

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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IN THE MATTER OF:)Docket No. 08-2438-01
)
The Request of Pineview West)Administrative Law Judge:
Water Company for Approval)Ruben Arredondo
of a Rate Increase,)
)TRANSCRIPT OF HEARING
)

January 21, 2009
9:30 a.m.

TAKEN AT:
PUBLIC SERVICE COMMISSION
160 East 300 South, Room 451
Salt Lake City, Utah 84111

* * *

Karen Christensen
- Registered Professional Reporter -
- Certified Shorthand Reporter -

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A P P E A R A N C E S

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1 January 21, 2009

9:30 a.m.

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P R O C E E D I N G S

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THE COURT: Let's go on the record. I think that's all. Everybody is here; right? Docket No. 08-2438-01. This is the Matter of the Request of Pineview West Water Company for a Special Assessment and Rate Increase. I'm Ruben Arredondo, the ALJ assigned by the Commission to hear this matter. Let's take appearances, please.

MS. SCHMID: Patricia E. Schmid with the Attorney General's Office representing the Division of Public Utilities. And with me is Mark Long with the Division.

THE COURT: Thank you. And on this side, please?

MR. BRYNER: Bryan Bryner representing Pineview West Water Company. And with me are June Andersen and Nathan Brockbank from the company.

THE COURT: Thank you. And Nathan Andersen; is that right?

MR. BROCKBANK: June Andersen and Nathan Brockbank.

THE COURT: Sorry. Are there any -- besides Mr. Turner, who is on the phone, anybody else on the phone? No. Anybody in the audience that would like to

1 make any comments today?

2 MRS. READER: Probably not. I don't know
3 yet, but I'm Velda Reader and this is Richard Reader.

4 THE COURT: All right. If you'd like, we
5 have some time reserved for you, so we'll open that up.
6 Then let's go ahead and begin.

7 I wanted to note that we had a recommendation
8 from the Division to bifurcate this matter -- excuse
9 me -- into a special assessment and a rate increase. And
10 are there any objections to this? And what we'll do is
11 we'll go ahead and I'll recommend the Commission should
12 order to bifurcate that.

13 Let's go ahead and begin with the company.
14 Mr. Bryner, would you like to begin?

15 MR. BRYNER: Yes.

16 THE COURT: You can stay seated, if you'd
17 like.

18 MR. BRYNER: Okay. Your Honor, we've
19 reviewed the Division of Public Utilities'
20 recommendations that they sent to us yesterday, and we're
21 generally in agreement with the recommendation. There
22 are, however, a few other items that we would like to
23 discuss and, also, we would like to present some evidence
24 for the record. And so what we would like to do first is
25 call June Andersen to testify.

1 THE COURT: Ms. Andersen, would you please
2 raise your right hand?

3 JUNE ANDERSEN,
4 having been first duly sworn, was examined
5 and testified as follows:

6 THE COURT: Go ahead, Mr. Bryner.

7 DIRECT EXAMINATION

8 BY MR. BRYNER:

9 Q. Okay. Ms. Andersen, would you please state
10 your name?

11 A. June Andersen.

12 Q. And what is your position with the Pineview
13 West Water Company?

14 A. Secretary.

15 Q. And how long have you been involved with the
16 water company?

17 A. Since mid-2006.

18 Q. Okay. And are you familiar with the
19 operations of the water system?

20 A. I am, to a certain degree.

21 Q. Okay. I just want to ask you a few questions
22 about how the water system operates and what some of the
23 components are. If you could just give a brief
24 explanation of how the water system operates.

25 A. We serve culinary and secondary water needs,

1 58 connections. We have two culinary wells -- two
2 culinary reservoirs. We have two secondary wells, one of
3 which is not in operation, and two secondary reservoirs.

4 Q. Okay. And so the sources of water for the
5 company are two culinary wells and two secondary wells.
6 Are there any other sources of water for the culinary
7 system?

8 A. We have a connection into an Ogden City line
9 that supplies us with culinary as a backup to the wells
10 that we have, which is through our water rights through
11 the Weber Basin contract. We have 90 acre-feet in our
12 contract with Weber Basin, and we are allowed 40,000
13 gallons a day with Ogden City.

14 Q. So they're two separate sources of water.
15 Other than the groundwater well, there is the Ogden City
16 connection and the Weber Basin connection; is that
17 correct?

18 A. We do have some springs that will flow into
19 spring into one of our secondary wells or reservoirs.

20 Q. And so you mentioned there are two culinary
21 reservoirs. Could you just explain what sources supply
22 each of the culinary reservoirs?

23 A. We have well No. 2 that pumps the water into
24 a lower culinary reservoir. Our upper reservoir is
25 filled by well No. 3. Right now, well No. 2's pump has

1 pretty much gone out, doesn't function unless someone is
2 there flipping the switch all the time.

3 Q. And let's see. The secondary reservoirs, how
4 are they supplied?

5 A. Some are through groundwater. We have a well
6 that provides the majority of our irrigation water, which
7 is groundwater. It's about a 400-foot deep well, and
8 that one compromises some of the neighborhood wells,
9 smaller wells, when we turn it on.

10 And in the summer when it gets really hot and
11 dry, we have to rely on that well to provide our
12 secondary system with water pressure. If we don't have
13 significant pressure, then we have to rely on Ogden City
14 to supplement, which is very costly.

15 Q. And how many connections does the company
16 have?

17 A. We have 58 culinary connections and 37
18 secondary connections.

19 Q. And are there any other -- oh, okay. That
20 answers...

21 A. Out of that 58, 53 of them are shareholders,
22 five are non-shareholder connections.

23 Q. Okay. So why is the company requesting a
24 special assessment?

25 A. Well, when we took over the company in 2006,

1 there were no reserves built into the system, so -- we
2 were, you know, given money in a checking account to
3 begin operations. And so when we had unforeseen
4 expenses, we had no backup funds that would have been
5 accumulated over the years to help pay for depreciation
6 in the system. So we had to just rely on the income that
7 was coming in off of usage, which was far from sufficient
8 and right for the development and --

9 MR. BROCKBANK: And for the developer.

10 THE WITNESS: So what we ended up doing is
11 relying on the developer to supply funds to pay bills
12 that we could not pay out of water company funds to
13 supplement the lack thereof. And we discussed those
14 issues with the shareholders in our meetings, that we
15 were falling behind and we had to look at other options.
16 And looking at rate increases, we -- go ahead.

17 Q. (BY MR. BRYNER) What were some of the
18 options that you looked at to cover these expenses that
19 you were unable to meet?

20 A. Some of the options?

21 Q. Yeah.

22 A. To cover the expenses?

23 Q. Let me back up.

24 Did you do anything before requesting a rate
25 increase? Were there other things that the company tried

1 to do in order to cover expenses before requesting the
2 rate increase and the special assessment?

3 A. Well, for covering expenses, no. Basically,
4 the developer helped fund where our deficit was. We
5 discussed with the shareholders the option of going for
6 new rates or setting up our own rate board, rewriting our
7 bylaws and being able to operate independently as a small
8 water company, rural water company, under the advice of
9 the Rural Water Association of Utah and our attorney that
10 we had sought advice from regarding the operation of the
11 water company. Looking at various options that we could
12 look at or go to to increase the rates. And so we
13 addressed those issues and rewrote our bylaws, but the
14 shareholders voted down that option.

15 So then we went forth with applying for the
16 rate increase. But our needs -- at this time we have
17 over \$20,000 in unpaid bills that are outstanding with
18 Ogden City Water, Weber Basin, the cost to replace that
19 broken pump with our certified operator for the repairs
20 that he's been making over the last few months, our
21 insurance for the company. Also, Mr. Brockbank for some
22 money that he put in last fall so that Ogden City did not
23 turn off the water to our system that they were
24 threatening to do.

25 So we needed an immediate influx of money to

1 cover these debts that are right on the books currently.
2 And so we went for the special assessment first, knowing
3 a rate increase could take a longer period of time, and
4 the special assessment would kind of heal the wound
5 temporarily until we could go into the rate increase that
6 would then cover us for a prolonged period of time.

7 Q. Okay. And you mentioned something about the
8 company trying to amend the bylaws to become independent.
9 Are you referring to the company wanting to become exempt
10 from regulation by the Public Service Commission?

11 A. Right, that's correct.

12 Q. That's what the shareholders voted down?

13 A. Correct.

14 MR. BRYNER: Now, I have two exhibits I want
15 to introduce here. I'll have these marked as exhibits.

16 THE COURT: Go ahead. Do you have copies for
17 the reporter?

18 MR. BRYNER: Yes. These are copies of the
19 Articles of Incorporation and the Bylaws, and I want to
20 introduce these, as they're a matter of record in the
21 case. I don't know if opposing counsel has seen these
22 before.

23 MS. SCHMID: I have not.

24 MR. BRYNER: Okay. Bylaws and Articles of
25 Incorporation.

1 MS. SCHMID: Thank you.

2 THE COURT: How do you want to mark these,
3 Mr. Bryner?

4 MR. BRYNER: We could just mark them as
5 Exhibit P1 and P2.

6 THE COURT: We'll mark the Bylaws of the
7 company as Pineview Exhibit 1 and the Articles of
8 Incorporation as Pineview Exhibit 2.

9 We'll admit those, unless there is any
10 objections.

11 MS. SCHMID: No objections.

12 Q. (BY MR. BRYNER) And, Ms. Andersen, are you
13 familiar with the articles and bylaws of the company?

14 A. Yes.

15 Q. If I could give you --

16 A. Copies.

17 Q. -- a copy. Do you have a copy?

18 A. Um-humm.

19 Q. In the bylaws, if I could have you turn to
20 the last page under Article XI and assessments. Is that
21 your understanding, that that's the source of the
22 authority for the company to levy a special assessment?

23 A. Yes.

24 Q. Okay. And also if you could turn to the
25 Articles of Incorporation, Article VIII on page 2, is

1 that your understanding of the company's authority to
2 levy a special assessment?

3 A. Yes.

4 MR. BRYNER: Okay. I want to show you
5 another exhibit. I have copies of these. Let's see
6 here. We'd like to mark this exhibit as P3.

7 THE COURT: Do you have a copy?

8 MR. BRYNER: This is the letter that was
9 submitted.

10 MS. SCHMID: I believe that we do.

11 MR. BRYNER: Okay. Do you still need this?

12 MS. SCHMID: Not really.

13 THE WITNESS: They were submitted to Mark.

14 MR. BRYNER: Okay.

15 THE COURT: What we'll do is we'll mark
16 these, the letter -- January 12th, 2009 letter P3, the
17 spreadsheet P3A and --

18 MR. BRYNER: The invoices.

19 THE COURT: As P3B.

20 MR. BRYNER: P3B.

21 Q. (BY MR. BRYNER) And, Ms. Andersen, do you
22 recognize these documents that are marked as Exhibits P3,
23 P3A and P3B?

24 A. Yes. Those are the documents we put together
25 after our hearing on January 5th for further explanation

1 requested by the Commission.

2 Q. What is the first exhibit, the letter? Could
3 you explain what that is?

4 A. It's basically an overview of our request for
5 the special assessment and how we arrived at the costs
6 that we listed in our special assessment request.

7 Q. If you could turn to the third page, there's
8 a spreadsheet there. What is that spreadsheet?

9 A. It itemizes the cost from each of the vendors
10 that supply Pineview West Water Company and corresponding
11 invoices and charges from them and then the totals of
12 what those costs were to the company.

13 Q. Okay. And did that serve as the basis of the
14 amount that you wanted to use to levy the assessment?

15 A. Correct.

16 Q. Okay. And then if I could have you look at
17 the second spreadsheet that's identified as P3A. What is
18 that spreadsheet?

19 A. This was revised after Mr. Long and I met and
20 he went over some of the records. And he made some
21 recommendations as to costs that he would consider
22 pulling out --

23 Q. Okay. So that --

24 A. -- of our special assessment. So it's more
25 of a revised expense.

1 Q. That's meant to replace the spreadsheet
2 that's attached to the letter; correct?

3 A. Correct.

4 Q. And if you could see where it says "Repairs,"
5 and there's some figures that are highlighted. What are
6 those referring to?

7 A. Those are individual invoices from S&S, who
8 are our certified operators and excavators that do all of
9 our repairs and maintenance. And the invoices that are
10 attached correspond to those so that you can see the
11 detail on each one of the expenses.

12 Q. Okay. And so those figures -- do those
13 figures represent the total amount on the invoice or only
14 portions of the invoices?

15 A. In most cases -- we went through them one
16 line at a time and marked those that we felt were
17 unforeseen costs, line breaks or other damage or other
18 unforeseen expenses that came up.

19 Q. Okay. So those invoices are only -- so the
20 figures on that spreadsheet are only meant to cover the
21 unforeseen expenses?

22 A. Correct. We took off anything that we felt
23 would not fall into that category.

24 Q. So if I could have you explain what the
25 unforeseen expenses are that the company is seeking to

1 recover through this special assessment. I guess just
2 generally.

3 A. Well, generally, we had increases from Weber
4 Basin and Ogden City, who supply water to us. Their
5 rates went up substantially since 2006 when we took over.
6 The certified operator, those expenses went up
7 drastically because of the condition of some of the water
8 system. And as we would have problems and send him in
9 for repairs, there were some major ones to deal with.

10 We had a pump that went out on our culinary
11 well No. 3, which was a substantial cost. And we had a
12 waterline break on the Ogden City line, which also was
13 quite expensive to replace. Those are two of the major
14 ones that we had.

15 This includes supplies to make those repairs,
16 the cost of the new pump. And listed on here, too, is
17 the cost of the new pump that we hope to get in shortly
18 to correct the problems on well No. 2, and...

19 Q. Okay.

20 A. I think that pretty well goes over that.

21 Q. So these unforeseen costs are related to the
22 current system that's servicing the 58 connections; is
23 that correct?

24 A. That's correct.

25 Q. Okay. And looking at that spreadsheet, on

1 the second page there's a line for attorney and it has
2 some fees listed. Do you believe that those attorneys'
3 fees were unforeseen and should be considered in the
4 special assessment?

5 A. I think when we realized that the company
6 couldn't operate with the income that it was able to bill
7 out for the water use and that we were falling short that
8 we, you know, looked at options, as I said before. And
9 so we were looking at rewriting the bylaws. And
10 rewriting a company's bylaws is something you don't do
11 unless you're qualified, and that's when we turned to an
12 attorney for advice.

13 Those expenses relate to attorney fees to
14 resolve those issues of rewriting the bylaws and the
15 articles and advising us in what approaches to take in
16 overcoming the deficit that we had in the company.

17 MR. BRYNER: Okay. Your Honor, I would move
18 to admit Exhibits P3, P3A and P3B.

19 THE COURT: No objections, Ms. Schmid?

20 MS. SCHMID: No objection.

21 THE COURT: Okay. We'll submit those.

22 Q. (BY MR. BRYNER) Okay. If I could show
23 you -- let me ask you this question: Did you receive the
24 Division of Public Utilities' recommendation for the
25 amount of the special assessment to be levied?

1 A. Yes.

2 Q. Okay. And what is your understanding of what
3 that number is?

4 A. Yeah, it's \$35,657.40. That's the
5 recommendation for the total assessment on special
6 assessment.

7 Q. Okay. And how is that to be distributed or
8 allocated among the shareholders?

9 A. It's been suggested that it be divided by 12
10 so they can pay it monthly over a year's time.

11 Q. And is that consistent with what the company
12 would like to see?

13 A. The company would like to see it paid out
14 faster than that. We have, like I said, over \$20,000 in
15 invoices that are due now and past due. Some of these
16 date back to last October. And our Weber Basin Water we
17 will lose if that's not paid by the end of the month.

18 So we've already had Ogden City threaten to
19 turn off our water supply. So we feel like we need an
20 influx of money much sooner than over a period of one
21 year. We would like to see it paid out sooner.

22 Q. Okay. So other than -- considering the
23 Division of Public Utilities' recommendation, the only
24 other changes -- and correct me if I'm wrong -- the only
25 changes you would make is the inclusion of attorneys'

1 fees and the payment of the special assessment over a
2 shorter period of time; is that correct?

3 A. One other addition that I noticed in their
4 actual and projected expenses sheet that came out, I
5 found an error in the total of the Ogden City utilities
6 for the year 2008. I show it was over \$12,000. So there
7 would be a slight adjustment of that. I brought copies
8 of invoices so they can verify those.

9 MR. BRYNER: Why don't we admit those into
10 evidence? I apologize, Your Honor, we don't have extra
11 copies, we just have the one copy. I'll show it to
12 counsel first and then -- unless they've seen it.

13 MS. SCHMID: I'm not sure that we've seen
14 that. But if we could have just a moment off the record
15 to look at the document, because it's a proposed
16 correction.

17 THE COURT: Let's go off the record.

18 (A discussion was held off the record.)

19 THE COURT: Let's go back on the record.

20 Mr. Turner, let's go ahead and have you
21 comment, please.

22 MR. TURNER: Okay.

23 THE COURT: You did hear those numbers, the
24 amounts that the company stated?

25 MR. TURNER: Yes.

1 THE COURT: Estimated about \$47,000, \$48,000.

2 Go ahead.

3 MR. TURNER: Yeah. Okay. I just have a
4 couple of comments. Obviously, we need this rate --

5 THE COURT: I'm sorry, Mr. Turner. Let me
6 explain. If you want the Commission to consider your
7 testimony in its ruling, then you have to be sworn in.
8 You're also subject to cross-examination.

9 If you just want to make general comments,
10 you can do that, but just know that the Commission won't
11 consider that in its ruling. Would you like to make your
12 comments under oath?

13 MR. TURNER: Yes.

14 PETER TURNER,
15 having been first duly sworn, was examined
16 and testified as follows:

17 THE COURT: Then proceed.

18 MR. TURNER: I think we need this rate
19 increase. And as opposed to spreading it out over one
20 year incrementally, because we have a lot of outstanding
21 bills, I suggest maybe the Commission consider that we
22 pay, say, half of the assessment up front within the next
23 month or the month of when it's approved, and then we pay
24 off the balance of it on a monthly payment. Because some
25 of those -- some of that money in the assessment increase

1 first month and then the balance over the monthly
2 payments. When you're referring to a rate increase, are
3 you specifically addressing the special assessment that
4 is at issue in this hearing?

5 A. Yes. I used the wrong words. I was
6 referring to the special assessment, the one --
7 basically, this one-time assessed amount.

8 MS. SCHMID: Thank you very much.

9 MR. BRYNER: We have no questions.

10 THE COURT: Thank you, Mr. Turner.

11 MR. TURNER: Thanks. Should I just hang up
12 when I gotta go to my other obligation?

13 THE COURT: Right.

14 MR. TURNER: I'm going to listen for a little
15 longer. Thanks.

16 THE COURT: Mr. Bryner, would you -- we don't
17 have the copies yet, do we?

18 MR. BRYNER: I'm fine letting the Division of
19 Public Utilities make their presentation. I think all we
20 needed to do was move to have that exhibit admitted. And
21 I don't know if they have any questions about that now or
22 we can do --

23 THE COURT: We'll move for the admission once
24 we have the copies. Let's proceed with the Division's
25 testimony.

1 MS. SCHMID: Thanks. The Division would like
2 to call Mr. Mark Long. Could Mr. Long please be sworn?

3 MARK LONG

4 having been first duly sworn, was examined
5 and testified as follows:

6 DIRECT EXAMINATION

7 BY MS. SCHMID:

8 Q. Mr. Long, by whom are you employed and in
9 what capacity?

10 A. I'm a utilities analyst for the Department of
11 Public Utilities.

12 Q. Division of Public Utilities?

13 A. Division, yeah.

14 Q. Your business address, please?

15 A. Heber Wells Building, 160 East Broadway, Salt
16 Lake City.

17 Q. Thank you. Have you participated, on behalf
18 of the Division, in the Pineview West Water Company
19 matters?

20 A. Yes, I have.

21 Q. And are you familiar with the request for the
22 special assessment?

23 A. Yes.

24 Q. Did you prepare an exhibit which was
25 premarked, unfortunately erroneously, DPU Exhibit 1.1,

1 which should be correctly marked as DPU Exhibit 1.0 with
2 corrected numbers for the attachments of 1.1 being the
3 actual and projected months of water usage, and corrected
4 number being DPU 1.2 for Actual and Projected Expenses
5 Qualifying for the Special Assessment?

6 A. Yes, I did.

7 Q. And you caused that to be filed yesterday and
8 served on Pineview West Water Company's counsel?

9 A. Yes, I did.

10 Q. Thank you. Do you have a summary of this
11 recommendation -- actually, at this point, we'd like to
12 move for admission of what we'll call DPU Exhibit 1.0
13 with attachments 1.1 and 1.2.

14 THE COURT: No objections?

15 (No audible response.)

16 THE COURT: Then we'll go ahead and admit
17 those.

18 Q. (BY MS. SCHMID) Thank you. Mr. Long, do you
19 have any comments that you would like to make pertaining
20 to the special assessment and Pineview West?

21 A. Yes.

22 Q. Please proceed.

23 A. As a brief introduction, in November 2008 the
24 Division received a request from Pineview West Water
25 Company for a special assessment and a rate increase, and

1 that was done with the understanding that the special
2 assessment would be completed expeditiously to provide
3 funds for critically needed repairs and the rate case
4 would be completed in the near future.

5 A little bit of background on Pineview. The
6 Pineview Water System currently has 58 connections, with
7 approval to go to 133 connections. The service area
8 includes several different areas that are currently
9 largely developed, with the exception of one area which
10 is a new development referred to as Crimson Ridge.

11 Titan Development inherited Pineview in a
12 land acquisition in 2006. Prior to this acquisition by
13 Titan Development, Mr. Radford, who also lives on the
14 site, ran the company and did many of the repairs and the
15 maintenance himself, thus keeping the rates artificially
16 low. Because Mr. Radford was no longer subsidizing
17 Pineview through his donated labor and expertise, the
18 water company soon found that the expenses for repairs
19 and replacement and general maintenance far exceeded the
20 revenues, which are made up of the rates and the hookup
21 fees.

22 As a result, to keep Pineview running, Titan
23 Development has loaned Pineview in excess of \$40,000. To
24 date the Division has only received documentation that
25 verifies there were loans made in total of \$8,500, with

1 \$4,000 paid back with \$4,500 owing. Although, the
2 Division is confident that once they receive the
3 information from Titan, that they'll be able to establish
4 that it is much greater.

5 In January 2009, the Division completed a
6 compliance audit of Pineview's accounting system and
7 records which indicated that their books can be relied
8 upon.

9 And before I go any further, I'd like to
10 thank and acknowledge Pineview, specifically June and
11 Nate, for all their help and assistance. They literally
12 bent over backwards for any requests that we had and they
13 were very helpful in this.

14 To go on further, each expense requested by
15 Pineview to be included in the special assessment was
16 traced back to the originating invoice, without
17 exception. If the invoice had more than one line item,
18 each line item was reviewed to verify that an expense was
19 qualified for the special assessment.

20 Before expenses were approved, they were
21 evaluated based on the following two criteria: The first
22 one is expense must be unforeseen or unanticipated, and
23 they had to be necessary to keep the water system
24 operating. Normal day-to-day expenses were disallowed in
25 the special assessment but would be considered later in

1 the rate case. And the expense must clearly be marked
2 for repairs to the present or existing water system and
3 not for potential new development. In fairness to the
4 present customers, they should not have to bear the
5 burden for the future development costs; therefore, all
6 expenditures linked to Crimson Ridge were identified and
7 disallowed.

8 Now, if you want to refer to exhibit -- what
9 was 1.3, but it's actually 1.2.

10 Q. Could you please give us the heading of that
11 exhibit, for clarity?

12 A. Pineview West, their Actual and Projected
13 Expenses Qualifying for the Special Assessment. I
14 believe it's the last one in the packet.

15 THE COURT: I don't have that. Thank you.

16 THE WITNESS: What this exhibit does is
17 basically going through the information that June spoke
18 previously about, the revised request for the special
19 assessment. And it basically shows the requested amount,
20 the amount that the Division is recommending, any
21 disallowed amounts, and a brief explanation for each of
22 those amounts, whether allowed or disallowed. The total
23 amount that the Division is recommending is \$35,657,
24 although I believe, without seeing the documents, it's
25 probably going to need to be adjusted.

1 In looking at this, the majority of the debt
2 is going to S&S Excavating who handled the repairs that
3 were critical to keep the water system up and operating.
4 Also, there is a debt to the Ogden City Water; legal fees
5 that we feel should be disallowed in this because they
6 weren't necessary to keep the water system going, but
7 they certainly could be considered in the upcoming rate
8 case.

9 We then took this information, the
10 recommended amount, forward to Exhibit which was
11 previously 1.2 and is now going to be 1.1. And the title
12 of that is Actual and Projected Months of Water Usage.

13 And what this schedule does is it lists each
14 connection of record as of January 1st, 2009, which is
15 58. It divides a recommended amount of \$35,657.40 by the
16 58 individual connections, and it comes up to an equal
17 share of a one-time assessment of \$614.78.

18 To avoid placing an undue burden or hardship
19 on Pineview's customers, the Division recommends that the
20 assessment be payable in 12 equal monthly payments
21 starting January 1st to be effective January 1st, 2009.

22 It also should be noted that Titan
23 Development owns three of these connections, of which
24 they will pay the special assessment for each of those
25 and then they will work out the details with the people

1 that they're leasing those to later.

2 In conclusion, the Division recommends that
3 the amount of special assessment as listed on Exhibit 1.1
4 assessing 12 monthly equal payments -- and currently is
5 \$51.23, although that could be subject to adjustment
6 later -- and that the amount of the special assessment
7 bringing in all connections belonging to Titan
8 Development, be credited against the amount that Pineview
9 owes Titan, which at this point we've, without a doubt,
10 verified that it's at least \$4,500. So that's not to
11 exceed that amount. And at this time the Division
12 concludes that the recommended special assessment amounts
13 are just and reasonable.

14 Q. (BY MS. SCHMID) And are those recommended
15 amounts also in the public interest?

16 A. We believe they are.

17 MS. SCHMID: If we could go off the record
18 for just one moment and have a moment to look at the
19 copied exhibit.

20 THE COURT: Let's go off the record.

21 (A discussion was held off the record.)

22 THE COURT: Let's go back on the record.

23 You can proceed, Ms. Schmid.

24 MS. SCHMID: Yes. Prior to the Division's
25 presentation, the water company shared some adjusted

1 numbers. The water company has now shared copies of
2 those adjusted numbers and the Division has had a chance
3 to review them.

4 At this point would it be appropriate for the
5 water company to request that their exhibit, which I
6 believe is marked Pineview 4 for identification, be
7 admitted and then after that point the Division will
8 discuss it?

9 THE COURT: And we'll go ahead and admit it,
10 unless there's any objections.

11 Q. (BY MS. SCHMID) Thank you.

12 Mr. Long, have you had a chance to review
13 what has been marked and admitted Pineview Exhibit 4?

14 A. Yes.

15 Q. And do you believe that Pineview Exhibit 4
16 corrects an error in your previous calculations?

17 A. It does, and the Division would be agreeable
18 to revising their amount.

19 Q. How long would it take the Division to
20 prepare a revised sheet representing the new \$12,194.50
21 amount?

22 A. It could be done before the close of business
23 today.

24 MS. SCHMID: With that, the Division would
25 request that it be allowed to revise it's final number

1 and submit it there. So if the record could be help open
2 until the close of business today.

3 THE COURT: That's fine. Just submit those
4 amended numbers by today.

5 MS. SCHMID: That's all the Division has.

6 THE COURT: Do you have any questions for
7 Mr. Long, Mr. Bryner?

8 MR. BRYNER: No, no questions.

9 THE COURT: Would you like to --

10 MR. BROCKBANK: Is there where we talk about
11 the 12 months payments, at this time?

12 THE COURT: You can talk about it right now,
13 if you'd like. Sorry, do you want to be sworn in?

14 MR. BROCKBANK: Yes, please.

15 NATHAN BROCKBANK,
16 having been first duly sworn, was examined
17 and testified as follows:

18 THE COURT: All right. Proceed.

19 MR. BROCKBANK: The only thing I'm concerned
20 about with the 12 monthly payments is we have \$21,700
21 worth of bills right now. For example, I charged the
22 \$4,500 that I'm trying to be paid back on my Visa, and so
23 I'm paying 16 percent interest. S&S charges 18 percent
24 interest. Ogden City just said they're going to shut us
25 down. Weber Basin, I'm not sure.

1 But if we charge this over 12 months, that's
2 about \$51 a month, maybe a little higher now with that
3 addition, but we're only talking about bringing in
4 roughly \$3,000 in January and \$3,000 in February. \$3,000
5 in seven or eight months getting out of debt.

6 If you add in the 18 percent interest on the
7 \$21,700, it's going to take us almost nine months,
8 probably, to be able to at least pay the bills that are
9 due now and not incur all the other bills that will be
10 coming in. So I'm just concerned about only paying \$51
11 per month. It just doesn't solve our problem. That's
12 what we're here for, is to solve this problem. And that
13 does -- \$3,000 a month does nothing for our immediate
14 problems.

15 THE COURT: Okay.

16 MR. BRYNER: If I could just make one
17 recommendation. When the Division submits their adjusted
18 figures, perhaps we could have them submit a sheet -- or
19 perhaps the company to do this -- that would show the
20 allocation of the payment of the special assessment, with
21 a one-time assessment fee, and then the remainder to be
22 paid out monthly after that just so we could have ideas
23 of what that figure would be. I think that would be
24 helpful to have that -- the Commission to have those
25 figures to review.

1 THE COURT: Okay. Can you do that?

2 MS. SCHMID: Yes, The Division can do that.

3 I'd also like to address, in general terms, the
4 Division's concern about rate shock.

5 As a matter of historical practice, the
6 Division has been concerned with rate shock. And while
7 the Division is sensitive to the financial situation of
8 the water company engendered as addressed today by the
9 special assessment resulting from the unusual and
10 unanticipated emergency sorts of expenses, the Division
11 is concerned that the rate payers not be subjected to
12 rate shock. And compared to their monthly water payment,
13 the assessment is quite large. And so based on that, the
14 Division would argue for the recovery of the special
15 assessment as proposed in the Division's memo.

16 THE COURT: What about this concern that
17 Mr. Brockbank raised, that Ogden City apparently is going
18 to shut down their water? Do you want to have Mr. Long
19 or do you want to comment, maybe, on that in the
20 recommendation you submit today?

21 MS. SCHMID: I have -- and I also recommend
22 that perhaps Mr. Long and his attorney speak with Ogden
23 City and see if arrangements can be made. I do not know
24 if they explored that, and I do not know to what extent
25 Ogden City would be amenable to that.

1 MR. BROCKBANK: At the time, we received two
2 notices in the mail and they said if we didn't pay the
3 full amount up front, that they were going to shut our
4 water off. This is back -- final notice back on
5 11-10-2008. And at that time the bill was \$8,947, and I
6 charged \$6,000 on my Visa, because that's as high as my
7 limit would go.

8 And she said she would not shut us off if I
9 signed a personal guarantee for the remainder to be paid
10 at the end of December. Well, the personal guarantee was
11 never made -- or never signed and she never called. And
12 I tried to call her once. And they have not shut off our
13 water, so I don't know if that was just an attempt to
14 scare us. But they've also said if we don't get this
15 paid by the end of the month, that our water would be
16 shut off.

17 THE COURT: When did they say that?

18 MS. ANDERSEN: It would be around
19 November 10th.

20 THE COURT: So they told you in November that
21 if you didn't pay it by the end of January, they'd shut
22 you off?

23 MR. BROCKBANK: They actually said by the end
24 of December that they would shut our water off.

25 MS. ANDERSEN: One thing, some of our

1 shareholders have contacted Ogden City Water, and they
2 said as long as we're trying to make payments -- but
3 every notice I get says we're delinquent and it needs to
4 be paid in full. So we have concerns about their
5 situation.

6 We would be in favor of having the Commission
7 discuss our situation with them, if we don't get enough
8 funding up front. And that would be helpful with not
9 only Ogden City, but with our S&S Excavators and probably
10 Weber Basin, because the Weber Basin contract is due by
11 the end of January or they put a lien on the property.

12 MR. BROCKBANK: There's only \$4,000 of the
13 \$21,700 that is immediately due and payable. So even if
14 we negotiate \$4,000 and we only receive -- to pay that
15 over six or seven months, if we only receive \$3,000 as a
16 company per month, we're talking another year to get out
17 of this problem.

18 MR. BRYNER: Quick question. How much is due
19 and payable to Ogden City at this moment?

20 MS. ANDERSEN: Just over \$4,000.

21 MR. BROCKBANK: We talked about shock of
22 fees. They also would be shocked if they go turn on
23 their shower and have no water. That's shocking.

24 THE COURT: Do you want to respond?

25 MS. SCHMID: Yes, please. I do not

1 believe -- it was not the Division's recommendation that
2 the Commission contact the creditors, but rather it is
3 the Division's recommendation that that is appropriate
4 for the company to do.

5 Also, I have just been informed that
6 Ms. Benvegna-Springer did discuss payments and issues
7 with Ogden City. And I request at this time that
8 Ms. Benvegna-Springer be sworn so we can have the benefit
9 of her exchange.

10 THE COURT: Would you raise your right hand,
11 please?

12 SHAUNA BENVEGNA-SPRINGER,
13 having been first duly sworn, was examined
14 and testified as follows:

15 THE COURT: Thank you.

16 DIRECT EXAMINATION

17 BY MS. SCHMID:

18 Q. Ms. Benvegna-Springer, by whom are you
19 employed and in what capacity?

20 A. I'm employed by the Division of Public
21 Utilities --

22 Q. And your business address?

23 A. -- as a utility analyst. The address is 160
24 East 300 South, Heber Wells Building, in Salt Lake.

25 Q. Have you participated on behalf of the

1 Division, in the matter docketed as the Pineview West
2 rate case and special assessment?

3 A. Yes, I have.

4 Q. As part of your duties concerning this
5 docket, did you speak with Ogden City concerning the
6 amount due Ogden City?

7 A. I did. June and I had a conversation
8 regarding the understanding that Ogden City had regarding
9 turning off their water, and she asked if the Division
10 could contact Ogden City to find out what is possible.

11 I did contact Ogden City and talked, I
12 believe, with Karen at the location. They said that they
13 understood that the company was in the middle of a rate
14 case and trying to resolve their financial issues and
15 that they would work with the company.

16 Q. Who was it you spoke with?

17 A. I believe her name was Karen.

18 MR. BROCKBANK: It was probably Chris. Chris
19 has been handling this.

20 MRS. READER: Chris.

21 MS. SCHMID: Thank you.

22 THE COURT: Do you have any -- one thing
23 Mr. Turner suggested was perhaps paying the six months
24 ahead of time -- six months in one lump sum and then the
25 remainder of the six months over a six-month period. How

1 do you feel about that?

2 MS. SCHMID: Just one moment, please.

3 THE COURT: Do you want to go off the record?

4 MS. SCHMID: Please.

5 THE COURT: Let's go off the record.

6 (A discussion was held off the record.)

7 THE COURT: Let's go back on the record.

8 MARK LONG,

9 having been previously sworn, was

10 re-examined and testified as follows:

11 FURTHER DIRECT EXAMINATION

12 BY MS. SCHMID:

13 Q. Mr. Long, do you have any comments on behalf
14 of the Division concerning a proposed special assessment
15 payment consisting of a one-time charge of about half and
16 then the remainder collected over a few months?

17 A. Yes. With everything considered and weighing
18 the company's issues, as well as what's best for the
19 public, we believe that that would be an equitable away
20 of doing that.

21 MR. BRYNER: Did you say an equitable or
22 inequitable?

23 THE WITNESS: An equitable.

24 MR. BRYNER: Thanks.

25 Q. (BY MS. SCHMID) One more question, if I

1 might. The company addressed the issue of attorney's
2 fees. Do you have any specific comments that you would
3 like to make concerning that, if you may?

4 A. Yes. The Division is still of the belief
5 that the attorney's fees should not be included in the
6 special assessment but to be considered in the rate case.

7 Q. Thank you. Go ahead.

8 A. We wouldn't consider them as an unforeseen or
9 critically needed expense to keep the water company
10 running.

11 Q. Although it is critical, but more of a
12 general operating expense category, perhaps?

13 A. Yes.

14 Q. Spoken as a fellow attorney?

15 THE COURT: You can feel their pain?

16 MS. SCHMID: I can feel their pain. Thank
17 you. That's all the Division has.

18 THE COURT: Thank you, Ms. Schmid. Anything
19 else? Do you have any questions of Mr. Long or
20 Ms. Benvegna-Springer?

21 MR. BRYNER: Just one or two questions for
22 Mr. Long.

23 CROSS-EXAMINATION

24 BY MR. BRYNER:

25 Q. Mr. Long, if the attorney's fees to be

1 considered for a special assessment were limited to those
2 fees incurred in this proceeding -- in these proceedings
3 before the Public Service Commission, would you feel that
4 that would be equitable to include in the special
5 assessment?

6 A. Based on everything that I know now and
7 regarding the fact that the special assessment -- the
8 definition of special assessment, I would still feel that
9 that should wait until the rate case.

10 MR. BRYNER: Okay.

11 THE COURT: Any other questions?

12 MR. BRYNER: No, that's all we have.

13 THE COURT: Any -- Mr. and Mrs. Reader; is
14 that right?

15 MRS. READER: Yes.

16 THE COURT: Any comments you would like to
17 make?

18 MRS. READER: Comments, probably, yes.

19 THE COURT: Okay. Let's have you sit up
20 front. Would you like to make your comments under oath?

21 MRS. READER: Yes.

22 THE COURT: Mrs. Reader, would you raise your
23 right hand for me?

24

25

1 like by the end of December we would have this solved so
2 they wouldn't turn off the water. That was Chris, and
3 she is willing to work with us.

4 The other thing that upset me a little bit
5 today was the fact that when I got here, the board
6 members do not have a copy of this. These current board
7 members have resigned and we have a temporary board right
8 now, four of us, of which Pete is a member and myself and
9 two other people. It would have been nice had we have
10 had this so we could go to the users and say, "Okay, this
11 is what we're going to be billed for." Now they're going
12 to get an assessment without any explanation as to what
13 they're paying.

14 Probably we will get a little backlash on
15 that \$600. I, myself, feel like we should pay half of it
16 now and the rest in 60 days so that we can get this
17 problem solved, because Nate should not have to fund the
18 water system.

19 I also feel like that attorney fees -- which
20 we've had quite a few during this last couple of years --
21 that that should be in a separate form like the rate
22 increase. I don't think it should be in the special
23 assessment. I think the special assessment should only
24 be for bills that we have now so that we can get the
25 water company solvent and operating in the -- you know,

1 so we can deal with all the water companies and so forth.

2 I would hope that's what it would be.

3 I don't know why we didn't get any advance
4 notice. I don't know if it was not really sent to June.

5 MR. BROCKBANK: We received this document
6 yesterday after 5:00 p.m.

7 MRS. READER: So you didn't have time to send
8 it either. But it's hard for us to make a decision when
9 we don't know what's going on. And it really was Pete
10 that applied to the Public Service Commission for the
11 special assessment and the rate increases so we could run
12 this the first time. And then June applied, also.

13 So I guess that's about all I have to say,
14 but I think that we should really go after getting all
15 the money that's owed and then make the rate increase so
16 that we can be solvent in the future. None of us want
17 our water turned off, for sure.

18 THE COURT: Thank you.

19 MRS. READER: Thank you.

20 THE COURT: Any comments or questions?

21 MRS. ANDERSEN: I just wanted to comment.

22 When we were here for the hearing --

23 THE COURT: Does Ms. Schmid have questions?

24 Ms. Schmid, any questions?

25 CROSS-EXAMINATION

1 BY MS. SCHMID:

2 Q. I'm a little confused about the current
3 makeup of the Pineview West Water Company board. So
4 could you please explain who is on the board now and when
5 the resignations happened? I was under the impression
6 that the parties sitting at counsel table were the board,
7 but it sounds like I was mistaken.

8 A. We called a meeting -- Nate called a meeting,
9 because he was having to give us too much money. And he
10 said, "We are going to resign as a board." That was in
11 December?

12 MS. ANDERSEN: Notice was made on
13 November 18th.

14 THE WITNESS: November 18th. And so that
15 left us, as shareholders, with no one to represent us or
16 help run the water company. So we had a meeting and
17 decided on some temporary board members to help us
18 through that. Pete is one, I'm one. We have two others
19 that are on the board. Kevin Forbes was here to the last
20 meeting.

21 And it's kind of been running through Nate,
22 because they have all the books. We're just in
23 transition of doing all of this. And so we have relied
24 on June to give us information.

25 Q. (BY MS. SCHMID) Did you notify the Division

1 of the board of director change?

2 MS. ANDERSEN: I believe in our first letter
3 that went to the board of directors that was mentioned.

4 MS. SCHMID: That went to the board?

5 MS. ANDERSEN: That went to the Commission.

6 MS. SCHMID: Great. Thank you. I also have
7 some questions I'd like to ask of Mr. Long concerning the
8 timing of this memorandum, if I may at this point, since
9 the issue of timeliness was just raised.

10 THE COURT: Do you have any questions for
11 Ms. Reader, Mr. Bryner?

12 MR. BRYNER: No, I don't think we have any
13 questions. We do want the water company to respond, but
14 we don't have questions at this time.

15 THE COURT: Let's go to Ms. Schmid and then
16 Mr. Bryner. Thank you, Ms. Reader.

17 MRS. READER: Thank you.

18 MARK LONG,

19 having been previously sworn, was
20 re-examined and testified as follows:

21 REDIRECT EXAMINATION

22 BY MS. SCHMID:

23 Q. Mr. Long, there was just concern expressed
24 over the timing of the memorandum exhibit -- the
25 memorandum and its attached exhibits admitted today as

1 DPU Exhibit 1.0. Could you address matters affecting the
2 timing and filing of this memorandum?

3 A. Since the last hearing that we had, we felt
4 at the time that two weeks would be adequate in order to
5 prepare the information. We also realized that June had
6 several other duties that she's doing. It took a little
7 bit longer than what we anticipated to get the
8 information and then some exchanges back and forth in
9 order to accomplish this. And we just -- we did just get
10 it done last night.

11 Q. Didn't you work over the weekend in an
12 attempt to get this done as soon as possible?

13 A. Yes, I did.

14 Q. So it was filed as soon as it was completed?

15 A. Yes.

16 MS. SCHMID: Thank you.

17 THE COURT: All right. Thank you.

18 MR. BRYNER: I just want to make a comment
19 that the company is not attacking the timeliness. We are
20 coming as very grateful for the work and effort that the
21 Division has put in. They've been very helpful to
22 respond and to push for this special assessment in a very
23 timely manner, which the company realizes is somewhat out
24 of the ordinary for these types of proceedings. So the
25 company is very grateful for their effort and work in

1 doing that.

2 We just want to respond to a few comments
3 made by Ms. Reader, and I think June may want to address
4 the makeup of the board.

5 MS. ANDERSEN: Okay. In November, when we
6 notified the shareholders that Nathan Brockbank had
7 resigned, and vice president Paul Southwick, who is no
8 longer with the company, and myself, as secretary, we set
9 up a meeting to vote for a new board at that shareholder
10 meeting on, I believe, December 4th of 2008. And we had
11 the shareholders meet at that meeting, and they did not
12 want to vote for new members. Basically, we had several
13 volunteer to sit as temporary board members, and so we
14 have them as temporary board members. We said we would
15 continue as advisors to them so we could transfer
16 information.

17 Also, the company always has a shareholders
18 meeting in the spring, generally early April, and at that
19 time we discussed that that's when the election of new
20 board members would take place.

21 THE COURT: Okay.

22 MS. ANDERSEN: And in response to
23 Ms. Reader's comments, she said that this list that she
24 just received, the numbers have all changed. And it has
25 been a work in progress. And when we met for the hearing

1 on January 5th, what I presented were the expenses that
2 we had on the books that we needed to pay now that were
3 our open invoices.

4 I was directed, in a conference following
5 that hearing, that they wanted to see unforeseen costs.
6 And so we had to go back through two and a half years
7 worth of invoices one line at a time and break them down
8 to determine what ones we felt were unexpected and
9 unforeseen costs.

10 We did that in a week's time. I presented
11 them to Mark and his committee for them to evaluate last
12 week. And they were in contact with me on two or three
13 occasions asking clarification questions and getting
14 those together, and then they presented these to me
15 yesterday, late afternoon. So it was a point we were
16 trying to get them to shareholders and such before today
17 was not very likely.

18 MR. BROCKBANK: At that meeting in December
19 we sent every single invoice that the company had
20 received since we started taking over. And they've all
21 reviewed -- whoever has wanted to had the opportunity to
22 go to Mr. Turner's home and review the documents or check
23 out the documents in a book.

24 But we gave everybody plenty of time. We
25 stepped down because we couldn't afford it. June has

1 spent five or \$600 since 2006. And my company, who pays
2 her salary of about \$30 an hour, has not received one
3 penny of compensation. And we're not asking for
4 compensation, but just my point is we said we were
5 stepping down. Not one person stepped up and said they
6 wanted to be on the board, even though Mrs. Reader may
7 not remember that. We tried to get a vote at that time.
8 Nobody wanted the thankless job. Nobody.

9 And then here we are being accused of, you
10 know, leaving everybody high and dry. We said we'd stay
11 in and help get this resolved, but this is costing my
12 company thousands of dollars every single month. I
13 cannot continue to afford this. That's why I put \$6,000
14 on my Visa, because I had no more money. It's just a
15 thankless job and not one person out of that meeting of
16 the 20 members of the 58 that showed up -- or 53 that
17 showed up or could have shown up, not one of them said
18 they wanted to be on the board. So they put in a
19 temporary board because -- I don't know why. You know,
20 not one person stepped up and said, "I will take control
21 of this." And so that's why there is no board in place
22 today.

23 THE COURT: Okay. Anything else? Any
24 comments about the special assessment?

25 MS. SCHMID: Nothing further from the

1 Division.

2 THE COURT: Anything further, Mr. Bryner?

3 MR. BRYNER: No, nothing further.

4 THE COURT: Mr. Turner, are you still on the
5 phone?

6 MR. TURNER: Yeah, I am.

7 THE COURT: Anything you'd like to add?

8 MR. TURNER: No, thank you.

9 THE COURT: Ms. Reader?

10 MRS. READER: The only thing I'd like to add
11 is that we did step up. We did have a temporary board
12 from that day. We didn't take over the company, is what
13 we didn't do. We didn't go in and sign to be, you know,
14 responsible to sign checks and that. But we have been
15 working on it ever since the first meeting we had with
16 them.

17 MR. BROCKBANK: I didn't mean step up,
18 meaning they haven't done anything. The temporary board
19 works extremely hard with my secretary and also with
20 opposing counsel over here. And I did not mean they
21 haven't done anything. They just didn't want to take on
22 the mantle of president of the board, secretary of the
23 board, vice president of the board, those things.

24 MR. BRYNER: During these proceedings,
25 because Nate and June have the most intimate knowledge of

1 the company and they're in the best position to get this
2 rate increase and special assessment through. And then
3 once this is done and the company is put back in its
4 solvent position, then it's our intent that the actual
5 shareholders can take over duties of being the board of
6 directors. Is that correct?

7 MS. ANDERSEN: Yes, that's correct. We're
8 hoping that the rate increase would go into effect in
9 April. During that time is when we have our board
10 meeting. That's also when they read our meters in the
11 spring. Since our water meters are under snow coverage
12 in the winter, they don't read the meters for six months.

13 So we were hoping the new rates would go into
14 effect with that reading in the spring, and that would be
15 kind of the springboard that would allow us to make the
16 change and the transition to the new board.

17 THE COURT: Then with that what we'll do, as
18 mentioned at the beginning of the hearing, is recommend
19 the Commission bifurcate this issue, with a special
20 assessment and the rate increase treated separately.

21 The Division will submit some recommendations
22 and some clarification by this afternoon at the close of
23 business, and I'll go ahead and make a recommendation of
24 the Commission. Thank you.

25 MR. BRYNER: Thank you.

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MS. SCHMID: Thank you.

(The hearing was concluded at 10:42 a.m.)

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C E R T I F I C A T E

STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

This is to certify that the foregoing proceedings were taken before me, KAREN CHRISTENSEN, a Registered Professional Reporter and Notary Public in and for the State of Utah.

That the proceedings were reported by me in stenotype and thereafter caused by me to be transcribed into typewriting.

That a full, true and correct transcription of said proceedings so taken and transcribed to the best of my ability is set forth in the foregoing pages, numbered 4 through 52, inclusive.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

Witness my hand and official seal at West Jordan, Utah, this 29th day of January 2009.

Karen Christensen, CSR, RPR
My Commission Expires:
December 30, 2011