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INDEX OF EXHIBITS

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EXHIBIT:

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1 P R O C E E D I N G S

2 JUDGE CLARK: Good evening. It's  
3 approximately 5:30 p.m., February 22nd, 2007, in the  
4 Commission's hearing room in Olympia, Washington. This  
5 is the time and place set for a settlement hearing and  
6 public comment hearing in the matter of the Washington  
7 Utilities and Transportation Commission versus Fragaria  
8 Landing Water Company, given Docket No. UW-060662,  
9 Patricia Clark, administrative law judge for the  
10 Commission presiding. Notice of this hearing was  
11 issued on February 5th, 2007, to give consumers the  
12 opportunity to present written comment regarding a  
13 settlement that was reached between the sole two  
14 parties to this proceeding; that is, the Commission  
15 staff and Fragaria Landing Water Company.

16 The agenda for this evening is to have the  
17 two parties present a brief summary of the settlement  
18 that was reached between the two parties, and then  
19 members of the public will be given the opportunity to  
20 present any comments they wish. When we get a little  
21 closer to that portion of the agenda, I will explain a  
22 little further about the public comment process. The  
23 Commission set up its bridge line to allow consumers to  
24 call into the hearing this evening. So far, no  
25 individuals have called in.

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1           The other item that the Commission allowed in  
2 its notice of hearing is the opportunity for  
3 individuals to submit written comments, and we did have  
4 one individual submit written comments. That will also  
5 be made a portion of the record in this docket. At  
6 this juncture, I will take appearances on behalf of the  
7 parties. Appearing on behalf of Fragaria Landing Water  
8 Company?

9           MR. DORLAND: David Dorland.

10          JUDGE CLARK: Thank you, Mr. Dorland, and  
11 appearing on behalf of Commission staff?

12          MR. FASSIO: Mike Fassio, assistant attorney  
13 general for Commission staff.

14          JUDGE CLARK: And do you have other --

15          MR. FASSIO: At the table with me from Staff  
16 is regulatory analyst, Danny Kermode.

17          JUDGE CLARK: The record should also reflect  
18 that at the rear of the hearing room is a member of the  
19 Commission's consumer affairs staff, John Cupp, and if  
20 you have any questions regarding the process of this  
21 evening's hearing while it's going on, Mr. Cupp will  
22 certainly try to answer any inquiry you might have.  
23 Are there any questions before we get started with the  
24 presentation of the Settlement; Mr. Fassio?

25          MR. FASSIO: Thank you, Your Honor. Staff

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1 first wishes to thank the Company for its cooperation  
2 in reaching the Settlement here today, and I will try  
3 to briefly summarize the terms of this settlement. You  
4 have that in front of you. Staff is also available to  
5 answer any additional questions that you might have.

6           This agreement comes about after a  
7 considerable investigation by Staff and negotiations  
8 between Fragaria and Staff. First of all, in front of  
9 the Agreement, the parties agree that the Company has  
10 justified revenues of \$45,241 in the test year, and  
11 second, the Agreement requires that the Company file a  
12 revised rate design for its Fragaria water system. The  
13 design is revenue neutral. It was proposed by Staff  
14 and agreed upon by the Company, and this revised rate  
15 design is intended to be a more fair and appropriate  
16 rate structure taking into account customer usage  
17 patterns while sufficient to meet the Company's revenue  
18 requirement.

19           Unlike the rates that are currently in  
20 effect, the revised rate design is multiple tiered, and  
21 notably, it has no water in the base rate. This is  
22 also called zero allowance. The design reduces the  
23 base rate by \$7.85. Staff has consistently supported a  
24 zero-allowance rate design and finds it appropriate for  
25 this system. Staff believes that it insures fairness

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1 and also promotes water conservation. Customers pay  
2 for only the water that they use.

3 Third, the Settlement recognizes that the  
4 usage patterns could change under the new design  
5 potentially causing financial harm to the Company or  
6 its customers. Because the rate design is revenue  
7 neutral, in order to assure that it is also sufficient,  
8 the Agreement calls for the creation of a one-year  
9 balancing account, which the Settlement describes in  
10 more detail. The Company will track its revenues on a  
11 monthly basis over 12 months, compare those revenues to  
12 the same month in the test year under the old rates,  
13 and record the difference in the balancing account, and  
14 Fragaria is required to report to the Commission each  
15 month in the manner that's set forth in the Settlement.

16 The result of this is if the rates result in  
17 an overcollection of revenue at the end of the test  
18 year, the Company agrees that it will refund the  
19 balance as a bill credit to each Fragaria water system  
20 customer of record at the time of the bill credit. The  
21 Company agrees to report this refund to the Commission.

22 On the other hand under the Agreement, if  
23 there is an undercollection of revenue, the Settlement  
24 provides that the Company can file a surcharge with the  
25 Commission to recover that amount evenly over the

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1 course of one year. The parties believe that this  
2 mechanism insures that the rate design is sufficient as  
3 well as fair, just, and reasonable, and lastly, the  
4 Agreement requires that the Fragaria Water Company file  
5 a tariff reflecting its Hunt community water system's  
6 current flat rate. This flat rate is currently not  
7 part of its current tariff, and the revised rate design  
8 that I described does not affect Hunt water system  
9 customers.

10 The parties believe that the Settlement is in  
11 the public interest and would result in rates that are  
12 fair, just, reasonable, and sufficient, and Staff urges  
13 its approval, and also, Staff has spoken with  
14 Fragaria's counsel, and in order to expedite the final  
15 order here, Staff would consent to a waiver of an  
16 initial order, and Staff's representative, Danny  
17 Kermode, is happy to answer any questions you might  
18 have. Thank you.

19 JUDGE CLARK: Thank you. And you have  
20 consulted with counsel for Fragaria regarding the  
21 waiver of an initial order?

22 MR. FASSIO: Yes.

23 JUDGE CLARK: The record should reflect that.  
24 At this juncture then, we will turn to taking public  
25 comment regarding the Settlement that was just

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1 described by Mr. Fassio. What I will do is do a group  
2 swearing-in and ask each of the individuals who wish to  
3 present comments this evening to take an oath or  
4 affirmation to tell the truth in these proceedings.

5 I will call you in the order in which you  
6 have signed in on the public comment sheet, unless  
7 someone would prefer a different order. I can  
8 certainly accommodate that request. After you've been  
9 sworn in, I will ask you to step forward to the front  
10 table, which we will use as the witness stand this  
11 evening, and I would like you to simply state your full  
12 name, and I'll walk you through this, state your full  
13 name for the record, your address, and then ask you to  
14 make your comments.

15 After you've made your comments, if you could  
16 just remain seated for just a moment to see if there is  
17 any inquiry that either Fragaria Water Company or the  
18 Commission staff might have regarding your comments,  
19 and I might also ask you some questions so that I  
20 understand your testimony. After we've gone through  
21 that process, then you are free to get off the hot  
22 seat. If you have any questions during the public  
23 comment portion of the proceeding, please let me know.  
24 I will certainly try to address any of your procedural  
25 questions. I can't answer any substantive questions

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1 regarding the merits of the Stipulation.

2 Is everyone ready to proceed? The first  
3 thing I will do is swear in the witnesses. If you  
4 think you would be presenting comments this evening, if  
5 you would at this time rise and raise your right hand.

6

7 Whereupon,

8

THE WITNESSES,

9 having been first duly sworn, was called as a witness  
10 herein and was examined and testified as follows:

11

12 JUDGE CLARK: I must apologize in advance if  
13 I destroy anyone's name. I assure you it's  
14 unintentional. Please correct me. The first name I  
15 have is John Dashiell. If you could come forward,  
16 please, sir?

17 MR. FOCHT: I'll go. David Focht.

18 JUDGE CLARK: Mr. Focht, if you would come  
19 forward, please, and be seated at one of these chairs  
20 in front of the microphone. There is a little button  
21 on the mike. Make sure it's in the up position. If  
22 you could state your full name for the record and spell  
23 your last name?

24

25 MR. FOCHT: My name is David Focht,  
F-o-c-h-t. I reside at 8572 Landing Lane in Fragaria

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1 Landing, Washington.

2 JUDGE CLARK: Mr. Focht, if you would make  
3 your statement, please.

4 MR. FOCHT: Let me state preliminarily here,  
5 I intended to read from a prepared statement here this  
6 evening. However, after meeting with Mr. Kermode for a  
7 considerable period of time, he's been able to respond  
8 to some of my concerns. So perhaps I should just offer  
9 this into evidence and make a briefer statement.

10 JUDGE CLARK: You may do whatever you wish.  
11 If you would like me to take the statement as an  
12 exhibit, I can do that. If you would like to read it  
13 into the record, we will permit you to do that, and  
14 then you can make any additional oral comments you  
15 wish.

16 MR. FOCHT: Okay. I think I will offer my  
17 statement into the record and I'll make some brief  
18 comments after having the benefit of my discussion with  
19 Mr. Kermode. Would that be all right?

20 JUDGE CLARK: That's fine. Mr. Kermode, if  
21 you would please take the document?

22 MR. FOCHT: Your Honor, there is an exhibit.  
23 It's basically a public utility district letter setting  
24 forth for Kitsap County their rates which I've referred  
25 to in my comments.

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1           JUDGE CLARK:  And you would like me to  
2 receive that as well?

3           MR. FOCHT:  Yes.

4           JUDGE CLARK:  Why don't you give me just one  
5 second then.  A two-page document bearing the title, In  
6 the Matter of the Washington State Utilities Commission  
7 versus Fragaria Landing Water Company, Docket  
8 UW-060662, which is the written statement of David  
9 Focht, has been marked for identification purposes as  
10 Exhibit No. 1, and a one-page document bearing the  
11 title, Public Utility District No. 1 of Kitsap County,  
12 and bearing the date of 1/10/1994, has been marked for  
13 identification purposes as Exhibit 2.

14           I'm going to ask Mr. Kermode if you would  
15 please pick these documents up.  I've only marked them  
16 for identification purposes, and while Mr. Focht is  
17 making his statement, I want Mr. Fassio and Mr. Dorland  
18 to be given the opportunity to review those, and if  
19 Mr. Focht would like those documents back in order to  
20 make his oral comments.

21           MR. FOCHT:  I need to qualify the date on the  
22 exhibit.

23           JUDGE CLARK:  I'm only looking at the date --

24           MR. FOCHT:  That letter, if I may, was  
25 furnished to me by Donna, the signatory on it,

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1 yesterday. It was faxed to me from the public  
2 utilities district yesterday to evidence their current  
3 rates. Just to clarify that for the record, because I  
4 know the date at the top was confusing, and I don't  
5 want it confusing anybody as to how current the  
6 information is.

7 JUDGE CLARK: So the record should reflect  
8 that Exhibit 2 bears the date of February 21, 2007.

9 MR. FOCHT: Correct; thank you.

10 JUDGE CLARK: Mr. Focht, you should go ahead  
11 and make your oral comments.

12 MR. FOCHT: As set forth in my written  
13 comments, I basically had two concerns that I wanted to  
14 share with you here today, and then I will let my  
15 fellow landowners share other concerns with you as  
16 well.

17 First all, something that was all very  
18 apparent to us that we were concerned about was when we  
19 received, we were served with whatever the proposed  
20 settlement agreement, that there appeared to be no  
21 evidentiary support for the Agreement that was served  
22 on us, so we were unable to make any judgment as to the  
23 reasonableness of the proposed agreement, what have  
24 you.

25 Seeing as how the Commission is the proponent

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1 of the Settlement Agreement, then I would consider the  
2 burden to be upon them to provide some offer of proof  
3 to substantiate or support the reason for the proposed  
4 settlement, and in as much as the proposed settlement  
5 appears to pretty much validate the structure and the  
6 rates as furnished by Fragaria Landing, in particular,  
7 the baseline of 750 cubic feet, I determined from  
8 Mr. Kermode that as of the close of this proceeding  
9 today, the record will apparently be closed with  
10 respect to your taking evidence, and then the evidence  
11 which will provide support and substantiate for the  
12 proposed settlement agreement will be a matter of  
13 public record, so that will be available to us all to  
14 scrutinize from the Commission here. Isn't that the  
15 case, Mr. Kermode?

16 JUDGE CLARK: Mr. Fassio?

17 MR. FASSIO: Yes. It will be a matter of  
18 public record when the final order is issued in this  
19 case.

20 MR. FOCHT: And I also understand from  
21 Mr. Kermode that principally, as set forth in the  
22 public record, the justification will be Fragaria  
23 Landing Water Company's expenses, and so that  
24 information will be available to us to scrutinize in  
25 terms of the reasonableness of the rates. So that

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1 concern of mine has been dealt with to my satisfaction,  
2 and I appreciate Mr. Kermode's information he shared  
3 with me this afternoon.

4           Of course, in keeping with the fact that  
5 water is our most precious resource for our home and  
6 the fact that it relates to the value of our home and  
7 our ability to get water, we are very concerned about  
8 this is not some arbitrary validation of Fragaria's  
9 rate structure and rates and that there is support  
10 which would tend to be credible and therefore make it  
11 reasonable, and that was our concern. That's my  
12 concern, so I feel we pretty much put that to rest.

13           In keeping with that and also in keeping with  
14 the rates that I've offered into evidence of the public  
15 utility district for Kitsap County, I've had a  
16 discussion with the superintendant over there, Daniel  
17 Kempler in their offices, and my concern was that for  
18 the 55 communities that they provide water to in Kitsap  
19 County and also to the 125 other water systems that  
20 they regulate, given the fact that their rates are so  
21 tremendously less than the proposed rates for Fragaria  
22 Landing in the Settlement Agreement today, my concern  
23 is that in view of that gross disparity that perhaps  
24 there might be some sort of equal protection of the law  
25 violation or something here, that we are not on an

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1 equal footing with the residents in the communities  
2 around us with respect to what they have to pay  
3 reasonably for their water and the amount of water they  
4 get and what have you. That also has been resolved in  
5 terms of our ability to access the information in the  
6 public record when the final order issues here.

7           Aside from those two things, I will defer to  
8 my fellow landowners with specifics as to the  
9 day-to-day problems we've had with the Fragaria Landing  
10 delivery system. From my part, I can say personally  
11 two instances come to mind which I think are material  
12 and relevant and I think should be in the record, and I  
13 also shared these with Mr. Kermode, and he thought it  
14 was important that I mention these here as well.

15           First of all, with respect to the irrigation  
16 water during the summer -- that appears to be the real  
17 issue here -- when we exceed the baseline 750 cubic  
18 feet, my family has had instances where over the last  
19 few years since we've lived there, after we've watered  
20 our lawns and the landscape, in the evening, there is  
21 no water pressure or we've lost water altogether in the  
22 summer months, basically June, July, August. That has  
23 happened with some frequency to us and given us some  
24 real concern because we basically haven't had water,  
25 okay?

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1                   And then the second instance I would offer  
2 into evidence was a letter we received which gave us a  
3 great deal of concern from the Fragaria Landing Water  
4 Company about having to boil our water due to its  
5 contamination, and the letter on its face referred to  
6 the water being contaminated at a date approximately  
7 seven days prior to our receiving the notice itself.  
8 We found this particularly egregious in terms of the  
9 fact we were perhaps being subject to contaminated  
10 water, and they could very easily have put us on  
11 notice, as they should have right away, and they failed  
12 to do so.

13                   I called the water company and spoke to a  
14 young lady there, and she said they've been getting a  
15 lot of complaints, and they admitted that they had,  
16 indeed, made a mistake in not getting the letters out  
17 fast enough. Those are basically the only two  
18 instances that I have to offer with respect to the  
19 day-to-day problems I've had. Aside from the meter  
20 readings, speaking for myself, I haven't had a real  
21 problem with the digression in their meter readings,  
22 but I have it from my fellow landowners that there have  
23 been some particularly strange meter readings,  
24 increases during the summer months which didn't seem to  
25 correlate to the use of water, and that's pretty much

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1 it.

2           Aside from that, I want to thank the  
3 Commission for the efforts, and I'm particularly  
4 pleased that we've established jurisdiction and the  
5 Fragaria Landing Water Company is regulated, and I hope  
6 that real efforts will be made to audit the expenses  
7 which they offer into evidence in support of the rate  
8 structure and the rates that are the subject of the  
9 Settlement. Thank you.

10           JUDGE CLARK: Thank you. Let's see if there  
11 is any inquiry from you, Mr. Fassio. Do you have any  
12 inquiry of Mr. Focht?

13           MR. FASSIO: No, thank you.

14           JUDGE CLARK: Mr. Dorland?

15           MR. DORLAND: Not at this time.

16           JUDGE CLARK: Does either of you have any  
17 objection to the receipt of Exhibits 1 and 2 in the  
18 record?

19           MR. FASSIO: Staff has no objection.

20           MR. DORLAND: No.

21           JUDGE CLARK: Exhibits 1 and 2 are received.  
22 Mr. Focht, the first question I have is how long have  
23 you been a customer of Fragaria Water?

24           MR. FOCHT: Since August 2003.

25           JUDGE CLARK: And you discussed these two

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1 particular instances of problems that you had with your  
2 water service. The first one involved a lack of  
3 pressure, or actually in some instances, a lack of  
4 water itself. Can you tell me how long, what duration  
5 those absences of water --

6 MR. FOCHT: Are you speaking for the  
7 particular occasion? On that day, you mean, on that  
8 particular day?

9 JUDGE CLARK: For the instance where you have  
10 spent the day watering lawns and taking care of other  
11 landscape.

12 MR. FOCHT: We would lose it for a matter of  
13 hours, the water pressure and the water at all, as a  
14 matter of fact, and then the frequency in the summer,  
15 it varied. Maybe one or two days for two months or  
16 something like that during the summer months.

17 JUDGE CLARK: In the one written comment I  
18 received in the record, I understand that the  
19 approximate lot size is 2.5 acres; is that correct?

20 MR. FOCHT: Yes.

21 JUDGE CLARK: Is that the acreage you are  
22 watering?

23 MR. FOCHT: Actually, no, because I have a  
24 tennis court, batting cage and what have you on the  
25 back part of my property, which there is a small

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1 stretch of grass, which we pretty much just let that go  
2 because there isn't any irrigation there, so it's  
3 confined to our three lawns, the lawns around my house,  
4 and the shrubbery and the plants, the landscaping.

5 JUDGE CLARK: Do you have an idea of how much  
6 acreage is consumed in the lawns and shrubbery you are  
7 irrigating, approximately?

8 MR. FOCHT: I would say, offhand, an acre.

9 JUDGE CLARK: Thank you. There was one other  
10 thing you indicated, and I would just like the record  
11 to clarify. You indicated that the Commission was the  
12 proponent of this particular settlement, and I would  
13 like you to understand that the Commission itself is  
14 the decision-making authority in this particular  
15 proceeding, and that is composed of three  
16 commissioners, and in instances, they delegate  
17 authority to an administrative law judge to issue a  
18 decision.

19 The Commission staff when they serve as a  
20 party in these proceedings is a separate entity. They  
21 don't have any communication with the commissioners.  
22 They are not treated in any way, shape, or form  
23 different from any other party, and so I just wanted to  
24 make sure that distinction was clear on the record.

25 MR. FOCHT: Mr. Kermode shared that with me,

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1 but I appreciate that, and the record stands clarified.

2 JUDGE CLARK: I appreciate your testimony.

3 MR. FOCHT: Thank you. Thank you,  
4 Mr. Kermode.

5 JUDGE CLARK: Come forward and please be  
6 seated. If you could state your full name for the  
7 record, spell your last name, and give me your address.

8 MR. REYNOLDS: Fred Reynolds, 8656 Landing  
9 Lane in Port Orchard. I would like to enter several  
10 documents into the record. They are historical in  
11 context, and they deal with the Department of Health  
12 and two letters that I sent to Dave Dorland in July of  
13 2002, one week apart, and Mike Toy, who is the regional  
14 engineer for the Department of Health for the state.  
15 There is a letter from him, and I will just enter  
16 those.

17 JUDGE CLARK: Mr. Kermode, if you could bring  
18 me those documents. Thank you. The first document is  
19 a two-page letter bearing the date, August 15, 2002,  
20 addressed to Mr. Kevin Hunt, Fragaria Water Company,  
21 Incorporated, and signed by Mark Toy, PE, Washington  
22 State Department of Health, regional engineer. I've  
23 marked that for identification purposes as Exhibit  
24 No. 3.

25 The second document is a one-page letter

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1 bearing the letterhead of Fred Reynolds with the date  
2 July 3rd, 2002, addressed to Mr. David Dorland, Senior,  
3 water services, and signed by Mr. Fred Reynolds.  
4 That's been marked for identification purposes as  
5 Exhibit No. 4.

6 The next document is a one-page letter  
7 bearing the letterhead of Fred Reynolds bearing the  
8 date July 9th, 2002. The addressee is Mr. David  
9 Dorland, Senior, water services. The signatory is Fred  
10 Reynolds. I'm marking that for identification purposes  
11 as Exhibit No. 5, and the final document is a two-page  
12 letter bearing the date June 26th, 2002. The addressee  
13 is Fragaria Water Company, Incorporated, and the  
14 signatory of the letter is Mark Toy, PE, regional  
15 engineer of the Washington State Department of Health,  
16 and I'm marking that as Exhibit 6. Mr. Kermode, if you  
17 could please hand these documents to Mr. Fassio and  
18 Mr. Dorland to see if there is any objection to their  
19 receipt. Mr. Reynolds, feel free to go ahead and make  
20 your statement.

21 MR. REYNOLDS: I don't feel qualified to  
22 comment on the adequacy of the rates; although I was  
23 impressed with the Staff's iteration of how they looked  
24 into this. My feeling historically has been that there  
25 has been a lack of trust on the part of the homeowners

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1 in regards to the water company operations and  
2 Mr. Dorland, and he has certainly not been forthcoming.

3           When we ask for information, he was either  
4 reluctant or would not come up with the information.  
5 There have been a number of situations that have  
6 occurred in which people were billed for water usage  
7 that was clearly excessive. One homeowner was billed  
8 for \$600 for water and he wasn't even living on the  
9 property using the water. He had already sold or was  
10 in the process of selling the property and was living  
11 in another location. There have been a number of  
12 homeowners that have had similar situations, although  
13 not that dramatic.

14           My basic concern with Iliad and Mr. Dorland  
15 is that it may be the best thing that has ever happened  
16 for him to now be regulated, because there are certain  
17 things that he has done in the past that have led to a  
18 lot of questions and distrust, and an example would  
19 be -- and I don't have it here. It might be good if  
20 Mr. Dorland could supply it -- would be there was a  
21 green attachment to the water bill that was sent out in  
22 May of 2006, and it had four specific falsehoods in it.  
23 One was that there was a statewide water drop emergency  
24 currently in effect, and I checked on the Internet and  
25 that was not true.

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1           The second one was that he -- I can't say  
2 "he." He never signs his name to these things. This  
3 went with the water bill. Water guidelines became  
4 effective June 2005 and remain in effect. If these  
5 guidelines were based upon a drought that was not in  
6 effect, then that is an untrue statement. He also said  
7 that watering between six a.m. and ten a.m. and between  
8 three p.m. and nine p.m. -- and consider that for a  
9 moment. If you are a working person, that gives you  
10 very little option to water during the summer months in  
11 which he set up these water restrictions which were  
12 created by himself, I would assume, and this didn't  
13 include the fact that when he had water restrictions  
14 on, there would be even and odd addresses applied.

15           So this is very userous and perceived by most  
16 of the homeowners as just a guise for adding more  
17 subscribers and more income to his operations without  
18 having the adequate capital plant and facilities to  
19 properly service the customers, and that's evidenced by  
20 the documents already entered indicating that there  
21 were low-, high-pressure situations, etcetera.

22           The fourth falsehood had to do with the  
23 watering schedule by Fragaria Landing Water Company  
24 being legally mandatory. It might be debatable, but I  
25 don't believe that was true either. Basically, one of

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1 things that I'm going to be looking at as a homeowner  
2 along with other homeowners is that if we have a  
3 service problem, is he able to respond promptly? He  
4 hasn't in the past. If someone called in that the  
5 water was out, the best you are going to get is some  
6 answering service.

7           About three or four weeks ago, there was a  
8 repair that was made on a leak that had existed for, I  
9 believe, three or four months, and the crew was out  
10 there making the repair. They shut down the water  
11 without telling anybody about it, and I happened along  
12 and one of the homeowners was there at the time, and I  
13 asked the question, "Why haven't you told everybody you  
14 are going to shut the water down?" And of course there  
15 was that awkward response, shrug of the shoulders that  
16 is indicative of the kind of service that we have been  
17 getting.

18           I was talking to Staff, and they said, Well,  
19 you would think they would come and put a little hangar  
20 on the doors of houses that are serviced, and that  
21 brought kind of a laugh because that probably wasn't  
22 even a thought. I would like to challenge Mr. Dorland  
23 to setting up a communication system so that people can  
24 get safe, sound information concerning service  
25 problems. I have some personal concerns about the

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1 adequacy of the water system as it is currently  
2 developed, but that's the substance of my comments.

3 JUDGE CLARK: Thank you, Mr. Reynolds.  
4 Mr. Fassio, do you have any inquiry?

5 MR. FASSIO: Staff has no questions for  
6 Mr. Reynolds at this time.

7 JUDGE CLARK: Mr. Dorland?

8 MR. DORLAND: No.

9 JUDGE CLARK: Is there any objections to the  
10 receipt of Exhibits 3 through 6?

11 MR. FASSIO: No objection from staff.

12 MR. DORLAND: No.

13 JUDGE CLARK: Exhibits 3 through 6 are  
14 received. Mr. Reynolds, how long have you been a  
15 customer of Fragaria Landing Water Company?

16 MR. REYNOLDS: Nine years. I moved into my  
17 son-in-law and daughter's house, and about two or three  
18 years later built next door. We have a five-acre lot,  
19 and they run a three-and-a-half acre lot, so it's been  
20 nine years, ten years, '97.

21 JUDGE CLARK: Thank you for your testimony.  
22 If you could state your full name for the record,  
23 please, and spell it.

24 MR. SCHNEIDER: Gerald Schneider,  
25 S-c-h-n-e-i-d-e-r, 8565 Landing Lane, Port Orchard,

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1 Washington.

2 JUDGE CLARK: Please make your comments.

3 MR. SCHNEIDER: I've been a resident since  
4 1997. I would just like to agree with the comments  
5 regarding the lack of cooperation and communication  
6 with the water company. I would like to note that the  
7 whole community is two-and-a-half acre lots. When  
8 people have moved into this community, they've done so  
9 with the idea that they could have lawns and greenery  
10 around, vegetable gardens, flower gardens, and for the  
11 initial number of years, early years, we were on a  
12 fixed-fee water system, and I think a lot of people  
13 just got used to using their water to develop a very  
14 lovely community of green lawns and gardens, and with  
15 this new rate structure, especially this last year with  
16 the increased rates, it has just been a deterioration  
17 of the quality of the community in terms of dying  
18 lawns, dying gardens, the desire of people not to spend  
19 so much money on water.

20 I don't know what we can do about it. We  
21 will see about the new rate structure and whether  
22 that's going to improve, but we've basically been  
23 running one hundred to two hundred dollar a month water  
24 bills. I know Dave said three months of the year.  
25 Generally it's more like June, July, August, and even

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1 September of this last year because we had such a dry  
2 summer.

3           The other issue I would like to bring up, and  
4 I would like possibly to have Mr. Dorland address it is  
5 given the storm we had this last winter, there is a  
6 great deal of concern about power outages and the loss  
7 of water, shutdown of the water system, and the  
8 possibility of an emergency generator system to be  
9 developed in the community. This last power outage  
10 that we had lasted about a day and a half, but toward  
11 the end, the water pressure dwindled down pretty low,  
12 and if it had lasted another 24 hours, we would have  
13 been out of water totally and would have -- I don't  
14 know what kind of problems we would come up with  
15 backflow and contamination getting into the lines, but  
16 I would like to have that problem addressed. Other  
17 than that, I would like to thank you very much for the  
18 opportunity to come here and speak.

19           JUDGE CLARK: Thank you, Mr. Schneider. Any  
20 questions, Mr. Fassio?

21           MR. FASSIO: No questions.

22           JUDGE CLARK: Mr. Dorland?

23           MR. DORLAND: No.

24           JUDGE CLARK: Perhaps after the hearing has  
25 concluded this evening, we could take a few moments,

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1 and if you have informal inquiry that you would like to  
2 ask the Company or the Commission staff, they might be  
3 able to address that opportunity after the hearing.

4 MR. SCHNEIDER: Thank you very much.

5 JUDGE CLARK: Thank you, Mr. Schneider.

6 THE WITNESS: Good evening.

7 JUDGE CLARK: Please state your full name for  
8 the record and spell your last name.

9 MR. DASHIELL: John W. Dashiell,  
10 D-a-s-h-i-e-l-l, 8696 Landing Lane, Port Orchard  
11 Washington, 98360.

12 JUDGE CLARK: Please make your comments.

13 MR. DASHIELL: I think most of my colleagues  
14 here, residents from the community, have stated most of  
15 the issues, and I have a statement I would like to  
16 submit once I've read it along with other statements as  
17 well. I agree transparency is an issue in the  
18 community that we have. I simply disagree with the  
19 Commission allowing the Company to collect fees and  
20 trust that they are going to return those fees at year  
21 end.

22 We had a situation where we were building our  
23 home whereas we were charged an additional \$910.09 to  
24 place a meter on our property. It was the Iliad  
25 installer's suggestion to locate that meter on our

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1 property as it would provide them a reasonable location  
2 to go read the meter. Iliad stated that the installer  
3 didn't have the authority to make that decision, and I  
4 was demanded and had to issue payment in that amount.  
5 I have a copy of that statement for which I paid the  
6 initial hookup fee of \$544, and I feel that from that  
7 standpoint and the type of service that we received  
8 from them thus far is not on a trust basis.

9           The second thing, the water availability  
10 letter from Kitsap County health district dated  
11 3/28/2003 stated that the Fragaria Water Company system  
12 was approved for 99 connections. At that time, there  
13 was approximately 68 connections which had been made  
14 for the communities. Since 2004, there has been an  
15 additional five houses built on Landing Lane. The  
16 fifth one is being built right now, which included mine  
17 on the green. There is another five houses built over  
18 there as well. We've noted water pressure varies at  
19 different locations within Fragaria Landing even when  
20 it's not in peak times. So my question is what vehicle  
21 is there to insure that this system is working to the  
22 normal operating capacity for those communities? I  
23 recognize there is growth, and that can often tax the  
24 system and provide an inadequate service.

25           I think the issue about the monthly rates

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1 fluctuating, I think that's still an issue. Jerry  
2 mentioned about our property being rural. That was our  
3 thing there. We had grandkids, and we wanted them to  
4 have a place to play. In retrospect, had we known that  
5 the problems dealing with this company, we would have  
6 allotted money to our home loan to purchase a well, and  
7 that well would be specifically used for irrigation  
8 purposes.

9           We've received this evening the Commission  
10 staff's justification for the rates, and I would ask  
11 that the rest of the ratepayers receive notice of this  
12 before a decision is made. I don't know if that's  
13 allowed, but I would like the rest of the communities  
14 affected by this decision to have some time to comment  
15 on that. I suggested 45 to 60 days. That may not be  
16 allowable.

17           That's all the comments I have with the  
18 exception of one. I would like to enter in my  
19 statement and an invoice from Iliad regarding that  
20 extra payment. I've recognized that this was before  
21 Fragaria Water System is regulated, so that's just a  
22 point of reference. I would also like to enter in for  
23 the folks in the community that couldn't make it  
24 tonight, a statement from Rod Snope; a statement from  
25 Ms. Miller. This one gentleman here, I can't make his

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1 out, but I would like to submit it anyway. Mr. Cy  
2 Walters, Mr. Charles Wilcox, Mr. Mark Yand, Ms. Betty  
3 Kintz, and Mr. Phil Frocht, and I think the one that  
4 you've seen electronically -- I have a copy here -- was  
5 from Mr. Shawn Smith. Is that the one you are  
6 referring to?

7 JUDGE CLARK: Yes. You don't need to give me  
8 that.

9 MR. DASHIELL: So I would like to have these  
10 entered in for the statements of those that couldn't be  
11 here today. With that, I appreciate your allowing me  
12 to speak here today.

13 JUDGE CLARK: If you could wait just a  
14 moment, please. Do you have any inquiry, Mr. Fassio?

15 MR. FASSIO: Staff has no inquiry.

16 JUDGE CLARK: Mr. Dorland?

17 MR. DORLAND: I would like to make a  
18 statement now that everyone is done talking. I don't  
19 have anything right now.

20 JUDGE CLARK: I don't have any questions for  
21 you. I believe that you've answered already the  
22 standard sort of questions you've seen me ask. I would  
23 like to take a few moments off record to allow me to  
24 mark for identification purposes all of the documents  
25 that you've presented, and then during that recess,

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1 I'll also allow both the Commission staff and  
2 Mr. Dorland to review those so that hopefully when we  
3 go back on the record, they will be able to have a  
4 position regarding their admission. I thank you for  
5 your testimony this evening. We are at recess until  
6 further call.

7 (Recess.)

8 JUDGE CLARK: I've had an opportunity to mark  
9 for identification purposes all of the exhibits, I  
10 believe. The first document I have is a two-page  
11 document that says: To the WUTC, from John and Carla  
12 Dashiell, and that is a written statement I've marked  
13 for identification purposes as Exhibit No. 7. The  
14 second document is an invoice bearing the date November  
15 2nd, 2003, from Iliad, Inc., to John Dashiell, Senior,  
16 and I've marked that for identification purposes as  
17 Exhibit No. 8.

18 A two-page document, which is a written  
19 comment attached to the Fragaria Landing Water Company  
20 notice of this evening's public hearing, has been  
21 marked for identification purposes as Exhibit No. 9,  
22 and I believe that bears the signature of Rod Snope. A  
23 two-page document, which is also comments attached to  
24 the notice provided by Fragaria Landing Water Company,  
25 bears the signature of Laurus P. Owen and Valerie M.

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1 Miller, and I've marked that for identification as  
2 Exhibit No. 10.

3 A two-page document -- I cannot read a  
4 signature on this one. It is, again, written comments  
5 attached to the notice provided by Fragaria Landing  
6 Water Company. That's been marked for identification  
7 purposes as Exhibit No. 11. A two-page document,  
8 again, comments attached to the notice. I believe it  
9 bears the signature of Cecil D. Walter. That's been  
10 marked for identification purposes as Exhibit 12. A  
11 two-page document, again, comments attached to the  
12 notice, bearing the signature of Charles Wilcox has  
13 been marked for identification purposes as Exhibit 13.

14 A three-page document, which is comments  
15 attached to the notice, and bears the signature of Mark  
16 Yand, Y-a-n-d, has been marked for identification  
17 purposes as Exhibit 14. A two-page document of  
18 comments attached to the notice provided by Fragaria  
19 Landing Water Company bearing the signature of Betty  
20 Kintz has been marked for identification purposes as  
21 Exhibit 15, and a two-page document, which is comments  
22 attached to the notice provided by Fragaria Landing  
23 Water Company, bearing the signature of R. Frocht, has  
24 been marked for identification purposes as Exhibit 16.

25 Have the Commission staff and Mr. Dorland had

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1 an adequate opportunity to review these documents  
2 during the recess?

3 MR. DORLAND: Yes.

4 JUDGE CLARK: Is there any objection to their  
5 receipt?

6 MR. FASSIO: Staff has no objection.

7 MR. DORLAND: No objection.

8 JUDGE CLARK: Exhibits 7 through 16 are  
9 received into evidence. No individuals have indicated  
10 an interest in testifying this evening based on any  
11 phone calls coming in from the bridge line. Is there  
12 anything further that we need to consider on this  
13 evening's record? Mr. Fassio?

14 MR. FASSIO: Nothing from Staff. Staff would  
15 like to thank the members of the public who came down  
16 tonight to testify.

17 JUDGE CLARK: Mr. Dorland?

18 MR. DORLAND: Yes. I would like to make a  
19 statement if I could --

20 JUDGE CLARK: Actually, that's not something  
21 that we ordinarily do at these particular types of  
22 proceedings. The purpose of a settlement hearing is  
23 really just to have the parties explain the agreement  
24 that they've reached, and in this particular instance  
25 because the consumers did not have prior notice as they

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1 would in a regular rate case, they were given the  
2 opportunity for comments, but that isn't something we  
3 ordinarily do.

4 MR. DORLAND: Okay.

5 JUDGE CLARK: All right. I would also --  
6 Mr. Dashiell, if you could come forward and get to a  
7 microphone, please.

8 MR. DASHIELL: One thing I would like to ask  
9 is a consumers bill of rights for utilities. It would  
10 be good that we would have information on who to  
11 contact regarding specific issues or problems that we  
12 encounter, and I ask that maybe the Commission staff  
13 could provide that to us.

14 JUDGE CLARK: All right, thank you. I would  
15 also like to thank the individuals who appeared this  
16 evening for driving all the way down to Olympia in  
17 order to present their testimony this evening. The  
18 Commission does appreciate that, appreciate your  
19 comments as well as the documents that you were willing  
20 to submit in evidence on behalf of those other  
21 individuals who were unable to come to Olympia this  
22 evening.

23 The general process now is that the  
24 Commission will take the record that it has in front of  
25 it, which consists of everything that has been filed in

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1 this proceeding so far, as well as the transcript from  
2 this evening's public hearing, and the documents, which  
3 have all been received in evidence without objection,  
4 and the Commission will render a decision.

5 Ordinarily what would happen in these  
6 circumstances is I as an ALJ would issue an initial  
7 order. The parties would have an opportunity, if they  
8 disagreed with my decision, to file a petition for  
9 review to the commissioners. The commissioners can  
10 also undertake discretionary review. In this  
11 particular instance, both parties have waived that and  
12 allowed the Commission to enter a final order in this  
13 proceeding, and that order will be issued after the  
14 Commission has had an adequate opportunity to review  
15 the record. If there is nothing further to be  
16 considered this evening, we are adjourned.

17 (Settlement conference and public hearing concluded at

18 6:34 p.m.)

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