

00043

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 WASHINGTON UTILITIES AND)
TRANSPORTATION COMMISSION)
4 Complainant,) Hearing No. UW-951483
vs.) Volume III
5 ROSARIO UTILITIES, LLC,) pages 43 - 299
Respondent,)
6 -----)

7 A hearing in the above matter was held on
8 August 15, 1996 at 10:57 a.m., at 1 School Road,
9 Eastsound, Washington, before Administrative Law Judge
10 C. ROBERT WALLIS.

11 The parties were present as follows:

12 WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION by JEFFREY D. GOLTZ, Assistant Attorney
13 General, 1400 South Evergreen Park Drive Southwest,
Olympia, Washington, 98504.

14 ROSARIO UTILITIES by DAN DONAHOE, 5141 North
15 40th Street, Suite 200, Phoenix, Airizona, 85018.

16 ORCAS HIGHLANDS ASSOCIATION, VUSARIO
MAINTENANCE ASSOCIATION, ROSARIO HOMEOWNERS ASSOCIATION
17 by ROBERT E. LUNDGAARD, Attorney at Law, 1400 Bristol
Court Southwest, Olympia, Washington, 98502.

18 CASCADE HARBOR INN by DAVID MORRISON, 4100
19 Moorpark Avenue, Suite 201, San Jose, California,
95117.

20

21

22

23

24

25 Margaret Bustos, CSR
Court Reporter

00044

1

I N D E X

| 2 | WITNESS: | DIRECT | CROSS | REDIRECT | RECROSS | EXAM |
|----|--------------|--------|---------|----------|---------|------|
| 3 | VIERTHALER | 48 | 49/59 | 69 | 70/73 | 76 |
| 4 | CAVALLI | 80 | 82/104 | 138 | 130/144 | |
| 5 | | | | | 146/146 | |
| 6 | DRAHN | 149 | 152/185 | 209 | 211/215 | |
| 7 | KIDD | 219 | 228/232 | | | |
| 8 | STUPKE | 235 | | | | |
| 9 | WATSON | 237 | | | | |
| 10 | HARRIS | 239 | | | | |
| 11 | NERLAND | 244 | 248/249 | | | |
| 12 | LIEBMANN | 250 | 253 | | | |
| 13 | VAUGHN | 254 | 263 | | | |
| 14 | MARCIN | 267 | 269/274 | | | |
| 15 | | | 275 | | | |
| 16 | ALDORT | 276 | | | | |
| 17 | SIMMONS | 280 | | | | |
| 18 | MORRISON | 283 | 286/286 | | | |
| 19 | BLANEY-TULLY | 288 | 290 | | | |
| 20 | DAWSON | 291 | 293 | | | |
| 21 | EILAND | 295 | 297 | | | |
| 22 | | | | | | |
| 23 | | | | | | |
| 24 | | | | | | |
| 25 | | | | | | |

00045

1 I N D E X (Continued)

| 2 | EXHIBIT | MARKED | ADMITTED |
|----|---------|--------|----------|
| 3 | 1 | 47 | 49 |
| 4 | 2 | 47 | 49 |
| 5 | 3 | 63 | 64 |
| 6 | 4 | 81 | 81 |
| 7 | 5 | 81 | 130 |
| 8 | 6 | 82 | 83 |
| 9 | 7 | 148 | 150 |
| 10 | 8 | 148 | 151 |
| 11 | 9 | 148 | 151 |
| 12 | 10 | 148 | 151 |
| 13 | 11 | 148 | 151 |
| 14 | 12 | 217 | 218 |
| 15 | 13 | 234 | --- |

16

17

18

19

20

21

22

23

24

25

00046

1

P R O C E E D I N G S

2

3

JUDGE WALLIS: Let's be on the record,
4 please. This hearing will please come to order. This
5 is the hearing before the Washington Utilities and
6 Transportation Commission in the matter of Rosario
7 Utilities LLC, Docket No. UW-951483.

8

This hearing is being held on August 15,
9 1996 at Eastsound, Washington before Administrative
10 Law Judge C. Robert Wallis upon due and proper notice
11 to all interested parties.

12

I'm going to ask that we begin with
13 appearances of counsel, and at this time I'm going
14 to ask each representative for the record just to
15 state his name and business address and the name of
16 the entity that you're representing today beginning
17 with the respondent, Mr. Donahoe.

18

MR. DONAHOE: My name is Dan Donahoe, and
19 my address is 5141 North 40th Street, Phoenix,
20 Arizona. I'm here representing Rosario Utilities,
21 LLC.

22

JUDGE WALLIS: The interveners?

23

MR. LUNDGAARD: Robert Lundgaard, Attorney,
24 2400 Bristol Court Southwest, Olympia, Washington,
25 98502, representing the interveners Orcas Highlands

00047

1 Association, Rosario Maintenance Association, and the
2 Rosario Homeowners Association.

3 MR. GOLTZ: And my name is Jeff Goltz, and
4 I'm an Assistant Attorney General representing the
5 Staff of the Utilities and Transportation Commission
6 in this matter. My address is 1400 South Evergreen
7 Park Drive southwest, Olympia, 98504.

8 JUDGE WALLIS: Thank you, very much.

9 Is there anything of a preliminary nature
10 that anyone wants to put on the record?

11 (No audible response.)

12 JUDGE WALLIS: Let the record show that
13 there is no response.

14 Let's begin with the company's
15 presentation. The company has indicated that it
16 wishes to call Christine Vierthaler as the first
17 witness. I'll ask Ms. Vierthaler to step forward at
18 this time and be sworn.

19 As she is stepping forward, I would like to
20 mark a document designated CDV-1 as Exhibit 1 for
21 identification and CDV-2 as Exhibit 2 for
22 identification.

23 (Marked Hearing Exhibits 1 and 2.)

24

25

00048

1 Whereupon,

2 CHRISTINE VIERTHALER,

3 having been first duly sworn, was called as a witness

4 herein and was examined and testified as follows:

5 JUDGE WALLIS: Mr. Donahoe.

6

7 DIRECT EXAMINATION

8 BY MR. DONAHOE:

9 Q. Would you please state your name and
10 business address for the record.

11 A. My name is Christine D. Vierthaler.
12 Business address is 1 Rosario Way, Eastsound,
13 Washington, 98245.

14 Q. You have a copy of the exhibit containing
15 your pre-filed testimony which has been marked for
16 identification as Exhibits 1 and 2?

17 A. Yes.

18 Q. If I were to ask the questions stated in
19 this exhibit, would your answers be the same as the
20 answers set forth in the exhibit?

21 A. Yes.

22 Q. Now, was this exhibit, which we referred
23 to, prepared by you or under your supervision?

24 A. Yes.

25 Q. To the best of your knowledge, is this

00049

1 exhibit correct and accurate?

2 A. Yes.

3 MR. DONAHOE: And, your Honor, I move
4 for the admission of these exhibits.

5 JUDGE WALLIS: Is there any objection?

6 (No audible response.)

7 JUDGE WALLIS: Let the record show that
8 there is no objection, and the exhibits are received
9 in evidence.

10 (Admitted Hearing Exhibits 1 and 2.)

11 MR. DONAHOE: The witness is available for
12 cross-examination.

13 JUDGE WALLIS: Mr. Goltz.

14

15 CROSS-EXAMINATION

16 BY MR. GOLTZ:

17 Q. Good morning.

18 A. Good morning.

19 Q. You're employed as the administrative
20 manager for the Rosario Resort; is that correct?

21 A. For Rosario Utilities.

22 Q. Just for Rosario Utilities. Are those your
23 only responsibilities?

24 A. At this time, yes.

25 Q. On page -- I was going to say on page 1,

00050

1 but that's actually marked as page 2. But the only
2 page of your testimony says, I am employed at Rosario
3 Resort as an administrative manager.

4 MR. DONAHOE: Your Honor, I think --

5 THE WITNESS: I think that's a typo.

6 MR. DONAHOE: I didn't know. You said you
7 wanted typos corrected on the exhibits themselves, so
8 we didn't bother to bring that up.

9 MR. LUNDGAARD: Your Honor, that to me seems
10 more substantive.

11 JUDGE WALLIS: I know it's difficult to
12 draw a line between substance and mere typographical.
13 We'll just let the witness correct that through her
14 testimony now.

15 And maybe I'll ask if there are any other
16 similar corrections that might affect the substance
17 of your testimony?

18 THE WITNESS: Not that I'm aware of.

19 JUDGE WALLIS: Thank you.

20 Mr. Goltz.

21 Q. So you are employed by the utility?

22 A. Yes.

23 Q. And your paycheck is written by the
24 utility?

25 A. The utility?

00051

1 Q. Who signs your paycheck? Let me ask it
2 that way.

3 A. My paycheck at this point is by the resort.
4 The utility has them do it.

5 Q. And so --

6 JUDGE WALLIS: I didn't catch that. The
7 utility is what?

8 THE WITNESS: The utility has the resort do
9 the utility's payroll.

10 MR. LUNDGAARD: I'm sorry, I can't hear you
11 either.

12 THE WITNESS: The utility has the resort do
13 the payroll.

14 JUDGE WALLIS: Let's be off the record.

15 (Discussion off the record.)

16 JUDGE WALLIS: Back on the record, please.

17 Q. I believe you just testified that the
18 resort does the payroll for the utility at this point;
19 is that correct?

20 A. Yes.

21 Q. Okay. And so who signs your paycheck?

22 A. The resort manager.

23 Q. And that is who?

24 A. Christopher French.

25 Q. And where is -- where are you physically

00052

1 located? Where is your -- do you have an office?

2 A. The office is at the resort.

3 Q. The office is at the resort. If I were to
4 call you, would you answer your own phone, or would it
5 go somewhere else?

6 A. The utilities has its own phone.

7 Q. Has its own phone?

8 A. Uh-huh.

9 Q. And a separate line?

10 A. Yes.

11 Q. And is it connected to the resort in any
12 way, resort phone system?

13 A. No.

14 Q. Do you have a separate office from the
15 resort?

16 A. Yes.

17 Q. All right. Now, you've testified that
18 you've worked at the resort since June, 1978; is that
19 correct?

20 A. Yes.

21 Q. And when within that time period did you
22 start performing some functions on behalf of the
23 utility?

24 A. 1985.

25 Q. And is that when the utility was -- who

00053

1 owned the utility then?

2 A. Geiser Land Company.

3 Q. Geiser Land Company. And prior to 1985 who
4 owned the utility?

5 A. Geiser Land Company.

6 Q. So you had no utility functions prior to
7 1985?

8 A. Correct.

9 Q. Okay. Now, during the -- in this rate
10 case, there's a term called the test year. Are you
11 familiar with what that means?

12 A. Uh-huh.

13 Q. And do you have an understanding of what
14 the test year is?

15 A. Yes.

16 Q. And could you describe what that is very
17 briefly?

18 A. It's the operation of the utility from, I
19 believe it was, December, 1984 through November, 1985.

20 MR. GOLTZ: Would you accept it as October,
21 1994 through September, 1995?

22 MR. DONAHOE: Let me think. I think that's
23 my understanding, yes.

24 THE WITNESS: Okay.

25 Q. Do you accept that subject to later check?

00054

1 A. Uh-huh.

2 Q. Okay. Now, and during that test year, were
3 you -- at all times during that were you employed by
4 the utility?

5 A. Yes.

6 Q. And at all times during that test year did
7 you perform any non-utility functions?

8 A. Yes.

9 Q. And what were those functions that you
10 performed?

11 A. Administrative assistant to the general
12 manager.

13 Q. General manager of the resort?

14 A. Of the resort.

15 Q. And so you split your time between your
16 utility duties and your resort duties?

17 A. Yes.

18 Q. Correct?

19 A. (Nodding head.)

20 Q. And what were your duties during that test
21 year on behalf of the resort?

22 A. Correspondence, coordinating with
23 departments, working with data bases, whatever the
24 manager needed.

25 Q. And your title was administrative assistant

00055

1 to the manager?

2 A. Uh-huh.

3 JUDGE WALLIS: Could you answer yes or no.

4 THE WITNESS: Yes. Yes.

5 JUDGE WALLIS: Just so that we have in the
6 record a clear indication of what your response is.

7 Q. Now, you prepared what has been introduced
8 as Exhibit No. 2, which is the exhibit of your written
9 testimony, and you have that in front of you?

10 A. Uh-huh.

11 Q. And that is your --

12 JUDGE WALLIS: Could you answer yes?

13 THE WITNESS: Yes.

14 Q. And that is your estimate of the hours per
15 week that you did perform during the test year on
16 behalf of the utility; is that what that is?

17 A. No.

18 Q. Could you describe what that exhibit is?

19 A. This is more current.

20 Q. Is that what you estimate your hours are on
21 behalf of the utility at the current time?

22 A. For the water section, yes.

23 Q. Okay. For the water section of the
24 utility?

25 A. Yes.

00056

1 Q. Okay. And are there other sections to the
2 utility?

3 A. Yes.

4 Q. And what are those?

5 A. There's the sewer section. There's the
6 hydro section. And we have an irrigation section.

7 Q. What's the difference between the water
8 section and the hydro section?

9 A. Hydro power. Excuse me.

10 Q. Hydro power?

11 A. Uh-huh.

12 Q. And approximately how many hours per --
13 have you done an analysis similar to that in your
14 exhibit relating to other sections of the utility?

15 A. No.

16 Q. But basically you have one full-time job;
17 you work full time for the utility?

18 A. Yes.

19 Q. Okay. Now, during the test year, the water
20 utility functions were handled by some people in
21 addition to yourself?

22 A. Yes.

23 Q. Okay. I should say the administrative
24 manager functions were handled by some people in
25 addition to yourself?

00057

1 A. Yes.

2 Q. And can you describe very briefly how many
3 -- or how many other people performed the functions
4 that you have listed in your Exhibit 2? I mean, do
5 you understand my question?

6 A. In addition to myself?

7 Q. In addition to yourself. I don't need
8 their names. I just want to know how many.

9 A. At least three.

10 Q. At least three?

11 A. Uh-huh.

12 Q. Perhaps four?

13 A. Uh-huh.

14 JUDGE WALLIS: You have to say yes.

15 THE WITNESS: Yes.

16 Q. Now, all those functions are consolidated
17 into your position?

18 A. Yes.

19 Q. Am I correct that there is currently a
20 moratorium on new hook-ups within the service area of
21 the utility?

22 A. Yes.

23 Q. And that moratorium is imposed by whom or
24 what entity?

25 A. San Juan County.

00058

1 Q. San Juan County. And so am I also correct
2 then that therefore there have been no hook-ups, new
3 connections, during the test year?

4 A. No, that's not correct.

5 Q. There had been some connections during the
6 test year?

7 A. Yes.

8 Q. But at the current time there are no new
9 connections being made?

10 A. Correct.

11 Q. So if I wanted -- if I were a lot owner
12 within the service area of the utility, and I wanted a
13 connection, if I called you, you would tell me sorry?

14 A. Yes.

15 Q. Okay. And so does the description
16 contained on your Exhibit 2 include time for customer
17 connection inquiries?

18 A. Yes.

19 Q. How many of those would you say you receive
20 in a given week? Month? Year?

21 A. Five or six calls a month.

22 Q. Five or six calls a month?

23 A. Uh-huh.

24 MR. GOLTZ: I have no further questions.

25 JUDGE WALLIS: Mr. Lundgaard?

00059

1 MR. LUNDGAARD: Yes.

2

3 CROSS-EXAMINATION

4 BY MR. LUNDGAARD:

5 Q. Good morning. How many -- you say you
6 receive calls regarding connections five or six a
7 month. Aren't the home owners actually aware of this
8 moratorium?

9 A. Yes.

10 Q. So if that's pretty much common knowledge
11 that there is a moratorium, why would people be
12 calling five or six times a month regarding a
13 moratorium that they already know about?

14 A. They're not homeowners. They don't live
15 here.

16 Q. So these are people just --

17 A. They call -- or they call to find out when.

18 Q. If they're not a homeowner, why would they
19 care whether there's a moratorium or not?

20 A. I'm not sure how to say this. A property
21 owner and a homeowner is different in my mind.

22 Q. Okay. So what you're talking about then
23 would be somebody that owns property within the
24 service area that has not built here yet?

25 A. That's correct.

00060

1 Q. Did I notice that the name of -- the name
2 is Rosario Utilities, plural, LLC?

3 A. Yes.

4 Q. And it was your testimony that Rosario
5 Utilities, LLC represents the three utilities; the
6 water company -- the water section, the sewer section,
7 and the hydro power; is that correct?

8 A. Correct.

9 Q. And you've also indicated that your Exhibit
10 2 is not a projection of your time during the test
11 year?

12 A. Correct.

13 Q. So what it represents is your estimate of
14 what your time will be and what the amount of work
15 will be for these categories in 1996?

16 A. This is current.

17 Q. Okay. When did that change take place?

18 A. Mid June.

19 Q. Mid June of '96?

20 A. Yes, for my position.

21 Q. Do you recall in responding to a request
22 for the hours during the test year of the various
23 people who worked for Rosario Utilities that you were
24 listed as having worked for the Rosario Utilities a
25 yearly number of hours of 374? Does that ring a bell

00061

1 with you?

2 A. I don't recall exactly. It's written down.

3 Q. Okay. Subject to check, would you agree
4 with that figure?

5 A. Subject to verification, yes.

6 Q. And, do you recall, were you the one that
7 -- as the administrative assistant, that assembled
8 those hours?

9 A. I typed that page, yes.

10 Q. And were there time records kept for each
11 employee during the test year that would verify their
12 hours?

13 A. Not on a daily basis, no.

14 Q. Were you previously secretary to Dirk
15 Oldenburg?

16 A. I was his administrative assistant.

17 Q. Have you seen the water system plan? Are
18 you familiar with it?

19 A. A little, yes.

20 Q. Okay. Are you familiar with the minutes of
21 a meeting held January 6th of 1995, which is appendix
22 G to the water system plan, where you were referred to
23 as the secretary to Dirk Oldenburg?

24 A. I don't recall that exact meeting. Prior
25 to being Mr. Oldenburg's administrative assistant, I

00062

1 was the executive secretary to him, yes.

2 Q. And was he manager of the resort?

3 A. Yes.

4 Q. And when did he leave?

5 A. March, '96.

6 Q. When did he start?

7 A. August, '94.

8 Q. You indicate that you have two and a half
9 years of college. What was the name of the college?

10 A. University of Washington.

11 Q. Okay. What was your major?

12 A. Arts and Sciences.

13 Q. Do you recall preparing a document and
14 sending to Ann Rendahl a fax message regarding
15 invoices that you had found?

16 A. I did.

17 Q. Okay. Do you recall if that was in
18 response to my data request wherein we asked for the
19 historical documentation used to accumulate each
20 figure shown in the asset column in Exhibit DET-3,
21 which was Mrs. Thorson's exhibit, including all
22 receipts and invoices showing dates of service and who
23 sold the product, et cetera?

24 A. I'm not familiar with what you're referring
25 to.

00063

1 Q. Okay.

2 A. We supplied information to the Utilities
3 Commission on their request.

4 Q. And who asked you to assemble that
5 material?

6 A. I don't remember.

7 MR. LUNDGAARD: I would like to have this
8 marked for identification.

9 JUDGE WALLIS: Marking as Exhibit 3 for
10 identification a multipage document consisting of a
11 fax message addressed to Ann Rendahl dated August 5,
12 1996.

13 (Marked Hearing Exhibit 3.)

14 Q. Showing you a copy of what's been marked
15 for identification as Exhibit 3.

16 A. Yes.

17 Q. Would you take a look at that and see if
18 that includes invoices that you assembled?

19 A. Yes.

20 Q. And were those all of the invoices that
21 you could find in the records of the utilities?

22 A. Yes.

23 Q. Do you recall where you got the invoices?

24 A. In the company files.

25 Q. And you've worked for the resort since '78?

00064

1 A. Yes.

2 Q. And I take it you've maintained these type
3 of records while you've been either the secretary or
4 administrative assistant?

5 A. Some of them, yes.

6 MR. LUNDGAARD: I would offer Exhibit 3.

7 JUDGE WALLIS: Is there any objection?

8 (No audible response.)

9 JUDGE WALLIS: Let the record show that
10 there is no objection, and Exhibit 3 is received.

11 (Admitted Hearing Exhibit 3.)

12 Q. You've indicated that -- subject to check
13 that you've spent approximately 374 hours during the
14 test year for the water company?

15 A. Uh-huh.

16 Q. Do you have an estimate of what other
17 entities you were spending your time on during the
18 test year?

19 A. You mean did I keep track of them?

20 Q. Yes.

21 A. No. No, I did not track them.

22 Q. Would it be fair to say that the majority
23 of your time would have been spent for the resort?

24 A. Over half, yes.

25 Q. And some of your time would have been

00065

1 devoted to the sewer utility?

2 A. Yes.

3 Q. Would that be approximately the same amount
4 of time that you spent on the water company?

5 A. Not as much time.

6 Q. You would have billings to send out to the
7 customers on the sewer facility?

8 A. Yes, there are some sewer bills.

9 Q. And does that sewer facility provide
10 services to the homeowners?

11 A. Yes.

12 Q. And does it provide sewer facilities to the
13 resort?

14 A. Yes.

15 Q. Are you aware of whether or not there is
16 water that the water system provides to the sewer
17 system?

18 A. No, I don't know what you mean.

19 Q. Are you aware that there are non-metered
20 services owned by the resort, such as the employees
21 living quarters?

22 A. Yes.

23 Q. And fire station?

24 A. I don't know that.

25 Q. Okay. And, as I mentioned, the sewer --

00066

1 are you aware that there's a line to the sewer
2 facility, a water line to the sewer facility,
3 non-metered?

4 A. I was not aware of that.

5 Q. How long have you been in your current
6 office location?

7 A. June of '96.

8 Q. And does that office also contain general
9 information regarding the resort?

10 A. No.

11 Q. But it contains information regarding the,
12 let's say, three utilities?

13 A. Yes.

14 MR. LUNDGAARD: I have no further questions.
15 I do have a motion to make regarding Exhibit 2.

16 JUDGE WALLIS: Mr. Lundgaard.

17 MR. LUNDGAARD: I would move to strike
18 Exhibit 2. She's clearly indicated that this is a
19 forward-looking exhibit from June -- prepared June of
20 this year. It is not representative of her time during
21 the test year and really clouds the issue.

22 She's already testified that subject to
23 check she had assembled her time during the test year,
24 and it amounted to 374 hours as near as she could
25 tell.

00067

1 JUDGE WALLIS: Mr. Donahoe, do you have a
2 response to Mr. Lundgaard's motion?

3 MR. DONAHOE: Yes. I would oppose his
4 motion based upon the fact that the witness has
5 testified, she says, to the best of her knowledge.
6 And I might like to redirect so we might clear up
7 that point.

8 JUDGE WALLIS: I don't hear Mr. Lundgaard's
9 objection being addressed to whether or not it's the
10 best of her knowledge but the fact that it is not
11 representative of the test year. Do you have a
12 response to that element of the objection -- or the
13 motion?

14 MR. DONAHOE: Again I apologize because
15 I'm not a lawyer. But as I heard her testimony, she
16 said that it was to the best of her knowledge subject
17 to verification. It was not done in the test year. I
18 would like to redirect and clarify that point.

19 JUDGE WALLIS: Mr. Goltz, do you have a
20 comment on the motion?

21 MR. GOLTZ: I apologize. I am a lawyer. I
22 never heard anyone apologize because they weren't a
23 lawyer before. That's a first.

24 My comment would be that I believe that it
25 should be -- it should remain in the record. I think

00068

1 that in effect it is an attempt at -- albeit as you
2 will see from the testimony of our witness Ms. Ingram
3 that it is not quite accurate, it is an attempt in pro
4 forma adjustments to what the actual hours were not
5 just of the witness but of the other three or four
6 people that shared those responsibilities during the
7 test year.

8 And this was an effort made to make an
9 adjustment based on the consolidation of those
10 functions into one of those four or five people --
11 into one person looking forward.

12 I don't think that the Commission is
13 inextricably bound, especially in the context of
14 cases involving small water companies, to look solely
15 at information based on the test year, least in order
16 to do pro forma adjustments forward.

17 JUDGE WALLIS: Mr. Lundgaard, do you have
18 any response?

19 MR. LUNDGAARD: Well, I still believe my
20 motion is well taken. I believe the cases before the
21 Commission -- or the orders that have been issued by
22 the Commission indicate that we should not be confusing
23 non-test year hours if we're talking about expenses
24 within the test year, because you're comparing apples
25 and oranges, and they should be like exhibits.

00069

1 They ought to be test year hours and work
2 and test year expenses. And this does not qualify for
3 that. If this exhibit is admitted, I would have
4 some further questions regarding who the other people
5 are that were consolidated into this.

6 But I think she's clearly indicated that
7 this wasn't prepared until June of this year, and that
8 these functions were determined at that time. And
9 here we are in the middle of August. We have no way
10 of testing the accuracy of these projections.

11 JUDGE WALLIS: I'm going to reserve ruling
12 on the motion until the redirect is concluded. And I
13 will note that the exhibit already has been admitted
14 and its not -- and your motion is to strike rather
15 than an objection to the exhibit proposed for
16 admission.

17 Mr. Donahoe, you have redirect?

18 MR. DONAHOE: One item, please, your Honor.

19

20 REDIRECT EXAMINATION

21 BY MR. DONAHOE:

22 Q. And that is: Mrs. Vierthaler, was there,
23 to the best of your knowledge, a company or a
24 partnership or any formal vehicle in place when the
25 Geisers owned the property, the entire resort, that

00070

1 would separate the utility business from the resort
2 itself?

3 A. No.

4 Q. To the best of your knowledge, was the
5 utility -- were the utility's records or books kept
6 in the same general office area of the resort?

7 A. They were kept with resort records, yes.

8 Q. And, to the best of your knowledge, are you
9 aware of a new company being formed after the new
10 ownership purchased the resort which attempted to
11 separate the actual utility business from the resort?

12 A. Yes.

13 MR. DONAHOE: Thank you. That's all I have
14 now.

15 JUDGE WALLIS: Is there additional
16 cross-examination?

17 MR. GOLTZ: I just have one that I noticed
18 from looking at your exhibit.

19

20 RECROSS-EXAMINATION

21 BY MR. GOLTZ:

22 Q. You indicated that payroll is currently
23 being done by the resort on behalf of the utility?

24 A. We're in transition.

25 Q. But as of right now, you have no payroll

00071

1 responsibilities; is that correct?

2 A. Not today.

3 Q. Okay. But at some point in the future you
4 think you may?

5 A. Yes.

6 Q. So looking at your Exhibit 2, about the
7 fourth -- fifth line from the bottom, payroll, slash,
8 personnel files, 1.5 hours per month -- do you have
9 that exhibit in front of you?

10 A. Yes.

11 Q. In effect your testimony would be now that
12 you aren't performing those functions?

13 A. It's an estimate.

14 Q. Of what you will be doing at some point in
15 the future?

16 A. Yes.

17 Q. But this month -- let's change that. Last
18 month you didn't perform those functions?

19 A. Correct.

20 Q. Okay. And now when you take over the
21 payroll responsibilities, you will be doing those
22 responsibilities for the entire utility, correct?

23 A. Yes.

24 Q. And we know that for the water section of
25 the utility at least, correct me if I'm wrong, that

00072

1 the two employees would be you and Mr. Cavalli; is
2 that true?

3 A. Yes.

4 Q. And no other ones?

5 A. Correct.

6 Q. And does Mr. Cavalli also work for the
7 other sections of the utility?

8 A. Yes.

9 Q. And are there any other people that work
10 for other sections of the utilities, or are the two of
11 you the whole show?

12 A. Two at this time.

13 Q. Okay. So between you and Mr. Cavalli, you
14 are responsible -- And Mr. Lundgaard was talking about
15 three sections, but you said there's four sections,
16 correct?

17 A. Yes.

18 Q. There's the sewer, the water, the hydro,
19 and the irrigation?

20 A. Yes.

21 Q. Okay. So your payroll/personnel duties
22 would be for two people?

23 A. Yes.

24 MR. GOLTZ: I have no -- thank you. I have
25 no further questions.

00073

1 JUDGE WALLIS: Mr. Lundgaard?

2

3 RECROSS-EXAMINATION

4 BY MR. LUNDGAARD:

5 Q. And the fourth one that I had not mentioned
6 being irrigation, that irrigation you're referring to
7 is irrigation of the resort facilities, the grounds?

8 A. Yes, the resort is a customer.

9 Q. And I believe -- going through your
10 categories of work that you may do in the future, did
11 I understand you to say that there -- your payroll --
12 you're now being paid by the resort, and that there
13 are no bank accounts in the name of the utility?

14 A. That's not correct. We have our own bank
15 account.

16 Q. And you say we. Who are you referring to?

17 A. We, the utility company.

18 Q. But your pay -- you're currently being paid
19 not from that account, but you're being paid from
20 the resort account?

21 A. Yes.

22 Q. Okay. And when you're referring to bank
23 account reconciliation the one hour a month and bank
24 deposits, are you referring to work that includes work
25 for the resort?

00074

1 A. No.

2 Q. When you refer to escrow and building
3 permits, that appears to be work that you would be
4 performing for the resort; would it not?

5 A. No, for the utility company.

6 Q. Does the utility -- what permits would the
7 -- does the utility company -- what building permits
8 does the utility company require?

9 A. We have forms to sign off for the county
10 in order for a property owner to get a building
11 permit.

12 Q. So there's a moratorium on, so you're not
13 signing on any at this time; are you?

14 A. If there's a remodel, yes, they're also
15 required.

16 Q. What other functions that are listed in
17 your Exhibit 2 are you not performing at this time?

18 A. That's it.

19 Q. Pardon?

20 A. The payroll is the only one.

21 Q. You mentioned there that you've consolidated
22 at least the work of three others in this planned
23 reorganization that is shown by Exhibit 2?

24 A. Uh-huh. Yes.

25 Q. And you had mentioned earlier Chris French

00075

1 as being -- is he currently the manager of the resort?

2 Or is it a woman or man?

3 A. Christopher French is the current resort
4 manager.

5 Q. And you recall during the test year that
6 Christopher French was referred to as a utilities
7 agent?

8 A. Dirk Oldenburg was the utilities agent
9 during the test year.

10 Q. So those people whose functions were
11 consolidated into your Exhibit 2, did they include the
12 work of the bookkeeper, Minnie Tuck?

13 A. Yes. I'm doing the books.

14 Q. And does it include the work of --
15 previously done by Christopher French as utilities
16 agent?

17 A. I'm not the agent for the utility, no.

18 Q. What work would -- did -- you're familiar
19 with that position during the test year?

20 A. I can't tell you what all the agent
21 position would encompass.

22 Q. Okay. And you now under this new plan
23 would be performing the work of the comptroller?

24 A. Yes.

25 Q. That was previously Dave Douglass?

00076

1 A. Yes.

2 Q. So we have you under Exhibit 2 doing the
3 work of Dave Douglass and the bookkeeper and your own
4 work as administrative assistant?

5 A. Yes.

6 Q. Any others?

7 A. And some of the duties performed by the
8 general manager of the resort.

9 Q. Okay. Was John Cavalli the general manager
10 during the test year?

11 A. John Cavalli was the manager of the
12 utilities plant and operations.

13 Q. And when you use the term utilities, we're
14 talking about these four categories?

15 A. Yes.

16 MR. LUNDGAARD: I have no further recross.
17 I would renew my motion to strike.

18 JUDGE WALLIS: Mrs. Vierthaler, I want to
19 ask you just one or two questions here.

20

21 EXAMINATION

22 BY JUDGE WALLIS:

23 Q. Does Exhibit 2 represent -- based on your
24 knowledge of utility operations, both during the test
25 year and at present and looking into the near-term

00077

1 future when rates might be expected to be in effect as
2 a result of this proceeding, does Exhibit No. 2
3 reflect accurately to the best of your knowledge and
4 belief the number of hours that were spent on water
5 company -- water utility operations regulated -- as
6 regulated by the Commission during the test year?

7 A. To my knowledge, yes.

8 Q. And I understand you correctly then, do I,
9 that there is no change in the number of hours; it's
10 just that they're consolidated into your position?

11 A. I can't recall the total hours previous,
12 but, yes, they've been consolidated.

13 JUDGE WALLIS: On the basis that, first of
14 all, the exhibit appears to be an estimate of time
15 spent during the test year, and also on the basis
16 that, as Mr. Goltz indicated, it could be considered a
17 pro forma to look to the expected future operations,
18 I'm going to deny the motion, and Exhibit 2 stands.

19 Is there anything further from this
20 witness?

21 (No audible response.)

22 JUDGE WALLIS: Let the record show that
23 there is no response.

24 Ms. Vierthaler, you may be excused from
25 the stand. Thank you for appearing today.

00078

1 JUDGE WALLIS: Let's be off the record
2 while the next witness steps forward.

3 (Discussion off the record.)

4 JUDGE WALLIS: Let's be back on the record,
5 please.

6 During the break between the witnesses,
7 we've engaged in some administrative discussions, and
8 I would like to state those for the record.

9 First of all, we've asked that corrected
10 exhibits -- exhibits including typographical
11 corrections made by the witness be marked, shown to
12 other counsel, and then given to me no later than the
13 end of the day so that we have a corrected copy for
14 the official record.

15 We've asked that subject-to-check questions
16 be checked by the witness, and that the witness at
17 the conclusion of the day indicate -- or the party at
18 the conclusion of the day indicate if there are any
19 problems, or if there are any responses that could not
20 be checked, and we'll establish a deadline for making
21 those checks.

22 We've also established that one of the
23 parties granted intervention, the Morrisons,
24 wasn't present this morning. And I would like to ask
25 for an appearance at this time.

00080

1 BY MR. DONAHOE:

2 Q. Would you please state your name and
3 business address for the record.

4 A. Name is John C. Cavalli. Business address
5 is Box 1, Rosario Road, Eastsound, Washington.

6 Q. Do you have a copy of the exhibit
7 containing your pre-filed testimony which has been
8 marked for identification as JC 1 and 2?

9 A. Yes, I do.

10 Q. If I were to ask you the questions stated
11 in this exhibit, would your answers be the same as the
12 answers set forth in this exhibit?

13 A. Yes, they would.

14 Q. Is the exhibit referred to prepared by you
15 or under your supervision?

16 A. Yes, it was.

17 Q. To the best of your knowledge, is this
18 exhibit correct and accurate?

19 A. Yes.

20 MR. DONAHOE: I move, your Honor, for the
21 admission of these exhibits.

22 JUDGE WALLIS: I'm marking exhibit
23 designated JCC-1 as Exhibit 4 for identification and
24 the document designated JCC-2 as Exhibit 5 for
25 identification.

00081

1 (Marked Hearing Exhibits 4 and 5.)

2 JUDGE WALLIS: Let me ask if there are any
3 objections to those documents?

4 MR. LUNDGAARD: Your Honor, I may have an
5 objection to Exhibit JCC-2 on the same grounds that I
6 previously objected to the exhibit of Ms. Vierthaler,
7 but that will be -- that will be dependent on what
8 information I get on cross. I would rather do it on
9 cross than on voir dire at this time.

10 JUDGE WALLIS: You have no objection to
11 Exhibit 4 for identification?

12 MR. LUNDGAARD: No.

13 JUDGE WALLIS: Mr. Goltz?

14 MR. GOLTZ: No objection.

15 JUDGE WALLIS: Exhibit 4 is received, and
16 we'll reserve ruling on Exhibit 5.

17 (Admitted Hearing Exhibit 4.)

18 JUDGE WALLIS: Is there any further direct?

19 MR. DONAHOE: No. The witness is available
20 for cross-examination.

21 JUDGE WALLIS: Mr. Goltz, cross?

22 MR. GOLTZ: Yes. I have an exhibit that I
23 would like marked. And I believe this witness can put
24 it in mainly for the purpose of perhaps use in his
25 testimony and by a number of witnesses through the

00082

1 hearing, and that's a map of the service area. We
2 have a copy that's up on the board, and I have other
3 copies of this.

4 JUDGE WALLIS: I'm marking as Exhibit 6 for
5 identification a document that purports to be a map of
6 the service area of Rosario water system. And I'll
7 note that it is folded to approximately 8 1/2 by 11
8 size.

9 (Marked Deposition Exhibit 6.)

10 MR. GOLTZ: Your Honor, this was exhibit?

11 JUDGE WALLIS: Six.

12

13 CROSS-EXAMINATION

14 BY MR. GOLTZ:

15 Q. Mr. Cavalli, I'm showing you what has been
16 marked as Exhibit 6. Can you identify that? Does
17 that appear to be the service area for the water
18 utility?

19 A. Yes.

20 Q. And it contains -- the exhibit as introduced
21 is two sheets, and together they are the service area?

22 A. Yes.

23 Q. Okay. And looking at the board up there,
24 that is, is it not, these two sheets basically
25 combined so they're on one piece of paper?

00083

1 A. That's correct, to the best of my
2 knowledge.

3 MR. GOLTZ: I would like to offer Exhibit
4 6.

5 JUDGE WALLIS: Is there objection?

6 (No audible response.)

7 JUDGE WALLIS: Let the record show that
8 there is no objection, and Exhibit 6 is received.

9 (Admitted Hearing Exhibit 6.)

10 Q. It's pronounced Cavalli?

11 A. That's correct. Misspelled but pronounced
12 Cavalli.

13 Q. Mr. Cavalli, how long have you been
14 associated with the water utility at the resort?

15 A. Since late 1981, early 1982.

16 Q. And you state in your testimony on page 2,
17 line 13, that you've worked at the resort since
18 August, 1981?

19 A. That's correct.

20 Q. And have you always been associated with
21 the water utility?

22 A. Not when I first started but shortly
23 thereafter.

24 Q. Within several months?

25 A. Yes.

00084

1 Q. And have you also been associated with the
2 sewer utility?

3 A. Yes.

4 Q. Okay. And with the hydro utility?

5 A. Yes.

6 Q. And the irrigation utility?

7 A. Yes, sir.

8 Q. And since late -- in addition, since you
9 came to the resort, have you performed other functions
10 besides utility functions?

11 A. Yes, I have.

12 Q. And what would those be?

13 A. Director of maintenance.

14 Q. And you list your current title as
15 facilities manager for the Rosario resort?

16 A. Yes.

17 Q. And the resort currently employs you?

18 A. Yes, they do.

19 Q. And the resort currently writes your
20 paycheck?

21 A. Excuse me. The utilities employs me.

22 I'm sorry.

23 Q. And do you have any resort functions at
24 this time -- pardon me, non-utility functions at this
25 time?

00085

1 A. No.

2 Q. And when was the last time that you
3 performed a resort-related function -- I should say a
4 non-utility resort-related function?

5 A. Six weeks to two months ago I would guess.
6 I'm guessing. I don't --

7 Q. So just this summer you've been transitioning
8 to the utility functions full time?

9 A. That's correct.

10 Q. Okay. And is the -- as facilities manager
11 for the utility, do you also perform maintenance --
12 you perform maintenance functions for the utility
13 property?

14 A. For the utility, yes, I do.

15 Q. Okay. And included in that, is there a --
16 within those functions, is that maintenance for pipes
17 and other water or sewer plant functions within the
18 resort proper?

19 A. Yes.

20 Q. And is that considered part of the utility?

21 A. Yes, it is.

22 Q. Okay. So the pipe from -- let me go back.
23 Is the water that goes to the resort metered at some
24 point?

25 A. Yes, it is.

00086

1 Q. Okay. And it's true, isn't it, that there
2 are several meters that measure water used by the
3 resort?

4 A. That's correct.

5 Q. Okay. And on the resort side of the
6 meters, that is also utility property?

7 A. Yes.

8 Q. And where does the utility property end?
9 And you can be generic if you can't be specific.

10 A. It would end at the entrance to the
11 building.

12 Q. Okay. So the pipe from the meter to the --
13 what's called the mansion would be utility property?

14 A. The mansion would -- I would -- there --
15 from the meter to the mansion?

16 Q. Yes.

17 A. No.

18 Q. Okay. Is that because the meter is close
19 to the mansion?

20 A. Yes.

21 Q. Pipes from the meter to the various outlying
22 guest rooms would be utility property?

23 A. Yes.

24 Q. And so you currently maintain that as well?

25 A. Right.

00087

1 Q. I'm going to show you what's been -- what
2 hasn't been marked as an exhibit, but it's an attachment
3 to the pre-filed testimony of Mr. Eschenbrenner. And
4 it is the next to the last page. It's attachment 1 to
5 -- what is this?

6 JUDGE WALLIS: Off the record for just a
7 minute, please.

8 (Discussion off the record.)

9 JUDGE WALLIS: We're back on the record.

10 MR. GOLTZ: It's the next to the last page
11 of what's been pre-filed as Exhibit 4, GPE-4.

12 Q. And are you familiar with that? Have you
13 seen that before?

14 A. Not this one I don't believe.

15 Q. Okay. But --

16 A. No, I haven't seen this one.

17 Q. Would you accept, subject to check, that
18 that is a schematic of the various components of the
19 water utility with meters being indicated?

20 A. Well, it's kind of.

21 Q. It's kind of. Okay. Let me then ask you
22 some specific questions related to that.

23 JUDGE WALLIS: Would there be any concerns
24 among counsel if we marked that document as an
25 exhibit?

00088

1 MR. GOLTZ: My only thought is that it's
2 going to become an exhibit later. I just -- it's
3 going to become an exhibit later assume, and then
4 it will become an exhibit twice is the only concern.

5 JUDGE WALLIS: Let's proceed then.

6 MR. GOLTZ: I have no problem just
7 referring to it as GPE-4.

8 JUDGE WALLIS: Very well.

9 MR. GOLTZ: And if it gets excluded later
10 on, then so be it.

11 Q. On the bottom row of boxes on that exhibit,
12 I see a number of boxes that indicate various resort
13 components?

14 A. Yes.

15 Q. And am I correct that there are meters to
16 every part of the resort?

17 A. Yes.

18 Q. Excepted from that would be employee
19 housing?

20 A. That's correct.

21 Q. Is there any reason why the consumption by
22 the resort cannot be accurately measured?

23 A. Part of the flow to the resort -- let's
24 see. Let me think. I'm going to have to think about
25 this just a minute.

00089

1 Q. That's fine.

2 A. There are houses on part of the meter tree
3 that are on the resort meter as well -- or on the
4 meters that go to the resort.

5 Q. And --

6 A. So those would have to be -- those are not
7 metered. The houses aren't metered. So they would
8 not -- the meter that meters the resort also meters
9 some of these -- the water also goes to some houses
10 that are coming off the same meter is what I'm trying
11 to say.

12 Q. I understand. And those would correspond to
13 which of the boxes on this chart, if you can tell?

14 A. It would be the meter that's on Cascade Way
15 that goes to the resort-condo satellite hall, that
16 meter.

17 Q. It's indicated in the chart as No. 8?

18 A. No. 7.

19 Q. No. 7. Okay.

20 A. That's one place.

21 Q. And there are non-resort residences that
22 are behind that meter?

23 A. Yes.

24 Q. And how many houses are there?

25 A. Two that I can think of right offhand.

00090

1 Q. And are those just normal residences?

2 A. Just residences, yes.

3 Q. Are there any other houses that are on --
4 that are behind the resort meters?

5 A. Yes. There is one house that I can think
6 of that's behind a resort meter, one more.

7 Q. And which one is that?

8 A. That would be on villa three.

9 Q. So that's behind what's on this chart as
10 No. 3?

11 A. Yes. It would be a house.

12 Q. That would be behind the meter which is
13 labeled No. 3?

14 A. Yes.

15 Q. Okay. Are there any others?

16 A. At this point I can't think of any more.

17 Q. Okay. Other than that, is there any reason
18 why the -- let me go back. There's no meter to the
19 employee housing; is that correct?

20 A. That's correct.

21 Q. Other than the employee housing, is there
22 -- and those three houses, is there any reason why the
23 water usage to the resort cannot be accurately
24 measured by the meters in place?

25 A. No.

00091

1 Q. And do you read those meters?

2 A. Yes, I do.

3 Q. How frequently do you read them?

4 A. Once a month.

5 Q. And you've been doing that for how long?

6 A. Four years. Three years, four years, five
7 years. I don't --

8 Q. Now, since you've been with the resort
9 since 19 --

10 A. -- 81.

11 Q. -- 81, has the resort expanded?

12 A. Yes.

13 Q. Has it changed physically between the
14 beginning of the test year and today, meaning has it
15 expanded?

16 A. No.

17 Q. No new additions to --

18 A. No.

19 Q. -- the plant?

20 A. No.

21 JUDGE WALLIS: I am going to ask the
22 witness to wait until the question is concluded before
23 you start your answer.

24 The court reporter, even though she has
25 two hands, needs both of them to take each person,

00092

1 and it is hard for her when we step on the remarks of
2 the prior speaker.

3 So if both counsel and the witness would
4 please be conscious of that, try to be kind to our
5 court reporter just in case we have a long day
6 today, and I'm sure she'll appreciate that this
7 evening.

8 Q. Now, let me ask you now also about your
9 experience with the water utility over the years since
10 you came to start doing utility functions in late
11 1981. Has the system expanded since 19 -- since late
12 '81? Have there been new hook-ups since 1981?

13 A. Oh, yes.

14 Q. But there currently is a moratorium?

15 A. Correct.

16 Q. Okay. And have there -- when did -- when
17 was the last new hook-up; do you recall?

18 A. The last hook-ups that had already been
19 approved were made three months ago.

20 Q. And have there been any other times when
21 there have been moratoriums on the system other than
22 the present time?

23 A. No.

24 Q. Were there hook-ups on the system between
25 19 -- late 1981 and 1985; do you recall?

00093

1 A. Were there hook-ups on the system?

2 Q. Yes. Did you --

3 A. I don't recall.

4 Q. Can you describe to me the facilities or
5 the property of the utility. What in general terms
6 does it consist of?

7 A. The facility -- the property of?

8 Q. Of the water utility.

9 A. The water utility?

10 Q. Yes.

11 A. What does it consist of?

12 Q. Yes.

13 A. It consists of a raw water pump that pumps
14 water to the treatment facility with some storage
15 tanks.

16 Q. And the source of the water is Cascade
17 Lake?

18 A. That's correct.

19 Q. And the pump is then at Cascade Lake?

20 A. Yes.

21 Q. Okay. And --

22 A. And then --

23 Q. Go ahead.

24 A. Then it pumps to a treatment facility,
25 flows from there into some storage tanks, and then it

00094

1 runs throughout the distribution system into the area
2 that we cover.

3 Q. And so the plant of the utility consists of
4 the pumps, which are located at Cascade Lake?

5 A. Yes.

6 Q. And are they located on property owned by
7 the utility company?

8 A. No.

9 Q. They're owned by the state park?

10 A. The property is, yes.

11 Q. The property, the real property?

12 A. Yes.

13 Q. Okay. And you have an easement from the
14 state park?

15 A. Yes.

16 Q. And that is an easement in the name of the
17 utility or the resort?

18 A. I don't know that.

19 Q. Okay. And then you -- there are pipes that
20 are owned by the utility that flow from the park to
21 the treatment plant?

22 A. We pump from the park to the treatment
23 plant, yes.

24 Q. And the treatment plant is on land which is
25 owned by whom?

00095

1 MEMBER OF THE AUDIENCE: Nook and Cranny.

2 THE WITNESS: There you go. Nook and
3 Cranny.

4 JUDGE WALLIS: I am going to ask folks to
5 -- I know it's sometimes tempting to be helpful to the
6 witness, but the witness is sworn to tell the truth as
7 he knows it, and if he doesn't know it, even though
8 it may seem like an insignificant element, that may be
9 important. So we have to confine the witness'
10 testimony to his own knowledge and recollection as
11 best we can. And so, therefore, I'm going to ask
12 folks to not provide help for the witness.

13 THE WITNESS: It's Ben Marcin's property.

14 Q. Ben Marcin?

15 A. Marcin, M A R C I N, I believe.

16 Q. And does the utility have an easement from
17 Mr. Marcin?

18 A. Yes.

19 Q. And that is the name of the -- I mean, a
20 real property easement from Mr. Marcin?

21 A. I don't know.

22 Q. And is it --

23 A. That's -- I don't know.

24 Q. Okay. And then from the treatment facility
25 the water flows to various components of the water

00096

1 system's service area?

2 A. Yes.

3 Q. And these are in buried pipes generally?

4 A. Yes.

5 Q. And in addition to the pipes and the
6 facilities that you have mentioned, now, there's a
7 number of so-called master meters?

8 A. Yes.

9 Q. And are these the meters that are purported
10 to be described on the document that I showed you
11 earlier, attachment 4 to Mr. Eschenbrenner's testimony?

12 A. Something -- can I see --

13 Q. Sure. Did I take that from you? No.
14 It's right there. (Indicating.)

15 A. Okay. And the question again, please.

16 Q. Are the so-called master meters then
17 indicated on this exhibit -- first of all, are they
18 called master meters? Is that a proper term?

19 A. That would be an acceptable term, yes.

20 Q. Master meters as opposed to individual
21 meters at homeowner's establishments?

22 A. Yes.

23 Q. Those meters are owned by the water
24 utility?

25 A. Yes.

00097

1 Q. Now, also are there meters on any individual
2 homes in addition to this?

3 A. Yes, we have installed some.

4 Q. And how many have you installed?

5 A. Seven.

6 Q. And how long have they been in operation?

7 A. About four months now I believe.

8 Q. Now, is the pipe and the treatment -- now,
9 you've already testified about the treatment plant,
10 but the pipe -- the real property in which the pipe is
11 located, that belongs to whom?

12 A. The pipe -- the main lines are you
13 referring to? The pipe -- I don't understand the
14 question.

15 Q. Okay. The pipe that leads from the
16 treatment plant to the master meters --

17 A. Belongs to the utilities.

18 Q. The pipe does. And the land under which
19 the pipes go?

20 A. May be an easement.

21 Q. An easement to the utility?

22 A. To the utilities.

23 Q. Do you know that?

24 A. That the utilities have an easement?

25 Q. Yes.

00098

1 A. I know they have easements. I don't have
2 -- I don't know every easement.

3 Q. I understand. Okay. Now, the main purpose
4 of your testimony is to present your duties as
5 facilities manager, correct?

6 A. Yes.

7 Q. Now, you perform as facilities manager for
8 the sewer utility and all the other utilities?

9 A. Yes.

10 Q. And so you -- you described your duties on
11 JCC-2, which has been admitted as Exhibit 5; is that
12 correct?

13 A. Yes.

14 Q. And are those the duties which were
15 performed -- let me strike that and go back. During
16 the test year -- and are you familiar with what I mean
17 when I say test year?

18 A. Yes, sir.

19 Q. During the test year, were you the only
20 person that performed these duties which you have
21 listed?

22 A. No.

23 Q. And how many other people performed those
24 duties?

25 A. One other person.

00099

1 Q. And who was that?

2 A. Roy Light.

3 Q. Is he performing any of these duties now?

4 A. No.

5 Q. And Mr. Light is employed by whom now?

6 A. Eastsound Sewer.

7 Q. So he's not associated with the resort at
8 all?

9 A. No.

10 Q. Who performs these duties when you're on
11 vacation, assuming you get a vacation?

12 A. I haven't had one yet.

13 Q. Okay. False assumption on my part.

14 Would this be a reasonable description of
15 the duties that were performed by you and Mr. Light
16 during the test year?

17 A. Yes.

18 Q. And, to the best of your knowledge, is this
19 a reasonable description of the hours performed on
20 water utility matters during the test year?

21 A. Yes.

22 Q. So the number of hours performed during the
23 test year, yearly hours, would be approximately the
24 same as the number of hours per year that you will
25 perform, say, next year?

00100

1 A. I would hope so.

2 Q. Now, in the course -- and so currently you
3 go to the -- I see daily you monitor water quality --

4 A. Yes.

5 Q. -- at the treatment plant?

6 A. Yes.

7 Q. And that takes approximately three-quarters
8 of an hour every day?

9 A. Yes.

10 Q. So you work seven days a week?

11 A. Yes, I do.

12 Q. And so you go to the treatment plant every
13 day?

14 A. Yes, I do.

15 Q. Do you also go to the -- where else do you
16 go every day in the course of your job?

17 A. Sewer treatment facility, office.

18 Q. And I believe there's something called the
19 yard; is that true?

20 A. Yes.

21 Q. Describe the yard. I'm now curious.

22 A. Well, it's just an area that we store a
23 bunch of stuff.

24 Q. Okay. And does that have a backhoe there?

25 A. Sometimes it does, yes.

00101

1 Q. And do you go there every day?

2 A. To the yard?

3 Q. Yes.

4 A. Yes, because to get to the sewer ponds, I
5 have to go past the yard.

6 Q. Okay. Now, looking at Exhibit 6 to the
7 service area of the water utility -- and, by the way,
8 is that basically also the service area for the sewer
9 utility?

10 A. The sewer utility is a much smaller area
11 than that.

12 Q. Okay. What would be included or excluded,
13 whichever is easier?

14 A. Our sewer area is a localized area in the
15 resort proper area. It does not include the Vusario
16 or the Highlands. They're not in this area. And a
17 lot of the property in the resort area is not
18 included.

19 Q. So it is only within the resort?

20 A. Yes. The majority of it, yes.

21 Q. Okay. During the course of a week, would
22 you be around the entire utility service area?

23 A. Quite possibly, yes.

24 Q. And that's for the purpose of reading
25 master meters?

00102

1 A. I read master meters once a month, but I am
2 in the area more often than that.

3 Q. Just your normal day-to-day operations for
4 whatever --

5 A. Day-to-day operations.

6 Q. -- take you there?

7 A. (Nodding head.)

8 JUDGE WALLIS: I'm again going to ask the
9 witness to wait until the question is complete.

10 Q. And do you read the individual meters that
11 have been installed to date?

12 A. Once a month.

13 Q. Are there plans to install individual
14 meters?

15 A. Yes, there is.

16 Q. And will that be part of your job description
17 then, to read individual meters?

18 A. Possibly.

19 Q. Okay. During the test year, there was --
20 am I correct that there was -- well, you've already
21 testified there were two people that performed these
22 functions. Was one of them entitled certified
23 operator? Did you have job titles, you and Mr. Light?

24 A. We were both certified operators.

25 Q. And were you -- but were you the facilities

00103

1 manager?

2 A. Yes. I didn't have a title that -- that
3 title at that time. Director of maintenance.

4 Q. Okay. And do you believe that by
5 consolidating those two positions into your position
6 looking forward, that there will be some efficiency?

7 A. Yes.

8 Q. Okay. Over the past -- you stated you
9 haven't had a vacation yet. Do you have an
10 understanding or a contract that describes how much
11 vacation you will get?

12 A. Yes. I don't have a contract. I have
13 an understanding.

14 Q. And your understanding is that you will
15 indeed get a vacation?

16 A. I think so.

17 Q. And so you'll take, what, a couple weeks
18 off every year?

19 A. Yes.

20 Q. And who's going to pinch hit for you while
21 you're gone?

22 A. If I can, I will have Roy Light fill in for
23 me since he's still a certified operator, and he
24 knows the system.

25 Q. And could you estimate how many hours a

00104

1 week that you work currently?

2 A. A week that I work?

3 Q. Yes.

4 A. Sixty or eighty. Now, if -- that's work.

5 Okay?

6 MR. GOLTZ: Excuse me for one second while

7 I track something down.

8 I don't have any other questions.

9 JUDGE WALLIS: Off the record for just a
10 moment.

11 (Discussion off the record.)

12 JUDGE WALLIS: Back on the record.

13 Mr. Lundgaard?

14

15 CROSS-EXAMINATION

16 BY MR. LUNDGAARD:

17 Q. Mr. Cavalli, you recognize the map of --
18 the large map that has been put up here in the
19 foreground of the meeting room?

20 A. Yes.

21 Q. And do you recognize that the dark bold
22 line encompasses the service area? The line I'm
23 following, is that the service area within there?
24 (Indicating.)

25 A. Yes.

00105

1 Q. And you're talking of the service area of
2 the water system; is that correct?

3 A. Yes.

4 Q. And there is a difference between the
5 service area of the water system and the service area
6 of the sewer; is there not?

7 A. There is a difference between the water
8 area service area?

9 Q. The location -- I'm asking you if there
10 is -- is the sewer -- do you provide sewer system
11 services to all of the areas in the bold area of the
12 water system?

13 A. I don't know that we do.

14 Q. Okay. And I wasn't sure if you were
15 implying that Vusario and the Highlands systems are
16 within your -- within the service area that is
17 outlined in the dark line.

18 A. No. They're both --

19 Q. They're both outside of the service area?

20 A. Yes.

21 Q. And you're familiar with the fact that
22 they get their water from the water system by reason
23 of contracts or agreements?

24 A. Yes.

25 Q. And generally would the Vusario area be

00106

1 above this dotted line that's an open area as shown on
2 this exhibit?

3 A. I don't know.

4 Q. Okay. Are you familiar with the water
5 system plan?

6 A. Somewhat familiar, yes.

7 Q. And the exhibit that is attachment 1 to Mr.
8 Eschenbrenner's testimony that you looked at, Exhibit
9 4, that map, do you recognize that that map came from
10 the water system plan -- no, excuse me. I'm referring
11 -- not the map.

12 The chart of all of the locations of the
13 meters, attachment 1 to Eschenbrenner's testimony,
14 Exhibit 4, do you recognize that as having come from
15 the water system plan?

16 A. I don't recognize it.

17 Q. Okay. You made a reference earlier to
18 being director of maintenance. Were you referring to
19 the resort when you described that title?

20 A. Yes, sir.

21 Q. And how long have you held that title?

22 A. Probably over the last -- in the last six
23 or seven years I would guess. I was the maintenance
24 supervisor -- yes, six or seven years.

25 Q. And do you continue to hold that title now?

00107

1 A. No.

2 Q. When did that change?

3 A. Two months ago I guess.

4 Q. So during the test year, you were the
5 maintenance -- the director of maintenance for the
6 resort?

7 A. Yes.

8 Q. In your pre-filed testimony, you state that
9 I am employed by Rosario Resort as facilities manager.
10 That was true then up until two months ago?

11 A. Excuse me?

12 Q. Your pre-filed testimony, which you said
13 was prepared under your supervision and direction --
14 and I assume you've read that before it was presented
15 to the Commission?

16 A. Yes. Uh-huh.

17 Q. And in it you state that, I am employed by
18 Rosario Resort as facilities manager?

19 A. Yes, sir.

20 Q. And is that an accurate statement?

21 A. Yes, I was.

22 Q. Until two months ago then?

23 A. Yes.

24 Q. And so when you referred to facilities
25 manager, you were referring to the resort facilities?

00108

1 A. Yes.

2 Q. Okay. Now, you say you've worked for the
3 resort since August, '81. Has that been continuous
4 since that time?

5 A. No.

6 Q. What period were you not working for them?

7 A. Somewhere in the '90 -- '89, '90.

8 Q. Okay. Now, you've stated that to your
9 knowledge there have been no other moratoriums other
10 than the current one. If I can refresh your memory,
11 wasn't there a moratorium in about 1984?

12 A. Yes. I was thinking about --

13 Q. For about two years?

14 A. I don't remember the length of time.

15 Q. Was that before the steel tanks were put
16 in?

17 A. Yes.

18 Q. Okay. And by reason of the steel tanks
19 being put in the moratorium was lifted?

20 A. Yes.

21 Q. When did the current moratorium start?

22 A. The current moratorium now?

23 Q. Yes.

24 A. I don't remember the date. It's been just
25 recently.

00109

1 Q. Now, during --

2 A. In the last year.

3 Q. Excuse me.

4 During the test year, did you keep a daily
5 log of your time and the jobs that you performed?

6 A. No.

7 Q. Did you put together any summary at the end
8 of the month?

9 A. No.

10 Q. How long have you been working seven days a
11 week?

12 A. Last two months.

13 Q. And prior to that, what was your normal
14 work load?

15 A. Six days a week.

16 Q. Okay. And who performed the functions on
17 the seventh day of testing and checking the treatment
18 plant?

19 A. Roy Light.

20 Q. Okay. To your knowledge have there been
21 any new subdivisions added to the water system since
22 '81 when you came on?

23 A. I don't know that answer.

24 Q. You indicated that it was approximately six
25 weeks ago that you last did some work for the resort?

00110

1 A. Approximately, yes.

2 Q. What was the nature of that work?

3 A. They had some electrical problems, and I
4 advised them on what they needed to do.

5 Q. Was it just a matter of giving advice, or
6 did you do the work or supervise the work?

7 A. No, I gave advice.

8 Q. Weren't you supervising the construction of
9 a new road that's going along up the hill in the
10 vicinity of the water line?

11 A. I was responsible for overseeing the
12 installation of our flow line to our generating plant,
13 yes.

14 Q. And as part of that, wasn't there a road
15 constructed there?

16 A. I was told that it was for the ditch for
17 the pipe.

18 Q. Isn't it actually a road leading up to the
19 area where the owner of the resort plans to build
20 additional condominiums?

21 A. You'd have to ask the owner that.

22 Q. Why would you need a road of that
23 substantial nature merely for the flume?

24 A. You got me. I don't have an answer.

25 Q. You're familiar with the line that comes

00111

1 from the Rosario Utilities facilities that services
2 the Highlands?

3 A. Yes.

4 Q. Okay. And are you -- do you recall what
5 the distance is from the meter on the utility property
6 to the -- to Horseshoe Highway?

7 A. I don't know. I could guess, but I don't
8 know offhand.

9 Q. Would it be fair to say that it's half a
10 mile to 3,000 feet?

11 A. Half a mile -- to the Horseshoe Highway
12 Road?

13 Q. Yes.

14 A. I would say less than half a mile.

15 Q. And where that line exists up to the
16 Horseshoe Highway, it's on resort property; is it
17 not?

18 A. Not to my knowledge.

19 Q. Whose property is it in your opinion?

20 A. I don't know. It's on an easement of some
21 type.

22 Q. And is that easement owned by the utility?

23 A. I don't know.

24 Q. Do you know that -- after the line crosses
25 Horseshoe Highway, do you know what the approximate

00112

1 distance is from there to the pump house and meter of
2 the Highlands?

3 A. Maybe another thousand feet. I'm guessing.
4 I don't know. It's just a guess.

5 Q. Just a guess. Okay. And when you refer to
6 the irrigation utility or system, you're referring to
7 the irrigation system that services the resort
8 grounds; is that correct?

9 A. That's correct.

10 Q. And is that generally provided by raw water
11 through the flume that you were describing?

12 A. That's correct.

13 Q. And was there a time recently when that
14 flume was damaged or washed out?

15 A. Yes.

16 Q. And did you provide water to irrigate the
17 grounds of the resort with potable water?

18 A. No, we didn't.

19 Q. How did --

20 A. I'm sorry. They did some.

21 Q. Okay. How long were you out of the raw
22 water, or how long was it before the flume was
23 repaired?

24 A. 90 days. I'm guessing. 90 days maybe,
25 120.

00113

1 Q. And do you recall when that occurred?

2 A. When what occurred?

3 Q. When the flume was out of service the 90
4 to 120 days, what period on the calendar was that?

5 A. It was repaired late the end of last month,
6 so it would have been prior to that three months.

7 Q. Are you familiar with the employee housing
8 area?

9 A. Yes.

10 Q. Would you describe what is located there,
11 please.

12 A. There is a modular employee housing unit.

13 Q. How many living quarters are there in
14 that modular?

15 A. I don't recall.

16 Q. What else is there?

17 A. There's three trailers.

18 Q. And they're each a living quarter?

19 A. I believe they are. I'm not sure right now
20 if they are or not.

21 Q. Any other living quarters there?

22 A. Not to my knowledge.

23 Q. And isn't it true that that area is not
24 metered?

25 A. That's true.

00114

1 Q. And that is part of the facilities of the
2 resort?

3 A. Yes.

4 Q. Isn't it also true that the fire station is
5 not metered?

6 A. Just like a lot of the other homes there.
7 The fire station itself is not metered, correct.

8 Q. And there are fire trucks -- the pump
9 trucks get their water there?

10 A. Not at the fire station, sir.

11 Q. Okay. Where is the hook-up that delivers
12 water to the sewage treatment plant?

13 A. The hook-up that delivers water to the
14 sewage treatment plant?

15 Q. Yes.

16 A. Is at the entrance to the utility track.

17 Q. Can you be more specific?

18 A. It's on the main line that is dumping down
19 from the treatment facility above the fire station
20 approximately 120 yards.

21 Q. And is that line metered?

22 A. No. Well, yes, in a sense it is now.

23 Q. What do you mean by now?

24 A. I fill a chlorine barrel every other day
25 with 30 gallons of water. I guess that could be a

00115

1 metering device.

2 Q. How long has that been going on?

3 A. Five months, six months.

4 Q. And prior to that it was unmeasured?

5 A. Correct.

6 Q. And what water do you provide to the sewer
7 from that line?

8 A. What -- what type water?

9 Q. What?

10 A. What water?

11 Q. What's the purpose of the water that you
12 provide to the sewer?

13 A. Right now it's just for -- we mix a
14 chlorine barrel, and we inject it into the -- our
15 outfall of the sewer plant.

16 Q. And again what was it prior to that, being
17 the only purpose?

18 A. That was it.

19 Q. Haven't --

20 A. Just for chlorine injection.

21 Q. Is there any dilution of the water that's
22 in the lagoons?

23 A. With the treated water?

24 Q. Yes.

25 A. No, sir.

00116

1 Q. With raw water?

2 A. Raw water, no, sir.

3 Q. When you indicate that you're currently
4 working 60 to 80 hours a week, I take it that's not
5 all for the water system; is it?

6 A. That's true.

7 Q. And is any of that work for the resort?

8 A. No.

9 Q. Is it also for the sewer system?

10 A. No.

11 Q. The 60 to 80 hours work you conceded that
12 that was not solely for the water system?

13 A. That's correct.

14 Q. What other functions do you perform during
15 -- have you been performing 60 to 80 hours a week?

16 A. Oh, I've got my own life that I work, too.

17 Q. Oh, okay. So you're not saying that that's
18 -- you're on payroll 60 to 80 hours a week?

19 A. No way.

20 Q. And how much time are you on the payroll of
21 the resort?

22 A. Forty hours a week is what I get paid for.

23 Q. And this yard you referred to, that's just
24 on your way -- you go through the yard to get to the
25 sewer plant?

00117

1 A. That's correct.

2 Q. So there's no special trip that you make to
3 the yard?

4 A. Normally?

5 Q. Normally.

6 A. Not unless I have to pick something up
7 there.

8 Q. You mentioned there have been some recent
9 hook-ups made?

10 A. Yes.

11 Q. Do you recall whether there was already a
12 meter box in place to those properties?

13 A. Meter box, no, sir. No meter box.

14 Q. Was the line already extended to the
15 property line of those properties?

16 A. No.

17 Q. What did -- the contractor who was laying
18 the pipe and digging the ditch from the house to the
19 property line, did he also dig the line to make the
20 connection?

21 A. No.

22 Q. Who did that?

23 A. I did.

24 Q. Okay. Is that always the case?

25 A. No.

00118

1 Q. So there are times when the contractors
2 will dig that?

3 A. Yes.

4 Q. And aren't there a substantial number of
5 connections or service lines that are already laid to
6 the property line on the system that were put in
7 presumably at the time that the water system was put
8 in place?

9 A. There may be. I don't know of any, and I
10 would have trouble finding them if there is.

11 Q. Aren't there a substantial number of meter
12 boxes that are already in place?

13 A. Yes.

14 Q. So if there is a meter box there, it would
15 -- wouldn't it be logical that there is already a
16 connection to that box?

17 A. Oh, I'm thinking of the ones that I've put
18 in. I don't know of any other meter boxes that are
19 there already that I know offhand.

20 Q. Okay. I would like to refer you to
21 Exhibit 5.

22 A. Yes.

23 Q. I think you've made it clear that that does
24 not represent your work during the test year?

25 A. That's correct.

00119

1 Q. Okay. During the test year, how many
2 education credits did you obtain?

3 A. I don't know offhand. I could check. I
4 don't know offhand. I have to have continuing
5 education units, and I maintain those to be certified.
6 So whatever it is to be certified is what I have.

7 Q. And you're required to have 18 within a
8 year period?

9 A. I don't know that for a fact.

10 Q. Well, looking at your exhibit under yearly,
11 you have education credits to maintain certification,
12 18?

13 A. Okay. Wait a minute. Education. Oh,
14 that's hours?

15 Q. I don't know. It's your exhibit.

16 A. It says time up there. Hours. Eighteen
17 hours.

18 Q. What do you understand that exhibit to
19 represent?

20 A. That represents I went to school for 18
21 hours.

22 Q. Does it in fact -- you've indicated this
23 was not a document that represents what you did during
24 the test year. This is more of a hypothetical or a
25 planned work for the future; is it not?

00120

1 A. I did this last year. It wasn't the test
2 year. The test year was a different year. I did this
3 last year.

4 Q. When you refer to last year, you mean in
5 1995 you did take 18 hours?

6 A. Yes, sir.

7 Q. This exhibit would indicate that you are
8 required to do that three times a year for a total of
9 54 hours per year. Is that really what is required?

10 MR. GOLTZ: Your Honor, I think there's
11 some misunderstanding of what that says. And just --
12 I'm sorry to interject, but it says including travel
13 time. So maybe we can get that clear.

14 MR. LUNDGAARD: That has nothing to do with
15 whether it's three times a year or not. It may affect
16 the 18 hours.

17 MR. GOLTZ: That's right.

18 JUDGE WALLIS: Does the witness have the
19 question in mind?

20 THE WITNESS: Eighteen hours is what I
21 spent. I don't have an answer for that.

22 Q. Okay. Did you prepare this exhibit, or was
23 it prepared by somebody else for you?

24 A. No, I assisted in preparing this exhibit.

25 Q. Who did you assist?

00121

1 A. I assisted the secretary.

2 Q. And the secretary being Chris?

3 A. Yes, sir.

4 Q. Now, when you -- you indicate that you
5 maintain and repair the diversionary -- maintain and
6 repair Cascade Creek diversionary aqueduct. Maintain
7 and repair. That really benefits the resort as well
8 as the utility; does it not?

9 A. It benefits the utility in that we need to
10 maintain that for our water rights.

11 Q. And don't you also receive your water
12 through the flume for the irrigation of the resort
13 area from that same place?

14 A. Yes, it would be.

15 Q. And isn't it also the source of water for
16 your hydro power?

17 A. Yes.

18 Q. So all of those systems would be benefitted
19 by that time?

20 A. Uh-huh.

21 Q. Likewise, the check and record dam
22 levels/structure, summer, three months and check and
23 record dam levels/structures/run-off in the off season
24 of nine months, and you have a total there of 42 hours,
25 those functions would also benefit the hydro plant and

00122

1 the resort irrigation system; would they not?

2 A. Anybody that could use the information it
3 would benefit.

4 Q. And really as far as the level of the lake
5 goes, you don't have much control over that; do you?

6 A. Yes, I do.

7 Q. How do you control it?

8 A. If I wanted to, I could lower it.

9 Q. If you wanted to, you could open a valve
10 and lower it?

11 A. That's correct.

12 Q. But that happens very infrequently; does it
13 not?

14 A. Yes.

15 Q. And there's an automatic overflow area, so
16 if the level gets too high, it just automatically runs
17 out, I guess, to the bay; isn't that correct?

18 A. That's correct.

19 Q. Yet it's your testimony that twice -- is it
20 just a matter of driving by that and observing that
21 it's functioning?

22 A. I'll take you sometime. No, it's not. You
23 have to get out. You have to walk up. The gauge is
24 on the inside of the dam.

25 Q. What difference does it make that it is on

00123

1 the inside of the dam?

2 A. It tells us how much water is running off.

3 If we want to calculate it, it lets us know how much

4 the lake is going down.

5 Q. How much is going over really doesn't --

6 what effect does that have on the utility?

7 A. (Shrugging shoulders.)

8 Q. Nothing, does it?

9 A. (No response.)

10 Q. You also indicate that you are taking -- I

11 take it you didn't have an answer for that last

12 question?

13 A. No.

14 Q. You're indicating that you take the copper

15 and the lead testing samples to a lab in Mount Vernon

16 and that you also take the VOC and SOC test to the lab

17 in Mount Vernon; is that correct?

18 A. I mail them.

19 Q. You mail those?

20 A. Uh-huh.

21 Q. All of those tests?

22 A. The lead and copper, yes, I do.

23 Q. Then on your second sheet of Exhibit 5,

24 subsection 2, where it says copper and lead testing,

25 twelve hours to test, seven hours travel to lab in

00124

1 Mount Vernon, that seven hours is inaccurate; is it
2 not?

3 A. That's correct.

4 Q. Correct, it is inaccurate?

5 A. That's correct.

6 Q. I'm not sure we're on the same wavelength.

7 I thought you just told me --

8 A. Yes, I mail them. It didn't take seven
9 hours to deliver them. I'm sorry.

10 Q. And you mail the bacteriological testing?

11 A. Yes.

12 Q. And if you were to -- was there a time when
13 you were mailing the VOC and SOC test?

14 A. Yes. No. I'm sorry, mailing? You said
15 mailing?

16 Q. Yes.

17 A. No, I've always delivered those.

18 Q. Are you aware that other water systems mail
19 those in?

20 A. Yes, I am now.

21 Q. And so are you planning to now mail those
22 in and avoid that extra seven hours?

23 A. That's possible.

24 Q. Okay. You show the VOC testing to occur
25 four times a year. Haven't you been given at least a

00125

1 partial waiver by DOH so that you only have to do that
2 once a year?

3 A. Yes.

4 Q. So that really ought to be eight hours
5 including travel time to the lab rather than
6 thirty-two?

7 A. Uh-huh.

8 Q. And that would be the same for the SOC and
9 the --

10 A. I have to look that up. I'm not -- I'm not
11 exactly familiar with that right offhand.

12 Q. During the test year, do you have an
13 estimate of the time that you spent working on sewer
14 treatment plant duties?

15 A. During the test year?

16 Q. Yes.

17 A. A mental one, but that's it. I don't have
18 anything written down, or at least I can't remember
19 it.

20 Q. Do you recall that there was submitted to
21 us your hours for the test year of 16 hours a week or
22 yearly hours of 1832 hours?

23 A. Okay. Is that --

24 Q. Do you recall that?

25 A. I don't recall that offhand.

00126

1 Q. Would you agree with that subject to check?

2 A. I would agree to check.

3 Q. Do you -- you say you read the meters once
4 a month?

5 A. Yes, sir.

6 Q. Do you recall then that you have been
7 reading the -- I'm looking for that chart. The meter
8 -- meter No. 7 says resort-condo satellite hall -- is
9 that satellite hall? I'm not sure if I understand
10 what --

11 A. Yes.

12 Q. And the laundry?

13 A. Yes.

14 Q. When did you last read that meter?

15 A. That meter has failed. I have to replace
16 that meter.

17 Q. And so that meter has not been operative
18 since when? Sometime in May?

19 A. Two months. I have the meter in. It will
20 be replaced.

21 Q. If there has been an outage or a break in
22 the line that has occurred, are you the person that's
23 contacted to repair that?

24 A. Yes.

25 Q. Would that be true in the test year as

00127

1 well?

2 A. Possibly.

3 Q. Under supervisory on your Exhibit 5, you
4 list contract work, nine hours a year. Would you
5 describe what that refers to.

6 A. If we have to do a road crossing, we would
7 contract that out.

8 Q. So what would take you nine hours of
9 somebody else performing a contract?

10 A. I would watch to be sure that it's done
11 correctly.

12 Q. And under coordination you have the
13 category of communication with administrative manager.
14 Are you referring there to the resort manager?

15 A. Yes.

16 Q. So you indicate that you spend two hours a
17 week communicating with the resort manager?

18 A. I had in the past, yes.

19 MR. LUNDGAARD: I have no further questions
20 of this witness.

21 I would move to strike Exhibit 2 on the
22 same grounds that I've previously stated, that he's
23 acknowledged this is not an indication of his tasks
24 during the test year.

25 He's further indicated that he did not --

00128

1 oh, I'm sorry. I said 2. It's JCC-2, but it's
2 Exhibit 5. And he's indicated that he did not keep a
3 log or keep any compilation of his time records for
4 the test year.

5 I think this exhibit is obviously
6 misleading in terms of representing the work that he
7 performed during the test year.

8 JUDGE WALLIS: Mr. Donahoe, Mr. Goltz, do
9 you want to make a response?

10 MR. DONAHOE: Yes, your Honor.

11 John Cavalli has worked for the resort in
12 several capacities for many years. He has his own
13 work habits. He's got a very good memory. He's got a
14 very good mind.

15 He's on the witness stand now trying to
16 answer to the best of his knowledge, and I think if he
17 had thought about it a little bit more, he would
18 understand the question a little bit better. I can't
19 respond to his -- obviously his talent in that area.

20 I think the main thing here is that Mr.
21 Cavalli did give estimates. He gave -- working with
22 the administrative manager Chris Vierthaler, he worked
23 diligently.

24 We worked in conjunction with the staff of
25 the UTC to, in our best manner possible, get an

00129

1 accurate description of his time spent on the water
2 division.

3 I think the fact that he did not keep daily
4 logs or in his mind -- or as he stated -- as he
5 testified a specific monthly summary does not preclude
6 the fact that he's very familiar with and knows pretty
7 much what he's doing every day.

8 And it's from that basis that the
9 worksheets and the estimates and, above all, the
10 presentation and testimony were prepared.

11 And I would submit it is in fact an
12 accurate description of what he has done in the past
13 as well as what, with only one person alone since Mr.
14 Light is no longer with the company, he will be doing
15 in the future.

16 So I oppose striking this from the record.

17 JUDGE WALLIS: Mr. Goltz.

18 MR. GOLTZ: Basically I have the same
19 response as to the last exhibit with one change.
20 This time I asked the question whether it reflected
21 the hours that he spent during the test year along
22 with Mr. Light, and he answered yes.

23 And then he also answered these were also
24 the duties and the hours that would be respectively in
25 effect even if -- we will propose some adjustments to

00130

1 this. We list these as -- I think I said pro forma
2 adjustments. I meant restating adjustments. But I
3 think this is a relevant document for all of these
4 reasons, so it should not be stricken.

5 JUDGE WALLIS: I believe that the
6 circumstances are analogous to the earlier exhibit. I
7 believe it is relevant, he is sufficiently qualified,
8 and the purposes for which it is offered are clear,
9 and it purports to be an accurate representation of
10 the circumstances at that time, and consequently I'm
11 going to deny the objection and receive Exhibit 5 for
12 identification.

13 (Admitted Hearing Exhibit 5.)

14 JUDGE WALLIS: And let me ask if there is
15 anything further for this witness?

16 MR. GOLTZ: I have a few quick follow-up
17 questions.

18 JUDGE WALLIS: Very well.

19

20 RE-CROSS-EXAMINATION

21 BY MR. GOLTZ:

22 Q. First of all, Mr. Cavalli, just a side
23 comment. I think you deserve a vacation.

24 A. Thank you.

25 Q. Second, referring to the map that's been

00131

1 admitted as an exhibit, you may have misstated
2 something. I wanted to clarify it.

3 Referring to the map, what is zone five
4 up in the upper, right-hand corner, not within the
5 solid line but within what appears to be some sort of
6 a dashed and dotted line, is that the area of the
7 Vusario Maintenance Corporation?

8 A. I believe that is.

9 Q. And Vusario Maintenance Corporation is
10 served by the water utility; is it not?

11 A. Yes.

12 Q. As is the Rosario Highlands Association,
13 which is indicated on the map as zone 3 and zone 4?

14 A. Yes.

15 Q. Now, regarding the irrigation utility --

16 A. Yes.

17 Q. The irrigation water is used for the
18 landscaping irrigation needs of the resort?

19 A. Yes, sir.

20 Q. And that is the only purpose for which it
21 is used? Let me -- that's not the question I wanted
22 to ask. Are there -- the landscaping needs of the
23 resort are only served by the irrigation utility with
24 the exception of the time when there was some treated
25 water being pumped out?

00132

1 A. That's correct.

2 Q. And you described that in response to
3 questions from Mr. Lundgaard?

4 A. Yes.

5 Q. Now, in addition to the rooms and the
6 restaurant at the resort, there is a marina?

7 A. Yes, sir.

8 Q. And that uses some water?

9 A. Yes.

10 Q. And that water is provided by the water
11 utility?

12 A. Part of it is provided by the hydro -- or
13 how would I say it? The water -- the grounds water,
14 the irrigation water. It's non-potable.

15 Q. But there is also potable water --

16 A. Yes.

17 Q. -- that is available at the marina?

18 A. Yes, sir.

19 Q. And there is -- there are also -- is there
20 one swimming pool or two at the resort?

21 A. Three.

22 Q. There's three. And the source of that
23 water is what?

24 A. Treated water.

25 Q. And is there one restaurant or --

00133

1 A. I have a correction to your last question.
2 Two treated with treated water, one with non-potable
3 water.

4 Q. Is that the kid's pool?

5 A. Yeah. Once it's chlorinated -- no.

6 Q. How many restaurants are there at the
7 resort?

8 A. Two. Two. Yes, two.

9 Q. There is one inside the mansion?

10 A. Yes.

11 Q. And there is one exterior from the mansion?

12 A. That's correct.

13 Q. And those are both supplied by what utility?

14 A. The water utility.

15 Q. Okay. Referring to your list of duties,
16 there is some confusion about the 18 -- about the
17 education credits --

18 A. Yes.

19 Q. -- to maintain certification?

20 A. Yes.

21 Q. Am I correct that that was 18 hours, three
22 times a year, for a total of 54 hours, and that time
23 included travel time to GRCC, which I assume is Green
24 River Community College?

25 A. I have to check that. It doesn't look

00134

1 right to me. I don't have an answer for that.

2 Q. You mean --

3 A. We were going to Lynn Benton Community
4 College in Oregon, but now we're going to go to Green
5 River Community College.

6 Q. I see.

7 A. That's where I had been going to class.
8 That's where classes were held.

9 Q. Okay. And how many hours of class, not
10 including travel time, are you required to have a year
11 to maintain certification?

12 A. I need CEU's. So I can do a number of
13 classes a year to maintain the C -- the credits.

14 Q. CEU means?

15 A. Continued education units. And I have to
16 maintain so many units. If I can get a three day
17 class, 18 hours total, which normally ends up being
18 -- well, that's another story. So I try to go to
19 continuing education classes once a year, and if I
20 miss one, then I got to lump them together and do
21 them in a big class.

22 Q. But do you have a yearly hourly requirement?

23 A. Yes.

24 Q. And what is that yearly hourly requirement
25 for credits?

00135

1 A. I believe it's one CEU a year, three for
2 three years. I don't have the correct answer. I'm
3 talking off of --

4 Q. I don't want to hear CEU's. I want to hear
5 hours.

6 A. Eighteen hours a year.

7 Q. Eighteen hours of class a year?

8 A. Right.

9 Q. Okay. So the hourly estimate here would
10 include the hours plus the travel time?

11 A. It should, yes.

12 Q. And those classes are not available on
13 Orcas Island?

14 A. No, they're not.

15 Q. Is the nearest place that you're aware of
16 Green River Community College?

17 A. Yes.

18 Q. When you refer to the administrative
19 manager in this exhibit, to whom are you referring?

20 A. Where on the exhibit? Excuse me.

21 Q. It's under coordination?

22 A. Oh, okay. That would be -- that would have
23 been the general manager. Excuse me. It says
24 administrative manager?

25 Q. Yes. Is that --

00136

1 A. That would be Chris Vierthaler.

2 Q. So the administrative manager of the
3 utility?

4 A. Yes. Yes. I'm sorry.

5 Q. The last question is: You testified that
6 you are kind of all over the area that the utility
7 services in the course of a week, and you've been
8 doing this for a number of years. So would you say
9 you're quite familiar with the terrain and the area?

10 A. Somewhat familiar, yes.

11 Q. And if a customer had a problem with a
12 pipe, a leak, pressure and called up, in general
13 would you be fairly familiar with where that customer
14 is located despite the customer's name?

15 A. Possibly.

16 Q. And familiar with the house specifically?

17 A. More than likely.

18 Q. And the conditions of the terrain around
19 that house?

20 A. Uh-huh.

21 MR. GOLTZ: I have no further questions.

22 Wait.

23 Q. Do you know how long you've been serving
24 Vusario and Highlands?

25 A. Ever since I've been here.

00137

1 Q. So they've been a customer of the water
2 utility every since you've been here?

3 A. Yes, sir.

4 Q. And have you ever had service problems with
5 them that you've been called upon to maintain?

6 A. Not really maintain. They've asked some
7 questions sometimes --

8 Q. And so some of your time --

9 A. -- for some assistance, yes.

10 Q. So some of your time is spent dedicated to
11 them?

12 A. A small amount. If they need help, I would
13 certainly help them.

14 Q. But they are referred to as bulk users?

15 A. Yes, sir.

16 Q. And that's because the pipes behind their
17 meters are owned and operated by their respective
18 subdivisions?

19 A. Yes.

20 Q. And other than that, is there any
21 distinction between them and the other residential
22 properties within the utility's service area?

23 A. Not to my knowledge.

24 Q. Okay. Basically are they all single family
25 dwellings in the Highlands and Vusario subdivisions?

00138

1 A. I believe they all are.

2 Q. And so they're very -- are they distinctive
3 in any other way from the general Rosario residential
4 area?

5 A. No.

6 Q. They aren't just cabins or anything up
7 there?

8 A. No. No.

9 Q. So they're full-time residential units?

10 A. I believe so. All the ones that I know of.

11 Q. And so they are -- except for the fact
12 that they're bulk users, they're served the same way
13 that the other residential areas are served?

14 A. Yes, sir.

15 MR. GOLTZ: I have no further questions.

16 JUDGE WALLIS: Mr. Donahoe?

17 MR. DONAHOE: I know we're all in a hurry.
18 I just have a couple, please.

19

20 REDIRECT EXAMINATION

21 BY MR. DONAHOE:

22 Q. Mr. Cavalli, you mentioned at the beginning
23 of your testimony that as your testimony is stated
24 -- excuse me, that you worked for Rosario Resort. I
25 would ask if that is a correct statement, or was it an

00139

1 error that you work for Rosario Resort, or do you work
2 for Rosario Utilities?

3 A. I work for Rosario Utilities.

4 Q. All right. The question was about the
5 flume being out of service. Was the flume in service
6 over the 4th of July of this year, the long weekend?

7 A. I'm trying to remember. Yes, I believe it
8 was back in service.

9 Q. Is it correct to say that it was not too
10 many days prior to the 4th of July that you cut the
11 line in preparation for the excavation?

12 A. I believe it was. I don't remember.

13 Q. You didn't cut it a month before the 4th of
14 July?

15 A. No.

16 Q. Did you cut it two weeks before the 4th of
17 July, or was it just before the 4th of July?

18 A. I have to go back over some dates. I don't
19 remember.

20 Q. Fine. Do you recall a meeting between
21 myself and John Thompson when I rushed to Rosario on
22 July 15th down by the hydro plant and where we looked
23 at the line which had been interfered with because you
24 found out that the flume was cattywampus?

25 A. Yes. Yes.

00140

1 Q. Was that approximately a couple of weeks
2 into the work by -- work with -- was that -- I believe
3 I said -- I hope I said two weeks into the work that
4 Island excavating and John Thompson were involved
5 in the project? And the answer was?

6 A. Yes.

7 Q. Do you recall a meeting with myself and
8 John Thompson on the 16th, the next day after we
9 started that work, to find the wandering flume line,
10 where it was decided to go up -- we had to go --
11 continue up the road because we could not locate the
12 line, and that involved the destruction of some rock
13 and some woods?

14 A. Yes, I remember that.

15 Q. That was quite a busy day, as I recall
16 myself. Do you recall whether or not the line was
17 finished at that time, on that day, we completed the
18 line on that day.

19 A. The last day that --

20 Q. Which was the 16th, when you and I were
21 personally on the job.

22 A. Yes.

23 Q. All right. So basically if you take that
24 time frame just before the 4th, and you -- until the
25 16th of July, those were 22 days that the line was out

00141

1 of service?

2 A. I would think that would be pretty accurate.

3 Q. I'm asking that question, because I think
4 you had indicated it might have been out of service 90
5 days.

6 A. Oh, no.

7 Q. And I don't think that was correct. I
8 wanted to make sure that that was clarified.

9 Next to the last question. Are you a
10 salaried employee of Rosario Utilities?

11 A. Yes, I am.

12 Q. And does that mean that you're not an
13 hourly worker?

14 A. That's correct.

15 Q. Does that mean you're exempt from a 40 hour
16 week?

17 A. Yes.

18 Q. And that means that your estimate earlier
19 of 60 to 80 hours a week is in fact what you do work --

20 A. That's --

21 Q. -- on seven days a week?

22 A. Yes, it can be. I try not to work that
23 many, but it can be.

24 Q. Well, I understand. But I wanted it to be
25 cleared up, because I think there's some confusion on

00142

1 the part of Mr. Lundgaard, because there are 168 hours
2 in the week, and since you only work 70, that gives you
3 98 hours to be at home. I just want to clear that up.

4 A. That's correct.

5 Q. I think there was a misunderstanding.

6 And, lastly, two things, please. In the
7 exhibit that is referred to that you outlined your
8 time, it was stated earlier -- and you have testified
9 that that was worked on between yourself and the
10 administrative manager.

11 And would you say it's a correct statement
12 that those hours that you relate -- that are stated
13 there are directly related to the water division only
14 and do not relate to work that you do on the flume or
15 on the sewer?

16 A. The flume meaning the flume line?

17 Q. Yeah.

18 A. That's correct.

19 Q. All right. And this was based upon the
20 fact that we together as a utility were cooperating
21 with Staff to convert from our -- what was done
22 before, which has been entered in testimony, with
23 three or four people in the resort proper using pro
24 rata pieces of their time going over to the two of
25 you, Mr. Vierthaler and yourself, as permanent

00143

1 employees?

2 A. (Nodding head.)

3 Q. Okay. The last question --

4 JUDGE WALLIS: I'm sorry. We need to have
5 the witness state the answer.

6 THE WITNESS: Yes.

7 Q. Okay. The last question. The dam itself,
8 the water level in the lake that you said that you
9 spent some time measuring, is it true that your
10 responsibilities also include reporting information on
11 these levels to the Department of Ecology?

12 A. I don't know that answer. I don't have an
13 answer.

14 Q. All right.

15 A. I haven't --

16 Q. That's fine. You take the measurements for
17 some reason. Who do you turn those measurements in
18 to?

19 A. I fill out paperwork with the measurements
20 on them.

21 Q. And do you have any idea where they go?

22 A. No, I don't.

23 Q. Would the administrative manager know that?

24 A. Possibly.

25 MR. DONAHOE: Okay. Thank you. I have no

00144

1 further questions.

2 JUDGE WALLIS: Is there anything further,
3 Mr. Lundgaard?

4 MR. LUNDGAARD: Yes.

5

6 RECROSS-EXAMINATION

7 BY MR. LUNDGAARD:

8 Q. If you recall there are really four places
9 where food is served in the resort area; is there not,
10 meaning the resort itself, the lodge or the large
11 lodge area, the cafe, and isn't there also food served
12 in the marina in two places where there's a bar and
13 then a restaurant in the marina? Or there is food
14 served in a bar in the resort, and then there's also
15 food served at the marina?

16 A. The marina has a restaurant, yes.

17 Q. Okay. And then food is served in the
18 mansion?

19 A. There's two rooms in the mansion, but it's
20 all served from the same place.

21 Q. And then there is also the Discovery House?

22 A. Yes.

23 Q. And instead of the two that you responded
24 to Mr. Goltz, there's actually three or four if you
25 include the bar and the mansion?

00145

1 A. I don't know if they serve food in the bar
2 or not.

3 Q. You don't know when the flume was first out
4 of service; do you?

5 A. Not exactly. I might be able to go over
6 some paperwork I have, but I don't have an answer. I
7 mean, exactly the date, I can't give you the date.

8 Q. And your first comment to me or testimony
9 to me was it was 90 to 120 days?

10 A. Yes. It wasn't out 90 to 120 days, but I
11 don't have an accurate number. That was my mistake.
12 I'm in trouble.

13 Q. Now, the marina has potable water and
14 non-potable water at the present time?

15 A. Right.

16 Q. How long has it had non-potable water?

17 A. Sixty days.

18 Q. So that prior to that --

19 A. I'm guessing. It was supposed to have
20 been. Yes.

21 Q. Prior to that it was only potable water?

22 A. Yes.

23 Q. So if they washed down their boat, they
24 were using potable water?

25 A. Right.

00146

1 MR. LUNDGAARD: That's all. Nothing
2 further.

3 JUDGE WALLIS: Is there anything further?
4

5 RECROSS-EXAMINATION

6 BY MR. GOLTZ:

7 Q. There are two kitchens, correct, at the
8 resort?

9 A. Two kitchens, yes.

10 MR. GOLTZ: Nothing else. I have no
11 further questions.

12 JUDGE WALLIS: Anything further?
13

14 RECROSS-EXAMINATION

15 BY MR. LUNDGAARD:

16 Q. I hate to belabor the point, but isn't
17 there a kitchen in the marina for that restaurant?

18 A. Yes.

19 Q. And there's one at the mansion?

20 A. Yes.

21 Q. And there's one at the other cafe?

22 A. What other cafe?

23 Q. Discovery house.

24 A. They don't have a full kitchen there.

25 MR. LUNDGAARD: Okay.

00147

1 JUDGE WALLIS: Now is there anything
2 further?

3 (No audible response.)

4 JUDGE WALLIS: Last chance. It appears
5 that there is not. Thank you, very much for appearing
6 today. You're excused from the stand.

7 At this time let's be off the record for a
8 moment to discuss scheduling.

9 (Discussion off the record.)

10 JUDGE WALLIS: Back on the record.

11 We've decided that we will resume at
12 approximately 2:15.

13 (Lunch recess at 1:23 p.m.)

14

15

16

17

18

19

20

21

22

23

24

25

00148

1

AFTERNOON SESSION

2

(2:47 p.m.)

3

4

(Marked Hearing Exhibits 7, 8, 9, 10,

5

and 11.)

6

JUDGE WALLIS: Let's be back on the record,

7

please, following our noon recess.

8

The respondent is calling Mr. Drahn to the

9

stand at this time.

10

Let me mark these exhibits for

11

identification. Mr. Drahn's testimony is Exhibit 7

12

for identification. A packet including a letter dated

13

August 7th on letterhead of MPD and signed by Daniel

14

S. Drahn, PE is marked as Exhibit 8 for identification.

15

A document designated DET-9 is marked as Exhibit 9 for

16

identification. DET-4 is marked as Exhibit 10 for

17

identification. And DET-3 is marked as Exhibit 11 for

18

identification.

19

Whereupon,

20

DANIEL S. DRAHN,

21

having been first duly sworn, was called as a witness

22

herein and was examined and testified as follows:

23

JUDGE WALLIS: Now Mr. Donahoe.

24

25

00149

1 DIRECT EXAMINATION

2 BY MR. DONAHOE:

3 Q. Would you please state your name and
4 business address for the record.

5 A. My name is Daniel S. Drahn, and I work with
6 Metke, Parrish and Drahn, P. O. Box 897, Friday
7 Harbor, 98250.

8 Q. Do you have a copy of the exhibit that
9 we've just referred to containing your pre-filed
10 testimony which has been marked for identification?

11 A. Yes.

12 Q. If I were to ask you the questions stated
13 in this exhibit, would your answers be the same as the
14 answers set forth in the exhibit?

15 A. Yes, they would.

16 Q. Were these exhibits prepared by you or
17 under your supervision?

18 A. Yes.

19 Q. To the best of your knowledge, are these
20 exhibits correct and accurate?

21 A. Yes, they are.

22 MR. DONAHOE: I move for the admission of
23 these exhibits.

24 JUDGE WALLIS: By that, are you referring
25 to Exhibit 7 or all of the exhibits that have been

00150

1 identified?

2 MR. DONAHOE: The exhibits that are
3 contained in his testimony in addition to those four
4 that we asked to be included in Mr. Drahn's testimony.

5 JUDGE WALLIS: Let's be off the record for
6 just a minute.

7 (Discussion off the record.)

8 JUDGE WALLIS: Let's be back on the record.
9 It's been clarified that the testimony does
10 not contain additional exhibits, so let me ask if
11 there are objections to Exhibit 7 for identification?

12 (No audible response.)

13 JUDGE WALLIS: Let the record show there is
14 no response, and Exhibit 7 is received.

15 (Admitted Hearing Exhibit 7.)

16 MR. DONAHOE: The witness is available for
17 cross-examination.

18 JUDGE WALLIS: Mr. Donahoe, do you want to
19 offer the other exhibits at this time, the letter and
20 the formal attachments to the other pre-filed
21 testimony?

22 MR. DONAHOE: Yes, your Honor, I would like
23 to offer for this testimony DET-9, DET-4, and DET-3,
24 as well as the letter dated August 7th, which I
25 believe has been identified as Exhibit 8.

00151

1 JUDGE WALLIS: Mr. Drahn, as to those
2 documents, did you prepare those, or were they
3 prepared under your direction or supervision?

4 THE WITNESS: They all appear to be
5 documents that were transmitted directly to Dan
6 Donahoe by MPD on MPD letterhead or the spread sheet
7 is very similar to a spread sheet that we've talked
8 about, and I checked to make sure that that was
9 identical.

10 JUDGE WALLIS: To the best of your
11 knowledge and belief, those are documents from your
12 firm then?

13 THE WITNESS: Yes.

14 JUDGE WALLIS: On that basis, is there any
15 objection to those documents?

16 THE WITNESS: No.

17 MR. LUNDGAARD: No.

18 JUDGE WALLIS: That's a question for
19 counsel.

20 JUDGE WALLIS: There are no objections, and
21 Exhibits 8 through 11 are received.

22 (Admitted Hearing Exhibits 8, 9, 10,
23 and 11.)

24 JUDGE WALLIS: And the witness is available
25 for cross-examination.

00152

1 CROSS-EXAMINATION

2 BY MR. GOLTZ:

3 Q. Good afternoon.

4 A. Good afternoon.

5 Q. Did you work on the water system plan which
6 was prepared for the water utility and submitted to
7 the Department of Health by Rosario Resorts?

8 A. Yes, I was the project manager for
9 assembling the water system plan.

10 Q. And there is a term that is being -- that's
11 been used in your pre-file testimony. Well, it's in a
12 number of pre-file testimonies. R.E.U. Can you
13 define what that term means.

14 A. I understand that to mean the residential
15 equivalent unit. Or if you have a bulk metered use,
16 you divide that bulk metered use by some value that
17 you assign as one E.R.U., and that tells you how many
18 houses worth of water went through that meter.

19 Q. But I also see it called E.R.U. in some
20 places. Is there any difference between those?

21 A. There is no difference. For a time the
22 Department of Health preferred to use E.R.U. rather
23 than R.E.U. That would be equivalent residential
24 unit.

25 Q. And is the purpose of -- would one

00153

1 calculate that -- if one were giving water to a group
2 of single family dwellings, would there be a need to
3 make that calculations?

4 A. Usually not. E.R.U.'s are generally system
5 specific, in other words, from one water system to
6 another. You generally would calculate an E.R.U.
7 based on the use -- the average use that you find in
8 that system.

9 Q. But in order to make that calculation, you
10 have to -- you basically have to find a set of
11 residences and calculate the use by those residences,
12 and then you simply in effect try to calculate what
13 the equivalent is for those which are not residences?

14 A. Yeah.

15 Q. So you might use it for a commercial center
16 of some sort?

17 A. Yeah. On the Rosario water system, there's
18 two types of uses that would utilize the concept of
19 E.R.U. One is the commercial, which is the resort,
20 that goes through those master meters.

21 Q. Let me just interrupt you for just a
22 second. Is that the only commercial use within the
23 water system?

24 A. Yes. That's the only one that I'm aware
25 of.

00154

1 Q. Go ahead.

2 A. And, secondly, the bulk water purchase,
3 which would be two areas, the Highlands, Orcas
4 Highlands, and Vusario. Both those buy water through
5 a master meter. And so some of the discussion has
6 been about how to convert that master meter reading
7 into a number of residences.

8 Q. But why couldn't you simply count the
9 number of residences behind that master meter? Is
10 there something magical about the master meter that
11 makes -- all of a sudden you put in a master meter
12 serving individual residences, and then it's no longer
13 appropriate to go count the houses?

14 A. Typically when a utility sells water in
15 bulk either to a commercial user or to bulk water
16 purchasers, they actually use a rate that is based on
17 a per-gallon basis.

18 Q. I understand that. But so do single family
19 dwellings?

20 A. That's true.

21 Q. And so if you -- if I had a house next to
22 yours, and you were really more prudent with your
23 water use than I was, and I over-watered my lawn, and
24 I used twice as much water than you did, and we both
25 had meters, I mean, wouldn't the utility count us

00155

1 each as one, or would they count me as two and you as
2 one?

3 A. When you install residential meters, then
4 you no longer use E.R.U.'s or R.E.U.'s. At that point
5 each individual house becomes a metered use. But at
6 this point neither Rosario residential nor bulk water
7 purchase areas are metered individually.

8 Q. I understand why at Rosario you have to
9 calculate E.R.U.'s because there is no single family
10 dwellings there?

11 A. There's no metered single family dwellings.

12 Q. Right. And, as a matter of fact -- I mean,
13 what you're trying to do is make an apples-and-apples
14 comparison between the resort and this neighborhood of
15 single family dwellings that is also served by the
16 water utility?

17 A. Yes.

18 Q. And so it's appropriate, indeed necessary,
19 to have some sort of conversion and do E.R.U.'s to
20 compare usage by the resort with a group of single
21 family dwellings?

22 A. Yes, it's handy.

23 Q. Okay. And in the course of the water
24 system plan that you are project manager for, you
25 undertook that effort on behalf of the utility?

00156

1 A. No, that's not correct. The effort was
2 started for the resort in early '94, and the utility
3 was established in early '95.

4 Q. I understand. For the resort you undertook
5 to do that?

6 A. Yeah. Okay.

7 Q. And what you -- the raw material then that
8 you -- that -- the raw material for what was later to
9 become the water system plan is contained in part in
10 what has been admitted as Exhibit 9?

11 A. A portion of the back-up or the raw material
12 that went into trying to understand and analyze the
13 resort and the Rosario system as a whole fills a legal
14 box back at my office. But some of it ended up in the
15 appendix, some of the important pieces, yes.

16 Q. And then more recently there was a -- now,
17 did you personally make that E.R.U. calculation for
18 the water system plan?

19 A. I supervised the calculation for the water
20 system plan in '94, yeah.

21 Q. And could you turn to your Exhibit 9.

22 MR. DONAHOE: DET-9?

23 MR. GOLTZ: DET-9.

24 THE WITNESS: (Witness complies.)

25 Q. Does yours have a fax machine code at the

00157

1 top?

2 A. Yeah, it does.

3 Q. What is the date of that?

4 A. It says January 19th, 1994. And that's
5 an error.

6 Q. So when was this document prepared?

7 A. 7/30/96.

8 Q. You mean 7/29/96?

9 A. You're referring to a memo from me dated
10 7/30/96?

11 Q. No, I'm referring to a document that I
12 thought was DET-9.

13 JUDGE WALLIS: Let's be off the record for
14 a moment.

15 (Discussion off the record.)

16 (Remarked Hearing Exhibit 9.)

17 JUDGE WALLIS: Let's be back on the record,
18 please.

19 To clarify, during a brief period off the
20 record, it's been determined that Exhibit 9 is the
21 document that was pre-distributed to the parties. It
22 bears an exhibit number stamp dated July 29, 1996
23 and consists of a memo dated July 29, '96 from Dan
24 Drahn, two page document.

25 Mr. Goltz?

00158

1 Does the witness recall the question?

2 THE WITNESS: No, sir.

3 JUDGE WALLIS: Does Mr. Goltz recall the
4 question?

5 MR. GOLTZ: No. Let's just move on here.

6 Q. Was Exhibit DET-9, which has been admitted
7 as Exhibit 9, prepared by you?

8 A. Yes.

9 Q. And it was at the request of Rosario
10 Utilities?

11 A. Yes.

12 Q. And did you personally do the work --
13 pardon me. In Exhibit 9 you make two references to
14 two items. Reference one is the analysis in the water
15 system plan. And you're familiar with that work?

16 A. Yes. I supervised that calculation in late
17 '94.

18 Q. Okay. And you personally did the
19 calculation under reference two; is that true?

20 A. No. That was done by my partner, Tom Metke.

21 Q. But are you familiar with that?

22 A. Yes.

23 Q. And am I correct that essentially it's
24 simply based on updated calculations?

25 A. The difference --

00159

1 Q. New data I should say?

2 A. You're asking -- you're asking about the
3 difference between the water system plan --

4 Q. Yes.

5 A. -- R.E.U. calculation --

6 Q. Yes.

7 A. -- and the data?

8 Q. Yes.

9 A. When we looked at it, the difference
10 between R.E.U.'s between the two reports was only the
11 difference in the meter data. The '94 data differed
12 from the test year. And in general in the test year
13 residential use went up and resort use went down
14 according to that document.

15 Q. And the -- but the calculation for the
16 water system plan in your opinion was an accurate
17 one?

18 A. Yes.

19 Q. Okay. And you stand by that?

20 A. Yes. Yeah.

21 Q. Now, let me ask you this: In looking at
22 DET-9 or Exhibit 9, you say that it's based on 310
23 gallons per day residential unit; is that correct?

24 A. I looked at the 1994 data and the 1995
25 meter data and depending on what assumptions you make

00160

1 about unaccounted for water, which has been an issue --

2 Q. Which is what?

3 A. It has been discussed between engineers
4 over the past months. Depending on the assumption
5 that you make for unaccounted for water, if you give
6 a zero percent or a no allowance for unaccounted water
7 in the residential area, then in the 1994 year
8 residences used an average of 344 gallons per day per
9 connection. In 1995 that increased to 400 gallons
10 per day per connection.

11 Q. Okay. So the 310 figure is -- you have a
12 10 percent discount unaccounted for water?

13 A. Right. If you assume that there was a 10
14 percent unaccounted for water past the master meters.

15 Q. Past the master meters?

16 A. Right. Keep in mind that there's -- all
17 these residences on a string let's say, and there's a
18 master meter that is measuring a group of residences.
19 So these numbers that were calculated are from master
20 meters that pick up chains of residences.

21 So what I'm saying is unaccounted for water
22 would be water that passes a residential master meter
23 and yet is not used in the house.

24 Q. How do you know it's not used in the house
25 if the house itself is not metered?

00161

1 A. Well, I think you don't.

2 Q. Then why would you assume a 10 percent
3 unaccounted for water?

4 A. Systems that do meter typically track
5 unaccounted for water because it's the difference
6 between what they make and what they bill for in all
7 the meters.

8 And that will vary between 5 and 20 percent
9 from system to system and vary during the year,
10 because you've got losses related to treatment, like
11 backwash. And then inside the system you have normal
12 losses that would be like flushing for trying to clean
13 lines, construction, or fire draws from areas. All
14 that water would pass through a master meter, but it
15 would not be used in the home. And also leaks.

16 Q. So this unaccounted for water is on the
17 residential side of the master meter or the resort
18 side of the master meter?

19 A. The unaccounted for water that we're
20 talking about is we know how much water goes through
21 the residential master meters, but we don't know how
22 much beyond that point. Because the residences are
23 not metered, we don't know how much would be lost or
24 unaccounted for at this time.

25 Q. So the 344 gallons per day is that which is

00162

1 actually measured at the master meters?

2 A. Right, residential master meters.

3 Q. And the resort master meter as well or not?

4 A. No.

5 Q. So your calculation in 1994 did not measure
6 water from the resort -- or, pardon me, going to the
7 resort?

8 A. Yes, it did.

9 Q. And how was that measured?

10 A. The resort use is tracked using six master
11 meters. Those are added together to determine the
12 resort use. It's already been discussed that there
13 are a couple of houses that served beyond the resort
14 master meters.

15 Q. And did you account for those in your
16 1994 cal --

17 A. No, we ignored those residences.

18 Q. Did you ignore those as well in your 1996
19 calculations?

20 A. Yes.

21 Q. The 300 and -- and so am I correct then the
22 R.E.U.'s for the resort are simply taking the sum
23 of the water that goes through the six master meters
24 to the resort and divide that total -- you divide 344
25 into that total?

00163

1 A. If you're talking about 1994, you would
2 take the total that went through the master meters and
3 divide it by 310, because in the water system plan,
4 we assumed that there was a 10 percent loss across the
5 board, in other words, a 10 percent unaccounted for
6 water in residential, a 10 percent unaccounted for
7 water in the commercial, a 10 percent unaccounted for
8 water in bulk purchase areas.

9 So to do that calculation in 1994, you
10 would use -- you would divide the adjusted meter
11 readings, in other words, the meter readings less 10
12 percent, divide that by 310 to get an R.E.U.

13 Q. Or another way to do it would be to not
14 subtract unaccounted for water and divide by 344?

15 A. Exactly.

16 Q. And would that give you the same result?

17 A. Yes.

18 Q. Okay. So in 1994 were there any assumed
19 leakages in the system other than what you described
20 to me as potential leakages and unaccounted water?

21 A. In 1994 we assumed a 10 percent across the
22 board unaccounted for water. In other words, all
23 three types of users, being bulk water, commercial,
24 residential, we assumed all those.

25 Q. That's all the user side of the master

00164

1 meters?

2 A. (Nodding head.)

3 Q. Is there anything on the utility side of
4 the master meters that impacted that?

5 A. We also -- off the top we took 3 percent or
6 3.8 percent for backwash, which was an average of
7 tracked backwashes that we watched through the
8 previous year.

9 Q. That's subtracted off the top, so in effect
10 it's allocated through all user types?

11 A. Right.

12 Q. And that same system was used for your 1996
13 data?

14 A. For the 1995 test year are you talking
15 about?

16 Q. No. Your reference 2 in Exhibit --
17 your 1996 MPD Engineers Report, which is Exhibit 10,
18 DET-4.

19 A. The same technique was used. Similar.

20 Q. Except you didn't go through this little
21 drill with unaccounted for water?

22 A. In the '96 work, we did it exactly -- we
23 used another alternative and assumed a zero percent
24 unaccounted for water and then used the higher
25 residential, in other words, what actually came

00165

1 through the meter.

2 Q. If you had done the 10 percent unaccounted
3 for water, the result would be the same?

4 A. Yes.

5 Q. So am I correct that then based on the
6 major difference -- then you came up with different
7 numbers for R.E.U.'s for the resort in 1996 than you
8 did in the water system plan?

9 A. Yes.

10 Q. And essentially the reason for that is the
11 residential use went up?

12 A. Yes. Per the data of the test year,
13 residential use went up, and resort use went down
14 during the year.

15 Q. The resort use just went down by a little
16 bit; didn't it? In other words, isn't the main reason
17 that you have, I guess, a fairly significant difference
18 of numbers is that the residential use went up?

19 A. The drop in residential use was significant.

20 Q. You mean the increase in residential use?

21 A. No. Keep in mind that reference one has
22 already discounted 10 percent.

23 Q. I understand, without the discount of
24 344 gallons per day. In 1996 they're using 400
25 gallons per day.

00166

1 A. In reference one in the water system plan,
2 we calculated that the resort used 33,870 gallons per
3 day average during that year. And the note attached
4 to that says that it's already been discounted 10
5 percent for unaccounted for water.

6 Q. I was talking about residential use going
7 up, and you were talking about resort use going down.
8 Let's go to the resort. Go ahead.

9 A. Resort use going down over that period is
10 significant. It has dropped significantly.

11 Q. But the 10 percent unaccounted for water
12 system wide was 11,680 gallons per day; is that right?

13 A. Yeah. That would be 10 percent of the
14 total production less backwash.

15 Q. And roughly one third of that would be
16 presumably attributable to the resort?

17 MR. LUNDGAARD: Excuse me, Counsel. Which
18 exhibit are you referring to?

19 MR. GOLTZ: Nine.

20 JUDGE WALLIS: Off the record for a moment.

21 (Discussion off the record.)

22 JUDGE WALLIS: Let's be back on the record,
23 please.

24 Q. Referring to Exhibit 9, reference 1,
25 unaccounted for water, the figure is 11,680, correct?

00167

1 A. Correct.

2 Q. Approximately one third of that would be
3 attributable to the resort; is that correct?

4 A. Correct. It would be 3,380 gallons.

5 Q. So you would add that -- to make an
6 apples-to-apples comparison between reference 1 and
7 reference 2, you would have 36,000-plus-something use
8 by the resort?

9 A. 37,000-plus, yeah.

10 Q. 37,000-plus. Okay. And then you would
11 compare that to the 35,650 -- I believe that's 650 --
12 for the resort in reference 2?

13 A. Right.

14 Q. And that is the scope of the decrease --
15 wait -- the decrease in resort use?

16 A. Yes.

17 Q. Okay. And then the increase in residential
18 use is from 344 gallons per day to 400 gallons
19 per day on apples-to-apples comparison?

20 A. Yes.

21 Q. And those two items explain the difference?

22 A. Yes.

23 Q. Referring over now to Exhibit 10, which
24 is DET-4, that was prepared by your partner, correct?

25 A. Give me a second. Yes, it was.

00168

1 Q. Now, there your engineering firm used two
2 methods to get to the R.E.U. calculation for the
3 resort?

4 A. That's correct.

5 Q. And are both of these what you may term
6 standard methods for determining R.E.U.'s for a
7 commercial area?

8 A. Yes. Calculation one was based on the test
9 year meter data, and No. 2 was a check using
10 theoretical use values for both resort use and
11 residential use.

12 Q. And my question was: Are these both
13 standard in the engineering profession for calculating
14 R.E.U.'s?

15 A. Yes, I think so.

16 Q. The assumption to my last question was
17 there is some sort of a standard way of doing it. Is
18 this something that someone learns in engineering
19 school for example?

20 A. Probably not.

21 Q. Is there a textbook that describes standard
22 methods for doing this or -- this isn't just an MPD
23 idea; is it?

24 A. No. I think, of course, we're using our
25 experience, but it's -- I would say that it's standard

00169

1 because it would be accepted by the Department of
2 Health in their standard calculations of E.R.U.'s from
3 meter readings. And then also they would use those
4 references for a theoretical check I would say.

5 Q. But either one of these independently
6 could be a way to do it?

7 A. Yes. I think I would -- I would lean
8 towards using the actual meter readings.

9 Q. Now, let me ask you this: You mentioned
10 -- in your calculation No. 1 on Exhibit 10 you state
11 for the rooms, used 9,314 gallons. And those are
12 based on those meters which are upstream from the
13 various guest rooms at the resort?

14 A. That's a breakout of detail of some of the
15 six independent master meters used at the resort.

16 Q. Okay. And then restaurants refers to the
17 -- I think we've now established the restaurants
18 are associated with two kitchens at the resort?

19 A. Yes.

20 Q. Whatever number of restaurants that may be?

21 A. Yes.

22 Q. And the marina includes then this water
23 used at the marina?

24 A. The meter would pick up water used at the
25 marina restaurant facility, and also if people were to

00170

1 use potable water to wash their boats, that would go
2 through their master meter.

3 Q. And what about the pools, where do those
4 fall out in this?

5 A. I couldn't tell you without looking at a
6 plan and talking to John Cavalli.

7 Q. Now, referring down to calculation No. 2,
8 this measures waste water flows, typical waste water
9 flows from commercial sources. And I imagine this is
10 an EPA manual that makes some generalizations about
11 waste water flows at various types of commercial
12 establishments?

13 A. Yes.

14 Q. And you excerpted from that what the EPA
15 says is typical for a hotel and for a restaurant?

16 A. Yes.

17 Q. And for the hotel, they give an estimate
18 for a per-room use?

19 A. Yes.

20 Q. And is it EPA assumption that there is two
21 guests per room, or is that your assumption?

22 A. I would -- I don't know. I think it could
23 be either way. In the manual it could tell you what
24 to assume for a number of guests, or it's just as
25 likely that Tom Metke could have thought there might

00171

1 be two guests per room.

2 Q. But in either case, that was Mr. Metke's
3 best professional judgment as to what would be the
4 appropriate way to do it?

5 A. Yes. And he's been a water engineer in
6 this county for 17 years.

7 Q. And then now for the restaurant, apparently
8 the typical usage is 2.6 gallons per day per meal; is
9 that correct?

10 A. Right.

11 Q. And the 149 meals served at the restaurant,
12 that is -- how did he come to that figure; do you
13 know?

14 A. I don't know.

15 Q. What would be the typical way that a
16 competent engineer like Mr. Metke would have done
17 that?

18 A. To either call Dan Donahoe or the manager
19 and find out how many meals they serve a day.

20 Q. And so according to what Mr. Metke did,
21 that results in 387 gallons per day attributable to
22 the restaurant?

23 A. Yes.

24 Q. Referring up to calculation No. 1, you list
25 3.382 million gallons per day for the restaurants?

00172

1 A. Yes.

2 Q. And you testified that that is -- now, if
3 one were to divide that -- I'm sorry, that's a yearly
4 figure. Right, that would be a yearly figure. That
5 would be a yearly figure of 3,382,000.

6 So if one were to divide 365 into 380 --
7 into 3,382,000 would you accept subject to check that
8 that comes out to be 9,265 gallons per day? That
9 can't be right.

10 MR. LUNDGAARD: Are you speaking only of the
11 restaurant?

12 MR. GOLTZ: I'm speaking of the restaurant
13 in calculation No. 1.

14 Q. Would you accept subject to check that
15 that's approximately 9,265 gallons per day?

16 A. I think you're not comparing apples to
17 apples.

18 Q. Okay. Tell me --

19 A. Because the meters -- or the master meters
20 for the resort that pick up the kitchen flows also
21 serve a bunch of other facilities and buildings and
22 clusters of buildings. So the metered use is a more
23 accurate representation of what actually gets used at
24 the resort.

25 If the kitchen facilities and the

00173

1 restaurant were a stand-alone building, then I think
2 that you might be able to do the type of comparison
3 that you're trying to do.

4 Q. The kitchen facilities, including what --
5 or the kitchen facilities are in the main mansion,
6 correct?

7 A. (Nodding head.)

8 Q. One of the kitchen facilities is in the
9 main mansion?

10 A. Right.

11 Q. And what else is in the main mansion that
12 uses water?

13 A. There is at least three floors of offices
14 and other uses in the resort. And also conference
15 rooms and public restrooms. And I just don't think
16 that that comparison would work.

17 Q. The EPA data is used for -- do you know the
18 purpose for which the EPA manual is used generally?

19 A. It was designed to be a guideline for waste
20 water generation.

21 Q. And Mr. Metke just picked this as a check
22 on what he was doing?

23 A. He didn't just pick it. I think that is
24 the standard reference for potable water estimates.
25 If you don't have any meter records, and you're trying

00174

1 to estimate how much water will be used, that is the
2 current reference in Washington state per Department
3 of Health.

4 Q. Okay. But basically your estimate of --
5 would you believe that this number, 387 in
6 calculation 2, 387 gallons per day for the restaurant,
7 is even a ballpark -- is a correct figure? Doesn't
8 that seem low to you? Let's be more direct. Doesn't
9 that seem low to you?

10 A. Yes, it does. And keep in mind that the
11 same EPA method for generating residential use on the
12 next page uses 240 gallons per day per residence,
13 which is what they thought whenever they wrote that
14 manual was some type of an average across a few
15 states.

16 Both residential and commercial uses seem
17 low when compared to Rosario. But if you're going to
18 go into Fairyland of this waste water estimating
19 category, then --

20 Q. That's F A I R Y?

21 A. -- then you have to stick with their
22 numbers for both estimating your commercial uses and
23 your residential. And what that showed us is that
24 when you did, if you transformed yourself into the
25 world of EPA waste water, that they would predict that

00175

1 the resort would use about as much water as the
2 proportion as the meter readings were showing.

3 Q. What's the conversion factor to convert
4 gallons per day into cubic feet? Or how many cubic
5 feet in a gallon?

6 A. There's 7.48 gallons per cubic foot.

7 Q. Did you have an opportunity to review the
8 E.R.U. analysis, or as he called it the R.E.U.
9 analysis, performed by Mr. Eschenbrenner?

10 A. Yes, I reviewed that at one time.

11 Q. And I'm looking at what has been filed
12 as Exhibit 4 to Mr. Eschenbrenner -- GPE-4. Is that
13 what you reviewed? Do you have a copy of that? It's
14 a letter dated June 9, 1996 to Mr. Lundgaard from Mr.
15 Eschenbrenner. It says revised July 6th, 1996.

16 A. Yes, I have that.

17 Q. Okay. Have you done any analysis -- and he
18 concluded that there's 146 R.E.U. for the resort. Is
19 that your recollection?

20 A. Yes, I see that he concludes there's 146
21 R.E.U.

22 Q. And do you have an opinion as to whether
23 that's an accurate figure?

24 A. There are some problems with the methods
25 that he is using to calculate the R.E.U. And the

00176

1 principle -- the fundamental question is: In the
2 Rosario system, how much water are residences actually
3 using? Mr. Eschenbrenner is assuming arbitrarily that
4 all houses -- all these unmetered houses use 250
5 gallons per day per connection.

6 Q. When you say 250 gallons per day, is that a
7 figure you derived from the thousand square foot per
8 month figure that he uses?

9 A. He states that -- he uses the assumption
10 of 1,000 cubic feet per month.

11 Q. Is that approximately 250 gallons per day?

12 A. Yes.

13 Q. I'm sorry. Go ahead.

14 A. So the fundamental difference is -- in this
15 R.E.U. calculation is trying to decide how much water
16 these houses are actually using. We have the evidence
17 of water going through these master residential meters
18 that would show a very high use per residence.

19 Q. I mean, comparatively higher than 250
20 gallons per day?

21 A. Right. And with what we think about for
22 unaccounted for water, closer to 400 gallons per day
23 per unit in the test year. So there's the difference.

24 The primary difference is whether houses
25 use 400 gallons per day or some small measure less or

00177

1 whether they use 250 gallons per day, and somewhere
2 everything else is leaking away.

3 Q. Are there master meters at the Morrison
4 condominium?

5 A. I can't answer that just because I'm
6 unfamiliar.

7 Q. Do you know if the Morrison condominiums
8 are also known as Cascade Harbor Inn?

9 A. Cascade Harbor Inn?

10 Q. If you don't know, that's fine.

11 A. I don't know.

12 Q. Do you see any other problems with Mr.
13 Eschenbrenner's analysis?

14 A. You want to limit that to the discussion of
15 R.E.U.'s?

16 Q. Yes.

17 A. No, I don't.

18 Q. So it's that major assumption of 1,000
19 cubic feet per month or approximately 250 gallons per
20 day that you would take issue with?

21 A. Yes.

22 Q. Because that's not -- that is not based on
23 a real-world reading of the use of water?

24 A. Yes. And the fundamental question is
25 whether you can apply some type of an average, whether

00178

1 it's multi-state or eastern Washington or whatever,
2 into a new situation and assume that the water use is
3 going to be the same.

4 And the answer is: In San Juan County, you
5 can't make that assumption because we've tracked real
6 domestic uses above 1,000 gallons per day per connection
7 before irrigation.

8 Q. You mean before lawn watering?

9 A. Even where irrigation was not allowed,
10 we've seen domestic uses above 1,000 gallons per day
11 per unit in San Juan County in some circumstances.

12 Q. They take lots of showers in San Juan
13 County? Why is it so different?

14 A. I don't know. But it varies from location
15 to location.

16 Q. Are you aware of any leaks within the areas
17 served by the water utility?

18 A. Currently I've not been made aware of any
19 leaks.

20 Q. Now, did you -- switching subjects. Did
21 you or your firm provide Mr. Al Jones of the Utilities
22 and Transportation Commission with a list of facilities
23 and their original cost?

24 A. A cost history analysis?

25 Q. Yes.

00179

1 A. Yes.

2 Q. And how did you come to the figures in that
3 list, that is -- let me --

4 A. Let me clarify that we did the basic
5 estimates for the historical utility's cost,
6 transmitted those to Rosario Utilities, and then I
7 went on vacation for a bit of time, and Tom Metke took
8 over my responsibilities.

9 MR. DONAHOE: Excuse me. Is that the item
10 that we've had this problem with back and forth that
11 is now Exhibit 8?

12 MR. GOLTZ: I don't think so.

13 JUDGE WALLIS: Let's be off the record.

14 (Discussion off the record.)

15 JUDGE WALLIS: Let's be back on the record,
16 please.

17 Q. Mr. Drahn, I've handed you what's been --
18 one of the pre-filed exhibits, AHA-3, which is an
19 exhibit to the pre-file testimony of Mr. Jones, who we
20 will hear from later. Does that look familiar to you?

21 A. The form and most of the content is
22 familiar. We did the estimating basically for
23 historical facilities, water facilities, at Rosario.

24 Q. Okay. And you provided that to Mr. Jones?

25 A. Actually we provided it to Dan Donahoe.

00180

1 Q. Okay.

2 A. And also gave them a file, an electronic
3 file.

4 Q. And the materials that you provided to Mr.
5 Donahoe then, how did you -- what sort of records did
6 you go through to come to the -- why is it that you
7 had records of facilities, pipes, other equipment that
8 would have been included in the assets of the utility?

9 A. When we started the water system plan in
10 1994, the Department of Health asked us to collect all
11 the receipts and existing information about
12 infrastructure and prepare a financial package.

13 The accounts of the resort were co-mingled
14 with the water utility, and, in fact, the water
15 expenses were coming out of at least three separate
16 accounts.

17 We determined at that time that it would be
18 very difficult, if not impossible, to reconstruct the
19 actual cost of the facilities based on invoices or
20 records. And the Department of Health administrators
21 agreed that as far as they were concerned, invoices
22 and records for this utility did not exist at the end
23 of 1994. So that was the first step that we took.

24 The second was we looked for contractor
25 bids or involvement of our company, which has served

00181

1 the Rosario area for 16 years, going back through our
2 files and seeing of all the major infrastructure
3 improvements where we might have been involved where
4 we would pick up bids or partial payments or contract
5 documents, and we found no documents like that.

6 Next we went to historical estimates, where
7 an engineer from MPD under different names might have
8 calculated at that time how much it was going to cost
9 to build the infrastructure, and we picked up a couple
10 pieces of historical information that way.

11 Q. If I can stop you right there. That means
12 you would go out and look at a piece of equipment,
13 and say this looks to me like it's -- based on my
14 professional judgment this was installed from
15 approximately 1980 or 1985 or whatever?

16 A. No.

17 Q. No?

18 A. The step that you're talking about is how
19 did we decide what pieces were built when, and the
20 answer to that is that we have the Rosario water
21 system plan and also the plat development, in other
22 words, when pieces of property were platted and
23 developed for sale. That's usually the time when the
24 infrastructure was built for those pieces.

25 So we used information that was provided to

00182

1 us by Sarah Geiser in the water system plan to create
2 a starting place. We sat down and spent a day with
3 John Cavalli clarifying breakpoints and actual
4 construction dates of some of the big pieces of
5 infrastructure.

6 We divided all that apart based on the year
7 so that we could move the cost and time. And then we
8 attached the estimates to those. So that's how we
9 figured out when pieces were built.

10 Q. Okay. So, for example, if one were to look
11 down -- and this exhibit was sponsored by Mr. Jones.
12 But in AAJ-3 in the left-hand column there's a column
13 that's -- on the top of which is the number sign, and
14 then it goes down to 331, which is transmission and
15 distribution mains, I look down there and see a whole
16 number of dates. And those are presumably dates where
17 certain transportation distribution mains would have
18 been added?

19 A. That's correct.

20 Q. And those dates were then sort of derived
21 by your firm in conjunction with people that had long
22 memories, so to speak?

23 A. That's correct.

24 Q. Okay. So you were able to -- for example,
25 I see one that says 1978. You were able to ascertain

00183

1 that in 1978 there was an addition to physical plant
2 of a transmission or distribution main?

3 A. That's correct.

4 Q. And presumably then in that time period
5 there was new additions to this water system?

6 A. Right. Normally it would be the
7 infrastructure related to adding a subdivision or a
8 new area of development, so you get mains of all
9 different sizes and other infrastructure.

10 Those are tabulated separately by year
11 on a backup sheet so that we can bring it together
12 and say, okay, this is the cost of all distribution
13 mains for a particular year.

14 Q. Okay. And then you came to an original
15 cost for those facilities based on your firm's
16 professional judgment?

17 A. Our method of last resort, which we used
18 extensively, was to estimate how much it would cost to
19 build those mains or other facilities today, and then
20 take that cost and move it back in time using a
21 construction cost index in the engineering newsletters,
22 which is carried from -- 1900 is the start date.

23 Q. So you made your best estimate as to -- say
24 if it was a 1978 addition, as to -- you figured out --
25 you estimated what that would cost today, and then

00184

1 through standard references you would in effect learn
2 what it would have cost in 1978?

3 A. Yes.

4 Q. And that was, in your judgment, the best,
5 indeed the only means, to make -- sort of, supply
6 the data that had been requested of you?

7 A. To the best of our knowledge, it was the
8 best way.

9 Q. The resort was transferred from the Geisers
10 -- the Geisers sold the resort at what time?

11 A. I'm not familiar with the details of the
12 sale.

13 Q. You are not familiar with the details?

14 A. No, sir.

15 Q. Were you or your firm involved in any
16 aspect of that sale?

17 A. No, we were not.

18 Q. Are you familiar at all with the allocation
19 of value between the resort and the utility in the
20 course of that sale?

21 A. No, I have no knowledge of that.

22 Q. You were not asked to be part of that
23 allocation?

24 A. No.

25 MR. GOLTZ: I have no further questions.

00185

1 Thank you.

2 JUDGE WALLIS: Mr. Lundgaard?

3

4 CROSS-EXAMINATION

5 BY MR. LUNDGAARD:

6 Q. Thank you. I guess I'll start where he
7 left off with a reference to Exhibit 11 to Thorson's
8 testimony. That's DET-3. Do you have that before
9 you?

10 A. He just took that back.

11 Q. I would like to have you look at that and
12 also look at Al Jones Exhibit 3.

13 JUDGE WALLIS: Do you have it now?

14 THE WITNESS: Yes. I've got both those.

15 Q. Now, looking at Al Jones Exhibit 3, it has
16 -- it's two pages; is it not?

17 A. Yes.

18 Q. And if you would look at the second page,
19 there's a category of work in 1959 that has a total
20 cost per year of 499?

21 A. Yes.

22 Q. And then that figure is shown then under
23 number -- on the first page, No. 331, transmission and
24 distribution, 1959. Then in column of asset cost of
25 499; is that correct?

00186

1 A. Yes.

2 Q. And if you go back then -- I'll just go
3 through a couple these. Go back to the second page
4 again. Then the next one is for the time period of
5 1972. There's a total there of 76,641; is that
6 correct?

7 A. I don't see that.

8 Q. Oh, \$74,641?

9 A. Yes, I see it.

10 Q. And then if you look at the first page,
11 that's the next item under transmission and
12 distribution mains 1972 under asset cost, 74,641?

13 A. Okay.

14 Q. And if we went down the rest of these
15 numbers on the first page under category 331,
16 transmission and distribution mains, we would find on
17 page 2 those same numbers -- the following three
18 numbers, 32,045, 11,577, and 69,811; would we not?

19 A. I suppose so.

20 Q. Now, those numbers appear both on Al Jones
21 Exhibit 3 and on the exhibit that's been admitted as
22 Exhibit 11, DET-3; do they not?

23 A. It appears that they do.

24 Q. And those came from your calculations?

25 A. Yes. My calculations should be attached to

00187

1 our August 7th, 1996 letter, which I believe is DSD-2.

2 Or it might --

3 Q. That's Exhibit 8, your letter to Dan
4 Donahoe?

5 A. Yeah. Does it have attachments with it?

6 Q. No. It has attachments, but those do
7 not include anything that looks like the graph that is
8 Exhibit 11 or Al Jones Exhibit 3.

9 A. There's a spread sheet. It should be first
10 attachment labeled at the top piping.

11 Q. Our problem with page 2 of Exhibit 8 is
12 that -- that's the first page after your letter. It's
13 just totally illegible. I see your copy is much more
14 legible?

15 A. Right.

16 Q. So you're saying that what is referred
17 to as page 1 at the bottom --

18 A. Piping at the top.

19 Q. -- and piping at the top is information
20 from your office that you used to prepare the chart
21 that's been identified as Exhibit 11 and also as shown
22 on Al Jones Exhibit 3?

23 A. That's correct.

24 MR. GOLTZ: Is there a way we can get a
25 legible copy?

00188

1 MR. LUNDGAARD: It certainly would be nice
2 to have that.

3 JUDGE WALLIS: Let's be off the record.

4 (Discussion off the record.)

5 (Short recess.)

6 JUDGE WALLIS: Let's be back on the record
7 please following a brief recess.

8 Mr. Lundgaard.

9 MR. LUNDGAARD: Thank you, your Honor.

10 Q. Now, the next items on the asset cost list
11 that are below the figure of 69,811 all -- didn't
12 the rest of those figures all come from Mr. Jones'
13 worksheet when he developed the figure of \$47,362?

14 A. I've got a problem. I've lost the
15 reference. It went away to be copied somewhere during
16 the break, so I don't know -- I'm not following you.

17 Q. Okay. What you're referring to was the
18 better readable copy of your Exhibit 8?

19 A. Oh, you're right. You're right.

20 Q. But I'm referring you to the chart?

21 A. Okay. I didn't have it, but I have it now.

22 MR. GOLTZ: The chart which is what?

23 MR. LUNDGAARD: The chart -- it's both on
24 Exhibit 11, which is DET-3, and it's on AJ -- or AAJ-3.
25 All of the numbers after 69,811 in the asset cost

00189

1 column under transmission and distribution mains are
2 the figures that were pulled together by Al Jones.

3 And if you would accept, subject to check,
4 that the numbers starting with \$10,625.60 down to the
5 last one under transmission and distribution mains of
6 3,820.08, total \$47,362, which is the amount that Al
7 Jones indicated that he could verify that had occurred
8 from 1985 through 1995?

9 A. I can't confirm or deny that only because I
10 don't have my piping estimates that we used to
11 generate these numbers.

12 Q. Okay. But we can establish that Exhibit 11
13 was prepared by your office, which is DET-3, and it
14 shows a fax from Red Rock Resorts on July 30th, 1996?

15 A. The framework of DET-3 was assembled at our
16 office, and all the estimates are included on this
17 August 7th letter as backup, all the estimates that
18 we did.

19 Q. That's not my question. Is there anything
20 in Exhibit 8, your August 7th letter to Mr. Donahoe,
21 that includes the numbers that I've just told you I
22 attribute to Al Jones' worksheet?

23 A. Okay. According to this information?

24 Q. What information?

25 A. The August 7th letter, No. 8.

00190

1 Q. Okay.

2 A. The last piping that we calculated was
3 1984. The last transmission main should be 1984.

4 Q. Which is the number I read to you as being
5 the last number that you had, which is 69,811; is that
6 correct?

7 A. Subject to verification, yes.

8 Q. Okay. Now, those dollar figures in the
9 asset cost column were strictly estimates by you, and
10 they are not based on invoices?

11 A. That's correct.

12 Q. Okay. Now, looking at Exhibit 8, your
13 letter of August 7th to Mr. Donahoe, you start out
14 by saying, we discussed the June 7, '96 MPD water
15 infrastructure inventory -- or as we discussed the
16 June 7, 1996 MPD infrastructure inventory was based on
17 the following hierarchy of information. No. 1,
18 receipts and invoices not available. Is that correct?

19 A. Yes.

20 Q. Okay. Likewise contractor bids were not
21 available?

22 A. Correct.

23 Q. And that was after you had examined your
24 own company's back research and anything that was made
25 available to you by the resort --

00191

1 A. Right.

2 Q. -- people? Okay.

3 Now, wouldn't it be safe to say that if you
4 had the invoices, it would be a much more accurate
5 way of developing what those costs were than to take
6 an estimate today of what it would cost to build today
7 and using a national manual to back that value or cost
8 to a year of '72 for example?

9 A. Yes.

10 Q. And you refer to that, this method that you
11 used using the ENR manual, as the method of last
12 resort?

13 A. Yes.

14 Q. Okay. And is that adjustment on a national
15 average without giving you adjustments for the
16 northwest or for the Seattle area or things of that
17 nature?

18 A. That's a national average. In the past it
19 has tracked to the Seattle area very closely.

20 Q. Now, towards the end of your questioning by
21 Mr. Goltz, you made a comment to the effect that you
22 were not familiar with the terms of the purchase price
23 of the resort?

24 A. That's correct.

25 Q. You did, however, prepare the water system

00192

1 plan?

2 A. Right.

3 Q. And do you happen to have a copy of that
4 with you?

5 A. No, I don't.

6 Q. Okay. I'll show you a copy. Let's see if
7 you -- this is page G-3 of the water system plan. And
8 the top of it has K S and M. And this was the name of
9 your engineering firm in 1994; was it not?

10 A. Yes.

11 Q. And if you would look at that and indicate
12 whether or not that's a record of a meeting that you
13 attended along with others?

14 A. Yes, it is.

15 Q. Okay. And this is a record of that meeting
16 that was attended by Sarah Geiser, Dan Drahn, Dirk
17 Oldenburg, John Cavalli, and Roy Light; is that
18 correct?

19 A. Yes.

20 Q. And on the second page under paragraph 4,
21 did you indicate that the water system value assumed
22 to be a purchase price of \$65,000?

23 A. Yes.

24 Q. And you just hadn't reviewed that recently
25 and had not recalled that meeting and that discussion

00193

1 I take it?

2 A. Well, I didn't recall that meeting. Keep
3 in mind that in the water system plan, we have to go
4 through this exercise one full time previous.

5 In other words, the UTC and the people who
6 actually set rates are not involved, but at the same
7 time the Department of Health is requiring us to
8 submit financial information, historical cost of water
9 systems, and develop a tentative rate structure for --
10 based on projected capital improvements. So --

11 Q. Like --

12 A. So that meeting -- any discussion about a
13 system value at that time with Sarah Geiser, the
14 previous owner, would be related to what we would
15 assume in the water system plan that would develop the
16 theoretical rates for the Department of Health.

17 Q. And you saw fit to include that, that was a
18 meeting held in December 22nd, 1994?

19 A. It was an appendix to the water system plan.

20 Q. I would like to refer you back again to
21 Exhibit 8, which is the August 7th letter from you to
22 Dan. Do you have that before you?

23 A. Yes.

24 Q. If you would look -- in the second page of
25 attachments to that letter, there's a reference to

00194

1 structures and improvements. You have a reference
2 there to the treatment plant. And you're referring to
3 the treatment plant concrete block -- 16 by 30
4 concrete block building?

5 A. Right.

6 Q. That is the -- you're referring now to the
7 treatment -- the existing treatment plant that's owned
8 by the utility?

9 A. That's right.

10 Q. Okay. And you have a current cost of that
11 building of \$16,800; is that correct?

12 A. Yeah. That's the shell. It wouldn't
13 include anything inside the building.

14 Q. Right. And that's your estimate of the
15 current cost of that?

16 A. Yes. If we were to build a little concrete
17 block building like that, we thought that it would
18 cost about \$35 a square foot.

19 Q. That doesn't necessarily represent what it
20 actually cost to build the treatment plant building
21 that's out there now?

22 A. No.

23 Q. In fact, the building that is out there is
24 a wooden building; is it not?

25 A. You may be right.

00195

1 Q. And wouldn't it have been more accurate to
2 have estimated the cost of the same type of construction?

3 A. I don't think it would make a difference.

4 Q. Okay.

5 A. The building is a piece of junk.

6 Q. If you take the next page, under F you
7 have a 60,000 gallon concrete tank. And is your
8 figure there an indication that it's your opinion it
9 would cost \$50,000 to build that new?

10 A. Yes, sir.

11 Q. And then you use that figure and then
12 applied your ENR backup to arrive at a lower value
13 for the years that that tank was put in?

14 A. That's correct.

15 Q. And you've indicated that that tank under
16 Exhibit 11, that that tank was put in in 1973?

17 A. I believe that's true.

18 Q. You mentioned that you had tracked the
19 various subdivisions that had been put in and knew
20 those dates, and then assumed that they needed a
21 certain amount of piping and whatever, and so that's
22 how you arrived at some of these estimates of
23 quantities of material I take it?

24 A. Yes.

25 Q. Were you also aware that the Geisers had

00196

1 developed Orcas Highlands?

2 A. Yes, I had heard that they did.

3 Q. And at the time that they put in the
4 development, they put in the water system that
5 ultimately was transferred to the homeowners?

6 A. This is -- that's new knowledge to me, but
7 I believe it.

8 Q. Okay. And do you have any way of
9 determining whether or not the material that went
10 into that system may actually be in your Exhibit 11?

11 A. It's not. You start with the subdivisions
12 that are listed in the water system plan, and their
13 year of construction is also listed. Then you go to
14 this map that shows -- not only does it show all the
15 different subdivisions, the legal property divisions,
16 in that legend down in the corner, but also it shows
17 lengths and sizes of pipe that are put into those
18 different pieces.

19 So it wasn't -- it was an accurate estimate
20 based on a map like that corrected by John Cavalli in
21 terms of the actual dates of construction, the
22 division points between subdivisions, and the types
23 of materials installed.

24 Q. Continuing on with this same exhibit -- and
25 I don't -- these pages aren't numbered, but the one I

00197

1 want to refer you to next is one that has a caption
2 Rosario Water System Preliminary Construction Estimate
3 and Time Sequencing, June 27, '94. Do you have that
4 sheet?

5 A. Yes, I do.

6 Q. And were those just preliminary estimates
7 at that time of what it would cost to put in the steel
8 storage buildings?

9 A. Yes, they were.

10 Q. And you have no records of what it actually
11 cost to put in those steel tanks?

12 A. No, I don't.

13 Q. I may have said storage buildings. There
14 are two steel storages tanks; are there not?

15 A. Correct.

16 Q. The estimate here, however, is just for one
17 tank; is it not?

18 A. Well, it's for 250,000 gallons of storage,
19 and the two tanks that were built I believe are
20 146,000 each.

21 Q. Okay. Now, I would like to address the
22 issue of the R.E.U.'s. Again in the water system
23 plan you had the equivalent resort use of 109
24 E.R.U.'s; did you not?

25 A. Correct.

00198

1 Q. And that did not include any unmetered
2 water that was used by the resort facilities?

3 A. Correct. That's from the six master
4 meters.

5 Q. Okay. And you're aware that the employee
6 housing is not metered?

7 A. Yes.

8 Q. Referring you now to Exhibit 10 of -- which
9 is also DET-4, your engineering report dated June
10 12th, 1996 -- do you have that in front of you?

11 A. Yes.

12 Q. Okay. Referring you to the first
13 calculation, the figure of 13,013,000 gallons per year
14 is an actual amount based on those master meters; is
15 it not?

16 A. That's my understanding.

17 Q. And again it would not include the
18 non-metered areas such as the employee housing?

19 A. Correct.

20 Q. Okay. And calculation No. 2 is -- I think
21 you described as Fairyland?

22 A. Yes, I did.

23 Q. Okay. And so when you were talking with or
24 answering questions by Mr. Goltz, and there was a
25 reference to 50 gallons a day for 179 rooms, there was

00199

1 no actual measurement of 50 gallons a day for those
2 179 rooms?

3 A. No. The EPA manual would give you a unit
4 use for a certain type of facility.

5 Q. Likewise, there was no actual measurement
6 of the use by the employees or the meals in the
7 restaurants that were served?

8 A. That's correct.

9 Q. And those estimates are for waste water
10 flow rather than water useage?

11 A. Yes.

12 Q. Okay. Now, if you take -- going back to
13 the actual meter readings going back to calculation
14 one, if you took the figure of 13,013,000 gallons per
15 year and divided that by 365 days, would you accept
16 that that figure would be 35,000 gallons per day?

17 A. 35,650.

18 Q. Okay. And on the second page where you
19 used the residential average of 240 gallons per day
20 for residents, you divided that figure into the
21 theoretical gallons per day from the EPA of 19,489 to
22 arrive at your 83 R.E.U.'s -- actually you arrived at
23 81.2; is that correct?

24 A. Yeah, divide real values by real values and
25 theoretical values and theoretical.

00200

1 Q. So if we go back to the real values then
2 and divide the 35,560 gallons per day by 240 gallons
3 per day per residence, would you agree with me that
4 that would -- that calculaiton would develop 148.6
5 R.E.U.'s?

6 A. Are you suggesting that we divide the
7 actual values by the theoretical?

8 Q. I'm asking you to use the residential usage
9 of 240 that came from your calculation No. 2.

10 A. Well, I don't accept that 240 gallons per
11 day per residence is a good estimate of real use.

12 Q. Are you aware that that's a figure that has
13 been accepted as a state average in the state of
14 Washington?

15 A. Certainly.

16 Q. Okay. And when you were using a figure
17 of 400 gallons per day per residence, that was not
18 based on any actual meter reading; was it?

19 A. Yes, it was based on the master meters,
20 the master residential meters, divided by the number
21 of units served.

22 Q. When you say master meter readings, you
23 were taking all of the master readings for the resort,
24 subtracting them from the total amount of water that
25 came down from the source, and then attributing all of

00201

1 the rest of it to the residences?

2 A. There are a number of master meters
3 scattered through the system, and they're tracked
4 using a meter tree. There are some meters that
5 measure blocks of residences.

6 Q. Are you referring to the condos?

7 A. No.

8 Q. What meters are you referring to that
9 measure the residential units?

10 A. I would be glad to outline those if I could
11 get a copy of the meter tree in the water system plan.

12 Q. That's in the water system plan, right?

13 MR. GOLTZ: Your Honor, I believe that
14 meter tree is an exhibit to Mr. Eschenbrenner's
15 testimony, GPE No. 4, which is the one we were
16 referring to this morning.

17 Q. But that has not been -- I've been handed
18 what you referred to as a meter tree that was a part
19 of the water system plan and which also is Exhibit 4
20 to the testimony of Mr. Eschenbrenner?

21 A. Right. And looking back at this, I would
22 say that apart from the six master meters that
23 comprise the resort and the two master meters that
24 comprise the two bulk water purchasers, we have one,
25 two, three, four -- eleven other master meters.

00202

1 Q. There's a master -- there's a meter that
2 Orcas Highlands has for their facilities?

3 A. That's correct.

4 Q. Did you use that?

5 A. No. I'm saying apart from the resort use,
6 the commercial use, those six meters, and the two bulk
7 water purchase meters, there are eleven other meters
8 on the system that are tracking various stages of
9 residential use.

10 Q. Would you identify those?

11 A. Cascade Way Estates Two, Rosario
12 Palisades, Palisades South, Entrance West, Tomihi,
13 Rosario Road Estate Three, Cascade Way Estate Two,
14 10,000 gallon tank meter, Rosario Shores, and Rosario
15 Estates.

16 MR. BACON: Could you repeat those, please.

17 THE WITNESS: Rosario Palisades, Palisades
18 South, Entrance West, Tomihi, Rosario Road Estates
19 Three, Cascade Way Estate Two, 10,000 gallon tank
20 meter, Rosario Shores, and Rosario Estates.

21 Q. The 10,000 gallon tank, doesn't that
22 provide water to the bath house in the marina?

23 A. Yes, sir.

24 Q. So that's not an accurate measurement of
25 residential use then; is it?

00203

1 A. Well, if you subtract the resort meter use
2 from the 10,000 tank meter reading, you'll get an idea
3 of what the residences are using on that lane or the
4 leakage.

5 Q. But there is no separate meter to the
6 marina; is there?

7 A. The marina is a complex. It's a group of
8 buildings.

9 Q. But it doesn't have a separate meter?

10 A. But it is metered.

11 Q. But it's not metered separately?

12 A. You have a 10,000 gallon tank meter, and
13 then it splits out into a bunch of uses. One of those
14 meters serves the marina. So the resort passes
15 through the 10,000 gallon tank. If you subtracted the
16 marina reading from the resort -- or from the 10,000
17 gallon tank, you would know what the difference was.

18 Q. But it's a mixture of the resort and the
19 bath house and the marina; isn't that what the chart
20 indicates?

21 A. Water that passes through the 10,000 gallon
22 tank serves a bunch of resort facilities and also ten
23 units out of Rosario Shores and forty-one units at
24 Rosario Estates at the end of 1994.

25 Q. And so that all comes out of that one

00204

1 meter?

2 A. Yes. But if you subtract what goes through
3 that meter, if you subtract the resort master meters
4 down underneath, then you'll know what is used either
5 by the residences or lost.

6 Q. Or lost?

7 A. Yes.

8 Q. Now, are you familiar with the location of
9 the meter -- the utility's meter on the line that
10 serves Orcas Highlands?

11 A. Only on maps.

12 Q. Okay. And are you familiar with the
13 location of Orcas Highlands's meter?

14 A. Isn't that the same question?

15 Q. No, I asked you first the meter -- the
16 master meter owned by the utility on the line that
17 serves Orcas Highlands. They have -- the utility has
18 a meter after their tank on the line that serves
19 Orcas Highlands; do they not?

20 A. They did in 1994. I believe they still do.

21 Q. Okay. And Orcas Highlands has its own
22 meter at its pump house?

23 A. I wasn't aware of that.

24 Q. Okay. Are you aware of where the pump
25 house and meter are that are owned by Orcas Highlands?

00205

1 A. No.

2 Q. If I were to tell you that there is a
3 distance of approximately a half mile to 3,000 feet
4 between the utility's meter and the meter of Orcas
5 Highlands, would you -- would you accept that? I
6 think somebody else thought it was less than a half
7 mile, but in that vicinity. You weren't here this
8 morning, but Mr. Cavalli said that he thought it was
9 less than a half mile.

10 JUDGE WALLIS: Mr. Lundgaard, I think the
11 witness has said that he doesn't even know there was
12 even a meter. You might phrase that in terms of
13 a hypothetical question if you're leading up to that as
14 a predicate for some other question.

15 MR. LUNDGAARD: I don't think there's any
16 point in doing that.

17 Q. You're not -- since you're not aware of
18 that meter, you're not aware of any discrepancies
19 between the meter owned by the utility and a meter
20 owned by Orcas Highlands?

21 A. I heard that there was a big discrepancy
22 and a leak somewhere on the Orcas Highlands system,
23 and I did understand that there are two meters
24 somehow, but I'm not familiar with how that came
25 about.

00206

1 Q. And you don't know who the owner is of that
2 land between the most -- for the most part, the land
3 between those two meters?

4 A. No.

5 Q. Okay. So if there is any leaks there, you
6 wouldn't know on whose property they might be?

7 A. No.

8 Q. Okay. Referring to your testimony, page 3,
9 line 22, you state that the resort absorbed all costs
10 of water production and distribution in exchange for
11 use of water at the resort. Are you aware that there
12 is payment by the customers for their water?

13 A. Yes.

14 Q. Well, then the resort is not absorbing all
15 of the cost; are they?

16 A. No.

17 Q. Referring you to the next page, you seem to
18 quarrel with a statement by Mr. Eschenbrenner,
19 referring you to line 23 where you refer to his
20 conclusion. It appears to be based on the assumption
21 that the utility system is fully automated. Isn't it
22 true that that system is fully automated with the
23 exception that the back-flushing is not automated?

24 A. No. I think it's not true. And unfortunately
25 for many systems, particularly big systems that we rely

00207

1 on surface water treatment, they're realizing more and
2 more the amount of effort and attention that it takes
3 to produce clean water to the standards that the state
4 is requiring today. So I think, no, it is not automated.
5 It requires a tremendous amount of time and attention.

6 Q. Well, the system itself runs automatically;
7 doesn't it? There are automatic shut-offs and
8 start-ups when ever there is -- a tank is low, it
9 automatically fills up, if that tank is full, it goes
10 on to the next tank; the pump to the first tank
11 automatically shuts off, and it goes to the second
12 tank and so on; isn't that true?

13 A. The operator's attention required in the
14 pump house daily under current regulations is that he
15 be there to adjust the chemicals as they come in to
16 help treat the water.

17 And then on the downstream side, he's
18 measuring and taking recordings and whatnot and
19 adjusting the treatment process. He's taking chlorine
20 residuals and some other measurements in the pump
21 house.

22 Then he has to go out to two or three
23 isolated points in the system and take samples
24 at people's taps, and take chlorine residuals, pH
25 measurements, temperatures. Come back to the office

00208

1 and calculate a chlorine contact time for that day.

2 So it's not -- even though he's not there
3 to turn on and off the pumps when the tanks get low,
4 I don't think that it could be considered an automated
5 system.

6 Q. He doesn't go out to the homeowners and
7 test on a daily basis?

8 A. He has to test the first tap in any main
9 that he has coming from his storage tanks. And there
10 are two mains that leave the storage tanks at Rosario.
11 So he has at least two residents that he has to get
12 into their bathroom sink preferably on a daily basis
13 and take a chlorine temperature pH measurement.

14 Q. Have you heard -- you haven't been here,
15 but was there any testimony of that type to your
16 knowledge that that's testing that is done on a daily
17 basis?

18 A. Well, I'm sure that it is, because that's
19 law, and that's what we agreed to with the Department
20 of Health as part of the water system plan. It wasn't
21 done in the past. But this is part of the changing
22 requirements with surface water treatment.

23 Q. Are you familiar with the treatment
24 facility?

25 A. Yes.

00209

1 Q. And isn't it true that that water is so
2 clear that they have to put something in -- some
3 material in the system to make sure that the filter is
4 actually filtering because the water is so clear they
5 can't find that it's filtering anything, so they
6 put something in to prove that the filtering system is
7 working?

8 A. The Department of Health prior to 1994 was
9 going to require them to do that, but they never
10 actually did that. And during the water system plan,
11 one of the things that we hammered out with the State
12 is that that would be contrary to State law, and they
13 backed off. They do not have to add contaminants or
14 turbidity into their water and then treat it.

15 Q. So you're saying that that did not occur?

16 A. Did not occur.

17 MR. LUNDGAARD: I have nothing further.

18 JUDGE WALLIS: Mr. Donahoe, do you have any
19 redirect?

20

21 REDIRECT EXAMINATION

22 BY MR. DONAHOE:

23 Q. For the record, I don't think there's any
24 way that the witness could have known this, but the
25 utility has two commercial customers, Rosario Resort

00210

1 and Cascade Harbor Inn. Two commercial customers. He
2 wasn't aware of that.

3 JUDGE WALLIS: Just phrase that as a
4 question and maybe ask if the witness is aware of
5 that?

6 THE WITNESS: The witness is not aware of
7 that.

8 JUDGE WALLIS: All right.

9 Q. And I believe you testified that the
10 customers -- or rather the question was presented that
11 under the old regime the customers did, in fact,
12 contribute monies for their monthly service; is that
13 correct?

14 A. Right.

15 Q. And I believe a question was asked of you
16 questioning your statement that the resort has carried
17 all of the operating expenses. Do you know for a fact
18 where the dollars went -- went into the resort from
19 the old regime? Do you know for a fact that all of
20 the dollars that came from the customers went to
21 maintain the system?

22 A. No. To my knowledge, there were at least
23 three different resort accounts that those monies
24 would come into and be disbursed, so there was no
25 direct tracking of, say, a bill -- a monthly water

00211

1 bill getting paid and that that went back to water. I
2 don't think there was any way to track that.

3 MR. DONAHOE: Thank you. No further
4 questions.

5 JUDGE WALLIS: All right.

6 Are there any other further questions?

7 MR. GOLTZ: I have two. Current count.

8

9 RE CROSS-EXAMINATION

10 BY MR. GOLTZ:

11 Q. You stated, I believe, and this may be as
12 close to a quote as I can get it -- or the question
13 was: Has 240 gallons per day been accepted as a State
14 average, and you answered yes.

15 My question is: Is that your testimony,
16 and if so, by whom has it been accepted, and what's
17 the basis for your statement, if the answer was yes?

18 A. I may have misspoke. What I meant to say
19 -- what I'm trying to say is that 240 gallons per
20 day per residence is accepted by the State Department
21 of Health as an estimate -- a reasonable estimate of
22 usage, residential usage, if you don't have metered
23 records that would show differently referring back
24 to the EPA manual, that they accept.

25 Q. I'm sorry.

00212

1 A. The 240 comes from the EPA waste water
2 design manual.

3 Q. So again that's a measure of effluent?

4 A. It's a measure of effluent. And in
5 general, unless there's irrigation, what comes in
6 goes out.

7 Q. So that would be excluding lawn watering?

8 A. Right.

9 Q. And is that meant in effect to be a proxy
10 for a metered rate?

11 A. That's --

12 Q. If you know?

13 A. I don't know exactly how they use that,
14 but they accept that as the standard for theoretical
15 usage when you don't have meter records available or
16 you're not tracking your production or whatever.

17 Q. And I guess is that based on -- if you
18 know again, is that based on their records for
19 metered residences?

20 A. Simple answer is I don't know.

21 Q. The last question I have is maybe just a
22 clarification. Was it your testimony that in general
23 it is more complicated and more labor intensive to
24 maintain water systems which rely on surface water
25 than water systems which rely on ground water?

00213

1 A. Definitely.

2 Q. And the reason for that is what?

3 A. The 1992 Federal Surface Water Treatment
4 Rule has spread out to the states. And we have our
5 own state surface water treatment rule. It's being --
6 the last three or four years it's being applied more
7 heavily, at least in San Juan County. And there's a
8 lot of attention to making people comply with this
9 rule. It's very difficult and expensive to meet that
10 standard.

11 Q. And examples of that would be the addition
12 of, is it, alum to the water? Is that where the alum
13 addition requirement comes in?

14 A. The alum is the standard treatment
15 technique that they use. The Surface Water Treatment
16 Rule looks critically at the equipment and would
17 require future capital improvements to change the
18 types of treatment. And it requires the measurement,
19 recording, and daily analysis of chlorine content in
20 the system, which is supposed to guarantee that any
21 little bugs that might get through are killed.

22 Q. And that's the basis of your statement
23 that it's more expensive to maintain?

24 A. Nationwide the Surface Water Treatment Rule
25 has broad ramifications cost-wise for utilities. And

00214

1 one article that I was reading last month indicated
2 that for utilities that were treating in methods
3 that are similar to what Rosario is treating with,
4 its direct or conventional treatment, their cost
5 of operations and maintenance equalled their cost for
6 retiring the capital of new systems.

7 So it was -- it's very substantial. And
8 the effort nationwide, the effort to operate and
9 maintain these systems in compliance with current
10 regulations, is expensive.

11 Q. And that is a development that is inherent
12 to any surface water utility just since 1992?

13 A. That's correct.

14 Q. Or, unfortunately, perhaps later in some
15 cases?

16 A. Right.

17 Q. But certainly in the 1990s, the 1980s there
18 was not that reality?

19 A. No. And many municipal systems that used
20 surface water, pumped and used it directly, which is
21 much cheaper.

22 MR. GOLTZ: Thank you. Nothing further.

23 No further questions.

24 JUDGE WALLIS: Anything further?

25 MR. LUNDGAARD: Just a couple of questions.

00216

1

EVENING SESSION

2

(6:59 p.m.)

3

4

JUDGE WALLIS: Let's be on the record,

5

please for our evening session set for the purpose of

6

receiving evidence from members of the public.

7

The parties are represented as earlier

8

except that the company has a different representative

9

this evening.

10

Would you state your name and your

11

affiliation with the company for the record, please.

12

MS. VIERTHALER: My name is Chris

13

Vierthaler, and I'm the administrative manager for

14

Rosario Utilities.

15

JUDGE WALLIS: Thank you, very much.

16

By way of preliminary matters, I understand

17

that there is a proposed exhibit consisting of

18

information or communications from members of the

19

public. Is that right, Mr. Goltz?

20

MR. GOLTZ: Yes, your Honor. As is typical

21

in all rate cases before the Utilities and

22

Transportation Commission, the Commission receives and

23

solicits comments from the public, and a number of

24

those will be heard tonight orally.

25

But in addition the Commission has received

00217

1 what is bordering on a ream of paper from the public
2 consisting of letters, typewritten, handwritten,
3 faxes, and messages sent by electronic mail via the
4 internet, and those have all been duplicated in hard
5 copy.

6 And we would -- I've already distributed a
7 copy to the interveners and to the company. And I
8 will -- I have a copy here and would like to give a
9 duplicate original to you for inclusion in the
10 official file and offer it for illustrative purposes.

11 JUDGE WALLIS: Very well. I will mark that
12 multipage document as Exhibit 12 for identification.

13 (Marked Hearing Exhibit 12.)

14 JUDGE WALLIS: And let me ask if there is
15 any objection to its receipt in evidence?

16 MS. VIERTHALER: No objection.

17 MR. LUNDGAARD: No. I would just like to
18 make one comment. That those are letters that came in
19 basically prior to the open agenda meeting in January
20 when the tariff was suspended.

21 MR. GOLTZ: Most of them are dated, and Mr.
22 Lundgaard is correct that a number of them did. I do
23 notice that some came in in February, and maybe there's
24 some more recent ones, too. But this is the complete
25 packet as of Wednesday of this week.

00218

1 JUDGE WALLIS: Yesterday.

2 MR. GOLTZ: As of yesterday is another way
3 of putting it.

4 JUDGE WALLIS: Very well. There is no
5 objection, and Exhibit 12 is received in evidence.

6 (Admitted Hearing Exhibit 12.)

7 JUDGE WALLIS: Now, Mr. Goltz is going to
8 call the names of folks who signed up. When we get
9 through the list of folks who signed up already, we
10 will also catch any people that came in beyond this
11 point, and we'll ask whether anyone who is here who
12 hadn't signed up earlier would like to offer testimony.

13 When Mr. Goltz asks you to step forward, I
14 would like you to come up here. I'll stand, I'll ask
15 you to raise your right hand, and we'll administer the
16 oath. Then you can be seated and be comfortable.

17 And then Mr. Goltz will ask you for your
18 name and any affiliation you may have. And then
19 you'll be asked to tell your story. And again please
20 keep your volume up so that everyone in the room can
21 hear what you're saying.

22 MR. GOLTZ: Okay. And I might just add
23 that generally it's perfectly acceptable if someone
24 makes one statement, and you wish to say the same
25 thing, to simply incorporate someone else's remarks

00219

1 into yours for purposes of brevity.

2 So I will start as they were provided to
3 me, which I assume is the order in which they signed
4 up. So the first person on the list is Mr. Jim Kidd,
5 K I D D.

6 Whereupon,

7 JAMES W. KIDD,
8 having been first duly sworn, was called as a witness
9 herein and was examined and testified as follows:

10

11 DIRECT EXAMINATION

12 BY MR. GOLTZ:

13 Q. Could you please state your full name and
14 spell your last name, please.

15 A. My full name is James W. Kidd, K I D D.

16 Q. And what is your address?

17 A. P. O. Box 478, Eastsound, 98245.

18 Q. And are you testifying on behalf of
19 yourself or some organization?

20 A. No, I am simply a concerned Rosario
21 property owner.

22 Q. Okay. Please proceed with your statement.

23 A. Please bear with me. I intend to read my
24 statement because it is somewhat lengthy.

25 There are two issues that I plan to

00220

1 address. These are, one, water usage as it pertains
2 to the calculation residential equivalent units,
3 E.R.U.'s, and, two, I would like to read into the
4 record certain facts about the validity and veracity
5 of some of the information and data provided by
6 Rosario Utilities. It's possible that some of this
7 information is not widely known and understood, and/or
8 it may not have been covered in today's hearings.

9 First the subject of water usage. This
10 topic is not only mind-numbing, but it readily lends
11 itself to endless interpretation. Witness the many
12 submissions that have been made in an attempt to
13 justify an ever decreasing number of E.R.U.'s.

14 I should mention that these E.R.U.'s have
15 importance because they will form a considerable part
16 of the base on which the water rates will be determined.
17 Once the number of E.R.U.'s is established and
18 incorporated into the rate, I feel that it's highly
19 unlikely that the number and resultant ratios will ever
20 be changed at any point in the future.

21 Beginning with the water system plan
22 developed by KS and M, water consumption and the
23 allocation of usage has been made confusingly
24 questionable. But rather than bore this audience with
25 the restatement of endless arcane mathematical

00221

1 calculations, allow me to suggest to you that there are
2 two figures worthy of consideration.

3 First there is the estimated resort usage
4 of 33,870 gallons per day. And even that does not
5 seem to be constant. And second there is a statement
6 on page 8 of the water system report which says,
7 quote, residential water use in San Juan County is
8 estimated at between 160 and 250 gallons per day per
9 household.

10 There is a growing body of solid evidence
11 which supports the probability that the average
12 Rosario Utilities residential connection accounts for
13 less than 200 gallons per day. This fact is in sharp
14 contrast to the 400 gallons used in the MPD engineer's
15 report of June 12.

16 As cases in point, Vusario with eight
17 connections has averaged less than 150 gallons per day
18 over a five year period. Master meter measurements
19 taken between April 30 and July 31st of this year show
20 average daily use of 108 gallons per day in Rosario
21 Shores -- that constitutes twelve homes down there --
22 and six functioning residential meters installed by
23 the utility on or about March 31st show an average
24 usage of 169 gallons per connection.

25 Some note parenthetically that a seventh

00222

1 residential meter which showed consistently high and
2 unrealistic consumption was finally replaced on the
3 12th of this month, so I have left this out of my
4 calculations.

5 But taken together, these three examples
6 total 26 homes or more than 10 percent of the total
7 residential connections. Most polling organizations
8 that I know of would consider a 10 percent sampling to
9 be statistically significant.

10 These facts inevitably lead to the
11 conclusion that there are huge unaccounted for water
12 losses. Currently, and in the MPD calculations, these
13 losses are in fact being attributed solely to the
14 homeowners.

15 The fallacy of this unwarranted attribution
16 can easily be seen by reducing the equation to a micro
17 level and by considering a known area which is
18 monitored in its entirety by a single company-provided
19 submeter. And the area in this case is my own
20 neighborhood which is served by the Palisades south
21 meter.

22 There are 15 active connections which are
23 monitored by this single meter. Ten of these
24 connections provide service to nineteen full-time
25 residents who live in those ten houses, two of the

00223

1 connections belong to vacation rental properties,
2 which are occupied 20 to 30 percent of the time, and
3 another connection provides service to a vacant house,
4 which is for sale and has never been occupied, and
5 another connection provides service to a vacation home
6 which hasn't been occupied since November of '95,
7 and the fifteenth connection is to a house occupied by
8 a single person three nights a week.

9 I have visited each of these properties and
10 know that none have extensive gardens, swimming pools,
11 ponds, or any other readily apparent facilities known
12 to consume large quantities of water.

13 During the period from April 30th through
14 July 31st of this year, the Palisades South submeter
15 recorded usage -- total usage of 1,150,000 gallons.
16 Based on the gross number of connections, fifteen if
17 you will remember, this equates to a daily usage of
18 833 gallons per connection.

19 However, if the unoccupied houses as well
20 as my own -- incidentally I was privileged to get one
21 of the company-provided residential meters, and since
22 they were installed I have averaged 228 gallons per
23 day. Thank you, very much.

24 But if you subtract all that out the total
25 rises to 1,016 gallons per day. And then if you

00224

1 factor in the vacation rentals and the part-time
2 residents, I don't know how you would calculate that,
3 but obviously the total would be significantly higher.

4 Quite obviously something is badly amiss,
5 and that something must be placed squarely on the
6 shoulders of the utility, not on the homeowners.

7 Either this meter is defective, or there's an
8 undetected leak of monstrous proportions.

9 In either way, whatever the discrepancy,
10 that's the sole responsibility of the company, the
11 utility. I urge the commission to take these remarks
12 into consideration when you determine the number of
13 E.R.U.'s.

14 Now possibly to a more inflammatory
15 subject. As previously mentioned, the second part of
16 my statement has to do with the accuracy, reliability,
17 and acceptability of the data submitted by Rosario
18 Utilities.

19 Never in my experience have I encountered a
20 situation where it was so nearly impossible to obtain
21 enough data on a timely basis to enable an intelligent
22 evaluation of a claim and then to arrive at a
23 conclusion.

24 The situation is analogous to that of a
25 salesman who is willing to tell a prospective client

00225

1 about the pricing of its product but nothing about the
2 functionality.

3 On pages 17 and 19 of her testimony, Mrs.
4 Ingram hints at difficulties of dealing with Rosario
5 Utilities. It's certainly reassuring to know that
6 others have shared in this frustration.

7 As interveners, we have supplied the
8 Commission with information which properly questioned
9 the utility's claims for: One, allocation of asset
10 cost; two, property taxes; three, employee
11 compensation; four, transportation cost; and, five,
12 material costs.

13 On a separate but parallel path, the
14 Commission Staff questioned additional items
15 including: One, unmetered sales; two, employee
16 pension benefits; three, chemicals and testing; four,
17 contractual engineering; five, regulatory fees; and
18 eleven additional items.

19 As a result, a lengthy series of changes
20 euphemistically called adjustments and restatements
21 were made to the original filing. These efforts and
22 changes were detailed in a May 28, 1996 letter from
23 Ms. Ingram to the utility.

24 And in this letter, Ms. Ingram called
25 attention to and discussed deficiencies found in the

00226

1 company's tariff filing and presented a revised tariff
2 based on known and provable facts.

3 Since May 28th however, the company has
4 slowly and grudgingly provided more and more
5 essentially undocumented information. To my dismay
6 and consternation, this information has led to the
7 Commission staff's endorsement and acceptance of a
8 rate base in excess of \$550,000.

9 But before this figure is carved in stone,
10 I would like to raise a few points about the validity.
11 Let's take the depreciation schedule.

12 Among other things, this schedule claims a
13 cost of \$17,940 for the 60,000 gallon concrete tank.
14 It's strange because I have an invoice, and the
15 documented cost of this tank is in reality \$6,825,
16 plus the cost of site preparation.

17 Further, they claim two 146,000 gallon
18 lined steel tanks, and they list them as having cost
19 \$63,787 each. I have a series of invoices which
20 covers this which establishes the total cost for the
21 two tanks as being \$61,015.82.

22 Three, undocumented claims for transmission
23 and distribution mains, from '59 through '84 totalling
24 \$188,393 are based on exaggerated speculation and
25 conjecture. Established, reputable island contractors

00227

1 who are familiar with the Rosario system estimate
2 that the actual cost of this work would have been 25
3 to 50 percent less than stated.

4 In a fourth point, in a summary of capital
5 expenditures made from 1985 to 1995, Mr. Jones of the
6 Commission staff confirmed total expenditures of
7 \$47,362; however, and strangely, to date the company
8 can only provide invoices that support \$19,365 of that
9 amount.

10 Considering the history of this filing, it
11 is not understandable, at least not to me, that any
12 claim would be allowed without suitable and complete
13 documentation.

14 Based on the information provided in the
15 proceeding four points and on other equally compelling
16 evidence presented today and previously in writing, it
17 is my belief that the Commission should limit this
18 process and proceed to unilaterally develop a rate
19 structure based solely on the provable substantiated
20 facts. Thank you.

21 JUDGE WALLIS: Are there any questions?

22 Mr. Goltz?

23 MR. GOLTZ: Yes.

24

25

00228

1 CROSS-EXAMINATION

2 BY MR. GOLTZ:

3 Q. Mr. Kidd, you are a customer of the water
4 utility?

5 A. Yes, I am.

6 Q. And are you -- you are a customer of the
7 utility?

8 A. Yes, I am.

9 Q. And you fall into which category of
10 customer?

11 A. I live in the entrance west area, which is
12 roughly down here. Right -- this is my parcel right
13 here. (Indicating.)

14 MEMBER OF THE AUDIENCE: Down there.

15 JUDGE WALLIS: I'm going to interject here
16 and ask the folks to give us a hand with giving the
17 Commission a full, complete, and accurate record.

18 One of the things I'm going to ask is that
19 the members of the audience don't say anything unless
20 you're up here on the stand.

21 I know it's very tempting if the witness
22 doesn't know exactly what it is -- the words or the
23 exact thing that he or she is talking about to offer
24 that, but that does hurt the record that the
25 commissioners get. We want the witnesses to testify

00229

1 from their own information.

2 Second thing that I'm going to ask is if
3 people refer to the map, when the commissioners read
4 the transcript, they're not going to know where this
5 point is or down here. So if you do refer to the map,
6 if you could please -- I understand that there are
7 zones identified. At least give us the zone or the
8 approximate location on the map.

9 Mr. Kidd, you indicated an area that is
10 down at the lower right-hand corner of the map; is
11 that correct?

12 THE WITNESS: That's correct.

13 JUDGE WALLIS: Now, Mr. Goltz.

14 MR. GOLTZ: And I just might add for the
15 record that this map is Exhibit 6, a copy of Exhibit
16 6, which is in the record.

17 Q. And you are a member of the Rosario
18 Property Owners Association; is that correct?

19 A. Yes, I am.

20 Q. And have you provided these invoices to the
21 attorney representing the Property Owners Association?

22 A. Yes, I have. And I have seven copies of my
23 statement along with copies of those invoices for
24 presentation here.

25 Q. Okay. Could I see that?

00230

1 A. Sure. Do you want all seven copies?

2 Q. No.

3 JUDGE WALLIS: Let's be off the record for
4 just a minute.

5 (Discussion off the record.)

6 JUDGE WALLIS: Let's be back on the record.

7 Q. Have you been asked for these invoices or
8 other documents in the past?

9 A. Excuse me?

10 Q. Have you been asked for these by anybody?

11 A. Not by -- these only arrived in my hands
12 within the past week.

13 Q. Where did you get them?

14 A. One came from Rosario itself. I think that
15 they inadvertently included one. And the second came
16 directly from Down Island Trading Company. They
17 researched their files and found, No. 1, a quotation
18 for the job dating back to the fall of '94, and then
19 there, as you can -- if you take the time to read it,
20 you will see a lot of handwritten notes which document
21 really the invoices subsequently submitted by Rosario.

22 Q. So you didn't come to these through any
23 personal -- I mean, you aren't involved in the
24 construction business or anything like that?

25 A. No. I'm a concerned citizen.

00231

1 Q. I understand.

2 MR. GOLTZ: Okay. I have no further
3 questions.

4 JUDGE WALLIS: Mr. Lundgaard, do you have
5 any questions?

6 MR. LUNDGAARD: No, I have no questions.
7 But I think the witness wanted to have his statement
8 put in the record.

9 THE WITNESS: I would like to have these
10 statements put in the record, if I may.

11 JUDGE WALLIS: I'm certainly going to ask
12 that a copy be provided to the court reporter, Mr.
13 Kidd. Maybe if you have the copy that you read from,
14 that would be most helpful.

15 THE WITNESS: That does not include the
16 invoices.

17 JUDGE WALLIS: Yes.

18 And would there be any objection to
19 receiving that document for illustrative purposes.

20 MR. GOLTZ: I have no objection to
21 receiving it as an illustrative exhibit. Just the
22 mere receipts don't tell me very much about the
23 receipts. In fact, I haven't really had a chance to
24 review these.

25 JUDGE WALLIS: It would illustrate the

00232

1 basis for the witness' testimony when he addressed the
2 topics in his comments.

3 MR. GOLTZ: On that basis I have no
4 objection to including it as -- either including it in
5 the public packet or as a separately-numbered exhibit
6 is fine.

7 JUDGE WALLIS: Mr. Lundgaard?

8 MR. LUNDGAARD: May I see one of these? I
9 think I would like -- there is some question about the
10 invoices.

11

12 CROSS-EXAMINATION

13 BY MR. LUNDGAARD:

14 Q. Referring to your exhibit from Mount Baker
15 Silo Company, how did you -- how did you obtain that?

16 A. That was obtained through one of my
17 associates, Mr. Eschenbrenner, who contacted those
18 people because he knows them. They've done work for
19 him I believe up in Vusario, so he had ready access
20 there.

21 Q. How did you obtain the exhibits from Down
22 Island Trading Company?

23 A. Two sources. One -- the first source was
24 Rosario itself, who sent this along with other
25 transmissions to someone, and I ended up with that in

00233

1 my hands.

2 I also pursued Down Island Trading Company
3 directly, who were the people that installed this
4 tank, and pleaded with them to provide me with
5 invoices, which they did.

6 The first one, two three -- the first four
7 pages of my Exhibit 2 came from Down Island Trading
8 Company. The remaining pages came from Rosario itself
9 except -- excuse me, the last page from Marley's Tanks
10 should have -- is out of place. It should have been
11 part of the Down Island Trading Company submission.

12 MR. LUNDGAARD: I have nothing further.

13 JUDGE WALLIS: Ms. Vierthaler, do you wish
14 to be heard on the question of admission of the
15 proposed document?

16 MS. VIERTHALER: Since I haven't seen them,
17 is there any way to verify --

18 JUDGE WALLIS: I'm sorry. Can we have a
19 copy provided to Ms. Vierthaler.

20 MS. VIERTHALER: I think the company would
21 like a chance to verify them before they're admitted,
22 and if that would be possible this evening --

23 THE WITNESS: I'm sure they would.

24 JUDGE WALLIS: I'm going to reserve a
25 ruling. I will mark this document, if I could have

00234

1 one for the official record. We will mark this as
2 Exhibit 13 for identification.

3 (Marked Hearing Exhibit 13.)

4 JUDGE WALLIS: And I will reserve ruling on
5 it.

6 Mr. Lundgaard, could I ask you to make sure
7 that we are directed back to this tomorrow, and we'll
8 give the company an opportunity to look at it, and then
9 we'll rule on it.

10 MR. GOLTZ: If I just might note, your
11 Honor, that the last three pages appear to have been
12 faxed to Mr. Kidd.

13 THE WITNESS: That's correct.

14 MR. GOLTZ: From Mr. Lundgaard's office, and
15 so if this is evidence submitted by the interveners, it
16 should be submitted by the interveners and not through
17 a public witness.

18 JUDGE WALLIS: Very well. Thank you for
19 the comment.

20 MR. GOLTZ: And maybe it's already been
21 submitted. I don't know. But we can take it up
22 tomorrow.

23 JUDGE WALLIS: Very well.

24 Is there anything further for Mr. Kidd.

25 (No audible response.)

00235

1 JUDGE WALLIS: It appears that there's
2 not.

3 MR. GOLTZ: The next person who is signed
4 up -- and I just might reinforce that any of you who
5 wish to read your statement and would prefer to just
6 leave that written statement as a record and then
7 summarize it orally, that's acceptable also.

8 Ms. Audrey Stupke.

9 Whereupon,

10 AUDREY STUPKE,
11 having been first duly sworn, was called as a witness
12 herein and was examined and testified as follows:

13 THE WITNESS: My name is Audrey Stupke.

14

15 DIRECT EXAMINATION

16 BY MR. GOLTZ:

17 Q. Could you state your name, please, for the
18 record and your address.

19 A. Audrey Stupke. I live in the Palisades
20 south. My address is Post Office Box 1334, Eastsound,
21 Washington.

22 Q. And are you a customer of the water
23 utility?

24 A. I am.

25 Q. And do you live --

00236

1 A. Palisades.

2 Q. -- in one of residential areas?

3 A. I live in Palisades south.

4 Q. And your last name is spelled S T U P K E?

5 A. That's correct. Yes.

6 Q. Please proceed with your statement.

7 A. I simply have a question, your Honor.

8 Yesterday many of us read in the paper about Rosario
9 wanting to have more condos, and our concern is this.
10 When there are capital improvements to the processing
11 plant, when that finally happens, who will have
12 priority in regards to the increased water supply,
13 the resort, who wishes to have the increased number of
14 condos, or the property owners who progressively are
15 involved with that moratorium and are not being
16 allowed to build on their property? That's simply my
17 question. We're concerned about who will have
18 priority from this increased water supply.

19 JUDGE WALLIS: Any questions for Mrs.
20 Stupke?

21 MS. VIERTHALER: No questions.

22 JUDGE WALLIS: Mrs. Stupke, thank you very
23 much for appearing this evening.

24 MR. GOLTZ: The next person to sign up is
25 Ms. Emily Watson.

00237

1 JUDGE WALLIS: As Ms. Watson steps forward,
2 I am going to ask people to make sure that Mr. Goltz
3 or any of the other representatives finishes their
4 question before you start answering.

5 I pointed out this morning that even though
6 our court reporter has two hands, she needs both of
7 them to take one person, and it's really difficult
8 when two people are talking at the same time.

9 Whereupon,

10 EMILY WATSON,
11 having been first duly sworn, was called as a witness
12 herein and was examined and testified as follows:

13

14 DIRECT EXAMINATION

15 BY MR. GOLTZ:

16 Q. Could you state your full name and your
17 address, please.

18 A. Emily K. Watson. My address is 577 Klamath
19 Drive, La Conner, Washington. I own a house in
20 Rosario Palisades on lot 30.

21 Q. And you are a customer of the utility?

22 A. Yes, I am.

23 Q. Please proceed with your statement.

24 A. I really just have a comment. My husband
25 and I have owned the property for almost five years.

00238

1 During that time, we have only had the pleasure of
2 using it no more than two weeks out of the year.

3 When we first heard of the rate increase,
4 which is -- which was in the range of \$50 a month, we
5 were horrified at the thought of having to pay more
6 for water in a house that we use two weeks out of
7 the year than at our permanent residence, where we
8 water a large yard and carry on all the normal
9 activities.

10 And we would just respectfully request that
11 in the rate plan, that there be some provision made
12 for those of us who use very little water, whether
13 it's the installation of a meter or some other means
14 of controlling our expense. Thank you.

15 JUDGE WALLIS: Are there any questions?

16 MR. GOLTZ: None. Thank you, very much.

17 JUDGE WALLIS: Thank you, very much for
18 appearing. You're excused from the stand, Ms. Watson.

19 MR. GOLTZ: The next person to sign up is
20 Mrs. Barrbara Harris.

21 Whereupon,

22 BARRBARA HARRIS,
23 having been first duly sworn, was called as a witness
24 herein and was examined and testified as follows:

25

00239

1 DIRECT EXAMINATION

2 BY MR. GOLTZ:

3 Q. Good evening.

4 A. Good evening.

5 Q. Could you please state your name and
6 address, please.

7 A. My name is Barrbara Harris. I live at
8 entrance west, which is not indicated on the chart
9 but is part of Rosario as one of the plats.

10 Q. And you are -- it is not on the chart?

11 A. That's correct. I can see where it's
12 folded under where my property is. But it's not
13 listed on plat list. However I am president of
14 the Rosario Property Owners Association.

15 Q. And are -- excuse me, are you a customer of
16 the water utility?

17 A. I am.

18 Q. And so you're currently served by the
19 utility?

20 A. Yes, I am.

21 Q. And are you testifying on behalf of
22 yourself or on behalf of an organization?

23 A. I am testifying, if I can, in both regards
24 as a water user as well as on behalf of the many
25 residents who couldn't attend this evening or who are

00240

1 living out of state and are property owners.

2 Q. And the Rosario Property Owners Association
3 is represented here by counsel, Mr. Lundgaard?

4 A. Yes. Correct.

5 Q. Please proceed.

6 A. I would like to make a point of the fact
7 that originally a water committee was developed with
8 the intent of having knowledge and being made aware of
9 the water utility by the previous owner, Geiser Land,
10 and subsequent ownership by Red Rock Resort doing
11 business as Rosario Resort.

12 And we made it clear to the new owners, Red
13 Rock Resort, that our prime concern at that time was
14 the availability of information and the viability of
15 the water system.

16 We had had a major failure in 1991, and
17 there were residents that went two weeks without any
18 water. This was a result of a major storm that
19 knocked down power. As a result there was no pumping
20 of water from the lake into the filtration system.

21 At that time the concerned citizens, and I
22 was one of those along with Mr. Kidd and the Stupkes
23 and a few others, came together to Geiser Land and
24 said we would like to have a generator or some back-up
25 system in place so we could have water for our health

00241

1 and safety. Two weeks is too long to go without
2 water. Up to today there is no back-up generator
3 available or in place.

4 The question was raised to Red Rock Resort
5 as one of our major concerns when we were first
6 introduced to them as the new owners, and we were told
7 that they wanted our communication, they wanted our
8 input, and we were very clear in going in and saying
9 this was our major No. 1 concern, that and the major
10 leaks that we had been encountering with stoppage of
11 water, not only during storm conditions but in just
12 abrupt line breaks.

13 We had a series of these subsequently since
14 January. When the Utility Commission became involved,
15 it was mandated to the utility that they would
16 announce if the water system was going to be turned
17 off if there was going to be any repair done.

18 I personally have experienced water being
19 shut off without being told that it was going to
20 be since January of this year. Other homeowners have
21 also experienced this.

22 This is just one of the points that I
23 wanted to make clear in this particular hearing; that
24 no provision has been made for any back-up nor has any
25 provision been made on a consistent basis for advising

00242

1 homeowners when water is going to be turned off. It's
2 been mainly a bandaid approach in the last year and a
3 half.

4 Additionally, in contacting the utility, we
5 had a very difficult time in communicating with the
6 utility company when Red Rock Resort d/b/a Rosario
7 Resort took over. It has been very difficult to find
8 anybody that would help us when we would call and say
9 we were out of water; what can we do. No one seemed
10 to know. No one was available.

11 UTC has mandated that a separate office
12 be placed in a situation to allow us to be communicating
13 and to have response. This has been better, but not in a
14 situation of health and safety, to be the best yet. We
15 are still experiencing some problems in being able to
16 communicate.

17 I do concur with Mr. Kidd's testimony today
18 in several issues that he pointed out in dealing
19 with frustrations, because I represent many property
20 owners that aren't here tonight, and I have to speak
21 on their behalf whether they own property that is
22 improved or unimproved. There are many considerations
23 in this fact.

24 We are faced with a moratorium, of course,
25 and we have people with capital gains meters running

00243

1 who can't build, and there are impacts in that
2 respect. To those homeowners who own homes here and
3 are not able to be on the island at the moment, we
4 need to communicate with them, and the utility company
5 does not provide that.

6 The only communication we've had recently
7 was a notice in our water bill for July that
8 admonished us for watering our lawns. We as a
9 collective group at Rosario don't have lawns. The
10 gardens that we do have are very small. We don't
11 waste water.

12 There are probably 10 percent of us who
13 have granted property to the San Juan Preservation
14 Trust, an environmental institution or facility.
15 We're very well aware of environmental issues, and we
16 do not waste water or our resources.

17 We did note that there was a break in the
18 irrigation line from the lake to the irrigation of the
19 Rosario landscape and some of their hard-scape. And
20 as a result of that break, Rosario was using some
21 filtered water to irrigate their lawns. This at a
22 time when they were sending their communication to us
23 to not water our lawns. Thank you.

24 JUDGE WALLIS: Thank you.

25 Are there questions for Ms. Harris?

00244

1 MR. GOLTZ: I have no questions.

2 MR. LUNDGAARD: No questions.

3 MS. VIERTHALER: No questions.

4 JUDGE WALLIS: It appears that there are
5 not.

6 Thank you, very much for appearing here
7 this evening.

8 MR. GOLTZ: Next is Merit Nerland.

9 Whereupon,

10 MERIT NERLAND,

11 having been first duly sworn, was called as a witness
12 herein and was examined and testified as follows:

13

14 DIRECT EXAMINATION

15 BY MR. GOLTZ:

16 Q. Could you state and spell your name for the
17 record please and give us your address.

18 A. Yes. My name is Merit Nerland. It's
19 spelled M E R I T. The last name is N E R L A N D.
20 And my address is P. O. Box 275, Orcas, Washington,
21 98280. And my husband and I, through his company,
22 currently own several lots in the Rosario area and one
23 lot in the Rosario Highlands -- Orcas Highlands area.

24 Q. And are you a resident -- are you a
25 customer of the water utilities yourselves?

00245

1 A. Not as yet. These lots have not been built
2 on.

3 Q. And is that because of the moratorium?

4 A. Yes. We own a small construction firm,
5 and we're anxious to go ahead and build on some of
6 these lots and keep our employees working and paying
7 taxes. And we're very anxious to see this moratorium
8 ended. And we hope the Commission proceeds as quickly
9 as possible to solve the rate case so that things can
10 get going.

11 Q. Is that resolution of the rate proceeding
12 important for ending the moratorium?

13 A. I'm not clear on that. I think it has a
14 lot to do with it. It can influence the ending of the
15 moratorium and getting on with building of a new
16 filtration plant, which I understand is the holdup on
17 the moratorium.

18 Q. Do you have -- continue on with your
19 statement.

20 A. Okay. Well, I'm here to talk mainly about
21 our lots in particular. Our firm sells in the Rosario
22 area mostly to retired people and people who are
23 part-time owners who eventually plan to live in their
24 homes full time. And, in fact, all the homes that
25 we've built in the area that is the case.

00246

1 And I was absolutely flabbergasted when we
2 found out what the -- what Rosario Resort was asking
3 for the water rates to be increased to. The \$51 is
4 absolutely phenomenal for retirees or part-time
5 residents to pay.

6 And I'm very glad that the Commission has
7 come up with a compromise that is much more
8 reasonable. I hope they proceed with that particular
9 rate area.

10 Also I might make one other comment about
11 when we were building a couple of homes in -- I
12 believe in 1994 in the Rosario area, the resort went
13 ahead and charged us \$4,100 for hook-ups for these two
14 homes.

15 I do admit that we have finally received a
16 refund. We understand that it was not filed with the
17 State of Washington Utilities Commission, and without
18 the help of the Rosario Property Owners Association,
19 we would have never known about this oversight on the
20 resort's part. And fortunately we did receive a
21 refund.

22 But it just seems to me that we need to
23 keep these rates down so that people can build on
24 their property and that we can keep our employees
25 employed. And that's about all I have to say this

00247

1 evening. I think that's it.

2 Q. The refund you're referring to is you were
3 originally charged \$4,100 and --

4 A. And their stated rate -- I'm sorry.

5 Q. -- you received a refund of 1,600 as the
6 stated rate was 2,500?

7 A. That's right.

8 Q. And when you and your husband's company
9 construct homes, do you normally install pipe from
10 the building site to the main distribution main?

11 A. Well, we have a company that installs it
12 for us, yes.

13 Q. And that is charged back to the purchaser
14 obviously?

15 A. Charged to whom?

16 Q. That is part of your charge to the
17 purchaser of the house?

18 A. Well, these are homes that are built to
19 spec, so we pay the cost -- we pay all the cost, and
20 eventually it's reflected in the cost of the home.

21 MR. GOLTZ: I have no further questions.

22 MR. LUNDGAARD: I have a question on the
23 hook-ups.

24

25

00248

1 CROSS-EXAMINATION

2 BY MR. LUNDGAARD:

3 Q. So you're saying that you engaged somebody,
4 and you pay for the cost of providing the hook-up to
5 the water system?

6 A. Yes.

7 Q. And in those cases where you received the
8 hook-ups for these two houses, what did the company
9 do, if anything, to make the hook-up?

10 A. The company referring to our company?

11 Q. Meaning the utility, the water company.

12 A. Nothing. The Rosario Utilities company?

13 Q. Yes.

14 A. They didn't do much.

15 Q. Okay.

16 A. We employed a firm on excavating, a
17 contracting firm, that installs all the piping and
18 runs it down to the road. They dig up the road if
19 necessary. And I think that the resort -- I'm not
20 clear on all of this. I think the resort basically
21 sends someone to make sure that it's connected
22 properly. And other than that I'm not sure if they
23 have any working responsibility there.

24 Q. But in those two instances, they did not
25 engage any contractor or --

00249

1 A. No.

2 Q. -- use any of their own employees to assist
3 in the --

4 A. No.

5 Q. -- hook-up?

6 A. No. Other than having someone, you know --

7 Q. Inspect?

8 A. -- make sure that it was connected to the
9 line -- to their main line proper.

10 MR. GOLTZ: I have one follow-up on that.

11

12 CROSS-EXAMINATION

13 BY MR. GOLTZ:

14 Q. The actual tapping into the main
15 distribution main owned by the utility is not done by
16 you or your contractors?

17 A. I'd have to check with my husband on that.
18 I know positively that, you know, we run a line from
19 the house. If it needs to go across the road, we do
20 all that. And as far as the actual tying on that
21 line, I'd have to check with my husband on that but --

22 Q. As I understand --

23 A. -- 99 percent of the work is done by us or
24 our subcontractor.

25 Q. When there's no moratorium?

00250

1 A. When there's no moratorium. Right.

2 MR. GOLTZ: I understand. Thank you.

3 JUDGE WALLIS: Ms. Vierthaler, do you have
4 any questions?

5 MS. VIERTHALER: No, no questions.

6 JUDGE WALLIS: Thank you, very much.
7 You're excused.

8 MR. GOLTZ: The next person on the list is
9 Mr. Robert Liebmann.

10 Whereupon,

11 ROBERT LIEBMANN,

12 having been first duly sworn, was called as a witness

13 herein and was examined and testified as follows:

14

15 DIRECT EXAMINATION

16 BY MR. GOLTZ:

17 Q. Mr. Liebmann, could you state and spell
18 your last name for the record, please.

19 A. My name is Robert Liebmann, L I E B M A N N.

20 Q. And what is your address?

21 A. 20031 Northeast 39th Street, Redmond,
22 Washington.

23 Q. And are you a property owner with -- that
24 is served by the water utility?

25 A. Yes. Me and my wife own lot B, Vusario.

00251

1 Q. You're in the Vusario subdivision?

2 A. That's what they call it.

3 Q. Okay. And do you currently have a home
4 there or just a lot?

5 A. No, we just have a lot at this time. It's
6 undeveloped.

7 Q. Okay. But you plan on developing it
8 sometime in the future?

9 A. That is correct.

10 Q. And are you just testifying on behalf
11 of yourself?

12 A. On behalf of myself or any other property
13 owner that may want to put a home on their property in
14 the near future.

15 Q. Please proceed.

16 A. We became aware in January of 1995 that
17 capacity complications would prevent any more homes
18 from being hooked up to the Rosario water system.
19 This is a problem I heard that existed probably for
20 many years and had just come to the surface as this
21 rate issue came up.

22 As a result, of course, as I said before,
23 we're unable to obtain building permits even though we
24 were guaranteed water rights when we purchased the
25 property. I guess part of the value of the property

00252

1 is based on that.

2 But Rosario's expansion didn't take into
3 account that there are people like us at this time
4 that have property that can't hook up. They just go
5 ahead and expand and forget about us. So this is the
6 main issue that I'm addressing here.

7 This has become a highly personal,
8 emotional issue because most of us have alot invested
9 in this property. As I mentioned, some have crucial
10 timelines cash-wise that require them to build pretty
11 soon.

12 We don't want to fix blame in this issue.
13 We're just asking counsel and the Commission to make
14 sure that the property priorities are placed on who
15 gets water when there is expansion and other capacity
16 issues come up. So that's basically my bottom line is
17 please watch out for us.

18 And though I'm not 100 percent sure how
19 the rate and the capacity issue do match together,
20 I'm sure that there is some oversight required, and we
21 would sure appreciate something. Our interests need
22 to be looked out for.

23 JUDGE WALLIS: Did you come up here from
24 Redmond just for this hearing?

25 THE WITNESS: Right. Now, sir, we're

00253

1 camping on our property, which is about all we can do
2 right now. We're enjoying the beautiful view and the
3 wonderful island that we have and looking forward
4 to moving here.

5 Q. When you're camping, your neighbors, do
6 they let you use the water?

7 A. They allow us to put water in our little
8 jugs, yes.

9 MR. GOLTZ: Thank you, very much.

10 JUDGE WALLIS: Are there any other
11 questions for Mr. Liebmann.

12

13 CROSS-EXAMINATION

14 BY MR. LUNDGAARD:

15 Q. Mr. Liebmann, have you made it known to the
16 utility company that you want to build?

17 A. Not yet, no. No, sir.

18 Q. Do you know if they have a list of those
19 that want to build?

20 A. That I don't know.

21 MR. LUNDGAARD: Okay. Thank you.

22 JUDGE WALLIS: Mr. Liebmann, thank you for
23 appearing here this evening.

24 MR. GOLTZ: The next person on the list is
25 Mr. Gary Vaughn.

00254

1 Whereupon,

2 GARY VAUGHN,

3 having been first duly sworn, was called as a witness

4 herein and was examined and testified as follows:

5

6 DIRECT EXAMINATION

7 BY MR. GOLTZ:

8 Q. Could you state your name and spell your
9 last name, please.

10 A. My name is Gary Vaughn, V A U G H N.

11 Q. And your address?

12 A. Star Route, Box 11, Eastsound, Washington.

13 Q. And are you a customer of the water
14 utility?

15 A. Yes, I am.

16 Q. And in what area do you reside within the
17 area served by the water company?

18 A. In the area called Rosario Estates.

19 Q. Okay. And please proceed with your
20 statement.

21 A. Okay. As we --

22 Q. I'm sorry. Are you speaking on behalf of
23 yourself or an organization?

24 A. Myself.

25 As many of you may know, I was employed

00255

1 by Rosario Resort since 1980 until 1994, 12 of those
2 years in the capacity of being the resident manager
3 directly responsible to the owner/manager of the
4 resort and so had a great deal of knowledge in regards
5 to that operation, as well as the operation of the
6 then water utility under the auspices of Geiser Land
7 Company.

8 In today's testimony, Mr. Drahn in his
9 Exhibit No. 9 stated that the residential consumption
10 of water had risen, and that the consumption by the
11 resort had dropped in years 1994 versus '95 and '96.
12 And I wish to call attention to the fact that nobody
13 questioned or had answers to occupancy in regards to
14 that.

15 I have personal knowledge of occupancy in
16 the previous 14 years and have personal knowledge of
17 the occupancy, at least in a general nature, since
18 that time. And if you ask any number of business
19 people here on the island as to the occupancy and how
20 it has affected the island and I'm sure the water
21 consumption, you'll find that the occupancy has
22 dropped, and thus the nature of his statement in that
23 the residents were using more and the resort was using
24 less might be a little misconstrued if these facts and
25 figures weren't brought out.

00256

1 The other determining factor in that regard
2 is that the new ownership has over the past year and a
3 half completed a number of renovation projects, thus
4 taking rooms out of service, thus decreasing the
5 occupancy, thus decreasing the water consumption on
6 the part of the resort.

7 I would hesitate to guess that it is the
8 plan of the resort to increase their occupancy over
9 the period of years; otherwise, they, like any other
10 business on the island, won't be in business for very
11 long.

12 And so if you are basing your E.R.U.,
13 R.E.U., U.E.R.'s or whatever we want to call it, on
14 the -- not the test year but some compilation of
15 years, we ask that you take into consideration that
16 we're not necessarily comparing apples to oranges here
17 in regards to occupancy and consumption.

18 I believe that there's probably enough
19 intelligence both within the staff and the utility
20 company and the interveners to draw some conclusions
21 in regards to water usage due to occupancy instead of
22 using the national average of consumption for resorts
23 throughout the nation.

24 I was also involved in the budgeting of the
25 revenues and expenses for Geiser Land Company in

00257

1 regards to water and have knowledge of what Mr. Drahn
2 alluded to in the fact that they couldn't draw any
3 conclusions as to where the monies went, how they were
4 spent, and so we just had to guess at all of these
5 facts and figures in regards to piping, pumps, et
6 cetera.

7 I believe that if you would look into the
8 issue further, you would find that receipts were in
9 fact deposited with Geiser Land. And, yes, there may
10 have been funds that went back and forth between
11 Geiser Land and the hotel operating company based on
12 cash flows. But as far as my knowledge is concerned
13 those were tradeoffs in that the resort might have to
14 pay for a bill and borrow money, in essence, from
15 Geiser land, Geiser Land might have to borrow money
16 from the resort, and so tracking was done in that
17 manner.

18 I also had knowledge of the labor involved
19 in regards to running the water system being friends
20 and neighbors with all the employees that worked at
21 the resort, including Mr. Cavalli, who is now the
22 facilities manager.

23 And during my tenure up until 1994, which
24 is I believe two years past the indicated date for
25 surface water treatment, that for the most part duties

00258

1 could be performed within a two to three hour period
2 per day in regards to the water system. And it is my
3 belief from looking at some of the pre-filed testimony
4 that hours have been exaggerated.

5 I think we heard statements today, one from
6 Ms. Vierthaler in fact, stating that, no, she did not
7 do payroll even though it was noted on the pre-filed
8 testimony. We also heard a statement from Mr. Cavalli
9 that no, he, in fact, really didn't drive to Mount
10 Vernon all the time to take his samples, and, yes, a
11 lot of the work in the area of the dam, the flume,
12 that type of thing did not specifically address the
13 water utility.

14 So I would ask that the staff, the
15 commissioners, take heed of those specific instances
16 and others where they may be overstated and reevaluate
17 those figures in that respect.

18 Currently I am a licensed real estate
19 person, salesperson if you will, in the state of
20 Washington and also perform property management for
21 various homeowners on the island.

22 I would like to address the fact that not
23 only because of the moratorium but because of the
24 water rate issue, through the process of full disclosure
25 to your clients, whether you are representing a seller,

00259

1 whether you're representing a buyer, you have to fully
2 disclose all of the knowledge that you have in regards
3 to that particular property.

4 This applies both to vacant land for those
5 persons wishing to sell, of which I have clients,
6 those persons wishing to purchase, of which I have
7 clients, in the service area. And I can tell you from
8 direct experience that neither one are doing anything.
9 The sellers aren't selling, and the buyers aren't
10 buying.

11 Because of the moratorium and the fact that
12 nobody knows when, if, or how this will be resolved,
13 when, if it will be two years, if it will be ten
14 years, there is a great hesitancy on the part of
15 prospective purchasers to peruse sales agreements on
16 homes in the Highlands or Vusario area when they have
17 no idea what their water rates will be in the future
18 under present circumstances, let alone what that rate
19 will be once the capitalizations are involved in
20 regards to upgrading the system.

21 I'm also the vice-president of the Rosario
22 Property Owners Association and have lived in the
23 Rosario area for ten years. And I think a number of
24 facts aren't coming out in regards to the residents in
25 that area.

00260

1 We have taken a poll over the past six
2 months trying to determine how many occupants there
3 are per household. And I don't know the nationwide
4 figures or state-wide figures, but I'm going to assume
5 that there are two adults and 1.5 kids and 3.2 dogs;
6 whereas, the occupancy in our area is more like 1/8
7 persons per household.

8 We also have a non-typical area in regards
9 to the fact that many of our homeowners are either
10 part-time or absentee owners, thus affecting usage
11 overall, thus affecting the E.R.U., R.E.U. formula.
12 And that's what I have to say.

13 Q. You testified that you were the resident
14 manager of the resort from 1980 through 1994?

15 A. I was employed by the resort from 1980 to
16 1994. I became the resident manager approximately in
17 1982.

18 Q. Are you familiar with the operations of
19 the resort from 1980 through sometime in 1994?

20 A. Through August 24th, 1994.

21 Q. Okay. And during the period 1980 through
22 the date in August you mentioned in 1994, were you in
23 effect in your capacity also -- excuse me, did
24 you manage the water utility?

25 A. Not directly, no.

00261

1 Q. Not directly?

2 A. Not directly.

3 Q. Okay. But indirectly?

4 A. But indirectly.

5 Q. So was there a manager of the water utility
6 that reported to you?

7 A. There was. The owner was in essence the
8 manager. John Cavalli was the direct supervisor, if
9 you want to put titles on things.

10 Q. And was it your testimony that in fact an
11 attempt to clarify that was discussed this afternoon
12 or this morning; that although there were hook-up fees
13 assessed by the company throughout that period, indeed
14 although there may have been some, in fact, quote,
15 co-mingling of funds, the money that came in from
16 these hook-up fees eventually found its way back into
17 the utility?

18 A. Well, there was not a utility company. It
19 was Geiser Land.

20 Q. I understand.

21 A. Okay.

22 Q. But basically the hook-up fees that were
23 assessed, the money would come in, and it may be
24 transferred in effect to different accounts, but
25 eventually that sum of money did then get applied to

00262

1 utility operations?

2 A. I can't tell you that it went into Geiser
3 Land, because there was no separate utility account.

4 Q. And did -- Geiser Land, was that the same
5 company as the resort?

6 A. Geiser Land -- to simplify the process,
7 Geiser Land owned the property. Rosario Resort
8 -- Rosario Hotel, Inc. was the operating company that
9 operated the resort, et cetera, for the owner.

10 Q. Okay. But throughout the period that you
11 were associated, 1980 through '94, there were
12 the -- I'm using the term utility meaning utility
13 operations --

14 A. Okay.

15 Q. -- of Geiser?

16 A. Okay.

17 Q. That there were additions being made to the
18 system all throughout that period?

19 A. Additions or replacements, pipes breaking,
20 et cetera. You also have to take into consideration
21 that there was a separate entity from 1980 until 1984.

22 Q. What was that entity?

23 A. That was the Rosario Development
24 Corporation, Moran House, Inc. Separate ownership.

25 Q. And did that organization control the

00263

1 utility?

2 A. Yes.

3 Q. I'm sorry I'm getting into this.

4 A. Yes. Don't ask unless you want to know,
5 because I'll tell you.

6 Q. You said you're vice-president of the
7 homeowner association?

8 A. Rosario Homeowners.

9 Q. Rosario Homeowners?

10 A. Or Property Owners Association.

11 Q. And your property association is represented
12 by Mr. Lundgaard in this proceeding?

13 A. Correct.

14 Q. And you're working with the association in
15 the preparation of this case?

16 A. (Nodding head.)

17 JUDGE WALLIS: Was the answer yes?

18 THE WITNESS: Yes. I'm sorry.

19 MR. GOLTZ: I have no further questions.

20 JUDGE WALLIS: Mr. Lundgaard?

21

22 CROSS-EXAMINATION

23 BY MR. LUNDGAARD:

24 Q. Mr. Vaughn, do you recall when the last
25 subdivision went in while you were working as a

00264

1 manager?

2 A. No, I don't know.

3 Q. Would it have been in the early '80s?

4 A. A wild guess would be '82 to '84.

5 Q. Okay. And do you know whether or not the
6 -- Geiser Land was doing the developing then?

7 A. No. That was Rosario Development Company.

8 Q. And who owned that?

9 A. A consortium of three persons, Manfred
10 Cieslik, Jim Roberts, and Gerda Foust.

11 Q. And did you have any association with them?

12 A. Oh, yeah.

13 Q. Okay. And were you -- when they put -- did
14 they put in some subdivisions then that are presently
15 part of the Rosario service area -- utility service
16 area?

17 A. They were responsible for building the
18 units which are now Cascade Harbor Inn, the Morrison,
19 units. And they were also in the process of trying to
20 develop other undeveloped land into various projects.

21 Q. Was it Geiser Land that developed some of
22 the subdivisions then that we've heard about that are
23 within the service area of the utility?

24 A. Yes.

25 Q. And do you recall whether they expensed

00265

1 -- when they built those subdivisions, did they put in
2 the water system at the time they put in the
3 subdivisions?

4 A. A great many of those subdivisions were put
5 in before my time.

6 Q. Okay. But those that were put in after
7 1980.

8 A. They generally would be part of the
9 development process and expensed off at the time of
10 that development and then through some magical means
11 built into the price of the land.

12 Q. Okay. So the water system would be
13 expensed out, and the sales of the land would reflect
14 the fact that that land or those lots would have water
15 to them?

16 A. That's typical, yes.

17 Q. And you were there and are familiar with
18 the duties that were performed by Mr. Cavalli and the
19 people that worked on the water system up until
20 August -- August 24th of '94?

21 A. That is correct.

22 Q. Had there really been any change in the
23 water system itself from, say '90 -- start of '90
24 through August of '94?

25 A. There weren't a great many changes other

00266

1 than repairs and general maintenance.

2 Q. Okay. And, to your knowledge, has that
3 basically continued on the same to date?

4 A. To the best of my knowledge, yes.

5 Q. And it's your testimony that the duties of
6 performing all of the water system functions could
7 be done in two to three hours a day?

8 A. That is correct.

9 MR. LUNDGAARD: I have nothing further.

10 JUDGE WALLIS: Ms. Vierthaler?

11 MS. VIERTHALER: No questions.

12 JUDGE WALLIS: Is there anything further?

13 (No audible response.)

14 JUDGE WALLIS: It appears that there is
15 not. Thank you for appearing this evening. You're
16 excused from the stand.

17 The reporter is fading fast on us here
18 and needs a moment to re-energize herself, so let's
19 take at least a five to seven minute break.

20 (Short recess.)

21 JUDGE WALLIS: Let's be back on the
22 record, please.

23 Mr. Goltz, please call the next witness.

24 MR. GOLTZ: The next witness is Mr. Ben
25 Marcin.

00267

1 Whereupon,

2 BEN MARCIN,

3 having been first duly sworn, was called as a witness

4 herein and was examined and testified as follows:

5

6 DIRECT EXAMINATION

7 BY MR. GOLTZ:

8 Q. Go ahead and state your name and spell your
9 last name for the record.

10 A. Ben Marcin, M A R C I N.

11 Q. And your address, please.

12 A. Box 1316, Eastsound.

13 Q. And are you representing yourself or an
14 organization?

15 A. An organization, Nook and Cranny.

16 Q. Okay.

17 A. The owners.

18 Q. And could you describe that organization?

19 A. It's a holding company that owns 60 acres --

20 Q. And --

21 A. -- in Rosario.

22 Q. And within the area served by the water
23 company?

24 A. Yes, sir.

25 Q. And do you live within the area served by

00268

1 the water company?

2 A. I live on a property.

3 Q. Please proceed.

4 A. I would like to address a few comments to
5 some missing water, and basically it's the water
6 that's not unaccounted for from the point that its
7 pumped to a point that it reaches the master meters.

8 Now, taking the data that is represented in
9 their presentation book and the data from about
10 February '94 to November '94, their daily average of
11 water pumped was about 160,000 gallons. The master
12 meters indicated that 131,000 were being used. And
13 there's a missing 29,000 gallons daily.

14 Now, I'm sure the expense associated with
15 pumping the water and treating it is included in the
16 figures that they've used to show the expenses. But
17 the water usage, except for a limited amount for
18 backwash and the residential people, housing for
19 Rosario and possibly the fire house, that quantity
20 probably accounts for about 3 to 4,000 gallons a day.
21 So there's still an unaccounted amount of about 25,000
22 gallons.

23 I don't believe there is any significant
24 leaks on the transmission line, the major transmission
25 lines, because more than 70 percent of those lines are

00269

1 on our property, and I don't see any leaks. So the
2 difference can't be accounted for by leakage.

3 Also if you examine that drawing, there is
4 a line indicated from -- as Tomihi tie-in running
5 through the sewer, but I'm not aware of any more
6 detail other than represented on that drawing.

7 Mr. Cavalli this morning said that only 30
8 gallons a day was being used in the treatment plant,
9 so it shouldn't be hard to find 25,000 gallons in
10 about half a mile. It's doing something. So I think
11 this could be sloppy operation or distributing free
12 water to some end use.

13 And I think that ought to be confirmed one
14 way or the other, and the cost associated with this
15 water be reflected in what they're expensing out.
16 That's all I have to say.

17 MR. GOLTZ: I have no questions.

18

19 CROSS-EXAMINATION

20 BY MR. LUNDGAARD:

21 Q. When you say expensing out, are you
22 indicating that the electricity used to pump this
23 water is part of the company's expense?

24 A. Yes.

25 Q. And the treatment of that water is part of

00270

1 the company's expense?

2 A. Right.

3 Q. And the company is asking to recover those
4 expenses by the rates they're asking to be paid?

5 A. That's correct. But the -- there's no
6 indication that there's any income or real end usage
7 of the 25,000 gallons per day.

8 Q. And the water is free, it comes out of the
9 lake, so there's no charge for the water?

10 A. That's correct.

11 Q. So the expenses are already being paid by
12 the users that pay monthly rates?

13 A. Correct.

14 Q. How much of the main transmission line is
15 on your property?

16 A. Well, I have a sketch here. Up to this
17 point. The rest of it is on our property.

18 Q. Can you relate your diagram to the exhibit?

19 A. Can I put it up there?

20 Q. That is on the board.

21 JUDGE WALLIS: Exhibit No. 6.

22 Q. So Exhibit No. 6.

23 A. Well, I spent a little time trying to
24 match up the scale a little bit.

25 Q. If you could identify those specific areas.

00271

1 The property that you own first.

2 A. Well, it's going to go on here.

3 (Indicating.)

4 Q. Okay.

5 A. Maybe it's on this one. It's kind of an
6 odd shape. It runs down in here. (Indicating.)

7 Q. Is it in the area that is identified as
8 zone 2?

9 A. Yes, it is.

10 Q. And is there -- do you know, does this
11 represent a road, or does this represent a
12 transmission line and refer --

13 A. It's an easement on our property.

14 Q. Who is the -- who holds that easement?

15 A. At this time I would have to look at the
16 document. I don't really remember whether it's
17 Rosario or Geiser.

18 Q. Who is -- and what type of easement? Is it
19 an easement for a transmission line?

20 A. It's also an easement for travel to the
21 various other properties in here besides the water.
22 So it's a 60 foot easement through here. (Indicating.)

23 Q. So it's an easement for ingress and egress?

24 A. Yes.

25 Q. That is shown with three lines and runs

00272

1 generally in an east-to-west direction?

2 A. I think the third line is their water line.

3 And then this line here that ties into that center
4 line. (Indicating.)

5 And for identification that starts at the
6 northwest corner of Tomora S P and runs on to --

7 A. No, I'm sorry. It starts -- it's this slot
8 in here. (Indicating.)

9 Q. I'm trying to have you identify the line
10 that starts at the northwest corner of Tomora S P and
11 runs across the top of Tomihi.

12 A. That's not on our property.

13 Q. Oh, okay. Well, after it passes Tomihi and
14 proceeds easterly just below zone 6A, that's then on
15 your property?

16 A. Yes. All the way to the -- (Indicating.)

17 Q. All the way over to --

18 A. All the way over to the county road.

19 Q. Is that the dark black line?

20 A. Yes.

21 Q. What is the name of that county road?

22 A. I think it's Rosario Way.

23 Q. Is that Horseshoe Highway?

24 A. Rosario Way.

25 Q. Rosario Way.

00273

1 A. Horseshoe Highway is up here.

2 (Indicating.)

3 Q. So that is Rosario Way; did you say?

4 A. Yes, sir.

5 Q. That is also a boundary line of the service
6 area, an easterly boundry of the water system service
7 area?

8 A. But it's also the boundry line of the main
9 transmission lines. And there are meters in this
10 area.

11 Q. And showing you what is identified on the
12 map as Rosario Road county road, and there are some
13 lots that are -- lot No. 1 where the county road
14 Rosario Road reaches the easterly boundry of the
15 service area, you say there's a pump at that location?

16 A. No, meter. One of the master meters is
17 here. And there's two more at this location.

18 (Indicating.)

19 Q. Now, the record won't make it clear when
20 you say at this location. So the first one you
21 pointed out was at the northwest corner of lot one
22 just on the south side of the Rosario county road?

23 A. Okay. Yeah.

24 Q. And the other one was down --

25 A. Two of them are --

00274

1 Q. Two of them are down at the southeast
2 corner?

3 JUDGE WALLIS: I'm going to interject here
4 and ask the witness to not talk when counsel is
5 talking and vice versa.

6 Q. The other two are down at a lot that is
7 identified as PRV?

8 A. Right. It's in the vicinity of the dam.

9 Q. Okay. Fine.

10 JUDGE WALLIS: Do you have anything further,
11 Mr. Lundgaard?

12 MR. LUNDGAARD: No I guess not, your Honor.

13 JUDGE WALLIS: Mr. Goltz?

14

15 CROSS-EXAMINATION

16 BY MR. GOLTZ:

17 Q. What lead to you testifying here tonight?

18 A. Well, I would like the proposed rates to be
19 equitable to the users. And I really don't have
20 anything more than that other than a good bit of the
21 activity is on our property including the treatment
22 plant.

23 Q. Were you asked to testify tonight, or did
24 you just come here on your own?

25 A. No. No. Well, I'm part of the water

00275

1 committee.

2 Q. The Property Owners Association?

3 A. Well, yes.

4 Q. And were you asked by the association to
5 come here?

6 A. No. No. Well, I don't know how to the
7 committee was formed, but I was asked to join the
8 committee.

9 Q. I understand. So you weren't asked
10 especially to present testimony tonight?

11 A. No, other than examine information related
12 to the water system. I do have a background in it.

13 Q. I understand. Okay. Thank you.

14 JUDGE WALLIS: Is there anything further
15 for this witness?

16 MS. VIERTHALER: No.

17

18 CROSS-EXAMINATION

19 BY MR. LUNDGAARD:

20 Q. I didn't ask you to come here tonight
21 and testify; did I?

22 A. No you didn't.

23 MR. LUNDGAARD: Thank you.

24 JUDGE WALLIS: Mr. Marcin, thank you for
25 appearing. You're excused from the stand.

00276

1 MR. GOLTZ: Mr. Harvey Aldort.

2 Whereupon,

3 HARVEY ALDORT,

4 having been first duly sworn, was called as a witness

5 herein and was examined and testified as follows:

6

7 DIRECT EXAMINATION

8 BY MR. GOLTZ:

9 Q. Good evening. Could you state your name
10 and spell your last name for the record.

11 A. It's Harvey Aldort, A L D O R T.

12 Q. And your address.

13 A. Star Route, Box 277, Eastsound.

14 Q. And are you a customer of the water
15 utility?

16 A. Yes. I live in the Highlands. I own
17 property in the Highlands.

18 Q. And would you proceed.

19 A. I don't really have testimony. You know,
20 I've been watching this from when this started, and at
21 first I thought that they asked for a huge increase
22 because they figured, well, we'll ask for this, and
23 the utility will just -- you guys will slash it in
24 half, and I didn't realize really how far out they
25 were.

00277

1 And I think what I would like to say here
2 is that I request that you grant no increase except
3 the future costs. In other words, if they spend a
4 million dollars to build a new plant, and the
5 amortization that is typical is 30 years or whatever,
6 whatever that breaks out, that's what should be added
7 to the existing rates.

8 These people operated this utility for -- I
9 don't know. I mean, I'm a recent person here. And
10 they've been collecting \$2,500 dollars to tie people
11 on, and it's taking their employee an hour.

12 I don't know where they're putting the
13 2,400 extra that they've been getting on every one of
14 these things, but supposedly that money is out of
15 their pocket. It isn't. I mean, it's been banked.
16 It's gone.

17 And, you know, this individual -- this
18 organization that has bought the resort and bought the
19 property or whatever, I don't really know all the
20 legal finagling, you know, decided I think that if he
21 went public with this, that he could get you guys to
22 grant the big increase, hide behind the law. And the
23 whole thing is like a red herring.

24 His number -- you know, he's constantly
25 back-pedaling on his numbers. You're -- in all due

00278

1 respect to the Commission, you're falling into his
2 trap, because even though he started with a huge
3 number, and the Commission feels they're making a
4 rational recommendation with the recommendations here,
5 how did they operate for all these -- forever with the
6 revenue they've got.

7 And if they need revenue to improve the
8 system, why don't they improve the system and look at
9 what that costs and ask for the rate increase after
10 the improval.

11 Plus they have approximately 140 units
12 at the resort. I mean, you can't really separate one
13 from the other. I mean, even though they're separate
14 legal entities, it's the same people.

15 They want to add 70 condos, which means
16 their own consumption, whatever the numbers are, is
17 going to increase by 50 percent. Does that mean
18 that all the homeowners are going to take a reduction
19 offset by their increased revenue, because the revenue
20 -- the water is free?

21 I mean, their costs are just totally
22 artificial, I mean, their out of pocket. Their
23 employees is probably -- direct water-related it's
24 peanuts. I mean, this is like a balloon. They've
25 blown up a big balloon, and the Commission is falling

00279

1 in.

2 And I would request that you don't grant
3 them anything, and let them make their improvements,
4 which they want to do for their own purposes, and then
5 say, look we just spent a million dollars, and we want
6 to recoup it over 30 years or 50 or whatever is common
7 in the industry. They're big people. They don't need
8 you to protect them.

9 JUDGE WALLIS: Just a moment.

10 Q. May I just indicate that you understand
11 that the recommendation that has been made here --
12 the recommendations by the witnesses for the
13 commission staff is in fact a separate entity, and we
14 are not communicating directly with the commissioners.

15 There's three commissioners, and they are
16 making a decision based on the evidence presented by
17 the interveners, the company, and the commission
18 staff.

19 So I guess I'm just asking you -- I guess I
20 need to make a statement or clarification that this is
21 not -- the proposal is not a Commission proposal. It
22 is a Commission Staff recommendation, and the
23 Commission will be making an independent decision.

24 A. I understand. Are you a member of the
25 staff that is making that decision, or are you just

00280

1 the facilitator between the Staff and --

2 Q. I'm not a member of the Staff. I'm with
3 the Attorney General's office, and I am assigned by
4 law to represent the Staff in proceedings before the
5 Commission, so I'm acting as the attorney on behalf of
6 Staff. And I will not be giving independent legal
7 advice to the Commission on this matter.

8 A. I see.

9 JUDGE WALLIS: Are there any other
10 questions for Mr. Aldort?

11 (No audible response.)

12 JUDGE WALLIS: It appears that there
13 aren't.

14 Thank you, very much for appearing tonight.

15 THE WITNESS: You're welcome.

16 MR. GOLTZ: Ms. JoAnn Simmons.

17 Whereupon,

18 JOANN SIMMONS,

19 having been first duly sworn, was called as a witness
20 herein and was examined and testified as follows:

21

22 DIRECT EXAMINATION

23 BY MR. GOLTZ:

24 Q. Would you please state your name and spell
25 your name for the record.

00281

1 A. JoAnn Simmons, J O, capital, A N N,
2 S I M M O N S.

3 Q. Okay. And your address?

4 A. P. O. Box 387, Eastsound.

5 Q. And are you testifying on behalf of
6 yourself or an organization?

7 A. Myself and my husband.

8 Q. Okay. And are you a customer of the water
9 utility?

10 A. Yes, I am.

11 Q. Okay. Could you please proceed.

12 A. Great. I have a brief statement I would
13 like to read if I may.

14 JUDGE WALLIS: I'm going to ask you two
15 favours. No. 1 is read slowly.

16 THE WITNESS: Uh-huh.

17 JUDGE WALLIS: And No. 2 is give the court
18 reporter a copy of that.

19 THE WITNESS: Sure.

20 My name is JoAnn Simmons. I am currently
21 serving as a director on the board of our homeowners
22 association.

23 As a director I have been involved in the
24 process of Rosario's application for an increase in
25 the water rates since January. My husband and I have

00282

1 not only witnessed the Rosario Utilities reluctance to
2 supply requested information, we have seen that much
3 of the information they have supplied has not been
4 correct.

5 This misinformation resulted in the three
6 homeowners associations need to combine efforts and
7 resources to gather the correct information necessary
8 to determine a fair and equitable rate.

9 As a means to this end, we felt it
10 necessary to hire an attorney and accountant
11 specializing in this field in an effort to counter the
12 misinformation generated by the Rosario Utility.

13 As customers of the utility, we are greatly
14 disturbed on two fronts. We feel the information
15 generated by the utility cannot be trusted without
16 spending extensive time and effort to determine the
17 validity of that information. This is particularly
18 painful when dealing with something as essential as
19 the water we drink.

20 As members of the homeowners association,
21 we watch our monetary resources dwindle in an effort
22 to determine truth and fairness; truth that should be
23 inherent in a public utility, and fairness which
24 should be determined by the State based on honest
25 facts and data.

00283

1 We resent the financial obligation required
2 to determine the truth necessary for the State to
3 reach a fair decision. Thank you.

4 JUDGE WALLIS: Are there questions for Ms.
5 Simmons.

6 MR. GOLTZ: I have none.

7 MR. LUNDGAARD: None.

8 JUDGE WALLIS: Thank you, very much for
9 appearing tonight.

10 Next.

11 MR. GOLTZ: Mr. David Morrison.

12 Whereupon,

13 DAVID MORRISON,
14 having been first duly sworn, was called as a witness
15 herein and was examined and testified as follows:

16

17 DIRECT EXAMINATION

18 BY MR. GOLTZ:

19 Q. Could you state and spell your last name
20 for record, please.

21 A. My name is David Morrison.

22 Q. And your address?

23 A. 19590 Juna Lane, Saratoga, California.

24 Q. That's J U N A Lane?

25 A. Yes.

00284

1 Q. And are you testifying on behalf of an
2 association today?

3 A. I'm representing myself as owner of the
4 Cascade Harbor Inn.

5 Q. And you are actually granted intervention
6 as a party in this matter?

7 A. Yes.

8 Q. And this morning you were asked if you were
9 going to present any witnesses, and you responded no?

10 A. That's correct.

11 Q. Nevertheless you have something you wish to
12 add tonight?

13 A. Yes, I do.

14 Q. Please proceed. Are you currently -- other
15 than in your ownership capacity of the Cascade Harbor
16 Inn, are you a separate customer of the water utility?

17 A. No, other than the Cascade Harbor Inn.

18 Q. Please proceed.

19 A. My wife and I own the -- and manage the
20 Cascade Harbor Inn, which contains 12 legal
21 condominiums and adjoins the Rosario Resort.

22 In May of 1995 Dan Donahoe increased my
23 water rate 400 percent. I contacted the Utilities
24 Commission and said the rate was increased -- the rate
25 increase was selective and vindictive. The Utility

00285

1 Commission agreed, and Donahoe was told the increase
2 was not legal.

3 Within two months my water rates were
4 increased again along with everyone else that uses the
5 water.

6 Rosario water installed a master meter a
7 little over a year ago and have found that a
8 condominium, which contains 1600 square feet, uses 600
9 cubic feet of water per month. That's 160 gallons a
10 day.

11 As an appraiser consultant, I analyze
12 utility expenses on an ongoing basis, and I found that
13 consumer water costs in 99 percent of the cases fall
14 between one cents and two cents per cubic foot.

15 My water cost based on the vast majority of
16 water provided should therefore run about 6 to \$12 per
17 month per condo, not the \$80 that I'm currently being
18 billed by Rosario Utilities.

19 Mr. Donahoe has told me that he has 25
20 profit centers at Rosario including the water and
21 sewer companies, and that a prospective buyer would
22 like to see a profit from all 25 centers.

23 I believe making a profit is admirable, but
24 I do feel Rosario Utilities is inflating plant,
25 equipment expenses, and salaries in an attempt to

00286

1 justify an \$80 per month rate when \$10 worth of water
2 is used. That's the end of my statement.

3 MR. GOLTZ: Okay. I have no questions.

4 JUDGE WALLIS: Are there any questions for
5 Mr. Morrison?

6

7 CROSS-EXAMINATION

8 BY MR. LUNDGAARD:

9 Q. When did you say you installed your meter?

10 A. End of June, 1995.

11 Q. So you've had approximately a little over a
12 year then of meter readings?

13 A. That's correct.

14 Q. So you've had the peak time as well as the
15 off-season time?

16 A. That's correct.

17 Q. And your overall average is 160 gallons a
18 day?

19 A. Yes.

20 MR. LUNDGAARD: I have nothing further, your
21 Honor.

22

23 CROSS-EXAMINATION

24 BY MR. GOLTZ:

25 Q. 160 gallons per day per?

00287

1 A. Per condo.

2 Q. And you have 12 condominiums?

3 A. Yes.

4 Q. And those condominiums are all rented, or
5 are some permanently occupied?

6 A. They're rented on a daily basis.

7 Q. On a daily basis. The occupancy is fairly
8 light?

9 A. During the summer it's high. Very low
10 during the winter.

11 Q. And are they multi-bedroom units?

12 A. That's correct.

13 Q. Okay. And are they rented by families who
14 make use of all the bedrooms?

15 A. Every bedroom has a bathroom, yes.

16 Q. And is that the only purpose -- and they
17 all have kitchens?

18 A. There are 12 kitchens.

19 Q. Is there any other purpose for which you
20 use water besides the individual condominium unit's
21 kitchen and bathroom facilities?

22 A. There's very little landscaping, and the
23 laundry is done outside.

24 Q. You have no pool?

25 A. No pool. No spa.

00288

1 Q. But some modest amount of gardening?

2 A. That's correct.

3 MR. GOLTZ: I have no further questions.

4 JUDGE WALLIS: Mr. Morrison, thank you for
5 appearing. You're excused from the stand.

6 MR. GOLTZ: Next is Ms. Carol Blaney-Tully.

7 Whereupon,

8 CAROL BLANEY-TULLY,

9 having been first duly sworn, was called as a witness
10 herein and was examined and testified as follows:

11

12 DIRECT EXAMINATION

13 BY MR. GOLTZ:

14 Q. Good evening.

15 A. Good evening.

16 Q. Could you state and spell your last name.

17 A. My name is Carol Blaney-Tully, B L A N E Y,
18 dash, T U L L Y.

19 Q. And your address?

20 A. Post Office Box 1810, Eastsound.

21 Q. And are you a customer of the water
22 utility?

23 A. Not yet I am.

24 Q. Do you own property?

25 A. I own property.

00289

1 Q. Within the area which the utility --

2 A. Yes, in Rosario estates No. 2.

3 Q. And you're testifying on behalf of
4 yourself?

5 A. Yes.

6 Q. Please proceed.

7 A. I'm one of those persons who has now sold
8 my home and is ready to build in Rosario. My late
9 husband and I first purchased property in 1975 and
10 another lot in 1979.

11 I have been a member of the Property Owners
12 Association since 1975 and have followed the
13 activities very closely and in 1986 received a letter
14 from Gil Geiser on behalf of Geiser Land Company that
15 said in order to reserve my place in the water system,
16 that it would be advisable to pay my \$2,500 water fee
17 at that time, which I did.

18 And the understanding was that when I was
19 ready to build, my place would be there. And I only
20 am saying at this point that I hope that this water
21 rate situation can be resolved quickly so that this
22 dream that has gone on for so long may be culminated.
23 Thank you.

24 Q. You said that you paid your hook-up fee for
25 service connection of \$2,500 when?

00290

1 A. 1986.

2 MR. GOLTZ: Thank you, very much.

3 MR. LUNDGAARD: One question.

4

5 CROSS-EXAMINATION

6 BY MR. LUNDGAARD:

7 Q. When did you sell your home?

8 A. Last month.

9 Q. So you understand you have two years to --

10 A. Yes.

11 Q. -- occupy a new home, or you will have
12 to pay the capital gain; you won't be able to defer
13 it?

14 A. That's right.

15 Q. Is that one of your concerns?

16 A. Somewhat.

17 MR. LUNDGAARD: I have nothing further.

18 THE WITNESS: Thank you.

19 JUDGE WALLIS: Thank you, very much.

20 You're excused from the stand.

21 MR. GOLTZ: Next is Ms. Shirley Dawson.

22 Whereupon,

23 SHIRLEY DAWSON,

24 having been first duly sworn, was called as a witness

25 herein and was examined and testified as follows:

00291

1 DIRECT EXAMINATION

2 BY MR. GOLTZ:

3 Q. Could you state your name and spell your
4 last name for the record, please.

5 A. My first name is Shirley, S H I R L E Y,
6 last name is Dawson, D A W S O N.

7 Q. And your address?

8 A. Post Office Box 687, Granite
9 Falls, Washington.

10 Q. And are you a customer of the water
11 utility?

12 A. Not presently at this time.

13 Q. You're a lot owner?

14 A. We're a lot owner in Orcas Highlands.

15 Q. And are you testifying on behalf of
16 yourself?

17 A. On behalf of myself and my husband.

18 Q. Please proceed.

19 A. Actually most of my testimony is the same
20 as Carol. My husband and I purchased our lot in 1990.
21 And in 1993 or '94 we were advised that it would be
22 advisable for us to go ahead and pay our water
23 membership, which we did at that time.

24 We were told then that water would be
25 available to us when we were ready to start building.

00292

1 We had plans drawn up last year. And that was before
2 the moratorium came on.

3 We were not even given the opportunity to
4 find out that there was going to be a moratorium on
5 building, or that there was going to be a limit on
6 water hook-ups. Nobody bothered to advise us of that.

7 The first time we found out was in January
8 when were contacted by the Orcas Highlands Association
9 asking us to write to the WUTC.

10 What I'm asking the WUTC to do is before
11 Rosario is allowed to build at all, the people that
12 have paid their water memberships should be the first
13 ones that are able to build.

14 Q. And are you -- does that complete your
15 statement?

16 A. Yes, sir, I am.

17 Q. And have you paid your \$2,500?

18 A. Actually ours was only \$750. It did take a
19 rate increase. We paid before the rate increase in
20 Orcas Highlands.

21 Q. When did you pay that?

22 A. In either '93 or '94. I'm sorry. I didn't
23 bring the document. But one thing I would like to
24 reiterate is when we purchased our land, one thing our
25 lawyer asked us to do was to find out if water was

00293

1 going to be available to us, and in fact we did. And
2 a letter was sent out to us that said, yes, when
3 you're ready to build, it will be there.

4 Q. From whom did you receive that letter?

5 A. Sir, since I did -- we found out about this
6 meeting on short notice, so I did not bring that. I
7 would be happy to send a copy to the WUTC if you
8 provide me with a mailing address.

9 Q. So you don't recall who sent it to you?

10 A. No, sir, I do not.

11 Q. Who did you pay your \$750 dollars?

12 A. To the Orcas Highlands Association.

13 Q. Okay. So it was not to the water utility
14 then?

15 A. No. No, sir it was not.

16 Q. And was the letter you received from the
17 Orcas Highlands Association?

18 A. Yes, sir, it was.

19 MR. GOLTZ: Okay. I have no further
20 questions.

21 JUDGE WALLIS: Are there other questions?

22

23 CROSS-EXAMINATION

24 BY MR. LUNDGAARD:

25 Q. Did -- are you sure you didn't -- you say

00294

1 you received that from the Orcas Highlands
2 Association?

3 A. Received what, sir?

4 Q. The letter.

5 A. Yes. There was a letter dated -- from the
6 association.

7 Q. But that's the letter that told you to pay,
8 or is that the letter that said water would be
9 available when --

10 A. That is the letter that said that water
11 would be available.

12 Q. And you say you have that at home but
13 didn't bring it with you?

14 A. Yes. We found out about the meeting on
15 short notice and decided to come, so I did not bring
16 that with me.

17 MR. LUNDGAARD: Thank you.

18 JUDGE WALLIS: Is there anything further?

19 MS. VIERTHALER: No.

20 JUDGE WALLIS: It appears that there is
21 not.

22 Ms. Dawson, thank you, very much.

23 THE WITNESS: Thank you.

24 MR. GOLTZ: On the sheet that was -- some
25 people signed up on during the break, several people

00296

1 who spoke, Mrs. Stupke and Mr. Aldort, that kind of
2 stimulated my thoughts.

3 This afternoon after hearing some of the
4 testimony this morning, I was in discussion with my
5 wife about the cost of water. Mrs. Stupke talked
6 about appropriate pricing for retired people.

7 I'm retired and moved here after my
8 retirement in 1988. Last year I moved part time to
9 Green Valley, Arizona, which is 25 miles south of
10 Tuscon in the middle of the desert.

11 We don't have Cascade Lake to get the water
12 from. We obtain water from the Green Valley Water
13 Company, which is a private organization. A private
14 company provides us water.

15 And my wife looked back through our check
16 stubs, and we determined that the largest monthly
17 payment we had made was 12.50 per month.

18 Q. In Arizona?

19 A. In Arizona, yes.

20 The Green Water -- Green Valley Water
21 Company obtains its water from an aquifer several
22 hundred feet below the desert floor and pumps it into
23 huge tanks and purveys it to us at that price. That
24 seems appropriate to me for a retired person's water
25 fee, as mentioned by Mrs. Stupke.

00297

1 When I was informed by my homeowners
2 association about the proposed fee increase, I was
3 incredulous and very angry. I felt that this was a
4 crime, and I guess the name of the crime was
5 extortion. The cost of my water would go up
6 approximately 700 percent.

7 And then Mr. Aldort suggested something
8 that kind of put a finish on my thoughts. He's a
9 business person, and I suppose most business people
10 when they plan an expansion or something, they borrow
11 the money to do so and pay it off over 30 years
12 or something like that. And that kind of seems to
13 explain what extortion means in this case. That's
14 about all I have to say.

15 MR. GOLTZ: Thank you, very much.

16

17 CROSS-EXAMINATION

18 BY MR. LUNDGAARD:

19 Q. Excuse me, Mr. Eiland. How many months
20 do you spend at Green Valley?

21 A. Ten months this past year.

22 Q. So you're only at your property here in
23 the Orcas Highlands area two months?

24 A. This year. But I lived from 1988 through a
25 year ago 12 months a year here.

00298

1 Q. What is your plans for the future in terms
2 of sharing your time between your two locations?

3 A. My house is on the market now. If I can
4 sell it, I'll move down to Green Valley as a full-time
5 resident there probably relocating on the peninsula
6 for two or three months in the summer.

7 Q. Would a vacation-type rate of -- be of
8 interest to you where you would have a reduced rate
9 for people who only live in their property for less
10 than six months?

11 A. You mean here --

12 Q. Yes.

13 A. -- in Orcas?

14 Well, it wouldn't affect me. I won't be
15 coming back to Orcas. I would be living somewhere
16 where I don't have to take the ferry.

17 JUDGE WALLIS: Thank you for appearing this
18 evening.

19 MR. GOLTZ: Next -- actually a couple of
20 people signed up without indicating if they wished to
21 comment. Don and Marilyn Miller.

22 MRS. MILLER: I thought I put no. I
23 certainly concur with the comments that have been
24 made.

25 MR. GOLTZ: The next person who signed up

00299

1 and didn't check the box either way on wishing to
2 comment is Mr. Walt Hanschildt.

3 MR. HANSCHILDT: I don't have any comment.

4 MR. GOLTZ: Your Honor, that concludes the
5 people who signed up either prior to the meeting or
6 during the meeting or during the break, so I have no
7 other persons that have indicated any --

8 JUDGE WALLIS: Let's ask if there is anyone
9 else in the audience who would like to testify this
10 evening?

11 (No audible response.)

12 JUDGE WALLIS: Let the record show that
13 there is no positive indication.

14 I certainly want to thank everyone who
15 came this evening for coming out. I want to thank
16 those of you who testified for making your views known
17 to the Commission.

18 And let me ask counsel if there's anything
19 further to be discussed this evening?

20 (No audible response.)

21 JUDGE WALLIS: It appears that there is not.
22 And we will adjourn tonight's session, and we will resume
23 tomorrow morning in this room promptly at eight o'clock.

24 Thank you, very much.

25 (Hearing adjourned at 8:59 p.m.)