

3-7-94

UW-940325

(F)

W.U.C. Secretary

Marion View Heights Homeowners Association
is filing this formal complaint with
the Commission.

Nineteen copies are being submitted.

Any problems please call

Marion Snelson. 509-346-9371

or

Dandy Sanders ⁵⁰⁹⁻346-2313

Thank you

STATE OF UTAH
COMMISSIONER

94 MAR -9 AM 27

03/07/94

UW-940325

RECORDED

'94 MAR - 9 10:27

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

MARINE VIEW HEIGHTS HOMEOWNERS
ASSOCIATION,

Complainants.

vs.

FORMAL COMPLAINT

MARINE VIEW HEIGHTS INCORPORATION,

Respondent.

COMES NOW, Complainants Marine View Heights Homeowners Association, by and through their representative Marion Snelson, on behalf of 110 homeowners in Marine View Heights, and brings the following Formal Complaint against Respondent Marine View Heights Incorporated.

I. Parties.

1. Complainants Marine View Heights Homeowners Association are homeowners living in Marine View Heights near Othello, Washington. Representative's address is 8453 Highland Drive Southeast, Othello, Washington 99344. Complainants live in the

1 utility service area of Respondent Marine View Heights
2 Incorporated. Complainants have been and continue to be
3 customers of Marine View Heights Incorporated water system.

4 2. Respondent Marine View Heights Incorporated is a
5 privately owned water company subject to jurisdiction and
6 regulation by the Washington Utilities and Transportation
7 Commission pursuant to Title 80 RCW. The water company is owned
8 and/or operated by James J. Sahli, whose address is 6794 Canal
9 Street, Othello, Washington 99344, and owned and/or operated by
10 Fred Barker Jr., whose address is Post Office Box 1745, Moses
11 Lake, Washington 98837. The Marine View Heights water system is
12 a public water system in Grant County which provides water for
13 about 110 households and is classified as a Group A community
14 water system as defined in Wac 246-290-020 (3).

15 II. Jurisdiction.

16 The Washington Utilities and Transportation Commission has
17 jurisdiction of this matter pursuant to RCW 80.04.110,
18 80.04.120, 80.04.170, 80.04.220, 80.04.380, 80.04.385,
19 80.04.440, 80.28.010, 80.28.020, 80.28.030, 80.28.040,
20 80.28.050, 80.28.060, 80.28.080, 80.28.090, 80.28.100 and the
21 corresponding regulations.

22 III. Statement of Facts.

23 1. Complainants were notified on their November 1, 1992,
24 water bill that Jim Sahli was the new owner of the water system.
25 Jim Sahli verbally refuted this stating he didn't have a dime in
26 the system and was acting as a front man for the new owner. A
27 Deed of Trust, file number 921029030, recorded in Grant County

1 shows Metropolitan Mortgage transferred ownership of the water
2 system to James J. and Verlyn I Sahli on October 23, 1992.
3 December 1, 1992 complainants received a letter from "The
4 Management - Marine View Heights Incorporated" stating that
5 Respondent Marine View Heights Incorporated had assumed
6 ownership and operation of the water system and was locally
7 owned. Identity of the registered agent was not given. A check
8 with the Secretary of State's office indicated James J. Sahli
9 had reopened a Certificate of Incorporation for Marine View
10 Heights Incorporated, a profit organization. At that time,
11 complainants were notified that a 50% rate increase would become
12 effective January 1, 1993. Complainants contacted the WUTC
13 protesting the rate increase, and attended an open meeting on
14 January 27, 1993. At that meeting, the WUTC put a hold on the
15 rate increase for further investigation. July 14, 1993, the
16 WUTC approved the respondent's request for withdrawal of their
17 rate increase. April 16, 1993, a Quit Claim Deed, file number
18 930416079, recorded in Grant County showed that ownership of the
19 water system was transferred from James J. and Verlyn I. Sahli
20 to Marine View Heights Incorporated, Fredrick R. Barker Jr.,
21 President, James J. Sahli, Secretary. The respondent failed to
22 provide prior written notice to the State Department of Health
23 and the complainants regarding transfer(s) of system ownership.
24 The respondent also failed to ensure all health related
25 standards and training of the new owner regarding operation of
26 the utility were met during the transfer of the utility. WAC
27 246-290-430.

1 **NOTE:** The following statements of facts numbers 2 through
2 17 also reflect and substantiate a violation of the WUTC
3 RCW's 80.04.110 and 80.28.030.

4 2. Respondent operated from October 1992 through February
5 1993, and from April 1993 to October 1993, without a certified
6 water operator as required by WAC 246-290-400 and 70.119 RCW.
7 During that time, their acting water operator was observed to
8 make mistakes, on at least one occasion, when taking water
9 samples. Some of the discrepancies noted were: failing to run
10 water for five minutes prior to sample taking; improper handling
11 of container and lid during sample taking; filling the container
12 with hot water, then dumping it out and refilling with cold
13 water; between tests threw his rubber gloves on dirty dashboard
14 of vehicle, then reused the gloves at the next sample site.

15 3. Respondent failed to submit construction documents to
16 the State Department of Health for the installation of
17 chlorination equipment as required by WAC 246-290-120(2).

18 4. Respondent failed to notify complainants of the maximum
19 contaminant level as required by WAC 246-290-330.

20 5. Respondent distributed water exceeding the maximum
21 contaminant level for coliform bacteria in the following
22 months: December 1992, and January, and March, and April, and
23 July through December 1993. WAC 246-290-310(3).

24 6. Respondent failed to take routine and/or repeat
25 coliform samples at the required frequency for the months of
26 October and December 1992, and January through March, and July
27 1993. WAC 246-290-300(2) and 246-290-480(2).

1 7. Respondent failed to take follow-up action when the
2 water distributed by the system exceeded the maximum contaminant
3 level for coliform bacteria as required by WAC 246-290-320(1).

4 8. Respondent failed to provide continuous and effective
5 disinfection as a minimum level of treatment as required by WAC
6 246-290-250(3), despite the installation of a chlorinator. The
7 taste and smell of chlorine is extremely strong at times.

8 9. Respondent failed to monitor chlorine residuals on a
9 daily basis and to report values monthly to the State Department
10 of Health for the months of December 1992, and January,
11 February, and March 1993, as required by WAC 246-290-440.

12 10. Respondent failed to monitor for the complete inorganic
13 chemical and physical standards every thirty-six (36) months and
14 report to the State Department of Health as required by WAC
15 246-290-480(2). The last reported sample was taken on January
16 17, 1989.

17 11. Respondent failed to monitor radionuclides once every
18 forty-eight (48) months and report to the State Department of
19 Health as required by WAC 246-290-480(2). The last reported
20 sample was taken on March 8, 1988.

21 12. Respondent's noncompliance and general lack of good
22 faith efforts to meet standards caused the State Department of
23 Health to issue an Administrative Order #93-013.

24 13. Respondent's inadequate water system caused a
25 moratorium, which was issued June 30, 1993. Complainants are
26 burdened with problems when purchasing or selling their homes
27 because lending institutions will not issue loans while the

1 water system is in non-compliance; building and septic permits
2 are not being issued. Complainants have been advised by the
3 State Department of Health the water system must provide
4 adequate water for five (5) months prior to the moratorium being
5 lifted. Complainants are fearful the moratorium could go on for
6 a long time because of the respondent's financial history. The
7 respondent also owns another water system, Desert Water Company,
8 Benton City, Washington, which had a moratorium from 1985 to
9 1993.

10 14. Respondent failed to supply an adequate water quantity
11 during high usage months as required by WAC 246-290-420. Some
12 complainants ran out of water in August 1993. Elements in hot
13 water heaters burned out due to water tanks draining. The
14 reservoir is designed to hold 300,000 gallons but is only used
15 to approximately one third (1/3) of its capacity.

16 15. Respondent operated approximately one year before
17 submitting a water system plan to the State Department of Health
18 as required by WAC 246-290-100.

19 16. Respondent continues, as late as February 1994, to
20 revise and experiment with the water system by: installing
21 larger chlorinator pumps; overdosing with chlorine;
22 intentionally closing valves to divert water through low
23 velocity water movement distribution lines, all without approval
24 from the State Department of Health as required by WAC
25 246-290-120.

26 17. Respondent failed to notify new customers of inadequate
27 water quality before or at the time water service began as

1 required by WAC 246-290-330(h).

2 18. Respondent failed to maintain a business location and a
3 regular telephone number at which it could be contacted directly
4 by customers during regular business hours, and provide a means
5 by which it could be contacted at any hour in the event of a
6 service failure or emergency, or at which a customer could leave
7 a message reporting such failure or emergency as required by WAC
8 480-110-041.

9 19. Respondent failed to indicate the date the bill becomes
10 delinquent and notice of means by which a customer can contact
11 the nearest business office of the utility as required by WAC
12 480-110-101.

13 20. Respondent failed to maintain its plant and system in
14 such condition as will enable it to furnish adequate service
15 since dead ends do exist in the system and should be flushed at
16 intervals frequent enough to ensure satisfactory quality of
17 water to the complainants as required by WAC 480-110-076.

18 21. Respondent failed to provide complainants with a guide
19 detailing the rights and responsibilities of a utility customer
20 or with a bill insert, on an annual basis, by which to request a
21 guide by return mail as required by WAC 480-110-041.

22 22. Respondent failed to provide dissatisfied customers of
23 the availability of the commission for further review of any
24 complaint or dispute and the telephone number and address of the
25 commission as required by WAC 480-110-096.

26 23. Respondent damaged a complainant's property by digging
27 up telephone lines when looking for the shutoff valve when

1 attempting to disconnect service. An excessive amount of a
2 complainant's property was dug up when respondent was searching
3 for the water shut off valve. RCW 80.04.440.

4 24. Respondent discriminates by; billing some but not all
5 of the complainants; not collecting from all complainants;
6 threatening to turn some complainant's over to a collection
7 agency but not following through until months later; verbally
8 threatening to shut some complainant's water off but not
9 following through; discontinuing past due amounts on some
10 complainant's bills. RCW 80.28.100.

11 25. Respondent failed to provide the proper written notice
12 of disconnection served on some complainants; notices left on
13 doors did not list a shut off notice date or shut off date;
14 notices mailed did not list eight business days as the shut off
15 date as required by WAC 480-110-071. Respondent has never shut
16 these complainants off, only threatens to do so, as if only to
17 harass the complainants.

18 26. Respondent received a written notice by a complainant
19 that he had turned his water off for the winter. Later the
20 respondent verbally threatened to dig up the complainant's pipes
21 to disconnect service and charge a \$300 service connection fee
22 instead of a \$20 reconnect charge as required in the
23 respondent's tariff rule 7.

24 27. Respondent misrepresented information to complainants
25 on the December 1992 Notice to Water System Users by stating a
26 chlorinator had been installed. January 14, 1993 Fred Barker
27 made a statement to Steve Dreiling, Grant County Department of

1 Health, Ephrata, Washington, that he had ordered a new
2 chlorinator and it should come in that day.

3 28. Respondent misrepresented information on the November
4 29, 1993 Notice to Water System Users by stating we are
5 chlorinating and flushing the system. On December 3, 1993, the
6 certified water operator was asked if the system had been
7 flushed. When he replied no, he was asked how they were going
8 to flush the system. The reply, "I'm not sure, Fred told me to
9 put (write) that on there."

10 29. Respondent's water system quality has caused added
11 expenses and inconveniences. Many complainants are buying
12 bottled water or boiling the system water prior to consumption.

13 30. Respondent's water system quality has caused many
14 complainants additional expenses: medical; telephone bills;
15 travel; water tests; documentation.

16 31. Respondent's as built water system does not match the
17 original approved system's "Site and Distribution Lines Record
18 Drawing" sheet 2 project number 26629 WS.

19 32. Respondent fails to use professional business practices
20 when corresponding with complainants.

21
22 IV. RELIEF REQUESTED.

23 1. Pursuant to RCW 80.04.110, Complainants request a
24 hearing before the Commission.

25 2. Pursuant to RCW 80.04.110, Complainants seek a ruling
26 by the Commission that a refund be given to the complainants on
27 a pro rata basis for the substandard water delivered from

1 November 1992, until the water system becomes compliant with the
2 State Drinking Standards.

3 3. Pursuant to RCW 80.28.020, Complainants seek a ruling
4 by the Commission that the rates charged by the respondent are
5 unjust and unreasonable and that the Commission determine the
6 just and reasonable rates to be observed and in force until the
7 respondent's water system meets the state drinking water
8 standards and becomes compliant and fix the same by order.

9 4. Pursuant to RCW 80.28.030 and 80.28.040, Complainants
10 seek a ruling by the Commission that the purity, quality,
11 volume, and pressure of water supplied by the respondent is
12 insufficient, impure, inadequate and inefficient as identified in
13 State Board of Health Administrative Order #93-013 and that the
14 Commission order such improvement in the storage, distribution
15 and supply of water in a timely fashion. In the event that the
16 respondent fails to comply with the Commission order, the
17 complainant requests the Commission to request the Department to
18 petition the Court to place the respondent in receivership.

19 5. And for such further relief as the Commission may deem
20 just and appropriate.

21 The above information is true and correct to the best of my
22 knowledge.

23 Respectively submitted this 5th day of March, 1994.

24 By Marion S. Snelson
25 Marion Snelson
26 8453 Highland Drive Southeast
27 Othello, Washington 99344
Representative for Complainants
Marine View Heights Homeowners
Association

1 Marine View Heights Homeowners Association Board of Directors

2 *Jim Gregg*

3 Jim Gregg, President, 8480 Aurora, Othello, Washington 99344

4 *James Snelson 3/5/94*

5 Jim Snelson, Vice President, 8453 Highland Dr. S.E., Othello,
6 Washington 99344

7 *Betty Jean Pruitt*

8 Betty Pruitt, Secretary, 6966 Plaza, Othello, Washington 99344

9 *Joyce Helgeland*

10 Joyce Helgeland, Treasurer, 7146 Belmont, Othello, Washington
11 99344

12 *Kathleen M. Lang*

13 Kathleen Lang, Director, 6909 El Camino, Othello, Washington
14 99344

15 *B.G. McElderry*

16 B.G. McElderry, Director, 8334 Highland, Othello, Washigton
17 99344

18 *Everett L. Sanders*

19 Everett Sanders, Director, 6890 Canal Street Southeast, Othello,
20 Washington 99344

21 *Imre Szupkey*

22 Imre Szupkey, Director, 6945 Canal Street Southeast, Othello,
23 Washington 99344

24 *Dick Werner*

25 Dick Werner, Director, 6983 Plaza, Othello, Washington 99344
26
27