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BEFORE THE WASHINGTON STATE

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UTILITIES AND TRANSPORTATION COMMISSION

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4 In the Matter of the Application of ) Docket

) UW-143617

5 T & T PROFESSIONAL SERVICE aka ) (Consolidated)

WATER AND WASTEWATER MANAGEMENT )

6 SERVICES, LLC, ROBERT THURSTON, and )

CHERI THURSTON )

7 )

For an Order Approving the Transfer )

8 of Piper Water System, Pinewood Water )

System, and Lightmoor Court Water )

9 System )

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

10 WASHINGTON UTILITIES AND TRANSPORTATION) Docket

COMMISSION, ) UW-150791

11 ) (Consolidated)

Complainant, )

12 v. )

T & T PROFESSIONAL SERVICE aka WATER )

13 AND WASTEWATER MANAGEMENT SERVICES, )

LLC, ROBERT THURSTON, and CHERI )

14 THURSTON )

)

15 Respondent. )

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BRIEF ADJUDICATIVE HEARING, VOLUME II (Pages 16-40)

17

ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

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19

AUGUST 28, 2015 | 9:30 A.M.

20 Washington Utilities and Transportation Commission

1300 South Evergreen Park Drive Southwest

21

Olympia, Washington 98504-7250

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REPORTED BY: LISA BUELL, RPR, CRR, CCR #2204

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0017

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A P P E A R A N C E S

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4 Transportation Commission

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FOR WASHINGTON UTILITIES AND

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FOR T&T PROFESSIONAL SERVICE

14 aka WATER AND WASTEWATER

MANAGEMENT SERVICES, LLC:

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19

FOR PIPER WATER SYSTEM:

20

ROBIN MOEUR (Via Bridge Line)

21

FOR LIGHTMOOR WATER SYSTEM:

22

VIVIENNE ALPAUGH (Via Bridge Line)

23

24

\* \* \* \* \*

25

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EXAMINATION INDEX

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EXAMINATION OF PAGE

3

JIM WARD

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Mr. Shearer. . . . . . . . . . . . . . . . . . . 22

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1 OLYMPIA, WASHINGTON; AUGUST 28, 2015

2 9:40 A.M.

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4 JUDGE PEARSON: Let's be on the record.

5 Good morning. We are here today for a brief

6 adjudicative proceeding in Docket UW-143617, which is an

7 application to transfer ownership and cease operations

8 of three water systems, filed by T&T Professional

9 Service, dba Water and Wastewater Management Services

10 and Docket UW-150791, which is a penalty assessment

11 issued by the Commission against T&T Professional

12 Service for failing to timely file an annual report and

13 pay regulatory fees.

14 My name is Rayne Pearson. I'm the

15 Administrative Law Judge presiding over today's

16 proceeding. Today is Friday, August 28th, 2015, and the

17 time is approximately 9:40 a.m. We were scheduled to

18 begin the proceeding this morning at 9:30 a.m.; however,

19 the company has not yet appeared.

20 I do believe that there is a party on the

21 bridge line. If you could identify yourself.

22 MS. MOEUR: Yes. My name is Robin Moeur,

23 last name is spelled M-O-E-U-R. I'm representing the

24 Piper System.

25 JUDGE PEARSON: Okay. Let's just go off the

0020

1 record for a couple more minutes. I will give the

2 company until about 9:45 to make an appearance, and if

3 they don't, we will go ahead and proceed at that time.

4 So let's be off the record.

5 (A break was taken from

6 9:39 a.m. to 9:43 a.m.)

7

8 JUDGE PEARSON: We will be back on the

9 record. The party has appeared -- I'm sorry, the

10 company has appeared on the bridge line, so we can go

11 ahead and get started.

12 We did originally have four parties that

13 entered appearances, specifically in the UW-143617

14 docket, and those parties were Staff, the company and

15 representatives from both the Lightmoor and the Piper

16 Water Systems. They were both granted intervenor

17 status.

18 And I will have the parties who are present

19 both in the hearing room and on the bridge line identify

20 themselves for the record in just a moment, but I want

21 to first provide a road map of today's proceeding.

22 Staff will present its case first, and then we will hear

23 from the company followed by either -- or perhaps only

24 one intervenor, and when I call on each party to

25 testify, I will swear any witnesses in with the oath of

0021

1 witness so that anything that you tell the Court will be

2 under oath and will be considered sworn testimony.

3 And for the court reporter's benefit, please

4 speak slowly and clearly, and please be sure to use the

5 microphone. I guess, Mr. Ward, that only applies to

6 you. The people on the telephone can just be sure to

7 speak up, and we will let you know if we can't hear you.

8 Once you are sworn in, you can present your

9 testimony and call any witnesses, and each of the

10 parties will also have the opportunity to ask questions

11 of each other, and I will let you know when it's your

12 turn to do that. And I did not receive any exhibits in

13 advance of today's hearing so I'm assuming that none of

14 the parties will be offering any exhibits today.

15 And finally, I won't be making my decision

16 today. I will take everything that's presented under

17 advisement and issue an order in the near future. Does

18 anyone have any questions before we get started?

19 Okay. Hearing nothing, let's first take

20 brief appearances from each party, beginning with

21 Commission Staff.

22 MR. SHEARER: Good morning, Your Honor. My

23 name is Brett Shearer, S-H-E-A-R-E-R, Assistant Attorney

24 General, and I am here on behalf of Commission Staff.

25 JUDGE PEARSON: Thank you. And for T&T

0022

1 Professional Service?

2 MS. THURSTON: It's Cheri Thurston.

3 MR. THURSTON: Bob Thurston.

4 JUDGE PEARSON: And for the Piper Water

5 System?

6 MS. MOEUR: Robin Moeur.

7 JUDGE PEARSON: And for the Lightmoor Court

8 Water System?

9 Okay. Hearing nothing, it appears that the

10 Lightmoor Court Water System will not be participating

11 in today's proceeding.

12 So, Mr. Shearer, you may begin when you're

13 ready.

14 MR. SHEARER: Thank you, Your Honor. I'd

15 like to call Staff witness, Mr. Jim Ward.

16 JUDGE PEARSON: Okay. Mr. Ward, if you

17 could please stand and raise your right hand.

18

19 JIM WARD, (Witness sworn.)

20

21 JUDGE PEARSON: Okay, thank you.

22

23 E X A M I N A T I O N

24 BY MR. SHEARER:

25 Q. Good morning, Mr. Ward. Could you please state

0023

1 your name and spell your last name for the record.

2 A. Jim Ward, W-A-R-D.

3 Q. And, Mr. Ward, what is your position here at the

4 UTC?

5 A. I'm a regulatory analyst in the water and solid

6 waste section.

7 Q. And can you please explain your role in these

8 dockets? I'm speaking to Dockets 143617 and Docket

9 150791.

10 A. My role is to review the sale and transfer

11 applications that were filed recently with this company

12 trying to transfer the systems to the customers.

13 Q. So is it fair to say you have firsthand personal

14 knowledge of both dockets in this case?

15 A. Yes, I do.

16 Q. I'd like to start with Docket 143617 that is the

17 docket for transfer of ownership and transfer of assets.

18 Mr. Ward, can you please explain the relevant background

19 in this docket.

20 A. This docket was an application by the company to

21 the Commission to transfer three of its water systems to

22 the customers, the Piper Water System, the Lightmoor

23 Water System and the Pinewood Water System.

24 Q. And can you please describe or explain the three

25 systems, as you call them.

0024

1 A. Each of the water systems are owned by T&T

2 Professional Services, also known as Water Wastewater

3 Management. Each of the systems is considered to be a

4 Group B water system by the Department of Health, to my

5 knowledge, and serve less than ten customers on each

6 water system.

7 Q. And can you please explain your recommendation

8 as to the company's petition to transfer these systems

9 and your recommendation for each of those three systems,

10 please.

11 A. It is Staff's recommendation today to deny the

12 transfer since we do not have a willing receiver of each

13 of the water systems. The company and Staff have talked

14 with each of the water systems, and as of yet, we do not

15 have an agreement between each water system and the

16 company.

17 Q. And can you provide the Commission any -- if you

18 have any additional relevant information about the

19 current status of each of these three systems?

20 A. Yes. In the Piper Water System, there is

21 ongoing talks with the customer group. The

22 representative is on the bridge line for that group.

23 This is a transfer to potentially a homeowners

24 association with a transfer then on to a PUD; however,

25 at this point, we do not have agreement on that

0025

1 transfer.

2 The Lightmoor Water System at the last hearing

3 we had, there was an agreement to review a list of seven

4 items. We have not heard any update on that list of

5 seven items. We've received no agreement yet on that

6 water system.

7 On the Pinewood Water System, this water system

8 serves three customers. I did recently receive a

9 preliminary sale and transfer application and request

10 for deregulation. I have reviewed that and provided it

11 back to the company; however, at this time we still do

12 not have an agreement yet with the customers for the

13 transfer of that water system either.

14 Q. So to summarize, given that there's no --

15 there's no concrete agreements or transfers in place at

16 this time, Staff is recommending denial of this

17 petition; is that correct?

18 A. Yes. In all three of the water systems, we do

19 not have a written agreement yet on file; therefore,

20 Staff's recommendation is to deny the request by the

21 company to essentially give the systems to the

22 customers.

23 Q. Okay. Thank you, Mr. Ward.

24 I'd like to move on to the second docket in this

25 case, that is 150791, which is a penalty assessment

0026

1 relating to annual report filings.

2 Mr. Ward, did this company file a timely 2014

3 annual report?

4 A. No. The company did not meet the deadlines for

5 the annual report for this year for the calendar year of

6 2014.

7 Q. And was the filing more than ten days after that

8 deadline?

9 A. Yes. The filing was after the deadline of May

10 1st.

11 Q. And can you please explain your recommendation

12 for the currently outstanding penalty of $1,000 in this

13 docket?

14 A. Yes. The company did file its annual report

15 late. It was on June 9th, I believe, that it was

16 received by the Commission. It is Staff's

17 recommendation today that we suspend the $1,000 penalty

18 for a period of one year and be waived after that if the

19 company can file its 2015 annual report in a timely

20 fashion, which would be due by May 1st of 2016.

21 Q. And to be clear, your recommendation for

22 potential waiver would depend on whether the company

23 still owned these systems at that time or were still

24 subject to regulation, correct?

25 A. Yes.

0027

1 MR. SHEARER: Thank you, Mr. Ward.

2 I have no additional questions for Mr. Ward,

3 Your Honor.

4 JUDGE PEARSON: Okay. Thank you.

5 Ms. Thurston or Mr. Thurston, do you have

6 any questions for Mr. Ward?

7 MS. THURSTON: No, not at this time. He's

8 working with us. We're having a hard time working with

9 the owners of the Lightmoor Water System. They're not

10 returning our calls, but we do have --

11 JUDGE PEARSON: Okay. You'll have a chance

12 to speak to that in just a moment. Right now --

13 MS. THURSTON: All right. But as far as

14 Mr. Ward, no. He's been wonderful working with us.

15 JUDGE PEARSON: Okay. Thank you.

16 Ms. Moeur, do you have any questions for

17 Mr. Ward?

18 MS. MOEUR: No questions at this time.

19 JUDGE PEARSON: Okay. Thank you.

20 And that's all you have, right, Mr. Shearer?

21 MR. SHEARER: I have no other witnesses,

22 Judge Pearson.

23 JUDGE PEARSON: Okay. So Ms. Thurston and

24 Mr. Thurston, it's your turn. Is one of you going to

25 speak to represent the company or do you both have

0028

1 testimony this morning?

2 MR. THURSTON: We don't have anything to

3 present this morning.

4 JUDGE PEARSON: You don't have any testimony

5 this morning?

6 MR. THURSTON: No.

7 JUDGE PEARSON: Okay.

8 MS. THURSTON: Well, our testimony was

9 basically about the fine and stuff and Jim addressed

10 that.

11 Also, we are having a hard time

12 communicating with Lightmoor --

13 JUDGE PEARSON: So let me stop you right

14 there, Ms. Thurston. I'd like to swear you in before

15 you proceed.

16 MS. THURSTON: Okay.

17 JUDGE PEARSON: So if you could just, where

18 you are, just stand and raise your right hand.

19 MS. THURSTON: Okay.

20

21 CHERI THURSTON, (Witness sworn.)

22

23 JUDGE PEARSON: Okay. So you can go ahead

24 now if you want to give testimony.

25 MS. THURSTON: Yeah. Well, at the last

0029

1 hearing, we heard the Piper -- Robin Moeur who was

2 representing Piper system, their progress on it, so I

3 guess we didn't think that we needed to address anything

4 on that because they were handling it. I haven't heard

5 any updates or received any paperwork regarding that.

6 And the Lightmoor system, we've placed phone

7 calls to them and had no response back from them, so

8 we're a little bit confused on how to proceed with the

9 Lightmoor transfer because they're not talking with us,

10 which is odd because there were lots and lots of

11 communication going on before these hearings started.

12 So we're a little bit -- don't know what to do with

13 that.

14 The Pinewood system, I'm working on

15 paperwork for, and I should have that done just --

16 today. I'm just waiting for Don's signature, and so I

17 can get that in to the Commission. So that is all.

18 JUDGE PEARSON: Okay. And did you want to

19 respond to Staff's recommendation regarding suspending

20 the thousand dollar penalty for a one-year period and

21 then waiving it provided the company timely files its

22 2015 annual report?

23 MS. THURSTON: Yes, I agree with that.

24 JUDGE PEARSON: Okay.

25 Mr. Shearer, did you have any questions for

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1 Ms. Thurston?

2 MR. SHEARER: No, Your Honor.

3 JUDGE PEARSON: And Ms. Moeur, did you have

4 any questions for Ms. Thurston?

5 MS. MOEUR: No questions. I'm happy to

6 provide an update.

7 JUDGE PEARSON: Okay. Great.

8 So why don't we go ahead and do that.

9 Ms. Moeur, if you could stand and raise your right hand.

10 MS. MOEUR: Okay.

11

12 ROBIN MOEUR, (Witness sworn.)

13

14 JUDGE PEARSON: Okay. You can proceed with

15 your testimony.

16 MS. MOEUR: Thank you. Judge, just in the

17 way of update -- and Jim ward and --

18 (Telephone interruption as

19 additional party joins the bridge

20 call.)

21 MS. MOEUR: Sorry, can you guys hear me

22 okay?

23 JUDGE PEARSON: Yes.

24 MS. THURSTON: Yeah.

25 MS. MOEUR: Sorry. There was a sound on the

0031

1 phone.

2 At any rate, we've been working frankly very

3 diligently with Brett Shearer, with the attorney of the

4 KPUD and with Bob Miller, the general manager of the PUD

5 and Jason Thurston on --

6 JUDGE PEARSON: Can you tell me the name of

7 the PUD again? I didn't understand.

8 MS. MOEUR: Oh, I'm sorry, the Kitsap Public

9 Utility District.

10 JUDGE PEARSON: Kitsap, okay. All right.

11 Go ahead.

12 MS. MOEUR: So during the settlement

13 conference in July, we proposed to Bob and Cheri

14 Thurston that the Piper system was setting forth two

15 possible conditions for agreement of transfer. The

16 first condition would be our acceptance of an estimate

17 to be provided from Kitsap Public Utility District for a

18 replacement of our water system. I think the record

19 will probably show in previous detail provided that

20 we've lost 85 percent of capacity on our well and have

21 an obsolete set of appurtenances in the ground, and we,

22 the nine families on Piper systems, started working with

23 Kitsap Public Utility District at the direction of

24 Public Health to determine some options.

25 We petitioned the board of Kitsap Public

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1 Utility District at their regular scheduled meeting in

2 July for approval to start the process of the estimate,

3 and that approval was granted on July 28th, with a

4 deadline for the estimate to be provided to us in the

5 month of September.

6 So the condition was upon acceptance of the

7 estimate, the Thurstons would then be available to

8 transfer the Piper system to a local utility district

9 formed under agreement and in process with Kitsap Public

10 Utilities.

11 If, however, for any reason a majority of

12 the families in the Piper system were to reject the

13 estimate, we were in agreement that we, the nine

14 families, would form a homeowners association with the

15 Secretary of State's office, and the transfer of the

16 Piper system would be to that homeowners association,

17 and that the entire process, regardless of acceptance or

18 denial of the estimate, would be completed no later than

19 December 31st of this year.

20 In the meantime, just for the record, City

21 of Bainbridge Island, through the Director of Public

22 Works -- and his name is Barry Loveless -- intervened

23 with an option for City of Bainbridge Island to provide

24 service to us because we are within the definition of

25 the retail water service area on Bainbridge Island. I

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1 have, however, received communication from them

2 addressed to me and to Bob Miller of the PUD that City

3 of Bainbridge Island is not able to provide that service

4 and has green-lighted the estimate with KPUD to proceed,

5 so they are in the process of finishing the estimate and

6 we expect to see it in September. And at that point, on

7 acceptance, Bob and Cheri agreed in the settlement

8 conference to transfer. Upon rejection, they would

9 transfer to the homeowners association to be formed.

10 JUDGE PEARSON: Okay. Thank you. Is that

11 all you have, Ms. Moeur?

12 MS. MOEUR: Yes.

13 JUDGE PEARSON: Okay. Mr. Shearer, do you

14 have any questions for Ms. Moeur?

15 MR. SHEARER: No, Your Honor.

16 JUDGE PEARSON: Okay. Mr. or Ms. Thurston,

17 do you have any questions?

18 MR. THURSTON: I do.

19 Hi again. This is Bob. What was the --

20 what was the city's offer, the City of Bainbridge

21 Island's offer?

22 MS. MOEUR: The City of Bainbridge Island

23 has created a Comprehensive Water Plan. That plan was

24 created in 1996. Under the conditions of that plan,

25 which they provided to us a couple weeks ago, anybody

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1 requesting water within what's described as the retail

2 water service area apparently is required to ask the

3 city to provide its water before it can pursue an

4 option. However, under further discovery, there are

5 conditions to that, one of which is that it would be a

6 new water system, which as you know, we are not. We are

7 replacement of a private Class B system; and two, there

8 would have to be the threat of potential of the water

9 system going into receivership, and I indicated I didn't

10 believe that was the case. So while they suggested we

11 weren't entirely obliged, it was recommended that we

12 satisfy so that there wouldn't be a future delay by the

13 city wanting to intervene after we started to form the

14 LUD, so we had to formally ask for their ability to

15 service, and they provided written response that they

16 were not, in fact, able to provide water to us and that

17 we should proceed with the PUD.

18 MR. THURSTON: Okay. Thank you.

19 MS. MOEUR: Yeah.

20 JUDGE PEARSON: Okay. And I did hear

21 another party come on the bridge line while Ms. Moeur

22 was testifying. Could you please identify yourself.

23 MS. ALPAUGH: Yes, Vivienne Alpaugh from the

24 Lightmoor Court Water System.

25 JUDGE PEARSON: Okay. So have you spoken to

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1 Mr. Younker?

2 MS. ALPAUGH: Yes. He had -- he's ill and

3 had to rush to the doctor, so...

4 JUDGE PEARSON: Okay.

5 MS. ALPAUGH: I didn't even know what time

6 to call in. I apologize. It sounds like you were under

7 way. I thought it started at ten.

8 JUDGE PEARSON: Yes, we have been under way.

9 So you'll be standing in for Mr. Younker this morning?

10 MS. ALPAUGH: Yes.

11 JUDGE PEARSON: Can you spell your first and

12 last name and give us your address, email address and

13 phone number for the record, please.

14 MS. ALPAUGH: Yes. So it's Vivienne

15 Alpaugh, Vivienne is V-I-V-I-E-N-N-E. Last name is

16 Alpaugh, A-L-P, as in Paul, A-U-G-H, and the address is

17 8411 Northeast Lightmoor Court, Bainbridge Island,

18 Washington 98110, and email address, is that what --

19 JUDGE PEARSON: Yes.

20 MS. ALPAUGH: It's V-V Alpaugh,

21 A-L-P-A-U-G-H@aol.com.

22 JUDGE PEARSON: And your phone number?

23 MS. ALPAUGH: (206) 842-0327.

24 JUDGE PEARSON: Okay. And did you have any

25 testimony that you wanted to give this morning,

0036

1 Ms. Alpaugh?

2 MS. ALPAUGH: No. I was basically calling

3 in just to monitor. We hadn't provided any exhibit or

4 witness list because we hadn't received anything from

5 the other side, but the (inaudible) has asked me to

6 monitor and see if there was anything that we needed to

7 present or discuss.

8 JUDGE PEARSON: If you have an update, that

9 would be useful, and I would need to swear you in before

10 you gave that, but do you have an update, with respect

11 to the Lightmoor Water System?

12 MS. ALPAUGH: Not since the settlement

13 conference.

14 JUDGE PEARSON: Okay.

15 MS. ALPAUGH: But I know that there were

16 other parties there both calling in and in attendance --

17 JUDGE PEARSON: Right.

18 MS. ALPAUGH: -- from our water system, and

19 so I don't really have an update since then.

20 JUDGE PEARSON: Okay.

21 MS. ALPAUGH: I haven't received anything.

22 JUDGE PEARSON: Okay. So, Mr. Shearer, do

23 you have anything else?

24 MR. SHEARER: I just wanted to make a brief

25 closing statement whenever you -- at your convenience,

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1 Your Honor.

2 JUDGE PEARSON: Okay. I think this would be

3 a good time for that.

4 MR. SHEARER: I just wanted to summarize

5 this case.

6 MR. THURSTON: Not yet.

7 MR. SHEARER: I just wanted to briefly

8 summarize the case and Staff's recommendation.

9 We have, in Docket 143617, a petition to

10 transfer the systems currently, but we don't have any --

11 any formal documentation or formal recipients yet, so

12 Staff is recommending denial of that petition in that

13 docket.

14 I know you heard a lot of discussion today

15 about kind of a parallel track that's going on with at

16 least two of the three water systems, to transfer those

17 and set those up for transfer in the future, and I just

18 want to clarify that those were a parallel track, and

19 Staff is remaining to work with those -- with the owners

20 and the customers, and at least two of the three clearly

21 have a path forward for a future transfer and a future

22 petition or some other request of the Commission. So I

23 just wanted to clarify that those were a separate item

24 that we're working on from what you're deciding here

25 today.

0038

1 JUDGE PEARSON: Right. Thank you.

2 Does anyone else on the bridge line have

3 anything they would like to say in closing?

4 MS. MOEUR: Judge, this is Robin Moeur. The

5 only other thing I might add with respect to our ability

6 to provide any kind of written contractual agreement

7 referencing the transfer conditions that we reached with

8 Thurstons at the settlement conference is that we were

9 advised by those KPUD attorneys -- and, Brett, you

10 participated in this decision as well -- that in the

11 absence of the actual estimate which conditions the

12 transfer, that we really aren't in a position to ask the

13 Thurstons to sign an agreement based on something that

14 doesn't yet exist because the estimate hasn't been

15 finalized. So I would completely expect that at the

16 point that we receive the written estimate from KPUD in

17 September, that we ought to be able to make a decision,

18 you know, in a relatively timely fashion, and we're

19 doing everything we can, but on advice of counsel, we

20 didn't try to put anything down for signature because we

21 can't condition a transfer on something that doesn't

22 exist.

23 JUDGE PEARSON: Okay. Thank you.

24 Anything else?

25 MR. SHEARER: Nothing from Staff, Your

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1 Honor.

2 JUDGE PEARSON: Okay. Hearing nothing, I

3 want to thank you all for coming today and appearing on

4 the bridge line, and as I stated earlier, I will be

5 taking everything that was heard today under advisement

6 and issuing an order. And if we have nothing further,

7 then we will be adjourned. Thank you.

8 (Hearing concluded at 10:06 a.m.)

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1 C E R T I F I C A T E

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3 STATE OF WASHINGTON

4 COUNTY OF KING

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6 I, Lisa Buell, a Certified Shorthand Reporter and

7 Notary Public in and for the State of Washington, do

8 hereby certify that the foregoing transcript of the

9 hearing on AUGUST 28, 2015, is true and accurate to the

10 best of my knowledge, skill and ability.

11 IN WITNESS WHEREOF, I have hereunto set my hand

12 and seal this 10th day of SEPTEMBER, 2015.

13

14

15

16 LISA BUELL, RPR, CRR, CCR

17

18 My commission expires:

19 DECEMBER 2018

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