



# Investigation Report

## Newaukum Water System, Inc.

UW-132281

Lauren McCloy  
Compliance Investigations

October 2013

## **PURPOSE, SCOPE, AND AUTHORITY**

### **Purpose**

The purpose of this investigation is to determine whether Newaukum Water System, Inc. (Newaukum Water) is conducting business subject to regulation under Revised Code of Washington (RCW) 80.28 and is performing any act requiring approval of the Washington Utilities and Transportation Commission without securing such approval.

### **Scope**

The scope of this investigation includes an analysis of information related to whether Newaukum Water is providing water services to the public, and, if so, whether those services are subject to the commission's jurisdiction.

### **Staff**

Lauren McCloy, Compliance Investigator  
(360) 664-1108  
lmccloy@utc.wa.gov

## BACKGROUND

### Company

Newaukum Water System, Inc. was incorporated on Oct. 14, 2011, as a non-profit corporation governed by Kenneth and Caroline Lindebak. The company has an active registration with the Washington Secretary of State, and maintains an open tax registration account with the Washington Department of Revenue.<sup>1</sup>

Newaukum Water operates a water system in Auburn, WA. The company serves 22 customers, and charges a flat monthly rate of \$55 per month. The company has never been regulated by the commission.

### Investigation

On Feb. 22, 2013, Consumer Protection staff received an inquiry from a Newaukum Water customer who thought her water company should be regulated by the commission. Consumer Protection staff confirmed that Newaukum Water did not have a tariff on file with the commission, and referred the matter to Regulatory Services staff.

On Feb. 26, 2013, Regulatory Services staff sent a letter to Kenneth Lindebak, owner of Newaukum Water, to obtain information about the company's business practices. The letter included a water system questionnaire that is intended to assist staff in determining whether the company meets the commission's jurisdictional threshold.<sup>2</sup> The company did not respond.

On May 7, 2013, Regulatory Services staff sent a second request to the company.

On May 14, 2013, Regulatory Services staff received a completed questionnaire from the company.<sup>3</sup> After reviewing the information, staff determined that Newaukum Water System met the jurisdictional requirements of WAC 480-110-225.

On June 5, 2013, Assistant Director of Consumer Protection and Communications, Sharon Wallace, provided Newaukum Water with technical assistance in the form of a compliance letter (1) outlining the jurisdictional threshold for water companies regulated by the commission, (2) informing the company that it falls under the commission's jurisdiction, and (3) directing Newaukum Water to contact Regulatory Analyst Jim Ward to initiate the process of filing a tariff by June 12, 2013. In the letter, staff also directed the company to use the water tariff template, available on the commission's website.<sup>4</sup>

On June 10, 2013, Kenneth Lindebak contacted Jim Ward, who provided him with a copy of the water tariff template and instructions on how to file an initial tariff. On June 16, 2013, Mr. Lindebak provided Mr. Ward with a document entitled "Operating and Billing Guidelines,"

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<sup>1</sup> See Attachment A, Washington Secretary of State and Department of Revenue records for Newaukum Water System.

<sup>2</sup> See Attachment B, Letters sent to Kenneth Lindebak on Feb. 26, 2013, and May 7, 2013.

<sup>3</sup> See Attachment C, Newaukum Water System Inc.'s jurisdictional survey results, which the commission received on May 14, 2013.

<sup>4</sup> See Attachment D, Letter to Kenneth Lindebak from Sharon Wallace, dated June 5, 2013.

which outlines Newaukum Water System's current operating procedures.<sup>5</sup> Mr. Ward began reviewing the guidelines, and working with the company to file a tariff.

On Aug. 8, Jim Ward received a phone call from Mr. Lindebak explaining that he is facing a legal issue with one of his customers over land and well site access. Mr. Ward provided Mr. Lindebak with references for three regulatory consultants to help him file a tariff and resolve his legal issues.

On Aug. 29, Jim Ward confirmed that Newaukum Water had not filed a tariff. He sent Kenneth Lindebak an email stating that, because he had not heard from the company in several months, he was referring the matter back to Compliance Investigations staff.

On Aug. 29, upon receiving notification that Newaukum Water failed to file a tariff within a reasonable amount of time, Compliance Investigations staff called Kenneth Lindebak to discuss the matter. Staff asked Mr. Lindebak why Newaukum Water System did not file a tariff. Mr. Lindebak stated that he was concerned that the company would not be able to raise the revenue necessary to implement system upgrades. Instead of filing a tariff, he stated that he intended to send a letter to all of his customers appointing them as members of the Board of Directors of Newaukum Water System, and granting them ratemaking authority. Staff requested that Mr. Lindebak provide documentation of any changes in the company's ownership structure.

On Sept. 9, 2013, staff received a copy of a letter sent from Mr. Lindebak to "Water Users." Mr. Lindebak indicated that he mailed the letter to all customers of Newaukum Water on Sept. 4, 2013.<sup>6</sup>

On Sept. 23, 2013, staff requested a copy of the corporation's bylaws and minutes from the meeting in which the company's customers accepted their appointments to the Board of Directors of Newaukum Water System. On Sept. 27, 2013, staff sent a second request for these documents. Staff received a response from Kenneth Lindebak stating that he would provide the information.

On Oct. 2, 2013, staff received a letter from Mr. Lindebak, including copies of the following documents filed with the Secretary of State's Office on Oct. 14, 2011: Newaukum Water System's Certificate of Incorporation, the company's 2011 Annual Report, and the company's Articles of Incorporation.<sup>7</sup> Mr. Lindebak also included a copy Newaukum Water System's Board of Directors meeting minutes dated June 12, 2013 and Sept. 3, 2013.<sup>8</sup>

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<sup>5</sup> See Attachment E, Operating and Billing Guidelines for Newaukum Water System, Inc.

<sup>6</sup> See Attachment F, Sept. 2, 2013, letter from Kenneth Lindebak to Newaukum Water System users.

<sup>7</sup> See Attachment G, documents provided by Kenneth Lindebak on Oct. 2, 2013.

<sup>8</sup> See Attachment H, Newaukum Water System board meeting minutes, dated June 12, 2013 and Sept. 3, 2013.

## INVESTIGATION

### Background

According to Department of Health records, Newaukum Water System is classified as a Group A Water System, with an identification number of 59220 H. The water system is privately owned by Ken Lindebak, and has 23 connections. According to information provided by Kenneth Lindebak in the jurisdictional survey, the system serves 22 customers in Auburn, King County, WA. The system is not owned, operated, or controlled by a homeowner's association, cooperative, mutual corporation, or similar entity. The average yearly revenue per customer is \$660.00

### Discussion

The commission regulates water companies under RCW 80.28. A "water company" is defined by RCW 80.04.010(30)(a) as "every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, controlling, operating, or managing any water system for hire within this state."

For the purposes of determining commission jurisdiction, RCW 80.04.010(30)(b) provides an exemption for water systems that meet both of the following conditions:

- 1) the company serves 99 or fewer customers; and
- 2) the company's average annual gross revenue per customer is \$557 or less.

These exemptions are codified in WAC 480-110-255(1)(b), which provides the following table to help determine commission jurisdiction:

<b>If a water company serves customers</b>	<b>and has average annual revenue per customer</b>	<b>commission regulation</b>
99 or less	\$557 or less	No
99 or less	more than \$557	Yes
100 or more	\$557 or less	Yes
100 or more	more than \$557	Yes

WAC 480-110-255(2)(e) provides an "entity exemption," which applies to companies that meet the definition of "water company" in RCW 80.04.010(30)(a), but do not hold themselves out to serve the public. The rule exempts "homeowners associations, cooperatives and mutual corporations, or similar entities that provide service only to their owners or members" from commission regulation. In addition, WAC 480-110-255(2)(f) provides an exemption for homeowner associations, cooperatives, and mutual corporations or similar entities that provide similar service to non-members unless they serve one hundred or more nonmembers, or charge nonmembers more than \$557 average annual revenue per nonmember.

According to documents provided by Mr. Lindebak, the decision to transfer management of the Newaukum Water System to a Board of Directors made up of the company's 22 customers was made at a meeting held on June 12, 2013. Mr. and Mrs. Lindebak were the only Board Members in attendance at that meeting.

Mr. and Mrs. Lindebak were also the only Board Members in attendance at a Sept. 3, 2013 meeting, in which they discussed a letter sent to Newaukum Water customers on Sept. 2, 2013. In that letter, Mr. Lindebak states,

“Effective on the date of this letter, I, as President of NWS, am making each lot owner, collectively referred to as the ‘water users,’ a member of the Board of Directors of NWS, each having one vote for each lot owned—one of 27. I will have the same one-lot-one-vote as any water user, no more, no less. *This is not an ownership change.* I do not have a financial interest in NWS and nobody else does either. Being a non-profit, NWS owns NWS. What my wife and I are doing, as officers of NWS, is taking the next step in the management change process. The majority vote of the Board will control decisions, set rates, make policy, select the president and officers and direct those officers to implement board decisions.” [Emphasis added.]

Attached to the letter, Mr. Lindebak provided a list of 23 names, filling a total of 27 “seats” on the Board of Directors. Two names, Lindebak and Kurtz, hold three seats each.

#### **WAC 480-110-255 Rulemaking (Docket # UW-131386)**

On Aug. 22, 2013, the commission initiated a Rulemaking Inquiry to consider the need to evaluate and clarify jurisdiction of water companies.<sup>9</sup> The proposed rules limit the types of municipal corporations exempt from commission regulation in WAC 480-110-255(2)(a) to:

- (i) Cities, towns and counties
- (ii) Public utility districts
- (iii) Water districts
- (iv) Local improvement districts

The rulemaking also specifically addresses WAC 480-110-255(2)(e) and (f), which staff believes may be read to exempt from commission regulation certain entities that are not exempt. The draft rules remove WAC 480-110-255(e), which provides the exemption for “homeowner associations, cooperatives and mutual corporations, or similar entities that provide service only to their owners or members.” The proposed rules also remove WAC 480-110-255(f), which provides an exemption for similar entities, “that provide service to nonmembers unless they serve one-hundred or more nonmembers, or charge nonmembers more than five hundred fifty-seven dollars average annual revenue per nonmember.” Staff’s intent is to clarify what types of entities are exempt from commission jurisdiction through the issuance of a policy statement.

In comments filed by Newaukum Water System in this docket on Sept. 23, 2013, the company

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<sup>9</sup> See Attachment I, Notice of Opportunity to File Written Comments, filed on Aug. 22, 2013.

stated that it is opposed to the “proposed rule putting non-profit water-user managed water systems under UTC jurisdiction.”<sup>10</sup>

Staff finds that Mr. Lindebak appears to believe that Newaukum Water System’s status as a “non-profit water-user managed” water system currently exempts it from commission jurisdiction under WAC 480-110-255(2)(e) or (f). However, the company has not provided evidence that it qualifies for either exemption. According to the Washington Secretary of State and the Department of Revenue, Mr. Lindebak and his wife maintain ownership of Newaukum Water System. The company is neither a homeowner association nor a cooperative, in which all members have a financial interest in the company. The system provides service to less than 100 non-owners, but its average annual gross revenue per customer is greater than \$557, making it ineligible for exemption under WAC 480-110-255(2)(f).

### **Findings**

Newaukum Water meets the statutory definition of “water company” because it is a corporation operating or managing a water company for hire within the state. The company is registered with the Secretary of State’s office as a “non-profit corporation” governed by Kenneth and Caroline Lindebak. The system serves one customer who is an owner of the company, and 21 customers who are not owners of the company. The company’s average yearly revenue of \$660 per customer per year meets the jurisdictional threshold provided by WAC 480-110-255(1)(b). Because of these factors, staff believes the company’s service is subject to regulation.

### **Recommendation**

Staff recommends the commission issue an order initiating a classification proceeding under RCW 80.04.015 to determine whether Newaukum Water System, Inc. is conducting business subject to regulation under Title 80 RCW and WAC 480-110. Staff further recommends penalties in the amount of \$100 per customer per month, for a two-month period during which the company was aware that it was required to file a tariff, and failed to do so. Staff recommends a total penalty of \$4,400, for failure to file an initial tariff with the commission as required by RCW 80.28 and WAC 480-110-433(3).

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<sup>10</sup> See Attachment J, Newaukum Water System, Inc.’s comments filed in Docket # UW-131386 on Sept. 23, 2013.

**Attachment A**

**Corporations Division - Registration Data Search**

NEWAUKUM WATER SYSTEM

[Purchase Documents for this Corporation »](#)

UBI Number	603155982
Category	REG
Profit/Nonprofit	Nonprofit
Active/Inactive	Active
State Of Incorporation	WA
WA Filing Date	10/14/2011
Expiration Date	10/31/2013
Inactive Date	
Duration	Perpetual
<b>Registered Agent Information</b>	
Agent Name	Kenneth Lindebak
Address	38017 181ST AVE SE
City	AUBURN
State	WA
ZIP	98092
<b>Special Address Information</b>	
Address	PO BOX 1051
City	AUBURN
State	WA
Zip	98071

**Governing Persons**

Title	Name	Address
President	LINDEBAK, KENNETH	38017 181ST AVE SE AUBURN, WA 98092
Secretary	LINDEBAK, CAROLINE	38017 181ST AVE SE AUBURN, WA 98092

[Purchase Documents for this Corporation »](#)



**Washington State Department of Revenue  
State Business Records Database Detail**

TAX REGISTRATION NO: NON-REVENUE  
UBI: 603155982

ACCOUNT OPENED: 10/14/2011  
ACCOUNT CLOSED: OPEN

ENTITY NAME:  
BUSINESS NAME:

MAILING ADDRESS:  
38017 181ST AVE SE  
AUBURN, WA 98092-0000

BUSINESS LOCATION:  
38017 181ST AVE SE  
AUBURN, WA 98092-0000

ENTITY TYPE: NON PROFIT CORP

RESELLER PERMIT NO: N/A  
PERMIT EFFECTIVE: N/A  
PERMIT EXPIRES: N/A

NAICS CODE: 999990  
NAICS DEFINITION: N/A

**FOR NON-COMMERCIAL USE ONLY**

09/26/2013 2:04 PM

Attachment B



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
(360) 664-1160 • TTY: (360) 586-7203

February 26, 2013

Ref: UT 4-1250

Kenneth Lindebak  
38017 181<sup>st</sup> Street SE  
Auburn, Washington 98071

Subject: Water System Questionnaire

via postal mail

Dear Mr. Lindebak:

The Washington Utilities and Transportation Commission (Commission) has received information that you serve water to a community near Auburn, in King County, that may put the water company under Commission jurisdiction. To help us understand your current situation, please complete and return the enclosed questionnaire, which will enable us to determine your jurisdictional status.

If you have any questions, please contact me at (360) 664-1250 or [jward@wuto.wa.gov](mailto:jward@wuto.wa.gov) or please visit our website at [www.wuto.wa.gov](http://www.wuto.wa.gov) for additional information. If you cannot respond within 10 days please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Jim Ward".

Jim Ward  
Regulatory Analyst

Enclosure (1)



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

3300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
(360) 664-1160 • TTY (360) 306-8203

Ref: UT 4-1250

May 7, 2013

Kenneth Lindebak  
PO Box 11  
Auburn, Washington 98071

Subject: Water System Questionnaire

via postal mail  
SECOND REQUEST

Dear Mr. Lindebak:

The Washington Utilities and Transportation Commission (Commission) has received information that you serve water to a community near Auburn, in King County, that may put the water company under Commission jurisdiction. To help us understand your current situation, please complete and return the enclosed questionnaire, which will enable us to determine your jurisdictional status.

Name Lindebak Kenneth  
UBI 600425434  
Type Sole Proprietor

This is our second request for information. If you have any questions, please contact me at (360) 664-1250 or [jward@wutc.wa.gov](mailto:jward@wutc.wa.gov) or please visit our website at [www.wutc.wa.gov](http://www.wutc.wa.gov) for additional information. If you cannot respond within 10 days please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Jim Ward".

Jim Ward  
Regulatory Analyst

Enclosure (1)

Attachment C

RECEIVED

MAY 14 2013

WATER SYSTEM QUESTIONNAIRE

WASH. UT & TP COMM  
The following assumes that the water systems are in operation and serving one or more customers. If a question is not applicable, so state. Add any information you feel will help provide a better understanding of the situation. **THERE IS NO CHANGE IN OWNERSHIP OR OPERATION JUST A CHANGE FORM OF OWNERSHIP.**

1. For each water system owned, operated or controlled by you or the utility, please list by Washington State Department of Health ID # each water system and whether you own, operate or control the water system. ~~542204~~ **592204**
2. Is (are) the water system(s) owned, operated and controlled by a proprietorship (individual), partnership or corporation? **YES**
3. Are the water system(s) owned, operated or controlled by a homeowner's association, cooperative, mutual corporation or similar entity? **NO**
  - a. Must all customers also be members? **NO**
  - b. Is there any language in the articles of incorporation or the bylaws that would indicate any intention to dedicate the property to public use? **I DON'T UNDERSTAND WHAT THIS QUESTION MEANS.**
4. If owner is a nonprofit organization, registered with the office of the Washington Secretary of State, please provide full name, address and registration number (UBI#).  
**NEWUNKUM WATER SYSTEM  
P.O. BOX 11  
AUBURN WA 98001 UBI# 603-155-982**
5. For each water system owned, operated, or controlled by you, is control exercised directly by the owner or owners of the utility? **YES**
6. Does the utility reserve the right to serve particular individuals of its own choice? **NO**
7. How many customers of each system actually receive water or whose application to receive water has been accepted by the utility? **23**  
Are all customers listed above using water and have houses on the property? Yes **(No)**  
What number of customers actually uses water? **22**
8. For each water system, please list the maximum number of connections allowed by Department of Health or other government agency. **23**
9. Does the utility have any service applications that it cannot connect at this time? **NO**

Water System Questionnaire

May 7, 2013

Page 2

10. What are the rates/charges for each system? (If multiple rates/systems use additional sheets)

Monthly Flat Rate \$ SS ~~(@ meter)~~ Number of Customers 522

Monthly Meter Basic Rate \$ \_\_\_\_\_ Number of Customers \_\_\_\_\_

Water Allowance with basic charge \_\_\_\_\_ (gallons/cubic feet)

Usage Block \_\_\_\_\_ (gallons/cubic feet) Rate \$ \_\_\_\_\_ per \_\_\_\_\_ (gallons/cubic feet)

Usage Block \_\_\_\_\_ (gallons/cubic feet) Rate \$ \_\_\_\_\_ per \_\_\_\_\_ (gallons/cubic feet)

Usage Block \_\_\_\_\_ (gallons/cubic feet) Rate \$ \_\_\_\_\_ per \_\_\_\_\_ (gallons/cubic feet)

Billing Frequency: Monthly  Bi-monthly \_\_\_\_\_ Other: \_\_\_\_\_

Irrigation Services: Rate \$ \_\_\_\_\_ Monthly \_\_\_\_\_ Bi-monthly \_\_\_\_\_ Other: \_\_\_\_\_

Any larger than normal size meters? No If so what size(s)? \_\_\_\_\_

Ancillary Charges: Service connection charge (new customer)

Reconnection charge (customer caused disconnection)

Account Set Up charge (new customer, not a new connection)

Other charge(s) \_\_\_\_\_

Other charge(s) \_\_\_\_\_

Other charge(s) \_\_\_\_\_

\$ NONE  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_

11. What is the average yearly revenue per customer for each water system? \$ 660.00

What is the average monthly water consumption per customer for each water system?

Is this Gallons or Cubic feet? UNKNOWN AT THIS TIME

12. If any of the water systems serve only a subdivision in which it has an interest or with which it is associated, is there a covenant in the land contract or deed obligating the utility to provide water for each lot or purchaser of each lot? No

13. Under what name(s) is the system(s) or utility being operated?

NEWARKUM WATER SYSTEM INC.

14. Does the water company own all the assets used to provide water service? YES

15. Please provide a contact phone number and e-mail address if the Commission has additional questions:

KEN LINDEBOK

LINDEBOK@WORFENET.COM

P.O. BOX 11  
WILBURN WA 98091

253-939-3985

Signature

[Signature] Date 5-10-13

## Attachment D



STATE OF WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION  
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
(360) 664-1160 • [www.utc.wa.gov](http://www.utc.wa.gov)

June 5, 2013

Kenneth Lindebak  
38017-181st Street SE  
Auburn, WA 98071

**RE: Water Company Jurisdiction**

Dear Mr. Lindebak:

The Utilities and Transportation Commission regulates investor-owned water utilities that provide service to 100 or more customers, or have average annual revenues of more than \$557 per customer.

Thank you for providing information about your water company. Based on your responses to the commission's questionnaire, it appears that Newaukum Water System's average yearly revenue per customer meets the jurisdictional threshold for water companies regulated by the commission. This means that your company is required to meet the service, rate and reporting requirements of Chapter 480-110 of the Washington Administrative Code.

The laws and rules governing regulated water companies are available on our website at [www.utc.wa.gov/regulatedindustries/utilities/water](http://www.utc.wa.gov/regulatedindustries/utilities/water).

There, you can also find a copy of the commission's generic water company tariff, which should be modified to match your company's current rates. After the initial tariff filing, any changes to your company's tariff will require a separate rate filing.

For assistance with the tariff filing process, please contact Jim Ward at (360) 664-1250 or [jward@utc.wa.gov](mailto:jward@utc.wa.gov) **no later than June 12, 2013**. Failure to initiate the tariff filing process by this date will result in enforcement action, which may include monetary penalties.

Sincerely,

A handwritten signature in cursive script that reads "Sharon Wallace".

Sharon Wallace, Assistant Director  
Consumer Protection and Communications

## Attachment E

1

### Operating and Billing Guidelines

#### Newaukum Water System, Inc

##### **15.16.010 Interruption of service—Newaukum Water not liable.**

Newaukum Water System will use all reasonable means to provide an adequate and continuous water service for all customers, but in case the water service is interrupted or reduced for any cause, Newaukum Water shall not be liable for any injury or damages resulting therefrom and any such interruptions or reductions in service shall not give rise to any cause of action for a breach of agreement for service.

##### **15.16.020 Volume and pressure—Newaukum Water not liable.**

Newaukum Water makes no commitments as to the volume of water available, pressure per square inch or continuity of service, and will not be liable for injuries or damages due to insufficient volume, inadequate pressure or interruption of service.

##### **15.16.030 Prevention of water waste.**

It shall be the duty of each customer to eliminate waste of water supply by repairing, or causing to be repaired, any defective or leaking pipe or plumbing fixture. After notice of a potential leak, the water users will have 10 days to repair the leak. If, in the opinion of Newaukum Water, the leak is substantial and affects other water users, Newaukum water may immediately shut off service to the premises. Water will remain off till the water user takes action to repair the leak. No person shall use more water for irrigation, stock watering or other uses than is reasonably necessary. Water provided by Newaukum Water is for domestic consumption. Water for lawn, garden or agricultural purposes may be banned or restricted in the summer months.

##### **15.16.040 Water shortage—Use restrictions.**

In case of shortage of water, Newaukum Water may impose water use restrictions in order to efficiently safeguard the safety and health of the water users or to provide water for other users. The use of water for irrigation, cooling, washing cars, or other uses may be forbidden, restricted, or regulated and such restrictions may apply to all customers. Rationing may be imposed during any shortage of water, either in lieu of or in addition to other measures. Water for lawn, garden or agricultural purposes may be banned or restricted in the summer months.

##### **15.16.042 Water Conservation**

Newaukum Water may provide educational materials to water users regarding the benefits and necessity of conservation, and will promulgate such rules and requirements as may be necessary to implement water use restrictions.

**15.16.045 Water restrictions—Penalty.**

Water users shall comply with announced water use restrictions. Newaukum Water may impose a surcharge for each day a customer's water usage practices exceed water conservation restrictions. The \$2 per day surcharge amount will be added to and become a part of the water bill for the customer. Prior to the imposition of a surcharge, Newaukum water shall deliver a notice to the service address advising of the customer's water usage practices in excess of mandatory water shortage restrictions and advising that a surcharge may be imposed for any further violations.

**15.16.047 Enforcement.**

- (a) The President or the Licensed Operator shall enforce the provisions of these guidelines.
- (b) In addition to penalties otherwise provided, the Licensed Operator is authorized to install a water restricting device on the waterline or lines serving any person who commits a second or subsequent violation of any of the provisions of the water restriction announcements. Alternatively, after such notice of a violation as may reasonably be given based on the circumstances, the President of Newaukum Water may cause water service to be terminated for subsequent or continuing violation of water conservation restrictions.

**15.16.050 Connection between private and Newaukum Water System prohibited.**

Newaukum Water will not permit any physical connection between the meter and the system's water supply and distribution line.

**15.16.060 Shut-off for repairs—Notice.**

Newaukum Water shall, whenever it finds it to be necessary for the purpose of making repairs or improvements to the system, have the right to suspend temporarily the delivery of water. In such cases, a notice thereof will be provided to customers if circumstances will permit. There are emergency situations where system shut down is required without notice. Such repairs and improvements will be made as rapidly as may be practicable and at such times as will cause the least inconvenience to the customer. As a precaution during repairs, Newaukum Water may chlorinate the system water without prior notice.

**15.16.064 System shut down—Power outage.**

When commercial electric power serving the pump house goes down, the booster and well pumps are inoperable. Pressure in the system can not be maintained and no water is available. Newaukum Water is not responsible to provide water during power outages. Newaukum Water will make every effort to utilize an emergency generator to provide water during daylight hours. A special surcharge will be added to the monthly water bill to cover the cost of generator usage. During a power outage, the water system will go down. Water users need to have a storage of water available for such disruptions.



**15.16.068 System Flushing.**

The licensed operator shall open up the main water lines in 183rd and 181st at the published times, generally between 10:00 am and 11:30am on the second Tuesday of each month. Water users are advised not to use water between these times as the pressure will be low and the water may be gray with manganese.

**15.16.070 Installations of water service pipe.**

Water service pipes running from the water main to the meter shall only be installed by Newaukum water or its licensed contractor. Newaukum water will install and replace the meter as needed. A water service pipe from the meter to the premises being served will be installed and maintained by the property owner.

**15.16.080 Access to water meter to be maintained.**

The owner or occupant of the premises served by the water system shall not permit the accumulation of dirt, debris, landscaping materials or vegetation over or around the water service meter, or to in any other manner obstruct physical or visual access to the meter for either repair, inspection or reading.

**15.16.090 Check valves or backflow prevention devices.**

Newaukum Water has the right to order the installation of check valves or backflow prevention devices on services where necessary to protect the water system from contamination. The number, location and type shall be determined by the Licensed Operator. Newaukum water shall discontinue water service if the installation has not been made within 20 days after written notice has been served.

**15.20.010 Billing Procedures --Person billed.**

Charges for water furnished by Newaukum Water shall be billed to the owner of the property to which the services are rendered; provided, that when the owner and tenant in possession, in writing, notify Newaukum Water that the billing is to be sent to the tenant. Notwithstanding to whom the billing is sent, the obligation for payment shall be the joint and several responsibility of the property owner and the tenant

**15.20.020 Due date—Delinquency—Penalty.**

All charges for water service furnished by the Newaukum Water shall be due and payable on the date shown on the face of the bill. Charges for services remaining unpaid at the close of business on the due date, shall be considered delinquent and automatically subject to an additional \$5 charge, as a penalty. If the delinquent charges and penalties are still unpaid at the close of business on the next month due date, the services shall be discontinued and the water supply

shall be turned off at the meter. An additional \$75 charge will be assessed upon shutoff. The water service shall not be restored until all past due charges, penalties and fees have been paid. The President of Newaukum water may, but is not obligated, to waive all or a portion of the penalties provided herein in the event he determines that the late payment was the result of extreme hardship.

#### **15.20.030 Delinquency constitutes a lien.**

All monthly service charges, together with penalties and interest thereon, when unpaid and delinquent shall be a lien upon the property to which the water or sewer service is rendered superior to all other liens and encumbrances whatsoever except for general taxes and local special assessments. Enforcement of such lien or liens shall be in the manner provided by the courts and law.

#### **15.20.040 Discontinuance of service not relief from payment.**

Discontinuance of service for any cause stated in these guidelines shall not release the customer from his obligation to Newaukum Water for payment of bills or charges. In addition, before water service is restored to such property, the customer will be subject to the water turn-on fee of \$50.

#### **15.20.050 Monthly billing.**

All charges for water services shall be billed to the customer by Newaukum Water on a monthly billing cycle. All charges for service will be from the beginning of one month to the end of that month and billed at the start of the following month. All bills shall be paid to the account of Newaukum Water System, P.O. Box 11, Auburn, WA 98071

Attachment F


RECEIVED

SEP 09 2013

September 2, 2013

WASH. UT. & TP. COM

TO: WATER USERS



FROM: KENNETH LINDEBAK, PRESIDENT  
NEWAUKUM WATER SYSTEM INC. (NWS)

SUBJECT: NWS Board of Directors

When I purchased the water system in 1995 for \$17,000 from Vista Vending in Renton, I fully intended to someday convey the water system to the water users to operate for their own benefit. The owner of Vista Vending was Charles Jackson, a black man who told me he won ownership of Valley Mutual Water of Port Orchard, which included our system, in a poker game. Occasionally, I am asked why I bought the system. At the time, I had a black water problem, and Mr. Jackson was less than sympathetic, his having never operated a water systems before, this type of thing was a bother that he didn't want. I bought the system from him to gain control over the quality of our water.

I operated the system with the focus on maintaining bacteria-free water without having to add chlorine, and to be as free of black manganese as is possible without having to add chemicals. I paid, out of pocket for major repairs, whatever was required, trying to keep the rates as low as possible. Six to seven years ago I decided the water system needed to stand on its own financially, and I needed to move toward giving the water users a voice in management and operation of the system. However, I did not take any action in that direction until 2011 when my wife and I conveyed our interest in the water system to the Newaukum Water System Inc., (NWS) a non-profit corporation established to own, operate and maintain those assets for the benefit of the water users. This entity, by design, would allow the granting of voting rights to the stakeholders who were served under the water right.

We are now at the point where the water users need to participate in the control of the quality and delivery of their water. I'm 71 and someday I'm no longer going to be around. The operational knowledge and experience that I have, needs to be passed on to other water users, so that there is management and operational continuity of water delivery.

Under the water right area, there was originally 28 lots to be served by the system, each lot was sold with the understanding that Bill Noah, the seller, would provide water to those lots, which was a condition in the County's approval to sell off building lots less than 5 acres. However, the state restricted Bill Noah to serving only 23 of those lots until he increased the capacity of the storage tank. Mr. Noah presented the design for a second storage tank to the state which the state approved, but Mr. Noah sold the system to Jim Alcorn before he constructed that second tank. Subsequent system owners never installed the second storage tank, so the remaining 5 lots were not allowed to be served, even though meters were installed on two of the lots. Roughly 10 years ago, one of the lot owners merged

one of the un-served lots into his adjoining lot, giving it up as a separate building lot, so now the water right covers 27 building lots.

Effective on the date of this letter, I, as President of NWS, am making each lot owner, collectively referred to as the "water users", a member of the Board of Directors of NWS, each having one vote for each lot owned—one of 27. I will have the same one-lot-one-vote as any water user, no more, no less. This is not an ownership change. I do not have a financial interest in NWS and nobody else does either. Being a non-profit, NWS owns NWS. What my wife and I are doing, as officers of NWS, is taking the next step in the management change process. The majority vote of the Board will control decisions, set rates, make policy, select the president and officers and direct those officers to implement board decisions.

Presently, I'm essentially providing the functions of President, Secretary and Treasurer. In the next management change, those functions need to be separated, and NWS managed by an Executive Committee of the officers. I will continue to serve in my present capacity, God willing, until June of 2014 when I recommend that the Board of Directors hold an election of officers. Shawn Clark is the licensed operator of the system and will continue to operate the system at the pleasure of the Board.

The attached sheet lists the Board of Director's names and lots.

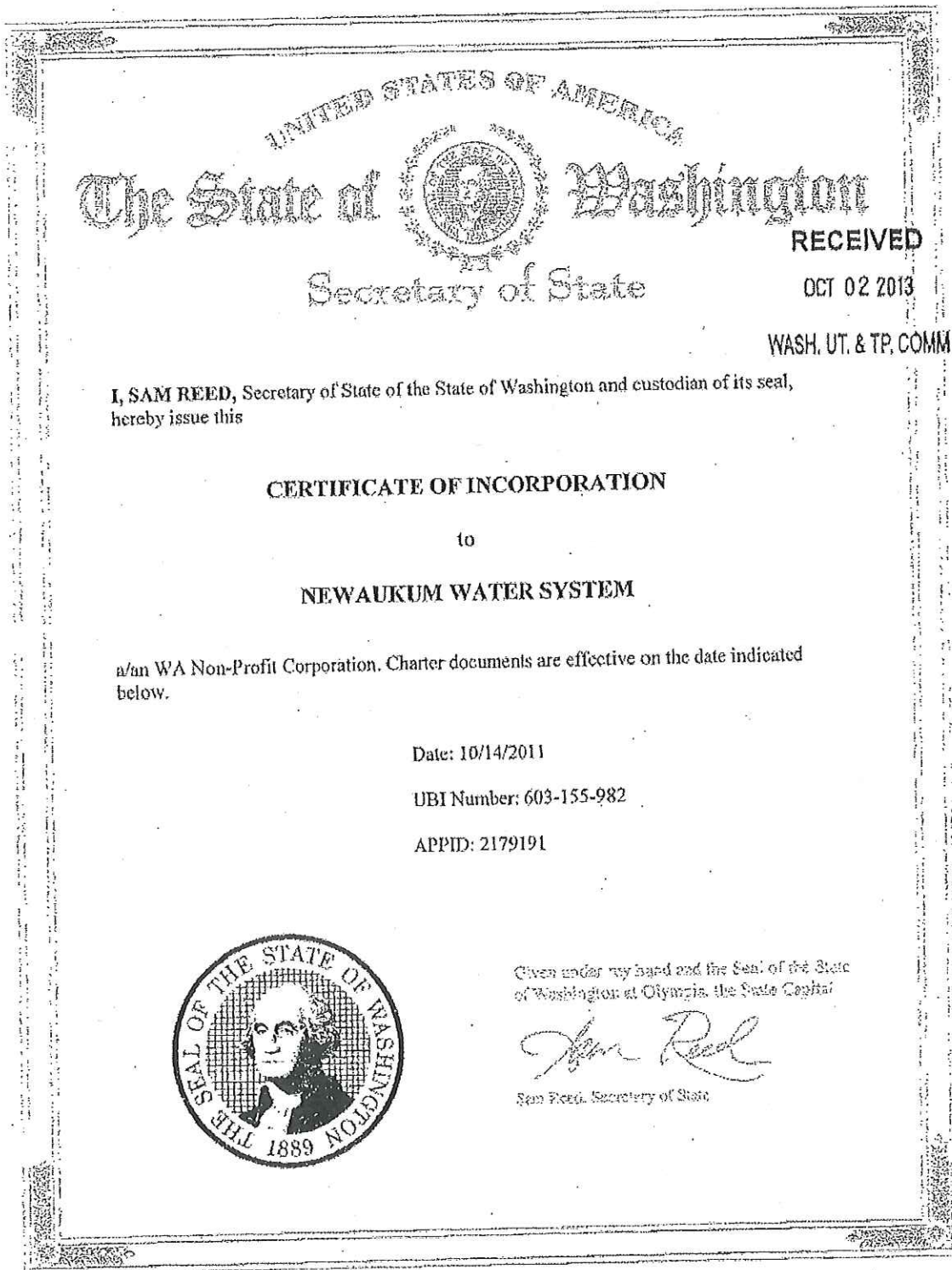
End.

As of September 2, 2013:

NWS BOARD OF DIRECTORS:

Lot 1: Walker  
Lot 2: Alumu  
Lot 3: Ayers  
Lot 4: Eaton  
Lot 5: Kurtz  
Lot 6: McKay  
Lot 7: Deams  
Lot 8: Roberts  
Lot 9: McGlothlin  
Lot 10: Scott  
Lot 11: Spears  
Lot 12: Johnson  
Lot 13: Dunton  
Lot 14: Brownell  
Lot 15: Brock  
Lot 16: Brown  
Lot 17: Hartley  
Lot 18: Kelly  
Tax Lot 97: Harwood  
Tax Lot 66: Sherry  
Tax Lot 70: Clark  
Tax Lot 54: Lindebak  
Tax Lot 63: Lindebak  
Tax Lot 69: Petty  
Tax Lot 55: Lindebak  
Tax Lot 64: Kurtz  
Tax Lot 50: Kurtz

Attachment G



UNITED STATES OF AMERICA

The State of  Washington  
Secretary of State

RECEIVED  
OCT 02 2013

WASH. UT. & TP. COMM

I, SAM REED, Secretary of State of the State of Washington and custodian of its seal,  
hereby issue this

CERTIFICATE OF INCORPORATION

to

NEWAUKUM WATER SYSTEM

a/an WA Non-Profit Corporation. Charter documents are effective on the date indicated  
below.

Date: 10/14/2011

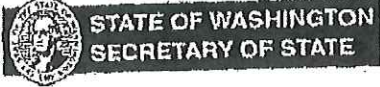
UBI Number: 603-155-982

APPID: 2179191



Given under my hand and the Seal of the State  
of Washington at Olympia, the State Capital

Sam Reed, Secretary of State



**Nonprofit Corporation**  
See attached detailed instructions

- Filing Fee \$10.00
- Filing Fee with Expedited Service \$60.00

10/14/11 2043052-  
002  
\$40.00 K #8491  
FILED# 2187490  
SECRETARY OF STATE  
SAM REED  
OCTOBER 14, 2011  
STATE OF WASHINGTON

This Box For Office Use Only

**AMENDED REPORT**

---

UBI Number: 603 155 982

## NONPROFIT CORPORATION ANNUAL REPORT

Chapter RCW 24.03

**SECTION 1 (required)**

**NAME OF CORPORATION\*** (as currently recorded with the Office of the Secretary of State)  
NEWAUKUM WATER SYSTEM

---

**STATE or COUNTRY OF INCORPORATION:** WASHINGTON

**SECTION 2 (agent information required)**

**NAME AND ADDRESS OF THE WASHINGTON STATE REGISTERED AGENT:**

**Name:** KENNETH LINDEBAK

**Physical Location Address (required):**  
38017 181st Ave SE

**City:** AUBURN **WA Zip Code:** 98092

**Mailing or Postal Address (optional):**  
PO BOX 1051

**City:** AUBURN **WA Zip Code:** 98071

**CONSENT TO SERVE AS REGISTERED AGENT: (required if changes have been made)**  
I consent to serve as Registered Agent in the State of Washington for the above named corporation. I understand it will be my responsibility to accept Service of Process on behalf of the corporation, to forward mail to the corporation; and to immediately notify the Office of the Secretary of State if I resign or change the Registered Office Address.

X *Kenneth Lindebak* **KENNETH LINDEBAK** 10-11-11  
Signature of Registered Agent Printed Name Date

**SECTION 3 (required for Foreign Entities)**

**ADDRESS OF THE PRINCIPAL OFFICE:**

**Street Address:** \_\_\_\_\_ **City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**PO Box:** \_\_\_\_\_ **City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

SECTION 4 (required every year)

BRIEFLY DESCRIBE THE AFFAIRS (NATURE OF BUSINESS) THE NONPROFIT CORPORATION IS CONDUCTING:

TO OWN AND MANAGE A COMMUNITY WATER SYSTEM

SECTION 5 (required every year)

NAME AND ADDRESS OF ALL CURRENT OFFICERS AND DIRECTORS: (If necessary, attach additional names and addresses)

PRESIDENT: KENNETH LINDEBAK

Address: 38017 181st Ave. SE

City AUBURN State WA Zip Code 98092

VICE PRESIDENT:

Address

City State Zip Code

SECRETARY: CAROLINE LINDEBAK

Address 38017 181st Ave SE

City AUBURN State WA Zip Code 98092

TREASURER:

Address

City State Zip Code

DIRECTOR:

Address

City State Zip Code

(If necessary, attach additional names, titles and addresses)

SECTION 6 (required)

AUTHORIZED SIGNATURE (see instructions page)

This document is hereby executed under penalties of perjury, and is, to the best of my knowledge, true and correct.

X [Signature] KENNETH LINDEBAK 10-11-11 253-939-3785

Signature

Printed Name and Title

Date

Phone



FILED  
SECRETARY OF STATE  
SAM REED  
  
OCTOBER 14, 2011  
  
STATE OF WASHINGTON

10/14/11 2043062-  
001  
\$40.00 K #8491  
ud. 2157490

603 155 982

**ARTICLES OF INCORPORATION  
OF  
NEWAUKUM WATER SYSTEM**

---

The undersigned, acting as an incorporator under the Washington Nonprofit Corporation Act (Revised Code of Washington 24.03) hereby adopts and executes the following Articles of Incorporation.

**ARTICLE I**

***NAME***

The name of this corporation is NEWAUKUM WATER SYSTEM.

**ARTICLE II**

***PERIOD OF DURATION***

This corporation shall have a period of duration which is perpetual.

**ARTICLE III**

***PURPOSE***

1. This corporation is organized to own and manage a community water system; and
2. To engage in any other lawful business which may hereafter be authorized from time to time by the Board of Directors.

**ARTICLE IV**

***MEMBERS***

This corporation shall have members of a single class as defined in the Bylaws

**ARTICLE V**

***DISTRIBUTIONS OF SURPLUS FUNDS***

If and whenever the Board of Directors determines that the corporation has accumulated more funds than are necessary to accommodate the corporation's current and anticipated needs, including the funding of reserves to meet unexpected contingencies, the corporation may distribute all or any portion of such excess, as determined by the Board of Directors, in equal shares to its then-current members.

**ARTICLE VI**

***DISTRIBUTIONS UPON DISSOLUTION***

Upon the dissolution or final winding up of this corporation under the laws of the State of Washington, all of its assets remaining after payment of creditors will be distributed, or sold and the sales proceeds distributed, to the members of this corporation in equal shares.

**ARTICLE VII**

***REGISTERED OFFICE AND AGENT***

A. The street address of this corporation's initial registered office is 38017 181<sup>st</sup> Ave SE, Auburn, WA 98092.

B. KENNETH LINDEBAK is the corporation's initial registered agent at such office.

**ARTICLE VIII**

***INITIAL DIRECTORS***

The initial Board of Directors of this corporation consists of two (2) directors. The names and addresses of such directors are as follows:

<i>Name</i>	<i>Address</i>
KENNETH LINDEBAK	38017 181 <sup>st</sup> Ave. SE Auburn, WA 98092
CAROLINE LINDEBAK	38017 181 <sup>st</sup> Ave. SE Auburn, WA 98092

These initial directors shall serve until the next annual meeting of members or until the

election and qualification of their successors. The number of directors constituting the Board of Directors of this corporation may be increased or decreased from time to time in the manner specified in the Bylaws of this corporation.

**ARTICLE IX**

***INCORPORATOR***

The name and address of the incorporator is as follows:

<i>Name</i>	<i>Address</i>
KENNETH LINDEBAK	38017 181 <sup>st</sup> Ave. SE Auburn, WA 98092

**ARTICLE X**

***DIRECTOR LIABILITY***

A director of the corporation shall not be personally liable to the corporation or its members for monetary damages for conduct as a director, except for liability of the director for (i) acts or omissions that involve intentional misconduct or a knowing violation of law by the director, or (ii) any transaction from which the director will personally receive a benefit in money, property, or services to which the director is not legally entitled. If applicable law is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of the corporation shall be eliminated or limited to the fullest extent permitted by law, as so amended. Any repeal or modification of the foregoing paragraph by the members of the corporation shall not adversely affect any right or protection of a director of the corporation existing at the time of such repeal or modification.

**ARTICLE XI**

***INDEMNIFICATION***

The corporation shall indemnify its directors against all liability, damage, or expense resulting from the fact that such person is or was a director, to the maximum extent and under all circumstances permitted by law.

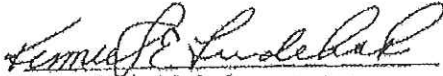
**ARTICLE XII**

***AMENDMENT***

This corporation reserves the right to amend or repeal any provisions contained in these

Articles of Incorporation in any manner now or hereafter permitted by statute. All rights of members of the corporation and all powers of directors of the corporation are granted subject to this reservation.


DATED this 11 day of October, 2011

  
Kenneth Lindebak, Incorporator

#### CONSENT TO APPOINTMENT AS REGISTERED AGENT

I, Kenneth Lindebak, hereby consent to serve as registered agent, in the State of Washington, for the following corporation: Newaukum Water System. I understand that as agent for the corporation, it will be my responsibility to accept service of process in the name of the corporation; to forward all mail and license renewals to the appropriate officer(s) of the corporation; and to immediately notify the Office of the Secretary of State of my resignation or of any changes in the address of the registered office of the corporation for which I am agent.

DATED this 11 day of October, 2011

  
Kenneth Lindebak  
38017 181<sup>st</sup> Ave. SE  
Auburn, WA 98092

## Attachment H

June 12, 2013

Meeting Minutes: Newaukum Water System Inc.

Present are Ken Lindebak, President and Caroline Lindebak Secretary at 38017 181<sup>st</sup> Ave S.E. at 6:30pm on Wednesday June 12<sup>th</sup>.

After the replacement of the line from the pump house to the 6 inch mainline in February, we talked about getting the water users more involved in management of the system. Today we decided we need to move toward that goal, ultimately to remove ourselves from that management duty and responsibility. If the President had a health problem that prevented him from carrying out the management duties, then the water users would suffer, because no one has the knowledge of the system and the billing that he does. We need more depth in both operation and maintenance of the system by younger members of the system. How to get them involved was discussed and it was decided that making every lot owner a member of the board of directors with one vote per lot, with simple majority rule, would be best. The President will work on drafting a letter to advise the water users of this management change and that the water users will be called upon to vote on issues or changes that are outside the normal operation and maintenance. In addition, it was decided, that in the letter, the users be notified that come next June (2014) that they will have to elect a new President and Secretary of the non-profit corporation

Shawn has advised that we have a leak in the flush valve in 183<sup>rd</sup> that needs to be fixed. The handle on the flush valve in 181<sup>st</sup> is broken and that valve also needs to be replaced. They are deep and that will require a back hoe and digging. We still have the plumbing to the Roberts and McGlothlin meters that need to be replaced. The main problem in dealing with these expenses is the notice last month from Mr. Kelley concerning his blocking of our access to the well.

The President wrote a letter to Mr. Kelley on May 20 and Kelley hired an attorney to respond. That now requires us to acquire an attorney to fight to keep our historic, 50 year old, right of access to the well. Right now this is the main issue effecting the future of the water system. If we do not defend the Newaukum System's right to vehicle access to the pump house and the well, then the water supply to all the water users is in serious jeopardy.



Ken Lindebak, President



Caroline Lindebak, Secretary

September 3, 2013

Meeting Minutes: Newaukum Water System Inc.

Present are Ken Lindebak, President and Caroline Lindebak Secretary at 38017 181<sup>st</sup> Ave S.E. at 6:00pm on Tuesday September 3.

The letter advising the water users that they are now members of the NWS Board of Directors was mailed today. The letter names the members and the lots covered by the NWS water right—each lot owner having one vote—there being 27 lots, 27 votes, and a maximum of 27 on the Board of Directors.

The September 2 letter to the water users is made a part of these minutes, in particular the third page identifying the names of the Board of Directors



Ken Lindebak, President



Caroline Lindebak, Secretary

## Attachment I

[Service Date August 22, 2013]



STATE OF WASHINGTON

### UTILITIES AND TRANSPORTATION COMMISSION

1300 S. Evergreen Park Dr. S.W., P.O. Box 47250 • Olympia, Washington 98504-7250  
(360) 664-1160 • [www.utc.wa.gov](http://www.utc.wa.gov)

August 22, 2013

#### NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS (By Monday, September 23, 2013)

Re: Rulemaking Inquiry to Consider the Need to Evaluate and Clarify Jurisdiction of Water Companies, WAC 480-110-255, Jurisdiction, and related rules  
Docket UW-131386.

#### TO ALL INTERESTED PERSONS:

On August 21, 2013, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) to clarify jurisdiction over water companies. The Commission filed the CR-101 under Docket UW-131386.

During a recent classification proceeding, Commission staff (staff) became aware that part of the Commission's rule on jurisdiction over water companies, WAC 480-110-255(2)(e) and (f), may be read to exempt from Commission regulation certain entities that are not exempt. To avoid this problem, staff proposes that the Commission consider repealing WAC 480-110-255(2)(e) and (f), relating to homeowner associations, cooperatives, mutual corporations and similar entities. Staff proposes the Commission consider addressing the jurisdictional status of such entities, preferably in a policy statement, or in the rule. Also, staff proposes to define the terms "for hire" and "to the public" in WAC 480-110-245, Glossary, in addition to other minor changes in WAC 480-110-255, Jurisdiction: (1)(b), 2(a).

Staff has developed discussion draft rules to facilitate development of these rule changes.

The CR-101, as filed with the Code Reviser, and the discussion draft rules are available for inspection on the Commission's website at [www.utc.wa.gov/131386](http://www.utc.wa.gov/131386). If you are unable to access the Commission's web page and would like a copy of the CR-101 and/or draft rules mailed to you, please contact the Records Center at (360) 664-1234.

### WRITTEN COMMENTS

Written comments on the CR-101 inquiry to review the jurisdiction of water companies, as well as the proposed discussion draft rules must be filed with the Commission no later than **5:00 p.m., Monday, September 23, 2013**. The Commission requests that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. You may submit comments via the Commission's Web portal at [www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing) or by electronic mail to the Commission's Records Center at [records@utc.wa.gov](mailto:records@utc.wa.gov). Please include:

- The docket number of this proceeding (UW-131386).
- The commenting party's name.
- The title and date of the comment or comments.

An alternative method for submitting comments is by mailing or delivering an electronic copy to the Commission's Records Center on a CD or flash drive, in .pdf Adobe Acrobat format or in Word 2010 or later format. Include all of the information requested above. The Commission will post on its web site all comments that are provided in electronic format. The web site is located at <http://www.utc.wa.gov/131386>.

If you are unable to file your comments electronically or to submit them on a CD or flash drive, the Commission will accept a paper document. If you have questions regarding this rulemaking, you may contact staff lead, Penny Ingram, at (360) 664-1242, or by email at [pigram@utc.wa.gov](mailto:pigram@utc.wa.gov).

Information about the schedule and other aspects of the rulemaking, including comments, will be posted on the Commission's website as it becomes available. If you wish to receive further information on this rulemaking you may:

- (1) Call the Commission's Records Center at (360) 664-1139
- (2) Email the Commission at [records@utc.wa.gov](mailto:records@utc.wa.gov)
- (3) Mail written comments to the address below



When contacting the Commission, please refer to Docket UW-131386 to ensure that you are placed on the appropriate service list. The Commission's mailing address is:

Steven V. King,  
Executive Director and Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Drive S.W.  
P.O. Box 47250  
Olympia, WA 98504-7250

**NOTICE**

**If you do not want to comment now, but do want to receive future information about this rulemaking, please notify the Executive Director and Secretary in one of the ways described above and ask to be included on the mailing list for Docket UW-131386. If you do not do this, you might not receive further information about this rulemaking.**

STEVEN V. KING  
Executive Director and Secretary

## Attachment J

The Newaukum Water System is opposed to the proposed rule putting non-profit water-user managed water systems under UTC jurisdiction. The Newaukum Water System is a not for profit corporation formed to operate and maintain the water system in the water right area of a residential subdivision for the benefit of the water users within the subdivision, the entirety of which includes 23 water users. Every water users/property owner in the subdivision is a voting member of the board of directors, electing officers, setting rates and managing the system. The Newaukum Water System Inc. owns the Newaukum Water System. Nobody has a financial interest in the Newaukum Water System, Inc. It is an organization of the users for the users.

We see no benefit to the UTC interfering with how we want to manage our system. The only function of the UTC is to delay the implementation and funding for emergency repairs, costs of which have to be paid out of rates and assessments. What function does the UTC serve over the desires and needs of our community other than to say no? AND how can they say no to funding a repair? The costs have to be paid and they can only be paid by the users. A recent emergency line blockage cost over \$3000 to repair and we paid the cost on a corporate credit card and then assessed the users \$35 for three months to pay the cost. In that case what is the UTC going to tell us? NO?? The repair had to be made in order to have water, and the cost had to be paid. Why do we need the UTC to eventually decide to say yes when the repair had to be made immediately and it had to be paid for? Putting non-profit water associations under UTC jurisdiction for reporting makes no sense and serves no benefit or purpose to the users who as a group want to do this.

We are currently fighting a legal challenge by a surrounding property owner over access rights to the community well. The property owner has said that he will cut off our access on January 1st 2014. He hired an attorney to serve notice on us. We have had to do title company research and hire an attorney and with letters going back and forth the attorney fee is now \$3500. If we do not defend our rights then we can not operate and maintain the well for the water users. It looks like we will have to file for an injunction in order to continue to operate. These legal fees are going to have to be paid. If we do not fight this now, then we can not provide water. Is the UTC going to tell us no? No we can not assess ourselves to pay the cost to defend our rights to continue to get water? Is the UTC going to tell us no, we must shut down? Putting non-profit water associations under UTC jurisdiction for reporting makes no sense and serves no benefit or purpose to the users who as a group want to do this.

We as a group some time ago decided to work toward establishing an automatic switch and generator so that when the power goes out the well has power and will continue to operate in times of commercial power outages. Right now when the power goes out we manually start and fuel a generator and then assess the water users a surcharge to cover the cost of the generator operation. Is the UTC going to tell us we can not fund this type of operation? What benefit would the UTC's involvement be to us, the 23 water users? What benefit would the UTC be to the people of the state by telling us no, or what benefit to the people of the state to even being involved telling a group of 23 people they can not do what they voted as a community to do?

In the operation of small systems we do not have the luxury of putting costs of operation onto thousands of users. When major issues come up they have to be dealt with quickly. Small systems do not have big contingency slush funds. The UTC only offers delays in saying yes or delays in saying no to 23 water users that the UTC will not approve what the 23 water users want to do. Any no or disapproval that the UTC would give would go against the non-profit organization of 23 member board of directors, because any no response means that we as the effected water users can not fund the operation of the system and we will have to shut down.

We strongly object to the proposed rule change that would put small non-profit water associations-- community managed water systems into the UTCs funding and tariff jurisdiction.



20111121000120

GIBSON QCD 62.00  
PAGE-001 OF 001  
11/21/2011 09:14  
KING COUNTY, WA

Filed at Request of and  
AFTER RECORDING MAIL TO:  
Newaukum Water System  
Attn: Kenneth Lindebak  
PO Box 1051  
Auburn, WA 98071

E2519316

11/21/2011 09:14  
KING COUNTY, WA  
TAX \$10.00  
SALE \$0.00

PAGE-001 OF 001

### QUIT CLAIM DEED

THE GRANTOR, KENNETH LINDEBAK and CAROLINE LINDEBAK, husband and wife, for and in consideration of Transfer to Grantor's Non-Profit Corporation, conveys and quit claims to, NEWAUKUM WATER SYSTEM, a Washington Non-Profit corporation, the following described real estate, situated in the County of King, State of Washington, including any interest therein which grantor may hereafter acquire.

**A COMMUNITY WATER SYSTEM LOCATION:**

Lot 18 Newaukum Country Estates less portion northerly and easterly of line beginning on the South Line 220 feet West of the Southeast corner, then North 70 feet, then West to West Line, a plat found in the records of King County Auditor in Volume 76 of Plats, page 23, in King County Washington.

Tax Account No. 606100-0181-04.

DATED this 16<sup>th</sup> day of November, 2011.

  
KENNETH LINDEBAK

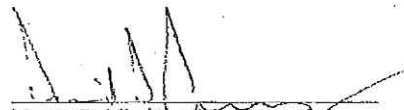
  
CAROLINE LINDEBAK

STATE OF WASHINGTON )  
  : SS.  
County of King )

I certify that I know or have satisfactory evidence that KENNETH LINDEBAK and CAROLINE LINDEBAK are the persons who appeared before me, and said persons acknowledged that they signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: November 16, 2011.



  
Notary Public in and for State of  
Washington, residing at Auburn.  
My commission expires: June 28, 2013.

**BYLAWS**  
**OF**  
**NEWAUKUM WATER SYSTEM, INC**

A NOT-FOR-PROFIT SUBDIVISION WATER PROVIDER

**ARTICLE I. Name and Address**

The name of this corporation is NEWAUKUM WATER SYSTEM INC. which may be referred to as NWS. The board of directors may designate other names for specific activities and programs as it deems appropriate. The principal office initially shall be at the address of the resident agent which may be changed to another address by the board of directors at any time.

**ARTICLE II. Objectives**

The corporation's purpose is to operate a well and water system and provide water to the 27 lots in the Bill Noah subdivision which includes the Newaukum Country Estates and the lots to the west within the water right area. The water system is to be operated by NWS for the benefit of the lot owners/water users.

**ARTICLE III. Membership**

Members of the board of directors shall constitute the membership of the corporation and shall consist of the lot owners of the 27 lots above, also loosely called "the water users". Directors will have one vote for each lot owned. Multiple lot owners will have multiple votes, one vote per lot for a total of 27 votes. No members who are not lot owners shall be permitted. Owners of lots lose their membership when their lot is sold and the new lot owner automatically becomes the new member of the board.

**ARTICLE IV. Board of Directors**

A. Composition of the Board of Directors. The number of board members shall be the number of lot owners and no more than 27. Directors are property owners of one or more of the 27 lots in the subdivision without any other qualifications.

B. Terms. There are no term limits for directors other than date of sale of a lot.

C. Removal. A director may not be removed from membership or be prevented from voting for any reason.

D. Vacancies. In cases where a member is temporarily unable to vote, the Secretary/Treasury may allow a family member living on the lot to vote for the member.

E. General Powers. The board of directors shall constitute the governing body of the corporation. The board shall manage the business and affairs of the corporation including those authorized by the board to the President. It shall have all powers necessary to carry out the

objectives of the corporation as set forth in Article 2. The board may accept, on behalf of the corporation, any contribution, bequest, or devise. The board shall have the authority to hire and dismiss the President, Secretary/Treasury, Licensed Operator or any advisor, independent contractor as necessary in order to best carry out the objectives of the corporation.

F. Meetings. Meetings of the board of directors shall be held at the request of the president or at the request of any member of the board, at a reasonable time and place designated by the president. Meeting dates may be subject to an approval vote of the board.

G. Notice of Meetings. Board members shall receive fifteen days notice of a scheduled meeting. This notice may be given in writing, in person, by telephone, email or by any other reasonable method.

H. Waiver of Notice of Meeting. The President may call an emergency meeting on a critical issue with less than fifteen days notice if lot owners can be contacted and advised in advance.

I. Meeting quorum. A quorum for voting shall be nine lot votes with a simple majority of votes counted for decisions, which in voting may include written or email responses from non-attending members unless such voting is dis-allowed by the board.

J. Meeting Proxy Voting. Proxy voting is allowed on any issue, provided that a copy of the resolution or issue has been distributed to members at least 15 days prior to the meeting at which proxy voting on the resolution or issue is proposed. The board may dis-allow proxy voting at any time.

K. Non-meeting voting by written ballot: It is intended that voting by written ballot will be the primary mechanism for voting unless the board specifically disallows ballot voting on a particular resolution or issue. Issues will be decided by simple majority of lot votes received on the ballots by the count date and time. If email votes are received, they must be printed out by the Secretary/Treasurer, the authorized counting official, and included in the written record.

L. Committees. The board of directors may appoint any committee it deems necessary to help fulfill its functions.

M. Compensation of Board Members. No member of the board of directors shall receive any salary or compensation for their services as director

## **ARTICLE V. Officers**

A. Officers. The board of directors shall have a president and a secretary/treasurer. If approved by the board, one person may act as both president and secretary/treasurer. The secretary and treasurer functions can be performed by one person or separated for two people.

B. Duties of Officers.

1. The president shall preside at all meetings of the board. The president may appoint members to standing and ad hoc committees. The president shall perform whatever duties the board of directors may from time to time assign, but basically the president is to oversee the licensed operator, hire independent contractors to provide repair and replacements and take care of daily operation and management of NWS. The president is responsible to complete the yearly water report and other reports required by the Department of Health and the State and County.

1a. The president shall sign communications and speak for NWS as needed and shall contract for services and commit NWS to payment. The president is authorized to make decisions and commitments in the best interest of the water users without involving the board, unless a decision would commit to an expenditure of funds that can not be paid out of operating income over a six month period, unless a special assessment has been pre-approved by the board. The president shall provide direction to the secretary/treasurer in support of the management responsibilities within guidelines provided by the board

2. The secretary shall have charge of such records, documents, title and other papers as the board of directors may determine; shall keep, or cause to be kept, a true and complete record of the meetings of the board of directors; shall give, or cause to be given, notice of all meetings of the directors; shall keep, or cause to be kept, a record containing the names, of all persons who are members of the corporation, showing their places of residence, lot numbers owned and voting rights. The secretary shall send out water bills, special notices and notices of disconnection for non-payment upon advice from the treasurer. The secretary shall send out ballots as required and shall count the votes and keep the records of such votes. The secretary shall maintain the mailing address for NWS. The secretary shall, in general, perform all the duties incident to the office of secretary subject to the control of the board of directors and shall perform other duties as may be prescribed by the board of directors.

3. The treasurer shall have custody of all corporate funds, and property subject to such regulations as may be imposed by the board of directors. The treasurer shall keep, or cause to be kept, full and accurate accounts of receipts and disbursements and shall deposit, or cause to be deposited all corporate funds and other valuable effects in the name of and to the credit of the corporation in a depository or depositories designated by the board of directors. The treasurer shall inform the secretary and the president of the monthly bill payment status. Corporate funds may be deposited only in banks or institutions which are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. The treasurer shall give to the president or board, whenever they require it, an account of transactions as treasurer and of the financial condition of the corporation and shall, in general, perform all duties incident to the office of treasurer, subject to the control of the board of directors.

C. Executive Committee. The board may authorize the establishment of an Executive Committee which shall include the president and secretary/treasurer and one or more members interested in assisting in the management and operational decisions.

D. Election and Terms. The officers shall be elected by the board of directors by simple majority of votes when counted on the count date. The term of office shall be for three years, longer or shorter depending on the person and the desire of the board, keeping in mind that the officers are volunteers. Nevertheless, the board can hire and fire one or more of the officers upon majority ballot vote at any time.

E. Compensation of officers. The president shall receive the equivalent of the cost of one month's water bill per month. The secretary/treasurer shall also receive the equivalent of the cost of one month's water bill per month. All officers shall be reimbursed for out of pocket expenses for office supplies and water system parts and small items. Compensation of officers is set by the board and may be changed as needed by approval of a ballot to the members.

F. Operation without officers: Someone has to represent and speak for the board in operating the corporation, but the operation of the system could be contracted out. The board can hire a satellite management firm to manage and operate the system, and take care of billing-- that is, if a firm can be found willing to take over operating the system. The monthly billing rates would be set by the management company to compensate them for supply costs and compensate them for operating personnel salaries, bookkeeping salaries, and profit. It is considered that operation of the system by officers who are members of NWS is more efficient and less costly to the water users.

#### **ARTICLE VI. Staff and contractors**

A. It is not intended that the board would hire a staff to fulfill management functions, but the board is not prevented from doing so if the board, by ballot vote believes that hiring a staff person or persons is in the best interest of NWS.

B. It is fully intended that licensed independent service contractors be hired to perform work on the system, plumbing, electrical, pump, and water system specialists. Competitive bidding in selection of a contractor can be used, but is not required, since establishing a working relationship with service providers who make themselves available to NWS on emergency notice is extremely valuable to providing continuity of service. Those contractors who have proven themselves valuable to NWS in the past are the first source of supply.

C. Hiring policy. The elected or appointed officers or committee members are not considered employees, nor is the licensed operator or any independent contractor. The hiring of workers who are members of the immediate family (spouse, grandparent, parent, brother or sister, son or daughter) of any board member, shall only be upon prior approval of the board. It is recognized that related business associates may provide NWS with good value, but the cost should be evaluated by the board in relation to other bids or offers or wage rates in the area. Voluntary work by board members is welcome.

#### **ARTICLE VII. Finances and Water Rates**

A Fiscal Year. The fiscal year is the calendar year or any other period the board may establish.

B Budget. The officers may present to the board a yearly budget for discussion and adoption and may seek guidance at any time concerning rates, funding for special equipment, replacements and other issues to come up in future years. However NWS may operate without a budget.

C. Water rates: Recommendations for changes to the monthly rates and/or water usage charges, made by the president and secretary/treasurer, will be evaluated by the entire board given the financial records and justification of the need. The rates will be changed only upon majority vote count approval of the board. The same applies to any recommendation for special assessment.

D. Financial Statement. The officers may be required to provide the board with a written financial statement whenever required.

E. Seal. The corporation will not use a common seal. The signature of the name of the corporation by the president shall be legal and binding.

#### **ARTICLE VIII. Parliamentary Procedures**

Robert's Rules of Order shall be the parliamentary authority for all matters of procedure not specifically covered by these bylaws.

#### **ARTICLE IX. Amendments of the Bylaws**

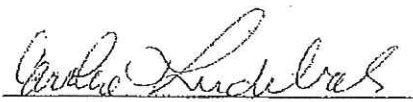
These bylaws may be amended, supplemented, or repealed by simple majority of lot votes of the directors present at any meeting at which a quorum is present OR by a simple majority of lot votes of the directors by written ballot vote on the count date and time as provided for elsewhere in the bylaws. Before directors may vote on an amendment to the charter or bylaws, notice must be given to directors of the proposed amendment, and in no case less than 15 days before the amendment is to be considered or votes counted.

#### **ARTICLE X. Statement of Nondiscrimination**

The corporation shall not discriminate against any person in the hiring of personnel, election of board members, provision of service to the public, the contracting for or purchasing of services or in any other way, on the basis of race, color, sex, national origin, disabling condition, age, or any other basis prohibited by law. This policy against discrimination includes, but is not limited to, a commitment to full compliance with Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and any subsequent amendments to these statutes.

Date: September 2, 2013

Approved:   
President

Approved:   
Secretary/Treasurer