

BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

SARAH HAND AND GRETCHEN HAND,
a married couple

Complainant,

v.

RAINIER VIEW WATER COMPANY, INC.,

Respondent.

DOCKET UW 170924

**EXHIBIT 4 TO REPLY TESTIMONY
OF SARAH HAND**

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TO REPLY TESTIMONY OF SARAH HAND

July 2, 2018

Deposition Excerpts Of

Michael Means, Deputy Director of Operations for the

Department of Health Office of Drinking Water

30(b)(6) Deposition of

Michael J. 30(b)(6) Department of Health Means

August 30, 2017

Hand v. Rainier View Water Company

No. 17-2-05538-2



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1 and a section for operator certification that all report
2 to me.

3 Q Do you -- or strike that.

4 Which of the three regional offices are within your
5 jurisdiction?

6 A All three regional offices. We have a northwest office
7 that's based out of our Kent office, an eastern regional
8 office based out of Spokane, and then our southwest
9 regional office is based out of Tumwater.

10 Q Now, you have been present throughout the deposition
11 taken earlier today?

12 A Yes.

13 Q And you listened to the questions and the testimony?

14 A Yes.

15 Q Did you hear any testimony from the witness that you
16 thought was factually inaccurate?

17 A The only piece of information that was factually
18 inaccurate is that the witness did not have knowledge of
19 our current stance on manganese as is being developed
20 right now.

21 Q Okay. Can you explain that to us? What is your current
22 status -- or, excuse me, stance on manganese that is
23 being developed?

24 A So just in preparation for the deposition, I was able to
25 debrief with our toxicologist, who is in the process of

1 reviewing the existing studies that are out on manganese,
2 as well as updating a very old historic fact sheet that
3 is no longer current on iron and manganese in water
4 systems, public and private, and specifically also in
5 review to what the EPA has put out as lifetime health
6 advisory for manganese and how that might impact whether
7 we would change how we view manganese as a contaminant.

8 And in summary, we support the EPA's lifetime health
9 advisory for manganese, which is at 300. For the scale
10 of things, 50 is the secondary maximum contaminant level.
11 That is still a safe level for aesthetic -- it's an
12 aesthetic impact at that point. Above 300 is where
13 there's a potential health concern.

14 Manganese is a required nutrient for our bodies. We
15 have to have it. Most of the manganese we consume is in
16 our food, but when you combine that food and that
17 specific piece, the specific focus is on infants and
18 formula, if you exceed that 300 level, you might have a
19 potential impact to infants. So that's the level at
20 which we're saying you need to be aware of it and have
21 some concern.

22 Q Are you anticipating publishing this finding at some
23 point?

24 A Oh, yeah.

25 Q What's the timetable on that?

1 **A** Hopefully by the end of this year, if not sooner.

2 **Q** When did you undertake this study of manganese?

3 **A** The toxicologist -- I asked the toxicologist to come
4 start that study about eight months ago.

5 **Q** Was there some event or incident that caused you to ask
6 the toxicologist to start that work about eight months
7 ago?

8 **A** It was an event that I just happened to see a posting for
9 the EPA lifetime health advisories as a result of what we
10 were looking at for addressing actually at the time lead
11 and fluorinated compounds.

12 **Q** Do you have any concern at the DOH about the aesthetic
13 quality of water?

14 **A** We have concerns for the aesthetic quality of water as
15 far as people's acceptance, and also in the challenges
16 that exist for, you know, determining what's safe and as
17 well as what's acceptable. And so, you know, aesthetic
18 quality can be an indicator of some circumstances, where
19 there might have been a change in what's going on with a
20 utility, so that's our primary concern, where it's a
21 change in that aesthetic quality.

22 **Q** If I could go back for a moment.

23 You mentioned this number 300. Are you referring to
24 a ratio of 300 parts per billion?

25 **A** Yes.

1 Q Are you saying that the State of Washington Department of
2 Health could care less if water purveyors are providing
3 water with manganese levels below 300 parts per billion?

4 A The determination of care is an interesting term to use.
5 I would say our legal authority is that we do have legal
6 authority on acting. We do care about customer
7 acceptance of water, which is what our policy is
8 originally based on.

9 Q Can you explain what you meant by "legal authority"?

10 A So we're -- you know, our legal authority is associated
11 with, you know, a secondary contaminant level, which is
12 not at that concentration a health concern. It is an
13 aesthetic concern.

14 And so for existing systems, we look to both the
15 utility and the customer, depending upon their
16 authorizing environment, to address concerns, and where
17 we have complaints we would actually go to look to
18 address them in accordance with the Water System Design
19 Manual previously referenced.

20 Q And is the position of the Department of Health that
21 unless at least five customers contact the DOH directly
22 you have no interest or concern in acceptance of water
23 discolored by manganese?

24 A I would say that we don't pursue it within our limited
25 resources.

1 Q And would it be fair to state that it doesn't matter how
2 many people complain directly to the water company;
3 unless they complain to the DOH, you're not going to take
4 action?

5 **A If they complain to the water company, we do not**
6 **necessarily have knowledge of those complaints. We have**
7 **complaints go to water companies for many reasons, and**
8 **sometimes in large volumes, especially for our large**
9 **utilities, particularly around main breaks and things**
10 **like that. We don't have the resources to receive every**
11 **complaint that every water purveyor receives. That's not**
12 **something -- that's what the utility's primary**
13 **responsibility is for.**

14 MR. MALDEN: Can I have you read back
15 my last question?

16 (Question on Page 11, Lines 1
17 through 4, read by the
18 reporter.)

19 Q (By Mr. Malden) Can you answer that yes or no?

20 **A I can answer that we are not going to take action unless**
21 **we receive complaints. We would not know about an issue.**

22 Q And what efforts does the Department of Health make to
23 advise and inform the public that they must lodge their
24 complaints regarding water quality directly with the
25 Department of Health?

1 **A** So we do not make specific efforts as an outreach to the
2 public. We do have documents that we provide online that
3 have information about concerns. Most individuals that
4 have called to complain have done a little bit of
5 investigation as to who to complain to, and they come to
6 us pretty quickly.

7 **Q** Do you know who Rainier View Water tells its customers to
8 report their complaints to?

9 **A** I do not.

10 **Q** Do you know if Rainier View Water has ever instructed its
11 customers to contact the DOH with complaints?

12 **A** I do not specifically, no.

13 **Q** Does Rainier View Water not have an affirmative legal
14 duty to report to you complaints over water quality?

15 **A** I do not believe that that is the legal duty.

16 **Q** Does Rainier View Water, to your knowledge, have any
17 legal duty with regard to documenting and maintaining
18 records of customer complaints?

19 MR. RANKIN: Objection. Legal
20 conclusion.

21 **A** I don't know that that's actually in our -- as a
22 requirement of what the recordkeeping requirements are
23 for utilities. That would probably be in the code of
24 federal regulations as a reference document, and I just
25 can't remember off the top of my head.

1 **technical capacity of utilities is what the document**
2 **focuses on.**

3 Q Okay. If I could -- or strike that.

4 This particular document is dated December 2009.

5 To your knowledge, is this the most recent edition
6 or version of the manual?

7 A **This is the most recent published edition, yes.**

8 Q If I could direct your --

9 A **I thought we had done an update actually in 2011, but**
10 **I'll have to check on that.**

11 Q Okay. If I could direct your attention to Page 203.

12 A **Okay.**

13 Q This appears to be a section entitled "Secondary
14 Contaminant Treatment Requirements and Options."

15 Have you reviewed this section before?

16 A **Yes.**

17 Q You're familiar with its terms?

18 A **Yes.**

19 Q What is the purpose of this section?

20 A **The purpose of this section is to help address the -- and**
21 **define the policy for how we address secondary**
22 **contaminants for existing water utilities.**

23 Q If you go down -- partway down the first page of this
24 section, under the heading "Iron and Manganese" --

25 A **Mm-hm.**

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1 Q -- it indicates that "Compliance with the secondary
2 standards for iron and manganese is not required for
3 water systems in existence prior to January 15, 1992,
4 unless the iron or manganese is creating a 'significant'
5 problem as defined previously."

6 Do you know what the definition of significant
7 problem is in this design manual?

8 **A A significant problem is, as I mentioned earlier, when we**
9 **receive a petition from five or more customers of a**
10 **utility.**

11 Q And those complaints could be as simple in form as one
12 phone call -- or strike that.

13 When you reference five complaints, can those
14 complaints be as simple as a phone call from a customer
15 saying "My water is discolored, and I don't like it"?

16 **A Yes.**

17 Q And if you had five people contact the DOH and say "My
18 water is discolored, and I don't like it," that would
19 trigger the responsibility to follow the actions set
20 forth in this design manual; is that right?

21 **A Within a five -- within a 12-month period, yes.**

22 Q And the actions include the water supplier would have to
23 prepare an engineering report with recommended corrective
24 actions necessary; is that right?

25 **A That's correct.**

1 Q And the report would have to evaluate all reasonable
2 alternatives and determine the costs associated with
3 each; is that right?

4 **A Yes.**

5 Q Do you know what that typically would cost a water
6 company to do?

7 **A That cost is extremely variable depending upon a number
8 of parameters that are within the -- what's in the water
9 quality itself, what's the volume of water that's being
10 treated, and so there's a whole range of parameters to
11 the cost. I couldn't even guess at the different range
12 of costs associated with that.**

13 Q Would it likely be thousands of dollars?

14 **A Yes.**

15 Q Would it likely be tens of thousands of dollars?

16 **A That's where it depends upon the scale of the size of the
17 system and what the contaminants are. It could be
18 thousands, tens of thousands.**

19 Q And so if the DCH received just five telephone
20 complaints, that could trigger a duty, an affirmative
21 duty on the part of Rainier, to spend thousands or even
22 tens of thousands of dollars to create an engineering
23 report to meet your requirements; is that right?

24 **A Sorry. Clarification on my statement. It would be
25 thousands, tens of thousands to install the treatment.**

1 **The engineering report would typically be -- across the**
2 **board would typically be in the thousands of dollars**
3 **range.**

4 Q Okay. Okay. So again, just to summarize, if you
5 received just five phone calls from people saying "Our
6 water is discolored, and we don't like it," you would
7 then require Rainier View Water to hire an engineer and
8 to perform studies that meet the criteria in your design
9 manual; is that right?

10 **A Provided that those five phone calls are from individual**
11 **customers, yes. Five phone calls from a single customer**
12 **would not generate that same complaint.**

13 Q And the five complaints -- it doesn't matter how many
14 customers are served by a particular water system. All
15 the DOH needs is five complaints?

16 **A That is the policy under how we have operated, yes.**

17 Q But there's no obligation to do anything in the design
18 manual if those five complaints aren't specifically
19 submitted to the DOH; is that right?

20 **A If you're asking associated with secondary contaminants,**
21 **yes.**

22 Q Okay. So in this particular case, are you comfortable
23 with the way Rainier View handled this, which is to -- or
24 actually, strike that. Let me ask you a different
25 question relating to the requirements under the design

1 manual.

2 I notice here in Roman numeral I, Section 2, it
3 says, "The results of the study conducted by the water
4 supplier should be made available to the customer at an
5 appropriately noticed public meeting or by document
6 distribution."

7 Does that mean that the water purveyor is supposed
8 to send a copy of the engineering report or to conduct a
9 public meeting where the engineering report is discussed
10 with all of its customers?

11 **A If it is acting under the scenario of our addressing a**
12 **complaint consideration by that process, yes.**

13 **Q** In this particular case, it appears that Rainier View
14 sidestepped the process by submitting to the DOH its
15 engineering plan to remedy the manganese.

16 Are you fine with that?

17 **A Yes. It's not -- since we had not received the**
18 **complaints, and I was certainly not aware of the extent**
19 **of concern or complaints by the customers, if indeed all**
20 **of those complaints are associated with that, we**
21 **encourage utilities to provide the best quality water**
22 **that they can provide within the context of their**
23 **authorizing environments. So we receive --**

24 **Q** If --

25 **A We receive treatment designs for secondary contaminants**