

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION  
2 COMMISSION  
3

4 MARINE VIEW HEIGHTS )  
HOMEOWNERS ASSOCIATION, )  
5 Complainant, )  
6 vs. )  
7 MARINE VIEW HEIGHTS )  
INCORPORATION, )  
8 Respondent. )  
9 ----- )  
10

) Docket No.  
) UW-940325

) VOLUME I  
) (Page 1 - 223)

) ORIGINAL

11 A hearing in the above matter was  
12 held on July 25, 1994, at the hour of 9:30 a.m.  
13 the Department of Social & Health Services, 1620  
14 S. Pioneer Way, Moses Lake, Washington, before  
15 LISA ANDERL, Administrative Law Judge.

16  
17 The parties were present as follows:

18  
19 MARINE VIEW HEIGHTS HOMEOWNERS  
ASSOCIATION, by MARION SNELSON, 8453 Highland  
20 Drive SE, Othello, Washington 99344.

21 MARINE VIEW HEIGHTS INCORPORATION, by  
22 FREDRICK RAY BARKER, 6897 O'Sullivan Dam,  
Othello, Washington 99344.

23 WASHINGTON UTILITIES AND  
24 TRANSPORTATION COMMISSION, by ANN E. RENDAHL,  
Assistant Attorney General, 1400 S. Evergreen Park  
25 Drive SW, Olympia, Washington 98504-0128.

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UTIL. AND TRANSP.  
COMMISSION

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1 DEPARTMENT OF HEALTH, by LILIA LOPEZ,  
2 Assistant Attorney General, 905 Plum Street,  
3 Building 3, Olympia, Washington 98501.

4 Dina Lindquist, CSR  
5 Court Reporter

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1            I N D E X            O F            W I T N E S S E S :

2

3            For the Commission:            D            X            ReD            ReX            J

4            CRAIG RILEY            8            85

5            (By Ms. Snelson)            50            91

6            (By Mr. Barker)            81            93

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8            For the Homeowners  
Association:

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10            MORRIS THOMAS            102

11            DONALD PAINE            109

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1            I N D E X            O F            E X H I B I T S:

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3	No:	Identification	Id.	Adm.
4	1	Order from Department of Health 4-28-93	13	50
5	2	Notice of Imposition of Penalties	13	50
6	3	Modified Order	13	50
7	4	Coliform Sampling History	20	50
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## 1 P R O C E E D I N G S

2 JUDGE ANDERL: Let's be on the  
3 record. This hearing will please come to order.  
4 The Washington Utilities and Transportation  
5 Commission has scheduled for hearing at this time  
6 and place, Docket No. UW-940325.

7 This matter is captioned Marine View  
8 Heights Homeowner Association, complainants, vs.  
9 Marine Heights, Inc., respondent. My name is Lisa  
10 Anderl. I'm assigned to hear the case today.

11 We're convened at Moses Lake, July 25,  
12 1994. Let's begin by taking appearances at this  
13 time. For the Homeowners Association, if you would  
14 state your name and mailing address.

15 MS. SNELSON: I'm Marion Snelson,  
16 S-n-e-l-s-o-n, 8453 Highland Drive SE, Othello,  
17 Washington, 99344.

18 JUDGE ANDERL: For the  
19 Commission.

20 MS. RENDAHL: Ann Rendahl,  
21 R-e-n-d-a-h-l, Assistant Attorney General,  
22 representing the Washington Utilities and  
23 Transportation Commission. My address is 1400  
24 South Evergreen Park Drive SW. Olympia,  
25 Washington, 98504.

1 JUDGE ANDERL: All right. And I  
2 understand that there is an Assistant AG for the  
3 Department of Health. Would you like to make an  
4 appearance, please.

5 MS. LOPEZ: My name is Lilia,  
6 L-i-l-i-a, Lopez, L-o-p-e-z. I'm an Assistant  
7 Attorney General for the Department of Health, 905  
8 Plum Street, Building 3, Olympia, Washington,  
9 98501.

10 JUDGE ANDERL: Thank you. We've  
11 already noted while we were off the record, there  
12 did not appear to be anyone here representing the  
13 water company. Giving opportunity for anyone from  
14 Marine View Heights Inc. to make an appearance at  
15 this time. I hear no response.

16 Ms. Rendahl, when we were off the  
17 record before we started, we did discuss the  
18 procedure we'd follow and all the parties agreed  
19 that Mr. Riley would be the first person to testify  
20 from the Department of Health.

21 Are you going to call him as a witness,  
22 then, and do the Direct Examination?

23 MS. RENDAHL: I am.

24 JUDGE ANDERL: Why don't we proceed  
25 to that, then.

1 MS. RENDAHL: I'd like to call Mr.  
2 Riley to the stand.

3

4

5

CRAIG RILEY

6

7 called as a witness herein, being first duly  
8 sworn to tell the truth, the whole truth and  
9 nothing but the truth, was examined and testified  
10 as follows:

11

12

13

DIRECT EXAMINATION

14

15 BY MS. RENDAHL:

16 Q. Would you please state your name for  
17 the record and spell your last name for the  
18 reporter?

19 A. Craig Riley, R-i-l-e-y.

20 Q. And would you please state your  
21 business address for the record?

22 A. 1500 West 4th Avenue, Spokane, Suite  
23 305, Spokane, Washington.

24 JUDGE ANDERL: Let's take a break  
25 in the proceedings right now.



1 (Discussion had off the record).

2 JUDGE ANDERL: While we were off  
3 the record, Mr. Lease and Mr. Barker, who I  
4 recognized from the prehearing conference, did  
5 come into the room.

6 Which one of you two will be speaking  
7 for the water company today?

8 MR. BARKER: I guess I will.

9 JUDGE ANDERL: Okay. Mr. Barker,  
10 would you make your appearance, then. State your  
11 name and business address.

12 MR. BARKER: Fredrick R. Barker,  
13 6897 O'Sullivan Dam, Othello, Washington.

14 JUDGE ANDERL: Zip?

15 MR. BARKER: Representing Marine  
16 View Heights, Inc.

17 JUDGE ANDERL: Zip code?

18 MS. RENDAHL: 99334, excuse me.

19 JUDGE ANDERL: Thank you. All  
20 right. Before you arrived, the Attorney General  
21 for the Commission asked, and I allowed her, to  
22 call a witness out of order, which is Mr. Riley.  
23 He's going to testify first.

24 And he was just through the process of,  
25 what, giving his name and business address?

1 MS. RENDAHL: I believe that's  
2 right.

3 JUDGE ANDERL: Go ahead.

4 Q. (BY MS. RENDAHL:) Mr. Riley, who is  
5 your employer?

6 A. Washington State, Department of  
7 Health, Department of Drinking Water.

8 Q. And what is your current position with  
9 the Department?

10 A. My current position is that of senior  
11 environmental engineer, wastewater reuse/special  
12 projects.

13 Q. What are your responsibilities in that  
14 position?

15 A. In addition to the special projects and  
16 waste water reuse, I act as regional engineer for  
17 the state drinking water program of Grant County.

18 Q. As a regional engineer, what are your  
19 responsibilities?

20 A. Regional engineer includes insurance of  
21 administrative -- of the Safe Drinking Water Act  
22 and the state health drinking regulations for  
23 public water systems in the public -- county.

24 Q. How long have you been employed by the  
25 Department?

1           A.     Five years.

2           Q.     And for those five years, have you  
3 been in the same position?

4           A.     For those five years I have acted as  
5 regional engineer for Grant County, yes.

6           Q.     Through your responsibilities with the  
7 Department of Health, have you been assigned to  
8 review or have you reviewed the operations of the  
9 Marine View Heights water system?

10          A.     Yes, ma'am.

11          Q.     When were you first assigned to, or  
12 when did you first review the operations of the  
13 system?

14          A.     The first assignment for the system in  
15 Grant County occurred in 1989, in February. When I  
16 began with the Department, the initial review of  
17 the system records began during the summer of 1992.

18          Q.     But your personal involvement with the  
19 system began in February of 1989?

20          A.     Yes, ma'am.

21          Q.     What was the purpose of this  
22 assignment? Why were you assigned to review the  
23 water system?

24          A.     Because it's a water system within  
25 Grant County.

1 JUDGE ANDERL: Before we go any  
2 further, I think I'd like to take a minute off  
3 the record and see if I can do something about  
4 the noise next door.

5 (Discussion had off the record).

6 JUDGE ANDERL: All right. Let's  
7 be back on the record. Go ahead, Ms. Rendahl.

8 Q. (BY MS. RENDAHL:) Mr. Riley, have you  
9 been involved in any departmental proceeding  
10 directed against or for Marine View Heights water  
11 system?

12 A. Yes, I have.

13 Q. And what proceeding is that?

14 A. Proceedings began -- Well, the  
15 proceeding of the issuance of department order,  
16 Docket 93-013, and subsequent orders.

17 Q. When was that proceeding initiated, or  
18 when did it begin?

19 A. April 28, 1993 is the date of  
20 signature on the order.

21 Q. What was the purpose of this order?

22 A. The order was to require the system, or  
23 to order the system, to make sufficient  
24 improvements in monitoring and water quality  
25 management to alleviate the non-acute coliform

1       contaminate level situation that had been occurring  
2       in the system.

3               Q.       What was the result of that order?

4               A.       As of to date, the water quality issues  
5       have been pretty well resolved. There are some  
6       remaining outstanding requirements with the order.

7                       MS. RENDAHL: Your Honor, I'd  
8       like to have a document marked. Actually, why  
9       don't I have all three marked.

10                      JUDGE ANDERL: In the order you  
11       gave them to me?

12                      MS. RENDAHL: Please.

13                      JUDGE ANDERL: All right. I'll  
14       mark as Exhibit Number 1 for identification, an  
15       order from the Department of Health in Docket No.  
16       93-013 dated April 28, 1993.

17                      I'll mark as Exhibit 2 for  
18       identification a notice in that same Docket No.,  
19       a notice of imposition of penalties dated the  
20       10th of November 1993.

21                      And as Exhibit Number 3, a document  
22       in that same Docket No., entitled modified order,  
23       dated December 23, 1993.

24                      (Exhibit Numbers 1, 2 and 3 were  
25                      marked for identification).

1 Q. (BY MS. RENDAHL:) Mr. Riley, looking  
2 at what's been marked as Exhibit Number 1, is this  
3 the order you were just referring to?

4 A. Yes, it is.

5 Q. And were you personally involved in the  
6 issuance of this order?

7 A. In the creation of the order and the  
8 issuance, yes.

9 Q. How were you involved in the creation  
10 and issuance of this order?

11 A. The draft of the order based on water  
12 quality information available to the Department was  
13 compiled by myself. And the draft was -- I created  
14 the draft of the order based on that information  
15 and reviewed it with our Attorney General's Office  
16 and our enforcement staff.

17 Q. Looking to what's been marked as  
18 Exhibit Number 2, notice of imposition of  
19 penalties, why was this notice issued?

20 A. This notice was issued in response to  
21 noncompliance with several items of the order,  
22 specifically paragraphs 2.2, 2.3, 2.7, and 2.8.

23 Q. And what did those paragraphs refer to?

24 A. Paragraph 2.2 of the order required the  
25 system to monitor for coliform quality. Paragraph

1 2.3 required the system to take appropriate  
2 follow-up action per drinking water regulations.  
3 Paragraph 2.7 required the system to install and  
4 operate and maintain disinfection equipment. And  
5 paragraph 2.8 required the system to provide  
6 evidence of chlorine residual monitoring in  
7 conformance with the regulation.

8 Q. And do you know what the status of this  
9 imposition of -- notice of imposition of penalties  
10 is at this point?

11 A. The penalty was appealed, and there's a  
12 hearing scheduled for July 27, 1994.

13 Q. Turning to what's been marked as  
14 Exhibit Number 3, modified order, why was this  
15 modified order issued, do you know?

16 A. This order was issued after continued  
17 evidence or demonstration of noncompliance with the  
18 water quality issues, water quality standards of  
19 the Department of Health; to assess the current and  
20 long-term financial stability of the company and  
21 their abilities to meet future -- current and  
22 future needs regarding water quality and  
23 improvements in the system.

24 Q. So at this time, what are the  
25 remaining issues in this proceeding, Docket No.

1 93-013?

2 A. The remaining issues are paragraphs --  
3 outstanding issues, are paragraphs 2.9, 2.10, 2.11,  
4 and 2.12; which 2.9 is requirement of a water  
5 system plan; 2.10 is requirement for a project  
6 report, detailing information not included in the  
7 water system plan; 2.11 requires the system to  
8 submit construction documents; and 2.12 requires  
9 the system to install facilities for improved  
10 construction.

11 Q. Mr. Riley, what water quality tests are  
12 water companies required to comply with?

13 A. Water companies are required to take  
14 coliform bacteria tests, inorganic chemical tests,  
15 radionuclide, volatile organic compound.

16 JUDGE ANDERL: Slow down. What  
17 was the last one?

18 THE WITNESS: Radionuclide?  
19 Volatile?

20 JUDGE ANDERL: Vol --

21 THE WITNESS: V-o-l-a-t-i-l-e,  
22 volatile.

23 JUDGE ANDERL: Oh, volatile. I'm  
24 sorry. Volatile organic compound?

25 THE WITNESS: Yes, ma'am.



1 JUDGE ANDERL: Go ahead.

2 Q. (BY MS. RENDAHL:) Are these the only  
3 tests that are currently required for a water  
4 company to test for?

5 A. No. I'm sorry. There's also lead and  
6 copper testing and a beginning program for  
7 synthetic compound testing.

8 Q. Referring to the first four tests that  
9 you mentioned, coliform testing, inorganic  
10 compound, radionuclide, and volatile organic  
11 compound testing, could you go through each of  
12 these and explain what compounds or substances  
13 these tests are to detect?

14 A. The coliform testing is to detect the  
15 presence of coliform bacteria. That gives an  
16 indication of the microbiological quality of the  
17 system.

18 The organic water quality is to test  
19 the source water for the presence of inorganic  
20 substances, noncarbon-related substances,  
21 chemically that could potentially be harmful to  
22 public health or causes aesthetic problem.

23 Radionuclide is to test for the  
24 presence of certain radioactive elements in terms  
25 of gross alpha and beta levels in uraniums for

1 health-related problems with those constituents.

2 Volatile is to test for the presence  
3 for contamination by volatile organic compounds,  
4 which are basically solvents and some ag-chemicals  
5 that could potentially be carcinogenic or cause  
6 reproductive problems.

7 Q. How did the Department measure whether  
8 there is too much of one of these substances in the  
9 water?

10 A. The test samples are obtained by the  
11 system, submitted to certified labs for analyses,  
12 the test results are given back to the system and  
13 the department together, and the results are  
14 measured against a set of standards of maximum  
15 contaminant levels that are included in the state  
16 drinking water regulation.

17 Q. Can you explain what a maximum  
18 contaminant level is?

19 A. Maximum contaminant level is a level  
20 set for health and economic reasons and adopted by  
21 the state and federal government as a level that  
22 will provide a designated level of risk for  
23 exposure to that constituent, be it inorganic,  
24 organic or bacteriological.

25 Q. When you say "constituent," do you mean

1 substance?

2 A. Substance, yeah.

3 Q. Are there different types of maximum  
4 contaminant levels, or MCL's?

5 A. There's primary and secondary  
6 definitions. Primary are based on health-related  
7 MCL's; secondary is aesthetic-related levels, taste  
8 and odor and appearance of the water for secondary.

9 Q. Could you explain what the difference  
10 is between an acute and non-acute MCL, and how that  
11 relates to primary and secondary MCL?

12 A. Okay. Acute and non-acute MCL's are  
13 related only to coliform quality. An acute MCL is  
14 determination that there's the confirmation of  
15 presence of fecal coliform in either set or routine  
16 samples.

17 A non-acute MCL is confirmation that  
18 there was presence of only total coliform bacteria  
19 in set or routine or repeat samples.

20 Q. How does the category of acute and  
21 non-acute relate to primary and secondary, or is  
22 there any relationship?

23 A. They're both primary standards.

24 Q. To your knowledge, has the Marine View  
25 Heights water system ever had an acute MCL?

1 A. No.

2 Q. Has the water system had non-acute  
3 MCL's?

4 A. Yes, they have.

5 Q. How many non-acute MCL's has the  
6 water system incurred?

7 A. To date, 10 by my count.

8 Q. Mr. Riley, I think you're referring to  
9 a document you've prepared, and I'd like to have  
10 that marked for evidence.

11 JUDGE ANDERL: Okay. Do you have  
12 copies?

13 MS. RENDAHL: I do have copies. Do  
14 you have those copies with you?

15 THE WITNESS: Yes, I do.

16 JUDGE ANDERL: Okay. I'll mark  
17 as the next exhibit in line, Exhibit Number 4, a  
18 two-page chart which is entitled Marine View  
19 Heights coliform sampling history.

20 (Exhibit Number 4 was marked  
21 for identification).

22 MS. RENDAHL: Has this been marked?

23 JUDGE ANDERL: Yes, Number 4.

24 MS. RENDAHL: Oh, I'm sorry.

25 Q. Mr. Riley, looking at what's been

1 marked as Exhibit 4, did you personally prepare  
2 this document or these two documents?

3 A. Yes, I did.

4 Q. And from what source, documents, did  
5 you prepare this?

6 A. These documents were prepared from the  
7 summary data provided by our state drinking water  
8 administrative computer system and the documents  
9 that are available to the Department for the actual  
10 test results of coliform samples.

11 Q. And is this a true and correct  
12 representation of the coliform sampling tests  
13 conducted on the Marine View Heights water system  
14 since August 1992?

15 A. To the best of my knowledge, based on  
16 the information available to us, yes.

17 Q. Could you identify the 10, I believe  
18 you said 10, non-acute MCL occurrences? Could  
19 you identify which months these non-acute MCL's  
20 occurred?

21 A. In November and December of 1992,  
22 January of 1993 -- It's January, February, March,  
23 and April of 1993. August, September, October,  
24 November, and December of 1993.

25 Q. So is this, then, more than 10?

1           A.       That's 11.

2                    JUDGE ANDERL:  Actually, just for  
3 clarification, I didn't count one in February.

4                    THE WITNESS:  You're correct.  
5 February isn't there.  Thank you.

6           Q.       (BY MS. RENDAHL:)  Mr. Riley, looking  
7 under -- There is a shaded area to the left on the  
8 top row that says "number of routine samples" and  
9 then various columns, required, taken,  
10 satisfactory, and unsatisfactory.

11                    Could you please explain what the  
12 numbers mean in those columns?

13           A.       Okay.

14           Q.       For example, for 9-Dec-92, could you  
15 please explain what those numbers mean?

16           A.       Public water systems are required to  
17 take a certain number of total coliform samples  
18 that's regulated by size of the service population.  
19 The system was required in September of 1992 to  
20 take one coliform -- routine coliform sample.  The  
21 chart indicates that on that date, they took one  
22 routine coliform sample.

23           Q.       On the first for 9-Dec-92, it says --

24           A.       Oh, 9 December.  I'm sorry.

25           Q.       9-Dec-92.

1           A.       I was looking at September. I'm sorry.  
2       In 9-Dec-92, the system was required to take five  
3       routine coliform samples. The reason for the  
4       change is it's regulatory after the presence of  
5       coliform's detected in a previous month, the system  
6       is required to take less than five samples in the  
7       month -- the following month, they are required to  
8       take five samples to clarify the water quality.

9           The data in this row shows that five  
10       samples were required, five samples were taken.  
11       One of the samples showed no presence of total  
12       coliform, four samples show the total presence of  
13       coliform bacteria.

14           Q.       For clarification, looking up to  
15       9-Sep-92, which is maybe where you were before?

16           A.       Yeah.

17           Q.       There's no indication of satisfactory  
18       or unsatisfactory.

19           A.       That's an error in the data entry.  
20       They were both satisfactory at that time.

21           Q.       Both September and 30-Oct-92?

22           A.       Correct. Oh, well, no. Not October.  
23       An October sample wasn't taken.

24           Q.       Oh, thank you.

25                   MR. LEASE: Your Honor, the reason

1 why we got confused here on --

2 JUDGE ANDERL: Excuse me, Mr.  
3 Lease.

4 MS. LEASE: I'm sorry.

5 JUDGE ANDERL: In the first place,  
6 you just told me that Mr. Barker was going to be  
7 the one that was talking. In the second place, you  
8 can't interrupt the Direct Examination of a witness  
9 like that unless you have a valid objection to the  
10 question or evidence.

11 For clarification, you'll be allowed to  
12 Cross-examine this witness. You'll also be allowed  
13 to present your own testimony.

14 Go ahead.

15 Q. (BY MS. RENDAHL:) Mr. Riley, turning  
16 to the second page of what's been marked as Exhibit  
17 Number 4, how was this table different than --  
18 Could you explain how the table is different on  
19 page number 2 than on page number 1?

20 A. Page number 1 is a compilation of a  
21 summary of the coliform sampling history by dates  
22 that the samples were taken and dates were provided  
23 on the summary results. Page number 2 is a summary  
24 by month.

25 The Department of Health regulates per



1 calendar month, so our regulation of the facility  
2 is by the information that's on page number 2,  
3 where the actual history by date of collection is  
4 on page number 1.

5 Q. Could you explain the Department's  
6 regulations? I think you began to explain them  
7 earlier, concerning when a sample that is taken  
8 indicates the presence of total coliform, when does  
9 the Department no longer become concerned about  
10 total coliform?

11 Do you understand what I'm asking?

12 A. Well --

13 Q. Maybe if you explain the Department's  
14 regulation concerning testing for total coliform  
15 and when the Department determines there is  
16 compliance with those regulations.

17 A. Okay. Total coliform samples are taken  
18 based on 100 milliliters of samples each month.  
19 The samples are tested for the presence of total  
20 coliform bacteria, the total coliform bacteria  
21 group.

22 The presence of one bacteria shows you  
23 that the sample is unsatisfactory. At that point,  
24 the system -- At that point, two things happen.

25 The sample is automatically run for

1 Fecal or E. Coli coliform, the second test by the  
2 laboratory, to determine the presence of the  
3 substandard or more stringent indicator. Secondly,  
4 the system is required to take a series of repeat  
5 samples.

6 If the system is taking less than five  
7 samples in the month, then they're required to take  
8 a minimum of four repeat samples. If they take  
9 five or more, the system is required to take three  
10 repeat samples.

11 Those repeat samples are required for  
12 each routine sample that shows a presence of total  
13 coliform or shows a presence of any coliform, total  
14 or Fecal, okay?

15 When does the Department no longer  
16 feel that there's a problem?

17 In the instance that the Department is  
18 able to invalidate a sample, a routine sample, then  
19 based on the repeat sample results, we would be  
20 able to feel that there is no longer a coliform  
21 problem.

22 Q. After how many months of testing that  
23 show no coliform, no presence of total coliform,  
24 when does the Department consider the company to be  
25 complying with Department regulations?

1           A.       Okay.  In the instance -- This is a two  
2 level question.  In the situation that the system  
3 is not a significant noncomplier, based on the  
4 total coliform samples, unsatisfactory samples,  
5 and/or monitoring violations, if that designation  
6 is not there, the month following the last sample  
7 that shows presence of total coliform, the system  
8 is required to take at least five samples.

9           If all five samples are satisfactory,  
10 then the situation is determined to be handled.  In  
11 the situation that the system is determined to be a  
12 significant noncomplier, an SNC system, and there  
13 is some enforcement action of whatever level, the  
14 criteria to return to compliance is six consecutive  
15 months of satisfactory samples.

16          Q.       Could you explain what makes a water  
17 company a significant noncomplier?

18          A.       The designation of significant  
19 noncompliance leading to enforcement is based on a  
20 combination of non-acute or acute MCL violations  
21 and violations of monitoring and/or violations of  
22 monitoring requirements.

23          Q.       Has the Marine View Heights water  
24 system been designated as a significant  
25 noncomplier?

1           A.       It was in April of 1993. That's what  
2 led to the Department of Water --

3           Q.       Looking at what's been marked as  
4 Exhibit 4, has the company had six consecutive  
5 months of compliance with total coliform sampling?

6           A.       Yes, they have, beginning in January  
7 of 1994.

8           Q.       So at this time, is the Marine View  
9 Heights water system in compliance with the  
10 Department's standards?

11          A.       Yes, they are.

12                   MS. RENDAHL: Your Honor, I have  
13 another document to be marked.

14                   JUDGE ANDERL: All right. I've  
15 been handed a single-page document that is a letter  
16 on Department of Health stationery. I'll mark that  
17 as Exhibit Number 5 for identification. It is  
18 dated July 5, 1994.

19                                   (Exhibit Number 5 was marked  
20                                   for identification).

21          Q.       (BY MS. RENDAHL:) Mr. Riley, can  
22 you --

23                   JUDGE ANDERL: Did you get one?

24                   MS. RENDAHL: I'm sorry.

25          Q.       Can you please review this document.

1 A. Yes, ma'am.

2 Q. Are you familiar with this letter?

3 A. Yes, ma'am.

4 Q. Could you explain -- Were you involved  
5 in the preparation of this letter?

6 A. Yes, I was.

7 Q. Looking at the person who signed this  
8 letter; Mr. Dan Sander. Who is that person?

9 A. Mr. Sander is my supervisor, and he is  
10 the regional supervisor for the eastern regional  
11 office of the state drinking water program.

12 Q. Could you explain what the significance  
13 of this letter is?

14 A. The issuance of the departmental order  
15 under required category red operating permit to be  
16 issued for the water company under the operating  
17 permit regulations effective early this year.

18 That permit status required local  
19 building permit -- local building and permit  
20 officials to withhold building permits. There was  
21 a concern expressed by local homeowners regarding  
22 this, and as soon as the facility met water quality  
23 criteria, we made a determination of what the  
24 status of the system was and determined that we  
25 could change the permit status from a category red

1 to category yellow, which would allow the issuance  
2 of building permits at the choice of the local  
3 building officials.

4 Q. I'm going to ask you about the red to  
5 yellow category, but first I'd like to step back  
6 and ask you, in April of 1992 -- or April of 1993,  
7 the Department issued order 93-013. I believe  
8 that's your testimony?

9 A. Yes, ma'am.

10 Q. And as a result of that order, what was  
11 -- What was the impact of that order on building  
12 permits in Grant County or in the Marine View  
13 Heights water system service area?

14 A. The impact was essentially a  
15 withholding of building permit and septic permit  
16 issuance since that date.

17 Q. And who makes the decision as to  
18 whether building permits should be issued or not  
19 issued?

20 A. The actual decision is made by the  
21 local building officials, the local building  
22 department, and the local county health department,  
23 or health district.

24 Q. How does the Department order translate  
25 into any moratorium on building permits?

1           A.       Under the terms of the Growth  
2 Management Act and other health laws, the local  
3 building departments and the local health  
4 departments are required to assure that there is an  
5 adequate water supply serving the lot to which the  
6 building permit will be issued prior to issuance of  
7 the building permit.

8                   The existence of the departmental order  
9 is evidence that the water supply is not adequate.  
10 Therefore, they are prohibited by their laws to  
11 issue the building permits until the adequacy is  
12 taken care of.

13           Q.       Turning back to the letter marked  
14 Exhibit Number 5, in the first sentence it  
15 indicates a change of status of the operating  
16 permit from red to yellow. What does that mean?

17           A.       In 1994 a system of operating permits  
18 was begun by the Department to establish four  
19 categories that determined or identified compliance  
20 status for each water system.

21                   The category red is a system that is  
22 noncompliance -- in noncompliance with our system  
23 for some health and enforcement related issues.

24                   The category yellow is a system that is  
25 basically in compliance with the exception with

1 some planning and/or construction document issues,  
2 nonhealth-related and water quality-related issues.

3 The category green is a system in  
4 complete compliance.

5 And there's a category blue, and I  
6 really don't know what the category of that is for.  
7 It's a catch-all for some reason.

8 Q. Going back to the letter, then, what is  
9 the effect of this letter upon any moratorium on  
10 building permits in the Marine View Heights service  
11 area?

12 A. This letter is to advise the health  
13 district in Grant County that with the change in  
14 this status, the Department has no real concern  
15 with the issuance of further new building permits.

16 Because we have evidence that the  
17 system has returned to compliance with regard to  
18 bacteriologic quality. The impact, actual impact  
19 of issuance of building permits is still, was, and  
20 still is in the hands of local building  
21 departments.

22 Q. Mr. Riley, turning back to Exhibit  
23 Number 4, what's been marked as Exhibit Number 4,  
24 you've testified that the Marine View Heights water  
25 system had 10 non-acute MCL violations during the



1 period from August 8, 1992, or I guess it would be  
2 November 1992 to the present.

3 How does this experience compare with  
4 other systems subject to your review?

5 A. This is one of the longest periods of  
6 noncompliance for non-acute MCL's that I've seen,  
7 if not the longest that I've personally seen.

8 Q. How common are non-acute MCL  
9 violations?

10 A. On a month to month basis, non-acute  
11 MCL violations are quite common.

12 Q. Looking at Exhibit Number -- what's  
13 been marked as Exhibit Number 4, again, when does  
14 this chart indicate that the Marine View Heights  
15 system came into compliance with the Commission,  
16 with the Department's regulations?

17 A. The return to compliance came in June  
18 of 1994.

19 Q. Mr. Riley, how would you -- How would  
20 you define substandard water?

21 A. Substandard water. The Department of  
22 Health has no specific definition under regulation  
23 of, quote/unquote, substandard water. It is  
24 generally, amongst the staff, taken to be any water  
25 that does not conform to water -- primary and

1 secondary water quality standards, as defined by  
2 the regulations in section 300.

3 Q. Mr. Riley, has the water system -- has  
4 the Marine View Heights water system, to your  
5 knowledge and/or your belief, delivered substandard  
6 water to its customers?

7 A. Yes, ma'am.

8 Q. And to what extent does it deliver  
9 substandard water?

10 A. My belief is that it delivered  
11 substandard water for the months that the maximum  
12 contaminant level for total coliform was -- during  
13 the months that that water's delivered to the  
14 customers.

15 Q. Mr. Riley, were you recently contacted  
16 by the Washington Utilities and Transportation  
17 Commission to conduct tests concerning water  
18 quality of the water system of Marine View Heights?

19 A. Yes, I was.

20 Q. And why were you contacted, do you  
21 know?

22 A. It was in response to a petition by the  
23 Marine View Heights Homeowners Association and a  
24 specific law under which the Commission could  
25 request the Department to take water quality

1 samples.

2 Q. When were you contacted by the  
3 Commission?

4 A. In early June of 1994. I'm sorry, I  
5 can't remember the date.

6 Q. What tests did the Commission request  
7 that the Department perform on the water system?

8 A. Initially the Commission requested that  
9 we perform analyses for all tests that were listed  
10 in the departmental order.

11 Q. Can you list what tests?

12 A. Okay. I'm sorry. Total coliform,  
13 chlorine residual, inorganic chemical and  
14 radionuclide, in addition to the volatile organic  
15 test.

16 Q. And what tests did the Department  
17 ultimately perform on the water in the water  
18 system?

19 A. Ultimately the Department took six  
20 coliform tests, coliform and chlorine residual with  
21 the coliform, two additional chlorine residual  
22 tests, and a volatile organic compound test with  
23 the approval of the Commission.

24 Q. Why were the radionuclide and inorganic  
25 compound tests not conducted?

1           A.       The inorganic and the radionuclide  
2 tests are required on a tri-annual basis to meet  
3 departmental standards. The tests were taken in  
4 1993 by the system and showed the system to be well  
5 within compliance and were not assessed to be a  
6 significant health risk.

7                   In this situation, this system was in  
8 compliance with that water quality standard.

9                   MS. RENDAHL: Your Honor, I have  
10 two additional documents to be marked for  
11 identification.

12                   JUDGE ANDERL: Okay. I've been  
13 handed two documents, which I'll mark for  
14 identification. Let's see Exhibit Number 6 is a  
15 multi-page document which looks to be test results  
16 data.

17                   And Exhibit Number 7 is a Department of  
18 Health document which looks to be test results data  
19 in the form of a letter to Steve McLellan, who is  
20 the secretary of the Washington Utilities and  
21 Transportation Commission.

22                                   (Exhibit Numbers 6 and 7 were  
23                                   marked for identification).

24           Q.       Mr. Riley, looking at what's been  
25 marked as Exhibit Number 6 on -- Could you please

1 identify this set of documents?

2 A. These are the xeroxes of the test  
3 results of samples taken by the Department in  
4 response to the UTC request.

5 Q. Looking at the second page, which is  
6 turning past the FAX transmittal page on the top,  
7 it states volatile organic chemical report. Could  
8 you please explain these test results.

9 A. The test results for the volatile  
10 organic chemicals showed the system to be well  
11 within compliance of all requirements.

12 For the regulated compounds listed and  
13 the nonregulated compounds listed on the front of  
14 the sheet, the term ND stands for "not detectable,"  
15 or if there was such a constituent present, it was  
16 below detection limits available from the testing  
17 protocol.

18 The only information provided and the  
19 only compounds identified are called  
20 Trihalomethanes, and those are compounds that are  
21 formed as a result of disinfection by chlorine.

22 Q. And looking -- And there are two  
23 columns stating MCL and amount. Looking at the  
24 Trihalomethanes on the lower left-hand corner, it  
25 indicates coliform at .5 micrograms per liter; is

1 that correct?

2 A. Yes, ma'am.

3 Q. And Bromodichloromethane at 1.2  
4 micrograms per liter, Chlorodibromomethane at 2.7  
5 micrograms per liter, and Bromoform at 11.5  
6 micrograms per liter.

7 Do those fall within Department of  
8 Health standards?

9 A. Yes, they do.

10 Q. What is the Department of Health  
11 standard for those compounds?

12 A. The compound, the standard for these  
13 compounds is the arithmetic sum of less than 0.1  
14 milligrams per liter, which is the same as 100  
15 micrograms per liter, equivalent. So that if the  
16 arithmetic sum of these items are less than 100,  
17 it's well within standard.

18 Q. So looking at this volatile organic  
19 chemical report, is there any violation of  
20 Department standards shown on this report?

21 A. None whatsoever.

22 Q. Looking at the third page of what's  
23 been marked as Exhibit Number 6, could you explain  
24 what the testing results on this page and also on  
25 the next, both titled, "Internal Standard Report -

1 Summary"?

2 A. Both -- Both those two pages, the first  
3 one shows detection of 11.77 micrograms of  
4 Fluorobenzene -- or, I mean, 2 micrograms of  
5 Fluorobenzene at a specific time, and 2 micrograms  
6 of 1,2-Dichlorobenzene at a specific time.

7 Those are internal standards that are  
8 used by the laboratory and injected by the  
9 laboratory to insure compliance in the testing  
10 protocol. Those are constituents provided by the  
11 laboratory to make sure they're doing their job  
12 right and not in the water.

13 Q. Looking at page 5 of this, what's been  
14 marked as Exhibit Number 6 and the following pages,  
15 there are a series of water bacteriological  
16 analysis tests. Could you explain the results of  
17 these of what appears on these water  
18 bacteriological analysis reports?

19 A. These are samples -- are copies of  
20 analyses results that are filled out as a sample is  
21 taken. And the information in the boxes is the  
22 information reported with the exception of free  
23 chlorine residual that you'll see on about midway  
24 down on the right-hand side.

25 The sample results are that that's

1 reported by the laboratory. These samples were  
2 taken as routine drinking water samples versus a  
3 repeat sample for compliance purposes. The routine  
4 is the first sample taken during the month.

5 The bottom box shows the actual  
6 results, and these -- They were all shown as  
7 satisfactory with total coliform bacteria being  
8 absent.

9 Q. Referring to the box that states  
10 routine drinking water chlorinated and then an  
11 amount for the chlorine residual, could you explain  
12 what this means for each of these samples, the  
13 amounts shown and what that means to a lay person?

14 A. Well, chlorine is used as the  
15 disinfectant to control microbiological growth in a  
16 distribution system. And a residual level of  
17 chlorine must be provided and maintained within the  
18 distribution system.

19 Our departmental regulations has two  
20 requirements; that there be 0.2 milligrams per  
21 liter at the source of the disinfectant after 30  
22 minutes detention, and that there be a detectable  
23 level of chlorine throughout all parts of the  
24 distribution system.

25 The detect -- a level of detection



1 based -- is right now based on the detection done  
2 in the field. These tests were done with a digital  
3 DPD, I'll use. It's a test that's accepted by EPA  
4 and standard methods as an acceptable test  
5 protocol.

6 In the -- With the calibrated digital  
7 meter which was present, any number that shows up  
8 is a detectable level.

9 Q. Looking on page 5 of the water  
10 bacterial analysis report on the left-hand side  
11 indicates a total chlorine residual of .25, is that  
12 correct?

13 A. Yes, ma'am.

14 Q. And for the report on the right, it's  
15 .29?

16 A. Yes, ma'am.

17 Q. Could you explain what that actually  
18 means in terms of amount of chlorine in the water  
19 in relation to other types of chlorinated water,  
20 such as swimming pools?

21 A. Oh, these levels shown here are quite  
22 common in drinking water levels. To have a  
23 comparison to what most people are familiar with  
24 with chlorine levels, I always refer people back to  
25 swimming pools, which are normally kept at levels

1 between two and five parts per milliliter, three  
2 chlorine parts residual, as general rule of thumb.

3 That will provide you with some kind of  
4 taste and levels you'll see in drinking waters.  
5 The levels are maintained as a much lower level and  
6 can still be active to provide disinfectant  
7 quality.

8 Q. And the amount 2.5 total chlorine  
9 residual, is that .25 parts per million?

10 A. Parts per million, yes.

11 Q. Mr. Riley, were these tests conducted  
12 at your direction?

13 A. Yes, they were.

14 Q. Who conducted these tests?

15 A. The samples were taken -- The field  
16 supervisor was Mr. Scott Fink, and some of the  
17 samples were taken by Brian Talbott, also an  
18 employee of the Department, and some of the  
19 chlorine residuals were taken by Mr. Jerry Lease at  
20 the direction of Mr. Fink.

21 Q. And who conducted the volatile organic  
22 chemical test?

23 A. Mr. Fink took that sample himself.  
24 That's his position with the Department.

25 Q. Looking back at the water

1 bacteriological analysis reports, there are a  
2 variety of locations listed where the sample was  
3 collected.

4 A. Yes, ma'am.

5 Q. Do these locations -- Are these  
6 locations all in one area of the water system?

7 A. No. There's -- They're scattered  
8 throughout the water system.

9 Q. And why were samples taken throughout  
10 the water system?

11 A. To assure that we had a good  
12 distribution of data throughout the water system,  
13 to assure that the water quality that was taken or  
14 found at that time was representative of the  
15 quality of the entire system.

16 Q. Looking at what's been marked as  
17 Exhibit Number 7, looking at the last page of this  
18 letter, is that your signature?

19 A. Yes, it is.

20 Q. Did you prepare this letter?

21 A. Yes, I did.

22 Q. Why did you prepare this letter?

23 A. I prepared this letter at your request  
24 to summarize the data for the Commission.

25 Q. Are the contents of this letter

1 consistent with the testimony that you've given  
2 this morning?

3 A. Yes, they are.

4 Q. Turning back to what's been marked as  
5 Exhibit Number 1, the Department's order in Docket  
6 No. 93-013, referring to paragraph 1.3 that states,  
7 "Violation of Duty to Provide Transfer of Ownership  
8 Information."

9 What is the Department's position, or  
10 what is the Department's -- First, what is the  
11 Department's understanding of the ownership, the  
12 current ownership, of the Marine View Heights  
13 system?

14 A. The Department's understanding of  
15 current ownership is based on a response provided  
16 in response to this departmental order by the  
17 system.

18 And based on the information provided  
19 to us, we currently recognize Marine View Heights,  
20 Inc. as the owner of the water system. The Marine  
21 View Heights, Inc. under, as far as we recognize,  
22 Mr. James Sahli as the sole stockholder of the  
23 corporation.

24 Q. I just have a few more questions. Mr.  
25 Riley, looking at what's been marked as Exhibit

1 Number 1, which we have discussed before, and given  
2 your familiarity with proceeding No. 93-013, what  
3 is the Department's position at this time as to  
4 whether the company is providing sufficient, pure,  
5 adequate, and efficient service?

6 A. Based upon all of the information  
7 available at this time, the water quality being  
8 provided by the system is adequate. The term  
9 "service" is difficult for the Department of  
10 Health to assess.

11 The operations of the system, I'm going  
12 to use the term, has come along ways. And in any  
13 system there are deficiencies that are being  
14 addressed.

15 Q. What is the Department's position as to  
16 the quantity and volume of water being provided by  
17 the system?

18 A. The Department has received several  
19 complaints of water outages, especially this  
20 summer, which would be indicative of an inadequate  
21 quantity at the time. There have been some  
22 improvements made to rectify that situation.

23 Q. Would you identify purity of water to  
24 be the same as quality of water?

25 A. Personally I would, yes.

1 Q. How does the -- Do you know how the  
2 Department distinguishes or determines between  
3 quality and purity of the water?

4 A. The Department has no definition or  
5 reference to purity, and that's a difficult  
6 question. Chemically, pure water has nothing in  
7 it. There's no such thing.

8 Q. In terms of the pressure of water, does  
9 the Department have any position as to the pressure  
10 of water provided by the Marine View Heights water  
11 system?

12 A. All public water systems are required  
13 to provide a minimum of 30 PSI at the proper line  
14 or service under maximum, instantaneous, or peak  
15 hour conditions.

16 Q. When you say PSI, what do you mean?

17 A. Power per square inch of pressure.

18 Q. And do you know if the system is  
19 currently meeting that standard?

20 A. To the best of our knowledge, it is.

21 Q. Mr. Riley, what is the Department's  
22 position on whether the service provided by the  
23 Marine View Heights system is reasonable? Is the  
24 service provided by the Marine View Heights system  
25 reasonable?

1           A.       Again, that's a difficult thing for the  
2 Department to assess because we don't have a  
3 definition, regulatory definition, of reasonable  
4 service. The service levels being provided right  
5 now, now that water quality is back, has returned  
6 to compliance, is quite common among all water  
7 systems.

8           Q.       I'm sorry. Could you explain that?

9           A.       The service being provided is  
10 consistent with the service being provided with the  
11 regulation and being provided by most every water  
12 system that we deal with.

13          Q.       So would that service be acceptable  
14 to the Department?

15          A.       It is acceptable, yes.

16                   MS. RENDAHL: I have no further  
17 questions, Your Honor, and I would move the  
18 admission of the documents marked Exhibits 1  
19 through 7.

20                   JUDGE ANDERL: Okay. Ms.  
21 Snelson, do you have any objection to the  
22 admission of those Exhibits 1 through 7?

23                   MS. SNELSON: No, I do not.

24                   JUDGE ANDERL: Mr. Barker, do you?

25                   MR. BARKER: Yes.

1 JUDGE ANDERL: What would be your  
2 objection, and to which documents?

3 MR. BARKER: Could I use Jerry on  
4 some of this explanation, since he does reports?

5 JUDGE ANDERL: It's just really  
6 confusing unless only one of you is the primary  
7 person to talk. So I would encourage you to try to  
8 figure out that best person and keep it that way.  
9 You can confer with him.

10 MR. BARKER: Okay. On March 9,  
11 '94.

12 JUDGE ANDERL: Wait a minute. What  
13 exhibit are you referring to?

14 MR. BARKER: Exhibit 4.

15 JUDGE ANDERL: Okay. Second page?

16 MR. BARKER: First page. March the  
17 9, '94 has four samples. We took five.

18 JUDGE ANDERL: Okay.

19 MR. BARKER: May the 26, '94 has  
20 four. We took five.

21 JUDGE ANDERL: Okay.

22 MR. BARKER: Okay. February the  
23 8th, '93 -- No. February 16th, '93 has zero in the  
24 fourth column and over here it has, on the second  
25 page, it has four -- No -- three on February.



1 JUDGE ANDERL: As unsatisfactory?

2 MS. BARKER: Yeah.

3 JUDGE ANDERL: Okay.

4 MR. BARKER: If we could make those  
5 corrections, and then --

6 JUDGE ANDERL: That's fine. You  
7 can bring that up either through Cross with Mr.  
8 Riley to show an inaccuracy or through your own  
9 testimony. Mr. Riley did testify that he did  
10 prepare that document, and on that basis it is  
11 admissible. Any objections to any of the other  
12 documents?

13 MR. BARKER: On Exhibit Number 1,  
14 am I allowed to ask questions?

15 JUDGE ANDERL: Right now I'm just  
16 asking if you have any objection to the admission  
17 of these documents. You'll be given an opportunity  
18 to ask questions in just a minute.

19 MR. BARKER: Okay. No.

20 JUDGE ANDERL: All right. I'm  
21 going to admit Exhibits 1 through 7, and you do  
22 each have a right to Cross-examine Mr. Riley. I'm  
23 going to let the Homeowners Association through Ms.  
24 Snelson go first.

25 / / /

1 (Exhibit Numbers 1 through 7  
2 were admitted).

3

4

5

CROSS-EXAMINATION

6

7 BY MS. SNELSON:

8 Q. Mr. Riley, talking about the  
9 moratorium, what would it take for the status to  
10 go back to red? What would it involve, what  
11 would have to happen?

12 A. To go back to the category red?

13 Q. Uh-huh, from yellow to red.

14 A. In issuance of departmental order,  
15 again, for certain criteria, which would be water  
16 quality-related criteria basically or construction  
17 without -- I believe construction without  
18 approvals. Formally there are criteria listed in  
19 the operating permit regulation, which is WAC  
20 246-290.

21 JUDGE ANDERL: Excuse me?

22 THE WITNESS: 246-290, which would  
23 result in issuance of a departmental order.

24 Or if the system was determined to be a  
25 significant noncomplier, once again, it would go

1 back to a red category.

2 Q. (BY MS. SNELSON:) Okay. We already  
3 have four, I believe, items on the initial order  
4 that have still not been complied with.

5 A. That's correct.

6 Q. Are those going to have any effect, as  
7 far as the time period, how long you would allow  
8 the system to be in noncompliance, as far as water  
9 quality, seeing as how the initial order has still  
10 not been complied with? Would that have any effect  
11 on how soon you might -- or it might go back to the  
12 red status?

13 Am I making myself clear? The initial  
14 order has still not been completely complied with,  
15 is that correct?

16 A. That's correct.

17 Q. Okay. But the status was changed to  
18 yellow because of the water quality being good?

19 A. That's correct.

20 Q. Okay. What effect do these four items  
21 that are not being complied with on the order have  
22 on the time period that it would take for the  
23 system not to be in compliance on quality of water?

24 I'm obviously not saying this right.

25 A. I think I get the gist of your

1 question. The outstanding issues would probably  
2 have little to no effect on future orders being  
3 issued unless there were -- the activities that led  
4 to the compliance issues, or the activities that  
5 occur during compliance, actually led us --  
6 resulted in a situation that would require any  
7 additional enforcements. Then we would go back to  
8 it.

9 Basically most everything would stand  
10 on it's own.

11 Q. All right. Okay. Lending institutions  
12 will not make loans when the system is in the red  
13 zone. However, even though the status has been  
14 changed to yellow, we understand that homeowners  
15 are still unable to obtain loans.

16 Can you comments on that? Do you know  
17 anything about that?

18 Q. Well, you said "within a red zone."  
19 Within a category of red, you mean?

20 Q. Yes.

21 A. I really can't comment on that. That  
22 is a determination made solely by the lending  
23 institutions, and I have no personal experience  
24 with them, with determination between category red  
25 and category yellow.

1           Q.       You have never had a system under your  
2 jurisdiction that has gone to category red? Have  
3 you ever had one that has gone to --

4           A.       Category red?

5           Q.       Uh-huh.

6           A.       There's been several, yeah.

7           Q.       But you're not familiar with what  
8 happens after it goes back to yellow and how long  
9 it takes for everything to get back to normal, as  
10 far as lending institutions and all of this?

11          A.       No, I'm not. This is first one that  
12 it's gone that direction. So we have no experience  
13 with that yet.

14          Q.       All right. Do you think a moratorium  
15 places a hardship on the water customers?

16          A.       Well, as a personal versus  
17 professional, it's obvious that it does. That's  
18 not a departmental position or policy, however.

19          Q.       I understand that. But do you think it  
20 places a hardship on a system owner?

21                   MS. RENDAHL: Your Honor, I'd like  
22 to ask that the question be rephrased to his own  
23 personal opinion or his own -- I'd like to request  
24 the question be rephrased to determine whether this  
25 is Mr. Riley's personal opinion or whether this

1 reflects the opinion of the Department.

2 Q. (BY MS. SNELSON:) The one on system  
3 owner, I would say that would be a Department  
4 opinion.

5 A. I have no specific guidances to the  
6 position of the Department on that. I can tell you  
7 that in the past and prior enforcement activities  
8 of the issuance of building moratoriums prior to  
9 our current enforcement strategies, such as the  
10 enforcement strategies of ten years ago, this was a  
11 compliance tool.

12 Q. Do you think it's been effective in  
13 this case?

14 A. Apparently not.

15 Q. Thank you. Is it true that the Desert  
16 Water Company in Benton County, which is owned by  
17 Fred Barker, had a moratorium from 1985 to 1993?

18 A. I am aware of the Desert Water Company.  
19 I'm aware of an enforcement action with Desert  
20 Water Company that occurred when I handled Benton  
21 County.

22 I did not handle that system  
23 specifically, and I have no real knowledge of what  
24 occurred down there whatsoever. I'm sorry.

25 Q. Thank you very much. Regarding the

1 testing procedures of Marine View Heights, Inc.,  
2 you testified that there were 10 contamination  
3 violations.

4 Based on number 3 and number 4  
5 exhibits, how many major monitoring violations has  
6 Marine View Heights had in that same period of  
7 time, November '92 to the present?

8 A. November '92 to the present, the major  
9 is in July of 1993.

10 Q. Are there any minor monitoring, are  
11 there --

12 A. There were several for repeat  
13 monitoring.

14 MS. SNELSON: For repeat, okay.  
15 May I call attention to some of the -- some of the  
16 numbers on these exhibits?

17 JUDGE ANDERL: In your Direct  
18 testimony you could do that. If you wanted to  
19 direct his attention to a specific line and ask him  
20 about it, you can do that.

21 MS. SNELSON: But not in Cross-  
22 examination?

23 JUDGE ANDERL: No. You can ask  
24 him.

25 MS. SNELSON: I can do it now?

1 JUDGE ANDERL: Yeah.

2 Q. (BY MS. SNELSON:) Okay. Referring to  
3 Exhibit Number 3 --

4 JUDGE ANDERL: Excuse me. That is  
5 a first page exhibit, and it is Exhibit Number 4.

6 Q. (BY MS. SNELSON:) I'm sorry. First  
7 page of Exhibit Number 3.

8 JUDGE ANDERL: 4.

9 MS. SNELSON: 4, sorry.

10 Q. On December 9th in 1992, am I correct  
11 that there were 12 repeat samples required, none  
12 were taken?

13 A. That's correct.

14 Q. Would that be considered a major  
15 violation?

16 A. I would have to be honest, I'd have to  
17 double check on the regulation as to what  
18 constitutes major versus minor.

19 Q. Well, along that same line, January  
20 27th there were nine required, none were taken?

21 A. That's correct.

22 Q. According to my calculations -- This is  
23 the way I'm supposed to do this. According to my  
24 calculations, there were one, two, three, four,  
25 five, six, seven repeat months. Seven months in



1       which repeat samples were required and not a  
2       sufficient number was taken.

3                   Do you consider them all violations,  
4       then, whether they're major or minor?

5           A.       Those are violations, yes.

6           Q.       Same thing with the routine samples.  
7       There are one, two, three, four, five, six months  
8       in which a number of routine samples were required  
9       and not the required number were taken.

10                   JUDGE ANDERL:   Okay.   Now, Ms.  
11       Snelson, when you're counting up like that, because  
12       I'm following along with you, this exhibit is  
13       already a part of the record, so we can refer to  
14       it, and you can, within certain limits, ask  
15       questions like that.

16                   But I'm trying to go along with you to  
17       make sure I see what you're saying, and I'm not  
18       seeing six, okay?

19                   MS. SNELSON:   Okay.

20                   JUDGE ANDERL:   So I'm going to ask  
21       you to be specific, rather than --

22           Q.       (BY MS. SNELSON:)   October 30, October  
23       of '92, one was required.   This is on the routine  
24       samples.   Zero were taken.

25                   January of '93, five were required,

1 three were taken. February, five were required;  
2 three were taken. May, five were required; four  
3 were taken. July, one was required; zero were  
4 taken. December, five were required, and three  
5 were taken.

6 Are all those considered violations?

7 A. No, they're not.

8 Q. They're not. Okay.

9 A. Specifically December, five were  
10 required by the first line, three were taken on  
11 December 6th. I recall that we worked on a  
12 calendar month basis. Five were taken on December  
13 15th. So a total of eight were taken during the  
14 month.

15 Q. Okay.

16 A. So they did meet that requirement. And  
17 I need to clarify. Your statement with respect to  
18 repeat samples is correct, however, in August of  
19 1993 and September of 1993 and November of 1993,  
20 there's a requirement for a certain number of  
21 repeat samples.

22 There is an allowance under the total  
23 coliform rule of the federal rule for a certain  
24 number of lesser samples with actions being taken,  
25 such as disinfection, flushing, and the kinds of

1 things we've done.

2 So it's not a specific violation by  
3 number, it's tracked that way. It is an accepted  
4 procedure under the rules and allowances of total  
5 coliform.

6 Q. But if there are zero --

7 A. Absolutely that is a violation.

8 Q. That is a violation?

9 A. Absolutely.

10 Q. All right. Thank you. Referring to  
11 WAC 246-290-010, doesn't that state that a  
12 non-acute violation presents a possible or less  
13 than immediate risk to human health? I'm stressing  
14 the word "possible."

15 Is that wording correct?

16 A. Yes, it is.

17 Q. All right. Just wanted to bring that  
18 to the Court's attention that there is a possible  
19 risk to human health.

20 Has there always been a coliform  
21 monitoring plan in place for the Marine View  
22 Heights system?

23 A. The coliform monitoring plan that I am  
24 aware of would be provided and was allowed with the  
25 issuance of the water system plan. I'm not aware

1 of one prior.

2 Q. So what determines each month where the  
3 samples are taken? Is that the discretion of the  
4 certified water operator, or is this something that  
5 is regulated by the Department of Health?

6 A. Required by, but not regulated. The  
7 systems are to sample according with their coliform  
8 monitoring plan, whether or not we're aware of them  
9 as a secondary thing.

10 Because the Department requires and  
11 since September of 1991 has required that a  
12 coliform monitoring plan be in place, but not that  
13 it be submitted and approved. So there's a  
14 difference between whether or not I would have  
15 specific knowledge that it was there.

16 It's another part of the total coliform  
17 rule that's kind of --

18 Q. So it's basically, then, the certified  
19 water operator's discretion as to where he takes  
20 the water?

21 A. It's one of his responsibilities as a  
22 certified operator to conform with that, yes.

23 Q. Did the health department use the plan,  
24 the coliform monitoring plan, when they took their  
25 tests just recently, the test that was just

1 recently taken?

2 A. I'm not aware of whether or not they  
3 did. I would have to refer to Mr. Fink to see  
4 whether or not they used it.

5 Q. Okay. Going back to the coliform  
6 bacteria, this is a page out of the state board of  
7 health drinking water regulations.

8 May I give this to Mr. Riley, and ask  
9 him to read the portion that tells about what  
10 coliform bacteria is?

11 JUDGE ANDERL: Well, is this  
12 something you had earlier submitted as an exhibit?

13 MS. SNELSON: Yes. We have, yes.

14 JUDGE ANDERL: Can you tell me what  
15 number you had given it?

16 MS. SNELSON: Number 42.

17 JUDGE ANDERL: All right. Would  
18 you like to see if he can identify it, and we'll  
19 enter it as the next exhibit in line.

20 Q. (BY MS. SNELSON:) Mr. Riley, is this a  
21 page out of the state board of health --

22 JUDGE ANDERL: Hang on, Ms.  
23 Snelson.

24 MS. SNELSON: I'm sorry.

25 JUDGE ANDERL: That's okay. The

1 next exhibit for identification is going to be  
2 Exhibit Number 8. It does have a designation 42 in  
3 the upper right-hand corner, it was submitted in  
4 advance by the Homeowners Association as a possible  
5 exhibit.

6 (Exhibit Number 8 was marked  
7 for identification).

8 Mine is a two-page document which on  
9 the cover sheet indicates that it's for the  
10 preparation of the coliform monitoring plan. Go  
11 ahead, Mr. Riley, can you identify that document?

12 THE WITNESS: This is a page from  
13 the departmental guideline that is entitled  
14 preparation of coliform monitoring plan, prepared  
15 by the Department.

16 Q. (BY MS. SNELSON:) Would you read the  
17 part that identifies the coliform bacteria, please.

18 A. "Coliform bacteria are a group of  
19 microorganisms that" --

20 JUDGE ANDERL: Slowly.

21 THE WITNESS: "Coliform bacteria  
22 are a group of microorganisms found in the feces of  
23 all warm-blooded animals (including humans),  
24 although these bacteria are not unique to feces.  
25 Coliform organisms alone may not cause diseases,

1 but in the water, they often accompany disease  
2 causing (pathogenic) organisms.

3 "To actually test for the possible  
4 pathogenic or disease causing organisms would be  
5 complex, time consuming, and expensive. However, a  
6 coliform presence can be readily detected."

7 This is in emphasis. "In water, the  
8 presence of coliform bacteria indicates other  
9 disease causing organisms could also be present."

10 That ends the emphasis.

11 "For these reasons, testing for  
12 coliform bacteria has become an acceptable method  
13 for indicating water sanitary quality."

14 MS. SNELSON: Thank you.

15 JUDGE ANDERL: Would you like to  
16 offer that as Exhibit Number 8?

17 MS. SNELSON: Yes, please.

18 JUDGE ANDERL: Does anyone have any  
19 objection to that document being a part of the  
20 record, Mr. Barker?

21 MR. BARKER: No.

22 JUDGE ANDERL: Ms. Rendahl?

23 MS. RENDAHL: I just have a request  
24 that we be provided the identifying -- where this  
25 page came from, if that would be acceptable?

1 JUDGE ANDERL: You didn't get your  
2 cover sheet?

3 MS. RENDAHL: No.

4 JUDGE ANDERL: Okay. All right.  
5 Exhibit 8 will be admitted as identified. Go  
6 ahead, Ms. Snelson, with further questions.

7 (Exhibit Number 8 was admitted).

8 Q. (BY MS. SNELSON:) You mentioned the  
9 fact that non-acute violations are quite common.  
10 Are you talking about all over the state of  
11 Washington or just in Grant County?

12 A. On a monthly basis they are quite  
13 common all over the state. To my knowledge, it's  
14 not just Grant County, no.

15 Q. Okay. Are they common -- When you say,  
16 "on a month to month basis," I'm not sure I quite  
17 understand.

18 A. Okay. The institution of the total  
19 coliform rule and the different methods from the  
20 past of indicating coliform quality, there's been a  
21 big increase in the presence of total coliforms and  
22 coliform MCL violations. Generally what we see is  
23 within a month or two of testing, there's  
24 sufficient work done on the system, flushing,  
25 disinfection, repair of problems, that those



1 samples and those problems are taken care of.

2 And generally, testing within a month  
3 to two months to show the system is back in  
4 compliance.

5 Q. However, am I correct in saying, then,  
6 that it is not quite common to see it over an  
7 extended period of time?

8 A. No. It's not that common, no.

9 Q. All right. Thank you.

10 Q. You mentioned on the testing that the  
11 state Department of Health did, Exhibit Number 6,  
12 that the chlorine levels were detected. Was that  
13 within the limits of what you would consider a  
14 reasonable level?

15 A. Those are quite normal limits. The  
16 range of results are quite normal compared to most  
17 water systems across the state.

18 Q. All right. Okay. What does the term  
19 "inadequate water" mean, as far, as the health  
20 department is concerned?

21 A. Inadequate and substandard basically go  
22 back to the same thing. There is no definition of  
23 inadequate. Inadequate is normally taken to being  
24 water that is nonpotable with reference to --  
25 that's a reference to some past information

1 provided by the Attorney General's opinion.

2 Nonpotable would be any water that is  
3 not suitable for drinking.

4 Q. I'm sorry. Am I correct that  
5 inadequate is also the same thing as nonpotable?

6 A. Well, again, with -- there is no  
7 specific departmental definition, it goes that way,  
8 yeah.

9 Q. So if Marine View Heights' water system  
10 had inadequate water for 10 months as shown by the  
11 test results, 10, in fact, they had nonpotable  
12 water for 10 months?

13 A. That's -- Yeah. You could make that  
14 extension very easily.

15 Q. Nonpotable water, did you say, is --  
16 nonpotable, you said that means not drinkable?

17 A. Not adequate for drinking water.

18 Q. Not adequate for drinking water. Then  
19 why was there not a boil order issued or something  
20 taken, some steps taken during those -- that period  
21 of time that we -- that the Marine View Heights  
22 system had an inadequate water supply to insure the  
23 health standards?

24 A. The response to the health standards at  
25 that time was based on the level of risks indicated

1 by the total coliform results and the absence of  
2 any Fecal coliform results.

3 The -- Both tests are used as an  
4 indication of water quality and an indication of  
5 the severity of the water quality tests. There  
6 uses indications of the potential for contaminate  
7 problem.

8 It goes back to the fact that most  
9 pathogenic bacteria have a definite life span  
10 within cold water, which is less than 100, about  
11 130 degrees Fahrenheit. And that is indicated, or  
12 the limits of that is determined by the total  
13 coliform test. Then the Fecal coliform test.

14 The level of risk indicated by having  
15 continual total coliform quality, but no Fecal, was  
16 at the risk -- was required -- the risk that would  
17 require boil water order there was not present. So  
18 boil water was never issued.

19 Q. Does inadequate water also describe the  
20 quantity of water --

21 A. Yes, it --

22 Q. -- in a system?

23 A. Yes, it does.

24 Q. All right. Also you -- I believe you  
25 testified to the water pressure that the Marine

1 View Heights system has.

2 I had this note given to me, Your  
3 Honor, and I'm --

4 JUDGE ANDERL: Okay. Take a just a  
5 minute to figure out how you want to state it, then  
6 -- Actually, I think, looking at my watch, this  
7 might be a good time to take our morning recess.

8 Why don't you do that, and then you get  
9 the rest of your questions to order and come back,  
10 and it might be more speedy to get through.

11 (Short recess).

12 JUDGE ANDERL: Let's be back on the  
13 record. Ms. Snelson, you can continue with your  
14 questions for Mr. Riley.

15 Q. (BY MS. SNELSON:) You testified, Mr.  
16 Riley, that 30 pounds per square inch is the  
17 minimum pressure at peak usage.

18 If some users ran out of water, then,  
19 does this indicate that the minimum was not met, is  
20 this an indication?

21 A. That I can't say yes or no without  
22 specific measurements. There are some systems that  
23 this would not be true. It's a difficult question  
24 to answer.

25 Q. All right.

1           A.       And the requirement, if we ever did  
2 want a position to take enforcement for that, is  
3 based on metered records. So in the absence of  
4 metered records, I would have to say --

5           Q.       How long did Marine View Heights  
6 cooperate before submitting a water system plan to  
7 the Department of Health?

8           A.       Basically since inception. They were  
9 not required to submit a water system plan until  
10 the requirement was issued in the departmental  
11 order in April of 1993.

12          Q.       So it's not a requirement of --

13          A.       Water system plans are required under  
14 several different -- several different requirements  
15 now. The most notable is if the system has 1,000  
16 or more customers.

17                    If a system is under a specific  
18 enforcement action, such as what's happening here,  
19 if a system is new under today's regulations, that  
20 is true, not when this system was initiated.

21                    If the system is expanding, which means  
22 adding customers to the platted area right now, or  
23 if there is a transfer of ownership now as of April  
24 of 1993, then a water system plan is required.

25          Q.       Has that requirement been met?

1           A.       The plan has been submitted.

2           Q.       Okay.  Regarding the Administrative  
3 Order Number 93-013, is there a hearing scheduled  
4 on that, is that --

5           A.       Yes, there is.  On July 27, 1993, in  
6 two days.

7           Q.       July 27th?

8           A.       Uh-huh.

9           Q.       Okay.  Thank you.  Regarding the  
10 ownership issue, at the prehearing on June 15th,  
11 Mr. Barker agreed to send to the UTC, the DOH, and  
12 the homeowners a letter stating the ownership, the  
13 shareholders, percentage of shares, board members  
14 of Marine View Heights Incorporated.

15                    Has your department received any such  
16 notice?

17           A.       I have not seen it.

18           Q.       Okay.  Do you have knowledge of the  
19 Lakeview Water Company?

20           A.       I have seen reference in one piece of  
21 correspondence provided to me regarding the  
22 Lakeview Water Company.  The only knowledge I have  
23 of that entry as it sits is a conversation with Mr.  
24 Fred Barker to explain what Lakeview Water Company  
25 meant and basically was told that it was another

1 name or the operating name for the Marine View  
2 Eights system.

3 That's my full knowledge, full extent  
4 of my knowledge with that. In fact, that piece of  
5 correspondence is the only time I've ever seen that  
6 reference. I have not heard it since.

7 Q. Perhaps I should enter into evidence at  
8 this point, then, our document number Exhibit  
9 Number 13, in which Lakeview Water Company is  
10 listed on the correspondence --

11 JUDGE ANDERL: Okay.

12 MS. SNELSON: -- because I will be  
13 asking about this item later.

14 JUDGE ANDERL: Okay. Because Mr.  
15 Riley has just testified that he doesn't really  
16 know anything about it, other than what he just  
17 said, it would be best to offer this through a  
18 homeowner or customer that can identify it with  
19 their personal knowledge, such as yourself when you  
20 testify.

21 MS. SNELSON: All right. Thank  
22 you.

23 Q. Did Marine View Heights Incorporated  
24 provide continuous and effective disinfection as a  
25 minimum level of treatment in the water system

1 according to the Department of Health during that  
2 period of time from November until the present  
3 time? November of '92, I'm sorry.

4 From the -- Pardon me. From November  
5 of '92 until the present time, have they  
6 consistently provided continuous and effective  
7 disinfection, as a minimum level of treatment in  
8 the water system?

9 A. For the period -- For the period of  
10 November of 1992 through the 1st of January of  
11 1994, the answer is no, as evidenced by the  
12 continued presence of coliform bacteria.

13 Since that period, by evidence of the  
14 satisfactory coliform bacteria levels and by the  
15 sample results and the test results provided by the  
16 system, yes, they have.

17 Q. Okay. Is it possible that inadequate  
18 pumps were the reason that this disinfection could  
19 not -- adequate disinfection could not be obtained?

20 A. That is a possibility yeah.

21 Q. How many chlorinator pumps are you  
22 aware of that have been installed on the system?

23 A. Based on communications by Mr. Barker  
24 in a public hearing, there have been four.

25 Q. Have all of those pumps been put in



1 with the approval and the knowledge of the  
2 Department of Health?

3 A. None were. None of them.

4 Q. None of them were?

5 A. No.

6 Q. All right. In your professional  
7 opinion, should the taste and smell of the chlorine  
8 be significant in a homeowner's water supply?

9 A. That's a very difficult question, and  
10 it's very subjective, and it is -- it depends on  
11 the terminology "significant," of course.

12 Professionally, depending on the system  
13 and the potential for microbiologic problems in the  
14 system, the lack of smell, of color, even of  
15 disinfection, to me personally, is significant.

16 The disinfectant is there to control  
17 things, and having it signals there is some level  
18 of protection provided. There are a lot of people  
19 that find chlorine and chlorine-associated taste  
20 and odors to be quite objectionable. That  
21 prohibits -- that makes the water inadequate to  
22 them on secondary issues.

23 That's a personal decision. If someone  
24 grew up on chlorinated surface water, I don't mind  
25 it at all. But that's a personal issue, and is

1 nonregulated.

2 Q. Is it an approved method by the  
3 Department of Health to overdose the system with  
4 chlorine for purposes of eliminating the presence  
5 of coliform?

6 A. For smaller systems, it's quite a  
7 common practice that as long as it is used in  
8 conjunction with a flushing program after contact  
9 time to eliminate any potential source, presuming  
10 that there is one source of coliform that can be  
11 taken care of, then it is something that has been  
12 quite common.

13 Q. Does Marine View Heights Incorporated  
14 system have a means of flushing their system?

15 A To my knowledge, they do not.

16 Q. Thank you. Does the system, water  
17 system, in your knowledge, have dead ends?

18 A. Yes, they do.

19 Q. If the system doesn't have a means to  
20 flush the system, and it does have dead ends, is  
21 this considered a violation, or is this something  
22 that the Department of Health is concerned with?

23 A. It is something that we have some level  
24 of concern with. It is not a violation of  
25 regulation. It does not conform with normal good

1 engineering practice.

2 Q. So it is something that you would be  
3 concerned with?

4 A. And it is also something that we would  
5 hope to have addressed through water system plans  
6 and improvements to improve the quality of the  
7 system.

8 Q. How -- I'm backtracking just a little  
9 bit here, but how and when did you become aware  
10 this chlorination system had been installed on the  
11 Marine View Heights water system originally?

12 A. The first notification we had of any --  
13 or first reference we had of any chlorinator came  
14 as a result of a public notification for coliform  
15 MCL dated December -- we received December 30th,  
16 '92 signed by Dee Barker that noted that a  
17 chlorinator had been installed. That's the very  
18 first reference we had to chlorination, so --

19 Q. Were you contacted by a homeowner prior  
20 to that, in your recollection, telling you that a  
21 chlorinator pump had been installed?

22 A. Personally, I was not. I believe  
23 there's something in the file that someone  
24 contacted another engineer in the office, and --

25 Q. And this is not a normal procedure, am

1 I correct? Before a chlorinator pump should be  
2 installed, you said it should be approved by the  
3 Department of Health?

4 A. By regulation it is one of those by  
5 report, project report, and plan to be approved.

6 Q. All right. And that did not happen in  
7 this case?

8 A. No. This did not occur.

9 Q. According to your records, did Marine  
10 View Heights Incorporated operate without a  
11 certified water operator for a period of months?

12 A. Yes, it did.

13 Q. Are you familiar with the months, or  
14 may I interject something here, or can you answer  
15 how many months we went without a certified water  
16 operator?

17 A. Jerry Lease was given his certification  
18 I, believe, on November 22nd, I believe is the date  
19 on it, in 1993.

20 Q. 1993?

21 A. That is the day of certificate, as far  
22 as given sometime November 1993. A certified water  
23 distribution manager is required for any system  
24 serving more than 100 services. There is a dispute  
25 as to when the system was serving more than 100.

1           By regulation, the day that number one  
2 hundred service, activity service, was on an  
3 active, from that point forward, then that  
4 violation did occur. There was a specific  
5 notification to that effect sometime in August of  
6 1993, the notice of violation issued by the  
7 Department for operation without a certified water  
8 operator.

9           Q.       Okay. Am I correct, Jerry Lease  
10 obtained his certification, then, in November of  
11 '93? Is that what you said? Was that his  
12 temporary water license, operator's license, or was  
13 that the actual certification?

14          A.       That was the actual certification. He  
15 was never given a temporary.

16          Q.       All right. Okay. At the February 17,  
17 1994 meeting with senator Hockstetter at  
18 Prudential --

19                   MS. RENDAHL: Objection. I don't  
20 believe that this was part of Direct Examination  
21 and would go beyond the scope of Direct  
22 Examination. This question may be more appropriate  
23 to another witness, I don't know, but --

24                   JUDGE ANDERL: Okay. Well, Ms.  
25 Snelson had indicated that she also wished to call

1 this person as a witness, and so I was going to  
2 allow her a little latitude in terms of what her  
3 cross questions were.

4 I was just going to let her ask him  
5 whatever she wanted to ask him.

6 MS. RENDAHL: That's fine, under  
7 that ruling. That's fine, Your Honor.

8 JUDGE ANDERL: But do kind of try  
9 to keep in mind that you want to ask these  
10 questions only once, and you want to ask them of  
11 the best person to respond.

12 MS. SNELSON: All right. Thank  
13 you. Keeping in mind those meetings --

14 JUDGE ANDERL: I'm sorry. Can you  
15 specify, then, and you said it pretty quickly.

16 Q. (BY MS. SNELSON:) I'm sorry. The  
17 February 13, 1994 meeting with senator Hockstetter  
18 at Prudential Realty, and, again, at the meeting  
19 with the PUD at the DSHS office, do you recall Mr.  
20 Sanders bringing up the subject the water company  
21 was closing valves to divert water up or down  
22 certain distribution lines?

23 Are you familiar with that?

24 A. February 12th meeting?

25 Q. The February 13th meeting with senator

1 Hockstetter?

2 A. February 12 or 13th, whatever,  
3 recollection, I can recall some concern with that,  
4 yes.

5 Q. Has the company ever contacted the  
6 Department of Health requesting the approval of a  
7 plan to flush certain distribution lines within the  
8 water system?

9 A. No, they haven't.

10 Q. All right. Are you aware, then, that  
11 the company implemented a plan that closed the six  
12 inch main gate valve on Aurora Street in order to  
13 divert water coming from the tank down Canal Street  
14 distribution line and vice versa, up Canal Street,  
15 when the pump is running?

16 A. I was aware that such a plan had been  
17 discussed.

18 Q. But not approved by the --

19 A. For operational things like that, the  
20 Department does not normally approve everything  
21 like that.

22 Q. All right. Okay. The quantity of  
23 water was discussed, and it was brought out that  
24 the system had run out of water, but that has since  
25 been remedied. Are you aware of how that was

1 remedied?

2 A. Up until very recently, the system was  
3 using only a portion of the capacity of the  
4 reservoir, and the capacity of the reservoir has  
5 been increased by relocation of some control  
6 switches and another 20 some odd feet of the  
7 reservoir is in active storage now.

8 Q. And do you know how that came about,  
9 how that was accomplished?

10 A. The probes were lifted. As  
11 specifically, I don't. That's a management,  
12 operation and management thing that the Department  
13 is normally not involved with.

14 Q. All right.

15 A. I did discuss the potential with the  
16 operator, and his -- and did discuss the approach  
17 to that, the resolution of the problem, and the  
18 biggest problem that we wanted it to work.

19 MS. SNELSON: Okay. That's all the  
20 questions I have for this witness, Your Honor.

21 JUDGE ANDERL: Thank you, Ms.  
22 Snelson.

23 JUDGE ANDERL: Mr. Barker, do you  
24 have any Cross-examination for this witness?

25 MR. BARKER: Yes. I have a couple



1 of questions.

2

3

4

CROSS-EXAMINATION

5

6 BY MR. BARKER:

7 Q. On Exhibit Number 1 --

8 A. Okay.

9 Q. -- this was put out 6-20-94. This  
10 93-013, this was written April?

11 A. This was signed as an order on April  
12 28, 1993.

13 Q. Okay. My question is, we had the  
14 comprehensive water plan submitted December of '93,  
15 which was way prior to issuing this order.

16 A. No. This was issued in April of '93.

17 Q. April of '93.

18 A. This proceeded the comprehensive water  
19 plan by several months.

20 Q. Okay. Now, what you have -- The water  
21 plan, you say we're still in violation of 2.9. You  
22 have the water plan?

23 A. No. I didn't say you're in violation  
24 of it, I said those issues are still outstanding,  
25 and there's a difference.

1 Q. Okay.

2 A. They still need to be addressed, but it  
3 is not determined as a violation.

4 Q. Okay. Exhibit Number 4, were those  
5 questions that had been brought up prior to this,  
6 are those being corrected, or --

7 A. The inconsistencies that were noted?

8 Q. Yes.

9 A. Certainly they can be corrected. For  
10 the record, the information was provided as the  
11 information that's available to us. Whether or not  
12 it's correct is, you know, it can't be determined,  
13 and we're certainly open to taking all the correct  
14 information.

15 Fortunately, there's been no impact on  
16 the system in the system quality that's indicated  
17 here.

18 JUDGE ANDERL: Okay. Let's just  
19 look at that for a minute, and get it clear, if we  
20 can. Mr. Riley, looking at page 1, 16-Feb-93, that  
21 indicates that five samples were required, three  
22 were taken and three were satisfactory on the first  
23 page.

24 Do you see that?

25 THE WITNESS: Uh-huh.

1 JUDGE ANDERL: And then on the  
2 second page for February of '93 it indicates that  
3 five samples were required, three were taken and  
4 three had total coliform present. Which of those  
5 would be right?

6 THE WITNESS: The first page, I  
7 believe.

8 JUDGE ANDERL: Thank you.

9 THE WITNESS: There will be  
10 checking. If there's an amendment, I can provide  
11 that to the court, if you so wish.

12 JUDGE ANDERL: I think we'll have  
13 another day of hearing.

14 THE WITNESS: Okay.

15 JUDGE ANDERL: You could probably  
16 communicate that through counsel.

17 MR. BARKER: Okay. That's all the  
18 questions at this time.

19 JUDGE ANDERL: All right. I have  
20 one question here, and it's going back to that  
21 requirement in paragraph 2.9 for the water system  
22 plan.

23 What exactly is missing for paragraph  
24 2.9 to be fully complied with?

25 THE WITNESS: That's a big

1 question. Water system plan, your specific  
2 guidance available, specific requirements to be  
3 addressed in a water system plan, and I'm going to  
4 proceed cautiously here because of the situation in  
5 this particular situation, I am not reviewing  
6 specifically reviewing that plan.

7 I don't have personal knowledge as to  
8 what is outstanding and what still needs to be  
9 completed with the plan. Some of the major issues  
10 I have been told through conversations are pretty  
11 well addressed, but for specifics to know exactly  
12 what's outstanding, I wouldn't want to address  
13 that, because I don't have full knowledge.

14 JUDGE ANDERL: Do you know whether  
15 or not any further action or information from the  
16 company is required before the Department can  
17 continue it's review and approval of the plan?

18 THE WITNESS: The latest piece of  
19 information that the Department has been waiting to  
20 see was submitted to the office about two weeks  
21 ago, and to the best of my knowledge, there should  
22 not be anything outstanding. But, again, I am not  
23 reviewing the plan and there may be other issues  
24 that the reviewer would want to see, and I would  
25 not speak for them.

1 JUDGE ANDERL: When do you think  
2 we'll know?

3 THE WITNESS: Hopefully, pretty  
4 soon.

5 JUDGE ANDERL: All right. Ms.  
6 Rendahl, anything on Re-direct?

7 MS. RENDAHL: Yes. I have a number  
8 of clarifying questions.

9  
10

11 RE-DIRECT EXAMINATION

12

13 BY MS. RENDAHL:

14 Q. First, as to the order that we've just  
15 been referring to, Exhibit Number 1, I believe in  
16 your response to Cross-examination questions from  
17 the Homeowners Association, you indicated that the  
18 hearing on Wednesday is a hearing on the order,  
19 Exhibit Number 1?

20 A. Not specifically. It's a hearing with  
21 regard to the notice of imposition of penalties.

22 Q. And could you explain the relationship  
23 between the notice of imposition of penalties and  
24 the order?

25 A. The imposition of penalties was -- the

1 penalties were imposed due to noncompliance with  
2 specific portions or specific requirements of the  
3 order. So it's an extension of the -- of the  
4 enforcement effort.

5 Q. Would you please refer to paragraph 2.9  
6 of Exhibit Number 1?

7 A. Yes, ma'am.

8 Q. And review that paragraph?

9 A. Okay.

10 Q. Would you please read the last sentence  
11 outloud?

12 A. "Within 120 days of receipt of this  
13 order submit a water system plan to the Department  
14 for review and approval as required under WAC  
15 246-290-100."

16 Q. Is the company considered in violation  
17 of this requirement?

18 A. The water -- the water system plan has  
19 been submitted and is under review. And generally,  
20 as long as the system is -- the plan has been  
21 submitted, it's not considered out of compliance  
22 unless there comes to be some block that cannot be  
23 resolved.

24 Q. In your response to another  
25 Cross-examination question you indicated that, I

1 believe you indicated that the company was not in  
2 compliance in terms of four issues in the order.

3 A. At the time the penalty was issued,  
4 yeah.

5 Q. But at this time, is the company  
6 considered out of compliance with those four  
7 remaining issues?

8 A. With one issue they would be, and that  
9 is the submission of the installation and  
10 construction documents of the chlorinator. Well,  
11 not the submission of, the approval of those  
12 documents. They had been submitted with the water  
13 system plan and agreement.

14 Q. Referring to paragraph 2.11 of Exhibit  
15 Number 1 --

16 A. Uh-huh.

17 Q. -- could you please read the last  
18 sentence?

19 A. "The purveyor shall submit to the  
20 Department construction documents," and permit  
21 codes, "in accordance with the recommendations of  
22 the water system plan and/or the project report  
23 within 90 days of the date the water system plan is  
24 approved."

25 Q. Am I misunderstanding you, or are you

1 referring to the same thing in that paragraph as  
2 the chlorinator?

3 A. The chlorinator was covered under  
4 section 2.7 initially by the order.

5 Q. Is the chlorinator a part of the notice  
6 of imposition of penalties?

7 A. Yes, it is.

8 Q. So the chlorinator is at issue in the  
9 Wednesday hearing?

10 A. Yes.

11 Q. With respect to the Department's  
12 request that building permits not be issued, while  
13 that may act as a compliance tool, what is the  
14 primary basis for such requests?

15 A. Protection of public health. It's the  
16 primary requirement for everything we do.

17 Q. In response to Cross-examination by the  
18 Homeowners Association, you mention that, or you  
19 testified that, the water company has not been  
20 issued a boil water order?

21 A. That's correct.

22 Q. What does nonpotable mean?

23 A. Non -- The water is unsatisfactory for  
24 drinking.

25 Q. If a boil order is not issued, does



1 that mean that water is nonpotable?

2 A. With respect -- Well, no, it doesn't.  
3 That can also be with respect to inorganic, organic  
4 situations that are not covered by boil order.  
5 That could be, in my opinion, would be nonpotable.  
6 And with respect -- with a non-acute MCL without a  
7 boil order.

8 The boil order, again, is issued in  
9 response to the health risk that is apparent based  
10 on the testing information that's there.

11 Q. Does water have to be nonpotable to be  
12 considered inadequate water?

13 A. I would think so, yes.

14 Q. In reference to your response to the  
15 homeowners Cross-examination concerning  
16 chlorination and the taste and smell of  
17 chlorination, do you know when the system was first  
18 chlorinated?

19 A. Well, again, the first reference we  
20 have to it was -- that I had to it, is in December  
21 of 1992. I have no personal knowledge of when the  
22 system was first chlorinated.

23 Q. Do you have any knowledge as to whether  
24 the system has ever been chlorinated before  
25 December of 1992?

1           A.       None.  I have no knowledge of it at  
2 all.

3           Q.       Going back to the potable/nonpotable  
4 issue, does the designation that water is  
5 nonpotable mean that customers should not drink the  
6 water?

7           A.       Good question.  I really don't know how  
8 to respond to that.  It means that the water  
9 quality is less than what is adequate according to  
10 regulation, and that it is not, does not conform to  
11 the minimum quality standard that we have set that  
12 would assure that there is public health  
13 protection.

14                    There are times that, you know, even a  
15 little higher risk is better than no water at all.  
16 That's a difficult question.

17           Q.       During the time -- During the times  
18 listed on Exhibit Number 4 when the presence of  
19 total coliform was indicated, would you drink that  
20 water?

21           A.       Me personally, I would have, yeah.

22                    MS. RENDAHL:  Your Honor, I have no  
23 other questions.

24                    JUDGE ANDERL:  Okay.  Any further  
25 Cross for this witness?

1 MS. SNELSON: This is not a Cross-  
2 examining question. There is one additional  
3 question that I would like to ask.

4 JUDGE ANDERL: Go ahead.

5

6

7

REXCROSS-EXAMINATION

8

9 BY MS. SNELSON:

10 Q. I'll make it short. Mr. Riley, you  
11 testified that there were 10 violations, as far as  
12 the water contamination containing coliform. Were  
13 notices to be sent to homeowners each time, each  
14 month that there was a contamination problem in the  
15 water system?

16 A. Yes, that is true.

17 Q. Are they required to send copies or  
18 notifications to you that this has been done? Is  
19 there any control by the Department of Health as to  
20 the notices that are sent to homeowners at that  
21 time?

22 A. "They," being the water --

23 Q. I'm sorry.

24 A. The water system purveyor?

25 Q. Yes, the water system purveyor. Is

1       there any control by the Department of Health to  
2       see that he does send those notices each time?

3             A.       There are several requirements for  
4       public notification. The basic policy of the  
5       Department is that we track water quality related  
6       public notifications.

7             We will issue a statement, and it's  
8       also incumbent upon the purveyor by regulation to  
9       provide public notification to all of the customers  
10      with mandatory language in a specified time frame  
11      that is all provided by the WAC.

12            The -- The system is required to  
13      provide to each and every customer and provide a  
14      copy to the Department and notify the Department as  
15      to how that was distributed. There are several  
16      means available.

17            Q.       Does the Department have notification  
18      that the 10 violations, that there were  
19      notifications sent out to all water users for those  
20      10 months when they were in -- when there was  
21      coliform in the water?

22            A.       I searched the file, and checked the  
23      file for all notifications for requirement of  
24      public notification, and we have a response in the  
25      file back from the system for each one of those

1 situations for water quality issues.

2 Again, we have several things we track,  
3 and by policy, we only track the water quality  
4 issues. Other kinds of notifications are flyers in  
5 terms of monitoring.

6 Q. Am I correct in understanding you,  
7 then, that you do have notification that 10 notices  
8 were sent to system users in the months that  
9 coliform was present in our water?

10 A. I'm not going to say 10, because that  
11 number came upon my count of these sheets. I know  
12 that for every requirement that was in our files  
13 generated by our compliance personnel, there was a  
14 response for each and every one of them.

15 Q. And you have copies of those notices?

16 A. Yes, I do. Yes, I do.

17 Q. All right. That's all. Thank you.

18 A. That's more accurate.

19 JUDGE ANDERL: Mr. Barker?

20

21

22 RE-CROSS-EXAMINATION

23

24 BY MR. BARKER:

25 Q. Craig, if we were to test the water

1 today with the standards set back in July of '91 or  
2 '92, would that water pass today without  
3 chlorinatant?

4 A. That's something I really can't answer.

5 Q. Because back then, we did not  
6 chlorinate the water in the past. It's only been  
7 the last year or so that we had to chlorinate the  
8 water to make it pass.

9 A. That's -- No. That's not an accurate  
10 statement. The water was not disinfected in the  
11 past, that's correct. There are some differences  
12 in what I'll call sensitivity in the kind of tests  
13 that we have to to date.

14 Q. Tests are different now then they were  
15 then?

16 A. The approach to the test is different,  
17 the test is the same. Actually, with the  
18 information available to me, the quality is  
19 probably more than -- the quality assurance is more  
20 to the system's favor than is to maintaining  
21 quality versus what the old tests were.

22 Previous to this, one of the problems  
23 were in density tests. In the previous kinds of  
24 tests, there were a lot of samples that were  
25 determined to be positive just from growth in the

1 transportation of the bottle, and now that's not  
2 true. It's based on many number of samples. So  
3 it's a more accurate representation of the system.

4 Now, the potential for that -- the  
5 source of that coliform is something that can  
6 change daily.

7 Q. Okay. But I remember like with Marine  
8 View Heights when we had it earlier, we had good  
9 samples, and we never chlorinated. And it's only  
10 been since we bought it in October '82 that if we  
11 didn't chlorinate we didn't have good samples.  
12 That's the only reason I'm referring to the  
13 standards have gone up.

14 A. That's the history.

15 Q. But we still have the same water?

16 A. It's not a change of standards, no.  
17 It's a more accurate representation on it, and it's  
18 probably a more -- If I were to guess, it would be  
19 a representation of the quality of the system to  
20 date based on occurrences within the system.

21 Some things could have happened to  
22 change the quality in the distribution system.

23 Q. The water out of the same --

24 A. In the past, you also always tested  
25 from the well heads itself, and now you test from

1 the distribution system, the water actually going  
2 to the home owners. And in the past, you just took  
3 a sample from the well head. It wasn't  
4 representative of what's in the distribution system  
5 as it is today.

6 MR. BARKER: Okay.

7 JUDGE ANDERL: Anything else?

8 MR. BARKER: No.

9 JUDGE ANDERL: Okay. Anything else  
10 for this witness?

11 MS. RENDAHL: I would like to  
12 clarify one thing first. I would like to clarify  
13 one issue that, the potable water issue. And I  
14 might suggest that I need to confer with my witness  
15 about this, and I'm wondering if it's possible to  
16 take a lunch break now and clear this up when we  
17 come back, and it won't take more than a couple  
18 minutes to clarify when we come back on the record.

19 JUDGE ANDERL: Okay. My goal was  
20 to get him off the stand and start with a brand new  
21 witness after lunch, but if you --

22 MS. RENDAHL: Then I'll go for it.

23 JUDGE ANDERL: If you think it  
24 would -- All right. Before you do, I want to  
25 clarify one thing, and that is whether the



1 Department of Health considers this water system to  
2 be in violation for compliance with paragraph 1.3  
3 of this order that we have marked as Exhibit Number  
4 1, which is the ownership information.

5 THE WITNESS: They are in  
6 compliance. They did provide us with ownership  
7 information.

8 JUDGE ANDERL: Okay.

9 THE WITNESS: We do not determine  
10 ownership in the same way that the Utilities and  
11 Transportation person does.

12 JUDGE ANDERL: Okay. So if the  
13 facts were to develop that subsequent to the  
14 ownership information that they provided you,  
15 ownership has again shifted, then the Department  
16 would consider them to be in violation?

17 THE WITNESS: Well, they would be  
18 in violation. And there has been discussion as to  
19 whether or not that violation is something that we  
20 would -- it may be some violation, but whether or  
21 not it's a forcible violation under what we do is  
22 under decision, I'll put it that way.

23 It's not as significant an issue as it  
24 is with the Commission.

25 JUDGE ANDERL: Okay. Let's take a

1 shot at this potable water issue.

2

3

4

REDIRECT EXAMINATION

5

6 BY MS. RENDAHL:

7

Q. Mr. Riley, I'm just trying to clarify  
8 for the record, because I think it may be on the  
9 record already, but I'd like to try to clarify.

10

The Department's definition of potable  
11 and nonpotable, and how that translates into  
12 whether or not the water should be -- the public  
13 should be drinking that water.

14

What is the definition of potable  
15 water?

16

A. Potable water is defined, to the best  
17 of my knowledge, as being suitable for drinking  
18 purposes and --

19

Q. Does this mean that all violations of  
20 primary and secondary standards indicate that water  
21 is nonpotable?

22

A. Yes, it should. Yeah.

23

Q. And if water is nonpotable, no one  
24 should be drinking that water?

25

A. The hesitation I have is whether or not

1 one should be drinking that water. The reality is  
2 that there's a lot of situations to where it's  
3 better than no water. And the risks are such that  
4 there's not an immediate threat to health;  
5 immediate versus chronic, long-term.

6 Q. Now, when you talk about an immediate  
7 threat to health as opposed a nonimmediate threat  
8 to health, is a non-acute MCL an immediate threat  
9 to health?

10 A. Not specifically, no. Versus an acute  
11 MCL, it's not.

12 Q. When does the Department issue boil  
13 water notices or require them to be issued?

14 A. With the confirmation of acute MCL's.

15 MS. RENDAHL: Your Honor, I have no  
16 further questions.

17 JUDGE ANDERL: Okay. Anything else  
18 for this witness? All right. Hearing nothing,  
19 then, thank you, Mr. Riley, for your testimony.

20 You may step down. We will take our  
21 lunch break. Let's be back at 1:15.

22 (Lunch recess).

23 JUDGE ANDERL: Let's be back on the  
24 record. After our lunch recess while we were off  
25 the record, we also determined we will reconvene

1 for hearing tomorrow at this location. We will  
2 start at nine, 8:30.

3 I think we'll have to confirm with the  
4 court reporter if she can be here that early, but  
5 it will be either 8:30 or nine o'clock.

6 And Ms. Snelson indicated to me she  
7 would like to make a brief opening statement and  
8 then begin calling witness for the homeowners case  
9 in chief.

10 Go ahead, Ms. Snelson.

11 MS. SNELSON: Thank you. The  
12 complainants, Marine View Heights Homeowners  
13 Association have filed a formal complaint with the  
14 Washington Utilities and Transportation to grant us  
15 the following relief:

16 The complainants seek a ruling by the  
17 Commission that a refund be given to all Marine  
18 View Heights homeowners on a prorated basis for the  
19 substandard water delivered to us from November  
20 1992 and until the water system became compliant  
21 with the state drinking water standards.

22 We intend to show not only inadequate  
23 water quality and quantity that we have put up with  
24 for the last year and a half, but also the many  
25 other issues within the water purveyors and his

1 customers, such as billing, operator  
2 trustworthiness, knowledge of the system, and  
3 procedures in operating the system.

4 Complainants also request the  
5 Commission to act on the building discrimination  
6 issue, which we will attempt to explain and prove  
7 during this hearing. We request the Commission to  
8 look at storage, distribution, and supply of water,  
9 to bring the system into total compliance with the  
10 state drinking water act, and for such further  
11 relief as the Commission may deem just and  
12 appropriate.

13 JUDGE ANDERL: Okay. Thank you.  
14 And would you like to call your first witness,  
15 then?

16 MS. SNELSON: Yes. I'd like to  
17 call Morris Thomas.

18 JUDGE ANDERL: Mr. Thomas, go ahead  
19 and take a seat and then raise your right hand.

20  
21 MORRIS THOMAS

22  
23 called as a witness herein, being first duly  
24 sworn to tell the truth, the whole truth and  
25 nothing but the truth, was examined and testified

1 as follows:

2

3 JUDGE ANDERL: Ms. Snelson, when  
4 you begin questioning your witnesses, would you  
5 please ask them to state their name and spell  
6 their last name for the record.

7 And if you offer any exhibits through  
8 the witnesses, make sure you identify it by the  
9 number in the upper right-hand corner as you filed  
10 it, then when we get it and we all know we are  
11 looking at the same document, I will give it an  
12 official Exhibit Number which we will refer to.

13

14

15

DIRECT EXAMINATION

16

17 BY MS. SNELSON:

18 Q. Mr. Thomas, would you give your full  
19 name and spell your last name.

20 A. Morris, Thomas, T-h-o-m-a-s.

21 Q. Mr. Thomas, we understand that you  
22 experienced some problems during the moratorium  
23 that were connected with the water system due to  
24 the fact that the water system was out of  
25 compliance.

1                   Could you tell us a little bit about  
2 some of the problems that you had during that time?

3                   JUDGE ANDERL: Okay. Mr. Thomas,  
4 before you do that, why don't you just state your  
5 name and verify your address for us and verify that  
6 you are, in fact, a customer or what your  
7 relationship is.

8                   THE WITNESS: My address is 717  
9 Belmont Street, Othello, 99344.

10                  JUDGE ANDERL: All right. And are  
11 you a customer of Marine View Heights Association?

12                  THE WITNESS: Yes, I am. Yes, I  
13 am.

14                  JUDGE ANDERL: All right. Then you  
15 can go ahead and respond to what Ms. Snelson asked  
16 you to.

17                  THE WITNESS: Well, I'll keep this  
18 as short as I can, Your Honor, but on the 19th of  
19 March in 1993 I applied for a building permit from  
20 Grant County for the installation of a mobile home  
21 in the Marine View Heights development, paid my  
22 fee, and I was told at that time a permit would be  
23 issued and sent to me in about one week.

24                  I then made a substantial down payment  
25 on a manufactured house, doublewide, and sat back

1 and waited. Things dragged on and on, and finally  
2 about May the 7th, 1993, I received a letter from  
3 the Washington State Department of Health in  
4 Spokane indicating that there was a problem with  
5 the management of the Marine View Heights water  
6 system.

7 I called Grant County Health  
8 Department, and they said that the state health  
9 department had ordered the county health department  
10 to stop issuing building permits for Marine View  
11 Heights because the manager and management of the  
12 water system was not complying with their orders.

13 This put me in a very difficult  
14 position. I had ordered a new home and accepted an  
15 offer for the sale of my present home. It seemed  
16 to me, and I read all the correspondence that they  
17 sent, that the Health Department was penalizing me,  
18 as a homeowner, as a taxpayer, instead of Mr.  
19 Barker for not managing his water system according  
20 to the regulations of the Health Department.

21 And I thought this was very unfair. So  
22 I made several other trips and phone calls and  
23 finally it appeared that I was going to be stuck  
24 with a mobile home some place, so I went to the  
25 Grant County Health Department, and they said,



1 well, they would issue me a permit to put my house  
2 up on the place, but I couldn't live in it. At  
3 least I could get it off of the manufacturer's lot,  
4 so I did that.

5 And then it kept dragging on, dragging  
6 on, no permit. I'd go to the county Health  
7 Department, they would blame the state department,  
8 the state Health Department said it was the county  
9 Health Department.

10 So finally I resorted to going to the  
11 local -- my local representative, Mr. Chandler. He  
12 got on the phone and made some very judicious phone  
13 calls, and about a week later, I received my permit  
14 to put my house -- or not to put my house, but to  
15 move into the house. And this happened in the last  
16 of July.

17 JUDGE ANDERL: Of '93?

18 THE WITNESS: '93, yes, ma'am.

19 JUDGE ANDERL: And that also  
20 allowed you to hookup to water?

21 THE WITNESS: Yes. Full permit  
22 then, electricity, was the full thing. So that is  
23 in a nutshell what happened to me because of this  
24 dragging on and a lack of enforcement by the Health  
25 Department, in my opinion.

1           And until they start enforcing their  
2 regulations, I think we're going to have problems  
3 from now on. But that's I think all I have to say,  
4 Your Honor.

5                         JUDGE ANDERL: Hang on. Let's see  
6 if anyone has any questions for you. Ms. Snelson,  
7 do you have any other questions?

8           Q.       (BY MS. SNELSON:) Have you had any  
9 other problems with the water system since you  
10 moved in?

11           A.       Yes. Well, I can't specifically get a  
12 doctor's written report on this, but in September  
13 of '93, I began experiencing stomach problems, and  
14 I tried several different things, cut out this, cut  
15 out that, coffee, one thing, and the other. No  
16 relief.

17                         And finally I started buying bottled  
18 water. So I bought bottled water for approximately  
19 six months, and during that period, my stomach had  
20 ceased to bother me. So, as I say, I can't lay it  
21 out flat that it was the water that did it, but by  
22 process of elimination, I determined that the water  
23 was no doubt the culprit.

24           Q.       Is that all the problems, then, that  
25 you've had since --

1           A.       Yes, it is.

2                       MS. SNELSON:   Thank you, Mr.  
3 Thomas, that's all the questions I have.

4                       JUDGE ANDERL:   Okay.  Mr. Thomas,  
5 are you drinking water from the tap now?

6                       THE WITNESS:   Yes, I am.

7                       JUDGE ANDERL:   And for how long  
8 have you been doing that?

9                       THE WITNESS:   Since about the 10th  
10 of May.

11                      JUDGE ANDERL:   And no problems?

12                      THE WITNESS:   I haven't experienced  
13 any since that time, no, ma'am.

14                      JUDGE ANDERL:   Ms. Rendahl, do you  
15 have any Cross for this witness?

16                      MS. RENDAHL:   No, Your Honor.

17                      JUDGE ANDERL:   Mr. Barker, do you  
18 have any Cross-examination for this witness?

19                      MR. BARKER:   No.

20                      MS. SNELSON:   May I -- I'm sorry.  
21 May I enter into evidence at this point a document  
22 that is just some signed statements of stomach and  
23 medical problems?

24                      JUDGE ANDERL:   That's the one you  
25 previously submitted --

1 MS. SNELSON: Yes.

2 JUDGE ANDERL: -- as 45?

3 MS. SNELSON: Yes.

4 JUDGE ANDERL: In the upper right  
5 -- Now, this one doesn't have Mr. Thomas' signature  
6 on it, does it?

7 MS. SNELSON: No, it does not.

8 JUDGE ANDERL: Okay. Maybe you  
9 should wait until one of the homeowners testifying  
10 whose signature --

11 MS. SNELSON: Oh, whose on it,  
12 okay. All right.

13 JUDGE ANDERL: Anything further for  
14 this witness?

15 MS. SNELSON: No.

16 JUDGE ANDERL: Thank you. You may  
17 step down.

18 MS. SNELSON: I'd like to call Don  
19 Paine, please.

20 JUDGE ANDERL: All right. Go ahead  
21 and take a seat, Mr. Paine. Raise your right hand  
22 to be sworn.

23

24

DONALD PAINE

25

1 called as a witness herein, being first duly  
2 sworn to tell the truth, the whole truth and  
3 nothing but the truth, was examined and testified  
4 as follows:

5

6

DIRECT EXAMINATION

7

8 BY MS. SNELSON:

9 Q. Mr. Paine, would you state your name  
10 and spell your last name for the court reporter,  
11 please?

12 A. Donald E. Paine, P-a-i-n-e.

13 Q. And would you give us your address,  
14 please?

15 A. I have a post office box in Moses Lake,  
16 which is Post Office Box 1937, Moses Lake,  
17 Washington.

18 Q. Okay. Are you a customer of Marine  
19 View Heights water system?

20 A. Yes. I live at 7053 Bellevue.

21 MS. SNELSON: Okay. May I enter  
22 into evidence our Exhibit Number 24, please?

23 JUDGE ANDERL: Okay. I have before  
24 me what's been identified by the homeowners as  
25 Exhibit Number 24.

1 I will mark it for identification as  
2 Exhibit Number 9.

3 (Exhibit Number 9 was marked  
4 for identification).

5 Mr. Paine, I'm going to hand that to  
6 you. Can you tell me, is that an affidavit that  
7 was prepared for your signature?

8 THE WITNESS: Yes, it was.

9 JUDGE ANDERL: And did you, in  
10 fact, sign that?

11 THE WITNESS: Yes.

12 JUDGE ANDERL: Okay. Is there any  
13 objection, Mr. Barker or Ms. Rendahl, to this  
14 affidavit being made a part of record?

15 MS. RENDAHL: No, Your Honor.

16 MR. BARKER: No.

17 JUDGE ANDERL: All right. I hear  
18 no objection. I'll admit Exhibit Number 9.

19 (Exhibit Number 9 was admitted).

20 Q. (BY MS. SNELSON:) All right. Mr.  
21 Paine, I understand you also had some problems  
22 during the moratorium. Could you explain those to  
23 us, please?

24 A. My problems run pretty much parallel  
25 with Mr. Thomas, is that we purchased a lot,

1 purchased a doublewide manufactured home and had  
2 problems getting a permit.

3 Again, the property owner and myself,  
4 we made numerous phone calls. We called Senator  
5 Hockstetter, and we finally got a permit. And it  
6 took us about two months to get the permit.

7 Q. Mr. Paine, are you still experiencing  
8 problems, as far as loans or anything like that due  
9 to the moratorium?

10 A. Yes. We were due to close in October  
11 of last month on financing both the house and the  
12 property in one loan. Two days before we were to  
13 walk in and sign the final papers, the mortgage  
14 company, which was at that time Washington Mutual,  
15 notified us that says that we could not get a loan  
16 because of the water system.

17 We had to take what is called an  
18 inhouse loan at a two percent higher rate of  
19 interest, which makes approximately 9 and 58th, 9  
20 and 3/4, somewhere in that neighborhood, which we  
21 still have it at today.

22 I checked with Washington Mutual  
23 Friday, and they called me back on Saturday, and we  
24 still cannot get a loan. They still doubt very  
25 much if they will release to get a conventional

1 loan.

2 Q. Okay. Did you have an occasion to have  
3 a conversation with Fred Barker regarding this, the  
4 water system and any improvements that he made?

5 A. At that particular time, what I think  
6 what you are getting at, I was talking to Jerry.

7 Q. I'm sorry. Was that Jerry Lease?

8 A. Yes.

9 Q. Okay.

10 A. But then Fred did come --

11 Q. Okay.

12 A. -- and join, and then he would leave  
13 and come back again.

14 Q. Okay. Would you care to comment on  
15 that conversation?

16 JUDGE ANDERL: Could we state when  
17 this was? Was this just recently?

18 Q. (BY MS. SNELSON:) May I refer him to  
19 our exhibit?

20 A. Now, again, I have to put my sunglasses  
21 on. I do have bifocals on the bottoms.

22 Q. 4th paragraph, I believe, of your  
23 exhibit?

24 A. Yes. On October 1st, last Friday, I  
25 was discussing this matter with his son, stepson



1 Jerry.

2 JUDGE ANDERL: Okay. Now, you're  
3 reading this?

4 THE WITNESS: Yeah.

5 Q. (BY MS. SNELSON:) If you could just  
6 use it to refresh your memory, and tell us --

7 A. Well, Jerry and I were standing in  
8 front of Sportsman Resort, and we were talking  
9 about the water system because we were trying to  
10 get our loan and was having troubles.

11 And at that particular time, Jerry was  
12 explaining what he was doing, and he was doing  
13 everything he could possibly do to get the water  
14 system so we could get our paperwork settled. And  
15 Mr. Barker, he stepped out of the office a time or  
16 two and put some comments in now and then. And at  
17 this one particular time he made that statement  
18 that's in paragraph 4 there.

19 Q. Would you tell us what that statement  
20 is, please.

21 A. Yes. Mr. Barker said to me, "I really  
22 haven't had the time for the water system, I've  
23 been working on the golf course."

24 Q. Thank you, very much. Have you had any  
25 other problems with the water system?

1           A.       No.    The wife refuses to drink the  
2 water.  I personally have drank the water and have  
3 no problems.  I keep telling her that there's no  
4 reason why she can't drink the water.

5                   MS. SNELSON:  Okay.  That's all the  
6 questions I have for this witness.

7                   JUDGE ANDERL:  Okay.  Ms. Rendahl,  
8 do you have any questions for this witness?

9                   MS. RENDAHL:  Just one or two to  
10 clarify Exhibit Number 9.

11

12

13

CROSS-EXAMINATION

14

15 BY MS. RENDAHL:

16           Q.       Was this exhibit prepared for any legal  
17 proceeding?

18           A.       Yes.

19           Q.       What was this prepared for?

20           A.       We were getting sick and tired of the  
21 state dragging their feet, and I was ready to sue  
22 the state.

23           Q.       So this was prepared in preparation for  
24 a lawsuit against the Department of Health?

25           A.       Right.

1 Q. Did you ever file --

2 A. No.

3 Q. -- that lawsuit?

4 A. Basically I wanted them to get off  
5 their you- know-what and do something.

6 MR. RENDAHL: I have no further  
7 questions.

8 JUDGE ANDERL: Mr. Barker, do you  
9 have any questions for Mr. Paine?

10 MR. BARKER: No questions.

11 JUDGE ANDERL: Thank you, Mr.  
12 Paine, for your testimony. You may step down.

13 MS. SNELSON: I'd like to call  
14 Betty Pruitt, please.

15 JUDGE ANDERL: Raise your right  
16 hand.

17

18 BETTY PRUITT

19

20 called as a witness herein, being first duly  
21 sworn to tell the truth, the whole truth and  
22 nothing but the truth, was examined and testified  
23 as follows:

24

25

## 1 DIRECT EXAMINATION

2

3

4 BY MS. SNELSON:

5

6

7 Q. Betty, would you state your full name  
8 and spell your last name?

9

10

11 A. Betty Jean Pruitt, P-r-u-i-t-t.

12

13 Q. And your address?

14

15 A. 6966 Plaza Street, Othello, Washington,  
16 99344.

17

18

19 Q. And are you a customer of the Marine  
20 View Heights water system?

21

22

23 A. Yes.

24

25 Q. Can you tell us an occasion -- about an  
occasion when one or more of your neighbors had  
some damage to their property or had some digging  
done on their property?

26

27

28 A. Yes. Stacy come down to our house, and  
29 she asked my husband if he had certain pieces of  
30 plastic pipe that someone had come in and dug up  
31 their flower garden and cut their water pipe while  
32 they were none of them at home.

33

34

35 And he went down there to help her put  
36 it back together, and they had destroyed one of her  
37 flower gardens.

38

39

40 Q. Did you know at that point who had dug

1 up her flower beds?

2 A. No, we did not. Consequently, we did  
3 have several neighbors report having seen who did  
4 go down and dig them up.

5 Q. And who did they say dug?

6 A. Jerry Lease and a couple of his half  
7 brothers.

8 Q. Okay.

9 MR. RENDAHL: Your Honor,  
10 objection, Your Honor. I know that this hearing is  
11 very informal, but if it's possible to bring in  
12 this testimony through a witness who did see  
13 whoever dug it up, rather than a third- or  
14 fourth-hand presentation, I think that might be  
15 helpful.

16 I know that hearsay is more lenient in  
17 this proceeding, and I don't want to prevent  
18 testimony from coming in, I'm just wondering if it  
19 might be possible to have this testimony through  
20 another witness.

21 JUDGE ANDERL: Yeah. Ms. Snelson,  
22 I am inclined to be somewhat lenient, but this is  
23 getting to be pretty far removed from the people  
24 who had firsthand knowledge.

25 MS. SNELSON: I understand.

1 Q. Were you ever at home when any of your  
2 neighbor's property was dug up?

3 A. Yes, I was. We were at home one  
4 evening, and Jerry come and knocked on the door,  
5 and he asked to see my husband. And I told him,  
6 "Come in," and he asked my husband, he says, "Can  
7 you tell me were Chuck's shut off is?"

8 And he was looking for the shut off  
9 valve, and he had already been out there digging  
10 and could not find it.

11 Q. All right. Anything else that you'd  
12 like to tell us? Any problems that you personally  
13 have had with the Marine View Heights water system?

14 A. Well, I have on several occasions tried  
15 to call Marine View Heights water system and have  
16 had no response. I have been billed at different  
17 times for water that I was not legally obligated to  
18 pay, because they had been notified the water had  
19 been shut off.

20 And then later in May, we sold a piece  
21 of property we had and were no longer obliged to  
22 pay that bill because I had notified by telephone,  
23 and I was still billed in June for that water. Of  
24 course, I did not pay it.

25 Q. Okay. Did you contact the water

1 company?

2 A. I tried, but --

3 Q. Did you have problems?

4 A. This was -- No. There was no answer,  
5 so I just put a note on the bottom of the bill and  
6 sent it.

7 Q. Okay. And has it been resolved since  
8 then?

9 A. Yes. I have not been billed for that  
10 water, at least.

11 Q. Okay. All right. Anything else?

12 A. Just the fact that I don't drink the  
13 water myself. I boil everything I use.

14 MS. SNELSON: Okay. I have no  
15 further questions, Your Honor.

16 JUDGE ANDERL: Okay. Ms. Rendahl,  
17 do you have any questions for this witness?

18 MS. RENDAHL: No, Your Honor.

19 JUDGE ANDERL: Mr. Barker?

20 MR. BARKER: No.

21 JUDGE ANDERL: Ms. Pruitt, do you  
22 even boil it now, after the Health Department --

23 THE WITNESS: I boiled it this  
24 morning before I made coffee.

25 JUDGE ANDERL: Okay. If you were

1 wanting a glass of cold water --

2 THE WITNESS: I would take it out  
3 of my refrigerator, where it is already boiled.

4 JUDGE ANDERL: All right. Thank  
5 you for your testimony.

6 MS. SNELSON: Mr. Smith, please.

7 JUDGE ANDERL: Mr. Smith, go ahead  
8 and sit down. Raise your right-hand to be sworn.

9

10 MORRIS SMITH

11

12 called as a witness herein, being first duly  
13 sworn to tell the truth, the whole truth and  
14 nothing but the truth, was examined and testified  
15 as follows:

16

17 DIRECT EXAMINATION

18

19 BY MS. SNELSON:

20 Q. Would you give your name and spell your  
21 last name for the court reporter, please.

22 A. Morris W. Smith, S-m-i-t-h.

23 JUDGE ANDERL: Morris?

24 THE WITNESS: Uh-huh. M-o-r-r-i-s.

25 My address is 7177 Belmont, in Othello. It's



1 99344.

2 Q. (BY MS. SNELSON:) And are you a  
3 customer of Marine View Heights water system?

4 A. Yes, ma'am.

5 Q. All right. Have you been experiencing  
6 any problems, as far as your water is concerned?

7 A. Only when we first bought the place.  
8 After we bought it, got up one morning to go make  
9 coffee, turned the water on, and the chlorine was  
10 so damn strong, you couldn't even cut it. So I had  
11 to go to town to get some water to make coffee.

12 So in the meantime, I'd filter the  
13 water, and then I got three gallon milk jugs, and  
14 the water's been filtered and put into the  
15 refrigerator. And that's the way we use it, other  
16 than cooking or boiling it, we can only use it for  
17 that.

18 Q. Okay. So the reason you are filtering  
19 your water is --

20 A. The chlorine. The chlorine, and then  
21 rocks. We got a whole slue of them about the size  
22 of bird seed. Everyday you go around take those  
23 filters off of the faucets and clean them out in  
24 order to get -- and when we first got the place, I  
25 had in the bathroom in the sink, one of them was so

1 tied up with that stuff, I had to release, blow the  
2 pipe out.

3 So I put in a bigger pipe, so we didn't  
4 have any trouble with it. But it still comes in  
5 the filter.

6 One day you'll have a hell of a lot of  
7 pressure, by that evening, you go in and turn on  
8 the water, and it seems like it takes two minutes  
9 to fill up the water. And it's the dirt, the  
10 gravel that's in the lining that's coming into the  
11 house, and I figure I'd have to put a filter  
12 outside under the house to stop it from coming into  
13 the house.

14 And I know every time that -- Well,  
15 every time they treat that up there, I catch it  
16 down there at the house. I have to go out and turn  
17 sprinklers on and run them in order to get the  
18 chlorine back down.

19 When you turn it on, you can smell it  
20 clear on down to the bedroom. But that's the  
21 faucet in the house.

22 Q. Any other problems?

23 A. I don't have any other problems with --  
24 I heard about it a lot before, so I sort of  
25 prepared myself when I bought the place.

1 MS. SNELSON: All right. I have no  
2 further questions.

3 JUDGE ANDERL: Mr. Smith, how long  
4 ago did you become a customer of Marine View  
5 Heights water system?

6 THE WITNESS: March of this year,  
7 1st of March.

8 JUDGE ANDERL: And how did you  
9 become a customer? Did you buy some property?

10 THE WITNESS: We bought a house at  
11 that address, a house, a lot, at that address.

12 JUDGE ANDERL: And can I ask you  
13 how you paid for it? Did you have to take out a  
14 loan?

15 THE WITNESS: Cash. No, ma'am. I  
16 heard when we were going to buy it, and we were  
17 talking about it, and when I heard about that, in  
18 fact, from other people who have been living up  
19 there, some of them ten years living up there, and  
20 after that, I didn't want to take a chance on a  
21 bunch of that crap, and I came down and paid cash  
22 for it.

23 JUDGE ANDERL: Ms. Rendahl, any  
24 questions for this witness?

25

## 1 CROSS-EXAMINATION

2

3 BY MS. RENDAHL:

4 Q. Where is your house located in relation  
5 to the well?

6 A. East.

7 Q. Do you know how close?

8 A. It's approximately a block east of the  
9 well.10 Q. Do you know if there are any other  
11 houses before yours, right after the well?12 A. Now, there's a -- I don't know how  
13 their hooked on to anything. The well sits, for  
14 instance, like this, and I live down here on this  
15 block. And I think there's three or four houses  
16 there on this back street road, like it's a  
17 cul-de-sac that they live on. And I live a block  
18 away.19 I think there's three houses. One of  
20 them ain't being used, except on weekends, and two  
21 people live in the other ones. One of them lives  
22 right next to the well.23 Q. When did you start experiencing  
24 problems with the bird seed-size rocks?

25 A. Every since I've been there.

1 Q. You have --

2 A. The water pressure was so low since we  
3 first moved. I remodeled the house since we've  
4 been there, and when I first got there, we checked  
5 it, because I was there 30 days before we moved in,  
6 we bought the house.

7 And the water pressure was so low, I  
8 was thinking -- I couldn't figure out why I had  
9 water pressure outside. Because I had a  
10 three-quarter inch outside, but in the house I  
11 didn't have any water pressure. And then I got to  
12 looking and taking faucets apart, and that's where  
13 I started finding little rocks in the filters.

14 Q. And this problem still happens today?

15 A. Every -- Approximately twice a week.  
16 We dump them twice a week because we're  
17 approximately two houses from the end of the line,  
18 and we've been having it ever since we've been  
19 there.

20 And so I just already come to the  
21 conclusion, what the hell, you go out there and put  
22 a filter out the main line, and that will stop it  
23 from coming in the house. That's the conclusion we  
24 come to.

25 MS. RENDAHL: I have no further

1 questions.

2 JUDGE ANDERL: Okay. Mr. Barker,  
3 any questions for this witness?

4 MR. BARKER: I have no questions.

5 JUDGE ANDERL: Anything else for  
6 Mr. Smith?

7 MS. SNELSON: No.

8 JUDGE ANDERL: Thank you, Mr.  
9 Smith, for your testimony.

10 MS. SNELSON: Oh, I'm sorry.

11

12

13

RE-DIRECT EXAMINATION

14

15 BY MS. SNELSON:

16 Q. When you first moved in, how were you  
17 notified that the water didn't meet the drinking  
18 water standards?

19 A. Just about everybody I talked to Budd  
20 Westphallen that lives up over the hill up there,  
21 he had told me that -- 'cause when we was talking  
22 to buy the place, and he asked me, he says, "Well,  
23 that sounds like a good deal, but, except," he  
24 said, "you'll have a hard time getting it  
25 financed."

1 Q. Were you ever notified by the owner of  
2 the water system or the certified water operator?

3 A. No. I don't even know who they are.

4 Q. All right.

5 A. I never met nobody. Like I said, I've  
6 been there since March and sort of stick to myself  
7 up there at the house. Never ask any questions,  
8 just settle problems myself.

9 MS. SNELSON: All right. Thank  
10 you.

11 JUDGE ANDERL: Thank you, Mr.  
12 Smith.

13 MS. SNELSON: Irv Helgeland,  
14 please.

15 JUDGE ANDERL: Raise your right  
16 hand.

17

18 IRVIN HELGELAND

19

20 called as a witness herein, being first duly  
21 sworn to tell the truth, the whole truth and  
22 nothing but the truth, was examined and testified  
23 as follows:

24

25

## 1 DIRECT EXAMINATION

2

3 BY MS. SNELSON:

4 Q. Mr. Helgeland, would you give your  
5 name, and spell your last name.

6 A. Irvin Helgeland, H-e-l-g-e-l-a-n-d.

7 Q. And your address?

8 A. 7116 Belmont Street, Othello,  
9 Washington, 99344.10 Q. And are you a customer of the Marine  
11 View Heights water system?

12 A. Yes.

13 Q. All right. Mr. Helgeland, did you go  
14 with Jerry Lease at one time to take a water test?

15 A. Yes.

16 Q. All right. And could you tell us what  
17 you observed during that, during the testing of the  
18 water?19 A. Yes. Well, Mr. Snelson and I went with  
20 him one time, and at first we tested it at  
21 Snelson's place, and he didn't run the water long  
22 enough. He only run it for about one minute, which  
23 -- and I have taken several samples and read  
24 instructions real well, so I know how to do it.  
25 And you're supposed to run it for at least five



1 minutes.

2 So -- And then the next place we went  
3 to, he took it out of a hot water spout. And after  
4 he -- I then told him that he's supposed to take it  
5 out of the cold water spout, and so he dumps the  
6 hot water out of the bottle, uses the same bottle,  
7 and then fills it up again with cold water.

8 Q. Anything else that you observed that  
9 was a problem during that time?

10 A. No. The two.

11 Q. All right. On another occasion, did  
12 you and Mr. Everett Sanders go to the water company  
13 to talk to Jerry Lease and have a little problem  
14 finding where you were supposed to go?

15 A. Yes. We went down there, oh, to talk  
16 about a bill, some corrections from the bill. And  
17 we got down there, and they don't have any signs,  
18 no nothing to tell where that office is. And we  
19 were looking around. We had to look all around,  
20 and finally we got around to the side, and we could  
21 see them in their office.

22 Q. Okay. Were there any --

23 A. There's no sign.

24 Q. Anything indicating where the water  
25 company office --

1           A.     No.

2           Q.     Okay. All right. Do you have any  
3 additional -- Have you had any additional expenses  
4 because of our water system problems over the last  
5 year and a half?

6           A.     Yes. Well, I think everybody that's  
7 been on the board and stuff like that up there has  
8 had them. Like we, all of us, went to Olympia at  
9 our own expense, and all of us have had several  
10 long distance phone calls that we don't charge for.

11                     And, myself, I was head of the mailing  
12 committee for quite awhile, and at that time, when  
13 we first started, we were sending an awful lot of  
14 letters to people. And so I'd buy, myself, I'd  
15 just buy rolls of stamps. We didn't have that much  
16 money, you know, but I paid it at that time on a  
17 lot of different things.

18                     But just about all of them on the  
19 board, a lot of that, and then a lot of traveling  
20 to courthouses and back, and we expend our own gas,  
21 I mean, you know.

22           Q.     Uh-huh. Did you do any of your own  
23 water testing for your own --

24           A.     Yes.

25           Q.     For your own benefit?

1 A. Yes.

2 Q. And is that also an extra expense for  
3 you?

4 A. It's an extra expense also. Because my  
5 wife was having stomach problems from the water,  
6 and so we tested ourselves, just to make sure.

7 Q. Okay. Did you have any other problems  
8 with the water --

9 A. No.

10 Q. -- that you'd like to tell us about?

11 A. No.

12 Q. No?

13 A. No.

14 MS. SNELSON: Okay. That's all the  
15 questions I have.

16 JUDGE ANDERL: Ms. Rendahl, do you  
17 have any Cross for this witness?

18 MS. RENDAHL: Yes, I do.

19

20

21 CROSS-EXAMINATION

22

23 BY MS. RENDAHL:

24 Q. You just testified, Mr. Helgeland, that  
25 you conducted some water tests of the water in the

1 system. What were the results of those tests?

2 A. Of the ones we tested from our own  
3 home, two were satisfactory, and one was  
4 unsatisfactory.

5 Q. When did you conduct these tests?

6 A. It's -- The last one, I imagine, was  
7 over a year ago.

8 Q. The last one?

9 A. Yeah.

10 Q. And --

11 A. And the other two, oh, I'd say were six  
12 months before that. I don't -- I could get the  
13 correct dates.

14 Q. Was the last one the unsatisfactory  
15 one?

16 A. Yes.

17 Q. You also testified that your wife was  
18 having stomach problems.

19 A. Yes.

20 Q. Do you drink the water?

21 A. No.

22 Q. Do you buy bottled water?

23 A. Yes.

24 Q. You also testified that you had certain  
25 expenses that you personally incurred, or were

1 these expenses incurred by the Association?

2 A. No, personally.

3 Q. And what specifically were these  
4 expenses, the trip to Olympia, the long distance  
5 phone calls, letters, etc.; what specifically were  
6 those expenses geared towards?

7 A. Well, the trip to Olympia, we had a  
8 hearing over there, and we all went over, you know,  
9 either to testify or to give support to the group.  
10 And the stamps were, of course, for mailing out to  
11 all the homeowners. We had to keep them apprised  
12 of stuff that we were doing. And what else did you  
13 say?

14 Q. Were these --

15 A. Oh, and, well, the other trips like  
16 going to the courthouses and stuff to check on  
17 different things, so on, and so forth.

18 Q. When you went to courthouses, what were  
19 you specifically checking?

20 A. Well, I --

21 Q. Was it related to the Marine View  
22 Heights Water Company?

23 A. Yes.

24 Q. And how was it related to the water  
25 company?

1           A.     Well, we were finding out, trying to  
2 check to see what we could do, you know, like  
3 forming water districts and different things like  
4 that.

5           Q.     So were you consulting with the county,  
6 or were you -- What exactly were you --

7           A.     Yeah. We were consulting with the  
8 county  
9 and --

10          Q.     Were you --

11          A.     -- with commissioners and so on and so  
12 forth.

13          Q.     Were you reviewing records?

14          A.     Yes. We were reviewing records.

15          Q.     What sort of records were you  
16 reviewing?

17          A.     Well, I wasn't in on that too much. I  
18 was just making an example of that, you know, of  
19 the people that were going.

20          Q.     But have you personally made a trip to  
21 the courthouse?

22          A.     Yes. I've made more than one.

23          Q.     And you've personally made long  
24 distance phone calls?

25          A.     Yes.

1 Q. And purchased stamps?

2 A. Yes.

3 Q. How much of those expenses were geared  
4 towards the billing issues, and how much was geared  
5 towards the water quality issues?

6 A. Well, I don't know if my personal ones,  
7 if they were any of them geared towards that,  
8 but --

9 Q. When you say "geared towards that" --

10 A. The water. I mean, the billing.

11 Q. So they were all geared towards water  
12 quality?

13 A. For giving information to people, you  
14 know, sending out the letters and so forth. And  
15 the phone calls were mainly that, you know, long  
16 distance phone calls.

17 Q. I guess what I'm trying to get from  
18 you, there are different issues that I know the  
19 homeowners are raising in this case. Some have so  
20 do with billing issues, that the company is not  
21 billing properly, and others have to do with the  
22 quality of the water.

23 And what I'm asking you is if you can  
24 estimate what percentage of your expenses went to  
25 water quality issues and what percentage went to

1 things like billing and other operational issues  
2 with the company.

3 A. Oh, I'd probably say about 40 percent,  
4 like that. See, where -- I'd have calls from  
5 people or had to call them back. They wanted to  
6 know about the water and so on and so forth. And  
7 we've had some too on billing, you know. People  
8 get billed wrong and stuff like that, and they'd  
9 call me. I don't know why, but --

10 Q. When you say 40 percent, is that  
11 towards the billing or towards the water quality?

12 A. Well, with both combined, I'd say 20  
13 percent or something like that.

14 Q. If I were to ask you about a hundred  
15 percent of those expenses, how would those fall  
16 out? That's what I'm trying to get to. If you can  
17 clarify that for me, that would be helpful.

18 A. Well, I'd say 60 percent was  
19 information, you know, and 20 -- and 20 for  
20 billing, and 20 for --

21 JUDGE ANDERL: Mr. Helgeland, just  
22 for clarification, when you say "information," do  
23 you mean things like information such as forming a  
24 water district, taking over the water system for  
25 yourselves, as homeowners?



1 THE WITNESS: Well, that --

2 JUDGE ANDERL: Okay. General  
3 things.

4 MS. RENDAHL: I have no further  
5 questions. Thank you very much.

6 JUDGE ANDERL: Mr. Barker?

7 MR. BARKER: I have a couple.  
8  
9

10 CROSS-EXAMINATION  
11

12 BY MR. BARKER:

13 Q. How many water samples have you taken  
14 from your house ever since you can remember?

15 A. Well, for myself?

16 Q. Yeah.

17 A. Three.

18 Q. And two was good, and one was not?

19 A. Yes.

20 MR. BARKER: Okay.

21 JUDGE ANDERL: Anything else?

22 MR. BARKER: That's all.

23 JUDGE ANDERL: Ms. Snelson,  
24 anything else for this witness?

25 MS. SNELSON: No. That's all.

1 JUDGE ANDERL: Thank you, Mr.  
2 Helgeland.

3 MS. SNELSON: I'd like to call  
4 Joyce Helgeland, please.

5 JUDGE ANDERL: Would you raise your  
6 right hand, please.

7

8 JOYCE HELGELAND

9

10 called as a witness herein, being first duly  
11 sworn to tell the truth, the whole truth and  
12 nothing but the truth, was examined and testified  
13 as follows:

14

15 DIRECT EXAMINATION

16

17 BY MS. SNELSON:

18 Q. Please give your name, and spell your  
19 last name.

20 A. Joyce Helgeland, H-e-l-g-e-l-a-n-d.

21 Q. And your address?

22 A. 7116 Belmont Street, Othello,  
23 Washington, 99344.

24 Q. And are you a customer of Marine View  
25 Heights water system?

1           A.       Yes.

2                       MS. SNELSON:   Before I question  
3 her, may I enter, Your Honor, items number four --  
4 the Homeowners Association numbers 41, 43, and 44?

5                       JUDGE ANDERL:   Okay.  Let's take a  
6 look at this.  Okay.  I'm going to mark for  
7 identification the next three exhibits in line.

8                       MR. LEASE:   What was the numbers on  
9 that again?

10                      JUDGE ANDERL:   On the upper right,  
11 it will be numbers 41, 43 and 44.

12                      Exhibit Number 10 for identification is  
13 a multi-page document containing signatures.  It's  
14 dated February 3, 1994 at the top.

15                      Exhibit Number 11 for identification is  
16 a five-page document containing photocopies of  
17 checks written to various payees, and Exhibit  
18 Number 12 is a single page document, which is a  
19 statement showing \$70 apparently to Grant County  
20 health district.

21                      (Exhibits Number 10 through 12 were  
22                        marked for identification).

23           Q.        (BY MS. SNELSON:)  Ms. Helgeland, have  
24 you had any medical problems regarding the water?

25           A.        Yes, I have.

1 Q. Could you tell us about those?

2 A. Well, they're real bad, and I thought  
3 it was something else, when I finally, you know,  
4 like Morris said, process of elimination, figured  
5 out it had to be the water.

6 Because if I went somewhere, my stomach  
7 was fine if I stayed a few days, and I come back,  
8 and it was bad. And I didn't -- I go to the  
9 doctor, and they don't really know, and I was with  
10 a doctor in Yakima at the time, and I couldn't get  
11 down there.

12 But I don't -- It was from the water,  
13 because every time I drank it, I got sick.

14 Q. So what are you doing for water?

15 A. Well, we bought water 'til about three  
16 weeks ago, I think, I quit, started drinking ours,  
17 or I'm trying it again. And I'm afraid when fall  
18 comes, and we quit irrigating, we'll have it all  
19 over again, because the water will start standing  
20 in the system and your stomach does get bad if  
21 you're susceptible to the water or what's in it.

22 Q. Okay. Have you -- I'm sorry.

23 A. Oh, go ahead.

24 Q. Have you had any problems with your  
25 water bills?

1           A.     Well, they're messed up.

2           Q.     How are they messed up?

3           A.     Well, it's -- They just -- Sometimes  
4 they're okay, and sometimes they're all mixed up.  
5 And then I didn't get one, and I called, and I  
6 never got an answer.

7           Q.     You tried to contact the company about  
8 your bill?

9           A.     Yeah. They never asked -- or, never  
10 called back.

11          Q.     Okay. Did you leave a message, or --

12          A.     Well, yeah. But then I think, Jerry,  
13 told him again when we saw him on the street, and  
14 then he hand-delivered one.

15          Q.     Okay. But your phone message was never  
16 answered?

17          A.     No.

18          Q.     As treasurer of the Homeowners  
19 Association, has there been much money spent, as  
20 far as regarding the problems that we've had with  
21 the water system? Have you written a lot of  
22 checks?

23          A.     Yes, yes. That includes attorneys fees  
24 and so on and so forth, which are a lot.

25          Q.     And they were all for the purpose of

1       trying to resolve --

2               A.       Most of them are for the purpose of  
3 resolving the water system.

4                       MS. SNELSON:   Okay.   All right.

5                       JUDGE ANDERL:   Do you want her to  
6 look at those checks on Exhibit 11, and ask her if  
7 this is --

8                       THE WITNESS:   This is one of them.

9               Q.       (BY MS. SNELSON:)   Would you look at  
10 Exhibit Number 10, 11, and 12.   Well, Exhibit  
11 Number 11.

12              A.       Yeah.   This is just a sample of what,  
13 you know, every time we have to send out a mailing.  
14 Because I suppose over half of our people don't  
15 live where we live more than on weekends.   So you  
16 have to mail, I mean, mail to them.

17                      JUDGE ANDERL:   Okay.   And these  
18 five pages of cancelled checks, they're all  
19 different?

20                      THE WITNESS:   You know, like post  
21 office, you know.

22                      JUDGE ANDERL:   But I'm going to ask  
23 you who signed them.   Is that you most of the time?

24                      THE WITNESS:   Well, not when we  
25 first started, not until I got elected.   But, see,

1 there's a few with Rose. Then after that, I signed  
2 them, and then one of the other members would sign  
3 them.

4 JUDGE ANDERL: Okay. These checks  
5 require two signatures on them?

6 THE WITNESS: Yeah, they do. And  
7 we have more, you know. That's just a sampling.

8 MR. BARKER: Can we object to  
9 those?

10 JUDGE ANDERL: On what basis?

11 MR. BARKER: We don't know where  
12 they went to. Some of them went for mail boxes.  
13 This --

14 THE WITNESS: This did not go to  
15 mailboxes. What are you talking about?

16 MR. BARKER: Some of them went to  
17 the roads, unless they specify what they went for  
18 or provide a record.

19 THE WITNESS: Usually when we met,  
20 we would --

21 JUDGE ANDERL: Ms. Helgeland, hold  
22 on a second.

23 The testimony thus far is that the  
24 expenses had been made in connection with trying to  
25 resolve the water system problems.

1                   Because of her testimony and her  
2 personal knowledge of the existence of these  
3 checks, I think I would overrule the objection.

4                   However, on Cross-examination, that's  
5 something that you then need to ask her. If one of  
6 these expenses doesn't look to you that it's  
7 connected to the water system, that's your turn to  
8 clarify it with her.

9                   Q.     (BY MS. SNELSON:)     Okay. Also looking  
10 at Exhibit Number 12, is this one of the bills --

11                  A.     Yeah.

12                  Q.     -- that were received by the Homeowners  
13 Association?

14                  A.     Yes.

15                  Q.     It was under a water sample that was  
16 done?

17                  A.     (Witness nodded head affirmatively).

18                  Q.     And looking at Exhibit 10, backing up a  
19 little bit, is that your signature at the very  
20 top --

21                  A.     Yes, it is.

22                  Q.     -- regarding purchasing or boiling  
23 water?

24                  A.     (Witness nodded head affirmatively).

25                  Q.     Okay.



1           A.       That's right.

2           Q.       Have you had any other problems with  
3 the water company, other than the ones you've  
4 already told us about?

5           A.       No. Not really.

6                    MS. SNELSON: And that's all the  
7 questions I have.

8                    JUDGE ANDERL: Okay. Any  
9 objections to Exhibits 10 11, or 12, other than  
10 what Mr. Barker already stated? Ms. Rendahl?

11                   MS. RENDAHL: I would have no  
12 objection to this witness sponsoring Exhibit Number  
13 11, with the exception of certain checks that are  
14 not signed by her.

15                   THE WITNESS: Oh --

16                   MS. RENDAHL: But that can be  
17 clarified through a later witness, so I would allow  
18 the exhibit to be admitted, if it can be verified  
19 later through another witness.

20                   JUDGE ANDERL: Okay. And as to the  
21 other two?

22                   MS. RENDAHL: No objection.

23                   JUDGE ANDERL: All right. Mr.  
24 Barker, any objections, other than the one you  
25 already voiced?

1 MR. BARKER: No.

2 JUDGE ANDERL: All right. I think  
3 that Ms. Rendahl raises a good point with regard to  
4 Exhibit 11, the checks that don't have Ms.  
5 Helgeland's signature as one of signers should then  
6 be verified through another witness. Otherwise,  
7 I'll admit Exhibits 10, 11, and 12.

8 (Exhibits 10 through 12  
9 were admitted).

10 THE WITNESS: Okay.

11 JUDGE ANDERL: Any questions for  
12 this witness, then?

13 MS. RENDAHL: I have a few.

14 JUDGE ANDERL: Go ahead.

15

16

17

CROSS-EXAMINATION

18

19 BY MS. RENDAHL:

20 Q. Ms. Helgeland, you testified that  
21 you're worried that you might have some problems in  
22 the fall --

23 A. Uh-huh.

24 Q. -- because of irrigation. I'm not  
25 familiar with --

1           A.       When we quit watering, the water builds  
2 up in the pipes. Then the people don't come over  
3 and use -- the end of our lines don't get used, and  
4 they aren't -- you aren't taking out water, and  
5 then it stands in the system.

6           Q.       Are you referring to the fact that  
7 certain members of the -- certain people who live  
8 in the Marine View Heights system don't live there  
9 year-round?

10          A.       Well, they -- You don't know. As soon  
11 as you quit watering, your lines, the water isn't  
12 used, and it's standing, because the people don't  
13 live there, a lot of them, and they aren't using  
14 water.

15                   And those of us that live there are the  
16 only ones that -- and we get bad water, or at least  
17 that's what we did before.

18          Q.       I also have a question -- You mentioned  
19 that your water bills are messed up, and I'm just  
20 trying to get you --

21          A.       Well, they don't always have the right  
22 amount on top, or -- I didn't bring any samples,  
23 but I could get some for you.

24          Q.       Do you get billed for water that you've  
25 already paid for? Is that how they're messed up?

1           A.     Well, not usually, no.

2           Q.     So when you say messed up, you're  
3 referring to the fact that they don't -- they're  
4 addressed to different people, and --

5           A.     Yeah. And they're not -- Everybody  
6 don't, you know, everybody -- They're just like  
7 sometimes, like one time, he had the wrong name on  
8 it, you know, like Marine View, you know, whatever  
9 it was. It wasn't even him, you know. They're  
10 just not a good business bill, put it that way.

11          Q.     When were you elected treasurer of the  
12 Homeowners Association?

13          A.     When was I? Over a year and a half  
14 ago.

15          Q.     I do have some questions about Exhibit  
16 Number 11. Do you have that in front of you?

17          A.     Uh-huh.

18          Q.     Looking at --

19          A.     First page --

20                   JUDGE ANDERL: Let her go ahead and  
21 ask, and then she'll --

22          Q.     (BY MS. RENDAHL:) Looking at check  
23 number 640, it's on the second page. It says 80  
24 postcards. What postcards are those?

25          A.     Well, there'd be postcards telling

1       them, you know, we were going to have a meeting to  
2       bring up the water issues, so that if they could  
3       get there, they could get there.

4             Q.       So when you say --

5             A.       It's only 80, because those are the  
6       ones that are on the --

7             Q.       When you say "they" --

8             A.       The ones that they're not living there.

9             Q.       Members of the homeowners --

10            A.       Homeowners, yes. So many of them are  
11       away, and you can't call them because it's all long  
12       distance.

13            Q.       Referring to check number 642, that's  
14       on the third page, I think.

15            A.       That's a copyright fee for an annual  
16       report.

17            Q.       And what --

18            A.       That was so that we could become legal  
19       as homeowners to go, you know, you have to send in  
20       to become a -- to become legal.

21            Q.       To become a legal entity?

22            A.       Uh-huh, as a homeowner. We weren't  
23       before.

24            Q.       Okay. Now, is this something that you  
25       would have to do through your normal course of

1 business, as a Homeowners Association?

2 A. Well, we weren't a homeowners until we  
3 started having problems with our water. That's  
4 when we decided to form it. Otherwise we probably  
5 wouldn't be.

6 Q. In check number 641, it indicates it's  
7 for filing. Do you know what sort of filing that  
8 is?

9 A. The -- Delores filed some papers for  
10 us.

11 Q. Maybe I'll defer a question to Mrs.  
12 Gregg, if she --

13 A. Uh-huh. I think that was probably on  
14 filing the papers for the homeowners.

15 Q. In addition, number 609, which is at  
16 the bottom of that page, it indicates that the  
17 check was written for box 492?

18 A. Yeah. That's to get a mailing address.

19 JUDGE ANDERL: Let her finish the  
20 question.

21 Q. (BY MS. RENDAHL:) Yeah. If you wait  
22 until I ask, then the court reporter can take  
23 everything down.

24 A. Okay. I'm messing her up.

25 Q. What exactly -- The box number, why was

1 this expense made?

2 A. Because we didn't have a mailing  
3 address up there, and we still don't actually have  
4 one, though we're going to take a lot and put a box  
5 on it, but we couldn't get our mail to come there  
6 without having a box. There was no address.

7 Q. Had you thought about sending it to one  
8 of your member's homes?

9 A. Well, we're in the process of doing  
10 that now. We took an empty lot and got a number  
11 for it.

12 Q. On the, I believe it's the fourth page,  
13 there are a number of checks written to -- I'm not  
14 going to be able to pronounce the name, but  
15 something Whitaker?

16 A. That's our lawyer, our attorney.

17 Q. And what, if I might ask, what were  
18 these expenses for?

19 A. Most of them have been on water and  
20 what we can do and on whether -- who owns the  
21 system. And she's been giving us opinions on it  
22 and what we can do to get it straightened out.

23 Q. The last check for the late payment, I  
24 guess it is page five, is your signature on that  
25 check?

1 A. No.

2 Q. Okay. Then I'll defer --

3 A. Jim Snelson is. Rose isn't here.

4 MS. RENDAHL: Okay. I'll defer a  
5 question to those parties, then, on that. I have  
6 no further questions.

7 JUDGE ANDERL: Okay. Mr. Barker,  
8 any questions for this witness?

9  
10

11 CROSS-EXAMINATION

12

13 BY MR. BARKER:

14 Q. Yes. Are you on a dead end lane?

15 A. Pretty close. Nobody, you know --

16 Q. How close?

17 A. About a block on the other side. I  
18 don't really know where our line comes from. Until  
19 Morris moved in, there was no one on that street by  
20 us on that end.

21 Q. If you're a block from a dead end lane,  
22 how does that effect your water line?

23 A. I don't know, but I got sick.

24 MR. BARKER: Okay. No further  
25 questions.



1 JUDGE ANDERL: Okay. Ms.  
2 Helgeland, since you started drinking tap water for  
3 three weeks, have you had any problems?

4 THE WITNESS: No.

5 JUDGE ANDERL: Anything else for  
6 this witness?

7 MS. SNELSON: No.

8 JUDGE ANDERL: Thank you for your  
9 testimony. You may step down.

10 MS. SNELSON: Mr. Jim Gregg,  
11 please.

12 JUDGE ANDERL: Mr. Gregg, would you  
13 raise your right hand.

14

15 JAMES GREGG

16

17 called as a witness herein, being first duly  
18 sworn to tell the truth, the whole truth and  
19 nothing but the truth, was examined and testified  
20 as follows:

21

22 DIRECT EXAMINATION

23

24 BY MS. SNELSON:

25 Q. Mr. Gregg, would you give your name and

1 address.

2 A. James Gregg, G-r-e-g-g.

3 Q. And your address?

4 A. 8480 Aurora, A-u-r-o-r-a, Street,  
5 Othello, Washington.

6 Q. Zip code?

7 A. 99344.

8 Q. And are you a customer of the Marine  
9 View Heights water system?

10 A. Yes, I am.

11 Q. All right. Mr. Gregg, in order to  
12 clarify an issue that we've already talked about,  
13 how many notices to water users have you received  
14 when the maximum contaminant level was exceeded?

15 A. Four.

16 Q. And this is during a time period of  
17 what? Has this been since most of '92 through the  
18 present?

19 A. Yes.

20 Q. You have received four notices?

21 A. Four.

22 Q. Okay. All right. Have you had any  
23 problems with chlorine in your water?

24 A. Yes.

25 Q. And could you tell us about that,

1 please.

2 A. Well, it's like most people up there  
3 have had problems, and I think that generally goes  
4 back to overdosing the system, putting in more  
5 chlorine than what is needed to actually kill the  
6 coliform in order to get -- in order to get good  
7 water samples.

8 I notice it when we turn on the shower  
9 in the morning, mostly in the faucet. I mean, just  
10 awful. But we've only had it happen about three  
11 times.

12 Q. Did you have an occasion to talk to  
13 Jerry Lease about the amount of chlorine in your  
14 water?

15 A. Yes, I have.

16 Q. And could you tell us something about  
17 that conversation?

18 A. I asked him if he did more coliform,  
19 you know, and he said he had.

20 MS. SNELSON: At this point we can  
21 clarify some of these checks on Exhibit Number 11  
22 Mr. Gregg has signed.

23 JUDGE ANDERL: Mr. Gregg, why don't  
24 you take a look at that?

25 MS. SNELSON: Number 603, he has --

1 JUDGE ANDERL: Okay. And as you go  
2 through them, why don't you just go ahead and have  
3 them verify.

4 Q. (BY MS. SNELSON:) Okay. Is your  
5 signature on the first page, number 603?

6 A. Yes, it is.

7 Q. And that was for what?

8 A. Copies of correspondence going to the  
9 secretary of state as noted on the check.

10 Q. All right. And what was this  
11 correspondence regarding?

12 A. I can't answer that right now.

13 Q. All right. Okay. The next one would  
14 be second page, number 640. Oh, I'm sorry. That  
15 one's already been verified.

16 Number 608, at the bottom of the second  
17 page, is that your signature?

18 A. Yes, it is.

19 Q. And that was for what purpose?

20 A. Copies that were made in regard to  
21 Homeowners Association correspondence to -- I can't  
22 right now tell you exactly where they went to, but  
23 they were copies of business papers going to -- in  
24 regard to the Homeowners Association business.

25 Q. Uh-huh. Okay. I believe it's on the

1 fourth page, number -- Oh, this one doesn't have a  
2 check number. The very top of the fourth page, is  
3 that your signature?

4 A. Yes, it is.

5 Q. Okay. And do you recognize who this  
6 check is made out to?

7 A. It's made out to Whitaker. I don't  
8 know who the first name is.

9 Q. Is that the attorney for our Homeowners  
10 Association?

11 A. Yeah. It would be Lamar Whitaker,  
12 attorney law firm in Ephrata, and it would be for  
13 attorney fees.

14 Q. Okay. Number 605, just below that, is  
15 that your signature?

16 A. Yes, it is.

17 Q. And that was to whom?

18 A. To Katherine Kenison. She's our  
19 attorney.

20 Q. All right. Number -- Let's see. Where  
21 are we? Okay. That's all for you, as far as the  
22 checks are concerned.

23 Regarding the expenses of the  
24 Homeowners Association, can you tell us, you are  
25 the president of the Homeowners Association?

1 A. That's correct, yes.

2 Q. And you were the first president when  
3 we formed the association?

4 A. That's correct, yes.

5 JUDGE ANDERL: Excuse me, Mr.  
6 Gregg. I need you to wait until she's done with  
7 the question, okay?

8 Q. (BY MS. SNELSON:) Can you tell us the  
9 main reason that we formed the Homeowners  
10 Association?

11 A. The main reason we formed the  
12 Homeowners Association is so we could act as a  
13 group to overcome what we thought was a scam.

14 Q. Could you elaborate on that, please.

15 A. Well, in November of 1992, we received  
16 notice in the mail from Mr. Barker's wife, Dee  
17 Barker, and we were told that the water system had  
18 been purchased and was now owned by Marine View  
19 Heights Incorporated.

20 We were also told that there was going  
21 to be an increase in our rates. Our water rates  
22 would go from 20 to \$30 a month, road fees would be  
23 increased from 5 to \$10 a month, and we were to be  
24 charged \$10 per lot for lots that weren't even  
25 receiving water.

1 Q. Okay. So have you had any additional  
2 expenses yourself, personally, because of the water  
3 problems?

4 A. Yes.

5 Q. Could you tell us --

6 A. But I don't keep track of them.

7 Q. Okay. But you have some additional  
8 expenses?

9 A. Initially when we started the  
10 Homeowners Association, there was an awful lot of  
11 phone calls. We'd phone everyone that had property  
12 on the hill and told them what was going on, and we  
13 wanted their support, and we got it.

14 Q. Okay. All right. Is there anything  
15 else that you'd like to talk about at this hearing,  
16 as far as problems with the water?

17 A. No.

18 MS. SNELSON: Okay. That's all the  
19 questions I have.

20 JUDGE ANDERL: Okay. Mr. Gregg,  
21 how long have you owned -- or, been a customer in  
22 the water system?

23 THE WITNESS: Well, since 19 -- We  
24 started -- We moved into our house in 1987.

25 JUDGE ANDERL: Has the Homeowners

1 Association, since it was formed, acted on any  
2 issues, other than the water system?

3 THE WITNESS: Oh, big time.

4 JUDGE ANDERL: Okay. I don't want  
5 to get into that, but just again --

6 THE WITNESS: It's another issue,  
7 and if you want it talk about it, I'd love to, but  
8 it doesn't concern --

9 JUDGE ANDERL: Let's just find out  
10 if it's related to this or not. Is it something  
11 related to the water system?

12 THE WITNESS: I -- No. Not really.  
13 But it concerns why we generated Marine View  
14 Heights Association.

15 JUDGE ANDERL: Well, since we're  
16 only here because of the water system, I'm afraid I  
17 wouldn't be able to hear about that.

18 All right. I think those were all the  
19 questions I have. Ms. Rendahl?

20

21

22

CROSS-EXAMINATION

23

24 BY MS. RENDAHL:

25

Q. Mr. Gregg, when was the Homeowners



1 Association formed?

2 A. Well, we actually started the mailing  
3 -- we weren't legal to begin with, we couldn't be  
4 legal, but we started in November of 1992. And we  
5 started right after we got the notice from Marine  
6 View Heights Incorporated that all our rates were  
7 going to be increased.

8 My concern was it would triple my  
9 rates, because I own four lots. People that owned  
10 like two lots, which is pretty standard there,  
11 their rates would double. So I -- We were very  
12 concerned that the water company was trying to get  
13 into our pockets for the rest of our life, and we  
14 wanted to do something about it, and we did.

15 JUDGE ANDERL: Can I just jump in  
16 here to ask a quick question?

17 As I was just looking at the exhibits  
18 that you submitted, I noticed that the one that  
19 you've already identified as 2 seems to be this  
20 notice. Since it's been referred to a couple of  
21 times, maybe it would be helpful at this point to  
22 have it a part of record.

23 Ms. Snelson, can you verify and tell  
24 me whether the association would want that marked  
25 as an exhibit now?

1 MS. SNELSON: Yes.

2 JUDGE ANDERL: Okay. Mr. Gregg,  
3 I'm going to mark this exhibit for identification  
4 as Exhibit Number 13. It's identified as Exhibit 2  
5 from the Homeowners Association. Can you tell me,  
6 is that the document --

7 THE WITNESS: Yes, ma'am.

8 JUDGE ANDERL: -- that you've been  
9 referring to?

10 (Exhibit Number 13 was marked  
11 for identification).

12 THE WITNESS: Yes, ma'am.

13 JUDGE ANDERL: That prompted the  
14 formation of the association?

15 THE WITNESS: Yes, ma'am.

16 JUDGE ANDERL: And that tells you  
17 that the fees are potentially going to be  
18 increased, right?

19 THE WITNESS: Very much so.

20 JUDGE ANDERL: Is there any  
21 objection to Exhibit Number 13 being made a part of  
22 the record?

23 MR. BARKER: No.

24 MS. RENDAHL: No, Your Honor.

25 JUDGE ANDERL: All right. I'm

1 going to admit Exhibit Number 13 at this time.

2 (Exhibit 13 was admitted).

3 Go ahead, Ms. Rendahl.

4 Q. (BY MS. RENDAHL:) Referring now to  
5 what's been marked and admitted as Exhibit 13, do  
6 you have a copy of that in front of you?

7 A. Yes, I do. Right here.

8 Q. Looking down towards the bottom where  
9 there's a comparison of old and new rates, was --  
10 was the problem with the water  
11 maintenance/unoccupied rate, is that what caused  
12 the problem?

13 A. No. The real problem lied in the road.

14 Q. The road fees?

15 A. The road fees.

16 Q. And that's why the Homeowners  
17 Association was formed?

18 A. It was all three of these items, the  
19 reason why it was formed. The Homeowners  
20 Association could live with a \$10 increase. I  
21 don't think anyone would have objected if the \$10  
22 was needed to run the company.

23 But what really did it was the road  
24 fees. Because we know they did not legally own the  
25 road, and we proved it in the end. We had all the

1 road turned over to Grant County, and they now own  
2 the road. If he would have had legal title to the  
3 road, we'd never been able to do that.

4 Q. Mr. Gregg, how many of the owners are  
5 members -- the owners of the property in the Marine  
6 View Heights water system, how many of the owners  
7 are members of Homeowners Association?

8 A. I think the last count was 102, wasn't  
9 it?

10 JUDGE ANDERL: As best you can  
11 recall. If you need help from the audience, we  
12 should probably ask somebody else.

13 MS. SNELSON: It's -- Yeah. That's  
14 close, about 102.

15 Q. (BY MS. RENDAHL:) Do you know, or  
16 maybe we could get this through another witness,  
17 how many owners there are? If you don't know --

18 A. I'd have to guess, ma'am.

19 Q. Well, then, that's fine.

20 MS. RENDAHL: I have no further  
21 questions, Your Honor.

22 JUDGE ANDERL: Mr. Barker, do you  
23 have questions for this witness?

24 MR. BARKER: No, I don't.

25 MS. SNELSON: I'd like to clarify

1 something.

2 JUDGE ANDERL: Go ahead.

3

4

5 RE-DIRECT EXAMINATION

6

7 BY MS. SNELSON:

8 Q. When Judge Anderl asked you if there  
9 were any other issues the Homeowners Association  
10 dealt with, other than the water issue, and you  
11 answered yes. I just want to clarify.

12 When we first -- When the Homeowners  
13 Association was first formed, it was kind of a lump  
14 situation, wasn't it?

15 A. Yes, ma'am.

16 Q. And included in that was the water and  
17 the road?

18 A. (Witness nodded head affirmatively).

19 Q. But they were all as one, they were all  
20 owned by the same person, they were all  
21 interconnected?

22 A. I'd have to correct that.

23 Q. As far as our forming the Homeowners  
24 Association?

25 A. That was our reason.

1 Q. That was our reason, okay. I guess  
2 what I'm trying to bring out is the fact that we  
3 formed the association for only those two reasons?

4 A. And the fees to the empty lots that  
5 weren't receiving water.

6 Q. But that was a water situation?

7 A. That's correct.

8 MS. SNELSON: Okay. I think that's  
9 all I have.

10 JUDGE ANDERL: Okay. Anything else  
11 for this witness?

12 MS. RENDAHL: No, Your Honor.

13 JUDGE ANDERL: Okay. Mr. Gregg,  
14 thank you for your testimony. You may step down.

15 JUDGE ANDERL: Let's go ahead and  
16 take a brief recess, stretch our legs and be back  
17 at five after three.

18 (Short recess).

19 JUDGE ANDERL: Let's be back on the  
20 record. After our afternoon recess, we'll  
21 continue, Ms. Snelson, with your case.

22 MS. SNELSON: I'd like to call  
23 Delores Gregg, please.

24 JUDGE ANDERL: Raise your right  
25 hand.

1 DELORES GREGG

2

3 called as a witness herein, being first duly  
4 sworn to tell the truth, the whole truth and  
5 nothing but the truth, was examined and testified  
6 as follows:

7

8 DIRECT EXAMINATION

9

10 BY MS. SNELSON:

11 Q. Would you give your name to the  
12 reporter?

13 A. Delores Gregg, G-r-e-g-g. I have a  
14 mailing address of PO Box 1158, Moses Lake,  
15 Washington, 98837, and I reside at 8480 Aurora,  
16 Othello, Washington, 99344.

17 Q. And were you a customer of Marine View  
18 Heights water system?

19 A. Yes.

20 Q. First of all, Mrs. Gregg, I'd like to  
21 verify on Exhibit Number 11 the checks on page 3,  
22 check number 641 is made out to you, and could you  
23 explain to us what that is?

24 A. That was in regard to bylaws here in  
25 the county, and I had upfronted the cost, which

1 many of us had upfronted.

2 Q. Right. Okay. Thank you very much.  
3 Have you had a problem with Marine View Heights  
4 Incorporated not returning phone calls?

5 A. Yes.

6 Q. Could you tell us about that, please.

7 A. Well, when our water went out May 3rd,  
8 I believe it went out about -- I'm going to guess,  
9 nine, 9:30 in the morning. And at 12:45 I called  
10 the Marine View Hights, the 346 number, which was  
11 busy, and it wasn't too surprising to me.

12 I called it three times, and each time  
13 it rang busy for me, but everybody in the hill was  
14 out of water, so that didn't surprise me.

15 I called Jerry Lease's pager number,  
16 and I can tell you what pager, if I refer to a  
17 letter that I had written to Diana Otto about this  
18 situation, and I did not get a return call. It was  
19 probably a week or two later that I heard from both  
20 Diana and Jerry.

21 Q. In what order did you hear from \_\_

22 A. I heard from Diana first, is the -- and  
23 shortly thereafter Jerry, so I assume they had been  
24 talking also.

25 Q. Okay. Did you get any kind of an



1 explanation as to why your phone call wasn't  
2 returned promptly?

3 A. He did tell me his pager didn't work at  
4 times, that it never worked if he was in a metal  
5 building. Since then, my husband tried the pager  
6 once, and it was over something personal on Jerry's  
7 own house, and it wasn't returned. So I don't know  
8 why it doesn't work.

9 Q. Okay. All right. Do you buy water or  
10 boil your water, or how are you handling the water?

11 A. I've been boiling water for a good six  
12 months. I had two bouts of stomach problems, and I  
13 decided I couldn't swear it was the water like  
14 everyone else, but since I boiled water, I have not  
15 had any problems. And I boil it for 10 minutes and  
16 refrigerate it, and go from there.

17 Q. Have you had any other problems, as far  
18 as the water system is concerned?

19 A. Not really.

20 MS. SNELSON: Okay. That's all the  
21 questions I have.

22 JUDGE ANDERL: Ms. Rendahl, any  
23 questions for this witness?

24

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CROSS-EXAMINATION

BY MS. RENDAHL:

Q. Mrs. Gregg, are you still boiling water?

A. No.

Q. Are you currently drinking the water out of the tap?

A. I'm still drinking up what I have boiled, but I intend to start drinking out of the tap now.

MS. RENDAHL: I have no further questions.

JUDGE ANDERL: Mr. Barker, any Cross for this witness?

MR. BARKER: Nope.

JUDGE ANDERL: Okay. Mrs. Gregg, thank you for your testimony.

MS. SNELSON: I'd like to call Mr. Fred Ottavelli, if I may, please.

JUDGE ANDERL: Hi, Mr. Ottavelli. Would you raise your right hand, please.

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FRED OTTAVELLI

called as a witness herein, being first duly sworn to tell the truth, the whole truth and nothing but the truth, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. SNELSON:

Q. Could you give your name to the reporter, please.

A. Fred Ottavelli, O-t-t-a-v-e-l-l-i.

Q. And your address?

A. 1300 S. Evergreen Park Drive SW, Olympia, 98504-7250.

Q. And could you tell us what your position and title is?

A. My title is consultant, and my position is as a consultant to the water section of the Utilities and Transportation Commission.

Q. Thank you. Mr. Ottavelli, has the Commission established the Marine View Heights incorporation?

A. That's a several part question, and the

1 answer is a several part answer. First, let me  
2 state that what I testify to here this afternoon  
3 will be my testimony as a staff employed by the  
4 Commission and not a determination by the  
5 Commission itself in terms of ownership or any  
6 other matters.

7 The other thing that I would like to  
8 make clear is that the ownership of this water  
9 system has been anything but clear over the last  
10 two or three years, and I'm not sure if there is  
11 any fault there or why that is the case, but the  
12 reality is there's a great deal of confusion as to  
13 who owns this system, who is responsible.

14 And there is confusion, if you look at  
15 what our agency reflects in terms of ownership and  
16 operation; there is confusion, if you look at the  
17 Department of Health; there is confusion, if you  
18 look at what the company has provided; and there is  
19 confusion, if you look at what the homeowners have  
20 provided.

21 Having said that, it is clear that a  
22 tariff was filed with the Commission, with an  
23 effective date of December 30, 1992, by Marine View  
24 Heights water system. That tariff indicated that  
25 the owner is James Sullivan.

1 JUDGE ANDERL: I'm sorry. And that  
2 was Marine View Heights water system?

3 THE WITNESS: That is Marine View  
4 Heights water system. The Commission does not  
5 regulate Marine View Heights Water System, Inc.  
6 They regulate, as evidenced on the tariff Marine  
7 View Heights water system, and I look to the owner  
8 as Mr. Sullivan, or I should say, Mr. Sahli is the  
9 owner, and that is the individual who is  
10 responsible for this system.

11 And I believe that Mr. Sahli is not  
12 here today, which is very unfortunate, because it  
13 seems that he should be very concerned and  
14 interested in what is happening here.

15 Now, there has been a great deal of  
16 confusion in terms of formation of the corporation,  
17 various quitclaiming of the water system, issuance  
18 of stock certificates.

19 All I can say is that at this point,  
20 none of that has been proved by the Commission. So  
21 to repeat, Marine View Heights water system  
22 reflects as owner Mr. Sahli.

23 Q. (BY MS. SNELSON:) All right. Thank  
24 you very much. Talking about this confusion  
25 regarding the ownership, is this something that is

1 a usual occurrence when you have transfers of water  
2 systems, or is this something that's quite out of  
3 the ordinary, in your experience, that there should  
4 be this much confusion?

5 A. It's very unusual in terms of the  
6 Utilities and Transportation Commission to have  
7 this kind of confusion. However, I believe that  
8 the Department of Health experiences it with a  
9 number of small systems that they regulate. But  
10 that is not unusual in terms of the some 14,000  
11 small systems that are currently regulated by the  
12 Department of Health.

13 Q. Okay. In review of the ownership that  
14 was done with all of the different sources, did the  
15 WUTC find any indication of any hidden partnerships  
16 or affiliates or anything like that that we should  
17 be aware of?

18 A. No.

19 Q. All right. Okay. Has the Commission  
20 received a letter stating the shareholders, the  
21 board members, etc., of Marine View Hights  
22 Incorporated, as requested by Judge Anderl in the  
23 prehearing?

24 A. Not to my knowledge. I've been on  
25 vacation for about a week, so it's possible that it

1 came in, but to my knowledge, such a letter has not  
2 been received. I did receive a phone call from Mr.  
3 Lease.

4 As I recall, the letter was due prior  
5 to or on July 1st, something around then. And  
6 about a week before that time, I received a phone  
7 call from Mr. Lease regarding the providing of that  
8 information, and I suggested that he talk to Mr.  
9 Bergdahl, the attorney for the company.

10 Because I had some conversations with  
11 Mr. Bergdahl earlier, and the only thing that was  
12 clear in those conversations was that it wasn't  
13 clear, even to the company, who owned what.

14 Q. Okay. All right.

15 MS. SNELSON: May I enter into  
16 evidence the complainants Exhibit Number 12, just  
17 as evidence that this was requested of Mr. Barker?  
18 It's line number -- starting with line number 25 on  
19 the second page of this exhibit.

20 JUDGE ANDERL: Okay. Yeah. The  
21 homeowners Exhibit Number 12, which I'll mark for  
22 identification as Exhibit Number 14, is three pages  
23 from the first transcript in this matter, and I  
24 will -- That already is a part of the formal  
25 record, but I will admit this document, just

1 because it's separated out and highlighted there,  
2 as Exhibit Number 14.

3 (Exhibit Number 14 was marked  
4 for identification).

5 (Exhibit Number 14 was admitted).

6 MS. SNELSON: Thank you.

7 Q. Mr. Ottavelli, are you familiar with  
8 the name Lakeview Water Company?

9 A. No, I am not. The only knowledge I  
10 have of Lakeview Water Company is a letter I was  
11 shown this morning that referenced Lakeview Water  
12 Company and Marine View Water Company.

13 MS. SNELSON: May I enter into  
14 evidence the complainants Exhibit Number 13, which  
15 states at the top, "Marine View Hights  
16 Incorporated, Lakeview Water Company."

17 MS. RENDAHL: Your Honor, I believe  
18 it might be more appropriate to introduce this by a  
19 homeowner who may have received it. As Mr.  
20 Ottavelli has testified, he has no prior knowledge  
21 before this morning of this letter.

22 I'm not indicating that I'm going to  
23 object ultimately to this coming in, I'm just not  
24 sure that Mr. Ottavelli is the appropriate witness.

25 MS. SNELSON: Okay.



1 JUDGE ANDERL: All right. The  
2 Homeowners Association has agreed to wait and offer  
3 that through someone else then.

4 MS. SNELSON: Just one moment.  
5 Excuse me. I have a letter, Exhibit Number 54 of  
6 the complainants --

7 JUDGE ANDERL: Okay. Here again,  
8 Mr. Ottavelli; you might want to ask him what he  
9 knows about it, but I don't know that he's going to  
10 be the right person to offer it through.

11 Q. (BY MS. SNELSON:) Do you recall  
12 receiving a copy of this letter?

13 MS. RENDAHL: What exhibit is that?

14 JUDGE ANDERL: Well, right now I  
15 haven't marked it for identification as an exhibit  
16 for this proceeding. It's homeowners Exhibit  
17 Number 54 in the upper right --

18 MS. SNELSON: Apparently it was  
19 sent to the Commission to Diana Otto for Fred  
20 Ottavelli, so it went through Diana, and then was  
21 supposed to go on to Fred.

22 JUDGE ANDERL: Let's find out if  
23 he's familiar with it.

24 THE WITNESS: I do not recall  
25 seeing the letter, but there has been an awful lot

1 of correspondence coming in on this.

2 Q. (BY MS. SNELSON:) Okay. We'll go on  
3 then. Has the Commission done any financial audits  
4 on Marine View Heights Incorporated?

5 A. The Commission conducted an audit for  
6 the Department of Health in terms of seeking  
7 certain information for the Department. The  
8 Commission conducted a preliminary audit at the  
9 time Marine View Hights filed for the increase from  
10 \$20 to \$30, and the \$10 rate, but insofar as that  
11 was withdrawn, that audit was terminated.

12 Q. And there has not been -- There has not  
13 been a completed audit --

14 A. No.

15 Q. -- since then? Okay. Is there  
16 anything in the -- Will there be a completed audit  
17 in the near future for this?

18 A. There will be a completed audit at such  
19 time as the company files for rechange.

20 Q. Oh, okay.

21 A. And it's our expectation that the  
22 company will be filing.

23 MS. SNELSON: Okay. I have no  
24 further questions.

25 JUDGE ANDERL: All right. Ms.

1 Rendahl, any Cross?

2 MS. RENDAHL: No, Your Honor.

3 JUDGE ANDERL: Okay. Mr. Barker,  
4 any questions for this witness?

5 MR. BARKER: Yes. I would like to  
6 submit a letter that we were unable to get until  
7 Friday on the ownership.

8 JUDGE ANDERL: Okay.

9 MR. BARKER: And I'd like to -- Can  
10 we submit that now?

11 JUDGE ANDERL: I'm going to have  
12 you wait until your Direct case to do that.

13 MR. BARKER: 'Til what?

14 JUDGE ANDERL: 'Til it's your turn  
15 to submit your testimony and evidence. In  
16 addition, I would let you know that my announcement  
17 on the record at the prehearing conference was not  
18 that you were going to provide me with the  
19 information, but that you were going to provide it  
20 to the Commission staff, to the Department of  
21 Health and to the homeowners in the monthly bill, I  
22 thought.

23 So presenting it to me as evidence in  
24 this proceeding still would not satisfy that  
25 earlier agreement.

1 MR. BARKER: Okay. But I mainly  
2 wanted to give a copy to them, the homeowners.

3 JUDGE ANDERL: You can certainly do  
4 that, but you could do that off the record.

5 MR. BARKER: Okay.

6 JUDGE ANDERL: Any other questions  
7 for Mr. Ottavelli? Ms. Snelson, anything else?

8 Q. (BY MS. SNELSON:) Can I ask, does the  
9 Commission feel that Marine View Heights  
10 Incorporated is a financially viable company at  
11 this point?

12 A. Let me first say, being the Marine View  
13 Heights water system --

14 Q. Marine View Heights --

15 A. Again, we don't recognize Marine View  
16 Heights Incorporated.

17 Q. Okay.

18 A. The Commission does not at this time.

19 Q. Okay.

20 A. Probably the best answer to that is a  
21 letter that the Commission wrote to the Department  
22 of Health in May of '94. And this involved review  
23 and comment of the water system plan/financial  
24 program submitted by Marine View Heights to the  
25 Department of Health.

1           The Department of Health asked the  
2 Commission to review the financial portion of that,  
3 and this letter is the result of that review.  
4 Staff has reviewed the water system plan in  
5 accordance with it's criteria and has found this  
6 company to be nonfinancially viable by guidelines  
7 at this time.

8           This conclusion was reached because the  
9 financial information did not include a basis for  
10 determining the required positive retained  
11 earnings. Staff finds the company's financial  
12 program is not feasible for continued operation  
13 because of the abovementioned inability to  
14 determine the existence of positive retained  
15 earnings.

16           Translation, they have been losing  
17 money. They show every indication of losing money,  
18 therefore, one has difficulty determining either  
19 financial viability or financial feasibility.

20           MS. SNELSON: Okay. Thank you.

21           JUDGE ANDERL: Anything else for  
22 this witness, Ms. Rendahl?

23           MS. RENDAHL: No, Your Honor.

24           JUDGE ANDERL: Mr. Barker?

25           MR. BARKER: I don't.

1 JUDGE ANDERL: Thank you, Mr.  
2 Ottavelli, for your testimony. You may step down.

3 MS. SNELSON: I'd like to call  
4 Diana Otto, please.

5

6

DIANA OTTO

7

8 called as a witness herein, being first duly  
9 sworn to tell the truth, the whole truth and  
10 nothing but the truth, was examined and testified  
11 as follows:

12

13

DIRECT EXAMINATION

14

15 BY MS. SNELSON:

16 Q. Would you give your name, please, to  
17 the court reporter.

18 A. I'm Diane J. Otto, O-t-t-o.

19 Q. Your address?

20 A. My address is Utilities and  
21 Transportation Commission, PO Box 250, Olympia,  
22 Washington, 98504-7250.

23 Q. And your position with the WUTC?

24 A. I'm a consumer program specialist.

25 Q. Okay. Ms. Otto, how many complaints

1 have been filed with the WUTC against Marine View  
2 Heights Incorporated since November of '92?

3 A. 38.

4 Q. Okay. And what were the majority of  
5 those complaints concerning?

6 A. I would have to say the majority was  
7 what was considered to be poor quality water.

8 Q. All right. Okay. What do you do --  
9 Could you tell us about what you do when you  
10 receive a complaint, whether it's a written or a  
11 telephone complaint? Can you explain to us how you  
12 handle that?

13 A. As soon as I receive the complaint, I  
14 contact the company and investigate whether the  
15 claim is substantiated or not, that's made by the  
16 complainant. And then I attempt to resolve that  
17 complaint for, you know, so that both parties are  
18 satisfied. It can't always be done though.

19 Q. Generally, can you tell us what the  
20 company's response, general response, was when you  
21 contacted them with the complaints?

22 A. I don't know that I could say that  
23 there is a general response. The company is  
24 responsive to me.

25 Q. Okay.

1           A.       And I can't say that there's a general  
2 response to all the complaints. That's too vague  
3 for me.

4                   MS. SNELSON: Right. I understand.  
5 I'd like to refer back again to the complainants  
6 Exhibit Number 54, and ask Ms. Otto if she  
7 remembers receiving this letter.

8                   THE WITNESS: Do you mind if I take  
9 a minute.

10                  JUDGE ANDERL: Not at all.

11                  THE WITNESS: I have to say that I  
12 do not remember this. This name is not familiar  
13 with me, if I was supposed to file a complaint with  
14 it.

15                Q.       (BY MS. SNELSON:) Okay. That's fine.  
16 One more question. Have you ever had any problems  
17 contacting the company when you you've had to  
18 contact them regarding a complaint? Do you have  
19 trouble contacting them?

20                A.       No, I do not.

21                Q.       You do not. Okay. That's all of the  
22 questions I have.

23                  JUDGE ANDERL: Okay. Ms. Rendahl,  
24 any questions for Ms. Otto?

25



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CROSS-EXAMINATION

BY MS. RENDAHL:

Q. Ms. Otto, have you reviewed the complaints recently?

A. Yes.

Q. Do you have any sort of a breakdown on what those complaints were for?

A. Yes.

Q. Could you explain what -- Could you explain to us the breakdown that you have?

A. If you mean what it covered, what the complaints were about, besides water quality?

Q. Yes, please.

A. Yes. I can do that. I made a list here. Ownership; water being used for the golf course; illegally treating water with chlorine; no certified water operator; unsafe water, which I mentioned earlier; notice requirements for bacteria; the moratorium issue; billing disputes; the company's address and telephone number not being on the bill; charging for standby rates when it was not in their tariff; not allowing customers to disconnect when they've requested to do so; not separating water charges from road maintenance;

1 disconnection without proper notice; water outages;  
2 and the company not being responsive to customer  
3 calls.

4                   There may be more little side issues,  
5 but those were the main issues.

6           Q.       Over what time period do these  
7 complaints cover?

8           A.       The first complaint was filed in  
9 January. It was filed on January 11, 1993, and the  
10 last one was filed, I think it was in June.

11          Q.       Of this year?

12          A.       Of '94, yes.

13          Q.       And what was that complaint filed for?

14          A.       The last one?

15          Q.       Yes.

16          A.       Was filed for low volume. The company  
17 ran out of water.

18          Q.       Are any of the complaints that you  
19 received issues that the Commission has no  
20 jurisdiction over?

21          A.       Yes.

22          Q.       And what complaints were those that you  
23 could not assist with?

24          A.       Okay. Ownership. I have to think here  
25 a minute. The moratorium issue; the unsafe

1 drinking water, actually, we have secondary  
2 authority over that to the Department of Health;  
3 the road maintenance.

4                   And I think there's one more.  
5 Well, of course, about the chlorine issue. We have  
6 -- I guess the water quality. I can't say that we  
7 have -- We have joint authority with, I -- I'm not  
8 really sure how to explain that one. That's pretty  
9 much it.

10               Q.       When you say -- You mentioned the  
11 ownership, or I guess I should say, you mentioned  
12 the unsafe drinking water and the chlorine. Those  
13 are issues that the Commission has some  
14 jurisdiction over?

15               A.       Well, we try to, from my office in  
16 consumer affairs, we try to resolve those problems,  
17 but we have secondary authority, and I'm working  
18 with the Department of Health mainly.

19               Q.       But as to the ownership and the  
20 moratorium and the road maintenance, what sort of  
21 assistance could you provide for those?

22               A.       I always try to help them work it out,  
23 you know, by working with the company and the  
24 customers, or I try to give them advice on, you  
25 know, what other options they may have. Does that

1 answer your question?

2 MS. RENDAHL: I have no further  
3 questions.

4 JUDGE ANDERL: Mr. Barker, any  
5 questions for Ms. Otto?

6 MR. BARKER: No.

7 JUDGE ANDERL: Ms. Snelson,  
8 anything further for your witness?

9 MS. SNELSON: Nothing further.

10 JUDGE ANDERL: Thank you, Ms. Otto,  
11 for your testimony. You may step down.

12 MS. SNELSON: I'd like to call Mr.  
13 Ev Sanders.

14 JUDGE ANDERL: Mr. Sanders, raise  
15 your right hand.

16

17 EVERETT SANDERS

18

19 called as a witness herein, being first duly  
20 sworn to tell the truth, the whole truth and  
21 nothing but the truth, was examined and testified  
22 as follows:

23

24

25

1 DIRECT EXAMINATION

2

3 BY MS. SNELSON:

4 Q. Would you give your name to the court  
5 reporter, please.

6 A. My name is Everett Sanders,  
7 E-v-e-r-e-t-t, S-a-n-d-e-r-s. I am a Marine View  
8 Heights water system customer, I live at 6890 Canal  
9 Street SE, Othello, Washington, 99334.

10 Q. And you're a customer of Marine View  
11 Heights water system?

12 A. Yes, I am.

13 Q. All right. Mr. Sanders, did you have  
14 an occasion to talk personally with Jim Sahli  
15 regarding the ownership of Marine View Heights  
16 Incorporated?

17 A. Yes, I have.

18 Q. Could you tell us that conversation?

19 A. We received a bill, if I can refer to  
20 it here, in December of 1992. And on the bill, as  
21 near as I can tell, it's from Metropolitan  
22 Mortgage. And on there it says, "new owner, Jim  
23 Sahli."

24 And so my wife and I at the time were  
25 living on the coast. I hadn't retired yet. And we

1 were on our way home on a Sunday afternoon, and I  
2 stopped by Jim's house. We used to stop and talk  
3 to him a little bit before we'd leave on the  
4 weekend. And I asked Jim about that, and he says,  
5 "Somebody made a mistake, because I am not the  
6 owner of Marine View Hights water system."

7 He tried to explain to us that he was a  
8 frontman or something. I didn't quite understand  
9 him at the time, but he definitely denied that he  
10 was the owner at that time.

11 Q. Okay. On --

12 JUDGE ANDERL: Excuse me, Ms.  
13 Snelson. The document that your witness just  
14 referred to, is that something you wanted to make  
15 an exhibit or not?

16 MS. SNELSON: Yes. Okay. It's our  
17 homeowners -- I mean, the complainants number 1.

18 JUDGE ANDERL: Okay. I'm going to  
19 mark that for identification as Exhibit Number 15.  
20 Mr. Sanders, showing you what's been now marked as  
21 Exhibit 15, is that a copy of the document you were  
22 just referring to?

23 THE WITNESS: Yes, it is.

24 (Exhibit Number 15 was marked  
25 for identification).

1 JUDGE ANDERL: Okay. And that's  
2 addressed to you at your address in Renton?

3 THE WITNESS: Yes, it is. It is.

4 JUDGE ANDERL: Is there any  
5 objection to this document being made a part of the  
6 record, Ms. Rendahl?

7 MS. RENDAHL: No.

8 JUDGE ANDERL: Mr. Barker?

9 MR. BARKER: No.

10 JUDGE ANDERL: There being none,  
11 Exhibit 15 will be entered as an exhibit.

12 (Exhibit Number 15 was admitted).

13 Q. (BY MS. SNELSON:) Mr. Sanders, did you  
14 have an occasion to go to the well and observe the  
15 conditions of the well and anything else at one  
16 point in time?

17 A. Yes, I did. And if I can refer to my  
18 notes, we were -- I was invited to the well on  
19 Saturday, February 23, 1993, along with some other  
20 homeowners. And when we got there, Mr. Barker was  
21 there and a gentleman by the name of Mr. Blain  
22 Church was there, who was introduced to us as the  
23 water system's new certified water operator.

24 And while we were there, there were  
25 several questions asked of Mr. Church from

1 different homeowners. And Mr. Church responded  
2 basically that he didn't know anything about our  
3 water system, that he was invited there that  
4 particular day to basically look at the chlorine  
5 system that was installed and presently being  
6 worked on, and he said, "You probably know more  
7 about the water system than I do."

8 And with respect to what I could see, I  
9 could see a chlorine tank and a chlorine pump and  
10 some other equipment down in the well house. The  
11 chlorine tank was basically a plastic barrel with a  
12 tube coming out of it, and it was a rather crude,  
13 if you will, system.

14 There was a fan sitting on the floor  
15 and quite a stench of chlorine. Mr. Barker had a  
16 cup of chlorine in his hand at that time, so  
17 chlorine was quite heavily in there at that time.  
18 We asked Mr. Church a little bit about the chlorine  
19 system, and he made a statement this is the first  
20 time that he had ever seen the chlorine system. So  
21 my impression of Mr. Church was that.

22 I did ask Mr. Church if he worked for  
23 Mr. Barker prior to him coming up to our system,  
24 and he said, "Yes. I am Mr. Barker's certified  
25 water operator for Desert Water Company in Benton



1 City."

2 That's about all I have on that  
3 particular item.

4 Q. Did you observe any other conditions at  
5 the well that might give you some concerns?

6 A. The well house lid was ajar for  
7 probably two, three, four months after that. And  
8 by that, I mean it's a type of a lid that can be  
9 set down and closed, or it can be left down and  
10 slid back a little bit.

11 So by ajar, I mean it was open maybe  
12 four or five inches, which a lid's for -- who knows  
13 what could crawl in there, kids, cats, whatever.

14 Q. Okay. Mr. Sanders, have you had  
15 personal expenses regarding trying to resolve the  
16 quality of water issue with the water system?

17 A. Yes, I have. I've been on the board of  
18 the Homeowners Association since it's inception,  
19 and in this particular formal complaint that we  
20 filed here, we had our computer, my wife and I have  
21 a computer.

22 And our computer that we had went bad,  
23 and we went out and spent \$1200 to buy a new  
24 computer. Granted, we use it for personal things  
25 too, but it still -- And by the way, we, my wife

1 and I, do provide all of the paper at no expense  
2 for everything that's been done with respect to  
3 this hearing.

4 We've also bought service area maps of  
5 the service area and made copies of them and handed  
6 them out to different people without charging for  
7 them. Many, many trips to courthouses, trying to  
8 find out who's who in the world of Marine View  
9 Heights, Inc. and Marine View Heights Water Company  
10 and Marine View Heights system and Lakeview Water  
11 Company and Desert Water Company, and so on.

12 We've provided lots of envelopes, many,  
13 many, many, many phone calls. I've been on the  
14 phone over this thing for who knows how long on  
15 different occasions talking to lots of people. And  
16 fortunately we have a 1-800 number for some of our  
17 friends and some of the people that we do business  
18 for them, so that's a benefit to us, but not all of  
19 them do.

20 Calls for Mr. Riley, calls to Mr. Dan  
21 Sanders, we have to make those our own personal  
22 calls, so -- calls to Patty McCafferty.

23 Q. And these were all for the purpose of  
24 trying to get the quality of our water -- trying to  
25 stay atop about what's going on with respect to all

1 of the -- all the things associated with the  
2 quality of the water?

3 A. Yes.

4 Q. Okay. Do you have knowledge of how  
5 many property owners there are in Marine View  
6 Heights?

7 A. Yes. Early on in -- trying to think of  
8 exact time frame. I believe it was in February or  
9 March of 1993, I had an opportunity to put together  
10 a list of every property owner and every homeowner  
11 at that time in Marine View Hights, and  
12 specifically asked of me by Mr. Dan Sherry if I  
13 could do that.

14 And I put that altogether and provided  
15 Mr. Dan Sherry a letter of what we as homeowners  
16 figured the number of water users were. And I  
17 believe I came up with a number of like 123. Mr.  
18 Sherry and I did lots of talking back and forth on  
19 the phone, and we settled on a number of 102.

20 And in order for the WUTC to be  
21 involved, if I'm not mistaken, there has to be over  
22 a hundred water customers, or the bill has to be  
23 over \$25. It may have changed since that  
24 particular time. But at this time though right now  
25 today, we have 154 property owners, and I'm not

1 sure. I made a count this morning at what I  
2 thought were customers, and I came up with 119.

3 Q. Okay. Would you clarify who Dan Sherry  
4 is just for the record.

5 A. Dan Sherry is, I believe, an auditor  
6 for the WUTC. I --

7 Q. So you did that count in conjunction  
8 with and at his request?

9 A. Yes, I did.

10 MS. SNELSON: Okay. I'm going to  
11 try again. I'd like to submit homeowners or  
12 complainants Exhibit Number 13.

13 JUDGE ANDERL: Okay. I will mark  
14 that for identification as Exhibit 16 for this  
15 proceeding. I will show Mr. Sanders my copy, and  
16 ask him if he can identify it.

17 (Exhibit Number 16 was marked  
18 for identification).

19 THE WITNESS: Yes, I do recognize  
20 this.

21 JUDGE ANDERL: And just describe it  
22 for the record, if you would.

23 THE WITNESS: Okay. It's a letter  
24 from Marine View Hights Inc. management to what I  
25 would call "all homeowners." I received a copy of

1 this, so I assume it went to everybody else.

2 JUDGE ANDERL: And that's dated  
3 back in March of '93.

4 THE WITNESS: Yes, it is.

5 JUDGE ANDERL: And you received a  
6 copy at that same time?

7 THE WITNESS: Yes, we did.

8 JUDGE ANDERL: Does anyone have any  
9 objection to the admission of Exhibit Number 16 for  
10 identification?

11 MS. RENDAHL: No, Your Honor.

12 JUDGE ANDERL: Mr. Barker?

13 MR. BARKER: No.

14 JUDGE ANDERL: I'll admit Exhibit  
15 16.

16 (Exhibit Number 16 was admitted).

17 Q. (BY MS. SNELSON:) Mr. Sanders, when  
18 you received this letter, noting that the second  
19 line of the address is Lakeview Water Company, was  
20 there confusion in your mind as to who this was  
21 from and what Lakeview Water Company was -- the  
22 name was doing on the correspondence?

23 A. At the time, I recognized the name. I  
24 thought it was kind of weird that they had two  
25 names, but at the time I recognized the name,

1 having done a lot of research of records of owners  
2 of property within Marine View Heights.

3 Lakeview Water Company, to the best of  
4 my knowledge, was a water company -- it was the  
5 water company's name back in, I'm going to say,  
6 early days of '84, '85, '86, somewhere along in  
7 there, as near as I can tell.

8 It refers to in almost every homeowners  
9 copies of their deeds of trust that were filed with  
10 the Grant County auditor, and in that it says that  
11 all homeowners pay \$5 per month to Lakeview Water  
12 Company, something of those words, to the effect  
13 that until such time an increase is needed or  
14 whatever, so --

15 Q. So you -- At that point you were  
16 comfortable, then, with the fact that Lakeview  
17 Water Company was also a part of --

18 A. Well, only for myself. I don't know  
19 about other homeowners. But I do know that I  
20 understand what it was at the time myself.

21 And it is confusing that you get  
22 something from somebody by the name of Marine View  
23 Heights Inc., and then calling it Lakeview Water  
24 Company. It's just another one of the problems I  
25 would see, as a homeowner, trying to determine

1 who's who in the world of Marine View Heights Water  
2 Company, if you will.

3 Q. Okay. Mr. Riley testified that we had  
4 10 months in which the maximum contaminate levels  
5 had been exceeded. Since October of '92 when  
6 Marine View Heights Incorporated purchased the  
7 system, how many notices to water users have you  
8 received when the water exceeded MCL levels?

9 A. Well, to the best of my knowledge and  
10 my records, and I have all my records right here, I  
11 have copies of five. And those -- I could give you  
12 those dates, if you want to know what those dates  
13 were.

14 JUDGE ANDERL: Sure.

15 THE WITNESS: The first one that I  
16 ever received that I'm really aware of, that was  
17 11-1-92. And this is the one where Mr. Sahli was  
18 the new owner. This came from, to the best of my  
19 knowledge, it came from Metropolitan Mortgage in  
20 Spokane.

21 JUDGE ANDERL: Well, now, does that  
22 refer to the coliform levels at all?

23 THE WITNESS: No. I'm sorry. It  
24 doesn't. Let me -- I'm sorry. Okay. The first  
25 one, if I can go back a little bit, the first one

1 that I ever recall receiving was from Metropolitan  
2 Mortgage. That was for June and July of 1992.

3 I realize that Mr. Riley didn't count  
4 this, but it just shows that there was bad water  
5 before Mr. Barker took the system over. December,  
6 I have a copy of one issued for December of 1992,  
7 which Mrs. Barker signed.

8 I have another one, which was issued  
9 from the water company in March of 1993. I have  
10 another one that was issued from the water company  
11 for April of 1993. I have one issued from the  
12 water company for November of 1993. And I have one  
13 that was issued again in December 31, 1993.

14 Q. (BY MS. SNELSON:) And those are all of  
15 the notices that you have received regarding the  
16 maximum contaminate levels being exceed?

17 A. Yes, ma'am, to the best of my  
18 knowledge. And, like I say, we've been keeping  
19 records since this thing started, since day one,  
20 so --

21 Q. Okay. Do you boil or buy water, or --

22 A. We -- When my wife heard about the  
23 little critters and their warm-blooded Fecal  
24 matter, we started boiling our water. So we've  
25 been boiling our water for, oh, probably, I'm going



1 to say, seven months. And we just -- we just  
2 recently stopped boiling water.

3 When the sixth month was good, we  
4 stopped boiling water. We've ruined -- We've  
5 ruined a pan that we boiled water in, and I don't  
6 know if it was from chlorine or whether it was from  
7 something else in the water, but it's just -- it's  
8 a white residue on the pan. And after awhile you  
9 might as well throw it away, because it's --

10 MR. BARKER: Calcium.

11 THE WITNESS: Sir?

12 MR. BARKER: Calcium.

13 THE WITNESS: Yeah. Could be.

14 MS. SNELSON: Before my next  
15 question, I'd like to enter complainants Exhibits  
16 27 through 36.

17 JUDGE ANDERL: Okay. Let's a take  
18 a moment while we all get those.

19 (Discussion had off the record).

20 JUDGE ANDERL: Let's be back on the  
21 record. While we were off the record, we talked  
22 about the next exhibit, which will be a single  
23 Exhibit Number, Exhibit 17. It consists of  
24 multiple pages. They all appear to be invoices  
25 from the water company, they all appear to be

1 addressed to Mr. Sanders. The ones here and in the  
2 upper right-hand corners, they are numbered 27  
3 through 36, which is what the complainants exhibit  
4 numbers were.

5 I'm going to mark them, as I said, as a  
6 packet as Exhibit Number 17. And Mr. Sanders, do  
7 you need to look at these?

8 (Exhibit Number 17 was marked  
9 for identification).

10 THE WITNESS: I have my own, but I  
11 don't know whether I --

12 JUDGE ANDERL: Take I look at that,  
13 and describe Exhibit 17 for the record, please.

14 THE WITNESS: Okay. It appears to  
15 be a view -- I'm sorry -- a bill to the -- water  
16 bill to my wife and I for 6890 Canal Street from  
17 Marine View Heights, Inc.

18 JUDGE ANDERL: All right. Can you  
19 go through each of those and verify that they all  
20 are bills from the water company to you that you  
21 received.

22 THE WITNESS: Yes, they are.

23 JUDGE ANDERL: Does anyone have any  
24 objection to the admission of Exhibit Number 17,  
25 Ms. Rendahl?

1 MS. RENDAHL: No, Your Honor.

2 JUDGE ANDERL: Mr. Barker?

3 MR. BARKER: No.

4 JUDGE ANDERL: All right. I'm  
5 going to admit number 17 as identified.

6 (Exhibit Number 17 was admitted).

7 Go ahead, Ms. Snelson, if you have  
8 questions about that.

9 MS. SNELSON: Yes, I do.

10 Q. Looking at these bills, was there --  
11 Were there problems, as far as the billing itself  
12 when you received these bills? Was there any  
13 confusion, as to when you first looked at it, to  
14 the amount that you owed, the amount that you paid?

15 A. With Exhibit 17?

16 Q. 17 includes all of the sheets, so --

17 A. Okay. I'm sorry. Exhibit 17 -- with  
18 Exhibit 17, I don't see anything that I would be  
19 concerned with, as far as the billing amount.

20 Q. Well, for example, Mr. Sanders, on  
21 the first sheet --

22 A. Okay.

23 Q. -- the water fee January paid, the  
24 amount is zero. Did you not pay your bill in  
25 January?

1 A. Yes, I did pay my bill in January.

2 Q. Water fee February paid, the amount is  
3 zero. Did you pay your bill in February?

4 A. Yes, I did.

5 Q. This is what I'm trying to get at.

6 A. Yes. I'm sorry. I do see what you're  
7 saying. Yes, it is. It does appear as though you  
8 didn't pay anything.

9 Q. On the second invoice on February 24,  
10 1994, do you find a due date on there anywhere that  
11 shows when this bill --

12 A. No. There is no due date on here. I  
13 specifically noted that that there wasn't.

14 Q. Okay. All right. On February 24th  
15 also, do you find an address where you could find  
16 this place of business?

17 A. There are two addresses. One is a post  
18 office box, and the other is -- this is on the --

19 Q. On February 24th?

20 A. I'm sorry, February 24th. There is  
21 only a post office box address on February 24th,  
22 and there is no business address, if you were a  
23 place of business, where I could go pay my bill,  
24 no. There's nothing there.

25 Q. Is there a phone number on this invoice

1 where you could contact the water company, if you  
2 needed to call them?

3 A. No. There is no phone number or  
4 anything listed where I could make a call to them  
5 even.

6 Q. All right. Have you had occasion --  
7 I'm not going to go through these bills one by one,  
8 however, I might just point out that most of these  
9 bills have a discrepancy. I -- some were, as far  
10 as telephone number, address, frequent changes.

11 JUDGE ANDERL: Okay. If you want  
12 those noted for the record, you probably really  
13 should go through them.

14 MS. SNELSON: Do we need to go  
15 through them one by one?

16 JUDGE ANDERL: Yes.

17 MS. SNELSON: Okay.

18 Q. On April 30th, then, the first exhibit  
19 in number 17, you'll note that there are telephone  
20 numbers at the bottom.

21 A. Yes, there are.

22 Q. Okay. Got these out of order now. But  
23 you didn't find one on the February 24th?

24 A. No, I didn't.

25 Q. Okay. We're going backwards here, but

1 that's okay. On January 31st, there is a telephone  
2 number, but do you find that is different from the  
3 phone number that you had on the invoice of April  
4 30th?

5 A. Yes, I do. I find -- I find that we  
6 have a home phone, which is 346-2487, and then on  
7 another bill 346-2487 is for emergencies. It could  
8 be rather confusing, if you grabbed a particular  
9 bill trying to get in touch with somebody from the  
10 water company.

11 Q. Okay. On the other sheet, January 1,  
12 1994, is there a telephone number or a business  
13 address on this bill?

14 A. I'm sorry. Which one?

15 Q. Invoice number 207, dated January 1,  
16 1994, it's the fourth sheet down.

17 A. Okay.

18 Q. Got it?

19 A. Yes, I do.

20 Q. Do you find a business address or a  
21 telephone number?

22 A. All I find is a post office box number.

23 Q. Okay. Go to the next sheet, May 1,  
24 1993.

25 A. Same thing here.

1 JUDGE ANDERL: Excuse me. When you  
2 say "same thing" --

3 THE WITNESS: Same thing. I only  
4 find -- I'm sorry. I find a post office box  
5 number. Oh, I'm sorry. You may drop payment at  
6 680 O'Sullivan Dam Road.

7 Q. (BY MS. SNELSON:) Okay. April 1,  
8 1993, the next sheet, you'll note there's a  
9 telephone number on this one. Is that, again,  
10 another telephone number?

11 A. I'm sorry. Are we working to an  
12 invoice number, or are we working to --

13 Q. Invoice number 1148, dated April 31,  
14 1993?

15 A. I gotcha there.

16 Q. There's a telephone there, and does it  
17 not match up with any other telephone numbers that  
18 were given previously.

19 A. It's a totally different number than  
20 what was given previously.

21 Q. And, again, do you find an address, a  
22 business address, on this one?

23 A. No. There is no business address on  
24 this.

25 Q. Okay.

1           A.     If I might go back to -- Well, go  
2 ahead. That's already --

3           Q.     Okay. Invoice number 1148, dated March  
4 1, 1993, do you find a business address or a  
5 telephone number?

6           A.     All I find is a post office box number  
7 for the company.

8           Q.     Okay. Back to February 1, 1993,  
9 invoice number 1144.

10          A.     Same thing there. I find a -- All I  
11 find is a post office box number.

12          Q.     Okay. January 3, 1993, problems with  
13 that one?

14          A.     Yes. Same thing. No -- All I find is  
15 a post office box number.

16          Q.     Okay. Invoice 1144, November 24, 1992,  
17 problems with that?

18          A.     Yes. The same thing. Same. Post  
19 office box only.

20          Q.     Okay. Have you had occasion to try to  
21 find the water company business office?

22          A.     Yes, I have. And this was -- This was  
23 at the same time that everybody -- Helgeland and I  
24 went down to see Jerry about the coliform report  
25 that was sent to us, and there isn't anything to



1 identify the actual office of the water company.  
2 It is quite confusing.

3 There's three or four doors on the  
4 north side, and the only one that's really  
5 identified is the one that goes into the store. At  
6 the other doors there's no identification as to  
7 what they are. Even when you go around the side of  
8 the building, there's no identification.

9 It's "register here" basically. It's a  
10 registration room for the O'Sullivan Sportsman  
11 Club. If there was some kind of a sign on the door  
12 that basically said Marine View Heights Water  
13 Company, or whatever they want to call themselves,  
14 it would be a great help to people, I'm sure.

15 Q. Is there anything else, any other  
16 problems that you have had regarding the water  
17 quality, the water company, anything?

18 A. Let me look at my notes here a little  
19 bit and see if I -- I can't.

20 Q. Have you had occasion to run out of  
21 water --

22 A. Yes, I have.

23 Q. -- since Marine View Heights  
24 Incorporated has --

25 A. Yes, I have. Several times. I've --

1       When I lived on the coast, when we would go home,  
2       I'd always turn my water heater off. We had  
3       neighbors that had lost water heater elements prior  
4       to that, so I made sure that every time we left,  
5       went to the coast, we turned our hot water heater  
6       off.

7               Q.       Okay. Anything else?

8               A.       I can't think of anything else.

9                       MS. SNELSON: Okay. That's all the  
10       questions I have.

11                      JUDGE ANDERL: Okay. Mr. Sanders,  
12       since we've talked about all of these invoices, let  
13       me just ask you, aside from the concerns that you  
14       had with the address and the phone numbers, etc.,  
15       are any of these bills wrong? Did you have any  
16       problem with that?

17                      THE WITNESS: I had a problem with  
18       the billing being wrong, not those. Well -- Only  
19       the fact that they had appeared as though they  
20       haven't paid, your bill. But, no, the bills have  
21       been, to my estimation, we haven't had any problems  
22       with those particular bills.

23                      I have had billing problems, and that  
24       was in the very beginning. If you want me to, I  
25       can expand on that, but I don't know that it's any

1 big problem.

2 JUDGE ANDERL: It was probably two  
3 years ago or more?

4 THE WITNESS: It was in November or  
5 October or so of 1992, when the company was taken  
6 over from Metropolitan Mortgage.

7 Metropolitan Mortgage only billed some  
8 people for 11 months out of the year. You paid  
9 your water bill in advance, they let you have a  
10 month free, and so on.

11 Anyway, I got billed for extra money  
12 that I didn't feel we had to pay, and I sat down  
13 with Mr. Sullivan at the time, who was the --  
14 supposedly the only -- his only relationship to the  
15 company was he did the billing. And when I sat  
16 down with Mr. Sullivan, we straightened that out.

17 JUDGE ANDERL: Okay. And that has  
18 not reoccurred?

19 THE WITNESS: It has not  
20 reoccurred.

21 JUDGE ANDERL: All right. Ms.  
22 Rendahl, do you have any questions for this  
23 witness?

24 MS. RENDAHL: Just a few.

25

## 1 CROSS-EXAMINATION

2

3 BY MS. RENDAHL:

4 Q. Mr. Sanders, going back to your  
5 discussion of your testimony concerning the  
6 Lakeview Water Company --

7 A. Yes.

8 Q. How did you -- Did you conduct research  
9 yourself to determine what Lakeview Water Company  
10 was?

11 A. No. Well, let's put it this way, in  
12 the process of trying to determine who the owners  
13 were with respect to Marine View Hights, Inc., I  
14 did a lot of research. And on the original  
15 complaint that we filed with the Attorney General's  
16 Office, there was a lot of things that had to be  
17 put together in a package for her. And my wife and  
18 I did a lot of research with respect to that.

19 And going through deeds of property  
20 owners, owners out there, and all of the books that  
21 relate to Marine View Hights plat, which are in  
22 Chicago Title in Ephrata, I've been through every  
23 book, every page, and then I've gone into the  
24 records room and went through stacks of -- my wife  
25 and I went through stacks of almost everybody that

1 lives out there reviewing, looking for water rights  
2 and that kind of thing, and in that process, I ran  
3 across the name of Lakeview Water Company.

4 I didn't go into it in depth, no.

5 Q. You just mentioned a complaint with the  
6 Attorney General's Office. Is that the complaint  
7 in this case, or is that a different complaint?

8 A. That is a different complaint.

9 Q. Are you currently boiling water?

10 A. No.

11 Q. Are you drinking water from the tap?

12 A. Yes, ma'am.

13 Q. Have you had any stomach problems?

14 A. I -- I -- No.

15 Q. When did you start drinking water from  
16 the tap?

17 A. It's probably been, I'm going to say,  
18 maybe a month ago.

19 Q. When did you begin boiling water?

20 A. I wrote to Craig Riley and asked for  
21 the coliform monitoring plan document, and on --  
22 I'm sorry, I don't have the exact date when I did  
23 that. But in that document, it's been quite awhile  
24 ago, because I personally -- I put together the  
25 coliform monitoring plan for myself for, you know,

1       how -- how I would do it, if you will.

2                       I read the book and went through it,  
3       and I just wanted to see how it would fall out. In  
4       that document, it talks about the particular page  
5       that's been prepared here today with respect to  
6       coliform bacteria.

7                       And, like I say, we read that and  
8       talked about the warm-blooded Fecal matter of  
9       little bugs that are crawling around in there. My  
10      wife says we are going to boil our water, and then  
11      at that point we started boiling water.

12              Q.       Had you experienced any problems, any  
13      stomach problems, before you read this document?

14              A.       I couldn't say that I could put a  
15      finger on anything that was -- caused me any  
16      problem, as far as drinking the water. I can say  
17      that around the time of the month when they get  
18      ready to take their samples, which is generally  
19      somewhere around the 22nd of the month, you can  
20      always figure a few days before that you are going  
21      to get a good dose of chlorine, and we do.

22                       And I've smelled chlorine even in the  
23      shower, and so on, but I can't say that I've  
24      personally ever had any stomach problems.

25                       MS. RENDAHL: I have no other

1 questions, Your Honor.

2 JUDGE ANDERL: Okay. Mr. Barker,  
3 do you have any questions for this witness?

4 MR. BARKER: Yes. I have a couple  
5 questions.

6

7

8

CROSS-EXAMINATION

9

10 BY MR. BARKER:

11 Q. In your search of records, did you ever  
12 come across this paper?

13 A. Yes, I have.

14 Q. I think there, that's covenant of  
15 Marine View Heights, Inc., and that refers to the  
16 Lakeview Water Company contact, and that's where  
17 that name comes from.

18 Can we issue this as evidence in the  
19 record just so it's of record?

20 JUDGE ANDERL: Sure. If you want  
21 to. I've been handed a document that the -- that  
22 I'll mark as Exhibit Number 18.

23 (Exhibit Number 18 was marked  
24 for identification).

25 At the very bottom it says it's a

1 declaration of protected covenant from Marine View  
2 Heights. It seems to be a photocopy of pages three  
3 and four. I'll just take a minute and let the  
4 other parties take a look at it, and ask if there  
5 are any objections to Exhibit Number 18 being made  
6 a part of record.

7 MR. BARKER: Do you have a copy of  
8 it?

9 THE WITNESS: I have my own copy.  
10 It came with my property title, etc., etc.

11 MR. BARKER: This was recorded with  
12 the plat of Marine View Heights, Inc. at the time  
13 it was done.

14 MS. SNELSON: May I ask if there's  
15 a date anywhere on this?

16 JUDGE ANDERL: Hang on a second.

17 MR. BARKER: Yeah. The first --

18 JUDGE ANDERL: The document that I  
19 have does not have a date on it.

20 MR. BARKER: It's recorded with the  
21 county.

22 JUDGE ANDERL: It does seem to have  
23 a indication showing that it came from official  
24 records where it says book 460, page 49, but I  
25 certainly can't testify as to where it came from.



1 I don't know.

2 Q. (BY MR. BARKER:) I guess the other  
3 question I have for you is, how long have you known  
4 Jerry and I?

5 A. I've known you for probably since 1987  
6 or so, Fred. And Jerry, I met Jerry probably a  
7 little bit before he became watermaster, maybe. I  
8 don't know, maybe '88. I don't know, '89. I've  
9 known -- I've known you longer than I've known  
10 Jerry.

11 Q. So if you had any problem, as far as  
12 invoices, you knew where we lived, because I did  
13 work for you?

14 A. That's not --

15 Q. So I don't understand what was such a  
16 big deal on these invoices.

17 A. That's right.

18 Q. At the time, we did the best we could.

19 JUDGE ANDERL: Mr. Barker, if  
20 you're going to ask him a question, you have to  
21 give him a chance to answer.

22 THE WITNESS: I do know you, and I  
23 do know Jerry, and I'm not the only homeowner up  
24 there that's had problems with the billing.

25 I can figure things out. Somebody

1 that's much older than I, or has problems with  
2 getting around might have more of a problem with  
3 respect to that.

4 Q. (BY MR. BARKER:) I guess the other  
5 question is on your water heater. I think  
6 someplace in the tariff it is required for all  
7 homeowners to have a check valve, second maybe --

8 A. I have one that I purchased. I haven't  
9 installed it yet.

10 Q. -- in case the water goes out.

11 JUDGE ANDERL: Mr. Barker, please.  
12 Not only do you have to let him answer, you have to  
13 let him finish his answer.

14 THE WITNESS: Finish your question,  
15 Fred, I'll answer it.

16 Q. (BY MR. BARKER:) Well, my question  
17 was, did you realize in the tariff it suggests that  
18 everybody have a check valve?

19 A. I've read the tariff, and I do not  
20 recall that, Fred. But I do have a check valve  
21 purchased and I haven't installed it yet.

22 Q. Okay. Maybe it's in one of the green  
23 weeks that we hand out to the people. Someplace it  
24 mentions that.

25 A. Okay. I don't know that I've --

1                   MR. BARKER: Other than that, I  
2 don't have any questions.

3                   JUDGE ANDERL: Ms. Rendahl, any  
4 objections to Exhibit 18?

5                   MS. RENDAHL: Well, I do have some  
6 questions as to where it came from.

7                   JUDGE ANDERL: Why don't you go  
8 ahead and ask those, then.

9                   MS. RENDAHL: What I was going to  
10 suggest is it might be more appropriate, if Mr.  
11 Barker is going to testify or whoever obtained this  
12 document might be the person to testify where this  
13 came from. I don't know that Mr. Sanders -- Well,  
14 I'll ask.

15

16

17

RECROSS-EXAMINATION

18

19 BY MS. RENDAHL:

20                   Q. Mr. Sanders, do you recognize this  
21 document?

22                   A. Yes, I do. I recognize it as part of  
23 our, my wife and I's, deed of trust, which includes  
24 restrictive covenant; well, covenant, homeowners  
25 covenant. And in that is -- This is one of those

1 pages, if you will, out of that.

2 Q. There is no signature on this. Is  
3 this --

4 A. It's taken out of context. It's --  
5 There are several pages of signatures with respect  
6 to this.

7 Q. Do you have a copy of this with your  
8 signature on it?

9 A. No, ma'am, I do not.

10 Q. Are any of these covenances signed?

11 A. I'm sorry. I have a copy that was  
12 provided to my wife and I in our title, and, of  
13 course, we signed the title, but I don't know -- I  
14 didn't particularly sign this particular thing, if  
15 you will.

16 MS. RENDAHL: I have no objections  
17 to it being entered into evidence, Your Honor.

18 JUDGE ANDERL: Ms. Snelson?

19 MS. SNELSON: No. No objection.

20 JUDGE ANDERL: I'm going to admit  
21 Exhibit Number 18.

22 (Exhibit Number 18 was admitted).

23 Mr. Sanders, just for clarification, is  
24 this something, then, that would have been signed  
25 by the original purchaser and that was then

1 transferred through to you?

2 THE WITNESS: I was the original  
3 purchaser, so --

4 JUDGE ANDERL: Okay. Okay.

5 THE WITNESS: -- it would have been  
6 signed by the original -- This is my conjecture, if  
7 you will.

8 JUDGE ANDERL: Well --

9 THE WITNESS: It would have been  
10 signed by the original owner. Mr. Hobble that  
11 owned the property, I don't know, maybe Fred's got  
12 his name on it in there too, I don't know.

13 JUDGE ANDERL: Okay. I shouldn't  
14 have said original purchaser. I maybe should have  
15 said original owner.

16 THE WITNESS: As original owner, I  
17 didn't sign that.

18 JUDGE ANDERL: Must be Mr. Hobble  
19 as a prior --

20 THE WITNESS: Well, I'm talking  
21 about Marine View Heights in it's entirety, a  
22 person that owned it. At one time Mr. Hobble owned  
23 it, then Mr. Barker owned it. Mr. Barker sold  
24 lots, it went back to Metropolitan Mortgage on a  
25 repossession, and Metropolitan Mortgage sold me my

1 lot.

2 JUDGE ANDERL: Okay. This is  
3 probably more than --

4 THE WITNESS: And I knew that you  
5 wanted to hear all that. All the things you didn't  
6 want to hear.

7 JUDGE ANDERL: Ms. Snelson, any  
8 Redirect for this witness?

9 MS. SNELSON: No.

10 JUDGE ANDERL: Okay. Mr. Sanders,  
11 thank you for your testimony. You may step down.

12 We are going to recess at this time  
13 until we reconvene tomorrow at nine o'clock same  
14 place. Thank you all for attending.

15

16

(Evening recess).

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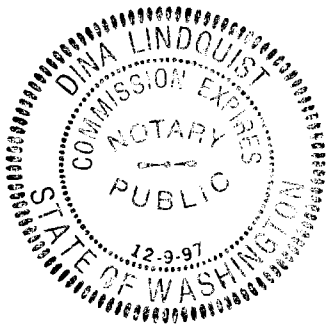
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25

1 STATE OF WASHINGTON )  
2 County of Benton ) ss.  
3 )

4 I, DINA LINDQUIST, do hereby  
5 certify that at the time and place heretofore  
6 mentioned in the caption of the foregoing matter,  
7 I was a Certified Shorthand Reporter and Notary  
8 Public for Washington; that at said time and  
9 place I reported in stenotype all testimony  
10 adduced and proceedings had in the foregoing  
11 matter; that thereafter my notes were reduced to  
12 typewriting and that the foregoing transcript  
13 consisting of 222 typewritten pages is a true and  
14 correct transcript of all such testimony adduced  
15 and proceedings had and of the whole thereof.

16 WITNESS my hand at Kennewick,  
17 Washington, on this 24th day of August, 1994.



19  
20 Dina Lindquist  
21 DINA LINDQUIST  
22 Notary Public for Washington  
23 My Commission Expires: 12-9-97  
24  
25