadline for Double Diamond to file with the Commission a copy of the actual notice issued, the map issued with the individual mailed notice, tear sheets of the newspaper notice, and the signed affidavits (copies attached) indicating that notice was given.	November 11, 2015
Deadline for affected parties other than Staff to intervene, file comments, or request a hearing	Within 30 days of mailing or publication of notice, whichever occurs later ²
Staff Final Recommendation, Request for Hearing, or Recommendation on Further Procedural Schedule	January 5, 2015

Staff notes that customers have the ability to opt out of a CCN request.³ In the event customers wish to opt out of the CCN, additional procedures may be needed before Staff may make a recommendation. Additionally, in the event Staff were to recommend final approval of the CCN amendment, Staff's ability to meet the above deadline is driven in part by Staff's receipt of consent to final mapping from Double Diamond. Therefore, Staff's proposed procedural schedule allows Staff the opportunity to either file a recommendation after the customer comment period or recommend an additional procedural schedule.

IV. CONCLUSION

Staff respectfully requests that the ALJ issue an order consistent with this Response.

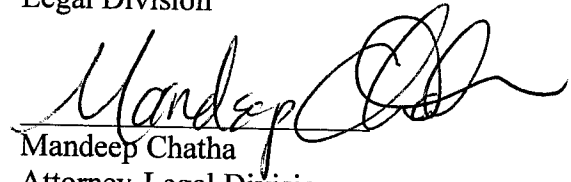
² 16 TAC § 24.106(a)(3).

DATE: October 28, 2015

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
Legal Division

Stephen Mack
Managing Attorney
Legal Division

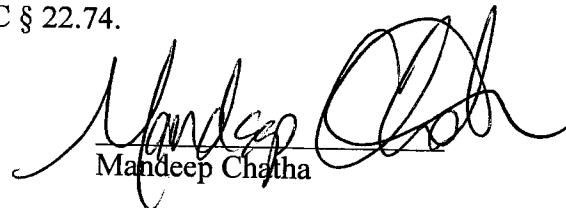


Mandeep Chatha
Attorney-Legal Division
State Bar No. 24082803
(512) 936-7163
(512) 936-7268 (facsimile)
Public Utility Commission of Texas
1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

DOCKET NO. 44267

CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on this the October 28, 2015 in accordance with 16 TAC § 22.74.



Mandeep Chatha

³ 16 TAC § 24.102(h).

Public Utility Commission of Texas

Memorandum

To: Mandeep Chatha, Attorney
Legal Division

Thru: Tammy Benter, Director
Lisa Fuentes, CCN and Mapping Team Lead
Water Utilities Division

From: Emily Sears, Financial Analyst
Tracy Montes, GIS Specialist
Water Utilities Division

Date: October 22, 2015

Subject: *Docket No. 44267; Application of Double Diamond dba the Cliffs Resort to Obtain or Amend a Water/Sewer Certificate of Convenience and Necessity (CCN) in Palo Pinto County*

On January 13, 2015, Double Diamond dba The Cliffs Resort (Applicant) filed an application with the Public Utility Commission (Commission) to amend water and sewer Certificate of Convenience and Necessity (CCN) Nos. 12087 and 20705, and to decertify a portion of CCN No. 12890 held by Possum Kingdom Water Supply Corporation (WSC) in Palo Pinto County. The application was filed under 16 Tex. Admin. Code § 24.102 - 24.107 (TAC).

In response to Order No. 5, the Applicant submitted small scale maps, maps delineating the proposed water and sewer service areas with detail, a letter from the USDA consenting to the partial release of the water CCN area of Possum Kingdom WSC, and digital data to cure the deficiencies. Staff recommends the application be deemed administratively complete and sufficient for filing. Staff further recommends the following:

- 1) The Applicant be ordered to provide correct notice of the application to the following:
 - a) any districts, utilities and cities within two (2) miles of the proposed service area;
 - b) any city with an extraterritorial jurisdiction which overlaps the proposed service area;
 - c) county judge of each county;
 - d) any groundwater conservation district that is wholly or partly included in the proposed area;
 - e) publish notice once each week for two (2) consecutive weeks in a newspaper of general circulation in Palo Pinto County; and

- f) landowners with more than 25 acres and any affected parties in the proposed CCN area. The landowner information may be obtained from the county appraisal district tax rolls for the county or counties in which the proposed CCN lies.
- 2) The Applicant should include copy of a map showing the proposed service area with the individual notices to neighboring utilities, other affected parties and each landowner. It is the Applicant's burden to provide an accurate map delineating the proposed area with each individual notice. Information related to districts including addresses can be obtained by the Applicant from the TCEQ web site located at <http://www14.tceq.texas.gov/iwud/>.
- 3) Notify the entities shown below **in addition to** the neighboring entities listed in the application:
 - a. Brazos River Authority
 - b. Palo Pinto County WCID 1

Areas of concern:

Applicant must obtain written documentation regarding the provision of retail water and sewer service within the district boundaries during technical review.

- Brazos River Authority

Within 30 days of the Commission order, the Applicant should submit a copy of the actual notice issued, the map issued with the individual mailed notice, and the signed affidavit (copy attached), indicating that notice was given.

Notice to Neighboring Systems, Customers and Cities

NOTICE OF APPLICATION OF DOUBLE DIAMOND DBA THE CLIFFS RESORT TO OBTAIN OR AMEND A WATER/SEWER CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) IN PALO PINTO COUNTY, TEXAS

To: _____ Date Notice Mailed: _____, 2015
 (Name of Neighboring systems, Customers, cities)

 (Address)

 (City State Zip)

Double Diamond dba the Cliffs Resort has filed an application with the Public Utility Commission of Texas to amend their Certificates of Convenience and Necessity and to decertify a portion of CCN No. 12890 held by Possum Kingdom Water Supply Corporation in Palo Pinto County, Texas.

The proposed utility service area is located approximately **16 miles southwest of downtown Grafard**, Texas, and is **generally** bounded on the north by **Possum Kingdom Lake**; on the east by the **intersection of State Highway 16 South and the Brazos River**; on the south by **State Highway 16 South**; and on the west by **Gaines Bend Drive**. The total area for the water and sewer CCNs being requested includes approximately 217 acres and 14 current customers.

See enclosed map of the proposed service area.

A copy of the proposed service area map is available at **The Cliffs, 160 Cliffs Drive, Grafard, TX 76449, 940-779-4040.**

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

Public Utility Commission of Texas
 Central Records
 1701 N. Congress, P. O. Box 13326
 Austin, TX 78711-3326

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Commission will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If you are a landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the proposed area, you may request to be excluded from the proposed area (or "opt out") by providing written notice to the Commission within (30) days from the date that notice was provided by the applicant. All request to opt out of the requested service area must include a scaled, general location map and a metes and bounds description of the tract of land.

Persons who meet the requirements to opt out, and wish to request this option should file the required documents with the:

Public Utility Commission of Texas
Central Records
1701 N. Congress, P. O. Box 13326
Austin, TX 78711-3326

A copy of the request to opt out of the proposed area must also be sent to the applicant. Staff may request additional information regarding your request.

Si desea informacion en Espanol, puede llamar al 1-512-936-7221

Notice for Publication

NOTICE OF APPLICATION OF DOUBLE DIAMOND DBA THE CLIFFS RESORT TO OBTAIN OR AMEND A WATER/SEWER CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) IN PALO PINTO COUNTY, TEXAS

Double Diamond dba the Cliffs Resort has filed an application with the Public Utility Commission of Texas to amend their Certificates of Convenience and Necessity and to decertify a portion of CCN No. 12890 held by Possum Kingdom Water Supply Corporation in Palo Pinto County, Texas.

The proposed utility service area is located approximately **16 miles southwest of downtown Graford**, Texas, and is **generally** bounded on the north by **Possum Kingdom Lake**; on the east by the **intersection of State Highway 16 South and the Brazos River**; on the south by **State Highway 16 South**; and on the west by **Gaines Bend Drive**. The total area for the water and sewer CCNs being requested includes approximately **217** acres and **14** current customers.

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Notice to Neighboring Systems, Landowners and Cities

NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) TO PROVIDE WATER/SEWER UTILITY SERVICE IN

_____ COUNTY(IES), TEXAS

To: _____ Date Notice Mailed _____ 20 ____
(Neighboring System, Landowner or City)

(Address)

City State Zip

Name of Applicant _____ has filed an application for a
CCN to obtain or amend CCN No. (s) _____ and to
decertify a portion(s) of _____ with the
(Name of Decertified Utility)

Public Utility Commission of Texas to provide _____
utility service in _____ (specify 1) water or 2) sewer or 3) water & sewer)
County(ies).

The proposed utility service area is located approximately _____ miles _____
[direction] of downtown _____, [City or Town] Texas, and is
generally bounded on the north by _____; on the east by
_____ ; on the south by _____ ; and on the west by _____

See enclosed map of the proposed service area.

The total area being requested includes approximately _____ acres and _____
current customers.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

Filing Clerk
Public Utility Commission of Texas
1701 North Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the commission will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

If you are a landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the proposed area, you may request to be excluded from the proposed area (or "opt out") by providing written notice to the commission within (30) days from the date that notice was provided by the applicant. All requests to opt out of the requested service area must include a scaled, general location map and a metes and bounds description of the tract of land.

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Filing Clerk
Public Utility Commission of Texas
1701 North Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

A copy of the request to opt out of the proposed area must also be sent to the applicant. Staff may request additional information regarding your request.

Si desea informacion en Espanol, puede llamar al 1-888-782-8477

Notice to Customers of IOUs in Proposed Area

NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) TO PROVIDE WATER/SEWER UTILITY SERVICE IN

_____ COUNTY(IES), TEXAS

Dear Customer: _____ Date Notice Mailed _____ 20 _____

Name of Applicant _____ has filed an application for a CCN to obtain or amend CCN No. (s) _____ and to decertify a portion(s) of _____ with the _____ (Name of Decertified Utility)

Public Utility commission of Texas to provide _____ utility service in _____ (specify 1) water or 2) sewer or 3) water & sewer) _____ County(ies).

The proposed utility service area is located approximately _____ miles _____ [direction] of downtown _____, [City or Town] Texas.

A copy of the proposed service area map is available at (Utility Address and Phone Number): _____

The current utility rates which were first effective on _____ 20 _____

Monthly Flat Rate of \$ _____ Per connection

-OR-

Monthly Base Rate Including per _____ gallons connection for:

5/8" meter	\$ _____
1" meter	\$ _____
1 1/2" meter	\$ _____
2" meter	\$ _____

Other \$ _____

Gallonage charge of \$ _____ Per 1,000 Gallons above minimum (same for all meters sizes)

Miscellaneous Fees

Regulatory Assessment

Tap Fee (Average Actual Cost)

Reconnecting fee:

- Non Payment (\$25.00 max)
- Transfer
- Customer's request

Late fee

Returned Check charge

Customer Deposit (\$50.00 max)

Meter test fee

(Actual Cost not Exceed \$25.00)

Other Fees

	1%
\$ _____	
\$ _____	
\$ _____	
\$ _____	
\$ _____	
\$5.00 or 10%	
\$ _____	
\$ _____	
\$ _____	
\$ _____	
\$ _____	

Your utility service rates and fees cannot be changed by this application. If you are currently paying rates, those rates must remain in effect unchanged. Rates may only be increased if the utility files and gives notice of a separate rate change application.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

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within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Commission will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

IF A HEARING IS HELD, it is important that you or your representative attend to present your concerns. Your request serves only to cause a hearing to be held and is not used during the hearing.

If you are a landowner with a tract of land at least 25 acres or more, and is partially or wholly located within the proposed area, you may request to be excluded from the proposed area (or "opt out") by providing written notice to the commission within (30) days from the date that notice was provided by the applicant. All requests to opt out of the requested service area must include a scaled, general location map and a metes and bounds description of the tract of land.

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Notice for Publication

NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) TO PROVIDE WATER/SEWER UTILITY SERVICE IN

_____ COUNTY(IES), TEXAS

Name of Applicant _____ has filed an application for a CCN to obtain or amend CCN No. (s) _____ and to decertify a portion(s) of _____ with the
(Name of Decertified Utility)

Public Utility commission of Texas to provide _____
(specify 1) water or 2) sewer or 3) water & sewer)

utility service in _____ County (ies).

The proposed utility service area is located approximately _____ miles [direction] of downtown _____, [City or Town] Texas, and is generally bounded on the north by _____; on the east by _____; on the south by _____; and on the west by _____.

See enclosed map of the proposed service area.

The total area being requested includes approximately _____ acres and _____ current customers.

A copy of the proposed service area map is available at (Utility Address and Phone Number): _____

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should file with the PUC at the following address:

Filing Clerk
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P.O. Box 13326
Austin, Texas 78711-3326

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Si desea informacion en Espanol, puede llamar al 1-888-782-8477

PUBLIC UTILITY COMMISSION



AFFIDAVIT OF NOTICE TO NEIGHBORING UTILITIES, CUSTOMERS AND AFFECTED PARTIES
DOCKET NO. _____

STATE OF TEXAS
COUNTY OF _____

_____ has provided individual notice to the following entities and customers:

DATE

_____	_____
_____	_____
_____	_____
_____	_____

OATH

I, _____, being duly sworn, file this form as

_____ (indicate relationship to applicant, that is, owner, member of partnership, title of officer of corporation, or other authorized representative of applicant); that in such capacity, I am qualified and authorized to file and verify such form, am personally familiar with the notices given with this application, and have complied with all notice requirements in the application and application acceptance letter; and that all such statements made and matters set for therein are true and correct.

Applicant's Authorized Representative

If the applicant to this form is any person other than the sole owner, partner, officer of the applicant, or its' attorney, a properly verified Power of Attorney must be enclosed.

Subscribed and sworn to before me this _____ day of _____, 20____, to certify which witness my hand and seal of office.

Notary Public in and for the State of Texas

Print or Type Name of Notary Public

Commission Expires _____