

EXHIBIT A

This exhibit will consist primarily of refutation of positions set forth in the "Complaint Response" of Ronald J. Catanzaro, submitted to the PSC on or about 3/21/2011 and his supplemental response of April 5, 2011. To the extent some of the facts herein directly contradict the largely unsupported assertions of Mr. Catanzaro, they will lend support to paragraph 4, item 6 of the complaint: misleading or attempting to mislead the Commission concerning the informal complaint.

3/21/2011 Response

Mr. Catanzaro says (at 1.) he has "no knowledge of being in default of any contractual obligations." That does not mean that Mountain Sewer ("MS") is not in default; it simply means that if it is, he doesn't know or chooses not to know about it. Paragraph 3 of the MS contract with the Ski Lake Sewer District says that MS "will operate, maintain, and expand its treatment facilities in full compliance with all laws and regulations of all governmental authorities having jurisdiction thereof..." If MS is in fact in violation of any provision of Utah law or administrative regulations, it is in violation of its contract with the District, whether Mr. Catanzaro knows it or not. Or cares.

Mr. Catanzaro says (at 2.) the "sewer system is in excellent repair" and that "it has never failed to deliver effective sewer service to its customers" in over 20 years. That is, if you don't count the pumping and dumping of raw sewage from MS's vaults on a regular basis "for some years," according to Mr. Catanzaro himself (at 2). He also seems to forget the many incidents reported in the official minutes of the Ski Lake District, many in his own words:

12/16/99 "...complaints and problems have decreased from about one year ago..."
Commissioner Glen Burton. (Says to us that there were problems in 1997-1998)

1/20/05 CATANZARO: "two incidents--12/12/04 and 1/1/05 included backflow." Why?
"Basements too low, and no backflow prevention devices." "Telephone alarm line had been cut by the developer" Why incident 1/1/05? "partial blockage of nearby sewer line contracted by Lakeside Village developers, and included construction debris."
Lakeside Village spokesperson: "Actual cause of incident #1 was no power to pumps and no backup power."

3/21/06 This meeting prompted by a letter to the District from Lakeside Village HOA, advising that 5 condos had raw sewage in them. CATANZARO: another "incident" 2/28/06. "Caused by a lightning strike." "We will inspect three times a day 'minimum' ." James Banks, Catanzaro's employee, acknowledged that storm water was infiltrating the sanitary system. On 2/28, the vaults were overloaded, no pumps, no alarms.

Mr. Catanzaro says (at 2.) that the source of all the problems is MS customers flushing trash into the system. We beg to differ. As set forth in our complaint, p. 3, R 317-3-3 requires bar racks or inline grinding devices to prevent clogging. MS either doesn't have them, or they don't work. MS's maintenance people have also mentioned that there are available at very reasonable cost, screens or baskets which would intercept the trash and rags (if any), but they have yet to be installed. If there is in fact trash or cloths being

flushed, proper equipment is the solution. The Condominium HOA President, Bob Kimball, and one his board members, David Hayes, have been trying to be proactive and work with Mr. Catanzaro and MS as is detailed in Exhibit B.

Mr. Catanzaro states (at 3.) that the system “has functioned very well in the over 20 years of its service to its customers.” Please see the quotes from the District Board Minutes, on the previous page.

Mr. Catanzaro suggests (at 4.) that if the private property owners over whose roads MS drives to pump raw sewage into their poorly-maintained manholes (see 2/16/2011 letter, p.2, photos) wish to prevent access, they will have to maintain that part of the system themselves. Disingenuous, at best, and legally incorrect in any case. Elimination of the malfunctions that give rise to the pumping and dumping in the first place is one easy solution to the trespass. The other is the maintenance of the access road to the lagoon as required by R 317-3-10.4 and R 317-3-10.8, of which MS has been in violation presumably since its creation, and still is, today. See 2/16/2011 letter, p.4. Ironically, if it is proximity and low cost that MS desires in its pumping and dumping, it is to be noted that the access road to the lagoon is in fact CLOSER to the offending vaults than is the manhole in the gated community. All it needs is to be brought into compliance with the Rules, above.

Mr. Catanzaro states (at 5.) that MS “obtained a system operating permit years ago.” Messrs. Ed McCauley and Walter Baker of Utah DWC beg to differ. In point of fact, DWC, Utah’s only licensing agency for systems of this type, is in the process of licensing MS for the first time, as this is being written. MS obtained a construction permit, not an operating permit.

Mr. Catanzaro states (at 6.) that its financial report to the PSC has been completed “correctly to the best of our knowledge.” We believe more than just an inkling that the records are complete and correct is what is required of a public utility. Accurate records of expenses and collections are at the heart of any regulated utility operation. Several MS customers have stated that they have never paid pre-connection or “hookup” fees for their lots; some have never paid so-called “standby” fees and have had no knowledge that such fees existed, while others have paid them regularly; some customers have never received any bills for their sewer service; some incipient customers have been offered cut-rate hookup fees by Mr. Catanzaro. Should the PSC desire, we can and will furnish affidavits to substantiate each of these phenomena. It is doubtful that any of these events are reflected in annual financial reports to the PSC, but they exist. Only a complete audit will uncover them and the extent of them, along with any other irregularities such as non-billing to owner-related locations and commingling of funds, should those exist.

Paragraph 7 of Mr. Catanzaro’s response deals with a subject not germane to this Complaint, and therefore will not be responded to, here.

Mr. Catanzaro states (at 8.) that its service road to its lagoons “was never intended to provide year round access...” That is a direct violation of R 317-3-10.8 which states

“Access: An all-weather access road shall be provided to the lagoon site to allow year-round maintenance of the facility.” (emphasis supplied). Apparently, according to Mr. Catanzaro, MS “never intended” to comply with this rule. It should be made to do so, now.

4/5/2011 Response

Mr. Catanzaro states in paragraph one of his April 5 letter just how proud he is of MS’s service over the last four years, with “no complaints” of sewer problems over the last four years, and of MS’s “robust” actions on the night of March 16. In point of fact, the most important reasons why there were no complaints over the pumping and dumping of raw sewage on private property for the last few years are twofold: 1) the street on which the receiving manhole is located is a street on which there are three sparsely occupied vacation homes and one unsold, unoccupied spec home, and 2) the overwhelming number of pumps and dumps occurred clandestinely, in the dark of night. It was only by accident that they were discovered, tracked, and ultimately reported as part of this complaint. As to the “robust” action, those of the complainants who were on the scene that night failed to see it, if it in fact took place at all.

Since the night of the flood at the condos, with regard to previous pumping, the onsite property managers have been asked if over the last couple of years that they have been on site there was ever the smell of sewer gas and they said: “Yes, there were many times and usually within an hour or two a pump truck would be on site.” Also the grounds keeper of the Catholic Church across the road from the condos was asked the same question and stated that over the years, a lot of times when working on the yard, there was a very obtrusive sewer gas smell coming from the direction of the lift station located in the condo complex.

Mr. Catanzaro states in paragraph 2 of his letter that March 16 “was a day of torrential flooding throughout Ogden Valley...” The facts, we believe, are otherwise. According to a Mr. Smith of the National Weather Service in Salt Lake City, quoting from the readings of an automated rain gauge located on the south fork of the Ogden River not more than about 1/3 mile from the offending storm sewer intake, there fell on March 16, 2011 a grand total of seventy-one one hundredths (.71) of an inch of rain in the twelve hour period culminating in the events at Lakeside Village that night. Hardly “torrential.” The situation was exacerbated by accumulated snow on the ground, part of which was melted by the rains, to be sure.

There occurred more snowfall between March 16 and April 3, 2011, such that on April 3, there was also accumulated snow on the ground at the very same location, the intersection of S.R. 39 and Old Snowbasin Road. On April 3, 2011 there in fact occurred rainfall of seventy-two one hundredths (.72) of an inch of rain, also exacerbated by snowmelt. Moreover, fully one-half inch (.50) of that .72 inches of rain fell in a two hour

period from one p.m. to three p.m. on April 3. In short, if the rainfall of March 16 was torrential, the rainfall of April 3 was gobsmacking. Mr. Smith can be reached at 435-797-2190, should anyone wish to verify these figures.

And yet—and yet—there was *no* flooding of the MS vaults on April 3 as there was on March 16, and no incursion of raw sewage into the living rooms of Lakeside Village Condos. The only difference is that the storm sewer intake at the intersection of 39 and Old Snowbasin Road had been cleared of rocks and dirt, and, coincidentally, the sanitary sewer manhole cover (which apparently *had never been held in place by mastic, as is industry standard*) (see pictures provided to Ross Hudson) had been replaced in its correct position. In other words, had the storm sewer intake been inspected and cleared of debris, it could have and would have easily handled even more rain and snowmelt than resulted in the events on March 16. Further, if there had been a plow ring installed this would have provided additional protection to prevent the manhole cover from being moved. According to professionals in the business, they will always recommend a plow ring when there is the chance that a manhole will be where a plow truck may come in contact with it, whether the manhole is located in dirt or a paved road.

Mr. Catanzaro, in paragraph 3 states that they had their pumps and two pumper trucks “working to full capacity.” Until approximately between 10 & 10:30pm any such pumper trucks would have been figments of Mr. Catanzaro’s imagination. The initial call happened at 5:45pm (based on an audible alarm on the system) and by 6:30pm the damage of the flooding was in full scale progress as the worst-hit units were already under at least two inches of waste water. It was not until approximately 7pm when Mr. Catanzaro showed up and he was clueless as to what to do other than make phone calls. It was approximately a half hour later when one of his employees showed up and about 15 minutes after that his manager, Jim Banks, showed up. Rather than try to find the source of the problem Mr. Banks thought it more appropriate to argue with everyone, including the condo HOA President. When Mr. Catanzaro and Mr. Banks were asked when the pumper truck would be there, their answer was they did not know because the trucks they contract with were on other jobs and they did not have a plan “B”. When the first truck did show up it was about 9pm and all the damage was done. Additionally, nothing had been done to this point to find the source of the water intrusion. After one pump and dump it was apparent that one truck was insufficient. Mr. Catanzaro was promptly approached as to what the plan was for additional trucks. He did nothing but beat around the bush until pressed for an answer. He then said that there was another truck en-route but would not give an ETA until pressed again. The second truck finally showed up approximately between 10 & 10:30pm. Even with two trucks it was not sufficient to keep up. There have also been numerous times over the years when the alarm would go off (which generates a call to one of three MS employees) and they did not show up until more than 24 hours later to investigate. When the alarm is detected by someone onsite from the condos, they will generate a call also to one of the two employees tasked with a first response.

In paragraph 4 Mr. Catanzaro states that after observing the overflow process “repeatedly”, it became clear there was a huge amount of stormwater entering MS’s

system. That was readily apparent long before Mr. Catanzaro or any one of his representatives showed up on site. A five year old could have made that observation immediately. Further he goes on to say they “rapidly searched” to find the source, a second figment of Mr. Catanzaro’s imagination. It was not until well after 10:30pm that they decided to look for the source. A conversation among Mitch Winegar (the pump maintenance person), the condo property manager, and the HOA President was had at about 10:45pm and Mr. Winegar made the encouraging statement that they “probably would never find the source.” Mr. Winegar is contracted with MS to service the lift station. He also made the statement that the pumps at a minimum should probably be rebuilt but maybe should be replaced. This is important which will be readily apparent in a following paragraph detailing the efforts of the MS customers to be proactive before and after the fact.

In paragraph 6, as to the “robust” action, the only truly effective action that even Mr. Catanzaro can relate that night was a telephone call to UDOT. This is the third figment of Mr. Catanzaro’s imagination. The truth of the matter is that when MS reps finally decided to look for the source (somewhere between 11:30 & midnight), it is by pure dumb luck that they saw that UDOT was already at the corner of Hwy 39 & Old Snowbasin Road (supposedly for the 3rd time that night) working trying to fix the situation as water was severely streaming across Hwy 39 towards the lake. This was alluded to by Mr. Winegar to one of the affected flooded homeowners at about midnight and then to Mr. Kimball at about 1am. If MS had done a sufficient inspection of its system knowing there were two storm drains at that location it would have been aware of the problems, which did not just happen overnight. It could have fixed its manhole problem as well as contacted the proper authority to clean the storm drain or even cleaned it itself as is quite likely its responsibility.

Quoting from the MS tariff, F. Responsibility: “The Company [MS] will be responsible for the operation and maintenance of the main sewer collection facility....” In other, shorter words, Mr. Catanzaro’s entire response of April 5, 2011 could have been distilled into ten simple, honest words: “We neglected to inspect and clear the storm sewer intakes.”

One last small, but important point. In the penultimate paragraph of Mr. Catanzaro’s letter of April 5, he asserts that, once again, what happened wasn’t MS’s fault (as nothing ever is), because the flooded condos were required to have sewage backflow prevention valves in them. In point of fact, that was not a requirement when the first four buildings were built (these had units with the worst damage) and still is not a requirement according to code, as has been verified with the county. Plumbing Code IPC 2000 (chapter 7, section 715.1) which was in effect at the time of construction does require the backflow prevention valves, but on public sewer systems, not private sewer systems (which MS is). In further point of fact, the majority of those condos did have such valves (predicated based on the triple flood back in late 05 & early 06), but the condos had raw sewage in them, anyway. Forget for the moment the obvious fallacy of Mr. Catanzaro’s argument, in that backflow prevention valves are academic if there is no backflow of raw sewage in the first instance. Even if such valves are in place, as they were in many of the flooded

condos, the flow of raw sewage is stopped by such valves when they activate, in both directions (in the backward direction by the valve, and in the forward direction by the pressure of the backflow itself), so that when such a stoppage occurs, and any all raw sewage generated by the units above the affected units can only go as far as the valve, and then will back up into and out of the toilets, sinks, tubs etc., of the lower units, and onto the floors, as ultimately happened.

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