

**BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

In the matter of the complaint of:)
Sil and Candy Arata; Hahn and Kim)
Bahng; Brig and Pattie Belvin; Dick)
and Patti Blide; Jim and Lynette)
Caldwell; Kris and Carolyn Christ-)
ianson; Ted and Dell Haller; Bill)
and Althea Heagy; Vern Heriott and)
Larry Huffman; Dave and Dorothy)
Johnson; Shinwon and Jeonkak Kim;)
Jan and Robin Krane; Robert and)
Diana Nehls; Phil and Carolyn Rob-)
bins; Chuck and Dia Tadlock; Bill)
and Carol Welch; Ron and Roxanne)
Olson; Jerry and Phoebe Bennett;)
Alan and Susan Cameron)
)
Complainants,)
)
vs)
)
Green Mountain Water LLC)
Respondent.)
_____)

No.
Complaint of Improper
Development and Main-
tenance of Water System
by Respondent

COME NOW the above named Complainants for complaint against Respondent, allege as follows:

1. PARTIES

1.1 The Complainants are the homeowners in Columbia Crest Estates:

Sil and Candy Arata
442 Varsity Road
Kalama, WA 98625

Hahn and Kim Bang
151 Varsity Road
Kalama, WA 98625

Brig and Pattie Belvin
461 Varsity Road

Kalama, WA 98625

Dick and Patti Blide
813 Varsity Road
Kalama, WA 98625

Jim and Lynette Caldwell
30 Varsity Road
Kalama, WA 98625

Alan and Susan Cameron
212 Varsity Road
Kalama, WA 98625

Kris and Carolyn Christianson
242 Varsity Road
Kalama, WA 98625

Ted and Dell Haller
573 Varsity Road
Kalama, WA 98625

Bill and Althea Heagy
704 Varsity Road
Kalama, WA 98625

Vern Heriott and
Larry Huffman
619 Varsity Road
Kalama, WA 98625

Dave and Dorothy Johnson
278 Varsity Road
Kalama, WA 98625

Shinwon and Jeongkak Kim
176 Varsity Road
Kalama, WA 98625

Jan and Robin Krane
62 Varsity Road
Kalama, WA 98625

Robert and Diana Nehls
756 Varsity Road
Kalama, WA 98625

Phil and Carolyn Robbins
438 Varsity Road
Kalama, WA 98625

Chuck and Dia Tadlock
269 Varsity Road
Kalama, WA 98625

Bill and Carol Welch
303 Varsity Road
Kalama, WA 98625

Ron and Roxanne Olson
367 Varsity Road
Kalama, WA 98625

Jerry and Phoebe Bennett
465 Varsity Road
Kalama, WA 98625

- 1.2 Complainants own real property within the water system of Respondent.
- 1.3 The Respondent is Green Mountain H2O LLC, owned and operated by Dan Class. Respondent is a public service company operating a Group A water system in Kalama, Cowlitz County, Washington and is subject to regulation by the Washington Utilities and Transportation Commission (Commission) with its principal place of business at 759 Varsity Road, Kalama, WA 98625.

2. RULES/STATUTES AT ISSUE

- 2.1 The following statutes and provisions of the Washington Administrative Code may be brought into issue: RCW 80.04.440; RCW 80.28.040; RCW 70.119.030; WAC 480-110-395; WAC 480-110-365; WAC 480-110-315; WAC 246-290-200; WAC 246-290-300; WAC 246-290-310; WAC 246-290-320; WAC 246-290-020; WAC 246-290-415; WAC 246-290-480; WAC 246-292-050; WAC 246-294-040
- 2.2 WAC 480-110-395 states that a water company may be required to refund water charges due to poor quality only: when there are violations of the DOH quality standards in WAC 246-290-310 and the company does not take follow up steps outlined in WAC 246-290-320 as enumerated under Statement of Facts.

- 2.3 RCW 80.04.440 allows the Commission to reimburse injured parties for fees paid because of noncompliance with the Rules and Regulations of the State of Washington, Department of Health.
- 2.4 RCW 80.28.040 requires that, if the commission shall find any rules, regulations, practices or acts of any water company are unjust, unreasonable, improper, insufficient, inefficient or inadequate or that any service that may be reasonably demanded is not furnished, the commission shall fix the reasonable rules, regulations, measurements, standard practices, acts or service to be thereafter furnished, imposed, observed and followed and shall fix the same by order of rule. If a water company fails to comply with a Commission's order, the Commission may request that the department petition the court to place the company in receivership.

3. STATEMENT OF FACTS

- 3.1 Green Mountain water LLC is a public water system in Cowlitz County, Washington. Owner of said system is Dan Class whose address is 759 Varsity Road, Kalama, Washington 98625. The system provides water for 19 households and is classified as a Group A community water system (WAC 246-290-020).
- 3.2 Complainants desire reimbursement for water service fees paid since payments began in October 2003 through last billing in August 2010 because of improper and inadequate service as outlined in WAC 480-110-395 and RCW 80.04.440.
- 3.3 WAC 480-110-365 Company Maintenance: The water system has been expanded piecemeal (not following a set plan) since 2000 as the housing development grew resulting in a snake pit of pipes and connections that frequently break down and leak (WAC 246-290-200). Also, the system does not include cross-contamination protection between supply and users (WAC 290-246-200). Department of Health (DOH) recorded outages: 3/24/04, 1/8/05, 1/10/05, 8/10/05, 6/15/07, 9/08, 12/08, 6/2/10, 6/3/10 and 11/25/10.
- 3.4 On many occasions bacterial contamination, particularly by Coliform organisms, has resulted in "Boil your water" and "Do not drink the water" advisories from the DOH, the latest being for 6 months, June 2010 through Dec. 2010.

- 3.5 Violation of duty to monitor bacteriologic quality as required under WAC 246-290-300 and report to DOH as required under WAC 246-290-480. No samples were submitted for April and May 2010. Communication from the respondent to the complainants has been poor, such as when bacteria was found in the water. This has had to come from the DOH.
- 3.6 The State requires that there be a certified water works operator (RCW 70.119.030 and WAC 246-292-050) to manage the system. The presence of an operator has been erratic with none present from April 2010 through the present, December 2010. An SMA operated the system until January 2009 but none thereafter.
- 3.7 WAC 246-290-001: Violation of duty to ensure good operation and maintenanc practices. Per DOH records the owner has: used improper methods for water main repair, failed to properly disinfect after repair, failed to notify consumers of scheduled water outages and improperly operated the water system.
- 3.8 The water supplied by the system exceeded the maximum level for arsenic on or about May 2007 as listed under WAC 246-290-310 and continuing to the present, December 2010.
- 3.9 A plan for arsenic mitigation was requested by DOH in November 2008. In October 2009 an arsenic mitigation plan was submitted to DOH by the Respondent but was not approved.
- 3.10 The owner, Dan Class, was requested by DOH to submit another plan for arsenic mitigation designed by a licensed professional engineer. No further action has been taken by Respondent and no engineer has been hired to design a new construction plan: WAC 246-290-310 and WAC 290-246-320.
- 3.11 WAC 70-119A-040: The above issues culminated in a DOH release 9/1/10 stating that the Respondent was being fined \$21,060 for violating State heath orders to properly maintain the water system and to address on-going problems with arsenic. Orders violated were: failure to hire a professional engineer and submit construction documents for an arsenic removal system, failure to hire a certified water system operator and failure to hire a professional engineer to prepare a formal water system plan. The water system has been previously category red for non-compliance (WAC 246-294-040) and continuing to the present.

- 3.12 The Respondent has been ordered by the DOH to install temporary disinfection at 2 wells because of repeated bacterial contamination over the past 6 months. Submission of a project report and construction documents is required by 12/10/10. Permanent disinfection is ordered by 4/22/10. To date no action has been taken by the respondent (WAC 246-290-320).
- 3.13 The respondent has willfully failed to meet his duties in a responsible manner to provide acceptable water by standards deemed acceptable by the Department of Health and has shown total disregard for the health of the users of his water system (WAC 290-246-415).
- 3.14 The most egregious event happened on Thanksgiving Day, 11/25/10, when a major leak occurred at the lower well house, the result of freezing and thawing of an unprotected pipe (no insulation) which had ruptured. There being no certified operator and the Respondent being in Hawaii, homeowners found the shut off valve to halt the leak. The Respondent was notified and he called 2 friends (uncertified) who repaired the break but in the process failed to fill the water tank; the "transfer switch" breaker was shut off. The pipes have been left exposed to freeze and break again. This violates WAC 480-110-315 "a water company must develop procedures for prompt response to reported failures and emergencies."
- 3.15 WAC 480-110-395: The Department of Health states that the utility is "to maintain DOH standards of quantity and quality" of water." This has never been accomplished since this system was put in operation so we are asking for full compensation for water charges since their inception in October 2003. We are requesting compensation, also, for having to buy bottled water for the past 6 months ("Do not Drink the Water" DOH order). Several homes have put in Reverse Osmosis Systems and they are asking for compensation for same. These expenses are documented in Addendum A for each household.
- 3.16 Per RCW 80.28.040 the Complainants request that the water company be placed in receivership for all the reasons stated above.

Wherefore, Plaintiff prays for relief as follows:

1. That a formal hearing be held on the issues raised by this Complaint.
2. That the Respondent be ordered to immediately reimburse the homeowners for the unacceptable water service provided by the Respondent since the inception of charges as permitted by RCW 80.04.440 and WAC 480-110-395.
3. Penalties as allowed pursuant to RCW 80.04.405.
4. For such other and further relief as the Commission deems just and equitable.

Dated this 13th day of December, 2010.

I certify that the allegations in this complaint are true and correct:

William Heagy
President

Columbia Crest Estates Homeowners Association