



## Concerned Citizens of Greater Diamond Point

(a sponsored program of Greater Diamond Point, a not-for-profit corporation)  
Greater Diamond Point, 181 Discovery View Drive, Sequim, WA 98382

Dear Commissioners:

This is a rebuttal by the Concerned Citizens of Greater Diamond Point (CCoGDP) to Aquarius Utilities' Memorandum to "Our Diamond Point Customers", dated 06-20-08, We here take exception to many of the statements made in that Memorandum, refuting many of the Memorandum's assertions. (The Memorandum is attached for your convenience.)

As a point of departure, we rely on the following Mission Statements of the agencies involved, Mission Statements meant to guarantee that the customers of Aquarius Utilities obtain a properly scoped, operated and maintained water system -- at a fair price.

The mission of the Public Works Board (PWB) is to provide financial and technical assistance to Washington communities for critical public health, safety, and environmental infrastructure.

The mission of the Office of Drinking Water (ODW), a part of the Environmental Health Division of the Washington Department of Health (DOH), is to protect the health of the people of Washington by assuring safe and reliable drinking water.

The Utilities and Transportation Commission protects consumers by ensuring that utility services are fairly priced, available, reliable and safe.

In order to provide a clear picture of what Diamond Point Water System customers have endured in the past, and what they are concerned about going into the future, CCoGDP here communicates our concerns to each of these agencies.

In the opening paragraph of Aquarius' Memorandum, it is stated:

“we have no alternative but to request an increase in rates if we are to continue providing the level of customer service you deserve and to which we are committed. A vote against our rate filing is in effect a vote for reducing customer service because something would have to give; we don't want that, and I don't think you do either.”

By CCoGDP's count, 45 out of 50 customers attending the Diamond Point Water System Plan review meeting of March 11, 2008 indicated by a show of hands that they were dissatisfied with the service provided by Aquarius Utilities. This is an accurate reflection of the perception Diamond Point residents have of Aquarius's level and commitment to “service”.

Diamond Point residents have been paying an ever increasing price for both being connected to the system and for metered water use, without benefit of service levels required by WAC 480-110-365, Service Responsibilities, Subsection 6, Operations and maintenance:

Each water company must comply with Washington department of health rules regarding operation and maintenance, as required under chapter 246-290 or 246-291 WAC as applicable, and by good engineering practices.

In calling for the rejection of this rate increase, CCoGDP is not asking for reduced service but rather is voicing objections to 1) the expenditures being claimed, and 2) the collaboration between Aquarius, ODW and PWB to obtain a “financially viable” status for the company solely to enable Aquarius to obtain four Public Works Board loans (totaling over \$2 million dollars) for projects with many still unanswered questions and of poorly defined scope.

This is not just about poor service, but is also about lack of trust and getting our money’s worth. CCoGDP will respond to each point Aquarius made as they are denominated in its June 6, 2008 Memorandum.

### **Point 1**

Diamond Point residents recently met with WUTC staff. This led to a tour of Diamond Point by staff. CCoGDP also requested a more thorough audit of Aquarius’ financials. We continue to monitor the WUTC website for the results of this audit.

(See <http://www.wutc.wa.gov/webimage.nsf/0/C2CB976B830ABA288825745C008395F7>)

Aquarius' original rate filing was for “administrative costs and expenses”. This was then modified to “capital improvements and purchases since 2002”. And now the recently updated Water System Plan includes \$72710.49 for in-house engineering work to be done by the owner of Aquarius, \$8640 outside engineering costs for hydraulic analyses, and \$6391.25 for DOH review fees. This is the third different reason stated for the rate increase, yet none addresses the “financial viability” issue. This is a rate increase looking for an acceptable justification, but none provide.

CCoGDP objects to stated engineering charges for this rate hike, as the project engineering fees are also included in the DWSRF loans. Why should we pay twice for this work, especially when the DWSRF loans have not yet been approved and the projects not yet built? What are we paying for? Furthermore, the Water System Plan simply does not contain \$72,710.49 worth of engineering work.

In regards to the capital improvement costs for pumps and piping, this should not include costs for the Diamond Point well failure of the Fourth of July weekend in 2004. The customers should not have to pay for this. At the time, Aquarius enjoyed a service rate for the Diamond Point system that was based on a two well system with specific capacities. In fact there was only one working well. We did not receive a two well capability for many years; and then only when the one working pump failed for the Fourth of July did the reality of the non-working second pump

came to light. We are only now, since 2004, getting what we were paying for all along -- two working pumps on two adjacent wells. Which agency is responsible to assure that the stated system capacities and capabilities are actually there? Aquarius led us to believe the capacities and capabilities were there when in fact they were not.

**Point 2(a)**

Speaking of its evident reluctance to enter into a right-of-way franchise agreement with Clallam County, Aquarius describes this as a “routine business matter which Concerned Citizens need not have been concerned about.” CCoGDP disagrees. From the residents point of view, Aquarius exposed all of the residents and property owners to the potential for property condemnation by the County. In his email of May 29, 2008, the County Engineer states:

Non-compliance with the franchise regulations of Clallam County may result in the following action(s) being taken:

Removal of the utility from public rights-of-way. Both the Washington State Department of Health, and Clallam County Environmental Health Division are being notified as removal of this utility from public rights-of-way may result in the termination of the availability of potable water provided to Aquarius Utilities, LLC customers. Removal of a source of potable water from the customers of Aquarius Utilities, LLC may result in a determination, by either the Washington State Department of Health or Clallam County Environmental Health, that these residences are no longer considered to be habitable.

Aquarius finally signed an agreement on June 2, 2008, one month after the final due date set by the County Engineer. This agreement, many years late, must now be publicly noticed and approved by the Clallam County Commissioners, a process estimated to take three months.

This is not about the County being slow to respond. To the contrary, the County had to resort to a dire threat in order to get Aquarius to finally respond. Aquarius’s stance endangered our property and that is something CCoGDP is very concerned about!

**Point 2(b)**

Regarding the PWB deadline for rate case and condition for loan: Aquarius could have submitted a rate case for approval on 3/4/08, one day after the PWB meeting of 3/3/08, and thereby had 80 days to get it processed. Instead, Aquarius procrastinated until 5/23/08 before filing the rate case with WUTC. PWB then had to extend Aquarius's timeframe for obtaining a rate increase for three months.

Attached are the minutes from the March 4th PWB meeting, spelling out the rate case due date and conditions for loan.

### **Point 2(c)**

In regard to the problems with drainage on Eagle Rest Lane, it is hard to understand how one memo from Barbara Money regarding the scope of Eagles Rest Lane project and its timeframe resolved the concerns with the overflow problems residents of the Lane have experienced with the Concrete Storage Tank. Her memo was answered but the problem is still there. CCoGDP raised this issue to show how our problems never get resolved yet Aquarius continually applies for more funding to be used to address the problems. Aquarius agreed to fix these problems four years ago; Aquarius has since reassessed and revised the work scope. This was never shared with Eagles Rest Lane residents, with whom the scope of this work was previously agreed. Actions speak louder than words, and all we get is words.

### **Point 2(d) 1 through 4**

#### Diamond Point Storage Tank Upgrade Project

The original working relationship between Aquarius and DPWC (predecessor to CCoGDP) culminated in Aquarius accepting a two tank system with the steel tank being decommissioned. Two DOH engineers, Jim McCaughly and Andy Anderson, consider the elevated steel tank as an obsolete structure, too costly to renovate or increase its capacity as was originally intended by Aquarius.

At this point the Diamond Point Water System Plan, and Revision 1 of the Plan, include three tanks: a 125,000 gallon concrete tank, a 50,000+ gallon elevated steel tank and a new 130,000 gallon tank with a pump station. This is not the same scope of work and expenditure that is found in the cancelled tank project, which was modified and agreed to between Greg Roa of Aquarius, Jim McCaughly (DOH) and Hugh VanderHeul (formerly DPWC, now CCoGDP). The same approach to the tank project was continued by the DOH when Andy Anderson replaced Jim McCaughly.

CCoGDP questions the need for a total storage capacity in this system of 305,000 gallons for 284 current connections, nor even for 324 connections at full build out.

### **Point 2(d) 5**

What well at the Steel Tank site? Aquarius would have to decommission it prior to beginning the new tank project if it is in the way. Where are the funds for this? Please see the attached July 1, 2008 email from Jozsef Bezovics, DOH engineer, to Aquarius, raising these very questions.

### **Point 2(e)**

Contrary to Aquarius Utilities' assertion that CCoGDP stopped communicating with it, it was Aquarius that stopped communicating with our customer group, then known as DPWC, in 2005. To be specific, Hugh VanderHeul twice asked during 2005 what Aquarius's progress was on the design work for the piping project, which was to be done first. Our streets still bear the marks of the piping location work that was started that year. When first asked for an update, Aquarius

informed Mr. VanderHeul that it was a few weeks behind, but not to worry, that it would easily get back on schedule as the engineering/design work really was not that involved. Honoring our commitment of “no micromanagement” of Aquarius's business, we took Mr. Roats’ word for it. Five months later a second request revealed that Aquarius had then fallen approximately six weeks behind, but that the project was still going forward, as evidenced by the street markings, etc.

Fifteen days after the project was supposed to start on October 1, 2005, the customer group met with Aquarius for a discussion on the lack of progress. It was then Aquarius informed us that the project was to be postponed for one year. Among the reasons given was that Greg Roats had lost two weeks due to surgery. However, when asked why not start the project sooner in the following year, Aquarius stated that it needed a year to “accumulate funds” for the first annual loan payment, due the month following its scheduled completion in December 2005.

It should be kept in mind that this project was based on the then obsolete Water System Plan. We now know that DOH made Aquarius produce a new Water System Plan for each of the water systems, including an Umbrella Plan. However, we did not know of any of this until we received DOH's review letter of the new WSP in October 2006. We had never seen a copy nor even known of its existence.

Regardless of our water group's name change from DPWC to CCoGDP, Aquarius's only interest appeared to be getting the full list of members’ names, rather than to address us as a group. Many of the elderly residents were not and are not comfortable with direct confrontation with Aquarius. Therefore, we did not, with exception of Barbara Money, Leslie Farrell and Hugh VanderHeul, reveal the participants list, neither active members nor financial supporters. But the attendance at the March 11, 2008 DOH/Aquarius WSP review meeting, as well as the approximately 100 petitions filed opposing this rate increase are strong indications of community support for our efforts.

Since Aquarius failed to complete the previously funded projects without any prior notice to the customers, Diamond Point found itself without a water project or cooperative water company. CCOGDP choose to learn more about DOH, WUTC and PWB agencies, shifting our strategy from direct involvement with Aquarius, which bore no meaningful results, to trying to work with the very agencies that are tasked with regulating Aquarius. The role of various agencies was unclear and it was initially difficult for us to get information from their records. This is now corrected, which we attribute to the use of our lawyer.

Although Aquarius complains about communications with us, Aquarius is perfectly able to find all of us every month for its billing, it certainly could have notified Barb, Les or Hugh about the renewal of the Water System Plan and its subsequent revision. Also, once we did get a WSP copy from DOH, CCoGDP reviewed the WSP and provided DOH with its findings, as well as providing Aquarius with a copy of our review comments. It took Aquarius a year to respond to those comments and that was only after Andy Anderson (DOH) got involved.

## Comparing the Single Rate Tariff vs. Diamond Point-Only Costs.

The only project in the last 20 years that we have been able to identify that had any benefits to Diamond Point was the Pressure Reduction Valve (PRV) project. And this is an example of a “dual purpose” project. For two years after it was constructed residents on Discovery View, West Street and Eagles Rest Lane did not get pressure improvements because the old mains continued to break and therefore pressure increases were restricted. The project did however enable water diversion to Diamond Point Estates, a new development. Later, Aquarius decided it could increase the pressure to the residents still affected by low pressure, as the pipe replacement project was imminent and therefore the greater risk of increased pressure could be accepted for what was to be a short period. Therefore, the Pressure Reduction Value project was a “dual purpose” project, paid for by all the residents, but where the benefits flowed to only a few – and the company. CCoGDP believes that improvements for system expansion should not be paid for by those who do not benefit. Neither Aquarius, DOH nor WUTC ever provided us with a satisfactory answer to our concerns regarding this inequity.

Using the table below, it is clear that Diamond Point is not benefiting from the Single Rate Tariff.

\$126,000 PRV project single rate repayment:

A= \$0.99/month per customer (837 connected over all 4 water systems), @5%/20y.

\$126,000 PRV project Diamond Point customers only, repayment:

B= \$2.95/month per customer (282 connected Diamond Point customers only), @5%/20y.

\$364,400 tank project single rate repayment:

C= \$2.41/month per customer (837 connected over all 4 water systems), @3%/20y.

\$364,400 tank project Diamond Point customers only, repayment:

D=\$7.17/month per customer (282 connected Diamond Point customers only), @3%/20y.

\$2,056,215 total for all 4 tank projects, single rate repayment:

E= \$13.62/month per customer (837 connected over all 4 water systems), @3%/20y.

Single rate costs to Diamond Point for its PRV station plus all 4 company-wide proposed tank projects is \$14.61/month (\$13.62 + \$0.99).

Stand alone costs to Diamond Point for its PRV station plus DP proposed tank project is \$10.12/month (\$7.17 + \$2.59).

Our community “benefit” under the single-rate scheme is a 44% increase in monthly costs on this project alone!

How many non-Diamond Point projects are we paying for each and every month under Single Rate Tariff?

Aquarius and DOH stated that pipe replacement projects are low priority for DWSRF funding. Yet, the Public Works Board has received a \$10 Million Dollar Grant specifically for obsolete public-utility infrastructure. However, according to Aquarius and DOH, being a privately-owned small water company Diamond Point cannot receive DWSRF funding for piping infrastructure replacement. Therefore, Aquarius proposes to levy a \$5 per month surcharge as the funding mechanism for a \$50,000 annual project budget totaling \$1,600,000 for Diamond Point, with only the first two years prioritized to Diamond Point. That's 32 years worth of projects! Not a very credible scenario.

The surcharge means no DWSRF loans for Diamond Point or any other Aquarius Utilities piping projects, thus no future Single Rate Tariff benefit to Diamond Point. Reason enough to get out of this punitive rate structure.

Staying in the single rate tariff structure will continue to expose our community to Aquarius's business model, which appears to be purchasing or accepting ownership of older water systems in need of rehabilitation. Since Diamond Point was the original system, our residents firmly believe that Aquarius has used Diamond Point to fund its expansions and improvement projects in the systems it acquired.

Washington State is preventing small water companies with aged and brittle piping from ever receiving grant money because they are not classified as a public utility. Considering that in 2003 the condition of the Diamond Point distribution piping was such that it qualified for a 0.5% DWSRF loan, what can the condition be now of the same system in 2008?

**CCoGDP's Goals:**

Our residents pay their fair share for a safe and reliable water system of absolute minimal scope, while Aquarius pays its fair share for expansion beyond the previous limit of 297 approved connections.

CCoGDP requires a cogent explanation of why the previous maximum number of connections, 297, has been increased to 324. CCoGDP believes this to be an result of engineering-personnel turnover within the DOH. Since future DWSRF loans for the Diamond Point piping system are a priority according to Aquarius and DOH, Diamond Point seeks to obtain an independent rate structure for DP as a stand-alone water system, enabling it to seek grant money where possible.

FYI: Current tank project breakdown from Aquarius Umbrella Plan:

Agate West Loan \$486,240.	40 users	Engineering costs \$54,240.
Lynch Cove Loan \$508,202.	250 users	Engineering costs \$50,070.
Island Lake Loan \$697,365.	265 users	Engineering costs \$36,740.
Diamond Pt Loan \$364,408.	282 users	Engineering costs \$42,300.

Grand Total = \$2,056,215., with a cost of an additional \$183,350 for in-house engineering! For more detail, review attached file: Projects Financial Matrix.xls

In closing, Aquarius is currently on a path that appears not to be in its customers best interests and incompatible with the Mission Statements of each of the involved regulatory agencies. A system outage has not only been predicted by 2 DOH engineers, it is imminent.

Thank you for your attention.

Concerned Citizens of Great Diamond Point

Attachments:

1. Aquarius Utilities Memorandum 06202008
2. PWB March Meeting 2008
3. DOH Email 07012008
4. Projects Financial Matrix