

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PENALTY ASSESSMENT AGAINST  
VIRGIL R. FOX, President, American  
Water Resources, Inc., in the amount of  
\$3,700.00

DOCKET NO. UW-031596

DECLARATION OF  
GENE ECKHARDT

I, GENE ECKHARDT, under penalty of perjury under the laws of the state of Washington, declare as follows:

1. I am over 18 years of age, a citizen of the United States, a resident of the state of Washington, and competent to be a witness.
2. I am employed by the Washington Utilities and Transportation Commission as Assistant Director of the Water and Transportation. As part of my duties as Assistant Director, I communicate with companies or their agents regarding regulatory requirements, including requirements imposed by Commission order.
3. I spoke with American Water Resources, Inc., (AWR) on several occasions since the Commission entered its Order Accepting Settlement Agreement on December 18, 2001, in Docket No. UW-010961. Although I do not remember the exact dates on which I spoke with Rick Finnigan, attorney for AWR, I remember generally the content of those communications.
4. AWR contacted Staff regarding the requirements in the Order Accepting Settlement Agreement. That order imposed certain conditions on use of funds to be deposited into an account called the Docket 010961 Account. AWR wanted to use the funds to be deposited into that account for purposes not intended by the Order Accepting Settlement Agreement.

5. I informed AWR that Staff is bound by the terms of the Commission's orders in the same manner that the Company is. I told AWR that Staff does not have the authority to alter the requirements of any Commission order, including the Order Accepting Settlement Agreement. I told AWR that I did not think the Company's proposals regarding the use of funds were appropriate, but I informed AWR that if it wanted the terms of the Docket 010961 Account changed, it should petition the Commission to consider the Company's proposals and to enter a new order.
6. I conveyed this information to AWR on a number of occasions. I cannot remember exactly how many times I told AWR that it should petition the Commission regarding the conditions imposed in the Order Accepting Settlement Agreement. I know that it was at least two times.
7. I understand that AWR did send a letter to Carole Washburn in November 2002, requesting that the Order Accepting Settlement Agreement be modified. See Attachment A, Letter to Carole Washburn. The request was withdrawn in January 2003, so the Commission did not respond to the request. See Attachment B, Letter from Rick Finnigan.

DATED this 9<sup>th</sup> day of December 2003 at Olympia, Washington.

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GENE ECKHARDT