

BROWN LEWIS JANHUNEN & SPENCER

A PROFESSIONAL SERVICE CORPORATION
ATTORNEYS AT LAW
BANK OF AMERICA BUILDING
101 EAST MARKET STREET, SUITE 501
POST OFFICE BOX 1806
ABERDEEN, WASHINGTON 98520
(360) 533-1600 OR 532-1960
FAX (360) 532-4116

MONTESANO OFFICE
101 SOUTH MAIN STREET
POST OFFICE BOX III
MONTESANO, WASHINGTON 98563
(360) 249-4800
FAX (360) 249-6222

THOMAS A. BROWN
ABERDEEN OFFICE
CURTIS M. JANHUNEN
ABERDEEN OFFICE
DOUGLAS C. LEWIS
MONTESANO OFFICE
MICHAEL G. SPENCER
ABERDEEN OFFICE

March 2, 2004

Washington Utilities & Transportation Commission
1300 South Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250

Re: Cougar Ridge Water System
Our File 03-346-B

Enclosed please find **MOTION TO ESTABLISH BURDEN OF PROOF** on behalf of the Respondent, Cougar Ridge Water System, Paul A. Bitar, Owner, for filing in the above matter. Thank you.

Cordially,



THOMAS A. BROWN
TAB/cm
Enclosure

cc: Mr. Jonathan Thompson, w/encl.
Mr. Paul A. Bitar, w/encl.

RECEIVED
RECORDS MANAGEMENT
04 MAR -3 AM 8:01
STATE OF WASH.
UTIL. AND TRANSP.
COMMISSION

RECEIVED
RECORDS MANAGEMENT
04 MAR -3 AM 8:01
STATE OF WASH
UTIL AND TRANSP
COMMISSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	
TRANSPORTATION COMMISSION,)	DOCKET NO. UW-040367
)	
Complainant,)	ORDER NO. 01
vs.)	
)	MOTION TO ESTABLISH
COUGAR RIDGE WATER SYSTEM,)	BURDEN OF PROOF
)	
Respondent.)	
)	

COMES NOW the Respondent, Cougar Ridge Water System, Paul A. Bitar, Owner, by and through its attorney, Thomas A. Brown of the firm Brown Lewis Janhunen & Spencer, and hereby moves the Commission and the Administrative Law Judge for an order declaring that the burden of proof in this proceeding, as to all aspects, is on the Washington Utilities and Transportation Commission.

The Respondent hereby objects to paragraph 26 of the Order dated March 1, 2004, and affirmatively states that the reliance on RCW 80.04.015 and RCW 80.04.130 is misplaced and erroneous.

In this case, the Commission is the complaining party, and seeks to establish affirmatively that the operations of the Cougar Ridge Water System are subject to the jurisdiction of the Commission. The law and regulations are clear, as is the established

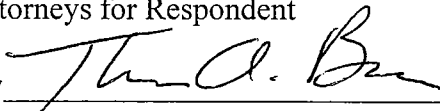
1 decisional authority, that – under these circumstances – the burden of proof rests with the
2 Commission.

3
4 The Respondent prays that the Commission and the Administrative Law Judge deny
5 that portion of the Order erroneously asserting that the Respondent has the burden of proof, and
6 establishing that the Commission itself has the burden of proof in all stages of this proceeding.
7

8
9 DATED: March 2, 2004.

10 Respectfully Submitted,

11
12 BROWN LEWIS JANHUNEN & SPENCER
13 Attorneys for Respondent

14 By 

15
16 Thomas A. Brown, WSB #4160