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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION
3 WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION,) Docket No. UW-020538
4)
 Complainant,) Volume I
5) Pages 1 to 21
 vs.)
6)
GAMBLE BAY WATER, INC.,)
7)
 Respondent.)
8 _____)

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10 A hearing in the above matter was held on
11 October 28, 2002, from 1:35 p.m. to 2:00 p.m., at 1300
12 South Evergreen Park Drive Southwest, Room 206, Olympia,
13 Washington, before Administrative Law Judge DENNIS MOSS.

14

15 The parties were present as follows:

16 THE COMMISSION, by MARY M. TENNYSON, Senior
Assistant Attorney General, 1400 South Evergreen Park
17 Drive Southwest, Post Office Box 40128, Olympia,
Washington, 98504-0128, Telephone (360) 664-1220, Fax
18 (360) 586-5522, E-Mail mtennyson@wutc.wa.gov.

19 CONCERNED CUSTOMERS OF THE GAMBLE BAY WATER
SYSTEM, by JULIE KRUCEK, 5755 Northeast Fox Glove Lane,
20 Poulsbo, Washington, 98370, Telephone (360) 779-1013.

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Joan E. Kinn, CCR, RPR
25 Court Reporter

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1 P R O C E E D I N G S

2 JUDGE MOSS: Good afternoon, everyone. My
3 name is Dennis Moss. I'm an Administrative Law Judge
4 for the Washington Utilities and Transportation
5 Commission, which has delegated to me the responsibility
6 to be the presiding officer in the matter styled
7 Washington Utilities and Transportation Commission
8 against Gamble Bay Water, Inc., Docket Number UW-020538.
9 We are convened today for the purpose of our first
10 pre-hearing conference in this matter, which involves a
11 request for rate change that's been suspended by the
12 Commission.

13 Our first order of business is to take
14 appearances. Previously off the record I have confirmed
15 that there is not a representative from Gamble Bay Water
16 Company in the hearing room, and I will ask again if
17 there is a representative for the company present on the
18 teleconference bridge line.

19 Hearing no response on the teleconference
20 bridge line, I have to assume that there is no one
21 appearing today for the company. I waited to convene
22 our conference until five minutes after the appointed
23 hour of 1:30 that was duly noticed by Notice of
24 Pre-hearing Conference, entered and served October 7th,
25 2002, designating this date, time, and place for the

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1 pre-hearing conference.

2 Ms. Tennyson, let's have your appearance,
3 please.

4 MS. TENNYSON: Thank you. My name is Mary M.
5 Tennyson. I am a Senior Assistant Attorney General
6 representing Commission Staff. My street address is
7 1400 South Evergreen Park Drive Southwest. Mailing
8 address is Post Office Box 40128, Olympia, Washington
9 98502-0128. My telephone number direct line is (360)
10 664-1220, facsimile is (360) 586-5522, E-mail is
11 mtennyson@wutc.wa.gov.

12 JUDGE MOSS: Thank you. All right, are there
13 any petitions to intervene?

14 Hearing nothing, well, Ms. Tennyson, the
15 burdon falls to you.

16 Did you wish to petition to intervene?

17 MS. KRUCEK: Yes.

18 JUDGE MOSS: Oh, you did, okay. Why don't
19 you come forward to a microphone.

20 MS. KRUCEK: I'm sorry.

21 JUDGE MOSS: All right, tell me your name.

22 MS. KRUCEK: My name is Julie Krucek.

23 JUDGE MOSS: Julie, J-U-L-I-E?

24 MS. KRUCEK: Julie Krucek, mm-hm.

25 JUDGE MOSS: Spell the last name, please.

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1 MS. KRUCEK: K-R-U-C-E-K.

2 JUDGE MOSS: All right. Ms. Krucek, you are
3 a customer of Gamble Bay Water?

4 MS. KRUCEK: Yes, I am also representing the
5 concerned customers of the Gamble Bay Water system.

6 JUDGE MOSS: Is that a formally constituted
7 group or an informal group?

8 MS. KRUCEK: It's an informal group, Your
9 Honor.

10 JUDGE MOSS: Approximately how many persons
11 are members of that group?

12 MS. KRUCEK: 35 to 40.

13 JUDGE MOSS: All right, 35 to 40. All right,
14 and can you tell me what your interest in this
15 proceeding is.

16 MS. KRUCEK: Well, when we got the notice
17 that Gamble Bay Water wants to construct a new reservoir
18 to add another pump on to expand his business by adding
19 approximately twice as many connections to the existing
20 system, we were quite concerned. Last year he added a
21 new well, which we have had nothing but problems with.
22 We were nine months without water either coming from the
23 well, or the water was contaminated according to the
24 Department of Health. We have had many notices in the
25 mail from the Department of Health that we weren't

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1 allowed to drink our water. He has been fighting this
2 for the past year, and the last notice that we got was
3 six months ago that it had finally cleared up. I spoke
4 with Denise Lamont today, and she said that so far they
5 hadn't had any other bad water contaminations or
6 anything that she knew of to this point, but yet
7 Mr. Randles hadn't confirmed with her some questions
8 that she had asked him to.

9 JUDGE MOSS: And Ms. Lamont is whom?

10 MS. KRUCEK: Ms. Lamont is -- Denise Lamont
11 is the Director of the Department of Health.

12 JUDGE MOSS: Department of Health.

13 MS. KRUCEK: Yes.

14 JUDGE MOSS: And Mr. Randles you referred to
15 is?

16 MS. KRUCEK: He is the owner of the Gamble
17 Bay Water system.

18 JUDGE MOSS: Okay.

19 MS. KRUCEK: We believe that after studying
20 the facts and findings that this is not possible due to
21 the gallons per minute of the existing well, also the
22 continuing poor water quality and service of such well
23 system. We believe that the well is producing its
24 maximum water source, and extra pumps and reservoir
25 units will not behoove the system. It has now reached

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1 its capacity.

2 And Denise Lamont from the State Department
3 of Health has put a hold on any more connections to this
4 system for a very good reason. Mr. Randles has not
5 shown that the existing well system meets the
6 requirements of the Department of Health in a consistent
7 manner.

8 There is a projected buildout of 117
9 connections that we believe would be disastrous. We now
10 have 39 connections on the system, and during the summer
11 we continually run out of water because the well is just
12 not producing enough water. No matter if he put the new
13 pump system in, it still doesn't produce enough water.

14 Bordering this well system is 500 acres of
15 pulp and talbot land, which there has been talks about a
16 proposed building project of tract homes, which will
17 bring city water in this proposed area, thus entitling
18 new residents to tie into the city water. We do not
19 believe at this time this would be a wise move or needed
20 expansion to an already frail and maxed out water
21 system.

22 JUDGE MOSS: Ms. Krucek, let me just try to
23 brief things up if I can here.

24 MS. KRUCEK: All right.

25 JUDGE MOSS: The concern of your group and

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1 the group you represent is that the expansion that's
2 underway or being proposed as to which the funds that
3 have been requested by the company would be expanded is
4 an unnecessary expenditure.

5 MS. KRUCEK: Correct, Your Honor.

6 JUDGE MOSS: All right, I think I get the
7 gist of it.

8 Is there anything on the petition to
9 intervene that you would like to say, Ms. Tennyson?

10 MS. TENNYSON: I would like to know what
11 system these, there are a couple of systems within this
12 water company, which system is it that these customers
13 are on.

14 JUDGE MOSS: Okay.

15 MS. KRUCEK: We're on the Gamble Bay Water --
16 I'm not sure exactly. What do you mean? I know there's
17 quite a few -- it's Fox Glove Lane.

18 JUDGE MOSS: Fox Glove Lane.

19 MS. KRUCEK: It's the system on Fox Glove
20 Lane, and it's -- yeah.

21 JUDGE MOSS: Is that one implicated in the
22 rate increase request, Ms. Tennyson?

23 MS. TENNYSON: I really don't know. We have
24 the names of wells is the maps that we have.

25 JUDGE MOSS: Does this company have a unified

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1 rate for all of its customers?

2 MS. TENNYSON: They do have a unified rate
3 for all of its customers.

4 JUDGE MOSS: So it would potentially affect
5 these customers?

6 MS. TENNYSON: Yes, it would. I believe most
7 of the work that is concerned in this rate case has been
8 completed, if not all, so I'm not sure of the status of
9 the whole --

10 JUDGE MOSS: Sure, but it's not going to be a
11 different rate for different systems?

12 MS. TENNYSON: I don't believe so, no.

13 JUDGE MOSS: All right. And do you have any
14 objection to the petition?

15 MS. TENNYSON: We do not.

16 JUDGE MOSS: Okay, there's no one here for
17 the company to object.

18 All right, Ms. Krucek, I find that your
19 petition is well taken. I think you have demonstrated a
20 substantial interest in the proceeding, and I will grant
21 the petition. I do want to inquire of you a little bit
22 further in terms of what level of participation you
23 would anticipate having in the proceeding. Would you
24 anticipate putting on a witness, for example, or hiring
25 counsel to cross examine witnesses, or what sort of

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1 participation would you anticipate having?

2 MS. KRUCEK: I would participate myself in
3 this hearing and the oncoming hearings that will be held
4 on this. I have followed this. Actually the Johanson
5 Water System, Mr. Randles took it over in 1993, and
6 there's just so many discrepancies with what he is
7 saying and his figures that we have found that we are
8 very concerned about this system, and we just don't
9 believe at this time that it should be expanded.

10 JUDGE MOSS: I understand your position. It
11 would be unusual for a person to participate in a
12 proceeding, not unprecedented, but unusual for a person
13 to participate in a proceeding both as a representative
14 and also to appear as a witness. Would it be your
15 intention to simply appear as a representative and to
16 inquire perhaps of other witnesses?

17 Ms. KRUCEK: Yes, I would, Your Honor.

18 JUDGE MOSS: All right, very well. Well, I
19 take it there are no other petitions to intervene.

20 I have checked once or twice, there doesn't
21 appear to be anybody on the conference bridge line. I
22 think I will hear that chiming sound if anyone comes on,
23 so I'm not going to keep asking.

24 Could you give me a little insight into the
25 case, Ms. Tennyson, in terms of what's at issue here

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1 beyond the bare issue of fair, just, reasonable, and
2 sufficient rates. And first of all, I would like to ask
3 you, there's an apparent discrepancy, and I don't know
4 if it's a real discrepancy, but I notice in the petition
5 the company submitted indicates a net increase to the
6 company in revenues of \$4,861.94. In reviewing the
7 Commission's Notice of Pre-hearing Conference, there's a
8 figure of an increase of \$21,440 annually. And I would
9 just like to first understand where we are in terms of
10 the proposed increase.

11 MS. TENNYSON: The matter that was suspended
12 by the Commission, I actually don't have a copy of the
13 company's petition with me. I believe Mr. Ward does,
14 and I can check that as I'm filling you in. What has
15 been suspended was a request by the company for a
16 surcharge. They have applied for and received a state
17 revolving fund loan in I believe the amount is in the
18 \$400,000 range, \$420,000, in the amount of \$389,000, a
19 loan, and they are seeking to recover that through a
20 surcharge in addition to the regular rates being paid by
21 the customers.

22 The issues that Staff has with the
23 calculation of the surcharge that the company has
24 presented, Staff believes there are some unsubstantiated
25 costs, particularly amounts paid to an affiliated

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1 interest of the company, the Pump Doctor, Inc., that
2 Staff has asked for proof of the validity and
3 reasonableness of those payments and has not received
4 that. There are questions of the length of time over
5 which the project costs were incurred. Some of the work
6 for which they are seeking to recover through the
7 surcharge actually began in 1999.

8 This company has a facilities charge in the
9 amount of \$2,600 per connection, which is a fairly large
10 one, and has received a fair amount of income from
11 facilities charges over this period of time, so Staff
12 has questions of why the facilities charges were not
13 used to pay the costs, some of the costs of the
14 improvements that they are seeking to recover through
15 the surcharge. I believe the system currently has about
16 200 or the company has about 255 customers and has a
17 substantial number of additional connections for which
18 they could recover the surcharge or recover the
19 facilities charge as the connections come on. So Staff
20 is questioning the prudence of seeking the state
21 revolving fund loan to fund these amounts and the actual
22 validity of the charges.

23 The amount of the proposed surcharge that the
24 company was seeking is \$8.59 per customer per month. So
25 with the 255 customers times 12 months, that comes out

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1 to \$22,400. The owners of the system are Mr. Bill
2 Randles and Cindy Randles. They are currently located
3 in Oregon. We have had some difficulty getting any kind
4 of responses from them. At one point, Staff was asked
5 to contact Mr. Finnegan and provide him information
6 about Staff's position, which was done, but we have not
7 had any further contact from Mr. Finnegan.

8 JUDGE MOSS: Has Mr. Finnegan indicated that
9 he will appear?

10 MS. TENNYSON: He has not. In fact, I met
11 with him on Friday. I did not bring up the matter of
12 the pre-hearing conference, but we were discussing
13 meeting on some other matters today, and he did not
14 raise the issue of setting the time around the
15 pre-hearing conference.

16 JUDGE MOSS: Yeah, I haven't seen any written
17 notice of appearance.

18 MS. TENNYSON: I have not either.

19 I guess Staff's position at this point is we
20 would move for dismissal of the case, and if the company
21 wants to recover these costs that they should be
22 required to refile.

23 JUDGE MOSS: Would you be moving under the
24 default statute?

25 MS. TENNYSON: Yes, we would.

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1 JUDGE MOSS: I will note for the record that
2 our Notice of Pre-hearing Conference served on October
3 7th, 2002, does include at numbered paragraph 6 a notice
4 that any party who fails to attend or participate in the
5 hearing set by this notice or any other stage of this
6 proceeding may be held in default in accordance with RCW
7 34.05.440. The parties are further advised that the
8 sanction provisions in WAC 480-09-700(4) are
9 specifically invoked. So your motion I presume would be
10 under RCW 34.05.440.

11 MS. TENNYSON: That is correct, Your Honor.

12 JUDGE MOSS: I will take that under
13 advisement.

14 MS. TENNYSON: We do have concerns again
15 about the timing, because we have been unable to get
16 responses out of the company, which is why we moved to
17 set the pre-hearing conference. The ten month period
18 from the date from which these rates would have been
19 effective expires on April 1st, 2003, which doesn't
20 leave us a lot of time to conduct a hearing and get a
21 decision, especially with an initial order and final
22 order process.

23 JUDGE MOSS: In typical fashion, I think I
24 counted the wrong number of fingers. I thought we were
25 in suspension date at the end of February, ten months.

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1 MS. TENNYSON: The rates would have gone into
2 effect on June 1st of 2002.

3 JUDGE MOSS: Oh, they were asking for --

4 MS. TENNYSON: Yes.

5 JUDGE MOSS: Well, we can check on the
6 suspension date, but that's sometime early next year.

7 MS. TENNYSON: Yes.

8 JUDGE MOSS: I think prudence dictates if you
9 want to move for default that you should do so in
10 writing.

11 MS. TENNYSON: Okay, I will do so.

12 JUDGE MOSS: I will say that I don't think it
13 would be inappropriate, in the absence of any
14 communication from the company to me or to the
15 Commission to my knowledge or to you that the company
16 had no intention to attend today, I do not think it
17 would be inappropriate for such a motion to be filed.
18 And I ask that it be filed in writing so that we may
19 give the company an opportunity to respond and indicate
20 perhaps why they should not be held in default as an
21 additional procedural protection to the company in
22 addition to the protection that would be afforded to
23 them under the default statute that provides I believe
24 it's a ten day period after the entry of any order on
25 default.

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1 MS. TENNYSON: That's correct.

2 JUDGE MOSS: For them to show cause. So
3 that's where we'll leave that. I will appreciate you
4 following through on that.

5 MS. TENNYSON: I will do so.

6 JUDGE MOSS: I'm considering whether we
7 should go ahead with a procedural schedule. Did you
8 have one to suggest?

9 MS. TENNYSON: I did have one. Obviously I
10 had no opportunity to discuss it with the company, but I
11 have written it up. I will present one to you.

12 JUDGE MOSS: All right, and if you could
13 provide Ms. Krucek a copy as well.

14 MS. TENNYSON: Assuming that my calculation
15 of the time lines were correct, and it was my
16 understanding that if an initial and final order were
17 done that the Commission generally wants about six weeks
18 from the initial order time frame.

19 JUDGE MOSS: Particularly in the absence of
20 the company today, we can't really consider a waiver of
21 the initial order.

22 MS. TENNYSON: Correct.

23 JUDGE MOSS: Since that requires a waiver by
24 all parties, I believe.

25 MS. TENNYSON: Yes, it does, particularly the

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1 company.

2 JUDGE MOSS: Sure. So I think the schedule
3 looks workable as you have proposed it.

4 MS. KRUCEK, did you have any comment on the
5 proposed schedule if we do end up going forward?

6 MS. KRUCEK: No, I don't, Your Honor.

7 JUDGE MOSS: Okay, fine, then I will consider
8 the -- well, I will consider the timing of a pre-hearing
9 order and so forth, but in the absence of any other
10 discussion or concern, I think your schedule looks all
11 right. I am available on the 9th of January, I believe.

12 MS. TENNYSON: Okay.

13 JUDGE MOSS: To conduct the hearings
14 proposed.

15 MS. TENNYSON: We were even considering a
16 date earlier that week. Mr. Ward, who will be Staff's
17 witness in the case for accounting matters, has been
18 subpoenaed for a trial that begins on January 6th, and
19 so we're not certain which day he will be called,
20 probably on the 7th or the 8th.

21 JUDGE MOSS: Oh. The 8th is an open hearing
22 day, so that wouldn't be a good day anyway.

23 MS. TENNYSON: Right.

24 JUDGE MOSS: All right, well, I see I have a
25 due date on the 10th, so yeah, I think we can work with

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1 this, and of course we will see maybe that a dispositive
2 motion is going to resolve this case, as we have
3 discussed.

4 All right, any other business?

5 MS. TENNYSON: I don't have any at this
6 point.

7 JUDGE MOSS: Ms. Krucek, any other business?

8 MS. KRUCEK: No, I don't, Your Honor.

9 JUDGE MOSS: Okay. Paper filings in this
10 proceeding, we're going to need an original plus 8
11 copies for the Commission's internal distribution.

12 Ms. Krucek, whenever a party files something
13 formally with the Commission, they are required to file
14 an original and the indicated number of copies, in this
15 instance 8, so that the Commission can satisfy its
16 internal distribution needs.

17 All filings must be made through the
18 Commission's secretary, and those are to be addressed to
19 the Commission Secretary here at the WUTC, P.O. Box
20 47250, the street address is 1300 South Evergreen Park
21 Drive Southwest.

22 I can give you a copy of this afterwards.

23 MS. KRUCEK: Okay.

24 JUDGE MOSS: Olympia, Washington.

25 MS. KRUCEK: I have all that information,

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1 Your Honor, already, but thank you.

2 JUDGE MOSS: Fine, we put it on the record
3 anyway.

4 98504-7250. That can be by mail or by other
5 means of delivery. And for mail, it's important to put
6 both a P.O. Box and a street address because of our mail
7 distribution system.

8 I want to I normally say stress, we ask that
9 any filings of significance, that is to say a brief or a
10 motion, that sort of thing, in addition to being filed
11 by paper be provided in electronic format if possible.
12 That can be done either by submitting a 3 1/2 inch
13 diskette IBM formatted using MS Word 6 or later, Word
14 Perfect 5 or later, and although I doubt you would have
15 a PDF capability, we ask for that if parties can furnish
16 it. You may also do it by E-mail attachment rather than
17 by submitting the diskette, and E-mail should be
18 addressed to the records center, R-E-C-O-R-D-S, no,
19 actually, I take it that back, it's just
20 records@wutc.wa.gov. And all parties in the proceeding
21 have to be served simultaneously with any filing under
22 our service requirements.

23 So you will note too, Ms. Krucek, our
24 procedural rules are included in the Washington
25 Administrative Code, Chapter 480-09, you appear to be

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1 familiar with that as well.

2 MS. KRUCEK: I am, Your Honor.

3 JUDGE MOSS: And the statutes in this
4 proceeding are found in Chapter 80 RCW, 28 isn't it,
5 isn't that the primary for water companies?

6 MS. TENNYSON: Yes.

7 JUDGE MOSS: RCW 80.28 is the key statute
8 there.

9 MS. TENNYSON: Your Honor, I don't recall,
10 did we have Ms. Krucek put her address on the record,
11 because definitely I will need to have it in order to
12 serve her with a copy of the motion.

13 JUDGE MOSS: Actually, I'm not sure we did.

14 Did we do that, Ms. Krucek?

15 MS. KRUCEK: Yes, I have been getting copies
16 of just about everything.

17 JUDGE MOSS: Did you state your address today
18 though on the record?

19 MS. KRUCEK: No, I didn't.

20 JUDGE MOSS: Why don't you do that.

21 MS. KRUCEK: All right.

22 JUDGE MOSS: And then we'll have it in the
23 transcript.

24 MS. KRUCEK: My name again is Julie Krucek,
25 my address is 5755 Northeast Fox Glove Lane in Poulsbo,

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1 Washington, zip 98370.

2 JUDGE MOSS: Zip again, please.

3 MS. KRUCEK: 98370.

4 JUDGE MOSS: And your phone?

5 MS. KRUCEK: My phone is (360) 779-1013.

6 JUDGE MOSS: Do you have a fax?

7 MS. KRUCEK: Not at this moment, I don't.

8 JUDGE MOSS: And do you have an E-mail?

9 MS. KRUCEK: My computer is down right now,
10 Your Honor.

11 JUDGE MOSS: Are you expecting to have it up
12 during the course of our proceeding?

13 MS. KRUCEK: Yes, I am, hopefully by next
14 week.

15 JUDGE MOSS: Do you know what your E-mail
16 address will be? Or you can let us know.

17 MS. KRUCEK: Yeah, I will let you know.

18 JUDGE MOSS: That would be helpful. We often
19 use electronic means to keep people informed --

20 MS. KRUCEK: Correct.

21 JUDGE MOSS: -- at least on a courtesy basis.
22 It's oftentimes more efficient than other means of
23 communication.

24 Anything else, Ms. Tennyson?

25 MS. TENNYSON: I have nothing, thank you.

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1 JUDGE MOSS: I expect I will enter a
2 pre-hearing conference order. I may not do that with my
3 usual timeliness. That is to say I usually would do
4 that today or tomorrow. I may wait a few days on that
5 and see what happens with the dispositive motion. I
6 will consider that further.

7 Anything else?

8 All right, thank you all very much for
9 appearing today, and that concludes our pre-hearing
10 conference, and we will be off the record.

11 (Hearing adjourned at 2:00 p.m.)

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