

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 MARINE VIEW HEIGHTS)
4 HOMEOWNERS ASSOCIATION,)
5 Complainant,) DOCKET NO.
6 vs.) UW-940325
7 MARINE VIEW HEIGHTS) VOLUME II
8 INCORPORATION,) (Pages 224-360)
9 Respondent.)
- - - - -)

10 A hearing in the above matter was held on
11 July 26, 1994, at the hour of 9:30 a.m. at the
12 Department of Social and Health Services, 1620
13 South Pioneer Way, Moses Lake, Washington, before
14 LISA ANDERL, Administrative Law Judge.

15
16 The parties were present as follows:

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

20 MARINE VIEW HEIGHTS INCORPORATION, by
21 FREDRICK R. BARKER, P. O. Box 1745, Moses Lake,
Washington 99357.

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

24 Connie S. Thome, CSR, RPR

25 Court Reporter

ORIGINAL

STATE OF WASH.
UTIL. & TRANSP.
COMMISSION

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

2

3	No:	Identification	Id.	Adm.
4	19	Petition with signatures	231	232
5	20	Letter dated December 21, 1993	242	
6	21	Letter with photograph attached	257	258
7	22	Four photographs	265	265
8	23	Notice to water system users	275	275
9	24	Notice to water system users	275	275
10	25	3-page bill and shut-off Notice	302	302
11	26	3-page document	319	334
12	27	Letter from water company	335	336
13	28	Profit and Loss statement - 1994	346	357
14	29	Profit and Loss statement - 1993	346	357
15	30	Vendor Balance Detail	346	357
16	31	Statement from Mr. Barker and Jerry Lease	346	357

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1 JUDGE ANDERL: Let's be on the
2 record. We are convened in Docket No. UW-940325.
3 This is the second day of hearing, the third day
4 that we've been convened. Today is July 26th,
5 1994. My name is Lisa Anderl. I'm the
6 Administrative Law Judge that's been assigned to
7 hear the case.

8 Let's go on ahead and take appearances
9 real briefly. Just state your name for the record.

10 MS. RENDAHL: Ann Rendahl,
11 Assistant Attorney General representing the
12 Washington Utilities and Transportation Commission.

13 JUDGE ANDERL: For the
14 Homeowners.

15 MRS. SNELSON: Marion Snelson,
16 S-n-e-l-s-o-n, representative for the Marine View
17 Heights Homeowners Association.

18 JUDGE ANDERL: And for the
19 Company.

20 MR. BARKER: Fred Barker, owner
21 of Marine View Heights, Inc.

22 JUDGE ANDERL: Okay. When we
23 broke yesterday we were in the middle of the
24 Complainant's direct case.

25 Ms. Snelson, would you like to

1 continue?

2 MRS. SNELSON: Yes. I'd like to
3 call Jim Snelson to the stand, please.

4 JUDGE ANDERL: Raise your right
5 hand, please.

6

7

8 JAMES SNELSON,

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

13

14

15 DIRECT EXAMINATION

16

17 BY MRS. SNELSON:

18 Q Mr. Snelson, would you give your name
19 and address to the court reporter, please.

20 A My name is James Snelson,
21 S-n-e-l-s-o-n. My address is 8453 Highland Drive
22 SE, Othello, 99344.

23 Q And are you a customer of the Marine
24 View Heights Water Company?

25 A Yes, I am.

1 Q Mr. Snelson, what is your capacity in
2 the Homeowners Association?

3 A I am vice president of the Homeowners
4 Association and on the board.

5 Q During the formation of the Homeowners
6 Association, did you have an additional job?

7 A Well, shortly after the Homeowners
8 Association was formed, our president, due to jobs
9 out of the area, he had to leave the area and I
10 took over as acting president while he was out of
11 the area.

12 Q So then you are qualified to comment on
13 why the Homeowners Association was formed
14 originally; is that correct?

15 A Yes. And the respect that at our
16 original meeting and also with direct contact with
17 the majority of the other members and from what my
18 opinion is of these contacts that we were formed to
19 solve two major problems, one of which has been
20 done, the other is we had a problem with the water
21 system and the water owners and not sure that we
22 were going to get good quality and quantity of
23 water is the one that's left, and that's the one
24 we're pursuing at this time.

25 Q Okay. Thank you. Have you ever

1 observed Jerry Lease taking water samples?

2 A On one occasion, yes.

3 Q Okay. Would you tell us about that?

4 A He took three samples. He took one at
5 my house and one at Irv Helgeland, and I can't
6 remember the name of the other family. He took
7 them at three locations. And the first location,
8 he come in and he turned the water on and he let it
9 run for a very short period of time. He took the
10 cap off the bolt and laid it down on the drain
11 board, which may or may not have been clean, which
12 is strictly against the policy in taking samples,
13 and filled the bottle and then put the cap back on.

14 And he did the same thing at the next
15 location and at the third location, and neither I
16 or Irv had said anything yet to speak of. And he
17 took the sample of hot water at one of the
18 locations and he was asked if it shouldn't be cold
19 water. And as Irv had mentioned earlier in his
20 testimony, he dumped it out, used the same bottle,
21 filled it with cold water and put the cap back on.

22 I did ask him who taught him, where he
23 got his training or who showed him how to take his
24 water samples and he said Fred Barker showed him
25 how.

1 Q Have you ever noticed chlorine in your
2 water? Do you have any comment about the chlorine
3 in your water?

4 A There were a few occasions that I get
5 up in the morning and I go into the bathroom and
6 turn the water on and I thought somebody had dumped
7 bleach in the sink, it was so strong. And this is
8 usually in the morning. After you'd used water for
9 a period of time during the day, then it got less.

10 MRS. SNELSON: I'd like to enter
11 an exhibit, Complainants Exhibit No. 20.

12 JUDGE ANDERL: Okay. Let me find
13 that. Okay. This is a petition of sorts. It
14 indicates at the top, "the smell and/or taste of
15 chlorine in our water is often very strong," and
16 then there's signatures and addresses. I'm going
17 to mark that for identification as Exhibit No. 19.

18 (Exhibit No. 19 was marked
19 for identification.)

20 JUDGE ANDERL: Mr. Snelson, I'll
21 hand you what's been marked --

22 Q (BY MRS. SNELSON:) Mr. Snelson, is
23 this a document that you have signed?

24 JUDGE ANDERL: Mr. Snelson, just
25 for clarification, how were the signatures on this

1 document obtained?

2 THE WITNESS: We just notified
3 everybody that we were going to make the document
4 and if they felt that they had too strong, or the
5 chlorine residual was too strong or they felt it
6 was very excessive, then they could sign it. And
7 we had people coming around asking to sign it.

8 JUDGE ANDERL: Okay. All right.
9 Is there any objection to the admission of Exhibit
10 No. 19? Ms. Rendahl?

11 MS. RENDAHL: No, Your Honor.

12 JUDGE ANDERL: Mr. Barker?

13 MR. BARKER: No.

14 JUDGE ANDERL: All right. I will
15 admit Exhibit 19.

16 (Exhibit No. 19 was admitted.)

17 Q (BY MRS. SNELSON:) Mr. Snelson, did
18 you have occasion to call the certified water
19 operator about a problem you were having and could
20 you describe how long before he returned your call?

21 A It's been some time ago, several months
22 I guess, but I called Jerry Lease in regards to
23 sand coming out of my frost-free outside valve.
24 And every time I turned it on for the first time of
25 the day, I'd get real murky, sandy water, and my

1 wife had occasion to do it, too.

2 And I showed it to her because I
3 carried water down to my garage in gallon jugs to
4 mix my spray dough because I don't have water in my
5 garage. I just carry it down there in milk
6 cartons. And you can't use it because it's got
7 sand in it and it plugs up my sprayer, so I always
8 have to dump the first carton out and start over
9 again.

10 I called Jerry about this to ask him
11 why I was getting it, and that particular call he
12 never did return. But I did run into him on the
13 street several days later and I asked him about it
14 and we discussed it and I think we resolved where
15 it was coming from, if I'm not mistaken. That's
16 why I got a bad frost-free, maybe. We aren't sure
17 where it was coming from. We couldn't determine
18 positively, but he never returned the call. I run
19 into him and discussed the problem with him.

20 Q Okay. Have you been buying bottled
21 water, have you in the past?

22 A In the past, yes, I bought bottled
23 water.

24 Q And why?

25 A Well, I was having abdominal cramps,

1 stomach problems, and I went to the doctor three or
2 four different times and he give me several
3 different prescriptions, and nothing was working.
4 And he started asking me questions about what I was
5 eating and drinking and so forth, and I hadn't told
6 him about our water problem and the coliform in the
7 water yet, and at this time I did.

8 And he said start getting your water
9 someplace else, because that particular coliform or
10 coliform in water will affect some people's
11 digestive system. He says not everybody, but some,
12 and you may be one that it bothers, so start
13 getting your water from another source. And I did,
14 and the problem went away.

15 And at a later date, I thought I would
16 experiment to be sure, so I started drinking the
17 water again, about a month and a half later I
18 started drinking the water again. Within three or
19 four days I started getting the stomach cramps so I
20 went back on the bottled water again. And now I'm
21 off the bottled water, and since they have gotten
22 their last good test, I've not had any problems.

23 MRS. SNELSON: I'd like to enter
24 into evidence Complainants Exhibit No. 41, please.

25 JUDGE ANDERL: I don't think I

1 have that.

2 MS. RENDAHL: I think that may
3 have been introduced yesterday.

4 MRS. SNELSON: Okay. I'm sorry.
5 A mix up on my part. We don't need to do anything
6 with it, then. That's fine.

7 Q (BY MRS. SNELSON:) Have you had any
8 additional expenses connected directly or
9 indirectly with the water system?

10 A I have multiple calls to Craig Riley at
11 the State Health Department finding out just what
12 we could do to get this water situation and get
13 good clean water so that we felt safe to drink it;
14 to the State Health Department, to the County
15 Health Department, to the State Attorney's Office,
16 to Gary Chandler, and then correspondence notifying
17 other persons on the hill.

18 They have called and left messages on
19 my answering machine wanting to know when this
20 water quality problem was going to be corrected. I
21 have had to return those phone calls as a member of
22 the board, let them know just where we stand and
23 what the water quality situation is now, because
24 everybody is not being notified and I have asked
25 and Mr. Barker was good enough to show me some of

1 the samples.

2 I've asked Jerry Lease and he's told me
3 some of the results. But we've never officially
4 received the result in the mail. So we've had to
5 research to find out. And I've passed the messages
6 on and contacted the other homeowners.

7 Q Okay. Is there anything else?

8 A Not at this time.

9 MRS. SNELSON: All right. I have
10 no further questions.

11 JUDGE ANDERL: Ms. Rendahl, do
12 you have any questions for this witness?

13 MS. RENDAHL: Just a few quick
14 questions.

15

16

17 CROSS-EXAMINATION

18

19 BY MS. RENDAHL:

20 Q You've just testified that the
21 Homeowners Association was formed to deal with two
22 problems. Was the other problem the road fees?

23 A Yes, ma'am, it was.

24 Q Looking at Exhibit No. 19, when was
25 this prepared, do you know?

1 A Not right off the top of my head, I
2 couldn't give you a date on that.

3 Q Do you remember when you signed it?

4 A No, I can't. It was when we first
5 handed the paper around and let the people know it
6 was available. I signed it first.

7 MS. RENDAHL: I have no further
8 questions, Your Honor.

9 JUDGE ANDERL: Mr. Barker, any
10 questions for this witness?

11 MR. BARKER: Yes, I do.

12

13

14

CROSS-EXAMINATION

15

16 BY MR. BARKER:

17 Q On the paper, Exhibit 19, how often did
18 you have strong chlorine? Every day?

19 A No. This was not every day. This was
20 just on occasion, maybe once or twice a month. And
21 on those days, it would be extremely strong. There
22 was a couple other times that I did get a strong
23 smell like dirty dish water, and I have no idea
24 where that came from. But the chlorine was
25 extremely strong maybe half a dozen times maybe, no

1 more than that.

2 Q On the samples that you took with
3 Jerry, do you know if those came back good or bad?

4 A I don't know whether those came back
5 good or bad or not, no, I don't.

6 Q Okay. The other question is, did you
7 guys determine where the sand was coming from in
8 your frost-free?

9 A In my frost-free? We're not exactly
10 sure. There's a strong possibility it could be a
11 bad frost-free. I haven't dug it up yet to find
12 out.

13 Q And the other question is, you felt
14 that you were having problems with the water,
15 stomach problems?

16 A Um-hmm.

17 Q Well, we've had six months going on the
18 seventh month, good samples.

19 A Yeah, I understand that, Fred. I was
20 having the bad problems. I went on bottled water.
21 I went back off of it just to try it. I was still
22 having stomach problems. I was afraid to go back
23 off it. Those were pretty bad stomach cramps. But
24 I decided to try it again now that you've had six
25 good samples and I figured the water had to be

1 good, and so far I have not had any problems since.
2 So the fact that you've gotten the E-Coli or the
3 coliform out of the water, it's not bothering me
4 now.

5 MR. BARKER: Okay.

6 JUDGE ANDERL: Any other
7 questions?

8 MS. RENDAHL: No.

9 JUDGE ANDERL: Mrs. Snelson?

10 MRS. SNELSON: No.

11 JUDGE ANDERL: Okay. Thank you
12 for your testimony. You may step down.

13 MRS. SNELSON: If some of our
14 other witnesses -- I'd like to call Jerry Lease
15 next, but it's going to be a lengthy question
16 period. If some of our witnesses come in in the
17 meantime that are on a time schedule, would it be
18 possible to interrupt and then start again with
19 Jerry Lease? Is that a possibility?

20 JUDGE ANDERL: It's not the best
21 way to do it. Let's see how it goes and maybe we
22 can, especially if it's a very short bit of
23 testimony that you want to put in.

24 MRS. SNELSON: I would like to
25 call Jerry Lease next.

1 good, and so far I have not had any problems since.
2 So the fact that you've gotten the E-Coli or the
3 coliform out of the water, it's not bothering me
4 now.

5 MR. BARKER: Okay.

6 JUDGE ANDERL: Any other
7 questions?

8 MS. RENDAHL: No.

9 JUDGE ANDERL: Mrs. Snelson?

10 MRS. SNELSON: No.

11 JUDGE ANDERL: Okay. Thank you
12 for your testimony. You may step down.

13 MRS. SNELSON: If some of our
14 other witnesses -- I'd like to call Jerry Lease
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17 meantime that are on a time schedule, would it be
18 possible to interrupt and then start again with
19 Jerry Lease? Is that a possibility?

20 JUDGE ANDERL: It's not the best
21 way to do it. Let's see how it goes and maybe we
22 can, especially if it's a very short bit of
23 testimony that you want to put in.

24 MRS. SNELSON: I would like to
25 call Jerry Lease next.

1 JUDGE ANDERL: Mr. Lease. Please
2 raise your right hand.

3

4

5

JERRY LEASE,

6

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

10

11

12

DIRECT EXAMINATION

13

14 BY MRS. SNELSON:

15 Q Jerry, would you give your name and
16 address to the court reporter, please.

17 A My name is Jerry Lease, L-e-a-s-e.

18 JUDGE ANDERL: Could we get a
19 spelling on your first name, too?

20 THE WITNESS: J-e-r-r-y.

21 Q (BY MRS. SNELSON:) And your address?

22 A 7011 Plaza Street, Othello, Washington
23 99344.

24 Q Okay. And what is your official title
25 with the Marine View Heights Water system?

1 A I'm Assistant Manager and Certified
2 Water Operator.

3 Q We have seen correspondence from you
4 that sometimes says Manager, sometimes says
5 Assistant Manager, sometimes says Certified Water
6 Operator, so do you operate in all those capacities
7 at times?

8 A Yes, I do.

9 Q To what extent are you allowed to work
10 on the water system without Mr. Barker's approval?
11 How much leeway do you have as far as working on
12 it?

13 A I'm in charge of billing. I send out
14 all the bills. I'm in charge of receiving the
15 bills and depositing them and posting payments.
16 I'm in charge of water quality in the system and
17 I'm in charge of fixing any repairs that need to be
18 repaired.

19 Q Does any repairs or any improvements to
20 the system or any of that have to be cleared with
21 Mr. Barker first?

22 A Repairs, no.

23 Q Repairs no. Improvements to the
24 system?

25 A Depending on the cost.

1 Q Depending on the cost, then it would
2 need to be cleared with Mr. Barker?

3 A Correct.

4 MRS. SNELSON: I'd like to enter
5 Complainant Exhibit No. 54 at this time.

6 JUDGE ANDERL: Okay. This is a
7 letter dated December 21st, 1993. I'll mark it for
8 identification as Exhibit No. 20.

9 (Exhibit No. 20 was marked for
10 identification.)

11 JUDGE ANDERL: Mr. Lease, I'm
12 going to hand you that document and tell me if you
13 recognize it.

14 THE WITNESS: Yes, I do.

15 JUDGE ANDERL: Did you write that
16 letter?

17 THE WITNESS: Yes, I did.

18 JUDGE ANDERL: Ms. Rendahl, do
19 you have any objection to this document?

20 MS. RENDAHL: No, I don't.

21 JUDGE ANDERL: Mr. Barker?

22 MR. BARKER: No.

23 MRS. SNELSON: I have no
24 questions on this document at the present time.

25 Q (BY MRS. SNELSON:) Mr. Lease, did you

1 receive any training or take any classes prior to
2 taking water samples on the Marine View Heights
3 Water system?

4 A In order to pass the state test with
5 water certification, I had to study for the test
6 and I spent several days studying for that test.

7 Q Prior to your certification, were you
8 working on the system, taking water samples before
9 you got your certification?

10 A Yes, ma'am.

11 Q Did you have any training prior to
12 that?

13 A No, I didn't.

14 Q Okay. So you were taking water samples
15 on the Marine View Heights Water system before you
16 had your training?

17 A Yes.

18 Q Okay. Have you always sent out a
19 notice to system users when the test results showed
20 contamination in the system?

21 A Since I've been in charge of the
22 system, yes.

23 Q Are you not the one -- since you've
24 been in charge, are you the one who does it?

25 A Yes.

1 Q Was there a period of time when someone
2 else did it, when someone else was responsible?

3 A Before my taking over the system, it
4 was Fred's system and he was in charge of it at the
5 time.

6 Q How long have you been in charge of
7 this particular function?

8 A Beginning of December is when I
9 officially took over position of the system.

10 Q December of?

11 A 1993.

12 Q December of 1993. Okay. So then
13 Mr. Barker was responsible from October of '92
14 through December of '93?

15 A That's correct.

16 Q Since December of '93, do you feel that
17 you have always sent out a notice to users when the
18 test results were bad?

19 A Yes, I have.

20 Q Okay. As the Certified Water Operator,
21 do you feel that you have always provided
22 continuous and effective disinfection as a minimum
23 level of treatment?

24 A Yes, I do.

25 Q Okay. How could that be? How could

1 you have provided effective disinfection when we
2 had ten months of tests that came back with the
3 contamination?

4 A Since I only took over the -- I was a
5 Certified Water Operator, I was officially
6 designated in November of '93. I took over the
7 system in December of '93. And since then, I
8 believe that I have -- there has been one month
9 that I took it over is the month that I started my
10 improvements, and they were done. And since then,
11 since January of 1994, they have been tested.

12 Q Since January of 1994, we've -- there's
13 been good. Before that, from October of '92 until
14 November, December of '93, who, then, was
15 responsible for the disinfection and the --

16 A Fred Barker.

17 Q Mr. Barker was. All right. Have you
18 received any complaints, any direct complaints from
19 customers about the smell or taste of chlorine in
20 the water?

21 A Yes, I have.

22 Q Has there been a lot of them? Or give
23 us a general idea.

24 A I can't say that there is a whole lot
25 of them, no, in comparison to the amount of

1 customers. I have had complaints sometimes when
2 the chlorine was high.

3 Q Okay. Can you explain why at certain
4 times -- or did you explain to the customers at
5 that time?

6 A I tried to.

7 Q You tried to?

8 A Um-hmm.

9 Q Okay. Have you ever purposely added
10 excessive amounts of chlorine to the system in
11 order to obtain a satisfactory water sample?

12 A No.

13 Q You have not?

14 A No.

15 Q Before the float level in the tank was
16 changed, were you turning the pump off at 11:00
17 p.m., back on in the morning?

18 A No. What I was doing is at 11:00
19 o'clock I'd go up and turn the pump off and then
20 I'd turn it back on. All I was doing is tripping
21 the pump so it would come on at 11:00 o'clock at
22 night.

23 Q I'm not sure I understand. You were
24 turning it off at 11:00 at night.

25 A Within seconds -- all I did was turn

1 the switch off and back on again. What that
2 creates is a break in the contact and the pump will
3 come on. So essentially all I was doing was
4 turning the pump on.

5 Q Turning the pump on?

6 A Correct.

7 Q So before that, the pump was off?

8 A Not necessarily.

9 Q Then why did you have to turn it on?

10 A Sometimes when the demand is, the pump
11 stays on 24 hours a day.

12 Q Right.

13 A Other times what happens is when I turn
14 the pump on at 11:00 o'clock, it fills the
15 reservoir. When the reservoir is full, the probes
16 in the tank turn the pump off. This could be at
17 5:00 in the morning in the wintertime or 5:00 in
18 the afternoon in the summertime. It just depends.
19 When it turns off, it doesn't turn back on until I
20 set the level of the probe, and usually that isn't
21 until I go and flip it back on.

22 Q It won't come back on by itself when it
23 hits the low level probe?

24 A It will turn on at the low level probe,
25 but usually it doesn't get down there until 11:00

1 o'clock at night when I go and turn it back on.

2 Q Okay.

3 JUDGE ANDERL: Mr. Lease, just
4 for clarification, is there a difference between
5 the pump being on and the pump actually running?
6 Is that what you're trying to explain?

7 THE WITNESS: The reason why we
8 turn it on is to try to produce a contact time for
9 the chlorine so the customers don't smell or taste
10 it as much.

11 JUDGE ANDERL: Now I'm really
12 confused. What happens -- well, I guess I'll save
13 my questions.

14 Q (BY MRS. SNELSON:) Is there some other
15 reason why you're going up and tripping the pump to
16 make it come on at a specific time?

17 A The only purpose is the contact time
18 for the chlorine.

19 Q Okay. So it's contact time for the
20 chlorine. Would you explain that to us?

21 A Well, the state requires that we have a
22 minimum of 30 minutes contact time on all chlorine
23 into the system. Since we don't have any means to
24 do that other than at a low level period, 11:00
25 o'clock at night, most people are sleeping, when we

1 turn the pump on at 11:00 o'clock at night, it
2 gives the chlorine time to react with the water and
3 kill the coliform bacteria and it fills the
4 reservoir at that time.

5 And during the day, the reservoir
6 should be full and people use the water out of the
7 reservoir and they don't use the water directly out
8 of the well.

9 Q So what happens if you aren't available
10 and you don't go up there and trip that switch and
11 start the pump in order to give the chlorine this
12 30-minute contact time, then is it not proper
13 disinfection, then?

14 A Fred Barker goes up there usually when
15 I don't go up there.

16 Q Usually. But we don't have any
17 automatic system, then, for this chlorine contact
18 time?

19 A No.

20 Q What if someone were to get up in the
21 night, and let's just take a for instance, get a
22 drink of water or whatever, between the time that
23 the pump is not on and you tripped that switch?
24 Are they going to get good water, disinfected
25 water?

1 A Yes, they are. The reason being, is
2 because if they are only going to get a glass of
3 water or even a gallon of water, the water that's
4 in the service line is already in the service line,
5 has got that 30-minute contact time. The water
6 that's out of the pump has to circulate, and it
7 would take a lot of water in order for them to
8 drain the water. There's a lot of water in the
9 pipe.

10 Q A lot of people do their watering at
11 night, which is the recommended time of day in this
12 kind of climate to do your watering. A lot of
13 people are on automatic sprinkler systems. You
14 live in the neighborhood so you see this. So a lot
15 of water is being used at night.

16 A That's correct.

17 Q Could this affect the chlorination?

18 A Still if you're only taking a drink of
19 water, the pipe from where your irrigation system
20 is hooked up to where your faucet is, it's still
21 going to get --

22 Q So that's all the leeway we have, from
23 where our irrigation system is hooked up to our
24 faucet at this time of night, that's the only
25 leeway we have that we have chlorinated water.

1 A No, it's chlorinated. It just hasn't
2 had the 30-minute contact time.

3 Q Hasn't had the 30 minute contact time.

4 A That's correct.

5 MRS. SNELSON: Your Honor, we
6 have two witnesses that just came in. One is a
7 real estate agent who is on a pretty tight
8 schedule, I'm sorry.

9 JUDGE ANDERL: Are you done with
10 the chlorine questions?

11 MRS. SNELSON: I'm finished with
12 that portion of the testimony. I have a lot of
13 other questions.

14 JUDGE ANDERL: And is your
15 testimony for the realtor very brief?

16 MRS. SNELSON: Yes, it is. Both
17 the testimonies of both the people are very brief.

18 JUDGE ANDERL: Are those the only
19 two witnesses you anticipate?

20 MRS. SNELSON: Those are the only
21 two I will anticipate.

22 JUDGE ANDERL: I will allow that
23 then, Mr. Lease, if you will step down for a
24 moment, we'll call you back shortly. We'll break
25 in this witness's testimony and allow Mrs. Snelson

1 to call her remaining two witnesses.

2 MRS. SNELSON: I'd like to call
3 Lisa Marcusen, please.

4 JUDGE ANDERL: Raise your right
5 hand, please.

6

7

8 LISA MARCUSEN,

9

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

13

14

15 DIRECT EXAMINATION

16

17 BY MRS. SNELSON:

18 Q Mrs. Marcusen, would you state your
19 name for the court reporter, please.

20 A Lisa Marcusen.

21 JUDGE ANDERL: Spell your last
22 name.

23 THE WITNESS: M-a-r-c-u-s-e-n.

24 Q (BY MRS. SNELSON:) And your address,
25 please.

1 A 5951 Road Q Southwest, Quincy, 98848.

2 Q And what is your employment? What do
3 you do?

4 A I'm a real estate agent with Prudential
5 Ranch and Home Real Estate here in Moses Lake.

6 Q As a realtor, could you explain some of
7 the problems explained by your clients and yourself
8 during the moratorium that was going on in Marine
9 View Heights?

10 A Okay. Back in May of 1993, I wrote an
11 offer on a vacant lot for some people that lived
12 down in Las Vegas. And they were wanting to move
13 up here -- they are an elderly couple and they
14 wanted to be up here near their family. We wrote
15 that offer in May of 1993, and I had started to
16 receive -- I was not the listing agent on that lot.

17 That listing agent had received some
18 documentation back in May of 1993 that there was
19 some problems with the water system and we were not
20 aware of that. We were scheduled to close on that
21 lot no sooner than June 1st, no later than August
22 4th of 1993. This gentleman and his wife -- the
23 gentleman had some severe health problems, had to
24 have some surgery, he wanted to get up here, be
25 closer to his daughter before that happened.

1 However, we did not close on the
2 property until April 22nd of 1994 because no
3 building permits could be issued at that time. So
4 it did put some stress on their lives because they
5 had sold their property down there or had a buyer
6 waiting to buy their piece of property.

7 They finally went ahead and decided,
8 after some threats from the seller on that lot,
9 they would lose that lot if they didn't proceed
10 with closing. I hope you can understand that they
11 were very concerned with buying a lot that they
12 didn't know if they would be able to get a building
13 permit within a reasonable amount of time.

14 Q Did your company or you have other lots
15 listed up in the Marine View Heights area?

16 A I had a double-wide mobile home on a
17 lot that was listed there -- not that it's really
18 important, but in the 80,000 price range. We did
19 sell that home and closed on it, however, it was a
20 cash sale.

21 And at the same time I had a stick
22 built home listed for around \$119,000, and we were
23 very lucky to get that cash sale, that amount of
24 money, because most people have to have financing.
25 Most of you may be aware that in order to finance a

1 piece of property you have to have an approved
2 water system or banks will not lend you money. So
3 I had some interested people in this stick built
4 home, however I could not close and I had to
5 disclose the fact that there would be financing
6 problems for them.

7 Q So as a realtor you could comment on
8 what kind of financing problems, the fact that the
9 lending institutions --

10 A Yes. I had to disclose those kind of
11 things that there may be a problem on financing
12 this. On that cash sale of the double-wide home,
13 we did put on the earnest money because we were
14 aware there was some problem.

15 We stated on our earnest money, buyer
16 is aware that the community water system is
17 currently out of compliance with the State Health
18 Department. And the purchasers signed it and
19 agreed to go ahead and close.

20 MRS. SNELSON: Thank you very
21 much. I have no further questions.

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

24 MS. RENDAHL: None, Your
25 Honor.

1 JUDGE ANDERL: Mr. Barker?

2 MR. BARKER: No.

3 JUDGE ANDERL: Thank you for your
4 testimony. You may step down.

5 MRS. SNELSON: I'd like to
6 briefly call Mr. Jim Gauron to the stand, please.

7 JUDGE ANDERL: Mr. Gauron, go
8 ahead and have a seat. Raise your right hand.

9

10

11

JAMES GAURON,

12

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

16

17

18

DIRECT EXAMINATION

19

20 BY MRS. SNELSON:

21 Q Would you give your name and address to
22 the court reporter, please.

23 A James Gauron, 10 Plaza Street
24 Southeast, Othello, 99344.

25

JUDGE ANDERL: Can we get a

1 spelling on your last name, please?

2 THE WITNESS: G-a-u-r-o-n.

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

5 A Yes, I am.

6 MRS. SNELSON: Okay. I'd like to
7 enter Complainants Exhibit No. 40.

8 JUDGE ANDERL: Okay. And that's
9 the one with the photograph stapled to it?

10 THE WITNESS: I also have more
11 photographs.

12 JUDGE ANDERL: I'm going to mark
13 this document for identification as Exhibit No. 21.

14 (Exhibit No. 21 was marked for
15 identification.)

16 JUDGE ANDERL: And I'm going to
17 show you that letter. Sir, can you tell me, are
18 you the author of that letter?

19 THE WITNESS: Yes, ma'am.

20 JUDGE ANDERL: And can you
21 describe for me what that picture shows?

22 THE WITNESS: It shows a large
23 hole in my driveway where someone from the water
24 system came in and dug up below the turn-off and
25 cut a chunk of blacktop out so that I was

1 disconnected from service.

2 JUDGE ANDERL: Okay.

3 THE WITNESS: The hole was
4 approximately eight foot long by four foot deep and
5 there was a shut-off located there that someone
6 could have just shut off the water.

7 JUDGE ANDERL: Ms. Rendahl, do
8 you have any objection to the admission of Exhibit
9 No. 40?

10 MS. RENDAHL: No, Your Honor.

11 JUDGE ANDERL: Mr. Barker, do
12 you?

13 MR. BARKER: No.

14 JUDGE ANDERL: There being no
15 objection, I will admit Exhibit No. 21. Go ahead,
16 Mrs. Snelson.

17 (Exhibit No. 21 was admitted.)

18 Q (BY MRS. SNELSON:) Mr. Gauron, did you
19 have some property dug up and can you briefly tell
20 us about it?

21 A Yes. I was going through a bunch of
22 surgeries at the time, and I came home from one of
23 the surgeries and still had a spinal needle in my
24 back and to find a large hole in my yard.

25 Mr. Barker's son-in-law had talked to me three or

1 four days before about making payment for my water,
2 and I told him that I didn't get paid for four or
3 five more days and that I would give him \$100
4 then. And so whenever I came home and found the
5 large hole in my yard, I was quite surprised.

6 Q Okay.

7 A He did not fix the pipe. I went down
8 to give \$100 and -- my wife did, and I have a
9 cancelled check. Or she gave it to Mr. Barker's
10 son-in-law, Bob or -- his name is Bob. And then
11 some of my neighbors came over and helped me patch
12 back together the pipe so that I could have water
13 to my house.

14 While the water was off, my hot water
15 tank that -- my system had drained because my water
16 was running outside so it drained my pipe, so it
17 drained all the water out of my house, too. And my
18 water heater went at the same time, too.

19 Q Did you talk to the water company about
20 why they had done it this way, why they had dug the
21 hole and cut your pipes?

22 A Just because I didn't pay them.
23 However there's lots of other people at the same
24 time that didn't pay them, and I was just one that
25 they picked, I believe, to do it to. He knew that

1 I was gone and that I was in the hospital at that
2 time too, so --

3 Q Did you ask them why they just didn't
4 use the shut-off valve that you say was nearby?

5 A I don't remember asking them that. I
6 was in pretty bad shape because of the surgery that
7 I was going through.

8 Q I understand.

9 A And so my wife was the one that went
10 down and talked to Bob and give him the money, the
11 \$100 check to catch up from 12-92 until up to
12 current.

13 Q Okay. During that whole procedure, did
14 you ever receive a turn-off notice, a shut-off
15 notice from the water company?

16 A No.

17 Q You never received a shut-off notice
18 from the water company?

19 A No.

20 Q All right. Thank you.

21 A The only warning was verbal from his
22 son-in-law, which I thought I had arranged to give
23 him \$100 in four or five days and everything would
24 be fine.

25 Q Okay. Any time during or after this

1 ago yesterday.

2 Q Do you have some additional pictures
3 there that you brought with you that show the
4 damage that was done?

5 A Yes. It shows the depth of the hole,
6 where they cut through my telephone line at the
7 same time as they did the digging.

8 Q They did cut through your telephone
9 lines at the same time?

10 A Yes.

11 Q And how was that taken care of later,
12 then?

13 A It wasn't. It was just filled in the
14 way that it was. At a later date, which was just
15 about six weeks ago, the main pipe right above
16 this, the valve blew out on it and leaked. And
17 Jerry -- I called Jerry and Jerry come right down,
18 I'll have to admit that, and helped me fix it,
19 which left a larger hole in the ground than what's
20 in these pictures.

21 And then I phoned up the phone company
22 and they came out and fixed it and I told them to
23 bill it to Fred, you know. Because when Jerry was
24 digging it up, we ripped the cable all the way, my
25 phone cable. And this was created from a valve

1 washing out from some sand, and it just kept
2 washing out and washing out. So this happened
3 twice to me.

4 Q Is it admissible to enter those
5 pictures as --

6 JUDGE ANDERL: You could offer
7 them. As I said, any exhibits there have to be
8 copies made available to the other parties if they
9 would like them. So if you offer these for
10 admission, you're going to have to provide
11 duplicates from negatives.

12 THE WITNESS: I have duplicates
13 from negatives.

14 JUDGE ANDERL: Is that what you
15 want to do?

16 MRS. SNELSON: Yes.

17 JUDGE ANDERL: I'm going to call
18 these pictures -- I'm going to staple them all to a
19 single piece of paper and identify them as Exhibit
20 No. 22. And there are 4 of them.

21 Mr. Gauron, why don't you just tell me
22 -- see, there are two that are taken looking
23 straight down into the hole.

24 THE WITNESS: This is one of my
25 neighbor's, Brett Steel, that was kind enough to

1 come over and help me patch it together.

2 JUDGE ANDERL: So the one picture
3 looking down in the hole shows the line that's cut?

4 THE WITNESS: Yes, ma'am.

5 JUDGE ANDERL: And the other
6 shows it patched up?

7 THE WITNESS: Um-hmm.

8 JUDGE ANDERL: And the other two
9 show the hole from above ground?

10 Let's take just a minute and let the
11 other parties see those.

12 THE WITNESS: The only way that I
13 could sell a piece of property at the Marine View
14 Heights -- which whenever you're in the real estate
15 business and you go to work for the office, they
16 give you what they call a farm and area. Marine
17 View Heights was my farm and area. In other words,
18 that was my work area and no one else from my
19 office worked in that area.

20 And I found a lot of people that wanted
21 to sell their homes, however without someone coming
22 in and putting the cash down you couldn't sell a
23 home up there.

24 JUDGE ANDERL: Ms. Rendahl,
25 you've had a chance to look at the photos. Do you

1 have any objection to their admission?

2 MS. RENDAHL: Not at all, Your
3 Honor.

4 JUDGE ANDERL: And, Mr. Barker,
5 I'll give you a minute to look at them, too.

6 MR. BARKER: I have no objection.

7 JUDGE ANDERL: Okay. I'll admit
8 those four photos as Exhibit No. 22, then. Any
9 further questions?

10 MRS. SNELSON: I have no further
11 questions.

12 (Exhibit No. 22 was admitted.)

13 JUDGE ANDERL: Mr. Gauron, let
14 me ask you a few questions here.

15

16

17

EXAMINATION

18

19 BY JUDGE ANDERL:

20 Q The water line that was cut, that was
21 cut and capped, then, or just cut?

22 A It was cut and the valve was shut off.
23 There was a valve above it. So there was a valve,
24 then the pipe that runs into my home, and he cut
25 the section going into my home and shut off the

1 valve.

2 JUDGE ANDERL: Go ahead,
3 Ms. Rendahl. That was all I wanted to ask.

4 THE WITNESS: I had filed charges
5 with the Grant County Sheriff whenever this
6 happened for trespassing and to destruction of
7 public property. The sheriff went down and talked
8 to Mr. Barker, I was told, and his name is under
9 Frank Deitz or -- that's in my letter, said that he
10 went down and talked to Mr. Barker because I said
11 that I wasn't sure if he was even the owner of the
12 system to be shutting me off.

13 And the sheriff didn't get back with
14 me. I talked to the prosecuting attorney and she
15 said that Mr. -- the officer, the police officer
16 considered it to be a civil matter and that
17 Mr. Barker proved to him that he was the owner of
18 the water system and had the right to trespass on
19 my property and do the damage that he did.

20 JUDGE ANDERL: Okay. All right.
21 Ms. Rendahl, questions for this witness?

22 MS. RENDAHL: I have no
23 questions, Your Honor, but I'll just state for the
24 record that if the homeowners can just send a copy
25 of those pictures to me in the mail. That's

1 acceptable to me.

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

4 MR. BARKER: Yes, I do.
5
6

7 CROSS-EXAMINATION
8

9 BY MR. BARKER:

10 Q How long have you lived up there, Jim,
11 in Marine View Heights?

12 A Since 1987.

13 Q Since that time, how many months have
14 you paid for water?

15 A I'm not sure. Not very much. There
16 was something wrong with the mortgage company and
17 they didn't have my right address, and so I never
18 received bills from the mortgage company or for
19 roads or for water.

20 Q I think the records show, Jim, that you
21 owe \$1,180 up to February 6th of '94. February 6th
22 of '94 you started making payments.

23 A I believe that's when you took over the
24 water system and that's when I received a bill.
25 The first bills that I've ever received from any

1 Homeowners Association was whenever you took over
2 the water system. I have a post office box. I do
3 not have a mailbox at my address. I have a post
4 office box in Othello.

5 Q I think we have records of shut off
6 notices being sent out prior to February the 6th.

7 A To what address?

8 Q I don't know.

9 A You see, I have a post office box in
10 town in Othello. I don't have a mailing address at
11 my residence.

12 Q So I just want the record to show that
13 you do owe that and you would not pay.

14 A That I do owe what?

15 Q \$1,180 for previous back water.

16 A My current balance sheet that I just
17 received from you, what might have been one month
18 behind, since February of 1992 or from December of
19 1992. I'm current to date. I might be one month
20 behind right now.

21 Q When the water company was bought from
22 Metropolitan Mortgage, we assumed all the accounts
23 receivable and we paid them for those accounts.

24 A I wasn't notified of that. If someone
25 walks in --

1 JUDGE ANDERL: One at a time, and
2 really you're getting into a private billing
3 dispute.

4 MR. BARKER: I just wanted --

5 JUDGE ANDERL: Well, it's not,
6 because he hasn't agreed to it, apparently, and I
7 don't think it's going to matter one way or the
8 other.

9 MR. BARKER: Okay. I have no
10 further questions.

11 JUDGE ANDERL: Anything further
12 for this witness?

13 MS. RENDAHL: No, Your Honor.

14 JUDGE ANDERL: Okay.

15 MRS. SNELSON: No. No further
16 questions.

17 JUDGE ANDERL: Thank you,
18 Mr. Gauron, for testifying. You may step down.

19 MRS. SNELSON: Your Honor, I'd
20 like to thank you very much for giving us the
21 opportunity to take these witnesses out of turn.

22 JUDGE ANDERL: Okay. No problem.
23 We'll go back to Mr. Lease, then.

24 MRS. SNELSON: Yes, please.

25 JUDGE ANDERL: Okay. You can

1 continue with your questions for him.

2

3

4

JERRY LEASE,

5

6 having been previously duly sworn to tell the
7 truth, the whole truth and nothing but the truth,
8 resumed the stand and testified as follows:

9

10

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DIRECT EXAMINATION

12

13 BY MRS. SNELSON:

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Q Mr. Lease, the address listed now on
our bills for dropping off water payments is 6897
State Route 262 Southeast Othello; is that correct?

A That's correct.

Q Okay. Where is this business address
physically located on your property?

A Just the store itself is that address
and there's several offices in that building and I
have one of those offices.

Q But where are those numbers? Where is
that address, 6897 SR 262 Southeast? Where can I
look and see those numbers on your -- on the

1 building?

2 A I don't believe we have the numbers on
3 the building.

4 Q There are no numbers on the building?

5 A I don't believe so.

6 Q All right. Assuming that we found the
7 building, what all is in that building? Are there
8 different businesses? Are there different things
9 going on in that particular building?

10 A Yes, there is.

11 Q How many different activities?

12 A There's a sales office on the west end
13 of the building, a store, and then the office on
14 the front, and the west end of the building is my
15 office.

16 Q Okay. Is there anything on the
17 building at all noting where the water company
18 office is?

19 A No, there isn't.

20 Q Nothing at all. So how would a
21 customer attempt to find the office to pay his bill
22 if he was new to the area, wanted to pay his bill?

23 A He would call me and then I'd tell them
24 where it was at.

25 Q What do you consider reasonable

1 response time to a message?

2 A According to Die Auto, two days.

3 Q Do you have a means of differentiating
4 between a regular message and an emergency message?

5 A On the message machine, you mean?

6 Q Well, how many different ways do you
7 have for a customer to reach you?

8 A On the bottom of the bill, I believe
9 there's approximately five numbers to call.

10 Q Okay. And what do you reach when you
11 call each of those numbers?

12 A Two of the numbers are my pager
13 numbers, and I almost always have that with me.
14 One of the numbers is for the water company's
15 office. One of the numbers is for the Park office,
16 and one of the numbers is for my house.

17 Q Okay. The three numbers, the Park
18 office, your office and your house, are there
19 answering machines at each of those?

20 A The only answering machine there is, is
21 at the water company.

22 Q So if you were to call your house and
23 there was no one there, we wouldn't be able to
24 leave a message?

25 A No, you wouldn't.

1 Q We call the Park office, is there
2 always someone there?

3 A Yes, there is.

4 Q Okay. If we called your pager number,
5 is there any way to differentiate between an
6 emergency or a regular message?

7 A If I received a page, I usually call
8 within half an hour or an hour.

9 Q Okay. Do you carry that pager with you
10 all the time?

11 A No, not all the time.

12 Q Not all the time?

13 A No.

14 Q So what happens if a customer calls and
15 you don't have that pager with you?

16 A The Park office, the 2447 number is
17 always manned. There's always somebody there.

18 Q But if a customer calls you and leaves
19 the number on the pager, they are assuming that
20 you're wearing that pager.

21 A Correct.

22 Q And so they are not going to call the
23 Park office, probably, because they are assuming
24 that pager is being manned; is that correct?

25 A That's correct.

1 Q But you don't always wear it?

2 A That's correct.

3 Q Okay. When you are wearing it, is it
4 always turned on?

5 A Yes.

6 Q Okay. Why do you have a couple of
7 different pager numbers listed on the bills? Do
8 you wear two pagers?

9 A It's just one pager, but it has two
10 different numbers. It has a Moses Lake number and
11 a Tri-Cities number.

12 Q I see. Are you aware that there are
13 dead ends in the water system?

14 A Yes, I am.

15 Q Okay. So do you have a means of
16 flushing the system?

17 A The only means that we have is through
18 cooperation from the customers to turn on all their
19 lines at the same time.

20 Q So everybody would have to turn on
21 their faucets at the same time in order to flush
22 the entire system?

23 A That's correct.

24 Q Okay. I'd like to enter into evidence
25 Complainants Exhibit No. 17 and No. 19.

1 JUDGE ANDERL: All right. Okay.
2 Both of these are single sheets that are notices to
3 water system users. And for identification,
4 Exhibit No. 23 is dated 1-1-94, and what I'm
5 marking as Exhibit No. 24 is dated 11-29-93.

6 Mr. Lease, I'll show you both of
7 those. Are you familiar with those documents?

8 THE WITNESS: Yes, I am.

9 JUDGE ANDERL: Is that your
10 signature on each of them?

11 THE WITNESS: Yes, it is.

12 JUDGE ANDERL: And were those
13 documents prepared by you?

14 THE WITNESS: That's correct.

15 JUDGE ANDERL: Does anyone have
16 any objection to the admission of Exhibit 23 and 24
17 for identification? Ms. Rendahl?

18 MS. RENDAHL: No, Your Honor.

19 JUDGE ANDERL: Mr. Barker?

20 MR. BARKER: No.

21 JUDGE ANDERL: I'll admit those
22 two documents.

23 (Exhibit Nos. 23 and 24 were
24 admitted.)

25 Q (BY MRS. SNELSON:) On Exhibit No. 23,

1 Mr. Lease, about half way down the page, would you
2 read the statement from the bold letters, "since
3 that time?"

4 A The following tests have been taken to
5 correct the problem. We have flushed the bad line.

6 Q That's fine. That's all I need. Oh,
7 I'm sorry, read number two also.

8 A We are implementing a plan to flush the
9 system regularly.

10 Q This was a notice that was sent out to
11 all system users; is that correct?

12 A That's correct.

13 Q How did you intend to do this?

14 A When I said is the bad line was Canal
15 Street. That's the top street on the system. It's
16 an eight-inch line. And what I was doing was
17 turning a valve in order to divert the water
18 through that line, sort of flushing that line.

19 Q Where would that water go when you
20 opened that valve or closed the valve to divert the
21 water through that line?

22 A That would divert the water to the rest
23 of the system.

24 Q So in other words, flushing that line
25 was flushing the bad line into the rest of the

1 system?

2 A Right. But the reason why we did that
3 was in order to -- since that is a larger line than
4 the rest of the system, we wanted to circulate that
5 line better than the rest of them, because it's a
6 large line and has to go uphill.

7 Q How often did you do that?

8 A To tell you the truth, I only did it
9 twice.

10 Q And you considered that solving the
11 problem?

12 A Yes.

13 Q Of the contamination?

14 A Um-hmm. That's correct.

15 Q On Exhibit No. 24, your first
16 handwritten statement down about the middle of the
17 page, would you read that, please?

18 A We are chlorinating and flushing the
19 system. We took repeat samples on the 22nd and
20 they came back good.

21 Q Okay. We are chlorinating and flushing
22 the system. Can you explain why that was sent out
23 to all system users?

24 A At the time that's what Fred told me to
25 put on there.

1 Q Did you in fact flush the system?

2 A No, I didn't.

3 Q Okay. Did Jim and Audrey Revis ask you
4 to come to their house a couple of weeks ago to
5 look at sand in their toilet stool and tank?

6 A Yes, they did.

7 Q And did you in fact see that sand?

8 A Yes, I did.

9 Q What did you attribute the sand to?

10 A High velocity in the water pipe causing
11 the sand in the bottom of the water service line to
12 come up into their service.

13 Q Sand in the bottom of the water service
14 line, is this a normal --

15 A In every water system the well picks up
16 particles from the aquifer where it gets its water
17 and distributes it in the system. Generally
18 speaking, that will settle on the bottom of the
19 pipes and the customers will never see it. And if
20 you have a means to flush the system, then the
21 customers will never see it.

22 Q We've had three testimonies during this
23 hearing that people have sand in their -- coming
24 out in their home water lines. Is this also a
25 normal occurrence?

1 A No.

2 Q It is not. Are you taking any steps to
3 correct that?

4 A The only thing we can do is to put in
5 some means to flush the system.

6 Q Okay. Jerry, if you have a problem
7 with a dissatisfied customer and you can't resolve
8 the problem, what do you normally do?

9 A I try and solve it by any means
10 necessary. I work with Diane Otto, usually,
11 because the complaints go to her anyway.

12 Q Have you ever given a customer the name
13 and address of the WUTC so that they can contact
14 them for possible mediation, also?

15 A Yes, I have.

16 Q You have done that?

17 A Yes, I have.

18 Q With each case where you've had a
19 problem?

20 A No.

21 Q No. Did you just start doing that
22 recently?

23 A Last year I handed out a few booklets,
24 and then in the meeting we do in April, all the
25 people that attended, I gave them all a booklet

1 that went. And the July billing, June or July
2 billing, I'm not sure which, I sent out a slip for
3 them to request a booklet if they wanted it.

4 Q But in individual cases of individual
5 disputes, you don't usually bring up the subject of
6 the WUTC?

7 A No, because generally speaking, the
8 complaints I get are not to the point where they
9 want to go to the UTC. Generally speaking, all of
10 them were resolved.

11 Q What about the dispute with Jim Gauron
12 and Chuck Honaker? Did you advise them of the
13 availability of UTC?

14 A Chuck Honiker, I did.

15 Q What about Jim Gauron?

16 A I was not involved.

17 Q Were you the Certified Water Operator
18 at that point?

19 A I'm not sure which you're talking
20 about.

21 Q When Mr. Gauron's pipes were dug up.

22 A No, I wasn't.

23 Q Okay. Do you do the billing and the
24 record keeping for Marine View Heights,
25 Incorporated, now?

- 1 A Yes, I do.
- 2 Q Have you always done this?
- 3 A No, I haven't.
- 4 Q When did you start doing the billing?
- 5 A In December of '93.
- 6 Q December of '93. And before that?
- 7 A Jim, James Sahli did it.
- 8 Q Mr. Sahli did it. You are now
- 9 representing Marine View Heights, Incorporated, and
- 10 have the available records to answer some questions
- 11 regarding accounts?
- 12 A Yes, I do.
- 13 Q Do you have those records with you?
- 14 A Yes.
- 15 Q Just briefly before we get started into
- 16 the records, I have one more question. Are you or
- 17 were you ever a temporary Certified Water Operator?
- 18 A The state never issued me any
- 19 permission slip to be a temporary Certified Water
- 20 Operator.
- 21 Q Okay. During the pre-hearing on June
- 22 15th, it was brought out that yourself, Jerry
- 23 Lease, Jim Sahli, and Willy Womach do not pay water
- 24 bills because they work for the water company; is
- 25 that true?

1 A That's true.

2 Q Who in the company made this decision
3 to not charge them?

4 A I can't say who.

5 Q So was this going on before you became
6 -- before you took over the billing, had this
7 practice started?

8 A I'm not really sure. I don't know.

9 Q When you took over the bills, were you
10 at that time billing yourself, Jim Sahli and Willy
11 Womach who were all customers of the water system?

12 A Not every month, no.

13 Q Not every month. Why not every month?

14 A Because they are employees of the
15 system.

16 Q And so what did you do with the months
17 that you weren't billing them? How did they pay
18 their water bill?

19 A They paid them through working for the
20 water company. Jim Sahli worked all last year
21 without getting paid hardly anything at all. Willy
22 Womach does work for the water system helping me
23 repair and stuff like that.

24 Q Do they do it on a voluntary basis?

25 A No, they don't.

1 Q Then how are they paid?

2 A Through their water service.

3 Q So they get free water bill for their
4 services for the water system? Do they do any
5 other work for anyone else besides the water
6 system?

7 A Jim Sahli doesn't, no, and Willy Womach
8 is no longer employed.

9 MRS. SNELSON: Your Honor, may I
10 object to something at this point?

11 JUDGE ANDERL: Normally you don't
12 object to your own questions and answer.

13 MRS. SNELSON: I'm objecting to
14 Mr. Barker giving head signals to Mr. Lease.

15 JUDGE ANDERL: I'm sorry, I
16 didn't see that, and you're right. Mr. Barker,
17 don't do that. You'll have a chance to testify.

18 Mr. Lease, you are testifying from your
19 own personal knowledge and recollection and not
20 Mr. Barker's head signals.

21 THE WITNESS: I understand.

22 MRS. SNELSON: Thank you very
23 much.

24 Q (BY MRS. SNELSON:) I'm sorry. Now
25 would you answer that question again? Do they work

1 for anyone else besides the water system?

2 A Not at this time, no.

3 Q Have they ever during --

4 A Jim Sahli, no, he has never ever worked
5 for anybody but the water system.

6 Q How about Willy Womach?

7 A I'm not sure when he was terminated,
8 but he was working for the Potholes Golf Course.

9 Q For the Potholes Golf Course. Was he
10 being paid by the Potholes Golf Course?

11 A I have no idea.

12 Q So you don't know whether he was being
13 paid by the Potholes Golf Course or whether that
14 was part of his water bill?

15 A He was not being credited for any work
16 he was doing on the golf course for the water
17 system bill. Total separate entities.

18 Q Okay. Let's just dwell on when he was
19 working for the water system, he got free water.
20 What about things like taxes, social security, this
21 type of thing? Then there was none of that taken
22 out for his time spent working on the water system?

23 A No, not to my knowledge.

24 Q Okay. How are these accounts being
25 handled now? You said that Willy Womach is no

1 longer employed by the water system; is that right?

2 A That's correct.

3 Q Is he now paying a water bill?

4 A Yes.

5 Q Do your records reflect that?

6 A Yes.

7 Q What about Mr. Sahli?

8 A He's also paying.

9 Q Since the time of -- since the
10 pre-hearing, then, on June 15th?

11 A Actually Mr. Sahli was paying before
12 the pre-hearing.

13 Q You testified at the pre-hearing, I
14 believe, that they did not pay water bills.

15 A I was still billing them. I just
16 didn't collect on the bill.

17 Q Are you collecting on the bill from Jim
18 Sahli now?

19 A Yes, I am.

20 Q Okay. What about the time period that
21 the customers didn't get billed? Did you go back
22 and do anything about that or is that just being
23 written off?

24 A I'm not sure I understand the question.

25 Q During the time that Willy Womach was

1 working for the water system and not paying the
2 water bill, during the time that Jim Sahli was
3 doing whatever he does and not paying a water bill,
4 is that amount just being forgotten about as far as
5 the water system is concerned? You're not
6 concerned with going back and collecting any past
7 due bills or anything?

8 A We have records of how much work that
9 Willy Womach had done and Jim Sahli had done, and
10 we have the amounts how much they have been paid
11 and how much they haven't been paid.

12 Q And you feel that that money came
13 directly out of the water system account?

14 A That's correct.

15 Q You said at the pre-hearing that Marine
16 View Heights, Incorporated, had 114 customers; is
17 that correct?

18 A That's correct.

19 Q According to your books?

20 A That's right.

21 Q Does that include the employees of the
22 water system?

23 A That's correct.

24 Q So that's 114 including Jim Sahli,
25 Willy Womach and yourself?

1 A That's correct. But I have to amend
2 that now, because through the accounting I did this
3 morning, all I could come up with was 112.

4 Q And how did you do that account?

5 A Through my list right here.

6 Q Through your billing list?

7 A That's correct.

8 Q Just briefly, is there anybody else who
9 lives in the community that works for Marine View
10 Heights?

11 A Inc.?

12 Q Inc.

13 A Not to my knowledge.

14 Q Okay. Do you send a bill to all water
15 users of the Marine view Heights water system? Not
16 talking about the above people, now, the ones we've
17 already talked about. Whether they are full-time
18 residents or part-time residents, does everybody up
19 there receive a bill?

20 A To the best of my knowledge, yes.

21 Q Do you send a bill to Connie Pulfrey?

22 A Yes, I do.

23 Q Do you collect on that bill?

24 JUDGE ANDERL: Can we get
25 spellings on some of these names, then?

1 MRS. SNELSON: Connie Pulfrey is
2 P-u-l-f-r-e-y.

3 JUDGE ANDERL: Thank you.

4 Q (BY MRS. SNELSON:) Do you send a bill
5 to Val Hoke?

6 A Spell that last name.

7 Q H-o-k-e.

8 A I don't recognize that name, no.

9 Q Would you like time to check your
10 records quickly and see if you sent a bill to him?

11 A I don't have him on my records, no.

12 Q How about John Adkins, A-d-k-i-n-s?

13 A No, I don't have him on here.

14 Q Herb Carlson, C-a-r-l-s-o-n?

15 A I don't have him either.

16 Q Max Lang, L-a-n-g?

17 A He's a difficult case. I bill him,
18 yes, I do.

19 Q Do you collect on that?

20 A I didn't as of -- I'm not sure what
21 date, because he didn't have water hooked up and he
22 wasn't using water. I think it was in May that I
23 hooked him up.

24 Q Did you charge a \$20 reconnect fee when
25 you hooked him up?

1 A Mr. Lang went without water for a year
2 somehow. I don't know what happened, but he's --
3 from what I understand, he's mentally unstable, and
4 he was going over to his parents using water,
5 didn't want to pay the water bill.

6 Q So he was still living in his home?

7 A That's correct.

8 Q And not paying a water bill?

9 A Not using any water.

10 Q How did you know he wasn't using any
11 water?

12 A That was brought to my attention.

13 Q What do you mean it was brought to your
14 attention?

15 A When I looked at the valve, the valve
16 was off, and he hadn't been dug up for some time.
17 He was just living there and he went over to his
18 parents to use the shower.

19 Q Do you know who shut the valve off?

20 A I have no idea.

21 Q So did you turn the valve back on?

22 A That's correct.

23 Q Okay. But you did not charge a
24 reconnect fee?

25 A No.

1 Q How do you know who to bill? How do
2 you know when there's a new customer comes into the
3 neighborhood?

4 A When there's a new customer comes into
5 the neighborhood, they call me or come see me and
6 tell me they want to hook up to this location.

7 Q Have you ever had anybody come in and
8 hook themselves up?

9 A I have no idea.

10 Q Do you ever go out and check? Do you
11 ever drive around the neighborhood and see if
12 there's anybody new in the neighborhood and maybe
13 hook themselves up?

14 A I don't go around and do a census and
15 personally check every service connection, no.

16 Q Do any of your customers have summer
17 rates, such as a part-time residence or weekenders?

18 A No.

19 Q You have nobody who has part-time
20 rates?

21 A No.

22 Q Are all customers billed \$20?

23 A There's some customers that have more
24 than one residence and they get billed more.

25 Q But for each residence, then, a

1 customer is billed \$20?

2 A That's correct.

3 Q So if they have two residents they are
4 billed \$40; is that correct?

5 A That's correct.

6 Q Does Michael Gleich's account -- and
7 that's spelled G-l-e-i-c-h -- show 42.50 and 32.50
8 in 1993?

9 A I don't know. It's going to take me a
10 minute to find his account, because right now he's
11 getting billed \$20 a month, and I'm not sure what's
12 in the past. Do you know his account number?

13 Q No, I don't.

14 A Do you know where he lives?

15 JUDGE ANDERL: I was going to
16 just suggest, if you had a couple of people you
17 wanted him to look for, maybe you could give him
18 the names now and we could take a break and give
19 him a few minutes to get all the information and
20 then come back.

21 MRS. SNELSON: Okay. Let me give
22 him those names. Ray Mickelson is another one.
23 That's all.

24 JUDGE ANDERL: And you're going
25 to be wanting him to refer to the billings for

1 1993?

2 MRS. SNELSON: 1993 on both of
3 those.

4 JUDGE ANDERL: Let's take a 15-
5 minute recess. We will be back at 10:35.

6 (Short recess.)

7 JUDGE ANDERL: Let's be back on
8 the record. Mrs. Snelson, would you like to
9 continue with your questions of Mr. Lease?

10 MRS. SNELSON: Yes, thank you.

11 Q (BY MRS. SNELSON:) Mr. Lease, were you
12 able to find Michael Gleich and Ray Michelson's
13 accounts?

14 A Yes, I was.

15 Q Does your account show amounts of 42.50
16 and 32.50 in 1993 for Michael Gleich?

17 A That's correct.

18 Q What's the reason for those odd
19 amounts?

20 A I'm not aware of the reason.

21 Q You have no idea?

22 A No.

23 Q Your records don't show?

24 A No.

25 Q Whose records would show why those --

1 A All I could do is ask Jim Sahli. He
2 could probably tell me more.

3 Q You don't have Mr. Sahli's books
4 available?

5 A These are his books. And it says here
6 he paid that much, but it doesn't give a reason
7 stating why.

8 Q Okay. What about Ray Michelson's
9 account, shows 32.50 in 1993?

10 A Mr. Michelson paid 32.50 for one month
11 in 1993.

12 Q You have no idea why?

13 A No, I don't.

14 Q All right. That's fine. Do you have
15 many customers that disconnect in the wintertime,
16 you know, the people who are just the weekenders or
17 summertime people?

18 A Two that I know of.

19 Q Two. Okay. Do they continue to pay
20 the full rate during the winter, then, when they
21 are disconnected?

22 A No.

23 Q They pay nothing during the wintertime,
24 then?

25 A If they are disconnected they don't get

1 any water.

2 Q When you reconnect them in the spring,
3 do you charge the \$20 reconnect fee?

4 A Yes, I do.

5 Q You do collect that from them?

6 A Yes.

7 Q Did Dan Marinelli disconnect in the
8 fall of 1993?

9 A He told me he did, yes.

10 Q He told you he did?

11 A Yes.

12 Q So he actually did it himself?

13 A That's correct.

14 Q Was he charged a reconnect fee in the
15 spring of '94?

16 A That's correct.

17 Q He was charged that?

18 A Yes.

19 Q Did he pay it?

20 A Yes.

21 Q Back in September of '93, there were
22 numerous accounts that were sent to a collection
23 agency for non payment; is that correct?

24 A That's correct.

25 Q Can you tell us how many accounts there

1 were and what the results were with the collection
2 agency?

3 A Collect agency works very slowly on
4 these accounts. There were nine accounts turned
5 in. One was turned in on error. One is still in
6 active collection process. Two were paid to the
7 collection agency. Five were pulled out by us.

8 Q Five were pulled back by you?

9 A That's correct.

10 Q Why were they pulled back?

11 A Because of non-response by the
12 collection agency. They come up with excuses on
13 why they couldn't collect, welfare, and just their
14 laws restrict them on what they can collect on and
15 what they can't.

16 Q So they were unable to collect on five
17 of the accounts?

18 A That's correct.

19 Q What did you do, then, with those
20 accounts when the collection agency turned them
21 back to you?

22 A I put them on their bill.

23 Q You re-added the amount owing that had
24 been turned to the collection agency, you re-added
25 that to the bill.

1 A That's correct.

2 Q Were those substantial amounts?

3 A For one individual it was, yes.

4 Q Okay. Has that in the meantime been
5 taken care of?

6 A We're still disputing. We can't --
7 it's still in dispute so we can't really collect on
8 it.

9 Q Have you ever done a shut-off notice or
10 anything on that account?

11 A Yes, I have.

12 Q Have you ever shut them off?

13 A No, I haven't.

14 Q Is there a reason why you haven't shut
15 them off?

16 A Every time I send a shut-off notice, I
17 find something new that I have to do before you
18 actually shut them off. So either I send them a
19 new shut-off notice or I have to do something. And
20 usually I'm just not able to do it because of the
21 laws.

22 Q Procedure type things that you didn't
23 do the procedure right so you have to pull it back?

24 A That's correct.

25 Q How many times have you gone through

1 this?

2 A Several. I couldn't tell you the exact
3 number right now.

4 Q Okay. Have you ever shut anybody's
5 service off?

6 A No, I haven't.

7 Q Not counting Jim Gauron.

8 A I haven't shut him off.

9 Q So you haven't shut anyone off, but you
10 do have a number of large outstanding accounts?

11 A That's correct.

12 Q What are you doing to attempt to
13 collect on those accounts?

14 A Some people just can't pay the bill. I
15 talk to them and come to an understanding where
16 they are paying this month's bill and a little bit
17 on the past due account, not a whole lot, but all
18 they can afford.

19 Q Okay. In your ledger, new invoice in
20 quotation marks, shows on the accounts that have
21 been sent to a collection agency. What does that
22 mean when you send something to a collection agency
23 and then you note "new invoice?"

24 A I'm not sure I know what you're talking
25 about. When I send the collections, the people to

1 collections?

2 Q Um-hmm. When you send an account to a
3 collection agency, then do you note new invoice on
4 perhaps their next bill that you send to them
5 after?

6 A That's correct. I didn't send -- I
7 took the people into collections, but I was not
8 working for the water company at the time, and Jim
9 Sahli was doing that at that time. And he reissued
10 another invoice with just the current billing.

11 Q Have you since picked up on those back
12 issues, then, since you took over the billing? Jim
13 Sahli -- let me see if I get this right. Jim Sahli
14 put them into collection. Then he issued a new
15 invoice starting from scratch with these people.
16 The collection agency sent them back to you saying
17 they couldn't collect. Have you since reinstated
18 that amount, then, on these customers?

19 A Yes, I have.

20 Q You have. All right. Did you or
21 somebody in the company make any kind of a deal
22 with Mr. Larry Still regarding his account?

23 A I did not make a deal with Larry Still.
24 He told me that he's going to work it out with Fred
25 Barker. The amount is still owing on the account.

1 JUDGE ANDERL: Excuse me, what
2 did you say?

3 THE WITNESS: The amount is still
4 owing on the account.

5 Q (BY MRS. SNELSON:) Okay. How long do
6 you let a bill become delinquent before you start
7 the disconnect procedure? What is your usual
8 policy?

9 A Three months.

10 Q Three months. Do you know how many
11 shut-off notices that you have mailed or posted on
12 customers' doors?

13 A I have not kept a record of it, no.

14 Q You do not have a record of the shut-
15 off notices that you've sent out?

16 A I have for the past two months, but
17 that's all.

18 Q Can you give me an estimate?

19 A No, I couldn't.

20 Q No. How do you keep track of when you
21 need to physically shut a customer off? When you
22 send out a shut-off notice, there's a length of
23 time involved there where you have to give a
24 customer a certain amount of time. How do you keep
25 track of that so you know when to go shut them off?

1 A When I send out a shut-off notice, I
2 write on a list -- I write it down who I sent them
3 out to and the amount that I'm going to shut them
4 off for. At the time that I'm supposed to shut
5 them off, I issue a 24-hour shut-off notice, and I
6 mail it and or put it on their door or give it to
7 them physically. And then 24 hours after that, I
8 shut them off.

9 Q So you do have a list, then, a list
10 that shows the shut-off notices that you've issued
11 and then -- or do you not keep that list
12 afterwards, then?

13 A No.

14 Q Okay. Can you recall why a shut-off
15 notice was given to Richard Whitney?

16 A No. I would assume because he was
17 three months past due.

18 Q Do you recognize the name and do you
19 remember giving him a shut-off notice?

20 A I believe so.

21 MRS. SNELSON: I'd like to enter
22 Complainant's Exhibit No. 38, please.

23 JUDGE ANDERL: Okay. And that
24 is, what, a letter from Mr. Whitney?

25 MRS. SNELSON: This is a letter

1 from Mr. Whitney that we received.

2 JUDGE ANDERL: I think that would
3 be best offered either through Mr. or Mrs. Whitney
4 if they testify, or through a member of the
5 Association.

6 MRS. SNELSON: Could I, as a
7 member of the Association, attest to this?

8 JUDGE ANDERL: Are you still
9 planning on testifying?

10 MRS. SNELSON: Could I recall
11 someone in order to enter this?

12 JUDGE ANDERL: Yes.

13 MRS. SNELSON: At a later --

14 JUDGE ANDERL: I don't want to
15 cut into his testimony again.

16 MRS. SNELSON: I understand that.
17 But I would like to ask --

18 JUDGE ANDERL: Unless Mr. Lease
19 got a copy of this or can identify it, it wouldn't
20 be appropriate to enter it through him.

21 MRS. SNELSON: Then I'll enter
22 this at a later time.

23 JUDGE ANDERL: All right.

24 MRS. SNELSON: I would like to
25 enter Complainant's Exhibit No. 53 at this time.

1 JUDGE ANDERL: Okay. I'm going
2 to mark that document for identification as Exhibit
3 25. It is a three-page document, which is a bill
4 and apparently a shut-off notice.

5 Mr. Lease, I'm going to let you take a
6 look at what's been marked as Exhibit No. 25 for
7 identification and ask you if you can tell me what
8 that document is or if you recognize it.

9 THE WITNESS: I recognize the
10 document as invoice that I sent out.

11 JUDGE ANDERL: All right. And
12 what about the third page?

13 THE WITNESS: It's a shut-off
14 notice that I sent.

15 JUDGE ANDERL: All right.
16 Ms. Rendahl, any objection to Exhibit No. 25?

17 MS. RENDAHL: No, Your Honor.

18 JUDGE ANDERL: Mr. Barker?

19 MR. BARKER: No.

20 JUDGE ANDERL: I will admit
21 Exhibit No. 25.

22 (Exhibit No. 25 was admitted.)

23 MRS. SNELSON: Thank you.

24 Q (BY MRS. SNELSON:) I call your
25 attention to the first page, Mr. Lease, where it

1 says -- first of all, the date is January of 1994;
2 is that correct?

3 A That's correct.

4 Q And water feed January paid, water feed
5 February paid, March paid, April paid.

6 A That's correct.

7 Q Okay. Turn to the next sheet, which is
8 February of '94, the next month, to the same
9 people. We have January past due, February past
10 due, and March, \$20, with a total of \$60; is that
11 correct?

12 A That's correct.

13 Q The third page dated March of 1994, is
14 a shut-off notice for a total past due of \$40
15 signed by you. Can you explain?

16 A What had happened, is in January of
17 1994, I had a program on my computer that I had
18 purchased that -- actually purchased it in
19 December, and I put all that information in it. I
20 started having a little problem, and it ended this
21 billing, this January 31st, '94 billing, I sent
22 that billing out.

23 Then in February of that month, that
24 program deleted it so I lost all that information.
25 I wasn't keeping it on the books so I lost

1 information. I didn't know who paid -- who paid
2 and who didn't. And from the best of my
3 recollection, I didn't remember that they had paid.
4 That's why I got a past due on this account, three
5 months, is when I sent out the shut-off notice.

6 Q Okay. Thank you. Just using an
7 example, let's say a customer hasn't paid their
8 bill for a year, you give them a shut-off notice,
9 then they start paying for a couple of months.
10 What happens to that past due account?

11 A What I try to do is if they pay \$40, I
12 put it on their oldest bill from January through
13 December, and then it came January, then the
14 following year I would apply it to January,
15 February of the previous year.

16 Q Okay. Did you have set up a payment
17 plan for them? Did you have talk about payment
18 plans?

19 A Yes, I had.

20 Q Do you have any payment plans set up
21 right now?

22 A Yes, I do.

23 Q You do. Do you know how many people
24 you have on payment plans approximately?

25 A That I can recall, there's four people.

1 Q Four people on payment plans. Okay.
2 When Marine View Heights, Incorporated, purchased
3 the system in October of '93, were there some
4 outstanding accounts receivable at that time?

5 A Yes, there was.

6 Q Do you know how many accounts there
7 were?

8 A I wasn't in charge of the system at the
9 time. All I know is there was some accounts
10 receivable. I don't know who or what or how much.

11 Q Do you know what happened to those
12 accounts?

13 A We have a copy of them somewhere, but I
14 don't know exactly -- Fred had a copy of them in
15 his books.

16 Q Are they on your books?

17 A The outstanding balance hasn't been
18 paid yet.

19 Q And are you still attempting to collect
20 those?

21 A That's correct.

22 MRS. SNELSON: Your Honor, at
23 this point we have some specific accounts that we
24 would like to discuss, but because of the sensitive
25 nature of these accounts and keeping in mind that

1 these are our neighbors, we'd like to try to do
2 this by lot and block number rather than using
3 names. Is this something that would be --

4 JUDGE ANDERL: By lot and block
5 number?

6 THE WITNESS: That's account
7 number.

8 MRS. SNELSON: I'm sorry, that's
9 what's used as their account number. So actually
10 we'd use their account number. We'd like to do
11 this. We need some advice from you on how to do
12 this. If we could do it in private with perhaps
13 someone from the WUTC, Mr. Lease and his books,
14 rather than bring this out into a public hearing.
15 It can be on the record, but not in a public --

16 JUDGE ANDERL: If it's on the
17 record, it's a public part, it's part of the public
18 record. It doesn't sound to me like it's
19 confidential information as defined by law to be
20 confidential. So I couldn't justify sealing the
21 record or closing the record. Ms. Rendahl?

22 MS. RENDAHL: I would agree with
23 Judge Anderl that the Commission has an interest in
24 having public hearings, and there are provisions
25 for confidentiality but I don't believe these would

1 meet those requirements. So I would argue that the
2 hearing remain open. I understand that it's
3 sensitive because it's a very small community, but
4 I do believe it's important to keep the hearing
5 public and open.

6 JUDGE ANDERL: Do you have any
7 objection to using lot and block numbers as opposed
8 to customer's names?

9 MS. RENDAHL: No objection.

10 MR. BARKER: I object.

11 JUDGE ANDERL: Okay. On what
12 basis, Mr. Barker?

13 MR. BARKER: I think if it's for
14 the record, it should be by the name. It should be
15 names.

16 JUDGE ANDERL: Why?

17 MR. BARKER: So everybody knows.

18 JUDGE ANDERL: Well, personally I
19 know that names are a lot easier to keep track of
20 than lot and block numbers. Let's go off the
21 record for about five minutes while I think about
22 this.

23 (Short recess.)

24 JUDGE ANDERL: Let's be back on
25 the record. While we were off the record, the

1 parties conferred and Mrs. Snelson is now ready to
2 continue with her questions.

3 Q (BY MRS. SNELSON:) Mr. Lease, did we
4 just confer with you and go through the books and
5 pick out some delinquent accounts and their
6 amounts?

7 A Yes, we did.

8 Q All right. Is it true that we came up
9 with ten accounts totaling \$4,320 that are not
10 collected?

11 A I'm not sure of the amount. I didn't
12 calculate it with you, but I gave you the amounts.

13 Q In order to verify this --

14 JUDGE ANDERL: The way you can do
15 it is, you can ask him if he would agree, subject
16 to check, that the amount is \$4,320 and then give
17 him an opportunity to check it at another break.

18 Q (BY MRS. SNELSON:) Could you agree,
19 subject to your adding up the figures that we have
20 here?

21 A Yes.

22 JUDGE ANDERL: Mr. Lease, just
23 for your information, if it turns out that you
24 don't agree with that, you have to make sure you
25 let me know on the record.

1 THE WITNESS: I understand.

2 JUDGE ANDERL: Okay.

3 Q (BY MRS. SNELSON:) Is it true that you
4 have customers who just plain can't afford to pay?

5 A I'm not sure that I understand. People
6 who will not pay?

7 Q No. You have a zero balance for them
8 even though they have been hooked up to water but
9 they are an unusual circumstance and just can't
10 afford to pay, in your opinion, but they are
11 carrying a zero balance on your books? Yes or no?

12 A Yes.

13 Q Yes.

14 MRS. SNELSON: That's all the
15 questions I have.

16 JUDGE ANDERL: All right.

17 Ms. Rendahl, do you have any cross for this
18 witness?

19 MS. RENDAHL: I have no
20 cross-examination questions, Your Honor.

21 JUDGE ANDERL: Mr. Barker?

22 MR. BARKER: Yes, I do.

23 MR. BARKER: I would like to ask
24 Jerry about the viability of the corporation.

25 MRS. SNELSON: I'm sorry. I

1 didn't get into that issue at all.

2 MR. BARKER: At this time I would
3 like to have the financial records presented to the
4 court.

5 JUDGE ANDERL: Okay. Mr. Barker,
6 Mrs. Snelson is correct that she didn't pursue that
7 topic on direct. And ordinarily we do limit the
8 cross to what was brought up through her direct
9 questions. At the close of the Homeowner's case,
10 then you get your whole opportunity to present your
11 direct case, including having yourself or Mr. Lease
12 testify and any other witnesses you want to testify
13 on direct, and that's when it would be appropriate
14 for you to offer those documents.

15 MR. BARKER: Okay.

16 JUDGE ANDERL: Any questions,
17 then, on the testimony that he's given?

18 MR. BARKER: No.

19 JUDGE ANDERL: Anything else for
20 this witness?

21 MRS. SNELSON: No.

22 JUDGE ANDERL: Thank you,
23 Mr. Lease, for your testimony. You may step down.

24 Mrs. Snelson, do you have further
25 witnesses?

1 MRS. SNELSON: Yes. I have
2 Mr. Fred Barker.

3 JUDGE ANDERL: Mr. Barker, if
4 you'd step forward, please. Raise your right
5 hand.

6
7

8 FREDRICK RAY BARKER, JR.,
9
10 called as a witness herein, being first duly sworn
11 to tell the truth, the whole truth and nothing but
12 the truth, was examined and testified as follows:

13
14

15 DIRECT EXAMINATION

16
17

BY MRS. SNELSON:

18 Q Would you state your name for the court
19 reporter, please.

20 A Fredrick Ray Barker, Junior.

21 Q And your address.

22 A 685 O'Sullivan Dam Road, Othello,
23 Washington.

24 Q Mr. Barker, from October of 1992, when
25 Jim Sahli purchased the water company and for

1 several months after that, what was your position
2 with the water company? Were you the manager? What
3 were you?

4 A I was the owner.

5 Q I said when Jim Sahli purchased the
6 water company from Metropolitan Mortgage, then what
7 was your position?

8 A The owner.

9 Q How could you be the owner if Jim Sahli
10 purchased the system?

11 A Because it was only in his name.

12 Q It was what?

13 A It was only in his name.

14 Q At what point in time did you consider
15 yourself the owner?

16 A From the time I put up the money to buy
17 it.

18 Q So in other words, you put up the money
19 to buy it in Mr. Sahli's name?

20 A Yes.

21 Q So you consider yourself the owner?

22 A Yes.

23 Q Why didn't you buy it in your name?

24 A Because I didn't want to.

25 Q Okay. In either capacity, owner

1 manager, whatever, have you ever been concerned
2 about the water quality of the water system up
3 there on the hill?

4 A Yes.

5 Q Can you tell us what steps or action
6 you took to improve the water quality of the water
7 system since you became --

8 A Well, when we purchased the water
9 company, the Grant County Health Department was
10 doing the water samples and they were bad at that
11 time. So I consulted with the -- Jerry consulted
12 with the Health Department; they told me to
13 chlorinize the system.

14 And at that time we, with the help of
15 the engineers and so forth, we decided to add a
16 chlorination pump so that we could get the right
17 amount of chlorine in there, which has to be pumped
18 in constantly, and we proceeded to do so.

19 Q Did that chlorinator pump do the job?

20 A The pump that we had designed to begin
21 with worked for probably a month and then it
22 failed. So then we turned it back in and they
23 issued us another one and it worked for a short
24 time and it failed. I think we went through three
25 pumps. And then we purchased a new pump and

1 installed it, and it's been on there all this time
2 and we're getting good samples now. It's putting
3 in the right amount of chlorine.

4 Q Was there some reason that you went
5 through three pumps or went to the fourth pump
6 before you got one that would work?

7 A Well, when we inquired to different
8 people on what pumps to use or what to use, there
9 was no -- nobody could give us a right answer. And
10 the chlorine pumps that we tried is the ones that
11 have been used in different systems. But we have a
12 problem up there with the head pressure at the
13 pump, is too great for most of the pumps that we
14 had.

15 Q And how long did it take before you got
16 to the fourth pump, which you say is now doing the
17 job?

18 A How long? Oh, I'd have to go back and
19 look in the records and I don't have them with me.

20 Q Was there anything else that you've
21 done to improve the system since you became --

22 A We had hired Harms Associates to do a
23 water facility report, and he has went ahead and
24 prepared the report and it's been turned in. And
25 we're awaiting the results of it.

1 Q Have you done anything physically to
2 the system to improve?

3 A We have done nothing physically other
4 than that, the chlorination pump.

5 Q Okay.

6 A We've done no construction. The system
7 was built by Metropolitan Mortgage, most of it. It
8 was okayed by the Health Department and it was
9 signed off. And we bought an existing system that
10 was okayed and approved by the Health Department.

11 Q After the administrative order was
12 issued in April of '93 with -- I can't recall.
13 There were a number of violations, 11 violations.
14 What steps did you take, then, at that time to
15 improve the system so that --

16 A We hired Harms Associates, and they
17 went ahead and worked this out with the Health
18 Department.

19 Q Has anything physically been done to
20 the system to improve it since the administrative
21 order?

22 A You are not allowed to do anything
23 physically until you have the Health Department's
24 okay. You have to submit a mechanical or
25 electrical, a complete detail of what you want to

1 do, and then they okay it and you are allowed to
2 proceed with it.

3 Q Have you submitted any intentions to
4 the Health Department of things that you intend to
5 do?

6 A Yes. We've worked with Harms and
7 Boundary Engineering. They are submitting a
8 complete detailed drawing for a new addition on the
9 well house, which contains a tank and moving the
10 pump out into the new room. It's the design that
11 Harms designed in the preliminary -- or in the
12 water facility report.

13 Q Does that include any work to be done
14 on the chlorination system?

15 A Yes. That's the whole chlorination
16 system. Once it's submitted, okayed, then we'll
17 proceed with it. We are not allowed to do anything
18 until it's been okayed.

19 Q Has the present chlorination system
20 been approved by the Health Department?

21 A It's in the plan, we had submitted
22 drawings for it, and they had been sent to Sanders.
23 Harms had taken care of that.

24 Q But as yet that has not been -- I
25 thought you said that things have to be

1 pre-approved before -- you have to get permission
2 from the Health Department before you do work on
3 the system.

4 A Right. But they told us to go ahead
5 and chlorinate the system so that we could bring it
6 up to standard. The only way to chlorinate it was
7 to install a chlorination pump.

8 Q But that still has not been approved by
9 the Health Department.

10 A They had the drawings and everything,
11 and it's up to the engineers and Sanders to work
12 this out.

13 Q Have you notified the customers
14 regarding the ownership of the company, in other
15 words, the board members, the stockholders and
16 such, that was asked of you at the pre-hearing?
17 Have you done that to all of the customers, your
18 water customers?

19 A No.

20 Q May I ask why?

21 A Okay. We turned this over to
22 Crane-Bergdahl, who's been working with Fred
23 Ottavelli and Dan Sanders. And when they can get
24 things coordinated between them as to what has to
25 be done, then Crane will issue a letter and it will

1 be presented to the homeowners.

2 Q Must be a very difficult situation.

3 A They make it very difficult.

4 Q Could you just tell us today who the
5 board members and who the stockholders are?

6 A I am the main stockholder. Jerry is
7 the secretary.

8 Q Who are the the board members of the
9 corporation?

10 A There's no board members.

11 Q Who are the other stockholders?

12 A None.

13 Q You're the major stockholder?

14 A Yes. I'm the president, yes, and
15 stockholder, 100 percent.

16 Q 100 percent stockholder?

17 A Yes. I had a paper prepared which I
18 was going to send out, but in talking to Crane we
19 found that there is a mistake in it, so we didn't
20 proceed with it. But if you'd like a copy, I'll be
21 happy to give it.

22 Q Yes, we would like a copy. But that
23 does not preclude the final copy from your
24 attorney. We still would like to see --
25 Mr. Barker, we'd still like to see the copy, the

1 final copy from your attorney, please.

2 A That's fine.

3 JUDGE ANDERL: Okay. I've been
4 handed a three-page document. The first page is a
5 letter from Mr. Barker to the Marine View Heights
6 water customers, and the next two pages are a
7 separate letter to Crane Bergdahl, B-e-r-g-d-a-h-l,
8 attorney, from Lilia, L-i-l-i-a, Lopez, an
9 Assistant Attorney General for the Department of
10 Health. I'll mark that entire document or entire
11 packet as Exhibit No. 26 for identification.

12 (Exhibit No. 26 was marked for
13 identification.)

14 JUDGE ANDERL: And Mr. Barker,
15 are you the author of the letter on the first page?

16 THE WITNESS: No. Crane,
17 Bergdahl.

18 JUDGE ANDERL: Okay. Are you the
19 signer?

20 THE WITNESS: Yes.

21 JUDGE ANDERL: And how did you
22 come to have a copy of the letter on the second two
23 pages?

24 THE WITNESS: Crane, Bergdahl
25 provided it to me.

1 JUDGE ANDERL: Your attorney
2 provided you with a copy?

3 THE WITNESS: Yes.

4 JUDGE ANDERL: Ms. Rendahl, have
5 you had a chance to look at this?

6 MS. RENDAHL: Not yet, neither
7 document.

8 JUDGE ANDERL: Okay. I'll give
9 you just a minute.

10 MS. RENDAHL: Okay. I have a
11 copy, then, through Mr. Ottavelli, of the letter
12 from Lilia Lopez which I will look at, but I don't
13 have a copy of Mr. Barker's letter at this time.

14 JUDGE ANDERL: There you go.

15 MS. RENDAHL: Thank you very
16 much.

17 Q (BY MRS. SNELSON:) Referring to
18 Exhibit No. 26, can you tell me what the error was
19 that's being worked on?

20 A Well, we incorporated a Marine View
21 Heights, Inc., but we filed the tariff under Marine
22 View Heights Water Company. I think -- if we need
23 to know what the problem is, we need to ask Fred
24 Ottavelli to take a minute and explain the
25 situation if that's permissible.

1 MS. RENDAHL: Maybe after
2 Mr. Barker's testimony is finished, we can recall
3 Mr. Ottavelli for any clarification.

4 JUDGE ANDERL: That would be
5 great. I think he did kind of, yesterday, explain
6 a little bit about some of the problems in terms of
7 who the Commission recognizes as running this water
8 company versus the corporation's.

9 MRS. SNELSON: That's fine.
10 Okay. I have no questions on this.

11 JUDGE ANDERL: Do you have other
12 questions for him?

13 MRS. SNELSON: Yes, I have other
14 questions for him, yes.

15 Q (BY MRS. SNELSON:) Referring to
16 Exhibit No. 20 that's already been admitted into
17 evidence --

18 MS. RENDAHL: Excuse me, Your
19 Honor, which document are we looking at?

20 MRS. SNELSON: No. 20.

21 JUDGE ANDERL: It's a letter to
22 Mr. Still from Mr. Lease.

23 Q (BY MRS. SNELSON:) Mr. Barker, in this
24 letter, Mr. Lease, your Certified Water Operator,
25 Systems Manager, as he calls himself in this

1 letter, wrote to Mr. Still, who is a water customer
2 of yours. In this he refers in the third paragraph
3 to another water company in Benton City. How does
4 that water company -- is there any connection
5 between the Desert Water Company and Marine View
6 Heights Water Company?

7 A No.

8 Q Does Mr. Sahli own shares in the Desert
9 Water Company?

10 A No. It's not a corporation.

11 Q That is not a corporation.

12 A That's a water company, not a
13 corporation.

14 Q You are the sole owner of that?

15 A Yes.

16 Q Was that water company under a
17 moratorium for a number of years in the late '80s,
18 early '90s?

19 A I think that's irrelevant to this case.

20 MRS. SNELSON: Your Honor, I --

21 JUDGE ANDERL: Mr. Barker, answer
22 the question.

23 THE WITNESS: Yes.

24 Q (BY MRS. SNELSON:) Thank you.

25 Mr. Barker, what do you intend to do? You

1 mentioned yesterday that Jerry Lease is going to be
2 gone for a month in September. What do you intend
3 to do for a Certified Water Operator while he's
4 gone?

5 A I have no answer for that.

6 Q Okay. Thank you. Were you involved in
7 the dispute with Mr. Jim Gauron when his property
8 was dug up?

9 A Indirectly, yes.

10 Q Was it an employ or who was it that
11 actually dug up the ground?

12 A It was an employee.

13 Q An employee. Were some of the
14 telephone lines damaged during that digging?

15 A I don't really know because I wasn't
16 there.

17 Q Did the customer bring it to your
18 attention later?

19 A Not until today.

20 Q Do you know why the pipes were cut
21 rather than the valve turned off in this instance?

22 A We had given Jim several shut-off
23 notices and asked him to pay. He told us to shove
24 the water system up our -- so after we gave him a
25 final notice, he didn't respond, I sent two people

1 shut-off notice.

2 Q Did you ever try to contact him by
3 phone just in case you had the wrong address?

4 A Yes.

5 Q Were you able to contact him by phone?

6 A Yes.

7 Q Jerry testified -- Mr. Lease testified
8 that when the company, Marine View Heights,
9 Incorporated, took over the water system, there
10 were several outstanding accounts from Metropolitan
11 Mortgage. Are you aware of those accounts?

12 A Yes, I was.

13 Q Are you aware of what's happened to
14 those accounts?

15 A Some of them, when we bought the
16 company, at the last minute they threw this in. So
17 we had to purchase them. We have -- Jerry's
18 attempted to collect them. Some of them were
19 turned over to collection. I'm not sure just where
20 we are at on this. I've turned this over to Jerry
21 and he's taking care of it.

22 Q If I'm not mistaken, Jerry -- well, I
23 take that back. Who made the decision not to bill
24 Jerry Lease, Jim Sahli and Willy Womach?

25 A I don't know.

1 up there to dig it up and cap it.

2 Q Is this normally the way that you do
3 your shut-offs?

4 A When they have been there for several
5 years and we haven't been able to collect and we
6 have given them a shut-off notice, we just shut it
7 off.

8 Q But what I'm asking is, is the normal
9 way of shut-off then --

10 A I would say no.

11 Q No, that is not your normal way to shut
12 off?

13 A No.

14 Q Why did you do it that way in this
15 instance?

16 A Because he had never paid from the time
17 he had lived there.

18 Q How did you go about trying to collect
19 from Mr. Gauron?

20 A We billed him every month.

21 Q When you initiated the shut-off
22 procedure, what attempts did you make to try and
23 contact him?

24 A We sent him a shut-off -- We sent him a
25 bill, and when he didn't pay, we sent him a

1 Q You're 100 percent owner of the
2 company?

3 A Yes.

4 Q Did you authorize someone not to bill
5 Mr. Lease, Mr. Sahli and Mr. Womach? Who was doing
6 the books at the time? I'm sorry. I'll rephrase
7 that. Who was doing the books at the time before
8 Jerry took over?

9 A Jim Sahli.

10 Q Did you ever have occasion to talk to
11 Mr. Sahli about Mr. Lease, Mr. Sahli and
12 Mr. Womach?

13 A I don't think I have an answer for you
14 at this time on this.

15 Q Were you aware that they were not being
16 billed?

17 A Yes, I was.

18 Q And was this okay with you? Was
19 Mr. Sahli acting the way that you felt he should
20 handle his books by not billing those people?

21 A Yes.

22 Q Before Mr. Lease took over the books,
23 do you know whether notices were always sent to
24 water system users when the water tested bad?

25 A Yes. They were sent out with the bills

1 each month. If there was a bad sample, we printed
2 up the notices and they were put right into the
3 bill and sent out.

4 Q All right. I'm going to back up just a
5 little bit. You answered that you did not buy the
6 system in your name because you didn't want to. Is
7 it true, Mr. Barker, that Metropolitan Mortgage
8 wouldn't sell it to you?

9 A That's a good question. I don't have
10 an answer for you.

11 Q Just yes or no.

12 A No.

13 Q Thank you. You have another customer,
14 Mrs. Church, I believe, who was quite a bit in
15 arrears. Why did you not shut her off as you did
16 Mr. Gauron?

17 A We -- Jerry and them attempted to shut
18 her off but she poured cement in her pipe so it
19 wasn't able to be shut off. And I have no reason.
20 I don't know why they didn't shut her off. I would
21 have done it if I was in charge.

22 Q But you're the owner and so you
23 approved that they let her carry --

24 A I did not approve it.

25 Q -- that he carries a balance on the

1 books rather than shut her off?

2 A I have no idea.

3 Q Okay. Do you recall Mr. Snelson coming
4 to your office to pick up the notices to have of
5 the water samples in order to be advised of whether
6 they were good or bad? Do you remember him coming
7 down to the office and asking if he could have
8 copies of the samples?

9 A I remember him coming down, yes.

10 Q And I believe at that time he said
11 because we haven't been notified whether or not the
12 last several months were good or bad. Is that
13 true?

14 A I don't remember that.

15 Q One last question. If we all pour
16 cement in our pipes, can we have free water,
17 Mr. Barker?

18 A Well, we'd probably have to just turn
19 the system off.

20 MRS. SNELSON: Okay. No further
21 questions.

22 JUDGE ANDERL: Okay. Hang on,
23 Mr. Barker. Ms. Rendahl, any cross for this
24 witness?

25 MS. RENDAHL: Yes. I have a few

1 questions, Your Honor.

2

3

4

CROSS-EXAMINATION

5

6 BY MS. RENDAHL:

7

8

9

Q Mr. Barker, isn't it true that you first obtained ownership of the water system in 1983?

10

A Yes.

11

12

13

Q And isn't it true that you quit claimed the water system to the Metropolitan Mortgage and Security Company in 1986?

14

A Yes.

15

Q Why did you do that?

16

17

18

19

20

21

22

A They had a mortgage on my store and I either give them the water company or they would take my store, so it was kind of a blackmail deal. So I went ahead and give them the water company, and we had an agreement that in five years I could buy it back at a certain price or when they had sold so many lots.

23

24

Q Why did you then not purchase it back in your own name?

25

A When we was purchasing it, I had a

1 broker who was doing the dealing. And when they
2 bought it, it was supposed to be transferred back
3 into Marine View Heights, Inc., and --

4 Q I don't think you responded to my
5 question. Why did you not purchase it in your own
6 name?

7 A Because I wasn't able to, because they
8 wanted cash, and with a broker we was able to get
9 it on a contract.

10 Q Looking at Exhibit No. 26, which is
11 your proposed letter or letter of notice of
12 ownership transfer. Why has Mr. Sahli not signed
13 this document?

14 A Exhibit 26?

15 Q Correct.

16 A Because I guess Crane said he didn't --
17 his name wasn't on the bottom to sign it. Sahli
18 has signed the stock certificate.

19 Q Do you intend to file a notice of
20 transfer to seek approval of transfer with the
21 Washington Utilities and Transportation Commission?

22 A Yes. Crane is -- I talked to Fred
23 Ottavelli. He's talked to Crane. And I hope that
24 with what Fred's told us, we can go through those
25 steps and get it done correctly.

1 MS. RENDAHL: I have no further
2 questions, Your Honor.

3 JUDGE ANDERL: Okay. Mr. Barker,
4 I have a few questions for you.

5

6

7

EXAMINATION

8

9 BY JUDGE ANDERL:

10 Q Do you have copies of the notices for
11 each of the ten months that the water was bad, the
12 notices that you've testified were in fact sent
13 out?

14 A I would say yes.

15 Q Can you provide those to me? Do you
16 have them here in the room with you today?

17 A We will try to provide what we have
18 records of.

19 Q Perhaps even just by the next hearing
20 session because obviously have --

21 A No problem, whatever we have we will
22 provide.

23 Q Because we have testimony from several
24 witnesses that say they didn't receive four or
25 five.

1 Mr. Barker, do you have anything in
2 general that you would like to say just in response
3 to what Mrs. Snelson has questioned you about?
4 Like I said, you'll have your own opportunity to do
5 your full direct case in a little bit here. But
6 just in regard to the questioning from the parties
7 thus far, is there anything you want to say?

8 A No.

9 JUDGE ANDERL: Anything else for
10 this witness?

11 MRS. SNELSON: I have one other
12 question, please.

13

14

15

REDIRECT EXAMINATION

16

17 BY MRS. SNELSON:

18 Q In response to Ms. Rendahl's question,
19 you said Mr. Sahli didn't sign that particular
20 letter but he signed the stock certificate. Does
21 this mean that Mr. Sahli does have stock in the
22 corporation?

23 A He did have.

24 Q He did have. He has relinquished that
25 stock?

1 A Yes.

2 Q How did he relinquish that stock?

3 A In a previous letter he had quit
4 claimed everything to the corporation, but we did
5 not go through with the stock transfer until --
6 Crane was waiting for Dan Sanders to okay this.

7 Q So the stock transfer took place when?

8 A It's signed, but it hasn't been -- I
9 don't know if it's been recorded or not, but it's
10 all signed.

11 Q So as of this date he still owns stock
12 in Marine View Heights, Incorporated?

13 A Not since he signed it.

14 Q Legally.

15 A I don't know that legal question or the
16 answer.

17 MRS. SNELSON: Okay.

18 JUDGE ANDERL: That it?

19 MRS. SNELSON: That's it.

20 JUDGE ANDERL: Okay. Mr. Barker,
21 thank you for your testimony. Ms. Rendahl, any
22 objection to the admission of Exhibit 26?

23 MS. RENDAHL: No, Your Honor.

24 JUDGE ANDERL: Okay. I'll admit
25 that document.

1 (Exhibit No. 26 was admitted.)

2 JUDGE ANDERL: Mrs. Snelson,
3 further witnesses?

4 MRS. SNELSON: Your Honor, I'd
5 like to recall just briefly so that I may enter a
6 document. I'd like to recall a witness, please.

7 JUDGE ANDERL: All right.

8 MRS. SNELSON: Joyce Helgeland,
9 please.

10 JUDGE ANDERL: Ms. Helgeland,
11 you're still under oath from having been previously
12 sworn in this matter. Go ahead.

13

14

15 JOYCE HELGELAND,

16

17 having been previously sworn to tell the truth, the
18 whole truth and nothing but the truth, resumed the
19 stand and testified as follows:

20

21

22 REDIRECT EXAMINATION

23

24 MRS. SNELSON: All right. I
25 would like to enter Complainants Exhibit No. 38,

1 please.

2 JUDGE ANDERL: Okay. I'll mark
3 that as Exhibit No. 27.

4 (Exhibit No. 27 was marked for
5 identification.)

6 JUDGE ANDERL: Mrs. Helgeland,
7 can you take a look at that and tell me if you can
8 identify that letter?

9 THE WITNESS: Yes, I can.

10 JUDGE ANDERL: Can you tell me
11 what it is?

12 THE WITNESS: It's a letter from
13 the water company on the water notices they got on
14 their door.

15 JUDGE ANDERL: And how is it that
16 you recognize that letter?

17 THE WITNESS: Because it came to
18 the Homeowners Association and I usually pick up
19 the mail.

20 JUDGE ANDERL: And at the time
21 that you received it, you were the president?

22 THE WITNESS: No, treasurer.

23 JUDGE ANDERL: Treasurer, okay.
24 That's right.

25 THE WITNESS: And they are our

1 neighbors right in back of us.

2 JUDGE ANDERL: And you would
3 recognize their handwriting or signature?

4 THE WITNESS: Oh, yeah. We sort
5 of watched their place.

6 JUDGE ANDERL: All right.
7 Mrs. Snelson, did you have any questions about this
8 letter?

9 MRS. SNELSON: No. That's all I
10 have on that.

11 JUDGE ANDERL: Ms. Rendahl, do
12 you have any objection?

13 MS. RENDAHL: No, Your Honor.

14 JUDGE ANDERL: Mr. Barker?

15 MR. BARKER: No.

16 JUDGE ANDERL: I'll admit No. 27,
17 then. That's the letter from the witnesses.
18 Mrs. Snelson?

19 (Exhibit No. 27 was admitted.)

20 MRS. SNELSON: I need to recall
21 one more witness, Mr. Snelson, please.

22 JUDGE ANDERL: Mr. Snelson,
23 you're also still under oath. Go ahead.

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JAMES SNELSON,

having been previously sworn to tell the truth, the whole truth and nothing but the truth, resumed the stand and testified as follows:

REDIRECT EXAMINATION

MRS. SNELSON: I'd like to enter Complainants Exhibit No. 46 and 47.

MR. BARKER: I object, Your Honor.

JUDGE ANDERL: Okay. I kind of do, too. Of course I've seen these before. Mr. Barker, what these two documents are, appear to be physicians' notes, as near as I can tell.

Mr. Barker, what's your objection?

MR. BARKER: It's hearsay and we should have medical opinion if these are to become admissible.

JUDGE ANDERL: Ms. Rendahl?

MS. RENDAHL: In addition to those objections, I believe one has to do with a Rosalie Church and the other, if I'm not mistaken, marked

1 No. 47, deals with Arlene Gaulding, and neither of
2 these individuals has been -- has testified or I
3 don't know if they are going to testify, but I
4 don't know that Mr. Snelson would be the
5 appropriate person to sponsor this.

6 The person who is most appropriate to
7 sponsor it would be the doctor who made the
8 records.

9 MRS. SNELSON: The reason that I
10 felt that I could enter these is that these were
11 given to Mr. Snelson by Mrs. Church.

12 JUDGE ANDERL: I'm going to have
13 to sustain the objections in this case. It is
14 hearsay, a bit far removed from the original person
15 who made the statements, and we don't have a
16 witness with first-hand knowledge. It would be,
17 at best, secondhand knowledge as to the origin and
18 accuracy of these statements. I think I will
19 sustain the objection and decline to admit these.

20 MRS. SNELSON: I have a notarized
21 statement from Mrs. Church, directly from
22 Mrs. Church that was given to Mr. Snelson. Could I
23 admit that into evidence?

24 JUDGE ANDERL: And that is?

25 MRS. SNELSON: It's a letter

1 concerning her medical.

2 JUDGE ANDERL: Okay. And why
3 wasn't she able to testify yesterday or today?

4 MRS. SNELSON: According to her,
5 she has medical problems and was not able to come
6 so she gave us a notarized statement.

7 JUDGE ANDERL: Okay. Do you have
8 copies for everyone? Let's take a minute off the
9 record. I'll let the parties take a look at it and
10 see if there's going to be any objection to it and
11 make a ruling.

12 (Short recess.)

13 JUDGE ANDERL: Let's be back on
14 the record. While we were off the record, the
15 parties had an opportunity to look at this record.
16 Both have indicated to me, both the Commission
17 staff and Mr. Barker have indicated that they would
18 object to this, Ms. Rendahl, for reasons that the
19 witness isn't available for cross and Mr. Barker
20 has stated that he believes it's irrelevant to the
21 case.

22 Looking at it, I think it would be very
23 prejudicial to the Company to admit this type of a
24 statement without the witness here to cross-
25 examine. On that basis, I would sustain the

1 objection to it and not admit it.

2 MRS. SNELSON: Thank you.

3 JUDGE ANDERL: Okay. Anything
4 else? That concludes your direct case, then?

5 MRS. SNELSON: That concludes my
6 direct case.

7 JUDGE ANDERL: Let's go off the
8 record, then, and discuss how we're going to
9 proceed from here.

10 (Short recess.)

11 JUDGE ANDERL: We took a
12 five-minute break to discuss how we were going to
13 proceed, and I think we did a number of things off
14 the record which I want to make sure are on the
15 record, that Mr. Barker did ask for a continuance.

16 I told him now that the Complainant's
17 case is completed, it's the Respondent's turn and
18 he needed to be ready to go ahead with his case.
19 He indicated to me that he was not ready at this
20 time and asked for a continuance and to be allowed
21 to present his case in chief the next time we
22 convene.

23 Mr. Barker, is there anything you want
24 to add to that?

25 MR. BARKER: No.

1 JUDGE ANDERL: All right. And
2 Ms. Rendahl and Mrs. Snelson both did object.

3 Mrs. Snelson, would you like to state
4 your objection for the record?

5 MRS. SNELSON: Yes. We presented
6 Mr. Barker with our witness list and exhibit list
7 before this hearing. He had an opportunity to look
8 at it and to examine it. We have not been
9 presented with a witness or an exhibit list in
10 order to prepare our case. Therefore, it would be
11 prejudicial, in my opinion, for Mr. Barker to be
12 able to assimilate the information that we have
13 given so far in our case in order to prepare his
14 case and take it to an attorney. And on that
15 basis, I do object.

16 JUDGE ANDERL: Okay. And
17 Ms. Rendahl?

18 MS. RENDAHL: I would just state
19 that I think the Company was warned or notified in
20 the pre-hearing conference that was held on June
21 15th, that this hearing would go forward. If the
22 hearing went forward on July 25th, that the Company
23 and the Homeowners should be prepared to present
24 their case at that time. And so I believe there's
25 been ample notice in order to prepare for the

1 hearing yesterday and today, and so I don't believe
2 there should be a continuance granted at this time.

3 JUDGE ANDERL: Okay. I think for
4 the reasons stated by the Complainant and the
5 Assistant Attorney General, I do have to deny the
6 motion for a continuance. I believe that it is not
7 timely made and I believe that it is without good
8 cause. I think that the Respondent has known about
9 the issues raised in this complaint for many
10 months, and even though the witness lists and
11 exhibits were exchanged rather close to the time of
12 hearing, I don't believe that that prevented the
13 Respondent from preparing their case.

14 I think, as I said off the record, that
15 the Homeowner's complaint fairly defined the issues
16 and that their presentation yesterday and today
17 were well within the scope of the complaint as
18 filed. There were no surprises. There wasn't
19 anything brought up which the Respondent didn't
20 know about beforehand.

21 We did agree that the Complainant and
22 the Respondent needed to be ready to go on the
23 25th. We did take an extra day now and go into the
24 26th, and I do believe that would work a prejudice
25 to the Complainant to allow the Respondent six

1 additional weeks now to get his case together and
2 present it the next time we convene.

3 In accordance with the pre-hearing
4 conference transcript, the Commission Staff is not
5 required to go ahead today and we will be
6 scheduling another day, likely in September, for
7 that testimony. We'll talk about that in just a
8 moment.

9 I did ask Mr. Barker while we were off
10 the record what he would present if I did require
11 him to go ahead today. He indicated to me that
12 likely he would offer a financial statement and
13 perhaps maybe one or two other things. Mr. Barker,
14 based on my ruling, the Respondent does have to go
15 ahead and present its case in chief, so I will let
16 you offer whatever testimony or evidence you would
17 like to at this time.

18 MR. BARKER: Okay. Can I have a
19 minute to confer with Jerry?

20 JUDGE ANDERL: Yes. Let's be off
21 the record for just a minute.

22 (Short recess.)

23 JUDGE ANDERL: Let's be back on
24 the record. Go ahead, Mr. Barker.

25 MR. BARKER: Okay. On our behalf

1 we'd like to submit a profit and loss statement or
2 just a financial statement for the water company.

3 JUDGE ANDERL: Okay. And do you
4 have copies for everybody or can you make copies
5 available?

6 MRS. SNELSON: Your Honor, may I
7 object to any documents that are fairly lengthy in
8 nature that the homeowners have not had a chance to
9 look at and prepare for?

10 JUDGE ANDERL: Well, yeah.
11 Mr. Barker, how come you didn't exchange these as
12 exhibits beforehand like I told you to during the
13 pre-hearing conference? I told you that the
14 homeowners had to send you their exhibits and you
15 have to send them yours.

16 MR. BARKER: I didn't have them
17 until today.

18 JUDGE ANDERL: Where were they
19 before today?

20 MR. BARKER: On the computer.

21 JUDGE ANDERL: Let's have him
22 distribute them and then after you have a chance to
23 see them you can decide if you have an objection to
24 them.

25 Okay. There is a single-page profit

1 and loss statement. Does appear to be computer
2 generated and it is dated today. I'll mark it for
3 identification as Exhibit No. 28.

4 I was going to say now the first profit
5 and loss is January through December of 1994, so it
6 has six months of actuals and six months of
7 estimates.

8 MR. LEASE: No. It's up to
9 today, as of today.

10 JUDGE ANDERL: So Mr. Barker, on
11 this Exhibit No. 28, instead of January through
12 December '94, should it say January through July
13 '94?

14 MR. BARKER: Yes.

15 JUDGE ANDERL: I'm going to
16 change that on the actual exhibit.

17 MS. RENDAHL: Should be January
18 through July?

19 JUDGE ANDERL: Yes. And then
20 I'll mark for identification as Exhibit No. 29, a
21 profit and loss statement for calendar year 1993.
22 And then the vendor balance detail is also -- I'll
23 mark a document entitled Vendor Balance Detail as
24 Exhibit No. 30.

25

1 (Exhibit Nos. 28, 29, and 30 were
2 marked for identification.)

3 JUDGE ANDERL: Mr. Barker, was
4 that all the documents that you had?

5 MR. BARKER: We have one more
6 document that we'd like to issue for the record.

7 JUDGE ANDERL: Okay. I'll mark
8 for identification as Exhibit No. 31 -- what is
9 this exactly?

10 MR. BARKER: Just a statement
11 from the certified operator and me.

12 JUDGE ANDERL: Basically is this
13 your response to the Complaint, then?

14 MR. BARKER: It will have to be.
15 Then I'd like to call --

16 JUDGE ANDERL: And Mr. Barker,
17 then, if you were to take the stand and testify,
18 does this statement represent what you would say?

19 MR. BARKER: Yes.

20 JUDGE ANDERL: And is that true
21 and correct to the best of your knowledge and
22 belief?

23 MR. BARKER: Yes.

24 (Exhibit No. 31 was marked for
25 identification.)

1 JUDGE ANDERL: Okay. And who
2 prepared Exhibits 28, 29 and 30?

3 MR. BARKER: Jerry Lease.

4 JUDGE ANDERL: Okay. Mr. Lease,
5 since you've both already been sworn to testify in
6 the Complainant's case, I am asking you these
7 questions essentially under oath, but I'm not going
8 to make you come up here to the witness stand.

9 MR. BARKER: Could Jerry come up
10 and explain this just briefly? Maybe they have
11 some questions they would like to ask him.

12 JUDGE ANDERL: I am going to
13 consider these for exhibits to be offered. I'm not
14 going to admit them yet.

15 Mr. Barker, you've called Mr. Lease as
16 your witness?

17 MR. BARKER: Yes.

18 JUDGE ANDERL: What is it that
19 you would like him to testify about?

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JERRY LEASE,

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3 having been previously sworn to tell the truth, the
4 whole truth and nothing but the truth, resumed the
5 stand and testified as follows:

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DIRECT EXAMINATION

9

10 BY MR. BARKER:

11 Q Jerry, this financial statement was
12 taken off the computer from your records of -- that
13 you've put in there from month to month?

14 A That's correct.

15 Q And it shows what the water company has
16 taken in up to this date, through this year, of
17 14,841?

18 A Yeah, that's correct.

19 Q And it shows some things on there like
20 expenses to Metropolitan Mortgage 11,479, Harms and
21 professional fees that's being paid.

22 MRS. SNELSON: Your Honor, I
23 hesitate to see what this has to do with our case.

24 JUDGE ANDERL: Well, I'm just
25 kind of giving him a chance to -- I understand that

1 you may have some objection as to relevance. If
2 you would want to make an objection as to
3 relevance, then you could ask Mr. Barker to explain
4 why it is that he's offering these.

5 MRS. SNELSON: I do make an
6 objection to the relevance of these documents and
7 of this current testimony.

8 JUDGE ANDERL: And Mr. Barker,
9 can you then state for the record --

10 MR. BARKER: The main reason we
11 are presenting this is to show the viability of the
12 Company and to show that it does need a rate
13 increase if it's going to continue on and provide
14 the service and operation of a good company.

15 JUDGE ANDERL: Okay. But this
16 isn't a rate proceeding.

17 MR. BARKER: Pardon?

18 JUDGE ANDERL: This isn't a rate
19 proceeding.

20 MR. BARKER: We're going to file
21 a rate increase and I recognize at that time the
22 UTC will come over and audit these records and
23 together we can come up with the right figures.

24 MRS. SNELSON: Your Honor, I feel
25 that that could be addressed at that time. However

1 in this hearing we are not -- we are not dealing
2 with a rate increase. Or I just feel this could be
3 addressed at a later time with the WUTC.

4 MS. RENDAHL: Your Honor, I think
5 that's a valid point. However the Homeowners
6 Association did raise, through Mr. Ottavelli, the
7 question of whether the Company was viable or not.
8 And because of that line of questioning, I think it
9 has opened the door for allowing in some evidence
10 by the Company as to viability.

11 JUDGE ANDERL: Okay. Well, I
12 appreciate you recalling that, because I didn't
13 remember that and was kind of on the fence about
14 these documents. I think, given the fact that it
15 has been an issue, albeit a minor one, I'm going to
16 allow the Company to present these three documents
17 on that issue.

18 MR. BARKER: Thank you.

19 JUDGE ANDERL: Any other
20 questions for Mr. Lease?

21 MR. BARKER: No, not at this
22 time.

23 JUDGE ANDERL: Then Mr. Lease,
24 with regard to Exhibit 31, did you also sign this
25 exhibit?

1 THE WITNESS: Yes, I did.

2 JUDGE ANDERL: And if you were to
3 testify further in this proceeding, does this
4 statement represent testimony that you would give?

5 THE WITNESS: Yes.

6 JUDGE ANDERL: And is that true
7 and correct to the best of your knowledge and
8 belief?

9 THE WITNESS: Yes.

10 JUDGE ANDERL: Any questions on
11 cross, Ms. Rendahl?

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CROSS-EXAMINATION

15

16 BY MS. RENDAHL:

17 Q Mr. Lease, looking at the Exhibits No.
18 28 and 29, under the expenses listed, looking at
19 where it states professional fees, are you
20 receiving a salary from the Company?

21 A No, I'm not yet.

22 Q Not yet?

23 A No. The Company is not viable enough
24 to pay me or the bills. These are outstanding
25 bills that the Company needs to pay for.

1 Q So there is no amount under
2 professional fees or for payment to you for your
3 services?

4 A On Exhibit No. 30, you'll see my name
5 there. That's where my fees are instituted.

6 MRS. SNELSON: Which one is fee,
7 I'm sorry?

8 THE WITNESS: The Vendor Balance.

9 Q (BY MS. RENDAHL:) So does this
10 indicate where it says total, Jerry Lease and you
11 look across, does that mean that you are owed \$4800
12 from the Marine View Heights, Incorporated?

13 A That's correct.

14 MS. RENDAHL: I have no further
15 questions.

16 JUDGE ANDERL: Mrs. Snelson, any
17 questions?

18 MRS. SNELSON: Yes. We have two
19 questions.

20

21

22 CROSS-EXAMINATION

23

24 BY MRS. SNELSON:

25 Q Is this a cash or accrual basis?

1 A I don't understand what you mean.

2 Q Are these actual cash paid expenses or
3 are you accruing your expenses on these figures?

4 A These are the -- I don't understand
5 what accrual means, I guess.

6 JUDGE ANDERL: Let me see if I
7 get it right. Do you record these as you pay them
8 or as they become due?

9 THE WITNESS: The computer
10 records them as I pay them or if they are due.

11 JUDGE ANDERL: Well, I think it
12 sounds like they are doing it on a combination of
13 cash and accrual.

14 THE WITNESS: What's paid is put
15 on here and what's due is on there as well. Like
16 the professional fees are all fees that are
17 outstanding that aren't paid, but some of the
18 expenses like the loan interest, is actual paid so
19 far this year.

20 JUDGE ANDERL: Go ahead. Could
21 you identify yourself for the record?

22 JIM REAVIS: I'm Jim Reavis,
23 R-e-a-v-i-s.

24 JUDGE ANDERL: And you're a
25 homeowner?

1 JIM REAVIS: Yes.

2 JUDGE ANDERL: Member of the
3 Association?

4 JIM REAVIS: Yes.

5 JUDGE ANDERL: You're the
6 accounting person? Why don't you go ahead and ask
7 the question.

8 JIM REAVIS: This one, I believe
9 it's Exhibit 30, Marine View Heights Vendor Balance
10 Detail, Accounts Payable, have these accounts been
11 paid or are they just -- due, accounts payable
12 indicates to me that they are not paid yet.

13 THE WITNESS: That's correct.

14 JIM REAVIS: So you're on what's
15 called a hybrid method cash expense and income?

16 THE WITNESS: I don't think I
17 know what you mean.

18 Q (BY MRS. SNELSON:) Our other question
19 is, can you explain why there was such a big drop
20 in income from -- we have a half a year 1993, you
21 had an income of \$15,000, half a year 1993 of
22 \$15,000, half a year 1994, \$5500. Can you explain
23 that drastic drop?

24 JUDGE ANDERL: Only one of you
25 can talk while you're asking these questions. If

1 the Homeowners Association would refer the witness
2 to what document you want him to look at and then
3 ask the question.

4 Q (BY MRS. SNELSON:) Document No. 29 you
5 show total income for January through July of 1994
6 as \$5,485.

7 JUDGE ANDERL: Excuse me, that's
8 Exhibit 28.

9 MRS. SNELSON: I'm sorry. We
10 have got our numbers wrong.

11 JUDGE ANDERL: The very first
12 line, right?

13 THE WITNESS: Yeah.

14 JUDGE ANDERL: Total income, I'm
15 sorry.

16 Q (BY MS. SNELSON:) It says total income
17 \$5,485; is that correct?

18 JIM REAVIS: I notice -- I'm
19 familiar with an income statement where income is
20 shown at the top and miscellaneous, other income is
21 down at the bottom. And I see now where he has
22 accounts receivable at the top, and down at the
23 bottom he has other income, and I assume that to be
24 normal receipts.

25 THE WITNESS: The total number of

1 income down at the bottom of 28 is what has been
2 received from the Company so far this year. Up at
3 the top where it says 5,485 is accounts receivable.

4 JIM REAVIS: Which is
5 uncollected.

6 THE WITNESS: Yes.

7 JIM REAVIS: And to further
8 clarify, on Exhibit 29 we have total income as
9 shown up at the top -- no, it's down at the bottom,
10 too, \$31,322, other income. Okay. That explains
11 it.

12 JUDGE ANDERL: Thank you. Any
13 other questions for this witness?

14 MRS. SNELSON: No. But I do wish
15 to actually -- I don't know how to do this, but
16 object to the fact that we have had such little
17 time to look over these documents, and because they
18 are accounting documents and it would take an
19 accountant to really sit down and look at them, I
20 object to them being used in this way when we
21 haven't had a chance to look them over.

22 JUDGE ANDERL: Well, I think that
23 technically the offering of these documents in this
24 way does kind of put you at a disadvantage. On the
25 one hand, it could be argued that the Company

1 you may step down. Anything else from the
2 Respondent at this time?

3 MR. BARKER: None, Your Honor.

4 JUDGE ANDERL: Okay. Mr. Barker,
5 because I did ask you about the notices to water
6 customers during each of the ten months that you
7 got bad samples, that is another set of documents
8 that I will allow you to offer during the next
9 hearing session. At this point in my ruling, that
10 will be the only additional evidence that you'll be
11 allowed to present. However, I think you should be
12 there, of course.

13 Commission Staff will present its case
14 at the next hearing. Is there anything further to
15 come before us today?

16 MRS. SNELSON: Your Honor, on
17 Exhibit 31, his statement that he is offering in
18 lieu of direct testimony, until we have a chance to
19 read this and cross-examine on this, I haven't had
20 a chance to read it yet, but this in fact does not
21 give us a chance to cross-examine his statements on
22 here. It only allows it to be allowed into
23 evidence.

24 JUDGE ANDERL: That's true.
25 Would you like a break now or would you like to

1 reserve your right to cross during the next
2 session?

3 MRS. SNELSON: We'll reserve our
4 right to cross at the next session.

5 JUDGE ANDERL: I'll allow that.
6 Anything else to come before us? All right. We
7 have talked about the next hearing day.
8 Preliminarily everyone has agreed that September
9 13th will work. I have to check the availability
10 of the hearing room. I will send out a letter
11 confirming the date, time and place of the next
12 hearing session, and I will do that on Thursday or
13 Friday of this week so look for it. We'll stand
14 adjourned until the next session.

15 (Adjourned at 12:35 p.m.)

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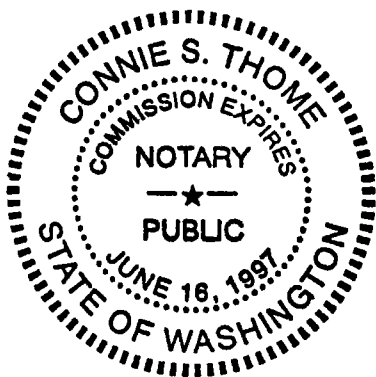
1 STATE OF WASHINGTON)
2 County of Benton) ss.
3)

4 I, CONNIE S. THOME, do hereby
5 certify that at the time and place heretofore
6 mentioned in the caption of the foregoing matter, I
7 was a Registered Professional Reporter and Notary
8 Public for Washington; that at said time and place
9 I reported in stenotype all testimony adduced and
10 proceedings had in the foregoing matter; that
11 thereafter my notes were reduced to typewriting and
12 that the foregoing transcript consisting of 135
13 typewritten pages is a true and correct transcript
14 of all such testimony adduced and proceedings had
15 and of the whole thereof.

16 WITNESS my hand at Spokane,
17 Washington on this 6th day of August 1994.

18
19 *Connie S. Thome*

20 -----
21 CONNIE S. THOME
22 Notary Public for Washington
23 My Commission Expires: 6-16-97



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25