

Docket No. UW-170924 - Vol. III

Hand v. Rainier View Water Company, Inc.

July 25, 2018



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Page 47

1 BEFORE THE WASHINGTON
 2 UTILITIES AND TRANSPORTATION COMMISSION

3
 4 SARAH HAND,)
 5 Complainant,)
 6 vs.) Docket No. UW-170924
 7 RAINIER VIEW WATER)
 8 COMPANY,)
 9 Respondent.)

10 EVIDENTIARY HEARING, VOLUME III
 11 Pages 47-227
 12 ADMINISTRATIVE LAW JUDGE GREGORY J. KOPTA

13
 14 July 25, 2018
 15 9:30 A.M.

16
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Page 49

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Page 48

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Page 50

1 EXAMINATION INDEX

2 EXAMINATION OF ROBERT BLACKMAN	PAGE
3 By Mr. Malden.	79
4 By Mr. Roberson.	139
5 By Judge Kopta.	143
6 By Mr. Rankin.	145
7 By Judge Kopta.	159
8 EXAMINATION OF RACHEL STARK	
9 By Mr. Malden.	162
10 By Mr. Roberson.	175
11 EXAMINATION OF SARAH HAND	
12 By Mr. Rankin.	177
13 By Mr. Roberson.	216
14 By Judge Kopta.	217
15 By Mr. Malden.	219
16 EXHIBIT INDEX	
17 EXHIBITS FOR ADMISSION	PAGE
18 SH-1T Testimony of Sarah Hand	77
19 SH-2 Photograph of Partial Container of Water	77
20 SH-3 Photograph of Full Container of Water	77
21 SH-4 Photograph of Liquid Bleach Portal	77
22 SH-5 Photograph of Water Pipes	77
23 SH-6 Photograph of Inside of Toilet Water Tank	77
24 (partially filled)	

Page 51

EXHIBIT INDEX (Continued)	
EXHIBITS FOR ADMISSION	PAGE
1	
2	
3	SH-7 Photographs of Inside of Toilet Water Tank and Bowl 77
4	SH-8 Facebook Postings and Comments with Photographs (7/01/17) 77
5	
6	SH-9 Reviews of Rainier View Water Company 77
7	SH-10 Southwood Water System Service Orders 6/01/2015-6/01/2017 77
8	
9	SH-11 Rainier View Water Company Annual Water Quality Report: 2016 77
10	SH-12 Water Billing Statement for Gretchen/ Sarah Hand (6/01/2017) 77
11	SH-13 WUTC Case Report re: Complaint by Sarah Hand Against Rainier View Water Company (Activity Date 11/16/16) 77
12	
13	SH-14 WUTC Case Report re: Complaint by Sarah Hand Against Rainier View Water Company (Activity Date 01/05/17) 77
14	
15	SH-15 WUTC Open Meeting Partial Transcript (12/22/16) 77
16	
17	SH-16 Email from Rachel Stark to Bob@RainierViewWater.com re: Sarah Hand Complaint (4/18/17) 77
18	
19	SH-17 Southwood Water System Sanitary Survey Report (8/25/17) 77
20	SH-18 Deposition of Michael Means from DOH Drinking Water Division (8/30/17) 77
21	
22	SH-19 Deposition of Robert James from DOH Drinking Water Division (8/30/17) 77
23	
24	SH-20 Rainier View Water Company Annual Reports for 2014 and 2015 77
25	

Page 52

EXHIBIT INDEX (Continued)	
EXHIBITS FOR ADMISSION	PAGE
1	
2	
3	SH-21 DOH Consumer Confidence Report Certification Forms for Calendar Years 2014 and 2015 for Southwood Water System 77
4	
5	SH-22 Water Management Laboratories, Inc., Inorganic Chemicals Reports for Southwood Water Systems 77
6	
7	SH-23 DOH Water Quality Exceedances for Southwood Water System 77
8	
9	SH-24 KIRO 7 News Stories (10/21/15; 11/16/16) 77
10	SH-25 Compass Plumbing and Drain Services, LLC, Invoice to Sarah Hand (11/03/16) 77
11	SH-26T Reply Testimony of Sarah Hand 77
12	SH-27 CV of Susan Evans (Rely Exh. 1) 77
13	SH-28 Spectra Background and Services re: Water Testing Laboratory (Reply Exh. 2) 77
14	SH-29 Spectra Laboratory Water Report re: Sarah Hand's Residence (Reply Exh. 3) 77
15	
16	SH-31 WUTC 2014 Investigation Report re: Rainier View Water Company (Reply Exh. 5) 77
17	
18	SH-32X Deposition of Sarah Hand (4/20/2018) (Reply Exh. 6X) 77
19	SH-33X Apex Engineering Report (12/09/16) 77
20	SH-34X Excerpt from 2009 DOH Water System Design Manual, "Secondary Contaminant Treatment Requirements and Options" 77
21	
22	SH-35X Blackman Declaration (5/09/17) 77
23	SH-36X Blackman Declaration (8/28/17) 77
24	SH-37X WUTC Hearing Transcript (6/16/17) 77
25	

Page 53

EXHIBIT INDEX (Continued)	
EXHIBITS FOR ADMISSION	PAGE
1	
2	
3	SH-38X 2012 Rainier View Annual Water Quality Report for Southwood Water System 77
4	SH-39X 2013 Rainier View Annual Water Quality Report for Southwood Water System 77
5	
6	SH-40X 2014 Rainier View Annual Water Quality Report for Southwood Water System 77
7	SH-41X 2015 Rainier View Annual Water Quality Report for Southwood Water System 77
8	
9	SH-42X 2017 Rainier View Annual Water Quality Report for Southwood Water System 77
10	SH-44X WUTC Open Meeting Memo (6/16/17) 77
11	SH-45X WUTC Open Meeting Memo (12/22/16) 77
12	SH-46X DOH Fact Sheet -- Color, Taste, and Odor Problems in Drinking Water (Jan. 2011) 77
13	
14	SH-47X DOH Fact Sheet -- Color, Taste, and Odor Problems in Drinking Water (Feb. 2018) 77
15	
16	SH-48X Emails from Washington Attorney General's Office and Kathryn McPherson to Bryan Smithson (Nov. 2016) 77
17	
18	SH-53X EPA Secondary Drinking Water Standards: Guidance for Nuisance Chemicals 77
19	SH-55X DOH Fact Sheet: Consumer Confidence Reports 77
20	SH-58X Hand RFP to RVWC 02-20-2018 77
21	SH-59X Hand RFP to RVWC 04-19-2018 77
22	SH-61X DOH Policy and Procedure re: Consumer Complaints 77
23	
24	Sh-62X Evans Invoices re: Hand Resident Water Testing 139
25	BB-1T Testimony of Bob Blackman 77

Page 54

EXHIBIT INDEX (Continued)	
EXHIBITS FOR ADMISSION	PAGE
1	
2	
3	BB-2T Surreply Testimony of Bob Blackman 77
4	BB-3 Timeline (Surreply Exh. 1) 77
5	BB-4 Fir Meadows 4 Iron & Manganese Treatment Results (Surreply Exh. 2) 77
6	
7	BB-5 Rainier View Water Company Tariff WN U-2 (Surreply Exh. 3) 77
8	RS-1T Testimony of Rachel Stark 77
9	RS-2 Case Report for the Complaint of Sarah Hand 77
10	RS-3 Email String Between Rachel Stark and Bob Blackman (11/16-18/16) 77
11	
12	RS-4 Email String Between Rachel Stark and Bob Blackman (11/22-28/16) 77
13	RS-5 Email String Between Rachel Stark and Bob Blackman (12/6-8/16) 77
14	
15	RS-6 Email String Between John Cupp, Rachel Stark, and Virpi Salo-Zieman with Attachment (12/6/16) 77
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

Page 55

1 OLYMPIA, WASHINGTON; JULY 25, 2018
 2 9:30 A.M.
 3 P R O C E E D I N G S
 4
 5 JUDGE KOPTA: Let's be on the record in
 6 Docket UW-170924, captioned Hand versus Rainier View
 7 Water Company.
 8 I'm Gregory J. Kopta, the administrative law
 9 judge who is assigned by the Commission to preside in
 10 this proceeding.
 11 We are here today for an evidentiary
 12 hearing.
 13 Let's begin by taking appearances, starting
 14 with the complainant.
 15 MR. MALDEN: My name is Nigel Malden.
 16 JUDGE KOPTA: Make sure that your microphone
 17 is on and that it's right in front of you.
 18 MR. MALDEN: My name is Nigel Malden. I'm
 19 an attorney representing Sarah Hand, the complainant,
 20 and with me is my paralegal, Anna Lee, and the client,
 21 Sarah Hand.
 22 JUDGE KOPTA: Thank you.
 23 And for the Company?
 24 MR. RANKIN: Daniel Rankin, representing
 25 Rainier View Water Company.

Page 56

1 MR. FINNIGAN: And Richard Finnigan,
 2 representing the Company.
 3 JUDGE KOPTA: And for Commission Staff?
 4 MR. ROBERSON: Jeff Roberson, assistant
 5 attorney general for Staff.
 6 JUDGE KOPTA: All right. There are -- have
 7 been a number of exhibits that have been prefiled,
 8 including testimony and cross-exhibits. I have
 9 previously distributed to the parties an exhibit list,
 10 and there's also an updated exhibit list that Mr. Malden
 11 circulated. And have the parties had any discussion
 12 about stipulating to the admission of any or all of the
 13 exhibits on this list?
 14 MR. RANKIN: We have not.
 15 JUDGE KOPTA: Okay. My intent is, at this
 16 point, for each party to offer into evidence the
 17 exhibits that they have prefiled, and if there are
 18 objections, then we will handle those at the moment.
 19 So let's begin with Mr. Malden for Ms. Hand.
 20 MR. MALDEN: The complainant would move to
 21 admit all of the documentary and other exhibits listed
 22 on the exhibit list submitted.
 23 JUDGE KOPTA: And these would be documents
 24 that have been marked as Exhibits SH-1T through SH-62X;
 25 is that correct?

Page 57

1 MR. MALDEN: Yes.
 2 JUDGE KOPTA: All right. Are there any
 3 objections to any of those exhibits?
 4 MR. RANKIN: I do have a number of
 5 objections.
 6 JUDGE KOPTA: All right. Then let's proceed
 7 with those. Why don't you tell me which ones right now
 8 so that I have a laundry list and we'll know how to
 9 proceed. Some of them may be lumped together if there
 10 are several with a similar objection.
 11 MR. RANKIN: Yeah, I do have --
 12 unfortunately, I only brought one extra copy, but I've
 13 got a list that I can just hand to you, if you'd prefer
 14 that, of -- of the exhibits I have objections to.
 15 JUDGE KOPTA: Well, for purposes of having
 16 everybody in the room know what's going on, why don't
 17 you just tell me what the numbers are, and I can put a
 18 checkmark by it on my exhibit list.
 19 MR. RANKIN: Sure. There are portions of
 20 SH-1T and portions of SH-26T, which are the
 21 complainant's testimony and reply testimony; SH-29,
 22 SH-43X, 49X, 50X, 51X, 52X, 54X, 56X, 57X, 60X, and 62X.
 23 JUDGE KOPTA: All right. And shall we take
 24 them in numerical order? Why don't you identify those
 25 portions of Ms. Hand's direct testimony and basis of

Page 58

1 your objection.
 2 MR. RANKIN: Starting on page 11, lines 20
 3 through 25, I believe this is a legal opinion based on
 4 expert opinions that Ms. Hand is not qualified to
 5 testify to.
 6 JUDGE KOPTA: Mr. Malden?
 7 MR. MALDEN: If I can ask you to repeat
 8 that, Mr. Rankin. You're talking about page 11 at what
 9 line?
 10 MR. RANKIN: Starting at line 20, the
 11 question is, (as read) Was Rainier View, in fact, in
 12 full compliance with all DOH water quality standards?
 13 MR. MALDEN: Okay. Thank you. I don't
 14 think it needs an expert to read Rainier View's own
 15 documents and see that they admit violation of the
 16 secondary contaminant level requirement of the law, and
 17 that's what she's saying.
 18 JUDGE KOPTA: Well, we allow witnesses to
 19 opine on legal subjects all the time and just take into
 20 consideration the weights to be accorded, so I will not
 21 strike that portion of her testimony. Next?
 22 MR. RANKIN: The next is the last line on
 23 page 13, and this is essentially the same argument. The
 24 complainant is referring to reports without identifying
 25 the reports and alleging, based on her opinion, a

Page 59

1 violation of the WACs.
 2 JUDGE KOPTA: Okay. Again, I will make the
 3 same ruling. To the extent that you want to explore her
 4 knowledge or basis of her opinion, you may do that on
 5 cross.
 6 MR. RANKIN: Likewise, for pages 14, 15, and
 7 16, this is a series of WACs and a portion of the DOH
 8 policy -- I'm sorry, water system design manual that she
 9 has opined various violations of without any
 10 qualification to render such an opinion.
 11 JUDGE KOPTA: Same ruling.
 12 MR. RANKIN: That is all for SH-1T.
 13 JUDGE KOPTA: Okay. Then we move to SH-26T,
 14 which is her reply testimony.
 15 MR. RANKIN: Starting on page 3, lines 18
 16 through 28, this testimony is hearsay as well as expert
 17 engineering testimony for which the complainant is not
 18 qualified to offer.
 19 JUDGE KOPTA: All right. Well, we allow
 20 hearsay and just consider it whatever -- whatever weight
 21 that I think is appropriate, so I will not strike that
 22 portion of her testimony.
 23 MR. RANKIN: Moving to page 4, lines 8
 24 through 19. This is, again, engineering analysis
 25 offered by the complainant without qualifications to

Page 60

1 render such an expert opinion.
 2 JUDGE KOPTA: Again, I will leave that and
 3 allow you to explore her knowledge or basis for making
 4 that testimony on cross if you so choose.
 5 MR. RANKIN: Likewise, for page 5, beginning
 6 at line 4, all the way through line 7 of page 6. This
 7 is further engineering and legal analysis offered by the
 8 complainant without qualifications to offer such
 9 opinions.
 10 JUDGE KOPTA: Same ruling.
 11 MR. RANKIN: Moving to page 7, starting at
 12 lines 10 through 18. I believe this is entirely
 13 irrelevant to the complaint. Ms. Hand is offering
 14 testimony reading apparently context into a 2014 UTC
 15 investigation report that does not prove or disprove any
 16 of her claims here today.
 17 JUDGE KOPTA: Well, I believe she's
 18 responding to Mr. Blackman's testimony, and to that
 19 extent, I think she's entitled to do that. So I will
 20 not strike that portion of her testimony.
 21 MR. RANKIN: On page 8, from lines 8 through
 22 line 6 of page 9, these are, again, legal conclusions as
 23 well as hearsay legal conclusions for which the
 24 complainant is not qualified to offer.
 25 JUDGE KOPTA: And I will not strike it. You

Page 61

1 can explore on cross if you choose.
 2 MR. RANKIN: Understood.
 3 We can move on to Exhibit 43X.
 4 JUDGE KOPTA: What about 29?
 5 MR. RANKIN: Oh, I'm sorry.
 6 JUDGE KOPTA: SH-29. At least I have that
 7 marked down.
 8 MR. RANKIN: Yeah, you're right. You're
 9 right. We move to strike Exhibit 29 on the basis that
 10 it is an expert opinion offered without qualifications
 11 to do so. Additionally, it lacks any foundation. The
 12 testing and sampling methods, there's no explanation as
 13 to how they were done, how the methods were derived, and
 14 there's no foundational support for those methods used.
 15 We believe that they are unreliable and done in such a
 16 way to produce a skewed result.
 17 JUDGE KOPTA: Mr. Malden?
 18 MR. MALDEN: Well, the test results, the
 19 documentation that contains the test results, is
 20 basically every bit as good as any of the test results
 21 they've ever supplied. They provide the public with
 22 annual reports that purport to set forth a measurement.
 23 They don't explain how many samples they took. They
 24 don't explain if they're averaging anything. And the
 25 public is expected to rely on their test reports.

Page 62

1 In this particular case, I was asked to
 2 produce the document. I was ordered to produce the
 3 document. It's something that I was advised that it was
 4 important to fact finding, and so it should be produced.
 5 Ms. Hand has explained her observation of what took
 6 place. I understand that it would be nice to have an
 7 expert in here to explain everything in detail, but that
 8 would cost thousands of dollars to do, which is
 9 completely inappropriate in a customer or consumer
 10 complaint scenario like this.
 11 So given the applicable rules that apply,
 12 given the facts and circumstances, we ask to -- that you
 13 admit the document. And if you consider at the
 14 conclusion of the case what -- it would be up to you to
 15 consider how much weight to give it in the context of
 16 everything, but it should be admitted.
 17 JUDGE KOPTA: Well, I agree with Mr. Malden.
 18 I will consider your arguments and as to the weight to
 19 give to this particular report. But I did request it,
 20 essentially, by requiring that it be produced in
 21 discovery, and so I think that it is potentially useful
 22 for making the determinations that I need to make here.
 23 But I understand your objections and the concerns you
 24 have, and I will consider those in deciding how much
 25 weight to give that particular report.

Page 63

1 MR. RANKIN: Understood.
 2 Now we move to Exhibit 43X. Exhibit 43X is
 3 a City of Olympia drinking water fact sheet. Neither
 4 the complainant nor respondent are subject to City of
 5 Olympia jurisdiction. They offer this as some
 6 alternative to the state-imposed and federally-imposed
 7 regulations without really any basis for doing so.
 8 JUDGE KOPTA: Mr. Malden?
 9 MR. MALDEN: Your Honor, I offer this in
 10 part to demonstrate what a responsible water utility
 11 does in advising the public about the potential risk of
 12 manganese in the drinking water. Rainier View has, for
 13 years, guaranteed the public that this water is safe to
 14 drink in any quantity by anyone and that manganese has
 15 no effect on anyone. In fact, they've said that in the
 16 papers they're submitting today.
 17 So customers of Rainier View are getting
 18 completely different information about the potential
 19 risk of manganese in the drinking water than people that
 20 live right here in Olympia. This is not a piece of
 21 paper that I created. This is a piece of paper that was
 22 apparently created by the City of Olympia in conjunction
 23 with the State DOH, and I think it's great material to
 24 use in cross to ask Mr. Blackman whether he's familiar
 25 with this information, whether he knew it, and whether

Page 64

1 he opted to go ahead and assure Ms. Hand and others that
 2 they can drink manganese in any quantity with no safety
 3 risk whatsoever.
 4 JUDGE KOPTA: Well, I will not make a ruling
 5 on this at this point. This is a cross exhibit, and I
 6 think it's incumbent upon you to demonstrate that the
 7 witness has some personal knowledge of this document.
 8 If he does, then we can decide whether it should be
 9 admitted. If he doesn't, then it will not. So we'll
 10 wait until cross to see how you use it on cross. Is
 11 that -- Mr. Rankin?
 12 MR. RANKIN: Understood.
 13 Looking at Exhibit 49, this is a photo of a
 14 WinCo Foods water bottle. My client has no relation to
 15 WinCo Foods, my client does not bottle water. Quite
 16 honestly, this has no relevance whatsoever to this
 17 matter.
 18 MR. MALDEN: Your Honor, Neil Richardson
 19 serves on the board of Rainier View, and I believe that
 20 I'm entitled to ask Mr. Blackman, are they deriving the
 21 natural spring water from the very same source as the
 22 water they are delivering to Ms. Hand. And if that is
 23 so, why are they able to have the natural spring water
 24 maintain a level of purity, but they can't with the
 25 other.

Page 65

1 In addition to that, Mr. Blackman has
 2 basically said in his direct testimony that there's
 3 absolutely no way that a water company could exist
 4 without a tariff, and I'd like to ask -- to do business
 5 without a tariff, and I'd like to ask Mr. Blackman under
 6 oath whether Richardson Bottling Company operates under
 7 the same tariff as Rainier View. And if it doesn't, or
 8 if it -- if it does, how are they able to sell natural
 9 spring water.
 10 The bottom line is that Neil Richardson is
 11 owner, board member of Rainier View, and they are
 12 selling natural spring water, we believe, from the same
 13 source, making all different kinds of representations as
 14 to its quality, making all different kinds of
 15 representations as to the safety of the Firwood Meadows
 16 water.
 17 Let's remember that in the annual report,
 18 Rainier View says, we guarantee you that this is this
 19 best, highest quality water from any possible source we
 20 can get. I'm paraphrasing, but that's the gist of it.
 21 How is it, then, that the water that they bottle and
 22 sell separately, why is it such a radically different
 23 quality?
 24 It's relevant. We have one company, one
 25 person, that's selling this water to people, and they're

Page 66

1 making radically different representations as to its
 2 quality, and I think we are entitled to know the source
 3 of this water. And why it is that it is marketed and
 4 sold under different pretenses than water sold to the
 5 other Rainier View customers?
 6 It also shows, by the way, that Rainier View
 7 is competing against itself. It's a -- it's a
 8 controlled market where it competes against itself,
 9 selling one category of water to people simultaneously
 10 without another category of water.
 11 JUDGE KOPTA: Well, I am inclined to think
 12 that that's a bit far afield, but we can deal with that
 13 in your questioning. I don't see any value in this
 14 exhibit, so I will agree with Mr. Rankin, and I will not
 15 admit Exhibit 49X.
 16 MR. RANKIN: Thank you.
 17 50 is essentially the same argument, that
 18 Mountain Mist is an entirely separate business entity.
 19 That there may be a common owner, does not make Mountain
 20 Mist a party to this proceeding, and this also has no
 21 relevance to Ms. Hand's claims.
 22 JUDGE KOPTA: I'm going to make the same
 23 ruling on that. I'm assuming your argument's
 24 essentially the same?
 25 MR. MALDEN: Essentially the same, but I

Page 67

1 did -- I did want to ask Mr. Blackman under oath what
 2 water, if any, is passing through the filtration system.
 3 Excuse me, how much of the water sold by Mountain Mist
 4 is passing through the filtration system that Sarah Hand
 5 and her neighbors and the others are paying for.
 6 JUDGE KOPTA: And you can ask that question,
 7 and I don't think you need this exhibit to do that. So,
 8 again, I will reject this exhibit.
 9 MR. RANKIN: Likewise, for Exhibit 51X, this
 10 goes to that same argument, that it's not relevant to
 11 Ms. Hand's claims.
 12 JUDGE KOPTA: Yeah, I'm going to reject that
 13 one too. I don't see any real utility to that.
 14 MR. RANKIN: Exhibit 52X is an email
 15 communication that in the content of the email,
 16 expressly states that it is not related to the Southwood
 17 Water System and, therefore, I believe has no relevance
 18 to Ms. Hand's claims.
 19 JUDGE KOPTA: Mr. Malden?
 20 MR. MALDEN: I think if we get into what the
 21 DOH told the UTC at a hearing, the DOH represented to
 22 the UTC that they were only aware of one complaint, and
 23 Mr. Blackman made the same point in his testimony, that
 24 no one's ever complained to the DOH. This document
 25 shows that, in fact, the complaint that was made to the

Page 68

1 DOH, the complaint is that Rainier View responds to a
 2 phone call about discolored brown water by saying it's
 3 perfectly safe, and hangs up. Mr. Blackman is going to
 4 be advising us about the -- this rigorous complaint
 5 procedure they follow where supposedly all these
 6 customer complaints are tracked and logged.
 7 The reality is that that's not what has
 8 happened. And that email that we obtained from the DOH,
 9 we wouldn't have obtained it from Rainier View. That
 10 shows what actually goes on with Rainier View, that you
 11 have people calling that are hung up on.
 12 Again, that's not an email that I created or
 13 I found from anywhere other than the original source,
 14 which is the DOH. Mr. Blackman is personally responding
 15 to it. Mr. Blackman makes representations in that email
 16 that are important, and at a hearing with a relaxed
 17 standard of hearsay, I think it should be -- I should be
 18 able to use it at least for cross. Now, whether it's
 19 admitted at the end of the hearing, of course, that's a
 20 different matter. I want to be able to use it for
 21 cross, though.
 22 JUDGE KOPTA: Well, Mr. Blackman is on this
 23 document, and since he is subject to cross-examination,
 24 I will reserve ruling on this until it's presented and
 25 then at that time, see how it's used and make a ruling.

Page 69

1 MR. RANKIN: Exhibit 54X is a Children's
 2 Health some sort of academic article discussing
 3 school-aged children exposed to manganese. Presumably,
 4 the purpose of this is to impose a higher standard than
 5 the state of Washington imposes.
 6 There is no way to test this. It was
 7 submitted, I believe, yesterday, and on that basis
 8 alone, it should be stricken. But as a matter of
 9 relevance, it does not impose any standard on my client
 10 today, and it is not a standard imposed in Washington.
 11 JUDGE KOPTA: Yes, I agree. This came in
 12 late, and even on that basis, that would be sufficient
 13 to exclude it unless there is some reason that you can
 14 show me that you were not aware of this article until
 15 yesterday, which given that it was published several
 16 years ago, I doubt that you can do that. And I don't
 17 really see that an article from a magazine is going to
 18 be terribly illuminating when it comes to making the
 19 determinations that I have to make in this case. So I
 20 will reject that one and also the same for Exhibit 56X.
 21 Both of those articles I will reject.
 22 MR. RANKIN: Thank you.
 23 Looking at Exhibit 57, this is an epa.gov,
 24 looks like a snippet from the website discussing
 25 turbidity. First, this docket was filed late and could

Page 70

1 be excluded on that basis; secondly, turbidity is not a
 2 claim presented by Ms. Hand; and third, turbidity is not
 3 a testing requirement that my client is subject to, and
 4 turbidity is limited to surface water sources only, and
 5 the source at issue here is a ground water source.
 6 JUDGE KOPTA: And I believe she quoted this
 7 in her testimony, did she not?
 8 MR. MALDEN: This particular definition, no,
 9 she didn't. She actually didn't. The reason that I put
 10 it in there is just because it did come from the EPA,
 11 and I thought if we were going to be discussing
 12 turbidity, we might want an agreed definition, and I
 13 think this is an agreed definition.
 14 JUDGE KOPTA: Well, this isn't -- this comes
 15 from an EPA website, and the Commission can take
 16 official notice of those types of things if it chooses
 17 to. You can ask for that if it comes up during cross,
 18 but at this point, I'm not going to admit it.
 19 And I believe 60 -- 60X is the next.
 20 MR. RANKIN: 60X is the next one. This is
 21 an email between Richard Finnigan and John Cupp. Again,
 22 this was filed late, could be excluded on that basis. I
 23 also believe it is irrelevant to Ms. Hand's claims.
 24 This is discussing a Channel 7 News article and a notice
 25 that went out to the public regarding a surcharge

Page 71

1 extension.

2 JUDGE KOPTA: Mr. Malden?

3 MR. MALDEN: This is an email that --

4 written by Mr. Finnigan, who's sitting at counsel table.

5 JUDGE KOPTA: That's the bridge line.

6 MR. MALDEN: Oh, okay. This email was

7 written by Mr. Finnigan himself, and I would think he

8 would have -- he would know the contents and the idea of

9 unfair surprise, therefore, it should be given no

10 traction. The relevance of this document is that

11 Mr. Finnigan, if you'll note, an official representation

12 of fact made to the UTC, the customer could have avoided

13 any problems by cleaning the screen on her pressure

14 reducing valve.

15 During the course of this hearing, I do want

16 to question Mr. Blackman about whether he agrees with

17 that, that all of these problems regarding brown water

18 and excessive manganese, that that's all she'd have to

19 do and there would have been no problem. I don't think

20 it's a true statement, and I think I should be allowed

21 to ask Mr. Blackman whether he's read it, whether he's

22 familiar with it, and whether he agrees with it.

23 JUDGE KOPTA: Well, you can ask, but I don't

24 really think that we need the email as part of the

25 record for doing that, so I will not admit that exhibit.

Page 72

1 MR. RANKIN: Finally, 62X appears to be a

2 number of invoices from ESI, which is the testing or

3 engineering service retained, I believe, before this

4 proceeding began by complainant's counsel. I don't

5 really believe that invoices have any relevance

6 whatsoever on this proceeding, and it should be stricken

7 on that basis as well as late filing.

8 JUDGE KOPTA: Mr. Malden?

9 MR. MALDEN: Yes, Mr. Blackman made a point

10 in his reply testimony to say that part of this tariff

11 program includes the provision of a complaint procedure

12 for the customer, which he understands to be very

13 efficient and far less expensive than any alternative.

14 And so I'm intending to ask Mr. Blackman about, well,

15 what does it cost to conduct testing and are you

16 familiar with what it costs to conduct sampling with an

17 industrial hygiene expert.

18 This is directly relevant to Rainier View's

19 statement that an administrative process is far superior

20 because it's far less expensive and, therefore, easier

21 for customers and consumers to follow. I don't think

22 that's true. I think the fact that we've had to spend

23 \$4,000 to get a test shows that, and I also think that

24 under the court rules, if you find in favor of Ms. Hand,

25 you are authorized to award the cost of testing as a

Page 73

1 cost and, therefore, it should be in the record.

2 JUDGE KOPTA: You're going to have to

3 convince me that the Commission has the authority to do

4 that. I will reserve ruling on that.

5 MR. ROBERSON: Your Honor, if I may. I

6 think that provision that Mr. Malden is speaking about

7 is in 80.04.110. It's in the complaint statute. There

8 is some provision for authorizing test expenses.

9 JUDGE KOPTA: All right. Thank you.

10 Then if it is something that was -- is

11 within the Commission's ability to do, then we can

12 consider that. So at this point, it did come in late,

13 but I will reserve ruling on it until you have your

14 questions. If Mr. Blackman, again, if he is not

15 familiar with these documents, then I'm not sure that

16 that's the way you can get it in, but we will see.

17 Those are all for you, Mr. Rankin?

18 MR. RANKIN: That's my list, thank you.

19 JUDGE KOPTA: And did you have any,

20 Mr. Roberson?

21 MR. ROBERSON: You've dealt with my

22 objections, Your Honor.

23 JUDGE KOPTA: Okay. I have a couple. You

24 will notice that I highlighted on the exhibit list

25 Exhibits SH-18 and SH-19. In the Commission's records,

Page 74

1 there are only cover pages for those exhibits, and so I

2 don't see that they have any utility in this proceeding.

3 Were you intending to provide something to go with the

4 cover page and we just didn't get it?

5 MR. MALDEN: It was our intention to provide

6 excerpts from those deposition pages. We are also open

7 to submitting the whole deposition. I have had

8 conversations with Mr. Rankin about the most efficient

9 way, whether we should -- I highlight one section, he

10 highlights another or how we should go about doing it.

11 I actually --

12 Did we submit excerpts?

13 MS. LEE: We submitted Michael Means at

14 SH-30.

15 MR. MALDEN: Okay. My paralegal has

16 clarified for me that with regard to Mr. Means in

17 particular, we do think we did include those excerpts,

18 but we designated it SH-30. So I do think that some of

19 the deposition testimony of both Mr. Means and Mr. James

20 is relevant to the proceeding, may be of help to you in

21 making your ruling, has been commented on to some degree

22 by Mr. Blackman in his testimony.

23 So the bottom line here is, that we would

24 like to either stick with the excerpts that we believe

25 we submitted but wrongly labeled or submit the whole

Page 75

1 deposition depending on the preference of the other
 2 counsel as well as yourself.
 3 JUDGE KOPTA: Well, if we already have it in
 4 SH-30, I don't think that we need to have a cover page
 5 in SH-18, so I will not admit SH-18.
 6 I am concerned with trying to bring in
 7 evidence after this hearing. The whole reason that we
 8 have prefiled testimony is so that we have all of the
 9 exhibits when we are considering them in the evidentiary
 10 hearing.
 11 Mr. Rankin, I would welcome your comments in
 12 terms of what your expectation is in terms of the
 13 deposition transcripts from Mr. James.
 14 MR. RANKIN: Mr. Malden and I had previously
 15 spoken about allowing the entire deposition transcripts
 16 into evidence, because I think that if you're going to
 17 look at an excerpt, I think the full document provides
 18 necessary context. I don't recall immediately which
 19 excerpt is included in No. 30, but based on the
 20 discussion with counsel, I think we were both operating
 21 under the understanding that the entire transcript would
 22 come in.
 23 JUDGE KOPTA: For both Mr. Means and
 24 Mr. James?
 25 MR. RANKIN: That's correct.

Page 76

1 JUDGE KOPTA: So would that be an amendment
 2 to SH-30, which it only has excerpts?
 3 MR. RANKIN: I think we can do it as an
 4 amendment to SH-30 or as 18 and 19 and submitting the
 5 full transcript, which we could do, you know, during a
 6 lunch break today if need be.
 7 JUDGE KOPTA: Okay. And, Mr. Roberson, do
 8 have any...
 9 MR. ROBERSON: I think it may be helpful for
 10 the Commission to see what happened at DOH. I have no
 11 objection to the full transcripts coming in.
 12 JUDGE KOPTA: All right. Well, this is what
 13 I'm going to do. I am not going to admit SH-30. I will
 14 provisionally admit SH-18 and SH-19 with the
 15 understanding that the parties will provide those
 16 documents to the record center and identify as those
 17 exhibits. As long as there are no objections, then I
 18 will admit them on that basis.
 19 So I will recap. I admit the Exhibits SH-1T
 20 through SH-29; I reject SH-30; I admit Exhibits SH-31
 21 through SH-42X; I reserve ruling on SH-43X; I admit
 22 Exhibits SH-44X through 48X; I reject Exhibits SH-49X
 23 through 51X; I reserve ruling on Exhibit SH-52X; I admit
 24 Exhibit SH-53X; I reject Exhibit SH-54X; I admit Exhibit
 25 SH-55X; I reject SH-56X and SH-57X; I admit Exhibits

Page 77

1 SH-58X and 59X; I reject Exhibit SH-60X; I admit Exhibit
 2 SH-61X; and I reserve ruling on Exhibit SH-62X.
 3 (Exhibits SH-1T through SH-29, SH-31 through
 4 SH-42X, SH-44X through SH-48X, SH-53X, SH-55X, SH-58X,
 5 SH-59X, and SH-61X admitted.)
 6 JUDGE KOPTA: Which brings us to the
 7 exhibits for Rainier View, Mr. Rankin.
 8 MR. RANKIN: I move to offer into evidence
 9 Exhibits BB-1T through BB-5.
 10 JUDGE KOPTA: Any objection?
 11 MR. MALDEN: No objection.
 12 MR. ROBERSON: No.
 13 JUDGE KOPTA: Then those exhibits are
 14 admitted.
 15 (Exhibits BB-1T through BB-5 admitted.)
 16 JUDGE KOPTA: And, Mr. Roberson.
 17 MR. ROBERSON: Staff offers Exhibits RS-1T
 18 through RS-6.
 19 JUDGE KOPTA: Any exhibit -- any objection
 20 to those exhibits?
 21 MR. MALDEN: No objection.
 22 MR. RANKIN: No objection.
 23 JUDGE KOPTA: Then they are admitted.
 24 (Exhibits RS-1T through RS-6 admitted.)
 25 JUDGE KOPTA: All right. That takes care of

Page 78

1 our exhibits. Anything else that we need to address
 2 before we go to cross-examination?
 3 MR. MALDEN: No.
 4 JUDGE KOPTA: None? Then I believe
 5 Mr. Blackman is scheduled first.
 6 MR. BLACKMAN: Where would you like me to
 7 sit?
 8 JUDGE KOPTA: Good question.
 9 MR. FINNIGAN: You can sit here.
 10 MR. BLACKMAN: Okay.
 11 MR. MALDEN: Excuse me. Can we have one
 12 moment to discuss?
 13 JUDGE KOPTA: Sure. Yes. Let's be off the
 14 record.
 15 (Pause in the proceedings.)
 16
 17 ROBERT BLACKMAN, witness herein, having been
 18 first duly sworn on oath,
 19 was examined and testified
 20 as follows:
 21
 22 JUDGE KOPTA: Mr. Rankin, Mr. Blackman's
 23 exhibits have been admitted. Do you have anything
 24 further before he's available for cross-examination?
 25 MR. RANKIN: No, I do not.

Page 79

EXAMINATION OF BLACKMAN / MALDEN

1 JUDGE KOPTA: Mr. Malden.
 2 MR. MALDEN: Thank you.
 3
 4 EXAMINATION
 5 BY MR. MALDEN:
 6 Q. Mr. Blackman, I'd like to start by just asking
 7 you a few background questions.
 8 You've worked at Rainier View for over 30 years?
 9 **A. Correct.**
 10 Q. You're currently employed there as general
 11 manager?
 12 **A. Correct.**
 13 Q. This is a full-time, 40-hour-a-week job?
 14 **A. Minimum of 40 hours, yes.**
 15 Q. Your duties include overseeing daily operations?
 16 **A. Yes.**
 17 Q. Your duties include ensuring compliance with DOH
 18 regulations?
 19 **A. Yes.**
 20 Q. How long have your duties included ensuring
 21 compliance with DOH regulations?
 22 **A. Probably 20 years or better.**
 23 Q. How do you ensure compliance with DOH
 24 regulations?
 25 **A. In our -- all our sampling is submitted to DOH,**

Page 80

EXAMINATION OF BLACKMAN / MALDEN

1 we get reports saying what needs to be sampled, what
 2 wells, what product -- or what -- what we're sampling
 3 for, and so far we've been in compliance.
 4 Q. Do you personally take the samples or do you
 5 rely on third parties to do that for you?
 6 **A. We have employees that do that.**
 7 Q. Do you oversee daily maintenance and operation
 8 of the wells?
 9 **A. I don't personally see it, but I am in charge of**
 10 **it.**
 11 Q. Are you also in charge or overseeing testing of
 12 water quality?
 13 **A. Yes.**
 14 Q. And you oversee quality of the water supply to
 15 the customer, don't you?
 16 **A. Yes, I do.**
 17 Q. You oversee customer water quality complaints,
 18 don't you?
 19 **A. Yes.**
 20 Q. You attend Rainier View board meetings on a
 21 regular basis, don't you?
 22 **A. I do.**
 23 Q. You give reports to the Rainier View board on a
 24 regular basis, don't you?
 25 **A. I do.**

Page 81

EXAMINATION OF BLACKMAN / MALDEN

1 Q. You have given reports on water quality to the
 2 Rainier View board on a regular basis, haven't you?
 3 **A. I have.**
 4 Q. Have you also reported on water quality
 5 complaints that you've received from customers to the
 6 Rainier View board?
 7 **A. I've raised concerns about water quality, yes.**
 8 Q. You've raised concerns about water quality
 9 during meetings of the board of Rainier View; is that
 10 right?
 11 **A. That's right.**
 12 Q. Have you done that on a frequent basis?
 13 **A. When needed, I discuss it.**
 14 Q. You decide when it's needed?
 15 **A. Usually, yes.**
 16 Q. You also have attended UTC hearings or meetings
 17 on a regular basis, haven't you?
 18 **A. I'm not sure what "regular" means, but when**
 19 **requested, I am here.**
 20 Q. How many times have you -- in the last ten years
 21 have you come here to the UTC and made a statement on
 22 the record of some type?
 23 **A. On water quality or for...**
 24 Q. On either water quality or on a proposed
 25 surcharge or in any other context.

Page 82

EXAMINATION OF BLACKMAN / MALDEN

1 **A. Probably in the last ten years, half a dozen**
 2 **times.**
 3 Q. And during any of those half-dozen times that
 4 you've come to -- strike that.
 5 You've come to the UTC to provide them with
 6 information; is that right?
 7 **A. Yes.**
 8 Q. And during any of those times that you've been
 9 here to the UTC, has anyone ever asked you to testify
 10 under oath before?
 11 **A. Not in those proceedings.**
 12 Q. Would it be fair to state that all of the
 13 statements you've made to the UTC except for what you're
 14 doing today has never been under oath?
 15 **A. That's correct.**
 16 Q. You are familiar with the RCWs which apply to
 17 water quality?
 18 **A. Most of them. I don't -- I'm not as familiar**
 19 **with the numbers as I maybe could be, but I understand**
 20 **most of them.**
 21 Q. So you're say -- are you saying that you're not
 22 totally familiar with precisely what the RCWs say that
 23 govern water quality?
 24 MR. RANKIN: Objection. Misstates his
 25 testimony.

Page 83

EXAMINATION OF BLACKMAN / MALDEN

1 JUDGE KOPTA: Would you like to rephrase
2 that?

3 MR. MALDEN: Let me ask a different
4 question.

5 BY MR. MALDEN:

6 Q. Are you familiar with the Washington
7 Administrative Code sections that apply to water
8 quality?

9 **A. I am familiar with them.**

10 Q. You're familiar with all of them?

11 **A. I am familiar with where to look them up, and I
12 don't have them all memorized, but I am familiar with
13 them.**

14 Q. I'd like to direct your attention to Sarah Hand
15 Exhibit 35X.

16 **A. Where do I find that?**

17 MR. MALDEN: For the record, this is the
18 declaration that was submitted in support of Defendant,
19 Rainier View Water Company's, motion for summary
20 judgment.

21 BY MR. MALDEN:

22 Q. If you could take a moment and look at that
23 document. Do you recognize this document?

24 **A. Yes.**

25 Q. This is a written statement that you signed on

Page 84

EXAMINATION OF BLACKMAN / MALDEN

1 May 9, 2017?

2 **A. Yes.**

3 Q. You read it before you signed it?

4 **A. Yes, I have. I must have. I'm sure I did.**

5 Q. And you signed it under penalty of perjury,
6 didn't you?

7 **A. I don't know about that.**

8 Q. I'd like to direct your -- well, interesting.
9 I'd like to direct your attention to the last page, page
10 12. It looks like you didn't sign under penalty of
11 perjury. You knew that this statement, though -- excuse
12 me. Let me rephrase that.

13 You knew that your statement here was going to
14 be submitted to the judge in the Pierce County Court
15 case, didn't you?

16 **A. Yes.**

17 Q. And you knew that the judge was going to rely on
18 what you said?

19 **A. I would assume so.**

20 Q. You knew that your attorney was going to ask the
21 judge to dismiss Sarah Hand's lawsuit based in part on
22 your statement, didn't you?

23 **A. Yes.**

24 Q. I'd like to direct your attention to paragraph 6
25 at page 2 of the declaration. This statement reads, (as

Page 85

EXAMINATION OF BLACKMAN / MALDEN

1 read) Manganese and iron are classified by state and
2 federal agencies as secondary contaminants.

3 Now, that's a true statement, isn't it?

4 **A. Correct.**

5 Q. The second sentence reads, (as read) Secondary
6 contaminants are deemed not to be health hazards and
7 maximum contaminant level guidelines are not
8 enforceable.

9 That's actually a false statement, isn't it,
10 Mr. Finnigan? Excuse me. Isn't it, Mr. Blackman? I'm
11 sorry.

12 MR. FINNIGAN: I'd be happy to respond.

13 **A. I am not aware of the enforceable or -- you
14 know. We've never had an issue with it, so I can't say
15 that it's not enforceable, but...**

16 BY MR. MALDEN:

17 Q. It's not up to you to decide whether or not to
18 comply with the maximum secondary contaminant level set
19 forth in the WAC, is it?

20 **A. No, because I don't set it. I just...**

21 Q. Because secondary contaminant levels are
22 enforceable in the state of Washington, aren't they,
23 Mr. Blackman?

24 **A. Yes, if the Department of Health does get enough
25 complaints, they can require utility to look at putting**

Page 86

EXAMINATION OF BLACKMAN / MALDEN

1 a treatment on.

2 Q. Are you saying that one of the reasons that the
3 DOH might enforce a secondary complaint -- excuse me, a
4 complaint over secondary contaminants is if there's been
5 a customer complaint?

6 **A. Or the utility decides to do it themselves.**

7 Q. You understand, don't you, that whether or not
8 there's been customer complaints about water quality is
9 important to the DOH?

10 **A. Yes.**

11 Q. It's also important to the UTC, isn't it?

12 **A. I would hope so.**

13 Q. A few more questions on background.
14 Are you paid an annual salary or an hourly wage?

15 **A. Monthly.**

16 Q. Is that --

17 **A. Salary.**

18 Q. Pardon me?

19 **A. Salary.**

20 Q. And what is your salary?

21 MR. RANKIN: Objection. I don't understand
22 how that's relevant here.

23 MR. MALDEN: He's brought before the hearing
24 as a representative of the company, and we're entitled
25 to know whatever potential financial bias he may have.

Page 87

EXAMINATION OF BLACKMAN / MALDEN

1 His compensation from the company is relevant.
 2 JUDGE KOPTA: I'll sustain the objection. I
 3 don't see that it's germane.
 4 BY MR. MALDEN:
 5 Q. Do you operate -- do you have any ownership
 6 interest in Rainier View?
 7 **A. I do.**
 8 Q. What is your ownership interest in Rainier View?
 9 **A. Roughly 7 percent.**
 10 Q. Do you recall when I asked you the question
 11 under oath at your deposition whether you owned --
 12 whether you had an ownership interest in Rainier View?
 13 **A. Yes.**
 14 Q. And how did you answer it when I asked you at
 15 your deposition?
 16 **A. I answered that I don't have any ownership.**
 17 Q. That was a false statement at your deposition,
 18 wasn't it, Mr. Blackman?
 19 **A. It wasn't correct. I was not aware of having**
 20 **that ownership.**
 21 Q. You didn't know that you owned stock in the
 22 company?
 23 **A. I did not. I was -- the owner came to me and**
 24 **told me he was going to provide me a pension, and I just**
 25 **said thank you very much. I didn't question how he was**

Page 88

EXAMINATION OF BLACKMAN / MALDEN

1 going to provide it so...
 2 Q. The owner being Neil Richardson?
 3 **A. Neil Richardson.**
 4 Q. Does your compensation plan include the
 5 possibility of getting a bonus at the end of the year?
 6 **A. No, it doesn't.**
 7 Q. Does any of your compensation from Rainier
 8 View -- or strike that.
 9 Does customer satisfaction factor into your
 10 compensation with Rainier View in any way?
 11 **A. No, it doesn't.**
 12 Q. So -- okay. Neil Richardson -- who is Neil
 13 Richardson?
 14 **A. Neil Richardson was the president of Rainier**
 15 **View Water Company.**
 16 Q. Does he also own Richardson Bottling Company?
 17 **A. I'm really not aware of how that's set up. I**
 18 **know he founded it.**
 19 Q. Where does Richardson Bottling Company get its
 20 water?
 21 MR. RANKIN: Objection. My client doesn't
 22 work for Richardson Bottling Company.
 23 JUDGE KOPTA: If you know.
 24 **A. They get it from their own source.**
 25 BY MR. MALDEN:

Page 89

EXAMINATION OF BLACKMAN / MALDEN

1 Q. And what source is that?
 2 **A. They have two wells.**
 3 Q. Where are those two wells?
 4 **A. They're onsite, by the plant.**
 5 Q. Where are the two wells?
 6 **A. They're in approximately, what -- they're at**
 7 **the -- in Graham. They're at -- onsite on their own**
 8 **property.**
 9 Q. What are those two wells called?
 10 **A. I -- Well 1 and Well 2.**
 11 Q. What is their address?
 12 **A. I don't know.**
 13 Q. So the source of the water sold by Richardson
 14 Bottling Company is not in Spanaway; is that right?
 15 **A. It's Spanaway, Graham. It's unincorporated**
 16 **Pierce County, so there's no definitive boundaries.**
 17 Q. Where does Richardson Bottling filter its water?
 18 **A. Filter?**
 19 Q. Yes. Or does it?
 20 **A. I -- I -- from what I've heard, they do**
 21 **ozonation, they do it onsite.**
 22 Q. Rainier View is a water purveyor under
 23 Washington State law; is that right?
 24 **A. Correct.**
 25 Q. And the water that you sell is required to meet

Page 90

EXAMINATION OF BLACKMAN / MALDEN

1 quality standards?
 2 **A. Correct.**
 3 Q. The quality standards are set forth in
 4 WAC 246-290-310.
 5 **A. Okay.**
 6 Q. Is that correct?
 7 **A. I assume so.**
 8 Q. You're not familiar with the -- with number
 9 246-290-310?
 10 **A. I don't -- I am familiar with the WAC numbers.**
 11 **I don't recall what they -- exactly what they say or**
 12 **which WAC refers to a certain thing.**
 13 Q. And that's even though you've been working with
 14 the WACs for over 30 years?
 15 **A. Yes. I know where to look them up if I need to**
 16 **look it up.**
 17 Q. The quality standards set forth in WAC
 18 246-290-310 include maximum contaminant levels for
 19 primary contaminants, don't they?
 20 **A. Yeah.**
 21 Q. Is that -- is that a "yes"?
 22 **A. That's -- I'll -- I'll assume that's correct.**
 23 Q. When you say you'll assume it's correct, it is
 24 correct, isn't it? I mean, you know that's correct?
 25 **A. I don't have it in front of me, so I don't -- I**

Page 91

EXAMINATION OF BLACKMAN / MALDEN

1 can't confirm that those are the right numbers.
 2 Q. The standards set forth in WAC 246-290-310
 3 include maximum contaminant levels for secondary
 4 contaminants, don't they?
 5 JUDGE KOPTA: He's already testified that he
 6 is not able to recall that particular rule, so I'm not
 7 sure that this is a germane, useful level of inquiry.
 8 BY MR. MALDEN:
 9 Q. Do you know how the Washington Administrative
 10 Code defines "contaminant," Mr. Blackman?
 11 **A. Not exactly. Not verbatim.**
 12 Q. Okay. Let's forget verbatim. Can you tell us
 13 approximately how the Washington Administrative Code
 14 defines "contaminant" under Washington State law?
 15 **A. I -- I -- I assume it's done by the -- they take**
 16 **the EPA's -- the Safe Drinking Water Act and use their**
 17 **regulations as the -- to enforce it.**
 18 Q. I'm asking you, though, for the definition --
 19 **A. I don't know --**
 20 Q. -- of contaminant.
 21 **A. -- the definition of contaminant.**
 22 Q. Maybe this will help you. 246-290-010, paren
 23 54, defines contaminant as a substance present in
 24 drinking water that may adversely affect the health of
 25 the consumer or the aesthetic qualities of the water.

Page 92

EXAMINATION OF BLACKMAN / MALDEN

1 Did you know that?
 2 **A. I've read that.**
 3 Q. The maximum secondary contaminant level for
 4 manganese is 0.05 milligrams per liter, isn't it?
 5 **A. Correct.**
 6 Q. Since May of 2015, Rainier View has been
 7 supplying running water to the Sarah Hand residence,
 8 hasn't it?
 9 **A. Yes.**
 10 Q. And all of this water has been supplied for
 11 human consumption, hasn't it?
 12 **A. Yes.**
 13 Q. Do you know how "human consumption" is defined
 14 under the Washington Administrative Code?
 15 **A. No, I'm not -- I don't.**
 16 Q. Let me see if I can help you.
 17 WAC 246-290-133. Excuse me, 246-290-010, paren 133,
 18 defines human consumption as the use of the water for
 19 drinking, bathing, or showering, hand washing, food
 20 preparation, cooking, or oral hygiene, okay?
 21 **A. Okay.**
 22 Q. Now, all of the water supplied to Sarah Hand by
 23 Rainier View since 2015 has been sold by you as fit for
 24 human consumption, hasn't it?
 25 **A. Yes, it has.**

Page 93

EXAMINATION OF BLACKMAN / MALDEN

1 Q. Sarah Hand is required by law to have running
 2 water at her house, isn't she?
 3 **A. Yes.**
 4 Q. And if Sarah Hand wants running water, she has
 5 to buy it from you, doesn't she?
 6 **A. Yes.**
 7 Q. You have no competitors offering to supply Sarah
 8 Hand with running water, do you?
 9 **A. No, we don't.**
 10 Q. If Sarah Hand does not like the quality of your
 11 water, she still has to buy from you, doesn't she?
 12 **A. Yes.**
 13 Q. If Sarah Hand does not like the quality of your
 14 service, she still has to buy from you, doesn't she?
 15 **A. Correct.**
 16 Q. If Sarah Hand does not like your price, she
 17 still has to buy from you, doesn't she?
 18 **A. Correct.**
 19 Q. If you are supplying water to Sarah Hand with
 20 excessive contaminant levels in violation of the law,
 21 she still has to buy it from you, doesn't she?
 22 **A. Yes.**
 23 Q. You testified that Rainier View is stringently
 24 regulated; is that right?
 25 **A. Yes, we are.**

Page 94

EXAMINATION OF BLACKMAN / MALDEN

1 Q. And it's your testimony that this stringent
 2 regulation is an exchange for RV, Rainier View, being
 3 allowed to sell water free from competition; is that
 4 right?
 5 **A. Correct.**
 6 Q. Do you understand why stringent regulation of
 7 Rainier View Water is necessary?
 8 **A. Yes, I do.**
 9 Q. Why is it necessary?
 10 **A. Lack of competition, they want to assure the**
 11 **consumer to have a reliable product.**
 12 Q. The stringent regulation is necessary to protect
 13 your customers, isn't it?
 14 **A. Correct.**
 15 Q. The stringent regulation is necessary to protect
 16 your customers from you, isn't it?
 17 **A. Yes.**
 18 Q. You're familiar with Apex Engineering?
 19 **A. Yes, I am.**
 20 Q. Apex is an engineering firm; is that right?
 21 **A. That's correct.**
 22 Q. Apex is an expert in -- in water quality, isn't
 23 it?
 24 **A. They're our civil engineers.**
 25 Q. Apex is an expert in -- in water filtration?

Page 95

EXAMINATION OF BLACKMAN / MALDEN

1 **A. They design water filtration.**
 2 Q. Apex is the company that Rainier View hired to
 3 design the filtration system for Firwood Meadows' wells?
 4 **A. Firwood Meadows' wells, yes.**
 5 Q. Rainier View Water has hired Apex before,
 6 haven't they?
 7 **A. Yes, we have.**
 8 Q. How many times over the last 20 years has
 9 Rainier View hired Apex?
 10 **A. Countless.**
 11 Q. More than ten times?
 12 **A. Oh, yes.**
 13 Q. More than 20 times?
 14 **A. Yes.**
 15 Q. You trust Apex?
 16 **A. Yes, we do.**
 17 Q. The public should trust Apex?
 18 **A. They're professional engineers, yes.**
 19 Q. I'd like to direct your attention to Exhibit
 20 SH-33X. Do you recognize this document?
 21 **A. I'm not there yet.**
 22 Q. Okay.
 23 **A. I'm not familiar with the way these are set up.**
 24 Q. Okay. That's fine. We'll take a moment.
 25 **A. Yes, I'm familiar with it.**

Page 96

EXAMINATION OF BLACKMAN / MALDEN

1 Q. When did you first see it?
 2 **A. Back in December of '16.**
 3 Q. This is a report that Apex prepared for Rainier
 4 View; is that right?
 5 **A. Yes, it is.**
 6 Q. And it's a report that Apex submitted to Rainier
 7 View on December 9, 2016; is that right?
 8 **A. Yes.**
 9 Q. And Rainier View asked Apex to write the report?
 10 **A. Yes, we did.**
 11 Q. You paid Apex for the report?
 12 **A. Yes, we did.**
 13 Q. Did you challenge any observation or conclusion
 14 stated in the Apex report?
 15 **A. No, we didn't.**
 16 Q. Do you accept the Apex report as accurate?
 17 **A. Yes.**
 18 Q. Can the public reasonably rely on the accuracy
 19 of this Apex report?
 20 MR. RANKIN: Objection. I think it's
 21 outside his expertise.
 22 JUDGE KOPTA: I'll sustain.
 23 BY MR. MALDEN:
 24 Q. I'd like to direct your attention to page 5 of
 25 this report. And if you'll notice at the top of the

Page 97

EXAMINATION OF BLACKMAN / MALDEN

1 page, there's a little table there that says RVWC Fir
 2 Meadows Well D; do you see that?
 3 **A. Yes, I do.**
 4 Q. And this is a table that summarizes the quality
 5 of the water that Apex Engineering tested at Fir
 6 Meadows; is that right?
 7 **A. I'm not sure Fir Meadows -- I'm not sure Apex
 8 did the testing.**
 9 Q. Okay. Do you know where the data came from?
 10 **A. They probably took it from the Atec System that
 11 came out and did the pilot test.**
 12 Q. According to Apex, the manganese levels in your
 13 water tested between .118 and .132 for an average of
 14 .123; is that right?
 15 **A. Correct.**
 16 Q. Is this data accurate as far as you know?
 17 **A. As far as I know, it is.**
 18 Q. Is this data reliable as far as you know?
 19 **A. Yes.**
 20 Q. I'd like to direct your attention to the second
 21 sentence at the top of the page. Quote, Manganese
 22 concentrations at these levels would be the cause of
 23 severe problems with taste, odor, and staining.
 24 That was the conclusion of your expert, Apex,
 25 wasn't it?

Page 98

EXAMINATION OF BLACKMAN / MALDEN

1 **A. Yeah. I mean, it's --**
 2 Q. And you don't --
 3 **A. That's what you get with manganese.**
 4 Q. You don't disagree with that statement, do you?
 5 **A. No.**
 6 Q. I'd like to direct your attention to page 1 of
 7 the report. If you look at the second paragraph at page
 8 1, it says, quote, Due to taste and odor complaints
 9 received by RVWC, Atec Systems Associates performed a
 10 series of raw water and pilot testing on the Fir Meadows
 11 Well D in August of 2016.
 12 Do you see that?
 13 **A. Yes.**
 14 Q. Is that an accurate statement?
 15 **A. Yes.**
 16 Q. That Rainier View asked Atec to come in because
 17 you were receiving taste and odor complaints from
 18 customers; is that right?
 19 **A. We were getting -- yes.**
 20 Q. And that's for a lot more customers than just
 21 Sarah Hand; isn't that right, Mr. Blackman?
 22 **A. There are differences in types of complaints, so
 23 yes, I mean, it -- we got phone calls about it, and so
 24 we did -- had the pilot study done, yes.**
 25 Q. I'd like to now turn to your communications with

Page 99

EXAMINATION OF BLACKMAN / MALDEN

1 Sarah Hand.
 2 You've spoken to Sarah Hand?
 3 **A. Yes.**
 4 Q. You've met with Sarah Hand?
 5 **A. Yes, I have.**
 6 Q. She made a complaint to you about brown water in
 7 November of 2016?
 8 **A. Yes.**
 9 Q. Now, do you understand the meaning of the word
 10 "complaint"?
 11 **A. Yeah. Yes, I do.**
 12 Q. You've used the word complaint in your life many
 13 times, haven't you?
 14 **A. Yeah.**
 15 Q. There's nothing ambiguous about the term, is
 16 there?
 17 **A. There's levels of complaints.**
 18 Q. There's levels of complaints in Rainier View's
 19 world. You have a complaint and then you have an
 20 enhanced complaint; is that right?
 21 **A. There are concerns, questions.**
 22 Q. So if you were asked, for example, by the UTC,
 23 how many complaints have you received regarding brown
 24 water or water quality, would you include in your answer
 25 complaints, enhanced complaints, concerns? How would

Page 100

EXAMINATION OF BLACKMAN / MALDEN

1 you answer that question?
 2 **A. Well, I'd need to know the definition of what**
 3 **they're trying to -- what they're looking for.**
 4 Q. So --
 5 **A. Because it also comes down to what system,**
 6 **which, you know, zone, which wells are they being**
 7 **provided water to. Is it an inquiry, is it a -- you**
 8 **know, someone calls up and says, you know, I got some**
 9 **discoloration. Is that a complaint or -- yeah. So yes,**
 10 **I would like to -- there are different levels.**
 11 Q. Sarah Hand complained to you about the
 12 appearance of her water, didn't she?
 13 **A. Yes.**
 14 Q. She told you it was brown?
 15 **A. Correct.**
 16 Q. She told you it had floating debris?
 17 **A. Yes.**
 18 Q. She told you it smelled bad?
 19 **A. I don't remember the smell, but...**
 20 Q. Others have told you the water smells bad,
 21 haven't they?
 22 **A. It's usually a chlorine smell, but...**
 23 Q. Sarah Hand told you that your water stained her
 24 clothing, didn't she?
 25 **A. I don't recall the staining.**

Page 101

EXAMINATION OF BLACKMAN / MALDEN

1 Q. Ms. Hand told you that your water stained the
 2 porcelain, didn't she?
 3 **A. I don't remember that.**
 4 Q. Sarah Hand told you that the water was clogging
 5 fixtures, didn't she?
 6 **A. Yes.**
 7 Q. Would it be fair to state that you had other
 8 customers besides Sarah Hand complaining to you about
 9 the same things?
 10 **A. We had phone calls about it.**
 11 Q. Would it be fair to state that you had many
 12 phone calls about it?
 13 **A. What -- I don't know how many "many" is.**
 14 Q. Well --
 15 **A. I mean, it's relative --**
 16 Q. -- would 580 be a lot?
 17 **A. On a system of how big? I mean, it's relative**
 18 **to how big the system is. I mean, so if you had a**
 19 **thousand connections and you had 500 calls, yeah, that**
 20 **would be huge. If you have 18,000 or 20,000, it's not**
 21 **as big.**
 22 Q. Sarah Hand's complaint about the appearance of
 23 the water, that it looked brown --
 24 **A. Mm-hmm.**
 25 Q. -- you understood that complaint, didn't you?

Page 102

EXAMINATION OF BLACKMAN / MALDEN

1 **A. Yes.**
 2 Q. You thought it was reasonable, didn't you?
 3 **A. Yes. She brought a sample in, so we tried to**
 4 **see.**
 5 Q. Ms. Hand's complaint about the water having
 6 floating debris in it, that was a reasonable complaint,
 7 wasn't it?
 8 **A. Yes.**
 9 Q. You understood that complaint?
 10 **A. I understood that complaint.**
 11 Q. You agreed that it was a legitimate complaint
 12 about water quality, didn't you?
 13 **A. Yes.**
 14 Q. All of Sarah Hand's complaints are actually
 15 consistent with what your expert, Apex, told you would
 16 happen with excessive levels of manganese in the water,
 17 right?
 18 **A. Right.**
 19 Q. You've seen the water test results taken by
 20 Susan Evans in April of 2017?
 21 **A. Yes, I have.**
 22 Q. Now, you criticize Ms. Evans' sampling
 23 technique; is that right?
 24 **A. I questioned where she took the samples from.**
 25 **Depending on where in the home they're taken can change**

Page 103

EXAMINATION OF BLACKMAN / MALDEN

1 the outcome of what the water that we're providing.
 2 Q. You, yourself, know how to collect water samples
 3 the right way, don't you?
 4 **A. Depending on what you're trying to test for.**
 5 Q. Well, what if we wanted someone to go into
 6 Ms. Hand's house and determine whether the quality of
 7 the water was as bad as she said. If you wanted to, you
 8 have the equipment, the personnel, and the resources to
 9 go in there and do that, don't you?
 10 **A. Not right off. We -- we have the bottles, but**
 11 **depending where -- like I say, where you want to take**
 12 **the water.**
 13 Q. Did you ever ask to collect a water sample at
 14 Sarah Hand's home?
 15 **A. No.**
 16 Q. Did you ever offer to collect and test a water
 17 sample at Sarah Hand's home?
 18 **A. No.**
 19 Q. Have you ever asked or offered to collect water
 20 samples at the home of any person who complained about
 21 water quality in the last five years?
 22 **A. Very few, and it wouldn't be for -- you know, we**
 23 **might take an iron, manganese. We don't do full**
 24 **inorganics at homes. We would -- if anything, we would**
 25 **take it from the meter, not from within the home.**

Page 104

EXAMINATION OF BLACKMAN / MALDEN

1 Q. Didn't Sarah Hand actually ask you to come to
 2 her home and take a water sample?
 3 **A. Might have.**
 4 Q. And you declined to do it, didn't you?
 5 **A. Most likely. We -- we don't do sampling with --**
 6 **upon request like that.**
 7 Q. It's easier for you just to critique whatever
 8 test result the customer comes up with, isn't it?
 9 **A. No. If I tested every time someone called, say,**
 10 **I want my water tested, water bills would skyrocket to**
 11 **the expense of doing a test, as you know, is extremely**
 12 **high.**
 13 Q. What does it cost to test the water in a home
 14 like Sarah Hand's?
 15 **A. Depends what you're testing for.**
 16 Q. Okay. Well --
 17 **A. Metrological or inorganics?**
 18 Q. Okay. Well, let's just -- let's talk about if
 19 you wanted to go in and find out if it's completely --
 20 well, actually, let me back up for a moment.
 21 When Ms. Hand told you she didn't like the
 22 appearance of the water, you told her it was safe to
 23 drink, didn't you?
 24 **A. I don't recall saying it's safe to drink. I**
 25 **recall -- or she -- she talked to several employees.**

Page 105

EXAMINATION OF BLACKMAN / MALDEN

1 Q. Don't you, on a regular basis, tell the public
 2 that Rainier View Water is safe to drink?
 3 **A. Yes.**
 4 Q. And don't you regularly tell customers that
 5 Rainier View Water is safe to drink no matter what it
 6 looks like?
 7 **A. We would tell them that we will come out and**
 8 **flush if you have sediment. Discoloration, we would**
 9 **come out and flush, get it clean. The manganese is**
 10 **still in there, but the manganese levels would be safe**
 11 **to drink.**
 12 Q. I think you may have answered my question, but
 13 let me repeat it so that we're sure.
 14 Isn't it true, Mr. Blackman, that you tell the
 15 public that it's safe to drink Rainier View's water no
 16 matter what it looks like?
 17 **A. It would be safe to drink if the manganese -- if**
 18 **the discoloration or the sediment, no, you wouldn't want**
 19 **to drink it obviously. But if you flush it out, get it**
 20 **back to the -- get the sediment out, it would be safe to**
 21 **drink.**
 22 Q. Did I understand you correctly to say that you
 23 would not expect one of your customers to drink
 24 discolored water?
 25 **A. Not the bottle that she showed me, which had a**

Page 106

EXAMINATION OF BLACKMAN / MALDEN

1 lot of manganese sediment in it.
 2 Q. So you're referring to a water sample that Sarah
 3 Hand brought to your office and showed you, right?
 4 **A. Correct.**
 5 Q. And when did she do that?
 6 **A. Must have been November of '16.**
 7 Q. And you looked at that water, and from sight
 8 alone, you knew you wouldn't drink it; is that fair to
 9 say?
 10 **A. Yes.**
 11 Q. You knew from sight alone that you wouldn't have
 12 any of your children or grandchildren drink it, didn't
 13 you?
 14 **A. Right.**
 15 Q. I'd like to direct your attention to Exhibit
 16 SH-41X, the 2015 Rainier View Annual Water Quality
 17 Report.
 18 MR. RANKIN: I'm sorry, which number?
 19 THE WITNESS: 41.
 20 MR. MALDEN: Yes. Hang on just for a
 21 second. Yes, SH-41X.
 22 **A. Okay.**
 23 BY MR. MALDEN:
 24 Q. Do you recognize this document?
 25 **A. Yes.**

Page 107

EXAMINATION OF BLACKMAN / MALDEN

1 Q. What is it?
 2 **A. Consumer Confidence Report for 2015, which**
 3 **represents the water from 2014.**
 4 Q. It's supposed to represent the quality of the
 5 water from the year before; is that right?
 6 **A. Correct.**
 7 Q. And what is this Consumer Confidence Report for?
 8 **A. It's --**
 9 Q. Actually, strike that.
 10 The purpose of the Consumer Confidence Report is
 11 to educate and inform your customers about the quality
 12 of your water; is that fair to say?
 13 **A. Yes.**
 14 Q. And you're required by law to provide this
 15 report to the public, aren't you?
 16 **A. Correct.**
 17 Q. And you're required by law to provide this
 18 report to the DOH, correct?
 19 **A. Correct.**
 20 Q. With regard to this particular annual report,
 21 who wrote this?
 22 **A. 2014, might have been Tony Peredo.**
 23 Q. And who is Tony Peredo?
 24 **A. An employee of Rainier View Water Company.**
 25 Q. Does Mr. Peredo have any medical background?

Page 108

EXAMINATION OF BLACKMAN / MALDEN

1 **A. No.**
 2 Q. Does Mr. Peredo have any scientific background?
 3 **A. No.**
 4 Q. What is his job title?
 5 **A. At the time, he was the water quality manager.**
 6 Q. And is he still employed by Rainier View?
 7 **A. Yes, he is.**
 8 Q. Did you help write this annual report?
 9 **A. No, I didn't.**
 10 Q. Did you proofread it?
 11 **A. I would think I would have. I can't recall**
 12 **reading it, but I -- I'm sure I did.**
 13 Q. When you say you think you would have, is that
 14 because of your job duties at the time?
 15 **A. Yeah, and we also put out probably 25 of these**
 16 **different reports. So it's hard to go through and**
 17 **remember every one.**
 18 Q. But part of your official job duties include
 19 review and approval of the water quality report before
 20 it goes out to the public; is that right?
 21 **A. Correct.**
 22 Q. Is there anyone other than yourself that is
 23 responsible for reviewing and ensuring the accuracy of
 24 the information put in these annual reports?
 25 **A. No.**

Page 109

EXAMINATION OF BLACKMAN / MALDEN

1 Q. What about Mr. Finnigan, is he not responsible
 2 for verifying the accuracy of the contents of the
 3 reports?
 4 MR. RANKIN: Objection to the extent that
 5 that involves attorney-client communications.
 6 JUDGE KOPTA: Sustained.
 7 THE WITNESS: Does that mean I answer?
 8 BY MR. MALDEN:
 9 Q. I'd like to direct your attention to page 3 of
 10 this document, and you can see that about halfway down
 11 the page, there's a table 3 that's entitled, (as read)
 12 Secondary Contaminants and Unregulated Contaminants; do
 13 you see that?
 14 **A. Yes.**
 15 Q. And this table, this is informing the public
 16 what your water test results were; is that right?
 17 **A. Correct.**
 18 Q. And this is for the Southwood Water System; is
 19 that right?
 20 **A. That's correct.**
 21 Q. And it's the Southwood Water System that is
 22 going to give most of the water to the Sarah Hand
 23 residence, isn't it?
 24 **A. There's 23 wells that provide water in the**
 25 **Southwood System.**

Page 110

EXAMINATION OF BLACKMAN / MALDEN

1 Q. The Springwood Estates, though, is served by the
 2 Firwood system, isn't it?
 3 **A. Fir Meadows wells.**
 4 Q. Okay. And if -- let's go down on table 3 and
 5 look at the secondary contaminant, manganese.
 6 **A. Yes.**
 7 Q. And this report indicates that Rainier View
 8 tested the water for manganese in 2013; is that right?
 9 **A. Correct.**
 10 Q. And your test result was .16 milligram per
 11 liter; is that right?
 12 **A. That's correct.**
 13 Q. And that was approximately -- well, actually,
 14 that was more than three times the legal limit set forth
 15 in the WAC, isn't it?
 16 **A. Yes, it is.**
 17 Q. Now, you actually didn't test the water for
 18 manganese again for three years; isn't that right,
 19 Mr. Blackman?
 20 **A. No. We test -- this is one well that -- that**
 21 **got the high read. Like I said, out of the 23 different**
 22 **wells providing service, you have to take the one with**
 23 **the highest concentration.**
 24 Q. You have to take the one with the highest
 25 concentration because that's state law, isn't it,

Page 111

EXAMINATION OF BLACKMAN / MALDEN

1 Mr. Blackman?

2 **A. Right.**

3 Q. If you go down and look at the notes under table

4 3 on this same page.

5 **A. Mm-hmm.**

6 Q. It says here, (as read) Secondary contaminants

7 have no known health effects, but can affect the

8 aesthetic properties of water, taste, odor, and

9 appearance.

10 Now, when you say the secondary contaminants

11 have no known health effect, have you actually

12 undertaken any research into the potential health

13 effects of manganese on the human body?

14 **A. I depend on Department of Health to tell me**

15 **which contaminants are -- have health concerns and which**

16 **ones don't.**

17 Q. You've never done any independent research on

18 your own to verify those facts, have you?

19 **A. It's not my job to verify what the state tells**

20 **me to do.**

21 Q. Now, when you say the secondary contaminants

22 have no known health effects, you're not putting any

23 limitation on the quantity consumed or the length of

24 time that water's consumed, are you, Mr. Blackman?

25 **A. No, we don't.**

Page 112

EXAMINATION OF BLACKMAN / MALDEN

1 Q. You're basically assuring the public that they

2 can drink your water in unlimited quantity forever,

3 aren't you?

4 MR. RANKIN: Objection. I think he's

5 already answered that he's repeating what the DOH has

6 told him, and this is not his specific opinion.

7 MR. MALDEN: Well, whether or not the DOH

8 made the statement to him and whether it's true is

9 irrelevant.

10 JUDGE KOPTA: I'll allow it, but it's -- it

11 is somewhat repetitive.

12 Are you making that representation,

13 Mr. Blackman?

14 THE WITNESS: I'm sorry?

15 JUDGE KOPTA: Are you making that

16 representation that counsel asked you about?

17 THE WITNESS: I don't remember.

18 JUDGE KOPTA: Would you repeat the question,

19 Mr. Malden?

20 MR. MALDEN: May I ask the reporter to read

21 back that last question, please?

22 (Question read back.)

23 **A. No.**

24 BY MR. MALDEN:

25 Q. Excuse me?

Page 113

EXAMINATION OF BLACKMAN / MALDEN

1 **A. I'm trying to think of how to phrase it so**

2 **that -- I mean, the way you're wording it that way, yes,**

3 **I -- I guess that you could interpret it that; however,**

4 **we do take most of this language, just cut and paste off**

5 **the DOH's own consumer confidence report rules for**

6 **regulations.**

7 Q. You're saying that you create your annual report

8 in part by cutting and pasting DOH material?

9 **A. Some of the language, yes.**

10 Q. Now, this report does not explain to us what

11 sampling procedure Rainier View followed, does it?

12 **A. No, it doesn't.**

13 Q. Your expectation is the public merely assumes

14 that however you sampled, it was done correctly; is that

15 right?

16 **A. Yes.**

17 Q. Does your test report -- does your annual report

18 indicate how many test samples were collected?

19 **A. No.**

20 Q. You expect the public to simply trust that

21 Rainier View picked the right number of samples from the

22 right place; is that fair to say?

23 **A. Well, we -- we took the samples as required by**

24 **DOH.**

25 Q. No one from DOH monitors your collection of test

Page 114

EXAMINATION OF BLACKMAN / MALDEN

1 samples, does it? Or do they?

2 **A. No, they have the right -- it does say where we**

3 **take the samples, but no one comes out from DOH and**

4 **witnesses that we're actually sampling.**

5 **JUDGE KOPTA: Mr. Malden, is this a good**

6 **time to take a break?**

7 MR. MALDEN: Yes, this would be a good time

8 to take a break.

9 JUDGE KOPTA: All right. Then let's take

10 ten minutes. Please be back at five after 11:00. We're

11 off the record.

12 (A break was taken from

13 10:51 a.m. to 11:03 a.m.)

14 JUDGE KOPTA: All right. Then we'll be back

15 on the record after that break and resuming with

16 Mr. Malden's cross of Mr. Blackman.

17 BY MR. MALDEN:

18 Q. I'd like to direct your attention to the Annual

19 Water Quality Report for 2016, which is Exhibit SH-11.

20 **A. Okay.**

21 Q. You testified previously about how the 2015

22 annual report was prepared. Would that same testimony

23 apply to the preparation of the 2016 report?

24 **A. I believe the -- excuse me. Our new water**

25 **quality manager did this one.**

Page 115

EXAMINATION OF BLACKMAN / MALDEN

1 Q. And who is the new water quality manager?

2 **A. Jim Jensen.**

3 MR. ROBERSON: Your Honor, if I may. I'm

4 not sure that Mr. Malden's microphone is on.

5 MR. MALDEN: Ah, yes. Thank you. You were

6 right.

7 BY MR. MALDEN:

8 Q. I'd like to direct your attention to page 6 of

9 the document, the page entitled, (as read) Water Quality

10 Table. Are you there?

11 **A. I'm here.**

12 Q. Now, this table indicates that Rainier View

13 tested the water samples from the Southwood Water System

14 in 2016; is that right?

15 **A. Correct.**

16 Q. Do you know exactly where the water samples were

17 taken?

18 **A. It doesn't say on here. What they -- what they**

19 **do is report the highest level of the -- how many**

20 **samples they took, you report the highest level of them,**

21 **so it doesn't say which well.**

22 Q. Do you know how many water samples were taken?

23 **A. I don't.**

24 Q. Your own table indicates that the level of

25 manganese in the Southwood Water System was 0.23

Page 116

EXAMINATION OF BLACKMAN / MALDEN

1 milligrams per liter; is that right?

2 **A. That's what one well did produce.**

3 Q. Well, that's your official reading for -- under

4 the water quality table, isn't it?

5 **A. Yes.**

6 Q. And you trust that result?

7 **A. Yes.**

8 Q. I'd like to direct your attention now to page 2

9 of the document. I'm looking at a paragraph that's

10 entitled, (as read) A Message from our Water Quality

11 Control Manager; do you see that?

12 **A. Yes.**

13 Q. You -- now, this was written by Mr. Jensen; is

14 that right?

15 **A. Correct.**

16 Q. Did you review and approve this message for

17 Mr. Jensen?

18 **A. I did.**

19 Q. Did anyone above you at Rainier View, to your

20 knowledge, review and approve this message from

21 Mr. Jensen?

22 **A. I don't believe they did.**

23 Q. Part of the message from Mr. Jensen that you

24 approved was, quote, Rainier View Water Company has

25 always and will continue to provide the safest possible

Page 117

EXAMINATION OF BLACKMAN / MALDEN

1 water to every last free-flowing tap that we serve.

2 Is that right?

3 **A. Yes.**

4 Q. And that would include the Sarah Hand residence

5 even if it happens to be at the end of a water line?

6 **A. Correct.**

7 Q. Sarah Hand has the same right to the same

8 quality of water as everyone else that you serve, right?

9 **A. Yes.**

10 Q. This message from the quality control manager

11 also says, quote, It is of the utmost importance to us

12 to remain in compliance with all state and federal

13 guidelines regarding water quality.

14 Do you see that?

15 **A. Yes.**

16 Q. Now, in fact, your own test report for 2016

17 showed that you were not in compliance with the WAC

18 regulations governing secondary contaminants; isn't that

19 right?

20 MR. RANKIN: Objection in that the WAC goes

21 beyond simply putting a number on it.

22 MR. MALDEN: I think -- I think -- I think

23 the WAC table says very clearly what the maximum

24 secondary contaminant level for manganese is and --

25 MR. RANKIN: But it provides a follow-up

Page 118

EXAMINATION OF BLACKMAN / MALDEN

1 remedy, which he's asking my client to admit that they

2 were in violation of that WAC. But a water provider can

3 exceed a secondary MCL while still being compliant with

4 the WAC if the DOH does not order follow-up action.

5 JUDGE KOPTA: Yeah, I'm not -- I'm not

6 comfortable with talking about whether there's been a

7 violation. I think you can ask whether you exceeded the

8 amount that's in the WAC, although, I think you asked

9 that several times.

10 MR. MALDEN: I'll withdraw the statement or

11 the question.

12 BY MR. MALDEN:

13 Q. Your water quality manager also says, (as read)

14 We continually sample, test, and treat your water on a

15 regular basis.

16 Is that right?

17 **A. Yes.**

18 Q. (As read) We are committed to meet every water

19 quality standard on every system we operate every single

20 day.

21 That's the representation you made to Sarah Hand

22 and the rest of the public, right?

23 **A. Correct.**

24 Q. I'd like to direct your attention now to Exhibit

25 SH-42X, the 2017 Rainier View Water Quality Report. I'd

Page 119

EXAMINATION OF BLACKMAN / MALDEN

1 like to direct your attention to page 6 of the report,
 2 which is entitled, (as read) Water Quality Exceedance
 3 Report.
 4 **A. Okay.**
 5 Q. Under the paragraph, Secondary Contaminants, it
 6 says, (as read) National secondary drinking water
 7 regulations set non-mandatory water quality standards.
 8 The EPA does not enforce these secondary maximum
 9 contaminant levels.
 10 Now, in the state of Washington, the secondary
 11 maximum contaminant levels are set forth in the WAC,
 12 aren't they?
 13 **A. Yes.**
 14 Q. The EPA obviously doesn't enforce the Washington
 15 Administrative Code, does it?
 16 **A. I don't believe they do.**
 17 Q. Under the heading, Manganese, I want to read
 18 this paragraph to you. Actually, the second sentence
 19 under the paragraph. (As read) Manganese deposits in
 20 plumbing cause black sediment and blackish turbidity.
 21 Is that a true statement as far as you know?
 22 **A. Yes.**
 23 Q. Quote, Also, manganese bacteria are often
 24 present which can cause -- cause clogs in piping, closed
 25 quote.

Page 120

EXAMINATION OF BLACKMAN / MALDEN

1 Is that a factually true statement,
 2 Mr. Blackman, that you can have manganese bacteria which
 3 caused -- causes clogs in piping?
 4 **A. This is taken right out of EPA's language, so if
 5 they were saying it's -- it can, then I'm not saying
 6 it's true or not, but we have to put it in there as
 7 mandatory language.**
 8 Q. You think that the Environmental Protection
 9 Agency has made the statement that manganese bacteria
 10 are often present which can cause clogs in piping?
 11 **A. That's what they're saying, so I'll agree with
 12 it.**
 13 Q. There is a risk, isn't there, Mr. Blackman, that
 14 you have excessive levels of manganese in the water that
 15 can be hiding places or shelters for bacteria; is that
 16 right?
 17 **A. I'm not aware of that.**
 18 Q. You had no idea of that?
 19 **A. No.**
 20 Q. You had no idea that one of the risks, potential
 21 risks, of excessive levels of manganese is that it can
 22 provide a place for bacteria to shelter and avoid
 23 chlorination? You didn't know that?
 24 **A. I didn't know it could avoid chlorination, but
 25 I'm not -- I haven't seen it.**

Page 121

EXAMINATION OF BLACKMAN / MALDEN

1 Q. Were you aware of the potential risk of bacteria
 2 using manganese fragments or debris to -- to shelter or
 3 hide; did -- did you know that?
 4 MR. RANKIN: Objection. Your Honor, he's
 5 asked the same question three times, and my client's
 6 already stated he pulled this from the EPA website.
 7 JUDGE KOPTA: Sustained.
 8 BY MR. MALDEN:
 9 Q. I'd like to turn now to the 2014 investigation
 10 that the UTC performed with Rainier View. The UTC
 11 investigated some of Rainier View's business practices
 12 in 2014?
 13 **A. I'm not aware of what we're talking about.**
 14 MR. RANKIN: What exhibit are you looking
 15 at?
 16 MR. MALDEN: I'm not looking at an exhibit
 17 right now.
 18 BY MR. MALDEN:
 19 Q. My question to Mr. Blackman is, isn't it true
 20 that the UTC investigated some of Rainier View's
 21 business practices in 2014?
 22 **A. They may have.**
 23 Q. You weren't -- you weren't aware of it?
 24 **A. Well, I -- no. I'm not aware of what -- no.**
 25 Q. Were you aware that in 2014, the UTC concluded

Page 122

EXAMINATION OF BLACKMAN / MALDEN

1 that Rainier View was violating WAC 480-110-385(4)?
 2 **A. No. Is this -- I -- I don't know that WAC.**
 3 Q. That has to do with maintaining customer
 4 complaints for at least one year.
 5 **A. Okay.**
 6 Q. Were you aware of that WAC?
 7 **A. I know we were supposed -- yes, I am aware of
 8 the WAC, not by number.**
 9 Q. Okay. You were aware that you were required by
 10 the WAC to maintain customer complaints for one year; is
 11 that right?
 12 **A. Correct.**
 13 Q. Do you recall the UTC raising an issue as to how
 14 those complaints should be maintained?
 15 **A. Yes.**
 16 Q. Were you aware that in 2014, the UTC recommended
 17 that Rainier View document its customer complaints
 18 separately from customer account notes?
 19 **A. Yes.**
 20 Q. You didn't follow that recommendation, though,
 21 did you, Mr. Blackman?
 22 **A. Our billing program that we do all our tracking
 23 does not allow that, so we'd have to change our whole
 24 billing process.**
 25 Q. So the bottom line here is that in 2014, the UTC

Page 123

EXAMINATION OF BLACKMAN / MALDEN

1 recommended that you keep customer complaints a
 2 particular way and you chose not to; is that right?
 3 **A. We didn't choose the way they would like it, but**
 4 **we have made improvements on it. They're all done**
 5 **electronically now so...**
 6 Q. If we wanted to find out how many people had
 7 complained about the quality of your water in the last
 8 six months, would we still have to go to each individual
 9 customer account to see if a complaint was there?
 10 **A. They can filter it now. It's still in the**
 11 **account, but it's -- there are methods to filter a type**
 12 **of complaint.**
 13 Q. And when did you come up with the filtering
 14 method?
 15 **A. I believe a couple years ago.**
 16 Q. Can you be more precise?
 17 **A. No, I can't.**
 18 MR. MALDEN: Can we just have a moment?
 19 Looking for an exhibit.
 20 BY MR. MALDEN:
 21 Q. I'd like to direct your attention, Mr. Blackman,
 22 to Exhibit SH-10. Do you recognize this document?
 23 **A. Yes.**
 24 Q. What is it?
 25 **A. This is a spreadsheet taken from our billing**

Page 124

EXAMINATION OF BLACKMAN / MALDEN

1 showing the different phone calls that we -- came in,
 2 that have come in.
 3 Q. Who made this spreadsheet?
 4 **A. Sheila Haynes.**
 5 Q. When did she make the spreadsheet?
 6 **A. When did we do this last? I can't read the -- I**
 7 **don't recall the actual dates, but it would have been**
 8 **probably earlier this year.**
 9 Q. Would it be fair to state that you compiled this
 10 document at my request, which I made in the context of
 11 the court case in Pierce County?
 12 **A. Correct.**
 13 Q. That's the only reason you created the document;
 14 is that right?
 15 **A. Yes.**
 16 Q. You've never given this document to the UTC,
 17 have you?
 18 **A. They've never asked for it.**
 19 Q. You've never given this document to the DOH,
 20 have you?
 21 **A. No.**
 22 Q. I want to make sure I understand the data in the
 23 document. In this document, you're logging the number
 24 of service work orders that arose from a water quality
 25 complaint; is that right?

Page 125

EXAMINATION OF BLACKMAN / MALDEN

1 **A. Yes.**
 2 Q. You're not actually tracking the complaints
 3 itself, you're tracking work orders that arose from a
 4 complaint; is that right?
 5 **A. From a phone call when they would contact us,**
 6 **yes.**
 7 Q. We would have no way to know whether your
 8 document accurately logs all phone call complaints,
 9 would we?
 10 **A. No.**
 11 Q. According to your document, the number of work
 12 orders that arose from water quality complaints between
 13 June 15 and June 16 was 400; is that right?
 14 **A. There were -- if I remember -- if I'm looking at**
 15 **the right document, some of those numbers would change**
 16 **with how you filtered it out, whether it were -- had to**
 17 **do with pressure. A lot of times would just -- the**
 18 **chlorine residuals or other concerns, it's not just --**
 19 **and it also, it may include all water systems. I'm not**
 20 **sure. I'm having a hard time reading this myself.**
 21 Q. This is a document that was prepared under your
 22 supervision, wasn't it?
 23 **A. I asked her to provide it. There's several in**
 24 **here. I can't recall exactly which one -- which one's**
 25 **which, because we did filter it by system, by zone, by**

Page 126

EXAMINATION OF BLACKMAN / MALDEN

1 types of complaints or phone calls.
 2 Q. If a customer called Rainier View to complain
 3 about the quality of the water and the RV employee that
 4 answered the phone said, It's safe, and hung up the
 5 phone without even asking for a name, that would never
 6 show on this document, would it?
 7 **A. No, and I would like to know who the employee**
 8 **was that did that.**
 9 Q. I'd like to ask you some questions about the UTC
 10 investigation of Sarah Hand's complaint.
 11 Now, you are aware Rachel Stark was the UTC
 12 employee who investigated Sarah Hand's water quality
 13 complaint?
 14 **A. Yes.**
 15 Q. You spoke to Rachel Stark on the phone?
 16 **A. I think it was more emails. I don't recall**
 17 **having a conversation with her.**
 18 Q. Did you get the impression from your
 19 communications with Ms. Stark that she had limited
 20 knowledge and experience in water quality?
 21 **A. I'm not aware of her expertise.**
 22 Q. Did you understand that Ms. Stark was likely
 23 going to rely on your expertise to acquire and
 24 understand the facts?
 25 **A. I'm not sure water quality concerns were as much**

Page 127

EXAMINATION OF BLACKMAN / MALDEN

1 as the financial question on getting reimbursed for the
 2 pressure reducing valve.
 3 Q. Did Rachel Stark ever ask you how many people
 4 complained about the water quality other than Sarah
 5 Hand?
 6 **A. I don't believe so.**
 7 Q. You didn't volunteer that information, did you?
 8 **A. She didn't ask, so no, I didn't.**
 9 Q. You were following the don't ask, don't tell
 10 policy?
 11 MR. RANKIN: Objection.
 12 JUDGE KOPTA: Sustained as to argument.
 13 BY MR. MALDEN:
 14 Q. Did you ever explain to Ms. Stark that your own
 15 test results showed that you were violating the
 16 secondary maximum contaminant levels set forth in the
 17 WACs since 2013?
 18 **A. I don't think we -- that that came up.**
 19 Q. Do you recall writing an email to Rachel Stark
 20 wherein you said that if the water quality was so bad,
 21 you would think the UTC and the DOH would be receiving
 22 more complaints?
 23 **A. Yes.**
 24 Q. You said that to Rachel Stark.
 25 **A. Okay.**

Page 128

EXAMINATION OF BLACKMAN / MALDEN

1 Q. Didn't you?
 2 **A. Yes.**
 3 Q. You didn't make any mention, though, of the
 4 complaints that Rainier View had been receiving, did
 5 you?
 6 **A. I did not.**
 7 MR. MALDEN: Your Honor, I'm sorry. It
 8 takes me a moment on the exhibits because they're not
 9 quite perfectly sequenced.
 10 BY MR. MALDEN:
 11 Q. I'd like to address your -- excuse me, direct
 12 your attention to SH-44X.
 13 **A. Okay.**
 14 Q. Have you seen this document before?
 15 **A. Yes.**
 16 Q. In June of 2017, you came to the UTC to speak;
 17 is that right?
 18 **A. Yes.**
 19 Q. You came to speak in support of a tariff
 20 revision; is that right?
 21 **A. Correct.**
 22 Q. And you wanted the tariff revision in part to
 23 pay for pay raises and better benefits for Rainier View
 24 employees; is that right?
 25 **A. Yes.**

Page 129

EXAMINATION OF BLACKMAN / MALDEN

1 Q. And you understood, didn't you, that in that
 2 type of hearing, the number and kind of customer
 3 complaints that you were getting was going to be
 4 relevant to the UTC Commissioners; you knew that, didn't
 5 you?
 6 MR. RANKIN: Objection. Your Honor, this
 7 hearing had nothing to do with water quality or
 8 Ms. Hand's complaint. It was about a pay raise for
 9 their employees.
 10 MR. MALDEN: I beg to differ.
 11 JUDGE KOPTA: Well, let him answer about his
 12 understanding about what the proceeding was.
 13 **A. Well, the proceeding, yeah, it was to try and**
 14 **get some better benefits and wages for our employees.**
 15 BY MR. MALDEN:
 16 Q. Right.
 17 But my point is, you knew that going in to ask
 18 for pay raises and benefits for your employees, in all
 19 likelihood, the UTC was going to want to know, well,
 20 what's -- how many customer complaints have you been
 21 getting? You knew that, didn't you?
 22 **A. That -- I don't believe that comes up that often**
 23 **in these kind of hearings or --**
 24 Q. Well, let me direct your attention to page 2 of
 25 this document, Mr. Blackman, and let me direct your

Page 130

EXAMINATION OF BLACKMAN / MALDEN

1 attention to the paragraph entitled, (as read) Service
 2 Quality. And let me read to you what it says. (As
 3 read) Five customers believe the company should not get
 4 an increase when they are receiving discolored water.
 5 Staff response. (As read) Staff spoke with the
 6 Department of Health staff member who said there has
 7 been one complaint in the past year against Rainier View
 8 concerning manganese.
 9 Now, would it be fair to state that in June of
 10 2017, you knew for a fact in your own mind that you'd
 11 received hundreds of complaints in the past year from
 12 customers about manganese?
 13 **A. We've gotten phone calls, yes.**
 14 Q. Hundreds of phone calls?
 15 **A. Not just on this system, but yes, on overall.**
 16 Q. And you were okay to let the UTC make a decision
 17 to give you pay raises on the understanding that there
 18 had only been one complaint regarding manganese; isn't
 19 that right, Mr. Blackman?
 20 **A. One complaint to the Department of Health.**
 21 Q. And it was your understanding -- or excuse me.
 22 You knew, didn't you, that the UTC was under the
 23 impression that was the total universe of complaints
 24 you'd gotten; isn't that right?
 25 **A. I don't know.**

Page 131

EXAMINATION OF BLACKMAN / MALDEN

1 Q. I'd like to go back for a moment to your
 2 conversations with Sarah Hand about water quality.
 3 Sarah Hand told you she was scared to drink the
 4 dirty, brown water, didn't she?
 5 **A. I don't recall.**
 6 Q. You personally guaranteed the safety of the
 7 water to Sarah Hand, didn't you?
 8 **A. I told her that the -- that the state has**
 9 **approved the water quality.**
 10 Q. You used the word "guarantee," didn't you?
 11 **A. I don't recall guarantee.**
 12 Q. You recall the guarantee that was made in the
 13 2016 annual report?
 14 **A. Yes.**
 15 Q. That safety guarantee does not exclude pregnant
 16 women, does it?
 17 **A. Not sure.**
 18 Q. That safety guarantee did not exclude nursing
 19 mothers, did it?
 20 **A. Not sure how to answer that. It was a**
 21 **guarantee. I mean, it was -- I think the language was**
 22 **misused there, but...**
 23 Q. You would agree with me that your water quality
 24 manager misused -- or excuse me, should never have used
 25 the word "guarantee" in that annual report; would you

Page 132

EXAMINATION OF BLACKMAN / MALDEN

1 agree with me on that?
 2 **A. I'll agree with you on that.**
 3 Q. By the way, since Rainier View made that
 4 guarantee, is that enforceable or would that be one of
 5 the legal claims that you're immune from under the
 6 tariff?
 7 MR. RANKIN: Objection, Your Honor.
 8 JUDGE KOPTA: I think that goes beyond his
 9 expertise and his testimony.
 10 BY MR. MALDEN:
 11 Q. Manganese is a mineral?
 12 **A. Yes.**
 13 Q. Manganese deposits can build up in tanks,
 14 filters, and in distribution system pipes, right?
 15 **A. Yes.**
 16 Q. Earlier today, we were discussing a flyer from
 17 the City of Olympia and the DOH that references the risk
 18 of bacteria clinging to manganese debris; do you
 19 remember that discussion?
 20 **A. Yes.**
 21 Q. Had you ever seen that flyer before?
 22 **A. I have not.**
 23 Q. And just so that we're clear, is it your
 24 testimony that you had no idea until you walked into the
 25 room today that such a warning has been given by the

Page 133

EXAMINATION OF BLACKMAN / MALDEN

1 City of Olympia?
 2 **A. I'm not aware of it. Never heard of it.**
 3 Q. You're not -- never heard of such a warning at
 4 all?
 5 **A. No.**
 6 Q. One of the documents in the exhibit list is an
 7 excerpt from the 2009 DOH Water System Design Manual.
 8 Have you looked at that document?
 9 **A. Not recently.**
 10 Q. Are you familiar with the 2009 DOH Water System
 11 Design Manual?
 12 **A. I'm aware that it exists.**
 13 Q. Did you ever make any effort to survey your
 14 customers to determine what moneys they might feel
 15 appropriate to spend on what level of water filtration?
 16 **A. No, never surveyed.**
 17 Q. The water filtration that you -- that -- the
 18 water filtration system that you came up with, you came
 19 up with that in a Rainier View board meeting; is that
 20 right?
 21 **A. Well, we -- we've used that system, the same**
 22 **system. We have 13 other treatment plants that we have**
 23 **online. So yes, we used the same one.**
 24 Q. And so you made the decision for your customers
 25 how much money you were going to spend for what level of

Page 134

EXAMINATION OF BLACKMAN / MALDEN

1 quality; is that right?
 2 **A. We thought it was prudent.**
 3 Q. Isn't it true -- or strike that.
 4 Can you guarantee today that from this point
 5 forward, with your new water filtration system, there's
 6 going to be no further discolored water or water with
 7 debris going into Sarah Hand's home?
 8 MR. RANKIN: Objection. Argumentative.
 9 JUDGE KOPTA: Overruled.
 10 Please answer.
 11 **A. I've learned not to guarantee anything. We will**
 12 **do our best with the filtration flushing. We think**
 13 **we've got a pretty good handle on it.**
 14 BY MR. MALDEN:
 15 Q. Isn't it true, though, that there's likely
 16 manganese sediment that's in all of the plumbing system,
 17 in all the lines?
 18 **A. There could be some sediment. There's always**
 19 **sediment, whether it's manganese, silica, iron. There's**
 20 **always some sediment in every water line.**
 21 Q. Well, that's why the problems with discolored
 22 water, with floating debris may continue indefinitely;
 23 isn't that right, Mr. Blackman?
 24 **A. I wouldn't expect it to last indefinitely.**
 25 Q. Okay. A few years?

Page 135

EXAMINATION OF BLACKMAN / MALDEN

1 **A. Could take a couple years. We have taken over**
 2 **systems that did take several years to get it flushed**
 3 **out properly.**

4 Q. I'm just about done. Five minutes.
 5 I would like to direct your attention to Exhibit
 6 46. Excuse me, SH-46X.

7 **A. Okay.**

8 Q. For the record, this is a DOH fact sheet dated
 9 January 2011 on color, taste, and odor problems in
 10 drinking water. Had you ever seen this document before?

11 **A. I've seen similar ones. I'm not sure if I've**
 12 **seen this one.**

13 Q. Do you recall when you first saw a DOH fact
 14 sheet regarding color, taste, and odor problems in
 15 drinking water?

16 **A. I don't recall when.**

17 Q. I'd like to direct your attention under the
 18 heading, (as read) Colored Water.

19 **A. Okay.**

20 Q. It says here, (as read) If your water suddenly
 21 changes color, no matter what color it becomes, it could
 22 indicate a public health concern. Do not use the water.
 23 Contact your water utility.
 24 That's still sound advice today, isn't it,
 25 Mr. Blackman?

Page 136

EXAMINATION OF BLACKMAN / MALDEN

1 **A. Yes.**

2 Q. If we go down to bullet point 2 under Colored
 3 Water, you'll see black or dark brown water, and it
 4 says, (as read) Often caused by manganese in the water
 5 or pipe sediment. Manganese does not pose a threat to
 6 human health.
 7 Do you see that?

8 **A. Yes.**

9 Q. I'd like to now direct your attention to the
 10 next exhibit in line, which is Exhibit SH-47X. At the
 11 top paragraph, the last sentence in the first paragraph
 12 reads, (as read) We don't recommend that anyone drink
 13 water that looks, smells, or tastes objectionable.
 14 Do you see that?

15 **A. Yes.**

16 Q. You would agree with that?

17 **A. I would.**

18 Q. Let's go back down and look at colored water,
 19 black, or dark brown water. Do you see how the
 20 Department of Health has completely removed from the
 21 fact sheet the sentence, quote, Manganese does not pose
 22 a threat to human health? Do you see how that's been
 23 removed by the DOH, Mr. Blackman?

24 **A. Yes, I do.**
 25 MR. MALDEN: Thank you. No further

Page 137

EXAMINATION OF BLACKMAN / MALDEN

1 questions. Oh, actually, excuse me. I do have another
 2 question.

3 BY MR. MALDEN:

4 Q. I forgot to get back to you. You told me that
 5 you're aware that testing the water can be expensive;
 6 that's what you said?

7 **A. Yeah.**

8 Q. So for someone like Sarah Hand, if she wanted to
 9 test the water at her home, what would she have to do
 10 and how much would that cost?

11 **A. It would depend on what she is wanting to get**
 12 **tested for.**

13 Q. Okay. That's right. You explained that before.
 14 So let me ask you, what if she wanted to -- to
 15 have it tested for all primary and all secondary
 16 contaminants?

17 **A. Probably several hundred dollars.**

18 Q. For the actual test in a laboratory?

19 **A. Yes.**

20 Q. What --

21 **A. Well, she may pay a little more. We do -- I'm**
 22 **sure we get a bulk rate.**

23 Q. So it would only cost you a few hundred dollars?

24 **A. Yeah, yeah.**

25 Q. What about if someone like Sarah Hand were to go

Page 138

EXAMINATION OF BLACKMAN / MALDEN

1 out and hire someone to oversee the collection?

2 **A. I don't know. I mean -- no, I -- I don't know.**

3 MR. MALDEN: Thank you very much. No
 4 further questions.

5 JUDGE KOPTA: All right. Thank you. I
 6 reserved ruling on some of the exhibits, and I will make
 7 those rulings now.

8 Exhibit SH-43X, Mr. Blackman testified he
 9 has no knowledge of that document and, therefore, I will
 10 reject it.

11 SH-52X, an email exchange that was not
 12 referenced during your cross-examination, and so I will
 13 reject that one.

14 MR. MALDEN: I might also say, though, Your
 15 Honor, that that was submitted also in connection with
 16 the cross-exam of Rachel Stark.

17 JUDGE KOPTA: Well, then I will continue to
 18 reserve ruling on that one if you want to explore it
 19 with her.

20 And SH-62X, to the extent that you are going
 21 to request reimbursement of the expenses that
 22 Ms. Hand has incurred for testing, and based on
 23 Mr. Roberson's representation that that is possibly
 24 something that the Commission has authority to do, I
 25 will admit that exhibit.

Page 139

EXAMINATION OF BLACKMAN / ROBERSON

1 (Exhibit SH-62X admitted.)
 2 JUDGE KOPTA: And I think that takes care of
 3 all of them.
 4 Mr. Roberson, do you have questions for
 5 Mr. Blackman?
 6 MR. ROBERSON: I just have a few, Your
 7 Honor.
 8 JUDGE KOPTA: Okay.
 9
 10 EXAMINATION
 11 BY MR. ROBERSON:
 12 Q. Good morning, Mr. Blackman. In your opening and
 13 reply testimony, I see reference to Fir Meadows -- Fir
 14 Meadows Well 3 and 4. Are they the same well?
 15 **A. They are the same well.**
 16 Q. Are they also the same well as Fir Meadows D?
 17 **A. Yes.**
 18 Q. Can we just call them all Fir Meadows 3?
 19 **A. We actually now call them just Fir Meadows 4.**
 20 **There is a 3 we don't use because it's too crooked to**
 21 **get a well -- or a pump down it. So there are actually**
 22 **four wells on the site; three are in use.**
 23 Q. Okay. So you took Fir Meadows 4 offline after
 24 you discovered the manganese problem?
 25 **A. Correct.**

Page 140

EXAMINATION OF BLACKMAN / ROBERSON

1 Q. And you installed a treatment facility?
 2 **A. Correct.**
 3 Q. That facility is now online?
 4 **A. Yes, it is.**
 5 Q. And been permitted by the DOH?
 6 **A. Yes, it has.**
 7 Q. So is Fir Meadows 4 back online?
 8 **A. Yes.**
 9 Q. Okay. Have you tested Fir Meadows 4 since you
 10 installed the filter system?
 11 **A. Yes, we test it twice a month.**
 12 Q. So --
 13 **A. Pretreatment and posttreatment.**
 14 Q. Okay. So the DOH requires that treated water be
 15 tested every 30 days; is that correct?
 16 **A. Yes.**
 17 Q. And so you're doing that?
 18 **A. Yes.**
 19 Q. Do those tests show manganese contamination in
 20 excess of the SMCL?
 21 **A. No, below.**
 22 Q. Okay. So that takes care of the well head, but
 23 as Mr. Malden just discussed with you, there's manganese
 24 in the pipes, correct?
 25 **A. There can be.**

Page 141

EXAMINATION OF BLACKMAN / ROBERSON

1 Q. And does RVWC ever measure the contamination in
 2 the distribution system?
 3 **A. It doesn't show the same as it does out of the**
 4 **well heads.**
 5 Q. Is that because it's sedimented out of the
 6 water?
 7 **A. Correct.**
 8 Q. Okay.
 9 **A. It's already oxidized.**
 10 Q. So RVWC has no idea how much manganese is in the
 11 distribution system?
 12 **A. No.**
 13 Q. Okay.
 14 **A. We are flushing on a regular basis.**
 15 Q. Okay. So is it fair to say that RVWC only
 16 remediates the manganese problem with flushing?
 17 **A. Besides the treatment, yes.**
 18 Q. Are there other maybe more direct methods or
 19 just -- let's just start, are there other methods that
 20 you could use to remediate the manganese problem?
 21 **A. You can. There is what's called a pigging**
 22 **process where you insert --**
 23 Q. Could you explain that to the Court?
 24 **A. The -- you insert typically a foam rope -- or**
 25 **not foam rope, Styrofoam, like a bullet-shaped item that**

Page 142

EXAMINATION OF BLACKMAN / ROBERSON

1 goes in and scours the pipe. The difficulty is you have
 2 to totally disrupt the system, take the piping because
 3 you can't -- to pressurize -- unpressurize, you have to
 4 disconnect everything off the pipes, the main supply
 5 lines, and then insert this pig, shoot it down the
 6 system, and it can disrupt the whole community for days.
 7 And actually, they'd be out of water for several days.
 8 So we --
 9 Q. So this is where we're exploring my ignorance.
 10 So you have 23 different wells, right?
 11 **A. Yes.**
 12 Q. You have to take the whole system offline to
 13 pig?
 14 **A. Not the whole system, just where you're doing**
 15 **your pigging.**
 16 Q. So you can pig a segment?
 17 **A. Yes.**
 18 Q. Do you have the technical capacity to pig the
 19 distribution lines that serve Ms. Hand's house?
 20 **A. We -- yes, we can. I mean, it's not -- it's not**
 21 **that complicated. It's -- it's more time consuming and**
 22 **a disruption of service that -- that --**
 23 Q. So it's an inconvenience?
 24 **A. Yes.**
 25 Q. Do you have any idea as to how much more or less

Page 143

EXAMINATION OF BLACKMAN / KOPTA

1 effective pigging is as opposed to flushing?
 2 **A. It -- it can be more effective.**
 3 Q. Okay. Are there other methods that you could
 4 use? Replacing the pipes?
 5 **A. Well, yeah, that would work, but it would be --**
 6 Q. Is there a reason why you don't do that?
 7 **A. -- hundreds -- hundreds and thousands of**
 8 **dollars.**
 9 Q. Okay. The only other thing I would like to talk
 10 to you about, you mentioned -- and you talked in length
 11 with this about -- about this with Mr. Malden. You
 12 estimated in your testimony that you get one to two
 13 manganese complaints a week, which is 50 to a hundred a
 14 year. Do you know how many of those are on the
 15 Southwood System?
 16 **A. No. I mean, it's -- Southwood System is the**
 17 **largest by far of our systems, so majority of them would**
 18 **be -- would be coming from there.**
 19 MR. ROBERSON: That's all I have.
 20 JUDGE KOPTA: Thank you, Mr. Roberson.
 21 I have just a couple of follow-up questions.
 22
 23 EXAMINATION
 24 BY JUDGE KOPTA:
 25 Q. You were talking about how to get the manganese

Page 144

EXAMINATION OF BLACKMAN / KOPTA

1 out of the distribution system, what about at the
 2 individual house level, what can homeowners do?
 3 **A. The only thing the homeowners can do really is**
 4 **we can -- we can flush out at the service, we can take**
 5 **the meter out, flush it out that way. But as far as**
 6 **anything beyond that, opening up some outside faucets**
 7 **and try and remove it that way.**
 8 Q. Okay.
 9 **A. There's no pigging or anything like that to**
 10 **remove it from service lines.**
 11 Q. And I believe you testified that it can take up
 12 to two years for the manganese to get totally flushed
 13 out of the system; is that true, in the house?
 14 **A. That can be true. It depends on the level. I**
 15 **mentioned we -- we did take over a system years ago from**
 16 **another water utility, and it took two to three years to**
 17 **totally remove it. And we actually had to take those**
 18 **wells offline and connect it to another portion of the**
 19 **system, of our system.**
 20 Q. And what do you recommend that individual
 21 customers do if they are still experiencing some
 22 manganese in their home?
 23 **A. First thing is give us a call. We'll come out,**
 24 **do the flushing, remove the meter if we have to, make**
 25 **sure that the water coming in off the system is good,**

Page 145

EXAMINATION OF BLACKMAN / RANKIN

1 and open up some outside faucets. Typically that's
 2 where you're going to get the largest volume of water
 3 through -- through your own plumbing.
 4 Q. Okay.
 5 **A. And just keep us informed.**
 6 **JUDGE KOPTA: All right. Thank you.**
 7 **Redirect?**
 8 MR. RANKIN: Yes, please.
 9
 10 EXAMINATION
 11 BY MR. RANKIN:
 12 Q. Mr. Blackman, how many customer connections do
 13 you have as a company?
 14 **A. Little over 18,000 residents and businesses.**
 15 Q. And how many of those are on the Southwood Sound
 16 System?
 17 **A. About 15,500.**
 18 Q. Has your company ever been ordered to take an
 19 action regarding exceeding the secondary MCL?
 20 **A. No.**
 21 Q. Are you aware of other water companies being
 22 ordered to take action regarding a secondary MCL
 23 exceedance?
 24 **A. Yes.**
 25 Q. And is that a common thing?

Page 146

EXAMINATION OF BLACKMAN / RANKIN

1 **A. It's -- I don't know how common it is. I know**
 2 **it does happen. We -- we did take over a water system**
 3 **that did have action taken against it. They went to**
 4 **vote and the homeowners actually rejected it, to pay.**
 5 **They didn't want to pay for it, and we ended up**
 6 **intertying them to our system.**
 7 Q. If a customer like Sarah Hand doesn't like the
 8 water she's receiving, what should she do first?
 9 **A. Give us a call. We'll try to do our best to get**
 10 **it flushed out.**
 11 Q. And how frequently does that resolve the
 12 problem?
 13 **A. It -- it depends on the situation, but it can,**
 14 **you know, solve it immediately. I think in Sarah's**
 15 **case, we've actually made several trips and then, you**
 16 **know, we might not hear anything for quite a while.**
 17 Q. Maybe it might be beneficial if you could
 18 explain to the Court how manganese sediment works, how
 19 it gets into the system and then how it makes its way
 20 downstream.
 21 **A. As the water comes out of the well heads,**
 22 **they -- it's perfectly clear. As -- as it sits in -- in**
 23 **the pipes, along with we do chlorinate all systems, and**
 24 **actually chlorination is used as an oxidant in the**
 25 **treatment. It oxidizes the minerals and -- and mix it**

Page 147

EXAMINATION OF BLACKMAN / RANKIN

1 in with particulate that actually settles on the bottom
 2 of the water mains.
 3 And then also services, and then unfortunately,
 4 it just -- it will slough off during high usage times,
 5 water main break, fire hydrants. Someone opens -- you
 6 get that velocity going up six, seven feet per second,
 7 and it'll -- it'll remove it from the bottom, and it'll
 8 stir it up.
 9 Q. So it's not predictable in its movement --
 10 **A. No.**
 11 Q. -- downstream?
 12 **A. No.**
 13 Q. So it's entirely possible that a customer would
 14 have perfectly clear water for an extended stretch of
 15 time and then --
 16 **A. Right.**
 17 Q. -- if there is a water main break or hydrant is
 18 opened up, you might get a spurt of manganese high
 19 water?
 20 **A. Yes.**
 21 Q. When did Ms. Hand first contact you about brown
 22 water?
 23 **A. First time I talked to her I believe was in**
 24 **November, beginning of November of '16; is that correct?**
 25 Q. And that was about 18 months after you started

Page 148

EXAMINATION OF BLACKMAN / RANKIN

1 providing her service?
 2 **A. I -- yes, I -- I think that was.**
 3 Q. I'd like to reference Exhibit 33X. So we talked
 4 about this exhibit earlier, and I'm going to have you
 5 look at page 5 again. So the top table on page 5 lists
 6 a low and a high manganese concentration as well as an
 7 average?
 8 **A. Correct.**
 9 Q. And that's exclusive to Well D at the Fir
 10 Meadows' site, right?
 11 **A. Correct.**
 12 Q. So this is not the water that's going downstream
 13 to customers, because Fir Meadows is a blended well
 14 system, correct?
 15 **A. Correct.**
 16 Q. Can you explain how that works?
 17 **A. Well, all the wells pump into one common line,**
 18 **so they're -- it's a blended -- Wells A, or 1 and 2, are**
 19 **a shallower well. They don't have the manganese levels.**
 20 **So by the time you add the third well, the high -- the**
 21 **D -- he's got me calling it D now. Well 4, when you**
 22 **blend it together, it's less than what you're really**
 23 **seeing here. So you're -- that one -- .13 or whatever**
 24 **is -- is actually a lot less than that in the**
 25 **distribution system, because you're -- you're blending**

Page 149

EXAMINATION OF BLACKMAN / RANKIN

1 it in and you're getting a count, and so it's not as
 2 high.
 3 Q. And because of that blended nature of the Fir
 4 Meadows well, you weren't immediately noticing manganese
 5 going into the water system?
 6 **A. Correct.**
 7 Q. It was -- it took some time for customers to let
 8 you know that it was moving its way down the
 9 distribution network?
 10 **A. Correct.**
 11 Q. And then you had to trace it back to the
 12 particular well?
 13 **A. Correct.**
 14 Q. When Ms. Hand complained to you, what actions
 15 had your company already put in place to remedy high
 16 manganese from that well?
 17 **A. We had already hired Atec System to come out, do**
 18 **a pilot study. That's where these numbers all come**
 19 **from. They showed how, you know, with the certain type**
 20 **of treatment, we can get those levels down to acceptable**
 21 **levels.**
 22 Q. How long does it typically take from idea to
 23 implementation for a filtration system like this?
 24 **A. If -- if you're not rushed in it, it can take**
 25 **two to three years.**

Page 150

EXAMINATION OF BLACKMAN / RANKIN

1 Q. And how long did it take this particular
 2 filtration from idea to implementation?
 3 **A. A little over a year.**
 4 Q. Faster than usual?
 5 **A. Yes.**
 6 Q. Every contact that your company has with a
 7 customer is not a complaint, is it?
 8 **A. I don't consider it a complaint.**
 9 Q. And there's not necessarily a follow-up action
 10 for every time a customer calls you?
 11 **A. Right, no, that's...**
 12 Q. In the cases of brown water, your standard
 13 action is to send somebody out to flush, correct?
 14 **A. Correct.**
 15 Q. And I believe with Ms. Hand's case, there were
 16 times where your company went out to flush and the
 17 results were reported as clear water the entire time?
 18 **A. Yes.**
 19 Q. When a customer does call and reports brown
 20 water, you or your customer service representatives
 21 commonly tell the customers not to drink brown water,
 22 right?
 23 **A. Yes.**
 24 Q. As a matter of common sense?
 25 **A. Common sense.**

Page 151

EXAMINATION OF BLACKMAN / RANKIN

1 Q. And what instructions do you give them
 2 additionally?
 3 **A. To flush again, flush out at the hose bibs, get
 4 it running clear before you utilize it.**
 5 Q. And if a customer's done that and they're still
 6 having a problem, that's when you'll go out to flush?
 7 **A. Yes.**
 8 Q. And your staff generally stays onsite until the
 9 problem is resolved, right?
 10 **A. Right.**
 11 Q. Are you aware of other water providers
 12 consistently having water levels that exceed secondary
 13 maximum contaminant level?
 14 MR. MALDEN: Objection. No foundation.
 15 Irrelevant.
 16 MR. RANKIN: I believe Mr. Malden presented
 17 evidence of other water systems with high manganese, so
 18 I believe it is -- it does have foundation and is
 19 relevant.
 20 MR. MALDEN: Well, I don't think I did any
 21 such thing. I -- I proposed a flyer from the City of
 22 Olympia that explains to the public the risk of
 23 manganese, and Mr. Rankin is the one that said we're not
 24 the City of Olympia so it doesn't apply to us.
 25 MR. RANKIN: I'm referring to the email

Page 152

EXAMINATION OF BLACKMAN / RANKIN

1 exchange between the DOH that talks about a manganese
 2 complaint on some other water system.
 3 JUDGE KOPTA: I still haven't ruled on that,
 4 and it wasn't brought up on cross, so it's inappropriate
 5 to bring it up on redirect.
 6 MR. RANKIN: Okay.
 7 BY MR. RANKIN:
 8 Q. If your company has a well that exceeds the
 9 secondary maximum contaminant level, are you required to
 10 take any action at that point?
 11 **A. Depends on the element that we're checking.
 12 Secondaries, no.**
 13 Q. And at what point are you required by the DOH to
 14 do so?
 15 **A. If it's a primary, immediately; if secondaries,
 16 it's -- it depends on the level and the number of
 17 complaints how we're handling it, if we want to be
 18 proactive or not.**
 19 Q. So you wait for an order from the DOH before
 20 you're required to do anything?
 21 **A. No, not always. I mean, we -- we weren't
 22 ordered to do these -- these treatments. We did it on
 23 our own.**
 24 Q. You prefer to be proactive about it?
 25 **A. Correct.**

Page 153

EXAMINATION OF BLACKMAN / RANKIN

1 Q. But as far as any legal requirement to your
 2 knowledge?
 3 **A. No, we haven't been ordered to do anything.**
 4 Q. You understand that your obligation under the
 5 law is to follow DOH's instructions?
 6 **A. Correct.**
 7 Q. And until the DOH orders something, anything you
 8 do would be voluntary?
 9 **A. Correct.**
 10 Q. Without a DOH order, do you understand that the
 11 water design manual does not apply to you?
 12 MR. MALDEN: Objection. Leading. No
 13 foundation.
 14 JUDGE KOPTA: Overruled. You may answer.
 15 **A. I'm going to try and understand.**
 16 BY MR. RANKIN:
 17 Q. I'll rephrase my question.
 18 **A. Okay.**
 19 Q. You said that you're generally familiar with the
 20 water design manual, right?
 21 **A. Yeah.**
 22 Q. The requirement contained therein that you
 23 survey customers, that only applies when the DOH orders
 24 you to take action --
 25 **A. Correct.**

Page 154

EXAMINATION OF BLACKMAN / RANKIN

1 Q. -- correct?
 2 Are you required to test for turbidity on the
 3 Southwood Sound System?
 4 **A. No.**
 5 Q. Why is that?
 6 **A. That is ground water sources. We are not
 7 required for turbidity or total dissolved solids.**
 8 Q. As a water provider, are you required to
 9 undertake medical testing or research of any sort?
 10 **A. No.**
 11 Q. How many group A water providers are there in
 12 the state?
 13 **A. I think it's close to 4,000.**
 14 Q. When your company takes samples per the DOH, do
 15 you follow the sampling and testing procedures outlined
 16 in the WACs?
 17 **A. Yes, we do.**
 18 MR. MALDEN: Objection. No foundation. If
 19 he's asking about a specific test that was done, that's
 20 fine, but I suspect that Mr. Blackman has no personal
 21 knowledge as to how any of the tests were conducted.
 22 MR. RANKIN: He testified that he oversees
 23 that whole process.
 24 JUDGE KOPTA: Overruled.
 25 **A. Question again?**

Page 155

EXAMINATION OF BLACKMAN / RANKIN

1 BY MR. RANKIN:
 2 Q. When your company takes samples and does water
 3 testing pursuant to your requirements under the law, do
 4 you do so according to the procedures outlined in the
 5 WACs?
 6 **A. We do.**
 7 Q. And those WACs are publicly available?
 8 **A. Yes, they are.**
 9 Q. And then what happens to that sample?
 10 **A. We submit them to water management, the**
 11 **laboratory, and then they send the results to Department**
 12 **of Health.**
 13 Q. So you never have a chance to intervene with the
 14 results between the lab and the DOH?
 15 **A. No.**
 16 Q. And to your knowledge, those sample results are
 17 available through the DOH publicly?
 18 **A. Yes.**
 19 Q. So if a customer wanted to find out what the
 20 test result was from any particular well that you
 21 sampled on any particular date, they could find that
 22 publicly available?
 23 **A. It would -- you may have to do some research,**
 24 **but you could find it.**
 25 Q. I believe you said there were 23 wells in the

Page 156

EXAMINATION OF BLACKMAN / RANKIN

1 Southwood Sound System; is --
 2 **A. Yes.**
 3 Q. -- that correct?
 4 And so when we look at the consumer confidence
 5 reports, I believe the one mentioned, it was a .23.
 6 That's the highest of those 23 wells, correct?
 7 **A. Correct.**
 8 Q. So the purpose in giving the customer the
 9 highest is to know the end point, right?
 10 **A. Correct.**
 11 Q. Even though what's actually reaching the
 12 customer is probably much lower?
 13 MR. MALDEN: Objection. Leading. He is
 14 leading this witness.
 15 JUDGE KOPTA: Overruled.
 16 **A. Yes.**
 17 BY MR. RANKIN:
 18 Q. The DOH receives the customer confidence
 19 reports?
 20 **A. Correct.**
 21 Q. And after the DOH received, you know, each of
 22 these years' customer confidence reports, did they order
 23 you to take any action?
 24 **A. No, they didn't.**
 25 Q. In 2014, after the UTC investigation, we were

Page 157

EXAMINATION OF BLACKMAN / RANKIN

1 discussing the complaint tracking system. Was that a
 2 recommendation or an order that your company received?
 3 **A. It was a recommendation.**
 4 Q. I just want to ask briefly before I wrap up,
 5 talking a little bit more about what can be done for
 6 Ms. Hand's particular case.
 7 You said that there was some customer impact for
 8 pigging, and then counsel for the Staff asked if you
 9 could pig that particular line. Could you explain the
 10 impact of pigging that particular distribution stream to
 11 Ms. Hand?
 12 **A. The -- any -- anytime you pig, as I mentioned**
 13 **earlier, then you have to totally shut down the system,**
 14 **so everybody would be out of water for at least eight to**
 15 **ten hours. You'd probably receive a boil water notice**
 16 **at the same time because we have to go down to a zero**
 17 **pressure. There's a good chance that that would be a**
 18 **requirement until we get our bacteriological samples**
 19 **back. That's -- that's the biggest problem there is**
 20 **with it.**
 21 Q. How long does it take to get bacteriological
 22 samples back?
 23 **A. Typically two days.**
 24 Q. So there'd be a boil notice for typically two
 25 days?

Page 158

EXAMINATION OF BLACKMAN / RANKIN

1 **A. Right.**
 2 Q. And is the distribution network to Ms. Hand one
 3 consistent diameter of pipe or is it more of a tree
 4 branch system?
 5 **A. There is -- the majority of it is eight-inch**
 6 **water mains. I believe the -- she's on a cul-de-sac,**
 7 **and that may be a six-inch. So we'd have to have two**
 8 **separate piggings.**
 9 Q. And still, then, there are service laterals off
 10 the -- the lines to each house?
 11 **A. Right. Those are typically one-inch lines, so**
 12 **it would be hard -- you can't pig those.**
 13 Q. And so one potential result of pigging, you
 14 know, even this one service line is that you're pushing
 15 everything through to the customers, right?
 16 **A. Right. You would typically shut all the**
 17 **services off in the -- you know, going to the homes, run**
 18 **your pigs through, and get system charge back up.**
 19 Q. How long does it take to pig that stretch of
 20 line?
 21 **A. That would be an all-day project. The pigging**
 22 **is not the -- that goes pretty quick. It's the setting**
 23 **up. It's the, you know, how do you insert the -- into**
 24 **the distribution system. In setting that up, you know,**
 25 **where are you going to discharge it at, where are you**

Page 159

EXAMINATION OF BLACKMAN / KOPTA

1 going to remove the pig at. That's -- that's the
 2 difficult part.
 3 Q. And do you know -- hopefully you can ballpark --
 4 how many customers are on that line that would be
 5 affected by this?
 6 **A. In the subdivision, we'd probably have to**
 7 **disrupt 50 -- 50 to a hundred homes at a time, depending**
 8 **on where we -- where we ran the pigs.**
 9 MR. RANKIN: Thank you. Nothing further.
 10 JUDGE KOPTA: I have a couple of follow-ups.
 11
 12 E X A M I N A T I O N
 13 BY JUDGE KOPTA:
 14 Q. One is, if you advise the customer to flush out
 15 their lines, are they paying for the water that they're
 16 using to do that?
 17 **A. Yes. However, it's such a minimal amount of**
 18 **water that it typically doesn't really affect their**
 19 **bills. We're talking 20, 30 gallons of water.**
 20 Q. For how long are you telling them to keep their
 21 taps open?
 22 **A. Five, ten minutes. Typical hose bib, five**
 23 **gallons and four, three, four gallons a minute. So if**
 24 **you open a couple of them, it's -- it's a fairly small**
 25 **amount of water.**

Page 160

EXAMINATION OF BLACKMAN / KOPTA

1 Q. The second thing is, I'm going to make a bench
 2 request for the reports of the tests that you've done
 3 since you've put in the new system.
 4 **A. Okay.**
 5 THE WITNESS: You got it right there?
 6 MR. RANKIN: There's a -- a partial. It is
 7 between 7/6 of '17 and 3/16 of '18. So it's not totally
 8 current to date, but that is, I believe, Exhibit BBL-3.
 9 No, I'm sorry, BB-4.
 10 BY JUDGE KOPTA:
 11 Q. And you have conducted tests since then?
 12 **A. Yes.**
 13 Q. Then I would like you to update that exhibit as
 14 a bench request to the most current test result that you
 15 have.
 16 **A. Okay.**
 17 Q. And do you have a time by which you can provide
 18 that?
 19 **A. I got it in my car.**
 20 Q. Oh, okay. So a week from today would be fine?
 21 **A. Yes.**
 22 Q. All right. Then let's say the response is due
 23 by August 1st.
 24 **A. Okay.**
 25 JUDGE KOPTA: All right. Thank you,

Page 161

1 Mr. Blackman. We appreciate your testimony, and you are
 2 excused.
 3 And it is time for a lunch break. I'm
 4 concerned about getting done today, so I will ask
 5 counsel to come back at 1 o'clock. And we will be off
 6 the record until then. Thank you.
 7 (A luncheon break was taken
 8 from 12:05 p.m. to 12:57 p.m.)
 9 JUDGE KOPTA: All right. Then let's be back
 10 on the record after our lunch recess.
 11 We had a discussion off the record about
 12 some documents that Ms. Stark references in her
 13 testimony does not append to her testimony, and I will
 14 make bench request No. 3 to have the test results that
 15 Rainier View submitted to Staff in response to their
 16 request that Ms. Stark references in her testimony be
 17 provided to the Commission by August 1st.
 18 And with that, I believe we are ready to
 19 have the examination of Ms. Stark. Your testimony and
 20 exhibits have already been admitted. Do you have any
 21 corrections?
 22 MR. ROBERSON: Do you want me to introduce
 23 the witness or...
 24 JUDGE KOPTA: No, I don't think it's
 25 necessary.

Page 162

EXAMINATION OF STARK / MALDEN

1 MR. ROBERSON: She has no corrections to her
 2 testimony.
 3 JUDGE KOPTA: All right. Then I believe
 4 she's available for cross-examination, Mr. Malden.
 5 MR. MALDEN: Thank you.
 6
 7 E X A M I N A T I O N
 8 BY MR. MALDEN:
 9 Q. Good afternoon. My name is Nigel Malden. I
 10 represent Sarah Hand. I'd like to start by just asking
 11 you a few background questions.
 12 Do you have a college degree?
 13 **A. No.**
 14 Q. Do you have any medical education or training?
 15 **A. No.**
 16 Q. Do you have any scientific education or
 17 training?
 18 **A. No. Mr. -- Nigel, I'd like to go back. I have**
 19 **a CPR first-aid.**
 20 Q. Okay.
 21 **A. So that's some type of medical.**
 22 Q. Okay. Do you have any training or education in
 23 water science?
 24 **A. No.**
 25 Q. Do you know what the definition of a contaminant

Page 163

EXAMINATION OF STARK / MALDEN

1 is under Washington State law?

2 **A. No.**

3 Q. Do you know what the definition of "human

4 consumption" is referring to water under state law?

5 **A. No.**

6 Q. In your written testimony, you make reference to

7 a memorandum of understanding or MOU; is that right?

8 **A. Correct.**

9 Q. After you received Sarah Hand's complaint, did

10 you then have to -- or after you took Sarah Hand's

11 complaint, how did you end up going to an MOU?

12 **A. I went to a colleague, public involvement**

13 **coordinator, his name is John Cupp, and I asked him if**

14 **he had a copy of the MOU and asked him to provide it to**

15 **me.**

16 Q. And it would be -- would it be fair to say that

17 Mr. Cupp -- or excuse me. Mr. Cupp, is he like your

18 immediate supervisor?

19 **A. No.**

20 Q. What is his job title?

21 **A. He's a regulatory analyst.**

22 Q. And is he an individual that is supposed to be

23 familiar with the terms of a memorandum of understanding

24 in this kind of situation between you and the Department

25 of Health?

Page 164

EXAMINATION OF STARK / MALDEN

1 **A. I don't know what his understanding would be.**

2 Q. Is it true that the first MOU that Mr. Cupp gave

3 you was a 1995 MOU?

4 **A. Yes.**

5 Q. And it's your understanding that the 1995 MOU is

6 still in effect today; is that right?

7 **A. No.**

8 Q. You understand that the MOU was replaced in

9 2008?

10 **A. Yes.**

11 Q. When did you discover that the 1995 MOU between

12 the UTC and the DOH had been replaced?

13 **A. About two weeks ago.**

14 Q. You mean two weeks from today?

15 **A. Yes, sir.**

16 Q. In other words, you were not aware until two

17 weeks from today that the UTC and the DOH had an MOU

18 that superseded the one that you were given by Mr. Cupp?

19 **A. Yes.**

20 Q. To your knowledge, was everybody at the UTC in

21 the dark about that?

22 **A. I don't know everybody else's knowledge.**

23 Q. Do you understand how primary contaminants are

24 regulated in the state of Washington?

25 **A. Yes.**

Page 165

EXAMINATION OF STARK / MALDEN

1 Q. Do you understand how secondary contaminants are

2 regulated in the state of Washington?

3 **A. Yes.**

4 Q. What is your understanding as to how secondary

5 contaminants are regulated in the state of Washington?

6 **A. It's regulated by the Department of Health.**

7 Q. Do you know specifically what levels of

8 secondary contaminants, specifically manganese, are

9 permitted -- or actually, let me -- let me rephrase

10 that.

11 Do you know the list of secondary contaminants

12 that's published in the WAC?

13 **A. No.**

14 Q. Are you familiar as to whether manganese is a

15 contaminant that's regulated by the DOH?

16 **A. It's a contaminant that -- it's a secondary**

17 **contaminant that they look at.**

18 Q. Do you know what that means, "secondary

19 contaminant" as opposed to "primary"?

20 **A. No.**

21 Q. Did Mr. Blackman or anyone at Rainier View ever

22 tell you that Rainier View's own test results showed

23 that there was excess level of manganese in the water in

24 the wells in the Southwood Water System?

25 **A. That they had indicated that there were prior**

Page 166

EXAMINATION OF STARK / MALDEN

1 high levels of manganese, but that they were working

2 with the Department of Health to lower those.

3 Q. Did -- or strike that.

4 You spoke to Bob Blackman?

5 **A. Via email.**

6 Q. Bob Blackman, though, is the Rainier View

7 company representative that you communicated with?

8 **A. In this complaint, yes.**

9 Q. Did you communicate with anyone else from

10 Rainier View?

11 **A. Not in this complaint.**

12 Q. In all of your communications with Mr. Blackman,

13 did he ever admit to you that their own test results

14 showed an excessive level of manganese in violation of

15 the secondary contaminant level set forth in the WAC?

16 **A. No.**

17 Q. Did you do any research on your own to try and

18 determine whether the level of contamination in any of

19 the water being supplied to Ms. Hand violated the

20 secondary contaminant level set forth in the WAC?

21 **A. I sent an email to Department of Health**

22 **requesting information about testing records and**

23 **requirements that DOH was requiring Rainier View Water.**

24 Q. You understood that Robert Blackman was the

25 representative for Rainier View to address the issue of

Page 167

EXAMINATION OF STARK / MALDEN

1 Sarah Hand's complaint?
 2 **A. Yes.**
 3 Q. Was it your assumption that Mr. Blackman was
 4 well-versed in the water quality area?
 5 **A. He's operations manager, so yes.**
 6 Q. Did you assume that Mr. Blackman had the best
 7 interest of the Rainier View customers in mind in his
 8 communications with you?
 9 **A. Yes.**
 10 Q. Did you ever ask Mr. Blackman if anyone other
 11 than Sarah Hand had complained about water quality?
 12 **A. No.**
 13 Q. Did Mr. Blackman ever disclose to you that
 14 people other than Sarah Hand had complained about the
 15 quality of the water?
 16 **A. No.**
 17 Q. When you were reviewing Ms. Hand's complaint,
 18 was it your understanding that she was the only customer
 19 who had complained about the water quality to Rainier
 20 View?
 21 **A. In that -- in this complaint, I was working with**
 22 **Ms. Hand, and I had no other records -- I had no other**
 23 **open complaints regarding water quality against Rainier**
 24 **View.**
 25 Q. I'd like to direct your attention to an exhibit

Page 168

EXAMINATION OF STARK / MALDEN

1 attached to your testimony marked RS-2, and I'm looking
 2 specifically at page 13 of 20.
 3 **A. Okay.**
 4 Q. Is this a true and correct copy of an email that
 5 you received from Bob Blackman?
 6 **A. Looks to be, yes.**
 7 Q. And that was an email that you received on
 8 November 28th, 2016?
 9 **A. Yes.**
 10 Q. I'd like to read one of the sentences from
 11 Mr. Blackman's email. Quote, I am confident the water
 12 they are receiving is not discolored all the time.
 13 There are over 150 homes within the Springwood
 14 subdivision and several thousand homes outside the
 15 subdivision. If the water was continually discolored, I
 16 would think UTC and DOH would be receiving more
 17 complaints.
 18 That's what Mr. Blackman said to you?
 19 **A. Yes.**
 20 Q. And did that sound logical to you?
 21 **A. Yes.**
 22 Q. Would it be fair to state that Mr. Blackman's
 23 representation of the absence of customer complaints was
 24 something you took into consideration in reviewing
 25 Ms. Hand's complaint?

Page 169

EXAMINATION OF STARK / MALDEN

1 **A. Would you ask that again, please?**
 2 Q. Mr. Blackman was representing to you that there
 3 had -- that there were very few complaints to the UTC
 4 and the DOH; is that right?
 5 **A. He's indicating in here that he would think if**
 6 **the water was continually discolored, that he would**
 7 **think that the UTC and DOH would receive more**
 8 **complaints.**
 9 Q. And you took that at face value?
 10 **A. Yes.**
 11 Q. Unaware that, in fact, many customers had
 12 complained about the quality of the water?
 13 **A. I had no knowledge of any other -- of any number**
 14 **of other complaints about water quality.**
 15 Q. You relied on what Mr. Blackman told you?
 16 **A. Companies are required to respond to customer**
 17 **complaints by statute, and if they don't, there could be**
 18 **subsequent consequences for those nonresponse.**
 19 Q. What kind of consequences?
 20 **A. We could open a formal complaint against the**
 21 **company and look at the company as a whole to see if**
 22 **there were other things that may not come to light so**
 23 **that we can bring those to light, and the actions taken**
 24 **could be as continue education or some technical**
 25 **assistance to the company as well as possible penalties**

Page 170

EXAMINATION OF STARK / MALDEN

1 recommended to the Commissioners.
 2 Q. During the course of your investigation, you
 3 spoke with Mr. James from the DOH; is that right?
 4 **A. No.**
 5 Q. I said -- I used the word "spoke." I probably
 6 should have said "email."
 7 **A. No, I did not.**
 8 Q. You never had any communication -- did you have
 9 any direct communication with anyone at the DOH?
 10 **A. Yes.**
 11 Q. Who?
 12 **A. Verpi and, excuse me, I continually say her name**
 13 **wrong, Salo-Zieman.**
 14 Q. Okay. I've got the same problem with her name.
 15 I'd like to direct your attention to the same
 16 exhibit, it's Exhibit No. RS-2, but this is page 15 of
 17 20. Are you with me?
 18 **A. Yes.**
 19 Q. Okay. This is an email that you sent to
 20 Mr. Blackman on December 6th, 2016; is that right?
 21 **A. Correct.**
 22 Q. And one of the things that you asked
 23 Mr. Blackman to give you is the test results of these
 24 systems for the past three years; is that right?
 25 **A. Yes.**

Page 171

EXAMINATION OF STARK / MALDEN

1 Q. And you were referring to the water systems?
 2 **A. Correct.**
 3 Q. And why did you want to see the test results
 4 going back three years?
 5 **A. Because I wanted to see if there was any prior**
 6 **levels that were exceeding and then what they were**
 7 **currently.**
 8 Q. Did Mr. Blackman ever respond to this email?
 9 **A. Yes.**
 10 Q. And did he supply you with lab tests in response
 11 to your email?
 12 **A. Yes.**
 13 Q. Can you identify the dates of the lab tests that
 14 he provided to you in response to that question?
 15 **A. One's dated March 7th, 2013.**
 16 Q. Okay. Let me stop you right there. Is it
 17 correct that you only have one document pertaining to a
 18 year before 2016?
 19 **A. I'm not sure what you mean.**
 20 Q. Okay. Let me rephrase the question.
 21 In the various test reports that Mr. Blackman
 22 gave you, there's one from 2013, right?
 23 **A. At least one, yes.**
 24 Q. Okay. I think my question is, is there more
 25 than one?

Page 172

EXAMINATION OF STARK / MALDEN

1 **A. Well, looks to be there's a Southwood System**
 2 **well site, Tannenbaum A, B and C, is March 7th, 2013, as**
 3 **well as the well site, Silver Creek, is dated 2013. And**
 4 **then there's a Southwood Firwood Meadows A, B, and C,**
 5 **dated March 7th, 2013. And that's it for 2013.**
 6 MR. MALDEN: If I may approach to look at
 7 those?
 8 JUDGE KOPTA: You may.
 9 MR. MALDEN: May I question the witness from
 10 here?
 11 JUDGE KOPTA: If you will use that
 12 microphone.
 13 BY MR. MALDEN:
 14 Q. Ms. Stark, I'd like to just quickly go through
 15 the test documents with you to make sure they're
 16 identified. Out of the test reports that you have here,
 17 it looks like there's only one that's dated 2013; is
 18 that right?
 19 **A. Well, they have -- they're double-sided, so I'm**
 20 **assuming those are different reports for the same date**
 21 **on different wells.**
 22 Q. Okay. Is there any report there from Well
 23 No. 4, Well D?
 24 **A. Yes.**
 25 Q. And what's the date of that report?

Page 173

EXAMINATION OF STARK / MALDEN

1 **A. Let me make sure. It is November 18th, 2016, it**
 2 **was collected and it was reported November 22nd, 2016.**
 3 Q. When you went through those test reports, did
 4 you determine whether or not there was excessive levels
 5 of manganese in any of the testing?
 6 **A. In 2013.**
 7 Q. Did that have any significance to you?
 8 **A. No, because the subsequent testing, those levels**
 9 **were down to DOH standards.**
 10 Q. Which subsequent testing, in 2016?
 11 **A. Correct.**
 12 Q. I'd like to direct your attention to another
 13 exhibit. This is an email that you received from
 14 Ms. Salo-Zieman. Do you recall that Ms. Salo-Zieman
 15 sent to you a flyer or a printout from the EPA?
 16 **A. Yes.**
 17 Q. And did you look at that exhibit?
 18 **A. I did.**
 19 Q. And that -- actually, let me find that in the
 20 record. I believe that's Exhibit RS-6. If you could go
 21 to that, please.
 22 **A. I'm there.**
 23 Q. Did you ask the DOH to provide you information
 24 relevant to the regulation of water in the state of
 25 Washington?

Page 174

EXAMINATION OF STARK / MALDEN

1 **A. No.**
 2 Q. What information did you ask them for?
 3 **A. I asked them for some fact sheets that I could**
 4 **provide to consumers. I also asked them for any testing**
 5 **requirements that they had of Rainier View Water Company**
 6 **that were any pending actions, any compliance reporting**
 7 **that they were requiring Rainier View Water to come into**
 8 **compliance with, any other consumer complaints that they**
 9 **may have had.**
 10 Q. In response to the question about regulation,
 11 the DOH sent you the flyer about EPA enforcement, RS-6;
 12 is that right?
 13 **A. Correct.**
 14 Q. And that flyer says nothing about Washington
 15 State regulation of secondary contaminants, does it?
 16 **A. The flyer?**
 17 Q. Right. I say "flyer." I'm not exactly sure
 18 what you call it --
 19 **A. It's actually in her email she responded to me,**
 20 **Ms. Salo-Zieman. She indicated that there's no**
 21 **treatment required due to health implications for iron**
 22 **and manganese in the water, but she did provide me a**
 23 **link for more information regarding the EPA's website**
 24 **for secondary contaminants. So this is actually a link,**
 25 **not really a flyer.**

Page 175

EXAMINATION OF STARK / ROBERSON

1 Q. Okay. And you accept that as true, what
 2 Ms. Salo-Zieman told you; is that right?
 3 **A. Yes.**
 4 Q. You didn't do any independent research on your
 5 own to verify one way or the other?
 6 **A. I looked at the flyer and that's it.**
 7 MR. MALDEN: Okay. Thank you very much. No
 8 further questions.
 9 JUDGE KOPTA: Mr. Rankin?
 10 MR. RANKIN: Thank you for coming in today.
 11 I have no questions for you.
 12 JUDGE KOPTA: Redirect?
 13 MR. ROBERSON: I have a very small amount of
 14 redirect.
 15
 16 **E X A M I N A T I O N**
 17 BY MR. ROBERSON:
 18 Q. Ms. Stark, you're familiar with both the 1995
 19 and 2008 MOUs between the Commission and the Department
 20 of Health, correct?
 21 **A. Correct.**
 22 Q. And as far as the processing of complaints for
 23 water quality, are there any differences between the two
 24 of them?
 25 **A. No.**

Page 176

EXAMINATION OF STARK / ROBERSON

1 Q. Mr. Malden was asking you about your
 2 investigation into the number of complaints. When you
 3 contacted the DOH, you asked them whether or not they
 4 had complaints, correct?
 5 **A. Correct.**
 6 Q. And how did Ms. Salo-Zieman respond?
 7 **A. She responded that they didn't have any. They**
 8 **would not take action on water quality -- action against**
 9 **a water company unless there were subsequent consumer**
 10 **complaints regarding water quality, and also if those**
 11 **customers knew the cost associated with maintaining the**
 12 **water quality.**
 13 MR. ROBERSON: That's all I have.
 14 JUDGE KOPTA: All right. I only have one
 15 thing, which is I neglected to swear you in before you
 16 started your testimony.
 17 THE WITNESS: So everything I said is --
 18 JUDGE KOPTA: We'll get to that.
 19 (Rachel Stark sworn.)
 20 JUDGE KOPTA: And now having been sworn, do
 21 you want to change any of your answers?
 22 THE WITNESS: No, sir.
 23 JUDGE KOPTA: And you swear that those
 24 answers were correct?
 25 THE WITNESS: Yes.

Page 177

EXAMINATION OF HAND / RANKIN

1 JUDGE KOPTA: All right. Thank you. That's
 2 all I have and I believe all we have for you. Thank you
 3 for your testimony.
 4 THE WITNESS: Thank you.
 5 JUDGE KOPTA: You are excused.
 6 And now I believe it's Ms. Hand's turn. You
 7 can stay right there if you'd like.
 8
 9 SARAH HAND, witness herein, having been
 10 first duly sworn on oath,
 11 was examined and testified
 12 as follows:
 13
 14 JUDGE KOPTA: We have already admitted or
 15 rejected testimony and exhibits that have been prefiled
 16 for you.
 17 Unless there are any corrections,
 18 Mr. Rankin, I believe that Ms. Hand is available for
 19 cross-examination.
 20
 21 **E X A M I N A T I O N**
 22 BY MR. RANKIN:
 23 Q. Good afternoon, Ms. Hand. You don't have a
 24 college degree, do you?
 25 **A. I have some college, but not a degree, no.**

Page 178

EXAMINATION OF HAND / RANKIN

1 Q. You don't have any education or experience in
 2 engineering?
 3 **A. No.**
 4 Q. What about water treatment?
 5 **A. No.**
 6 Q. Or water science?
 7 **A. No.**
 8 Q. What about interpreting or enforcing statutes
 9 and regulations?
 10 **A. No.**
 11 Q. What about medical training?
 12 **A. No.**
 13 Q. Your house, subject to this complaint, was built
 14 in 1997, correct?
 15 **A. Correct.**
 16 Q. And you purchased it in May of 2015?
 17 **A. Correct.**
 18 Q. So it was 18, almost 20 years old when you
 19 bought it?
 20 **A. Yes.**
 21 Q. And you had a home inspection prior to that
 22 purchase, correct?
 23 **A. Yes.**
 24 Q. You were there with the inspector?
 25 **A. Yes, I was.**

Page 179

EXAMINATION OF HAND / RANKIN

1 Q. And during that inspection, you or the inspector
 2 checked the faucets, correct?
 3 **A. Yes.**
 4 Q. Every faucet?
 5 **A. No. So he went around, me and my real estate
 6 agent were talking about the roof, and then he came and
 7 showed me that the bathtub in the upstairs bathroom was
 8 like running a little brownish, but he said that could
 9 be from sitting. So he just checked that box off so...**
 10 Q. Did you check other faucets?
 11 **A. No. I was walking around with my real estate
 12 agent like going over the -- like he was kind of going
 13 ahead of us. So I was kind of like going through like
 14 the things that he had told my real estate agent like
 15 hey, like this right here he pointed out, make sure you
 16 get this done, this is how you do that. So he was kind
 17 of running ahead of us at the time of the inspection.**
 18 Q. Did he check every faucet in the house?
 19 **A. I'm unsure.**
 20 Q. When -- do you recall when I took your
 21 deposition in this matter?
 22 **A. Yes.**
 23 Q. Okay. In that deposition, you testified that
 24 your home inspector checked every faucet and flushed
 25 every toilet and that you were with him at that time.

Page 180

EXAMINATION OF HAND / RANKIN

1 Do you remember that testimony?
 2 **A. Yes.**
 3 Q. And you're telling me today that that testimony
 4 is incorrect?
 5 **A. Well, he was -- he -- as we were walking around,
 6 I seen him going through and testing everything. I
 7 wasn't like standing over the sink when he tested it. I
 8 watched him go around testing everything, but my real
 9 estate agent and me were also talking at the same time.
 10 It's not like we have like a mansion. We have a
 11 1854-square-foot house.**
 12 Q. So your home inspector noticed brown water?
 13 **A. Correct.**
 14 Q. And how many faucets did you say he noticed it
 15 in?
 16 **A. Well, he came and showed me the -- the tub one.
 17 Like he -- like that was obvious, the master bathroom
 18 one was like obvious.**
 19 Q. And at that time, you didn't ask any follow-up
 20 questions?
 21 **A. No, he said it could have been from the house
 22 sitting, so I was like, okay, made sense.**
 23 Q. Did he run the water for an extended period of
 24 time?
 25 **A. Yep.**

Page 181

EXAMINATION OF HAND / RANKIN

1 Q. How long?
 2 **A. I would say about probably like two minutes.**
 3 Q. Did he flush toilets?
 4 **A. Yep.**
 5 Q. Did he notice brown water there too?
 6 **A. Like I said, he was going ahead of us. Like he
 7 was flushing, going through. I wasn't like -- like I
 8 said, I wasn't standing over him.**
 9 Q. Did he tell you about brown water?
 10 **A. No. Just showed me the brown water in the
 11 bathtub.**
 12 Q. On the day you moved in, you noticed brown
 13 water, correct?
 14 **A. Yes, in the master bathtub, yeah. It was
 15 obvious brown water still there. So we were -- because
 16 like when you -- when you -- when we bought the home, so
 17 like the water was turned off. So when you go for an
 18 inspection, you ask them to come out and turn the water
 19 on. So then after the inspection, they turn the water
 20 back off until you go down and prove that you're the new
 21 homeowner.**
 22 Q. So when you saw brown water, you didn't ask your
 23 real estate agent if that should be a cause for concern?
 24 **A. Well, we got our keys that day, so we were
 25 thinking like, hey, it sat for a little while, let's go**

Page 182

EXAMINATION OF HAND / RANKIN

1 ahead and do like the maintenance thing that they had
 2 told us to do, like drain the hot water heater, you
 3 know, check off the little boxes.
 4 Q. I'll clarify that question. Going back to the
 5 home inspection.
 6 **A. Mm-hmm.**
 7 Q. You said your realtor was there with you?
 8 **A. Yes.**
 9 Q. And your realtor also did not see any cause for
 10 concern?
 11 **A. No, he said it could have been from sitting.**
 12 Q. At any point, did you ask the real estate agent
 13 about water quality in that area?
 14 **A. No.**
 15 Q. Did you ask the seller's agent?
 16 **A. No.**
 17 Q. You allege that you've had consistently brown
 18 water since the day you bought that house, correct?
 19 **A. Yes.**
 20 Q. But you didn't mention anything to your water
 21 provider for -- until November of 2016, correct?
 22 **A. No. We just kept draining our hot water heater
 23 and opening the faucets and doing just preventative
 24 maintenance.**
 25 Q. And at no point during that 18 months did you

Page 183

EXAMINATION OF HAND / RANKIN

1 think that you should tell the water provider that the
 2 water they're providing you is not meeting your
 3 standards?
 4 **A. No.**
 5 Q. When you did tell them about brown water,
 6 somebody came out to flush, correct?
 7 **A. Well, no. When we did tell them about brown**
 8 **water -- we found out about the brown water issue, it**
 9 **wasn't just our home, at an HOA like annual meeting. So**
 10 **then like one and one kind of made two, and they were**
 11 **like, oh, this is what's causing this issue.**
 12 Q. My question was, when you called Rainier View
 13 Water Company to tell them about brown water, somebody
 14 came out and flushed the water, correct?
 15 **A. Yes.**
 16 Q. And they flushed it until it ran clean, right?
 17 **A. They came out the same day that we had our**
 18 **pressure release valve changed, so they had already**
 19 **been -- the plumbers had run all of the water out of our**
 20 **house to even change that valve. So yeah, they came out**
 21 **and flushed, but, I mean, the whole -- like the plumbers**
 22 **had already flushed our whole entire house. It took**
 23 **like half the day.**
 24 Q. But when Rainier View Water Company came out and
 25 flushed, they were there until the water ran clear,

Page 184

EXAMINATION OF HAND / RANKIN

1 correct?
 2 **A. Well, they're -- I guess -- I don't know because**
 3 **what they would do is they -- when they'd come out and**
 4 **flush, they'd take like this water bottle with Mountain**
 5 **Mist label on it out of their trucks, and they'd put it**
 6 **under the faucet, and then they'd look at it, and if**
 7 **there's still particles in it, then they'd dump it out.**
 8 **Then they'd over -- they'd do that again, they dump it**
 9 **out. And so, I mean, honestly, like they're not just**
 10 **going to be like, oh, is this clean enough for you?**
 11 **That's not what they do.**
 12 Q. Have they ever left your house after flushing
 13 with brown water flowing?
 14 **A. Down the street?**
 15 Q. No, your house.
 16 **A. Like I said, they put the pipe back on and call**
 17 **it a day. I don't go down there and be like, hey, is it**
 18 **still brown?**
 19 Q. I guess I'm trying to understand, when they
 20 leave your house, is the problem -- is water coming out
 21 of your tap clear?
 22 **A. Sometimes it is, yeah. If not, they tell us to**
 23 **open up all the valves on the outside of our house until**
 24 **it clears itself up. After they hook our water back up**
 25 **to our system, then they'd be like, turn on your water**

Page 185

EXAMINATION OF HAND / RANKIN

1 faucets and let it run clear.
 2 Q. So when they're flushing, they're pulling the
 3 meter and flushing, correct?
 4 **A. Right, down the street. Like they put their --**
 5 **like their little connector down the street, and then**
 6 **they go and grab a bottle of water out of the back of**
 7 **their trucks, and then they test that way. They don't**
 8 **use like a sample kit or nothing like that. They use a**
 9 **common water bottle and stare at it. And this could be**
 10 **night or day. So at night, they use their headlight of**
 11 **their truck to see if it's clear.**
 12 Q. So when they reconnect the line running clear
 13 water to your house, their instruction sometimes to you
 14 is now open up your taps so that anything --
 15 **A. That's always their instruction, to open up your**
 16 **taps after they do it.**
 17 Q. Please let me finish my questions before you
 18 answer.
 19 When they reconnect and there's clear water
 20 flowing, their instruction to you is open up your taps
 21 because there may be some within your house?
 22 **A. Exactly.**
 23 Q. And you've called them about brown water on four
 24 occasions; is that correct?
 25 **A. More than that. I talked to Rob -- Bob Blackman**

Page 186

EXAMINATION OF HAND / RANKIN

1 on more than four occasions.
 2 Q. How many different occurrences of brown water
 3 have you reported to Rainier View Water Company?
 4 **A. I'm guessing more than ten.**
 5 Q. And how do you lodge those work orders?
 6 **A. Well, we call and sometimes like we have to call**
 7 **at night and call the emergency number, and then a guy**
 8 **will like say like, I'm in Purdy, so I'll be there in a**
 9 **few hours or if not, I'll do whatever, you know.**
 10 Q. And they always come out same day or next day,
 11 right?
 12 **A. Within 48 hours they say they'll be out.**
 13 Q. And they've always done that?
 14 **A. Yes. And if we're not home, they'll leave a**
 15 **flyer on our door.**
 16 Q. To let you know that --
 17 **A. They came out there --**
 18 Q. -- they came out and flushed?
 19 **A. Yeah.**
 20 Q. The first time you spoke with Rainier View about
 21 brown water was to demand payment for your pressure
 22 relief valve on your house; is that correct?
 23 **A. That is correct.**
 24 Q. You didn't save that valve, did you?
 25 **A. No, I did not.**

Page 187

EXAMINATION OF HAND / RANKIN

1 Q. You looked at it and saw that there was sediment
 2 in it; is that correct?
 3 **A. Yes.**
 4 Q. And you assumed that sediment was the cause of
 5 its failure?
 6 **A. Yes.**
 7 Q. That pressure release -- relief valve was
 8 original to the house, wasn't it?
 9 **A. I cannot tell you that.**
 10 Q. So it could have been almost 20 years old?
 11 **A. It could have been. I'm not a plumber. Don't**
 12 **have work orders for the house I bought.**
 13 Q. You never cleaned it in your time of owning the
 14 home, did you?
 15 **A. It's like stuck in a wall. Like it's in a wall**
 16 **like stuck. You can't clean it. It's stuck in a wall.**
 17 Q. So you didn't clean it?
 18 **A. It's impossible to clean it.**
 19 Q. Do you know if the prior owner ever did any sort
 20 of maintenance on it?
 21 **A. I -- I wouldn't be able to tell you that. I**
 22 **wasn't there.**
 23 Q. You've never done any maintenance to your pipes
 24 or plumbing in your house, have you?
 25 **A. Oh, yes, I have.**

Page 188

EXAMINATION OF HAND / RANKIN

1 Q. What did you do?
 2 **A. So far we've changed the pipes out in the**
 3 **kitchen sink because the sediment had clogged up and**
 4 **made a leak under the sink. Those pipes are right now**
 5 **in my car.**
 6 **And we also had to change out the toilet,**
 7 **because the manganese had rotted out the -- I think they**
 8 **call it like -- so it would be like not the O-ring, but**
 9 **the thing underneath that. I'll have to like look, get**
 10 **that for you. But that rotted out the bottom of my**
 11 **toilet, so water was leaking all over my floor. We had**
 12 **manganese built up all around that.**
 13 **Our toilet was destroyed. The back of it was**
 14 **gross. The inside was gross. So we replaced the pipes**
 15 **going from the hot water heater that goes directly**
 16 **through our wall to where the downstairs bathroom is,**
 17 **replaced that pipe, replaced the toilet, and we also**
 18 **replaced all the plumbing underneath my kitchen sink.**
 19 **So yes, I have done some pipe work in my house.**
 20 Q. At your deposition, you testified that you had
 21 never done anything other than replacing appliances.
 22 **A. Well, yeah, we'd replaced appliances like pipes.**
 23 Q. When you replaced the pipes, was that after the
 24 time of your deposition?
 25 **A. No. The -- so the kitchen sink was before and**

Page 189

EXAMINATION OF HAND / RANKIN

1 the bathroom was after.
 2 Q. So why is it that you didn't recall that at the
 3 time of your deposition?
 4 **A. Maybe nervous.**
 5 Q. When you eventually talked to Bob Blackman after
 6 about 18 months of brown water, he told you that a pilot
 7 study was underway; is that right?
 8 **A. I don't recall.**
 9 Q. Do you recall the conversation you had with Bob
 10 Blackman generally?
 11 **A. Yeah.**
 12 Q. And during that conversation, do you recall him
 13 telling you that they had undertaken a pilot study to
 14 implement a filtration system?
 15 **A. Before I talked to Bob Blackman, I talked to the**
 16 **news guy, and he had said they had already said they**
 17 **were putting in a filtration system in 2016.**
 18 Q. Okay. When you talked to Bob Blackman, do you
 19 recall him telling you that they had undertaken a pilot
 20 study for a filtration system and that process was in
 21 the works?
 22 **A. Yeah, after he already said that in 2016 that**
 23 **they already fixed it to the news.**
 24 Q. When you talked to Bob Blackman, he told you
 25 that the filtration system would be online and

Page 190

EXAMINATION OF HAND / RANKIN

1 operational probably late spring or early summer of that
 2 coming year?
 3 **A. I think that's what he said.**
 4 Q. Are you aware of when it did go online?
 5 **A. I don't. I have a hard time believing anything**
 6 **he says.**
 7 Q. Shortly after talking with Bob Blackman about
 8 that filtration system, you became aware that the UTC
 9 was holding an open meeting on Rainier View's request
 10 for its surcharge extension; is that correct?
 11 **A. That's right.**
 12 Q. And you were aware that that meeting and
 13 surcharge extension was related to the filtration system
 14 he was telling you about?
 15 **A. Correct.**
 16 Q. And you called in to that meeting, correct?
 17 **A. I did.**
 18 Q. And you understood that the request for a
 19 surcharge extension was to continue an already existing
 20 75 cent surcharge, correct?
 21 **A. Yes.**
 22 Q. And you called in and opposed that surcharge
 23 extension --
 24 **A. Yes, I did.**
 25 Q. -- correct?

Page 191

EXAMINATION OF HAND / RANKIN

1 **A. Yes.**

2 Q. You're aware that the filtration treatment

3 proposal was accepted by the Department of Health

4 subsequent to that, correct?

5 **A. Yes.**

6 Q. And that the UTC granted that surcharge

7 extension to pay for that filtration system?

8 **A. Yes.**

9 Q. And you're aware that that filtration system

10 that you opposed funding for is on the exact water

11 system that provides you water, correct?

12 **A. I opposed the tariff because it -- they had**

13 **already told KIRO that that filtration system was online**

14 **in 2016 and it was going to be fixed within one year.**

15 **So they had already made empty promises, empty promises.**

16 **So why are we paying for -- now we're paying for two**

17 **filtration systems? Because they already said in '16**

18 **they put on, so now they're going to, what, put another**

19 **one on? Made no sense.**

20 Q. If I'm understanding what you're testifying, you

21 were told in 2016 that a system would be online within

22 the next year, correct?

23 **A. We were told that in 2016, that they had already**

24 **promised KIRO that it was going to be online, the**

25 **filtration system was already going to be online before**

Page 192

EXAMINATION OF HAND / RANKIN

1 this new tariff even came up, that that filtration was

2 already going to be paid and built. They never said

3 that, hey, you're going to pay extra money to fix your

4 brown water.

5 Q. Representations to the news aside, because I

6 don't have those in front of us, Mr. Blackman

7 represented to you that it would be online the coming

8 late spring, early summer, correct?

9 **A. Yes.**

10 Q. You've noticed Rainier View doing increased

11 flushing in your area?

12 **A. Yes.**

13 Q. About when did that start?

14 **A. About the time we filed a lawsuit.**

15 Q. When was that?

16 **A. When we filed a lawsuit in Pierce County.**

17 Q. When was that?

18 **A. So January-ish.**

19 Q. Shortly after the UTC hearing that granted them

20 a surcharge extension to pay for the filtration?

21 **A. No. They didn't start doing that until we filed**

22 **a lawsuit in Pierce County. That's when they started**

23 **actually flushing our systems.**

24 Q. But you're telling me that it was approximately

25 January of 2017?

Page 193

EXAMINATION OF HAND / RANKIN

1 **A. I think we filed in -- I'll have to look at our**

2 **filing date. That's when they started flushing our**

3 **system is after we filed a lawsuit in Pierce County.**

4 Q. And since they've been doing the increased

5 flushing, you've noticed that your water quality has

6 improved, correct?

7 **A. Some days it has and some days it doesn't.**

8 Q. But overall, the quality has improved?

9 **A. Depends on if you run your like water outside,**

10 **like water your grass for several hours and then use it**

11 **or not. If we let it sit overnight, then the water is**

12 **still the same, brown.**

13 Q. When I took your deposition, you testified that,

14 quote, I'm saying the water has improved. We've seen

15 improvement. We've seen improvement with like it's not

16 being as bad as it was.

17 **A. Not as bad, but it's still bad. Not -- it's not**

18 **safe enough for my children to drink still. We're still**

19 **buying our water, bottled water for our kids to drink,**

20 **and five gallon waters from Crystal Mountain for our**

21 **family to use for cooking and drinking. We are not**

22 **going to drink that water.**

23 Q. When did you have a water quality test done at

24 your home?

25 **A. When Susan Evans came out or Susan -- when Susan**

Page 194

EXAMINATION OF HAND / RANKIN

1 came out to test our water.

2 Q. When was that?

3 **A. After we had our attorney hire her to come out.**

4 Q. You're referring to your Exhibit 29, is that the

5 report that you're referring to?

6 **A. Let me look at it. Yes.**

7 Q. So looking at Exhibit 29, looks like the date

8 received is 4/6/2017 --

9 **A. Yeah.**

10 Q. -- does that sound correct?

11 **A. 4/6/17, yes.**

12 Q. And you were with this engineer when she pulled

13 all these water samples, correct?

14 **A. Yes, I was. Yes. My family had to evacuate the**

15 **house for 24 hours, so I was the only one left.**

16 Q. Why didn't she pull the water meter and test

17 from the source coming into your house?

18 **A. Why didn't she pull the water meter? Like we**

19 **don't even pull our water meter. I don't think you**

20 **legally can pull a water meter, can you?**

21 Q. So you don't know why she didn't test from the

22 source coming into the house?

23 **A. No.**

24 Q. Why did she test from the upstairs bathroom?

25 **A. She tested different spots. She went to our**

Page 195

EXAMINATION OF HAND / RANKIN

1 upstairs bathroom. She did the downstairs sink and then
 2 she did our hot water heater. She just tested from
 3 several different sources.
 4 Q. Are there test results from tests that she took
 5 that are not included in Exhibit 29?
 6 **A. So she took -- no, all of them are here.**
 7 Q. So as I understand Exhibit 29, she took two
 8 draws from the upstairs master bath bathtub?
 9 **A. Yes.**
 10 Q. And from the water heater --
 11 **A. Yes.**
 12 Q. -- in your garage or basement?
 13 **A. Yes.**
 14 Q. Okay. So you just mentioned that she took a
 15 test from your kitchen sink.
 16 **A. I thought she did. Maybe she didn't test it,**
 17 **maybe she just turned it on. I don't know if she tested**
 18 **that. Maybe she had to wash her hands.**
 19 Q. Why would she turn it on but not test it?
 20 MR. MALDEN: Objection. Calls for
 21 speculation.
 22 **A. I don't know.**
 23 BY MR. RANKIN:
 24 Q. Why did she decide to test from the upstairs
 25 bathroom?

Page 196

EXAMINATION OF HAND / RANKIN

1 **A. That's just where we started at.**
 2 Q. There's no scientific reason behind it?
 3 **A. I don't know. I'm not -- like I said, I'm not a**
 4 **specialist in this water science stuff. Like I allowed**
 5 **her to do her testing. I was home and present. My**
 6 **family was already gone. For 24 hours, you couldn't be**
 7 **in the house, couldn't use our water. So I let her do**
 8 **her testing, watched her do the testing, watched her do**
 9 **the draws. I'm not a water scientist, so I don't know**
 10 **why she chose where she chose.**
 11 Q. How many gallons does your water heater hold?
 12 **A. I don't know.**
 13 Q. Do you know how many gallons of water she ran
 14 between tests upstairs?
 15 **A. I don't know.**
 16 Q. Do you know how many gallons were in the water
 17 heater when she took that sample?
 18 **A. I know for sure it was full because nobody used**
 19 **our hot water for -- like my whole family had to leave,**
 20 **so no one had used that water at all for over 24 hours.**
 21 Q. When she took the samples from your upstairs
 22 bathroom tub, that was hot water, wasn't it?
 23 **A. I don't know.**
 24 Q. So you don't know how much hot water had been
 25 run out during the testing process?

Page 197

EXAMINATION OF HAND / RANKIN

1 **A. Nobody had touched the water in 24 hours. When**
 2 **she walked in the house was the first time the water was**
 3 **touched in 24 hours.**
 4 Q. But you don't know how many gallons of water
 5 were depleted from the water heater during the testing
 6 process?
 7 **A. No.**
 8 Q. Why didn't she take cold water samples?
 9 **A. Don't know.**
 10 Q. Why not pull from a hose bib?
 11 **A. Don't know.**
 12 Q. On page 12 of your testimony, at lines 22
 13 through 25, you can look at it if you want. I can read
 14 the relevant quote to you. (As read) Some of its test
 15 reports still show manganese levels which violates the
 16 WACs.
 17 **A. Okay.**
 18 Q. Which -- which reports are you referring to?
 19 MS. LEE: This is page 12 just to clarify?
 20 MR. RANKIN: Page 12 of her testimony, SH-1.
 21 **A. So they violate the Washington State Commission,**
 22 **right?**
 23 BY MR. RANKIN:
 24 Q. I'm sorry. Say it again.
 25 **A. So they are higher -- our levels are higher than**

Page 198

EXAMINATION OF HAND / RANKIN

1 what Washington State allows, what Washington utility
 2 company allows.
 3 Q. What reports are you referring to?
 4 **A. Shows manganese levels were -- were violated.**
 5 Q. I understand what your testimony says, but
 6 you're referring to reports. Which reports are you
 7 referring to?
 8 **A. I don't know.**
 9 Q. Are you familiar with the consumer confidence
 10 report that Rainier View Water Company publishes
 11 annually?
 12 **A. Yes.**
 13 Q. You first saw that at your attorney's office,
 14 didn't you?
 15 **A. Yes.**
 16 Q. And that was just two weeks before your
 17 deposition, right?
 18 **A. We seen them before that too with the KIRO News**
 19 **had shown us those.**
 20 Q. When I took your deposition, you testified the
 21 first time you had seen that was at your attorney's
 22 office.
 23 **A. Right.**
 24 Q. And that was after the time that you filed a
 25 complaint with the UTC, correct?

Page 199

EXAMINATION OF HAND / RANKIN

1 **A. Right.**

2 Q. After the time you filed a complaint in superior

3 court in Pierce County?

4 **A. You mean the consumer -- we seen those when KIRO**

5 **came out to our house. When KIRO came out to our house,**

6 **we seen those consumer confidence reports. That was**

7 **back in November.**

8 Q. November of which year?

9 **A. 2016.**

10 Q. I'd like you to refer to Exhibit SH-11, please,

11 and I'd like you to look at page 2 of 7 of that report.

12 **A. Okay.**

13 Q. Earlier today, your attorney was asking some

14 questions about the -- particularly the middle paragraph

15 in this lower text box. Are you familiar with that --

16 that language?

17 **A. Yes.**

18 Q. The first time you saw this language was at your

19 attorney's office shortly before your deposition,

20 correct?

21 **A. No, we seen it with the news.**

22 Q. And you said that was in November of '16?

23 **A. Let's see if this is the same one. So this one**

24 **we seen with our attorney.**

25 Q. And that was after you had filed both the

Page 200

EXAMINATION OF HAND / RANKIN

1 informal complaint with the UTC and your superior court

2 complaint?

3 **A. Yes.**

4 Q. So you never relied on this paragraph as to the

5 quality of the water or any representations Rainier View

6 Water Company made prior to your filing the complaint

7 and the lawsuit, correct?

8 **A. Well, Bob Blackman told me in November '16 the**

9 **quality of water was great.**

10 Q. I'm referring to this document here. You never

11 saw this before -- about two weeks before your

12 deposition, correct?

13 **A. Correct.**

14 Q. So given that, the complaint and the lawsuit had

15 been filed before you first saw this, you never relied

16 on this language in filing your lawsuit, correct?

17 **A. [Inaudible.]**

18 THE COURT REPORTER: What was that?

19 THE WITNESS: No.

20 MR. FINNIGAN: She needs to give a verbal

21 answer.

22 BY MR. RANKIN:

23 Q. That was correct?

24 **A. So in 2016, we seen the quality report that KIRO**

25 **showed us, so we depended on those reports of quality**

Page 201

EXAMINATION OF HAND / RANKIN

1 water.

2 Q. I understand, but this particular one that we're

3 looking at that contains the language that you're

4 referring to as guarantees, you had never seen that

5 before you filed the complaint with the UTC and your

6 lawsuit in superior court, correct?

7 **A. Correct.**

8 Q. I'd like to go back to Exhibit SH-1, your

9 testimony, and let's go to page 13 of that. Very last

10 line says, (as read) And some of its reports still show

11 manganese levels which violate the WACs.

12 I know this is similar to what you testified to

13 on page 11, but can you tell me what reports you're

14 referring to here?

15 **A. The ones online.**

16 Q. Which ones online?

17 **A. The consumer reports that are online for us to**

18 **review.**

19 Q. The Southwood Sound consumer confidence report?

20 **A. Right.**

21 Q. For which year?

22 **A. For the years prior, so the ones that were**

23 **online that we could review.**

24 Q. So you're referring to past years?

25 **A. Right.**

Page 202

EXAMINATION OF HAND / RANKIN

1 Q. Not current years?

2 **A. Right.**

3 Q. I will have you turn to page 14. The first

4 paragraph of your testimony, the last sentence says, (as

5 read) Rainier View has failed to self-report to the DOH

6 secondary contaminant violations on a regular basis.

7 Why do you believe that to be so?

8 **A. Well, once I -- once we got involved in this**

9 **whole lawsuit thing, we kind of found out that it takes**

10 **five people before the DOH will come and investigate.**

11 **Takes five different consumers in one area before they**

12 **come in and investigate. And I don't believe that**

13 **Rainier View Water self-reports their problems.**

14 Q. Do you have any proof other than your belief

15 that Rainier View Water Company has failed to

16 self-report excess levels of secondary contaminants to

17 the Department of Health?

18 **A. I've lost all faith in Rainier View Water. I**

19 **don't believe that they are following the law, I don't**

20 **believe they're self-reporting. They're not even filing**

21 **the complaints that other people have.**

22 Q. So this is purely based on your belief?

23 **A. Right.**

24 Q. The next paragraph, the last line says, (as

25 read) Specifically the DOH directed Rainier View to test

Page 203

EXAMINATION OF HAND / RANKIN

1 for manganese once per month, which the company has
 2 failed to do.
 3 Why do you believe they have failed to test for
 4 manganese once per month?
 5 **A. I think Bob Blackman told you that today.**
 6 Q. Which time period are you referring to in this
 7 paragraph of your testimony?
 8 **A. I don't believe they've been testing.**
 9 Q. I would like to refer you to Exhibit -- I hope
 10 you have a copy over there. It is BB-4. Have you seen
 11 this document before?
 12 **A. I think we -- I think we looked at this before,**
 13 **yes.**
 14 Q. Do you have any qualifications or skills that
 15 would make you feel comfortable interpreting this
 16 report?
 17 **A. Well, it says iron before treatment, iron after**
 18 **treatment, iron test method, manganese before treatment,**
 19 **manganese after treatment. Like I'm pretty sure I can**
 20 **read.**
 21 Q. Do you think you can figure it out?
 22 **A. Yeah.**
 23 Q. So on the far left column, those dates that --
 24 on the top is 3/16 of 2018, at the bottom it's 7/6 of
 25 2017; do you see those?

Page 204

EXAMINATION OF HAND / RANKIN

1 **A. Yep.**
 2 Q. Do those seem to be testing dates for manganese
 3 at the Fir Meadows 4 well?
 4 **A. They could be, yeah.**
 5 Q. And do they -- are they in a frequency of more
 6 than every once a month or less than once a month?
 7 **A. Looks like they're saying they test at least**
 8 **more than once a month. They're saying they do.**
 9 Q. So I'm understanding your second paragraph on
 10 page 14 of your testimony to essentially be that even
 11 though they're saying they have tested and are
 12 presenting test results, you believe that that's not the
 13 case?
 14 **A. I don't know how we're supposed to believe**
 15 **anything that they tell us when they tell us we're going**
 16 **to have, you know, clean water. I mean, they're self --**
 17 **they're self-testing, like no one is there to manage**
 18 **their tests. So how do we know this is true? How do we**
 19 **know this is factual?**
 20 Q. So, again, this paragraph and the assertions
 21 contained therein are purely based on your personal
 22 belief?
 23 **A. Right.**
 24 Q. Looking at the next paragraph, you allege that
 25 Rainier View has failed to collect and maintain

Page 205

EXAMINATION OF HAND / RANKIN

1 complaint records in violation of WAC 480-110-385 and in
 2 violation of a 2014 directive from the UTC, correct?
 3 **A. Correct.**
 4 Q. Do you have any proof other than your own belief
 5 that they have failed to collect and maintain the
 6 records?
 7 **A. After looking over the logging records, we know**
 8 **that we have called or talked to someone after hours on**
 9 **their service report and it was not documented. So we**
 10 **know for sure that they are deceitful in that logging.**
 11 Q. Do you have any evidence of that?
 12 **A. My phone calls. Like we call the after-hours.**
 13 **Our neighbor wrote a letter. They're not logging it.**
 14 Q. Those haven't been submitted into evidence, have
 15 they?
 16 **A. No.**
 17 Q. Looking to the last paragraph on that page and
 18 the first paragraph on the top of page 15, you talk
 19 about the company is required to take follow-up action,
 20 which shall be commensurate with the degree of consumer
 21 acceptance of the water quality and their willingness to
 22 bear the cost of the secondary standard, correct?
 23 **A. Correct.**
 24 Q. Holding an open meeting in front of the UTC
 25 after giving public notice to the customers about this

Page 206

EXAMINATION OF HAND / RANKIN

1 potential surcharge increase or extension, extension in
 2 this case, that would be one way of gauging consumer
 3 acceptance, correct?
 4 **A. I guess that would be kind of how you would have**
 5 **to perceive it.**
 6 Q. Do you know how many other customers called in
 7 to that hearing where you opposed the surcharge
 8 increase?
 9 **A. No.**
 10 Q. Or filed a comment in opposition otherwise?
 11 **A. I don't know.**
 12 Q. Looking down a little further on that page, page
 13 15 of your testimony, this is an excerpt from Washington
 14 State Department of Health Water System Design Manual.
 15 The first line of text reads, (as read) DOH will require
 16 action by the purveyor when the purveyor receives five
 17 or more specific complaints associated with the
 18 secondary contaminants from different customers in a
 19 12-month period, correct?
 20 **A. Correct.**
 21 Q. It's your understanding that this requirement
 22 does not apply to Rainier View Water Company in this
 23 situation, correct?
 24 **A. Can you repeat the question?**
 25 Q. You're aware that the Department of Health has

Page 207

EXAMINATION OF HAND / RANKIN

1 not received five or more specific complaints associated
 2 with a secondary contaminant from different customers in
 3 a 12-month period, correct?
 4 **A. I can't tell you if they did or not.**
 5 Q. You're not aware of five complaints to the DOH,
 6 are you?
 7 **A. I don't work there, no.**
 8 Q. So with that in mind, how is it that you believe
 9 this requirement applies?
 10 **A. For five or more complaints?**
 11 Q. When they have five or more complaints, when the
 12 DOH receives five or more complaints, there is this
 13 system that kicks in.
 14 **A. Right.**
 15 Q. You just told me that you're not aware of
 16 complaints to the DOH, yet you allege this requirement
 17 applies to my client?
 18 **A. Well, yeah, there's people in our -- there's**
 19 **people in our neighborhood that are complaining of brown**
 20 **water. There's way more than five complaints --**
 21 Q. To the Department of Health?
 22 **A. I guess that's where they need to go. I think**
 23 **the -- I think the misdirect is they don't tell the**
 24 **consumer like, hey, you should call up the Department of**
 25 **Health and five of you should call up and tell them that**

Page 208

EXAMINATION OF HAND / RANKIN

1 you have brown water.
 2 See, it's not -- it's not very instructional.
 3 So like the -- it's like pretty much up to the consumer
 4 to figure out all these different laws and all these
 5 different ways around how to get us so we don't have
 6 brown water. So it kind of makes no sense.
 7 Q. So my question is, you are testifying that my
 8 client violated this requirement, do you have any proof
 9 of that?
 10 **A. Well, I know more than five people in my**
 11 **neighborhood that have brown water.**
 12 Q. Do you have any proof that five or more people
 13 complained to the DOH?
 14 **A. Don't know.**
 15 Q. So, again, this allegation is based on your own
 16 personal belief?
 17 **A. Yes.**
 18 Q. Turning to page 16, the second-to-last sentence
 19 says, (as read) The company made no effort to properly
 20 survey customers or to present options as they were
 21 required to do.
 22 Where were they required -- I'm sorry. Why were
 23 they required to do that?
 24 **A. Well, I mean, before we have to, you know, hire**
 25 **a water scientist, I think they should tell us**

Page 209

EXAMINATION OF HAND / RANKIN

1 alternatives to what they should -- you know, what we
 2 should do as consumers.
 3 Q. My question for you is, where does their legal
 4 obligation to do so arise from?
 5 MR. MALDEN: Objection. Calls for a legal
 6 conclusion.
 7 JUDGE KOPTA: I think he's asking about her
 8 testimony. Overruled.
 9 **A. So can you repeat the question?**
 10 BY MR. RANKIN:
 11 Q. Sure. You testified that the company made no
 12 effort to properly survey customers or to present
 13 options as they were required to do, and my question for
 14 you is, where does their requirement to do so arise
 15 from?
 16 **A. The law.**
 17 Q. Which law?
 18 **A. Washington State law.**
 19 Q. Which Washington State law?
 20 **A. Don't know.**
 21 Q. Is this also based on your own personal belief?
 22 **A. Yes.**
 23 Q. Are you familiar with changes to acceptable
 24 levels of manganese that the EPA and the State
 25 Department of Health have been contemplating or putting

Page 210

EXAMINATION OF HAND / RANKIN

1 into effect?
 2 **A. Yeah, they're changing -- they're talking about**
 3 **lowering the rate.**
 4 Q. What do you mean "lowering the rate"?
 5 **A. Like lowering the consumption rate of how much**
 6 **you should consume.**
 7 Q. From what to what?
 8 **A. Some kind of -- I'll have to look -- look at**
 9 **that.**
 10 Q. Does a lifetime health advisory sound familiar
 11 to you?
 12 **A. Yes.**
 13 Q. Are you aware of what that lifetime health
 14 advisory limit is?
 15 **A. No.**
 16 Q. If I said it was .30 milligrams per liter, would
 17 that sound familiar to you?
 18 **A. .30?**
 19 Q. For reference, the secondary maximum contaminant
 20 level is --
 21 **A. For your lifetime?**
 22 Q. For reference, the secondary maximum contaminant
 23 level is .05.
 24 **A. Okay.**
 25 Q. Is this within the scope of your knowledge or am

Page 211

EXAMINATION OF HAND / RANKIN

1 I telling you new information?

2 **A. Well, I know that they're lowering the**

3 **consumption rate.**

4 Q. Do you know what they're lowering it to?

5 **A. No.**

6 Q. Do you know what the consumption rate currently

7 is?

8 **A. .05.**

9 Q. And so you believe that they are making it a

10 more stringent requirement?

11 **A. Yeah.**

12 Q. And why do you believe that?

13 **A. I think they're finding more health concerns on**

14 **the cause of what manganese can do to the human body.**

15 Q. I'll rephrase my question.

16 What -- from what source do you derive that

17 knowledge?

18 **A. From Google.**

19 Q. Where did Google take you to share that

20 knowledge with you?

21 **A. To like an -- website.**

22 Q. Do you know which website?

23 **A. EPA.**

24 Q. And it's your testimony that the EPA is creating

25 a more stringent requirement than the .05 secondary

Page 212

EXAMINATION OF HAND / RANKIN

1 maximum contaminant level for manganese?

2 **A. Yes.**

3 Q. And you derived that from the EPA's website?

4 **A. That's what I do believe so, yes.**

5 Q. Do you remember when that was?

6 **A. I think within the last year.**

7 Q. Are you aware of what a lifetime health advisory

8 is?

9 **A. What you can consume in a lifetime.**

10 Q. Is it like a running total or is it, in your

11 understanding, a threshold that's acceptable over the --

12 over an extended period of time?

13 **A. Probably over an extended period of time.**

14 Q. So I will represent to you that the EPA and the

15 DOH -- and this comes from the DOH's deposition

16 transcripts, which we'll have entered into the evidence

17 as we discussed earlier today. The DOH has been

18 contemplating adopting an EPA lifetime health advisory

19 of .3.

20 **A. Okay.**

21 Q. As compared to a secondary maximum contaminant

22 level of .05.

23 **A. Right.**

24 Q. So the .3 seems to be six times more lenient

25 than the secondary maximum contaminant level; is that

Page 213

EXAMINATION OF HAND / RANKIN

1 right?

2 **A. Okay.**

3 Q. Are you aware of any test of Rainier View Water

4 Company water showing a manganese level of .30?

5 **A. Not that I'm aware of.**

6 Q. Do you believe that if the EPA adopts a .30

7 lifetime health advisory, that would be a reliable

8 source to -- to understand what's a safe level of

9 manganese in your water?

10 **A. I'm not going to drink brown water, my children**

11 **aren't going to drink brown water, so I don't know what**

12 **they want to do with that. We're not going to drink the**

13 **brown water.**

14 Q. My question was, if the EPA says .30 is

15 acceptable, would you agree that that's acceptable?

16 **A. I'm not going to drink brown water, so if it's**

17 **still brown, then it's not acceptable. If there's still**

18 **stuff floating in my water, I'm not drinking it. It's**

19 **not acceptable. So whatever they want to do, that's**

20 **fine. I'm not going to have my children drink brown**

21 **water, and there aren't going to be particles in my**

22 **water. We are not drinking that. So whatever they do,**

23 **that's fine. We're going to stay with clean water.**

24 Q. Do you believe the EPA to be interested in their

25 customers' or nationwide consumers' best interests?

Page 214

EXAMINATION OF HAND / RANKIN

1 MR. MALDEN: Objection. Irrelevant. No

2 foundation.

3 MR. RANKIN: She's alleging health risks.

4 THE WITNESS: Well, yeah.

5 MR. RANKIN: I think I have -- I should be

6 granted the leeway to explore why she believes --

7 MR. MALDEN: Well, if I'm not mistaken, you

8 objected to my producing in the record scientific

9 articles about the danger of manganese. Now all of a

10 sudden you're concerned with it?

11 MR. RANKIN: I -- the reason I believe --

12 the reason I objected to those is because they're not

13 binding on us.

14 JUDGE KOPTA: Counsel, please address your

15 remarks to me, not to each other. I will give you some

16 leeway to ask this question because you asked the same

17 types of questions about -- from Mr. Blackman about

18 whether the customers -- whether they have their best

19 interests. So I think it -- I think it's appropriate

20 that he can ask. Whether she knows or not, she can say.

21 You may ask the question.

22 MR. RANKIN: Thank you. Your Honor.

23 BY MR. RANKIN:

24 Q. Would you be comfortable relying on information

25 from the EPA as to what is safe and what is not?

Page 215

EXAMINATION OF HAND / RANKIN

1 **A. I'm going to go ahead and go with relying on our**
 2 **doctors. So since I lived in this house, my wife woke**
 3 **up not being able to walk, my child having seizures, and**
 4 **my next door neighbor having an autoimmune disorder all**
 5 **within a cluster. That doesn't even make sense.**
 6 **So I'm going to rely on my doctor, says don't**
 7 **drink brown water, tells me not to feed my children --**
 8 **or cook or drink the brown water. So I don't care what**
 9 **the EPA says. We're not drinking brown water. So I**
 10 **don't trust anyone other than -- we're -- we're going to**
 11 **get the clean water. We're not drinking brown water.**
 12 **We're all done with that.**
 13 Q. So it's your testimony that you don't trust what
 14 the EPA says is an acceptable level of manganese for
 15 someone's health?
 16 **A. I've seen what it's done to my family, so I'm**
 17 **not drinking brown water.**
 18 Q. I'll ask once more, do you believe the EPA is a
 19 reliable source of information as to what is safe and
 20 what is not for manganese levels of water?
 21 MR. MALDEN: Objection. No foundation.
 22 JUDGE KOPTA: Overruled.
 23 **A. We're not going to drink brown water.**
 24 **JUDGE KOPTA: I think that's all you're**
 25 **going to get, Counsel.**

Page 216

EXAMINATION OF HAND / ROBERSON

1 MR. RANKIN: With that, I have no further
 2 questions.
 3 JUDGE KOPTA: Thank you.
 4 Mr. Roberson?
 5 MR. ROBERSON: Very short cross actually.
 6
 7 EXAMINATION
 8 BY MR. ROBERSON:
 9 Q. So you testified about calling in to the
 10 Commission's open meeting about the extension surcharge.
 11 **A. Yes.**
 12 Q. I'm just trying to understand your reasoning for
 13 opposing the surcharge. So you understand that the
 14 surcharge was supposed to pay for filtration, correct?
 15 **A. Correct.**
 16 Q. You don't necessarily oppose paying for
 17 filtration, you're just of the belief that Rainier View
 18 has already paid for that, so you would be double
 19 paying?
 20 **A. Exactly.**
 21 Q. Fair enough.
 22 Ms. Stark, when you spoke with her, told her
 23 that essentially this was something that the DOH was
 24 going to have to deal with. Did you ever complain to
 25 the DOH?

Page 217

EXAMINATION OF HAND / KOPTA

1 **A. We -- I do believe we called the DOH and they**
 2 **sent us back to the Washington Utilities thing. So it's**
 3 **kind of been like we'd call one person, they'd tell us**
 4 **to call somebody else, and then it just keeps on going**
 5 **in a circle. And then like we'll call someone, they'll**
 6 **tell us to call our provider and then call the DOH and**
 7 **then call. So it's just been -- it's like this -- an**
 8 **ongoing circle. You know, all we want is clean water.**
 9 Q. Fair enough.
 10 MR. ROBERSON: Thanks.
 11 JUDGE KOPTA: All right. I have a couple of
 12 questions.
 13
 14 EXAMINATION
 15 BY JUDGE KOPTA:
 16 Q. Are you still having brown water in your home?
 17 **A. Yes, we are.**
 18 Q. Does it help to turn on the faucet for two
 19 minutes, five minutes?
 20 **A. So we turn on all the faucets outside the house**
 21 **and the inside of the house for like three to four to**
 22 **five minutes. That does give us some, but draining our**
 23 **hot water heater has really -- you know, we've seen**
 24 **improvement that way. So we've drained our hot water**
 25 **heater.**

Page 218

EXAMINATION OF HAND / KOPTA

1 Q. How frequently do you have to do that to --
 2 **A. We've been doing it like every -- every -- about**
 3 **twice a month.**
 4 Q. Does the water ever run clear enough that you
 5 feel safe in drinking it?
 6 **A. Sometimes it is, but -- not drinking it, no. We**
 7 **actually buy our water through the same company that you**
 8 **guys use over here, Crystal. They deliver our water to**
 9 **us, and then we get the bottled water from the store for**
 10 **our children to drink and for us to cook with it.**
 11 **Unfortunately, we have no other option other**
 12 **than to bathe in that so -- and our youngest has hearing**
 13 **aids. So unfortunately, all that manganese buildup, you**
 14 **know, in her ears causes a lot of issues with her**
 15 **hearing aids.**
 16 Q. So you use the water that you get through the
 17 tap for bathing and --
 18 **A. Bathing --**
 19 Q. -- washing?
 20 **A. Bathing and laundry, but with the laundry, we're**
 21 **buying so much extra stuff to put into our laundry, like**
 22 **extra fabric softeners, we're putting extra things like**
 23 **these little crystals to make your laundry smell better.**
 24 **We're using more Bounty sheets when we dry our clothes,**
 25 **and our clothing cannot stay like in our washing machine**

Page 219

EXAMINATION OF HAND / MALDEN

1 like a normal person can. Like as soon as you wash it,
 2 you have to dry it or your clothes smells like rotten
 3 eggs. And then once every two weeks, my wife has me
 4 take my Shop-Vac, undo the -- the filter on my washer
 5 machine, and drain my whole washer machine out to make
 6 sure it doesn't smell like that because our whole
 7 laundry room will just stink.

8 JUDGE KOPTA: All right. Thank you.
 9 Mr. Malden, redirect?

10 MR. MALDEN: Yes.

11

12 **EXAMINATION**

13 BY MR. MALDEN:

14 Q. Earlier on, you were asked a question, and I
 15 believe you referenced a homeowners association meeting.
 16 Okay. Let me repeat that.

17 I think you were asked a question earlier, and
 18 you referenced a homeowners association. This was
 19 between the time you moved into the house and the time
 20 that you lodged a complaint with the UTC?

21 **A. Exactly.**

22 Q. Okay. What was it about, this homeowners
 23 association meeting that was relevant?

24 **A. So at the homeowners association meeting, this**
 25 **was our first time ever going to a homeowners**

Page 220

EXAMINATION OF HAND / MALDEN

1 association meeting, and it was held over at the
 2 elementary school. There was like a flyer put out, like
 3 everyone show up for like annual voting, who's going to
 4 be next on the board, like all the, you know, stuff that
 5 a homeowners association has.

6 And it so happened that the news showed up, that
 7 KIRO showed up to the meeting and was asking some of the
 8 other neighbors if the brown water issue had been
 9 resolved. And at that time we're like, ta-da, now we
 10 know like this is what's causing brown water in our
 11 house is this manganese? Like this is -- we just never
 12 even knew. We just thought, oh, wow, well, we're just
 13 going to keep doing the maintenance on our home and
 14 hopefully it will, you know, clear itself up.

15 Q. Is it your understanding that there's other
 16 people in the neighborhood now that still have problems?

17 **A. Yes, there is.**

18 Q. Can you explain that?

19 **A. So we have some different -- our neighbor is**
 20 **still dealing with brown water. He's contacted Rainier**
 21 **View, and one time I even called Rainier View because**
 22 **for some reason, if I call Rainier View, they show up**
 23 **for him faster, which is crazy to me. So if I get on**
 24 **the phone and call Rainier View and be like, my neighbor**
 25 **has brown water, all of sudden they show up. But when**

Page 221

EXAMINATION OF HAND / MALDEN

1 he calls them, they come two days later.

2 So I've made calls for him so they show up, and
 3 one of our friends from the neighborhood had just done a
 4 remodel on her home, and she took some photos and shared
 5 some photos with us of her brand-new white tile brown
 6 from the manganese. And her brand-new toilets has
 7 manganese all on the bottom of it, our brand-new toilet
 8 has manganese on the bottom of it.

9 We have a picture that someone shared on our --
 10 our Springwood residence thing. It shows her -- her
 11 freezer, ice cubes are brown like from the manganese.
 12 Like we went through their filter in their -- in their
 13 refrigerator and still, their ice cubes are brown.

14 Q. I believe that you indicated that doctors had
 15 told you not to drink the brown water?

16 **A. Exactly.**

17 Q. Are you talking about medical doctors?

18 **A. Yes.**

19 Q. Who and when?

20 **A. So my wife's doctor, Aggie, told us not to drink**
 21 **the brown water. My youngest daughter had been going**
 22 **through some different issues. She's been having some**
 23 **seizures in the last year, and I went to the doctor and**
 24 **said, hey, you know, I don't know if this is like kind**
 25 **of goes hand in hand, but my daughter bathes in this**

Page 222

EXAMINATION OF HAND / MALDEN

1 brown water, do you think it would be safe for
 2 consumption? Absolutely not. My doctor said do not
 3 drink brown water.

4 Q. Is this repeat flushing and flushing that
 5 Rainier View advocates, is that an acceptable fix for
 6 you?

7 **A. No.**

8 Q. Why not?

9 **A. We're just going to keep going around in this**
 10 **circle and, you know, when I first talked to Bob**
 11 **Blackman, he's like, oh, we're going to put in this, do**
 12 **these -- all these great things. But what am I supposed**
 13 **to do with 20 years' worth of damage, you know. He's**
 14 **like, this took 20 years to get like this. It's not**
 15 **just going to be an overnight fix.**

16 **So even if it -- even if they said they'd fix it**
 17 **in two years, that's us two years of having to buy extra**
 18 **water, us bathing in brown water, dealing with all the**
 19 **extra expenses for our laundry, all the expenses for,**
 20 **you know, just everyday life. It's not acceptable.**

21 Q. Is there any problem with the volume of water
 22 that's discharged during flushing?

23 **A. Yeah, it runs down our street in our**
 24 **neighborhood.**

25 Q. In what quantity does that cause a problem?

Page 223	Page 225
<p>EXAMINATION OF HAND / MALDEN</p> <p>1 A. So what they've been doing is they've been 2 opening up the fire hydrants, and they actually just 3 since a couple years ago, they finally found a blow off 4 in our neighborhood. Rainier Water didn't even know it 5 was there until a few years ago. So they finally found 6 a blow off in our cul-de-sac, and it was actually 7 located in one of our neighbor's yard at the top of the 8 hill.</p> <p>9 And so when they run this water down the street, 10 they're running it in excess down the street. Well, I'm 11 on the board of directors for Springwood Estates, and 12 we're having a real issue with water flooding at the end 13 of where they're -- where they're draining at. So when 14 it's raining and they're also draining our pipes, we're 15 now going to have to be calling someone in to look at 16 why the water is standing in the street.</p> <p>17 So they're going to call -- we're going to have 18 to get ahold of an engineer to find out why it's not 19 going off into a retention pond. So they're causing 20 pretty much our streets to flood.</p> <p>21 MR. MALDEN: Thank you. No further 22 questions.</p> <p>23 JUDGE KOPTA: Thank you, Mr. Malden. 24 And thank you, Ms. Hand, for your testimony. 25 We appreciate you coming in, and you are excused.</p>	<p>1 MR. ROBERSON: And I actually have one other 2 thought. It occurs to me this case came here after 3 dismissal from the superior court. I don't think I've 4 ever seen the order of dismissal. I don't know if it'll 5 affect what you have to do on what issues you have to 6 decide. I know the basis of the dismissal was primary 7 jurisdiction. I don't know if you'd want that. I don't 8 have it, but they do. I suppose you can ask a bench 9 request for it.</p> <p>10 JUDGE KOPTA: Well, I am hopeful that the 11 parties will address whatever it is that the court 12 expects us to address in addition to the complaint and 13 the allegations in the complaint. And really, to my 14 mind, the main issues are, is the quality of water that 15 Rainier View has provided and is providing to Ms. Hand 16 below the acceptable level as such defined in the 17 statutes. And if so, what is the appropriate remedy 18 that the Commission can and should provide.</p> <p>19 MR. MALDEN: Okay.</p> <p>20 JUDGE KOPTA: Any -- any further discussion 21 or any other issues that we need to resolve this 22 afternoon?</p> <p>23 MR. MALDEN: None from here. 24 MR. RANKIN: None from me. 25 MR. ROBERSON: Standard --</p>
Page 224	Page 226
<p>1 I believe that concludes the testimony. We 2 have now only to establish the briefing schedule. As we 3 discussed via email, my preference would be to have a 4 single round of simultaneous briefs. Does anyone want 5 to suggest a date by which to file those? The 6 transcript will be available in ten days, approximately. 7 No, they're very good about getting it out within ten 8 days.</p> <p>9 MR. ROBERSON: I probably want two weeks 10 after the transcript, if that's acceptable.</p> <p>11 MR. RANKIN: I would agree with that.</p> <p>12 MR. MALDEN: That's fine.</p> <p>13 JUDGE KOPTA: All right. So shall we say 14 one month from today? Today is the 25th. August 25th, 15 if that's a weekday?</p> <p>16 MR. MALDEN: Okay.</p> <p>17 JUDGE KOPTA: Check to make sure.</p> <p>18 UNIDENTIFIED SPEAKER: It's a Saturday.</p> <p>19 JUDGE KOPTA: It's a Saturday. I should 20 have known that. Do you want to file it on Friday or do 21 you want the weekend to do filing on Monday?</p> <p>22 MR. ROBERSON: Friday. Get it over with.</p> <p>23 MR. RANKIN: Friday is good with me.</p> <p>24 JUDGE KOPTA: All right. Then let's go with 25 August 24th.</p>	<p>1 JUDGE KOPTA: Then we are adjourned.</p> <p>2 MR. ROBERSON: Standard page limits?</p> <p>3 JUDGE KOPTA: I'm sorry, what?</p> <p>4 MR. ROBERSON: Standard page limits for the 5 brief?</p> <p>6 JUDGE KOPTA: Yes.</p> <p>7 MR. MALDEN: What is the page limit?</p> <p>8 JUDGE KOPTA: I believe it's 60, isn't it?</p> <p>9 MR. ROBERSON: I think it is 60.</p> <p>10 JUDGE KOPTA: It's very generous. This is 11 like rate case kind of briefs. Hopefully you don't get 12 anywhere near 60 pages.</p> <p>13 MR. MALDEN: Okay. Thank you.</p> <p>14 JUDGE KOPTA: All right. Thank you. 15 (Adjourned at 2:27 p.m.)</p>

1 CERTIFICATE

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3 STATE OF WASHINGTON

4 COUNTY OF THURSTON

5

6 I, Tayler Garlinghouse, a Certified Shorthand
7 Reporter in and for the State of Washington, do hereby
8 certify that the foregoing transcript is true and
9 accurate to the best of my knowledge, skill and ability.

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11 Tayler Garlinghouse, CCR 3358 _____

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