

February 28, 2003

**NOTICE OF HEARING ON SETTLEMENT**  
**(10:00 a.m., Tuesday, March 18, 2003)**

Re: David and Janis Stevens; Paul Carrick; Alan and Jim Wiemeyer; Chris and Cecily Flavell; Stan and Kay Miller; Michael and Colleen Stover; Richard and Paula Russell; Ben G. Marcin; Ronald and Victoria Montgomery; Charles and Michelle Clark; Paul Schulte; Sue Perrault; and Jorg Reinholt v. Rosario Utilities, LLC, Docket No. UW-011320

**TO ALL PARTIES:**

On February 12, 2003, the parties filed a settlement and agreed order that would create a priority list composed of the thirteen complainants in this proceeding who established that they were the next thirteen customers in line for connections at the June 15, 2001, sale. The Commission will convene a hearing for purposes of exploring the terms and conditions of the settlement, and to determine whether the result of the settlement is consistent with the public interest.

The Commission invites the parties' attention to WAC 480-09-466, regarding settlements, which acknowledges the Commission's responsibility to verify that a proposed settlement is consistent with the public interest. The Commission therefore asks the parties to make brief presentations that include facts from which the Commission may make findings about the propriety of the proposed settlement.

In addition, the Commission asks the parties to address the following questions at the hearing.

- 1) Does the agreement to sell additional water certificates to the thirteen Complainants on a priority basis violate the terms of the notice of sale? The terms of the notice provided that the sale would occur on June 15, 2001, not at a later time when additional water certificates may become

- available. How do the parties respond to the concern that this constitutes a change in the terms of the sale?
- 2) Does the agreement to sell water certificates to the thirteen Complainants on a priority basis create a preference for the Complainants over others who may have wished to buy a water certificate on June 15, 2001, but who did not participate in the complaint? How did Complainants solicit persons to participate in the complaint? Did Complainants provide notice to all of the persons who received notice of the June 15, 2001 sale, or did they only contact those persons who signed the list establishing the order of persons in line on June 15, 2001? Were there other persons who may have arrived at the sale later in the day on June 15, 2001, but who never got in a line to buy a certificate, who could be prejudiced by the creation of a priority list?
  - 3) By creating this priority list, is the utility pledging to sell hookups to its system that did not exist at the time of the June 15, 2001, sale? Therefore, is the assertion that the June 15, 2001, sale of water certificates is “considered open” for the purpose of completing the sale of thirteen connections, one to each of the thirteen complainants, correct, or is it a change in the terms of the sale? Does this comply with the requirements of RCW 80.28.010(3) that all rules and regulations issued by any water company affecting or pertaining to the sale or distribution of water must be just and reasonable?
  - 4) Does the establishment of the priority list proposed in paragraph 60 of the proposed order create the same problem as the utility’s “futures” list used to distribute the first available connections when the moratorium was lifted? Is this an undue preference in favor of Complainants? If approved, would it discriminate against other customers who did not participate in the complaint, or those who may not have signed the list of those present on the date of the sale, for whatever reason?
  - 5) Why shouldn’t the utility be required to notify all potential new customers at the time the Department of Health approves additional connections to the water system?

**PLEASE TAKE NOTICE that a hearing on the parties' proposed settlement will be held on March 18, 2003, beginning at 10:00 a.m. in Room 108, Chandler Plaza Building, 1300 S. Evergreen Park Drive SW, Olympia, Washington. If you are unable to attend the settlement hearing in person, you may attend via the Commission's teleconference bridge line. Due to the limited number of available ports, all ports must be reserved in advance. Ports may be reserved by calling Kippi Walker at 360-664-1139 by March 17, 2003. Please call into the bridge line no later than 9:55 a.m.**

Sincerely,

KAREN M. CAILLÉ  
Administrative Law Judge