

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE PUBLIC SERVICE COMMISSION

SALT LAKE, STATE OF UTAH

* * *

IN THE MATTER OF THE)
REQUEST OF WHITE HILLS) Docket Nos. 08-2199-01
WATER COMPANY, INC.,) 08-2199-T01
FOR APPROVAL OF A RATE)
INCREASE)
ALJ: Ruben Arredondo

* * *

December 16, 2008

10:14 a.m. to 11:58 a.m.

Public Service Commission
160 East 300 South, Room 451
Salt Lake City, Utah

* * *

Letitia L. Meredith
-Registered Professional Reporter-
Certified Shorthand Reporter

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

For White Hills: Todd Macfarlane
 Kerry Jackson

For Division: Michael Ginsberg
 Shauna Benvegna-Springer

Also Present:
Ron Slocum (telephonic)
Gerald McCurdy
Dan Jackman
Kalyn Clements
Jan Delhaoyde
Judy Barnum
Scott Barnum

EXHIBITS

DPU 1	Recommendation	4
DPU 1.2	Income Statement Analysis	4
DPU 1.3	Ratebase Analysis	4
DPU 1.4	Revenue Requirement	4
DPU 1.5	Rate Design	4
DPU 1.6	Revenue from Water Usage	4
DPU 2.1	Depreciation Schedule	4
DPU 2.2	Cost and Revenue Ratios	4
DPU 2.3	Water Rate Comparisons	4
DPU 3.1	Income Statement Analysis	4
DPU 3.2	Ratebase Analysis	4
DPU 3.3	Revenue Requirement	4
DPU 3.4	Rate Design	4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

THE COURT: We're on the record. We took appearances. What we'll do is essentially we'll start with the Division, and then we'll go to the company.

And then just so the residents know, what we'll do is you have an opportunity to say whatever you would like to say. What I'll ask you to do is come up this microphone or that microphone, make sure it's on. What happens is if you want the Commission to consider your testimony to any factual issues, then you need to be sworn in. I'll swear you in. If you're sworn in, you're also subject to cross-examination.

If you decide not to be sworn in, then obviously we can't consider your testimony and make any factual determinations, but then you're not subject to cross-examination. Cross-examination is essentially where the company or DPU can ask you questions about your testimony to test your knowledge or your conclusions, et cetera, things like that.

All right. And we're pretty informal, so don't feel overly stressed. We'll go ahead and begin with the Division.

Mr. Ginsberg.

1 MR. GINSBERG: Would you like to swear in our
2 witness?

3 THE COURT: Ms. Benvegna-Springer, if you could
4 raise your right hand, do you swear that the
5 testimony you're about to give is the truth, the
6 whole truth, and nothing but the truth?

7 MS. BENVEGNA-SPRINGER: I do.

8 THE COURT: Thank you.

9 MR. GINSBERG: The Division has handed out a
10 memorandum and a supplement. If we could go ahead
11 and get some of these marked. Here's some more
12 copies if anybody wants them.

13 THE COURT: What we'll do, the recommendation
14 we'll mark as DPU 1, and they also submitted --

15 MR. GINSBERG: Attached to the memorandum are
16 Exhibits 1.2 through 1.6. They are just attachments
17 to it, and also Exhibit 2.1 and 2.3 -- we'll go
18 through these, and we also filed this morning some
19 additional spreadsheets, which if we could have
20 marked as Exhibit 3.2 through 3.6.

21 MS. BENVEGNA-SPRINGER: 3.1 through 3.4.

22 MR. GINSBERG: 3.1 to 3.4. I'm sorry.

23 (DPU Exhibits 1 through 3.4 were marked.)

24 ///

25 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DIRECT EXAMINATION

BY MR. GINSBERG:

Q. Can you state your name for the record.

A. Shauna Benvegna-Springer.

Q. And can you give us a little bit of your background, what your role is at the Division of Public Utilities.

A. Yes. I serve as a utility analyst for the Division of Public Utilities. My role in that duty is to identify issues related to the rate case and to determine whether or not the company will be under-earning or over-earning as a result of a rate increase and look at other issues relative to the rate case.

Q. So they filed this rate case earlier this year. Can you briefly describe what you did between now then and making your recommendations.

A. Yes. On June 12th of 2008 the company filed for an application of an increase. Based on that request, we reviewed the file on the company. The company initially received its certification of public convenience and necessity in 1994. At that time the service area consisted of 2,000 acres and it was approved for up to 404 connections. They went through another rate case in September of 2003, which

1 is what the current tariff has been in effect since.

2 In the document it shows what the current
3 actual rates are versus what the proposed rates are.
4 Initially the company --

5 Q. Are you on page 3?

6 A. Yes. Initially the company just requested
7 an increase of the residential rates, and because it
8 was a fairly substantial increase from -- almost
9 90 percent increase from what the current rate tariff
10 was, the Division discussed with the company
11 implementing a period of time where residents could
12 pay that in phased, sixth-month increments.

13 As a result of the analysis, we looked at
14 previous financial records that have been submitted
15 to the Division through years 2001 -- from 2001
16 through 2007. We've also discussed what the current
17 expenses are for 2008 although that report has not
18 been filed with the Division as yet and it will be
19 filed some time prior to March 31st.

20 In order to determine what the true costs
21 of operating the water system are, we took a look
22 at -- there are -- 2007, what we will call their test
23 year, and the actuals for 2007 is what we used as a
24 base. We made adjustments to the 2007 actuals to
25 bring that to what we call normalization,

6

Letitia L. Meredith, RPR
DepomaxMerit

1 annualization, of what the current practice is and
2 what the current operation is working with.

3 If you go to the bottom of page 2 of
4 Exhibit 1.2 you will notice that in the blue shaded
5 box, Column A, the company experienced a loss of
6 \$48,000 in 2007 with the additional adjustments to
7 analyze costs to what is currently needed to bring
8 the company into true costs of delivering that water
9 to the 124 customers of record the loss will go to
10 \$73,000, which is about what they are going to be
11 experiencing for 2008.

12 When we add the adjusted new rate revenue,
13 that will bring the company to a profitable status of
14 25,000. In going through and determining what the
15 rate base should be, we take the utility plant that's
16 in service currently; we adjust it for the
17 accumulated depreciation. The Division made some
18 adjustments of 105,000 and the accumulated
19 appreciation of 2,700. The 105 addresses a number of
20 improvements the system is going to be needing in the
21 next year, 2009. It mainly has to do with replacing
22 a number of pipes. It also has to do with installing
23 new meters, readable meters and a radio base into the
24 system for ease of reading the meters.

25 Currently they are working on an automation

1 of the half million gallon tank, which is about a
2 \$21,000 cost to the system. They are also going to
3 need a tank pressure regulator, costs about \$22,000.
4 These are costs that are needed in order to keep the
5 system operating efficiently and to keep those costs
6 down in order to ensure that service is delivered to
7 the customers.

8 After making those adjustments, we also
9 make an adjustment to the cash, working capital, and
10 at that point the Division's proposed rate base then
11 becomes 639,000. We take the rate base, and on
12 Exhibit 1.4 we calculated a return on equity or
13 return on investment. We've allowed a 12 percent
14 return on equity. We've allowed 7 percent for
15 liabilities, which is the current loans that were in
16 place when the White family owned the water company.
17 That's been transferred to the new owners with the
18 current same terms.

19 And in doing a weighted average of those
20 percentages, we come up with a rate of return of
21 4.4 percent and that is because there is a negative
22 common equity involved and, of course, the large
23 debt. The tax calculation is based upon 15 percent
24 federal tax, 5 percent state tax, and then we allow
25 for what we call a tax gross up factor. When we

8

1 calculate that, the taxes -- assuming they are
2 profitable, they would be paying also \$7,000 in
3 taxes. Allowing for the required return, the taxes
4 and the amount of operating expenses of 157,000, the
5 amount of revenue that they need to collect in order
6 maintain a going concern to be able to provide water
7 to customers is \$193,307.

8 When we've taken the new rates and applied
9 them to the current utilization of the customers as
10 water was used in 2007, the amount of funds that
11 would be generated through the minimum bill would be
12 about \$56,000, and the amount that would be charged
13 through the tier revenue would be about \$133,000, and
14 even with those two sources of revenue, the company
15 would still be in an under-earning position of 2,919.

16 Exhibit 1.5 is a summary of how we
17 calculated the tier revenue. We actually went back
18 and utilized the summary information provided by the
19 company of what they bill the customers in 2007 and
20 then applied the new rates as they would have been
21 billed had they used that same amount of utilization
22 water with the new rate. There was an adjustment to
23 the depreciation of \$2,785, differences of where the
24 company in prior years had used a different service
25 life comparable to the service lives allowed by the

9

Letitia L. Meredith, RPR
DepomaxMerit

1 Commission. So there's an adjustment there of
2 \$2,700.

3 Exhibit 2.2 shows the ratios that we used
4 in analyzing growth that has been experienced by the
5 water company over the past eight years, and this is
6 a growth factor that is shown about 3.6, 3.75.
7 Currently, all of the customers that the lots have
8 been developed for are connected. That's a total of
9 124 customers. It's my understanding that the
10 current developer will have to install new roads,
11 more mains, transmission lines, et cetera, from the
12 pump and the tanks in order to bring water to new
13 lots of the 404 that are authorized, and those costs
14 would then be recovered as part of their sale in
15 selling the lots and donated back to the water
16 company as contribution and aid of assets to the
17 water company.

18 The company also requested, because they
19 are looking at the possibility of having industrial
20 customers coming into the various area, also
21 commercial, and because there is currently one
22 customer who could meet our agriculture rate because
23 it is a large farm operation, the company has
24 requested a commercial rate, an industrial rate, and
25 an agriculture rate.

10

Letitia L. Meredith, RPR
DepomaxMerit

1 And the Division reviewed those rate
2 proposals, compared that with current rates within
3 the state of Utah and it is recommending that the
4 commercial rate would be \$54 rather than the \$75
5 effective January 1st as a minimum charge for the
6 first 10,000 gallons and then anything above the
7 10,000 gallons would be at \$3.80.

8 The reason why we use the \$54 figure is
9 because it's halfway between the max that is
10 currently used in the state of \$70 and the proposed
11 residential rate of 38. The industrial rate that was
12 proposed by the company is \$75 minimum fee for the
13 first 10,000 with a 1.50 per gallon additional
14 minimum charge. The Division is recommending that
15 this rate be implemented because it's within the
16 current rates that are used within the state.

17 As far as the agriculture rate is
18 concerned, the company proposed \$75 minimum for the
19 first 10,000, a 1.50 for 1,000 gallons in addition to
20 the minimum charge. Currently all of the customers
21 are classified as residential customers. We
22 compared, of course, these rates to those that are
23 being charged throughout the state. And the Division
24 is recommending that instead of the \$75 minimum rate
25 it be dropped to \$38 for the first 30,000 gallons

11

Letitia L. Meredith, RPR
DepomaxMerit

1 plus a tier rate starting at 5.50 and decreasing down
2 to 1.50 for 120 gallons or above of water usage. And
3 the purpose for decrease of rates here structure is
4 that the agriculture community experiences a number
5 of factors in trying to deliver water to crops and
6 agriculture activities, and in order to provide
7 incentives for businesses, agriculture business, and
8 farms to exist, these decreasing rate structures have
9 been put in place to enhance that opportunity for
10 agriculture.

11 In addition, the current proposal did not
12 have definitions as to what would constitute the
13 various rate structures. The Division of Water
14 Resources in their Utah data water book has
15 definitions that we are recommending be added to the
16 tariff to define what those rate structures would
17 qualify as.

18 So in summary, the Division recommends that
19 the definitions be added; the residential rate be
20 approved; the commercial rate be changed to \$54
21 instead of 75; and the agriculture rate be changed
22 from -- to a \$38 minimum, and that the schedule be
23 implemented over an 18-month period with increases to
24 the residential rate every six months to allow for
25 the changes that are happening with their current

12

Letitia L. Meredith, RPR
DepomaxMerit

1 rate structure.

2 Last evening after I filed this
3 recommendation I received notice from the company --
4 let me go back just a minute. One of the adjustments
5 to the expenses is an adjustment for repairs and
6 damages, and this is relative to a situation that
7 occurred in 2008 where there was a water break, main.
8 There was damage done to one of the resident's homes.
9 It was estimated to be about \$150,000 worth of
10 damage. The insurance company was only going to
11 provide \$28,000 worth of recovery for that cost.

12 Therefore, in the first recommendation that
13 was filed yesterday we have allowed a \$13,000 expense
14 annually to recover that cost of \$133,000 for damages
15 and repairs. The information I received from the
16 company yesterday was that the insurance company has
17 decided to cover all of the costs on the flood
18 incident, and there will not be the cost of the
19 133,000 to the company. Therefore, it's recommended
20 that we eliminate the \$13,000 expense. When that is
21 done -- that's what Exhibit 3.1 does. It eliminates
22 the 13,000 annual expense, and it takes the
23 recommendation, brings the company to an over-earning
24 position.

25 When we adjust the minimum costs from \$38
13

Letitia L. Meredith, RPR
DepomaxMerit

1 to \$31 per month, then it puts them in a break-even
2 situation. So the Division is recommending then that
3 the residential rate minimum charge would be \$31
4 rather than the 38.

5 Q. Does that pretty much conclude --

6 A. That concludes my --

7 Q. -- your presentation?

8 A. -- presentation, yes.

9 THE COURT: All right. Thank you,
10 Ms. Benvegnu-Springer.

11 Anything from the company?

12 KERRY JACKSON: Yes. We're in full agreement
13 with the recommendation and, you know, the adjustment
14 made last night. We wanted to make sure that
15 everything was on the table and that she knew that --
16 Shauna knew that the insurance company had taken care
17 of that problem in its entirety.

18 THE COURT: Okay.

19 KERRY JACKSON: So we can we feel good about the
20 adjustment and we're in good hands.

21 THE COURT: All right. Good. Anything,
22 Mr. Mcfarlane, to add?

23 TODD MCFARLANE: Not at this point.

24 THE COURT: Then what we'll do is we'll proceed
25 with residents that would like to speak, and we'll

14

1 start again with Mr. McCurdy and we'll go right down
2 the line.

3 Mr. McCurdy, would you like to come up in
4 this seat here? I'm assuming you want to speak.

5 GERALD MCCURDY: I'm going to yield down the
6 line and ask if I can do it later.

7 THE COURT: That's fine.

8 Mr. Jackman?

9 Mr. Jackman, do you want your testimony
10 essentially to be -- great. Do you solemnly affirm
11 that the testimony you're about to give is the truth,
12 the whole truth, and nothing but the truth?

13 DAN JACKMAN: Yes.

14 THE COURT: All right. Thank you. And just
15 make sure your microphone is on if you could.

16 DAN JACKMAN: Can you hear me?

17 THE COURT: Uh-huh. Great.

18 DAN JACKMAN: If I can look down through the
19 memorandum, there's a couple of concerns that I have
20 looking through that. First of all, let me say I'm
21 definitely opposed to the rate increases as they look
22 in this memorandum. I don't know where the number of
23 90 percent increase comes from, but my estimation
24 shows probably a 400 to 450 percent increase in the
25 cost I'm going to be spending for water throughout

15

1 the year. By the time I hit that 40,000-gallon level
2 and I'm paying \$5.25 a gallon for a year and a half,
3 my water rates are going to be tremendously more
4 expensive than what we're currently looking at today.
5 I am definitely opposed to the rates as they stand in
6 this memorandum.

7 We talked about the repair and damage
8 expense, the loss of \$133,000 and that that was
9 mitigated last night in the memo. My concern with
10 that is when that water leak occurred and we were
11 over there helping the Mosman's house, the house that
12 was being flooded, there was no effort on the water
13 company's part to shut that water off, to stop the
14 flow, to stop the problem, to stop the concern. That
15 kind of mismanagement has occurred many times over
16 the 11 years that I have lived in White Hills.

17 The water lines would break, and I've seen
18 water running down Wilson Avenue, which is one of the
19 main streets there, for literally two and three weeks
20 before somebody came and did something to repair the
21 problem with the leak. That equates to a lot of
22 water being lost, but it also other equates to more
23 damage being caused underneath the streets with the
24 water running down the water lines, with damage to
25 road base, to asphalt, et cetera. So the costs

16

Letitia L. Meredith, RPR
DepomaxMerit

1 increase because they are not taking care of the
2 problem in a timely manner.

3 I was made aware a couple of weeks ago --
4 apparently they've also had some water leaks down on
5 the east side of State Road 73 that they've been
6 repairing where they've been losing thousands and
7 thousands of gallons down there for who knows how
8 long. These leaks go on time after time after time
9 without repairs being made to them and then that
10 requires more pumping, that requires greater
11 electricity costs, that requires a lot of extra
12 expense that they show as a financial loss in their
13 statement and want me to pay for because they didn't
14 fix it in a timely manner. So those types of
15 mismanagement issues concern me greatly.

16 There's a section in here talking about
17 improvements to the utility plant, automation of the
18 half million gallon tank. The half million gallon
19 tank was put in about five to six years ago. There
20 was already a million gallon tank in position. There
21 was already a three-quarter -- or let's see. There
22 was a half million gallon tank -- I'm sorry. I
23 misspoke. The half million gallon tank has been
24 there for 10, 12 year. The three-quarter million
25 gallon tank was put in about five or six years ago.

17

Letitia L. Meredith, RPR
DepomaxMerit

1 So they are looking to automate this half
2 million gallon tank. Well, the automation was in
3 place. It existed before the new company purchased
4 the water system. It's my understanding -- I don't
5 have the information to verify that, but it's my
6 understanding that that automation system was put in
7 based on a government grant from the Department of
8 Homeland Security and that's the money that was used
9 to put in that automation system. That automation
10 system didn't come with the water system when the new
11 company bought it, and I asked myself "Why not? It
12 was already in place. It was part of the system."

13 So now they are looking at adding another
14 \$21,000 to put in another automation system where it
15 already had one. They are talking about a million
16 gallon tank pressure regulator for \$22,000. I don't
17 know how many years that tank has sat dry. I don't
18 believe it's being used right now. It's not
19 required. Its volume is not required for water
20 supply to 124 homes and so that tank has sat dry for
21 years, and they are talking about putting a pressure
22 regulator in there. Is that because they intend to
23 now use the million gallon tank and not use the
24 three-quarter million and the half million gallon
25 tank? 124 homes don't require the use of two and a

18

1 quarter million gallons of water. Even with the
2 emergency reserves that are required there's not that
3 kind of requirement for two and a quarter million
4 gallons of water for our tiny little subdivision.

5 So I ask myself what are we putting a
6 pressure regulator on the big tank for? That would
7 definitely solve some pressure problems for the
8 subdivision, and I understand that, but then we have
9 got a half million and three-quarter million gallon
10 tank sitting there that we don't know if we're using
11 the million gallon tank. The company again, when I
12 talked about mismanagement earlier, they've got two
13 and a quarter million gallons of water capacity for a
14 124 homes.

15 They have assets that they've purchased
16 with no requirement for them in their grandiose
17 anticipation of huge growth, up to 440 homes, and
18 even more, the development of 2,000 acres. Well,
19 that development hasn't happened. In 20 years
20 they've put in 124 homes. So I say to myself why do
21 we have all of this money tied up in these assets and
22 the repair and the maintenance of these assets for
23 years on end for a system that only needs to supply
24 water to 124 homes?

25 I also look at 122 radio meters and radio
19

1 reader for \$27,000, which would definitely make it
2 easier for the water master, or whatever they call
3 that individual, the person who takes care of the
4 water meter reading, et cetera, because now all he's
5 got to do is drive by in his truck it reads the
6 meters electronically, records it in his computers --
7 great system. Why are we increasing his wages and
8 automating the system to where his workload requires
9 less?

10 He's a contractual employee. So if you're
11 going to automate it, then his wages probably don't
12 need to be nearly as high or vice versa because
13 they've been doing it manually for 20-plus years out
14 there, and you're talking 124 homes. It's really
15 doesn't take that long to read, and quite honestly
16 during the winter times they do estimations and then
17 they catch it up in the spring. That system has
18 worked quite well for 20-plus years.

19 The water company has requested that we
20 look at adding rates for industrial and commercial,
21 agriculture and et cetera, and to get those rates
22 they've based them off of other commercial rates and
23 industrial rates and stuff throughout the area as an
24 average. However, when we're looking at our rates,
25 we're not looking at what does Eagle Mountain pay,

20

1 what does Fairfield pay, what does Cedar Fork pay,
2 what does Lehi pay, what do the local communities pay
3 in our area. We are looking at how do we get money
4 into the pockets of the water company? And I look at
5 it from a perspective of the water company that
6 currently owns -- White Hills Water Company purchased
7 that company with the understanding that "Hey, this
8 has been a business that has operated at a loss for
9 the past 8, 10, 20 years, however long. I don't
10 think they've ever operated at a profit. I think a
11 big part of that has been because of the assets that
12 they have tried to hold onto in anticipation of their
13 growth that has never happened.

14 So my proposal is if we're going to be
15 looking at water rates, let's compare water rates to
16 water rates that are in the area and that are
17 comparable just like what we're looking at doing for
18 industrial rates and commercial rates and
19 agricultural rates. I have some concerns with the
20 agriculture rates. The tiered, step-down rates get
21 over -- I can't remember the numbers. Look it up. I
22 think it's 120,000 gallons, something to that effect,
23 and they are down to the current rate of what we're
24 paying now of 1.50 per thousand gallons. Well, that
25 simply encourages the agricultural people to pump at

21

Letitia L. Meredith, RPR
DepomaxMerit

1 least 120,000 gallons every single month to get the
2 best rate to water their crops heavily, and I ask
3 myself why am I paying \$5.25 a gallon and they are
4 paying 1.50? That concerns me. It also concerns
5 me -- and I don't know the name of the agricultural
6 company who is looking. They said there was a
7 company. I suspect it's Smith Family Farms. I don't
8 know if you guys are aware of who the company is or
9 not.

10 I have a question of conflict of interest,
11 and I don't know the answer to this. I simply raise
12 the question. I don't know how to resolve the
13 conflict that may exist there, but the question I ask
14 is if it is Smith Family Farm, Kery Smith sits on the
15 special improvement district for our area for our
16 sewer. I don't know if that's tied into our water
17 company. I don't know the background there, but if
18 his family farm is looking at getting water for 1.50
19 a thousand gallons like they currently are, I see a
20 potential conflict there. Might be just me, but I
21 ask the question if it is a Smith Family farm, how
22 are they tied in to the water company and the special
23 service district and those types of connections that
24 present a potential conflict.

25 One of the things that Cedar Valley Land

22

Letitia L. Meredith, RPR
DepomaxMerit

1 Development -- I can't ever remember the name of
2 Todd's company. I apologize. One of the things that
3 they have said a number of times in meetings that
4 we've had with them is that they want to keep White
5 Hills Subdivision separate from their developments.
6 I ask myself how does that apply to the water
7 company? If they are going to tie into our system,
8 they are going to be affecting our water system.
9 They are going to be requiring larger pumps because
10 of that. They are going to be requiring additional
11 lines because of that. They are going to be
12 requiring increased capacity eventually potentially
13 because of that, and I want to ensure that those
14 costs are incurred by those homeowners not by the
15 current residents that are there now.

16 I also ask myself if water prices go up in
17 the next 18 months to where I'm paying 5.25 for over
18 40,000 gallons of water, what kind of incentive is
19 that to build in a depressed economy? You've only
20 built 124 homes in 20 years, but they are looking to
21 develop 2,000-plus acres of property. By increasing
22 water rates to this level people are going to be even
23 less likely to want to come out and develop in that
24 area. So I see that sort of as a -- it's kind of
25 counterintuitive to what they are trying to do. They

23

1 are trying to develop the land and stuff, but the
2 costs are going to be prohibitive for that
3 development.

4 I mentioned the leaks. I mentioned the
5 Mosman's home. One of things that really concerned
6 me with the Mosman's home and the management of that
7 was the fact that even after several calls, there was
8 a refusal on the water company's part to come out and
9 shut off the water. That shut off actually took
10 place by one of the local residents who came out with
11 his own backhoe, dug the hole to find out where the
12 leaks were and they shut the water off themselves to
13 stop the flow of water into the home.

14 I know there have been residents that have
15 complained about pressure problems. Those problems
16 exist -- I happen to live on the lower end of the
17 subdivision. I don't suffer the pressure problems
18 like those who live on the upper end closer to the
19 water tank. I know those problems need to be
20 resolved. Part of that resolution is simply keeping
21 the water tanks full. If they keep the water tanks
22 full, then there's enough pressure for the people at
23 the top end of subdivision, but again because that
24 purchase wasn't made with the automatic fill system
25 in place, the water levels fluctuate so dramatically

24

1 that those people suffer the pressure problems.

2 There is an estimation through this
3 memorandum that the water company is going to make so
4 much money, whatever that dollar value happens to be,
5 based on the amount of water that is used. The
6 reality is if water rates go to this extreme, the
7 water usage won't be there. People are not going to
8 be using the water to the levels that they've been
9 using the water in the past. They are not going to
10 have the income coming into them like they are
11 estimating because we're not going to use the water.
12 On top of that, probably the biggest place we're not
13 going to be using the water is watering our lawns.
14 You can't afford a 300, 400, \$500 bill to water your
15 lawn through the summertime.

16 Consequently lawns are probably going to
17 die in the subdivision. I've already talked to
18 people in the subdivision who have made the comment
19 "I won't be watering my lawn. I won't be able to
20 afford it." I have houses on both sides of my house
21 right now that have allowed their lawns to die
22 because they can't afford the water rates that the
23 rates are now and aren't watering their lawns.
24 Because of that home values are going to decrease and
25 that concerns me. In an already depressed economy

25

Letitia L. Meredith, RPR
DepomaxMerit

1 where my home value is already decreasing, let's have
2 half the lawns or quarter of lawns -- I don't know.
3 Pick a number. I can't know how much -- but people
4 in the neighborhood who aren't watering their lawns,
5 homes aren't going to sell. The values aren't going
6 to be there and that's going to affect the value of
7 my home. Already has affected the value of my home
8 even at the current levels.

9 One of the last comments I would like to
10 make is my concern -- the current water company is
11 also owned by the same people who own the current
12 land company who are looking to develop that land.
13 They have been working for nearly two years now to
14 get White Hills Subdivision to either incorporate or
15 annex into an incorporated entity because they've had
16 difficulties developing with the county.

17 Last meeting we had down in Fairfield a
18 month or so ago, one of the comments that was made
19 was "If we incorporate, Eagle Mountain is going to
20 want the water company to come with. They are going
21 to want access to that water. They may reduce our
22 rates." That was a statement that was made, that
23 they may reduce our rates, and I resent the fact that
24 we are being coerced into incorporation by a land
25 company that wants to develop their land when we're

26

Letitia L. Meredith, RPR
DepomaxMerit

1 not interested in that incorporation. We're not
2 interested in that development per se. And the
3 coercion that's being used is "If you don't
4 incorporate with Eagle Mountain and they absorb your
5 water company and they may reduce your costs, well
6 then we will turn around and we will definitely
7 increase your water costs and we'll make it to the
8 point where it's so uncomfortable you'll be looking
9 for incorporation." I resent that coercion. That's
10 all I have to say.

11 THE COURT: All right. Thank you, Mr. Jackman.

12 Division, do you have any questions of
13 Mr. Jackman?

14 MR. GINSBERG: I think the easiest way would be
15 just to let the water company provide some response.

16 THE COURT: Is that what you would like to do,
17 Mr. Jackson and Mr. Mcfarlane?

18 KERRY JACKSON: Yes, there's some clarification
19 needed. As a water master, you wear many hats, and
20 when you're trained, you're trained to have obviously
21 the loyalty of the company -- that's who you're
22 working for. That's who's paying your check -- but
23 you also have to take into consideration the
24 customer, and the customer becomes more important
25 than who you're working for. That's the trust that

27

1 the state of Utah has put into certified operators.
2 At the time of the Mosman claim, we did realize that
3 there was an underground main leak and we were
4 mobilizing a contractor to go into that street the
5 next morning. The question was should we have shut
6 off that line in the interim? My thought process
7 behind this -- and I've had to defend this before --
8 was if we shut down that street, we shut down all the
9 fire protection for not just the Mosman problem but
10 for everybody on that street. They are not going to
11 have water until we fix the problem and get back
12 online.

13 The other problem is that a certified water
14 operator is not a licensed contractor, and where the
15 leak was in the street, you become -- certainly an
16 operator has a right to go in and try to limit
17 damage, but the damage was already done to the Mosman
18 basement and we couldn't do anything more for them.
19 Now, Matt took it upon himself and against my
20 judgment but it ended up to be a good thing. He was
21 able to go in later that afternoon, find the leak,
22 and when he found the leak and discovered where it
23 was coming from, was able to shutdown the system at a
24 slow rate so he could fix the problem.

25 If we shut down the system completely, then
28

1 we have concerns of back contamination coming into
2 the pipes from back siphoning. So we have to be very
3 careful on how we handle those type of problems, and
4 sometimes we can't do it right away or under a
5 position that we can just get right there and solve
6 that problem. And obviously we convinced the
7 insurance company that our actions were just and
8 right; otherwise, they wouldn't have paid the claim
9 in its entirety.

10 TODD MCFARLANE: Can I add something there too,
11 Kerry. Just this question of a private resident was
12 the one that actually addressed it, and Kerry has
13 made reference to Matt, and I think that's who
14 Mr. Jackman is referring to. And I just want to
15 clarify that Matt is a resident of the subdivision
16 but he's also a contract employee or a contractor for
17 the water company. He and Kerry are the two contract
18 employees, if you will, of White Hills Water Company.
19 So it wasn't just some resident who came and took it
20 upon himself. Matt had been tied up earlier that day
21 and wasn't available or he probably would have done
22 something about it sooner. Kerry was again
23 mobilizing another contractor to come do that. In
24 the meantime Matt got back from what he was doing,
25 addressed the situation, found the equipment that was

29

1 necessary, and physically addressed it in the street.
2 But he was doing it wearing the hat of a White Hills
3 Water Company contract employee. He wasn't just some
4 resident who decided to take it upon himself. He was
5 acting under our direction. We were in continual
6 telephone contact with both he and Kerry and it was
7 being addressed.

8 I mean, Kerry, like he said, his position
9 was if we couldn't get someone there, a licensed
10 contractor to do it before then, his decision was to
11 keep the water running so there weren't any other
12 freeze ups. This was in January. He justified to us
13 his decisions and I know that that can be second
14 guessed in a lot of ways. Matt came. He's a very
15 capable person. He runs the Saratoga Springs Water
16 Department. He's dealt with situations like that.
17 We were comfortable that he was capable of dealing
18 with the situation in advance and preventing any
19 further problem that night. They did it during the
20 night, under lights, under very harsh conditions. We
21 were thankful for what they did, and it turned out
22 well. But I just want to clarify that was kind of
23 the decision-making process that happened at the
24 time.

25 KERRY JACKSON: And to further clarify, Matt is
30

1 a certified water operator but was not a licensed
2 contractor, so he did take some personal risk in his
3 endeavor to do so. The other thing I wanted to
4 mention, at the time of the takeover from NAI from
5 the Whites, Ken White was basically extorting them to
6 purchase this automated system which consisted of
7 nothing more than cameras pointed at a pressure gauge
8 that he could access at any time. So it was not true
9 automation. It was a matter of being able to manage
10 and look at that thing and decide how much water was
11 in the tank.

12 TODD MCFARLANE: I'd like to address that a
13 little further if I could, Kerry. This discussion of
14 the previous automation equipment if you will, and I
15 think it's purely hearsay that that was paid for by
16 Homeland Security or anything like that. I mean, I
17 would encourage whoever is going to be making those
18 decisions to completely disregard that kind of notion
19 because I don't think that there is any substantive
20 evidence to support it. It's second-, third-hand
21 hearsay. We're not aware of anything that would
22 support that. It's true Ken White who was the
23 previous operator had some level of surveillance
24 equipment, camera surveillance, and automation
25 equipment, and it's true when we got down to the

31

1 actual closing, that should have all been included,
2 and we got into a dispute with Ken White where he
3 wanted the whole transaction hostage for an
4 additional amount of money. Not just the physical
5 equipment but also the so-called intellectual
6 property that went with it.

7 So we did have to make a decision at the
8 time so it wouldn't hold up the transaction and a lot
9 of other things. We just told him "Forget it. We're
10 not going to be held hostage for your equipment,
11 intellectual property or anything else." And we have
12 for a period of time based on that, because he took
13 it out, been forced to operate essentially manually.

14 And we can see, everyone can, that a degree
15 of automation would be beneficial to the company and
16 that needs to be reinstalled and that's what we're
17 factoring into the equation here. It will be much
18 more efficient and much more effective that way, but
19 just to clarify that situation, I don't know that
20 there's any Homeland Security funding money, anything
21 like that involved, and it's a situation that we just
22 need to address for the best interests of the company
23 and for the users of the water in White Hills.

24 KERRY JACKSON: And the proposed cost of that is
25 one quarter of what Ken White was trying to receive

1 for his intellectual service. Now, another thing
2 that was pointed out, our actual storage capacity is
3 1.7 million gallons.

4 TODD MCFARLANE: Let's talk about that for a
5 minute, Kerry. Are you going to talk about the
6 storage capacity?

7 KERRY JACKSON: I'm going move on.

8 TODD MCFARLANE: Let me talk about that for just
9 of a second. There have been a lot of complaints
10 this year about pressure in the system, especially on
11 the upper end. So one of the things that we thought
12 would help resolve those issues would be to start
13 using the upper million gallon tank that would
14 provide much higher pressure. Now, if we use that
15 million gallon tank, then we are going to have an
16 expensive pressure regulator. That's one of those
17 costs-benefit analysis that you have -- we have a lot
18 of people, users in the subdivision, who are asking
19 us for more pressure especially in the summer. Quite
20 frankly we think maybe the best solution would be to
21 use the higher tank during the summer when they want
22 more pressure to water lawns and things and not use
23 it year-round and pump clear up there and use the
24 lower tanks. The lower tanks consist of one 500,000
25 gallon tank and one 220,000 gallon tank. We think

33

1 that would potentially be a good management decision,
2 good trade-off. Those are the kinds of decisions
3 we're in the process of making. We want to provide
4 pressure when they need, especially in the summer,
5 keep people happy, keep lawns greens to the extent
6 they want that to be the case but on the other hand
7 not be pumping to that higher tank year-round when
8 it's simply not necessary.

9 One of the things I want to address while
10 we're talking about that because it seems like there
11 are a lot of residents that who feel like the land
12 development entity, which I represent, Okra Wood
13 Ranch -- like I said, we're under a management
14 contract that Mr. Jackson is part of to manage the
15 water company but the water company is owned by a
16 completely separate, unrelated entity. And there is
17 this concern that the land development entity wants
18 the current residents to pay for improvements that
19 will allow the growth to happen in the future, and
20 one thing that has happened -- certainly the market
21 has completely changed during the time period since
22 we closed the transaction and acquired the property,
23 we are going to great lengths to insulate White
24 Hills -- the current White Hills development from any
25 future expense that will be related to new

34

1 improvements to enable future growth. We understand
2 their concern about that. We have the same concern.
3 We are putting local districts in place that will
4 provide the funding and financial mechanisms to pay
5 for those new improvements. White Hills will be
6 insulated from that.

7 One point I do want to make is those new
8 developments, the new growth that will take place
9 will be a very different kind of growth that they
10 have now in White Hills, especially as it relates to
11 water use. They are concerned about lawns drying up
12 and things like. Our approach is going to be
13 encourage water conservation, zero scaping, that sort
14 of thing. We live in a desert, and the bottom line
15 is according to our master plan, we intend to go to
16 great lengths to conserve water and there won't be
17 the sprawling kinds of lawns in the rest of the
18 development that happens whenever it does happen,
19 that currently exists in White Hills. Our intention
20 is to keep that water use as conservative as
21 possible, put in place good public areas, parks and
22 things like that that they don't currently have
23 available and we recognize that. But we want to make
24 those sorts of places available for their children to
25 play and things like that. So we just want everyone

35

Letitia L. Meredith, RPR
DepomaxMerit

1 to understand that when it comes to projected future
2 water use, we intend to take a very different
3 approach than exists right now in White Hills.

4 KERRY JACKSON: On the million gallon tank, we
5 do want water in that tank. We do want it to have
6 that supply for the purpose of fire protection for
7 those homes, so there is water in it. If there's
8 not, it should be. I will check on that. As far as
9 I know, there is water and we have that supplied for
10 an emergency even though it's not as easily
11 accessible as the current 750,000 gallon area.

12 The Special Improvement District has
13 nothing do with White Hills Water Company, Inc. It's
14 a separate entity. It's organized by the county and
15 subject to county laws and regulations, which I think
16 it's Kary Smith is one of the chairmen for that
17 district, but they have absolutely no connection nor
18 communication with us. My position was -- I was
19 working for the Whites at the time when the sale took
20 place. I was asked to stay on. I have no connection
21 or value that's going to be derived whether they get
22 a rate hike or not. But as a certified water
23 operator or person that wants to deliver the product
24 as mandated by law, the rate is needed. It's
25 required.

36

1 One of problems that Daniel Jackman brings
2 up are these consistent leaks. At the time of the
3 sale I believe there was a leak on the east side of
4 the Highway 73, and it cost the new owners \$5,700
5 when they brought in a contractor. Subsequently
6 there's been no money. They've made no profit. To
7 stop leaks they've been Band-Aiding this problem for
8 five or six years. The expenses to keep Band-Aiding
9 this line has now exceeded the cost of replacement of
10 this line, and those are direct costs to the
11 customers that are passed on.

12 So because of the company not being in a
13 profitable money position, it has caused them to make
14 bad decisions on line replacement, replacing
15 equipment, et cetera. So we need to have the company
16 in a profitable situation so good decisions can be
17 made, lines can be replaced, and -- you know, we have
18 a steel line right now on Wilson Avenue. If you've
19 got a steel line leaking on the east side of the
20 highway, that one is sure to follow, and that's a
21 much bigger line with more homes. So this is of
22 great concern to me. And we need the capital to work
23 in the company to make these changes. And it will be
24 a better-served company with money than without. I
25 hope I've addressed all those things with Mr. Mosman.

37

Letitia L. Meredith, RPR
DepomaxMerit

1 THE COURT: Now, either of you want to respond
2 any more to what Mr. Jackman said? And actually, you
3 know, just because the informality, I'd let you talk.
4 I guess I should have sworn you in beforehand. Let
5 me start with Mr. Jackson.

6 Mr. Jackson, do you solemnly affirm that
7 what you said it is the truth, the whole truth, and
8 nothing but the truth.

9 KERRY JACKSON: Yes, I do.

10 THE COURT: And the same for you, Mr. Mcfarlane,
11 you affirm that's the truth as far as you know it?

12 TODD MCFARLANE: Yes.

13 THE COURT: Thank you. Do you want to add
14 anything in clarification or response to what
15 Mr. Jackson said?

16 TODD MCFARLANE: I would like to add one general
17 statement as this is from the memorandum of
18 recommendation that was submitted, and I think --
19 this is a statement that should apply as a blanket
20 and be understood by everyone. Attention was not
21 called to this statement. It's in the conclusions,
22 and I'd just like to call attention to it. It says
23 that "The company has incurred financial losses for
24 the past seven years. Prior to the company being
25 sold, losses were subsidized by White Hills Land

38

1 Company. In addition, some of the expenses were not
2 reported by White Hills Water Company such as the
3 full cost of personnel to operate the system,
4 accounting, and repairs. This kept water rates
5 artificially low to attract homeowners," and then it
6 goes on. Again, I will affirmatively swear that is
7 the case, that the water company has been subsidized
8 for a substantial period of time. We have continued
9 to subsidize it for the past 18 months and what we
10 are seeking now is not actually to benefit by any
11 immediate profit, but simply to be allowed to be put
12 in a position to operate at less of a loss than has
13 been the case for a substantial period of time.

14 There are a number of issues that need to
15 be addressed just like Mr. Jackman mentioned. These
16 leaks need to be addressed. We intend to replace
17 some water lines. It's going to cost a significant
18 amount of money to do that. We are going to have to
19 come up with that money upfront out of pocket. We
20 hope to be able to recover that over the long-term,
21 but that is a good management decision that needs to
22 be made and will benefit everyone over the long haul.
23 And this helps explain why that is at case, so I just
24 wanted to offer that general explanation because it
25 applies across the board.

39

Letitia L. Meredith, RPR
DepomaxMerit

1 THE COURT: Okay. All right. Mr. Jackman,
2 would you like to add anything else to your
3 testimony?

4 DAN JACKMAN: Thank you very much.

5 THE COURT: Thank you.

6 DAN JACKMAN: I do have some things I would like
7 to add.

8 THE COURT: Go ahead.

9 DAN JACKMAN: Thank you. They talked -- Kerry
10 talked about Matt shutting down the water being
11 representative of the water company, et cetera.
12 That's all fine and dandy. The previous history that
13 goes along with that history as to the amount of
14 damage that was done. Kerry is correct in saying the
15 damage that was done to the basement of the Mosman's
16 home was done, but there was additional damage that
17 was done to the roads, to the sidewalks, to the
18 landscaping of the yards, to the driveways, porches,
19 et cetera, of those homes that were there that had
20 that been dealt with that in a more timely manner may
21 have been able to have been prevented.

22 Their intention was "Hey, we'll look at it
23 in the morning," and it was only because of the
24 increased pressure of the neighbors in the area that
25 something was finally done that night because their

40

1 intent was "We'll take a look at it in the morning,"
2 and the water would have continued to run all night
3 long.

4 TODD MCFARLANE: Can I just ask Mr. Jackman a
5 clarification about when he says "their intention,"
6 who is the "they" that he was referring to?

7 DAN JACKMAN: Kerry's.

8 KERRY JACKSON: I can assure you my intention
9 that I was very seriously worried the whole day and
10 on the phone constantly trying to get several
11 contractors to go out on-site and deal with that
12 issue. The contractor that was willing to do it
13 could not do it until the following morning, so then
14 it becomes a subject of do we shutdown the system to
15 prevent damage and disregard fire protection for
16 those ten homes along that street and have a
17 possibility of sucking in contamination when there's
18 a mine maybe five miles away. We don't know what
19 kind of contaminations can be sucked into the system,
20 and once it's in the system we are digging up street
21 lines at a greater expense than what was a damage
22 award given.

23 TODD MCFARLANE: I want to clarify that Kerry
24 was under a great deal of pressure from myself and
25 others higher up in the decision-making process to

41

1 take action as quickly as possible, but we weren't on
2 the ground.

3 KERRY JACKSON: I even called the Division of
4 Water and asked for their expertise in the matter
5 because I don't think -- they needed to be aware of
6 the full circumstances before we make a decision to
7 shut off ten people.

8 TODD MCFARLANE: We were very anxious about
9 getting that -- it wasn't just the neighbors. We
10 were just as anxious as anyone about getting that
11 addressed and fixed as soon as possible, but again
12 there was a broad range of factors that had to be
13 taken into consideration but at the end of day --

14 KERRY JACKSON: The way Matt did it -- and he
15 was properly trained to do it -- he did a great job.
16 I was glad he did. I was very happy.

17 THE COURT: Just to keep it going so everybody
18 that wants to speak can speak, I'm going have
19 Mr. Jackman finish and then, Mr. Jackson or
20 Mr. Mcfarlane, if you'd like to cross-examination for
21 clarification, you can do that. What I would like to
22 do is maybe have all the witnesses speak, including
23 Mr. Slocum, and you can address anything point by
24 point as far as rebuttal to keep it going.

25 Mr. Jackman, anything else related to the
42

1 water rate increase?

2 DAN JACKMAN: Yes. As they talked about their
3 interest, I was on the ground, and there are things
4 that could have been done immediately. They could
5 have had somebody out there to do exactly what Matt
6 did in the first place. The concern if we shut it
7 down we're going have to have back contamination --
8 well, slow the flow. Turn it down to where you don't
9 have tens of thousands of gallons of water running
10 down the street, which is what Matt did.

11 Matt contacted a neighbor contractor who
12 had a backhoe and drove it over, dug up a hole, found
13 the leak and put it in a new saddle. That was all
14 done locally by having somebody there on the ground.
15 So I'm glad everybody else was concerned about it,
16 the fact was we were watching neighbors' yards
17 collapse in on themselves as the water continued to
18 run. And again, it's not just this event that I've
19 seen. I've seen water running down the streets.
20 I've seen water running down -- I think the road is
21 Coolidge that T-intersections into the Barnes
22 residence. I've seen water running down that street
23 for weeks. I've seen water running down Wilson for
24 weeks before somebody came out. It's a pattern and
25 history on their part. Mr. Mcfarlane talked about

43

1 zero scaping for new subdivisions. That's all fine
2 and dandy. We're not zero scraped in 124 homes.
3 Some are zero scaped, piles of weeds. That aside.
4 We're not zero scaped. For him to come in or the
5 water company to come in and request a raise in rates
6 to the level they are talking about, well, I'm going
7 to have spend not only additional money to pay for
8 water but I'm going to have to spend thousands of
9 dollars to re-landscape my yard so I can zero scape
10 because I can't afford the water.

11 They talked about Matt being an entity of
12 the White Hills Water Company, et cetera. If I'm not
13 mistaken, I believe Matt also sits on the Special
14 Service District for the sewer board with Kary Smith,
15 so there is a tie to that entity. And then bottom
16 line final statement I would like to make is White
17 Hills Water Company has a tremendous amount of
18 assets. They have three water tanks. The reason I
19 used 500,000 gallons and three-quarter million
20 gallons tanks is because that's what Ken White talked
21 about the last time I was at a hearing here in 2003.
22 That's what he said they were in size when he was
23 talking about them. So those are the numbers that I
24 was using from there.

25 Now, whether they are quarter million and
44

1 half million gallons or half million and
2 three-quarter million, the fact is they've got
3 tremendous assets that aren't required for 124 homes.
4 They have I don't know how many shares of water they
5 could sell off very quickly and very easily to bring
6 their water -- or to bring their losses up to a
7 break-even point and pay off their debts. I don't
8 feel that I should have the responsibility to pay off
9 their investment capital. That's all I have.

10 THE COURT: All right. Thank you, Mr. Jackman.

11 Just before we proceed, just an
12 encouragement to those that are testifying today,
13 just remember the testimony that's been given, if you
14 can be avoid being duplicative or repetitive. We
15 would appreciate keeping it brief as possible.
16 Remember we're here to discuss the rate. Obviously
17 in some tangential way we can get into what should
18 have been done, what shouldn't have been done. But
19 obviously we are here to focus on this raise, and
20 inasmuch as your testimony can stick to that, we
21 appreciate it.

22 Mr. Clements, would you like your testimony
23 to be considered by the Commission?

24 KALYN CLEMENTS: Yes, please.

25 THE COURT: Raise your right hand for me. Do

45

1 you swear that the testimony you're about to give is
2 the truth, the whole truth and nothing but the truth?

3 KALYN CLEMENTS: Yes, I do.

4 THE COURT: Thank you, Mr. Clements.

5 KALYN CLEMENTS: I have a letter that you should
6 have a copy of.

7 THE COURT: I do.

8 KALYN CLEMENTS: In that letter it states --
9 this is according to the information I could gather,
10 and what I have found or discovered is that initially
11 before the water company would be able to break even
12 there would have to be a certain number of homes.
13 What the exact number that is I don't know for sure,
14 but I was told it was between 400 to 500 homes that
15 they would have to supply in order for the water
16 company to break even. So on that assumption where
17 there's currently 124 homes that are supplied, we
18 cannot reasonably expect that the water company can
19 run at a profit until they have reached a break-even
20 number of homes and actually surpass that number. I
21 don't know if you want me to stop, and they want to
22 comment or --

23 THE COURT: You can go ahead. We'll let them
24 comment once all of you have testified.

25 KALYN CLEMENTS: The issue I would like to bring

1 up is the mismanagement of the resources. To a
2 desert, water is precious. They have stated in
3 future developments they want to zero scape and have
4 things be very conservative, and I guess my feeling
5 is that water is very precious and if it is held in
6 such high value, then we should try and keep it as
7 much as possible. In going over that they've talked
8 about several leaks that they've had, and I made some
9 calculations on the amount of water that has
10 potentially flowed out of those leaks over the years,
11 and it's been years they've had leaks.

12 I've talked to Mr. Smith who is a farmer
13 down the way from where those leaks occurred which
14 was on the east side of SR-73, and I also talked to
15 others who were involved there to try and figure out
16 the quantity, the size of the holes that there were
17 to try to figure out the rate of water that was
18 flowing out of there. It has been estimated that the
19 leaks -- the major leaks -- now there were several
20 smaller leaks -- but the major leaks were between one
21 and two and a half inches in diameter each.

22 The water that has been flowing out has
23 been flowing out there for some have said quantity of
24 years. It's been such that there's been long enough
25 water flowing out there that there are reeds growing

47

Letitia L. Meredith, RPR
DepomaxMerit

1 down there. So it's kind of a marshy swamp land,
2 which is indicative of always water being there. I
3 decided to do a rough calculation of how much water
4 would potentially flow out of that size of hole. In
5 my basement in my house I took and measured the flow
6 rate. I have a half inch pipe, and I measured the
7 flow rate. I received -- in nine seconds I had
8 one gallon. If you take and multiply that out so you
9 have a one-inch diameter whole, you have two gallons
10 in nine seconds, and I have the calculations
11 calculated out. Bottom line is in one year you would
12 have 7,080,000 gallons, which if you can determine
13 the number of household that water would potential
14 serve, it comes out to 92, based on consumption of
15 75,555 gallons per average resident -- residential
16 home.

17 And since there were two leaks and you
18 calculate it out, they could have served in that time
19 period 371 residents (sic). There's a table down on
20 this document that shows that if the sizes were both
21 on the higher end, then you could have potentially
22 served over the time period 742 residents (sic) of
23 water. Again, White Hills Water Company serves
24 currently 124. They have provided water to
25 residents. Again, there may have been no complaint

48

1 on this issue because nobody -- a lot of people in
2 the subdivision did not know these leaks were
3 occurring and people had their water. The only
4 complaint would be the pressure. Obviously if
5 there's that much water flowing down out of the
6 system, the pressure and the tank level is going to
7 be dropped and they are going to have to continually
8 run those pumps to try and maintain the pressure. So
9 in my estimation they have mismanaged the system. I
10 agree they do need to replace the pipes, but they
11 need to be replaced in a timely fashion, not wait for
12 years and weeks and months where the precious water
13 has been lost, and they are only accumulating
14 additional expenses.

15 So again, I say why should White Hills
16 residents pay for the mismanagement of White Hills
17 Water Company's resources? I'm opposed at throwing
18 more water at this water company until they can show
19 they are managing responsibly. That's all I have to
20 say.

21 KERRY JACKSON: If I may respond.

22 THE COURT: Uh-huh.

23 KERRY JACKSON: I agree with Mr. Clements in
24 probably his estimation. The leaks are a bad thing.
25 The pipe is a bad thing. The company has made poor

49

1 decisions because they have not been financial sound.
2 To replace that type is pipe is going to run a
3 significant amount of money which they never had.
4 The Whites never wanted to spend because they could
5 not see any future growth. They asked me to run the
6 company, and I told him a year and a half ago that we
7 run it right, and this is one of the aspects that we
8 have to do and have to replace to run it right, but
9 we can't do it without the money. We can't be in a
10 poor financial position and then be expected to run
11 the system right without money to replace that line.
12 The line should have been replaced years and years
13 ago, but because of the White's poor -- mismanagement
14 of the system, the line never was taken care of. And
15 as I have said previously, the repair costs have now
16 outweighed the replacement costs. This I intend to
17 stop at once and make sure the decisions made are
18 appropriate and right for the circumstances.

19 TODD MCFARLANE: Can I add something to that?

20 THE COURT: Go on, Mr. McFarland.

21 TODD MCFARLANE: We have no intention of
22 attempting to defend the way the water company was
23 operated and managed prior to our acquisition of the
24 company.

25 KALYN CLEMENTS: You owned it for 18 months, you
50

1 said?

2 TODD MCFARLANE: I want to clarify that too.

3 White Hills Water Company is owned by Cedar Valley

4 Water Company, which is a completely separate entity.

5 It's not the same entity or the same investors as the

6 land company. I'm involved with Okra Wood Ranch.

7 Now, Okra Wood Ranch has a management contract with

8 Cedar Valley Water Company, but it's a completely

9 different set of investors that we all have to

10 account to. And they will not benefit from the

11 development of the surrounding land, and so they have

12 said, "You've got to account to us for this. White

13 Hills Water Company has got to be made financially

14 solvent so it can stand on its own two feet." It's

15 been subsidized substantially in the past, and we've

16 all subsidized it for past 18 months. Yes, it's been

17 18 months since the acquisition, and there have been

18 leaks. We have addressed those leaks. At this point

19 we're not aware of any additional leaks. We have

20 repaired all the leaks we're aware of. We, again

21 through our insurance company, fully addressed the

22 Mosman situation. It actually ended up being quite a

23 bit more money than has been stated here today, but

24 between our entities and our insurance companies,

25 those claims have been fully paid at no additional

51

1 expense to White Hills Water Company or its
2 customers.

3 So we can talk about that sort of thing and
4 the decisions that were made and everything, but the
5 bottom line is we stepped up to the plate. We
6 accepted responsibility regardless of whose fault it
7 was. We took the consequences at no additional
8 expense to anyone else to make it right and to
9 continue down the road. And that's what we're trying
10 to do, and we know the company has been mismanaged in
11 the past. We're trying to turn that around. We
12 decided that we would run it for about a year and
13 just really size it up rather than just step right in
14 and start make changes without fully understanding
15 it, but that's what we're trying to do now.

16 THE COURT: All right. Thank you.

17 Mr. Clements, final word?

18 KALYN CLEMENTS: Yeah, just for clarification, I
19 don't know exactly -- they have been running the
20 water company for 18 months. The lake across the
21 highway has been there, according to the farmer's
22 son, over two years. So it has been during their
23 time and they would have to have knowledge of that.
24 And in my opinion it would be a much wiser approach
25 to fix those rather than pay, you know, extreme

52

1 costs. They did repair those. It was in November of
2 this year.

3 KERRY JACKSON: The leaks have been recurring.
4 It's a recurring problem. Leaks are developing. The
5 steel line is degrading in the line, and they are
6 popping up at different points, and this has been the
7 process for that pipe for seven years. That's why
8 I'm saying they have now exceeded -- the cost of
9 repairing that line has now exceeded the cost of
10 replacement. We should have replaced it seven years
11 ago, but because of their lack of financial
12 stability, they have chose to Band-Aid it.

13 TODD MCFARLANE: We fixed some of those leaks in
14 the summer of 2007 shortly after the closing. We are
15 aware there was a leak over there.

16 KERRY JACKSON: They are going to continue to
17 pop up.

18 TODD MCFARLANE: We are concerned --

19 KERRY JACKSON: We have a realization that line
20 needs to be replaced. Do we do it in the middle of
21 winter when we have no funds? Do we do it in the
22 spring? What's our funding situation going to be
23 like at that point?

24 TODD MCFARLANE: We acknowledge that issue.
25 We're concerned about it as much as anyone else.

53

1 THE COURT: Anything else, Mr. Clements?

2 KALYN CLEMENTS: That's all.

3 MR. GINSBERG: Should we provide any comments or
4 do you want us to wait to the end?

5 THE COURT: If you could. Ms. Delhaoyde?
6 Ms. Barnum? Ms. Barnum, do you intend for us to
7 consider your testimony?

8 JUDY BARNUM: Yes.

9 THE COURT: Raise your right hand. Do you
10 solemnly affirm that the testimony you're about to
11 give is the truth, the whole truth, and nothing but
12 the truth?

13 JUDY BARNUM: Yes.

14 THE COURT: Go ahead.

15 JUDY BARNUM: First of all, I understand we do
16 need a raise rate, but I don't think it needs to be
17 to \$4.25 a tier, a 10,000. I do have some questions
18 and some concerns. Recently -- and you may think
19 this isn't part of the raise rate, but it is a
20 question that I have, and perhaps I should direct it
21 to Todd, but at the time that Jared and Todd did
22 their first presentation to our neighborhood, one
23 thing they did say was that they were looking for
24 somewhere with water and with land that they could
25 build. You know, I'm from Las Vegas. I know

54

1 anything can bloom in the desert. The concern I have
2 is first of all, Vernal, who is not here -- he is
3 shoveling snow at an elementary school -- he did
4 mention that he had talked to both -- to Jared. I
5 don't know if he talked to Todd -- ahead of time and
6 mentioned that some of these -- prior to purchasing
7 this water company that some of these issues were big
8 issues to us.

9 At the last hearing one of things the judge
10 decided on was that the extra tank was an opportunity
11 cost and didn't feel like the residents needed to pay
12 for that additional tank. I would have liked to have
13 seen in all of these things a breakdown of what the
14 average homeowner's bill would be coming to. You
15 have a breakdown on a lot of things, but maybe that's
16 not a concern, but in this economy, it is a big
17 concern. At the time when the Whites were developing
18 it, it's real easy to create a water company that's
19 taking a loss, claim that loss, and then continually
20 take money and subsidize from the development
21 company, which is what happened. It did entice
22 homeowners out to come by. It was probably a great
23 bait-and-switch program. But the thing is that the
24 Whites in their subsidizing it, as Kerry will tell
25 you, were fairly well off and could continue to

55

1 subsidize it because they had made a great deal of
2 money on the development.

3 At the time Okra Wood Ranch and all them
4 came in, there were various different presentations
5 to encourage us to annex or to incorporate.
6 Incorporation of course in our area would be totally
7 crazy because a fire alone, as Cedar Fork knows, can
8 set you back almost into bankruptcy for an area. Our
9 area has absolutely no income other than our
10 homeowners. Recently they presented an annexation
11 proposal with the City of Eagle Mountain. That was
12 supposed to -- there was a scheduled hearing that did
13 not take place because notification hadn't been
14 adequately provided according to law. So that
15 hearing was canceled and a new hearing is scheduled
16 for January 13th.

17 My concern is if Eagle Mountain is going to
18 take over this, are we then subject to Eagle
19 Mountain's rates or is the White Hills Company, as I
20 am thinking it is, a private company and our rates,
21 whether we are annexed or not, will continue to be at
22 this rate? And if that is the case, you know,
23 annexation either way is not to our benefit except
24 that it will allow Okra Woods Ranch to build. And
25 the building, obviously if you approve these rates --

56

Letitia L. Meredith, RPR
DepomaxMerit

1 you know, perhaps you can approve one of the first
2 rates or and then let us come back and see how that
3 works or something like that. But to me if we
4 increase, does that mean our water rates increase?
5 In the history of my lifetime I have never seen any
6 rate go backwards.

7 I guess my question is can this rate be
8 postponed, see what annexation does? If not, and it
9 is a private company and all rates will continue as
10 they are even if we are annexed against our will --
11 which at this point there's more than 75 against it.
12 I think the timing was not so great for this water
13 thing to come out. I think it pushed people a lot
14 the other way -- how can we, you know -- how can we
15 as a neighborhood even fight this? It looks like the
16 Commission has already rubber stamped it.

17 Our lawns will go. I don't know about you,
18 but chances are our house will go up for sale because
19 I would rather be house poor than water poor. It's
20 much better to claim it on your taxes than flush it
21 down your toilet. That is my feeling, and I have a
22 letter that's up there also. I really feel that they
23 do need have a rate increase. I think this one, even
24 though the Commission may say that it's warranted, is
25 substantial and different things need to take place

57

1 prior to a substantial rate increase like this.

2 THE COURT: All right. Thank you, Mrs. Barnum.

3 Any questions for Ms. Barnum?

4 KERRY JACKSON: I just want to make one
5 observation. She realizes there needs to be a rate
6 increase. It's not our desire to take it to the
7 residences. Our factors in working with Shauna is
8 based upon "This is the needs. This is our
9 circumstance. This is what we're trying to do to run
10 the company professionally and it has absolutely no
11 outside influence as far as developers this, that and
12 the other. This rate we've requested will fill the
13 needs of the water company as presently constituted
14 and give us a profit for the 124 homes that are
15 currently on the system." Now, it goes without
16 question more homes on the system will reduce the
17 rates. There's no question.

18 JUDY BARNUM: Then how can we be guaranteed
19 that, Kerry?

20 KERRY JACKSON: Well, the Commission insisted
21 that we only have a profitability of so much. They
22 are not going to allow us to take advantage of the
23 hundred --

24 JUDY BARNUM: They allowed for a 12 percent
25 increase which is offset by your debt. Had Whites,

58

1 who you personally said were independently wealthy,
2 had they paid that debt, you know, prior to -- you
3 wouldn't be servicing that.

4 KERRY JACKSON: They have the same problem in
5 development as NEI. He had 124 residence that didn't
6 want growth, so they were stuck in the middle also.

7 JUDY BARNUM: I don't think that we didn't want
8 growth. We couldn't afford growth.

9 THE COURT: Do you have any more question, Mr.
10 Jackson?

11 KERRY JACKSON: No. You know, it makes sense
12 that if we could double the connections to 250, then
13 obviously the bills would be half.

14 THE COURT: Mr. Mcfarlane, questions?

15 TODD MCFARLANE: No questions, Your Honor.

16 THE COURT: Thank you, Ms. Barnum.

17 Scott Barnum, anything? Okay.

18 Mr. Slocum, would you like to add anything?

19 RON SLOCUM: Yes, sir. I'm sorry that I'm
20 getting a feedback on the phone. I would have liked
21 to have been there in person but there was traffic --

22 THE COURT: Hold on. Mr. Slocum, if you are
23 going to testify, we need to swear you in. Do you
24 affirm the testimony you're about to give is the
25 truth, the whole truth, and nothing but the truth?

59

1 RON SLOCUM: I do, sir.

2 THE COURT: Go ahead, Mr. Slocum.

3 RON SLOCUM: I've lived here in the White Hills
4 area since '95, so I have been here for quite some
5 time, and I have taken great pride in my yard and my
6 home, and I feel that if this astronomical price of
7 water is allowed to go through, I will be forced to
8 stop completely watering my yard and my flowers and I
9 will let it go brown. I have to. The people that
10 bought this water company knew right from the start
11 the situation here. They knew there was only 124
12 people here, and they were told -- and I heard it at
13 many of the meetings we have had that it would take
14 over 400 customers to realize a profit.

15 Now, to me, they are asking us that are
16 living here to make up that loss of customers and
17 we're paying now for the 400 people that aren't even
18 here yet and it will be a long, long time before that
19 amount is reached, and that's my story on this end.

20 THE COURT: All right. Thank you. Any
21 questions for Mr. Slocum? No.

22 All right, anything else, Mr. Slocum?

23 RON SLOCUM: No. That's fine, sir, thank you.

24 THE COURT: Thank you.

25 Mr. McCurdy, did you want to say anything

60

1 on the record?

2 GERALD MCCURDY: Yes.

3 THE COURT: Mr. McCurdy, do you affirm the
4 testimony you're about to give is the truth, the
5 whole truth, and nothing but the truth?

6 GERALD MCCURDY: As far as I'm concerned, yes.

7 THE COURT: Thank you, Mr. McCurdy. Go ahead.

8 GERALD MCCURDY: I'm just concerned about the
9 rate increase. Like everyone else I reaffirm I think
10 what each one of them have said. We have tried to --
11 we have taken pride in our home and in our property
12 and the looks of our home and tried to keep things up
13 in a manner that would keep White Hills looking
14 somewhat worthy of having anybody else come in. I
15 feel like others do, that with this rate increase,
16 that people are not going to come out there. They
17 will not come out and build at that type of a rate.
18 You say the rate will decrease. I've never seen a
19 rate decrease. When they go up, they stay up. A lot
20 of us are on a very fixed income. We are paying
21 taxes. We're buying gas. Gasoline is not going to
22 stay at this low rate. It's going to go back up. I
23 can guarantee you that. You're going to see homes
24 vacated out there at this rate. I think my family
25 will sell their home as well at this rate. I don't

61

1 see anything else that can happen. It's high. It's
2 going to happen. You're going to see the economy go
3 down further, and it's not going to be conducive to
4 have this rate increase as much as being put in
5 there. I agree with them. It is not fair that all
6 124 of our homes pay for what 400 homes need to pay
7 for.

8 THE COURT: All right.

9 GERALD MCCURDY: I think that's sufficient.

10 THE COURT: Thank you, Mr. McCurdy.

11 Any questions? All right. Let's go head
12 and the proceed with the Division.
13 Ms. Benvegna-Springer.

14 MS. BENVEGNA-SPRINGER: Couple items I would
15 like to clarify. In the memorandum it discusses the
16 90 percent rate increase. The 90 percent is
17 calculated based upon the current rate of \$20 a month
18 that will be going up to \$38 a month. It's just that
19 portion of the minimum base rate. It does not affect
20 the tiered rates that would go into affect. And
21 Mr. Jackman's comments, he would be paying more than
22 90 percent increase in his rates for water.

23 With regard to the increase in wages, I
24 just want to reiterate that the adjustment for those
25 costs of personnel is a result of Mr. White

62

1 theoretically doing pretty much everything running
2 the water company and charging all of his expenses to
3 the land development company. Again, those true
4 costs were not borne out and reported in the annual
5 reports. The adjustment that the Division made for
6 the wages is annualizing the current costs of what
7 the water master and the water manager are going to
8 have to be charging to the water company to perform
9 their services in dealing with that water company.

10 The Division did do an analysis and an
11 exhibit regarding the culinary water rates for
12 residents. We compared it to Eagle Mountain,
13 Saratoga Springs, the various areas in Utah County,
14 Alpine City. Unfortunately, I did not file that
15 exhibit with the memorandum, but I did file that at a
16 later date. And those minimum costs are anywhere
17 from \$22 all the way up to \$29 minimum charged per
18 month, and then they escalate from that as far as
19 their tier rates go.

20 With regard to the commercial exhibits, the
21 commercial exhibits simply just show and demonstrate
22 the ranges that are within the state. The high and
23 the low is what we were looking at to see if --
24 because we currently don't have any good data to
25 determine what the costs are for the commercial, the

1 industrial rates to be. So we're just comparing it
2 to what is normal practice within the state at this
3 time. That concludes my comments.

4 THE COURT: All right. Thank you.

5 Mr. Jackson, let's proceed with you. Would
6 you like to add anything else?

7 KERRY JACKSON: I think it's obvious, Your
8 Honor, that we're in a catch-22. To run the system
9 better we need more money. We certainly don't want
10 to take advantage of the people that are out there,
11 the current residences. We have worked there since
12 June of 2008 with Shauna very closely, and we have
13 taken all of her suggestions as far as what rate
14 should be charged to make this a profitable, not
15 quite profitable company, and take great
16 consideration of the care and the feelings of the
17 people that are out there.

18 But to run the system properly we either
19 need to add more people to the system or we need to
20 have the money to -- and we also have to have the
21 money to take care of the obligations that we have
22 and mandated by the state and federal government to
23 provide drinking water to those current residences,
24 and we can't do it without the funding.

25 THE COURT: All right. Thank you, Mr. Jackson.

64

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Mr. Mcfarlane.

TODD MCFARLANE: Thank you, Your Honor. If I could add to that, we really are in a catch-22 situation, not just as the water company but the land company as well. You've probably gathered by now the reality is the system was built for a larger number of connections, and there was certainly expense in doing that. There's expense to operate it and maintain it, but the catch-22 situation that we find ourselves in is that they don't want to pay to operate it at that level but at the same time they don't want anymore connections. That is the reality. They don't want a new incorporation, and we've been meeting -- we've met for self years, extensive outreach, a number of open houses, focus group meetings. We've explored all options. We did file a petition for annexation into Eagle Mountain. It's our understanding that the residents do intend to attempt to oppose that. What's their main objective in opposing it? To prevent new growth. They don't want new homes. So on one hand they don't want to pay more for the service. They understand that the best way to reduce those water rates is to spread the cost over more connections, but they don't want any more connections. They've made that fairly

1 abundantly clear to us over and over again that they
2 don't want to see that happen. They want to be in a
3 position to try to control what happens on the 2,000,
4 3,000 surrounding acres, and they don't want to see
5 any new growth. They don't want to see any new
6 connections. And that puts us in a very difficult
7 situation overall in terms of planning what to do
8 with the property. We have tried to include them and
9 their feelings, their inputs in every aspect of the
10 planning. We've bent over backwards.

11 Any governmental entity that we've been
12 involved in can say we have gone way beyond what
13 anyone else in our situation would do to try to
14 involve them in that process, but at the end of day
15 that's where we're at. They don't want to pay more
16 for the water, but they don't want to have anyone
17 else help share that cost, whether it's new
18 residents, whether it's Eagle Mountain, the whole
19 town, anything. They want to have it both ways and
20 it puts us in a very difficult situation. We don't
21 know what the final outcome is going to be there.

22 After all the analysis, we've just had to
23 make some decisions and try to move forward based on
24 the best information available, but in the meantime,
25 since we don't know what's going to happen, we have

66

1 no choice based on the ownership and the
2 accountability that we have to the owners of White
3 Hills Water Company to request this kind of relief to
4 hopefully get the company to a more solvent financial
5 position so that it can stand on its own two feet,
6 service the current customers, because we don't know
7 if there are going to be more customers in the
8 future, if we're going to be able to spread that
9 cost. So this is the only reasonable and responsible
10 approach to take at this point in time.

11 I am hopeful that the time will come that
12 we will be able to spread that cost over more
13 connections and that water rates will go down. Last
14 summer people said gas prices would never go down
15 again either, but six months later they have come
16 down. Now, they'll go back up again. I agree with
17 that. But I do think these water rates can come down
18 if we can reach that balance that is appropriate
19 based on the size of the infrastructure so that we
20 can operate cost effectively and efficiently based on
21 an efficiency of scale. And I really think that's
22 the situation we find ourselves in at this point.

23 THE COURT: Thank you, Mr. Mcfarlane.

24 Did you want to add anything?

25 Ms. Barnum and then Mr. McCurdy, come up to

67

1 the microphone again, please.

2 GERALD MCCURDY: I just want to say that is not
3 true that we don't want growth. We would like to see
4 growth. We'd like to see people come out there.
5 We'd like to see homes built. That is not true that
6 we don't want growth. But I don't think that we as
7 124 homes need to pay for that growth. I think those
8 that come out there that come in should be the ones
9 to pay for the growth. They should be the ones that
10 should be able to handle that responsibility when
11 they come out and move into the area. It's not right
12 that we should have to as homeowners pay for all that
13 you are looking forward to do on your corporation and
14 building up whatever you want to do. As far as
15 growth is concerned, we want to see it. We'd like to
16 see it.

17 THE COURT: Okay. Thank you.

18 Ms. Barnum?

19 JUDY BARNUM: First of all, after we got this
20 letter and because the annexation proposal -- or
21 hearing was coming -- public hearing was scheduled,
22 we did in the area do a survey, and it was
23 overwhelming against growth -- against annexing with
24 Eagle Mountain, not against growth. Now, the reason
25 I think too is they -- first of all, as I said,

68

1 incorporation was not feasible. Cedar Fork wouldn't
2 take us. Fairfield wouldn't take us, and the county
3 is the one who governs us right now, and it is not us
4 who will not let you grow. It's the county. Utah
5 County is the one who set the five-acre parcel limit.

6 Now, as far as the Eagle Mountain --
7 annexing with Eagle Mountain, I think the whole thing
8 boils down to the only advantage we have -- the only
9 card in our hand right now is annexation, and to not
10 link the water company with the development company
11 by saying it has different investors -- you sold it
12 to those investors. Every one across this country
13 right now is having problems with development. So
14 I'm sorry you're feeling the pinch, but trust me,
15 homeowners are feeling the pinch also. My house has
16 lost \$70,000 in value. My one and greatest
17 investment asset has lost \$70,000.

18 My lawns now probably won't be watered and
19 of course my landscaping isn't a big part of my
20 appraisal, but it is about a tenth of your appraisal.
21 I worked in the mortgage business for many years, and
22 I do know that much. I also know that out there
23 you're dealing with families who are in very tight
24 budgets because it was cheaper to buy out there in
25 the first place. And so with the gas prices, with

69

Letitia L. Meredith, RPR
DepomaxMerit

1 water prices quadrupling, four-timesing what we are
2 going to be paying, it doesn't matter to us whether
3 or not our water company is solvent. Those investors
4 bought it knowing it was a loss. 120 homes, who's
5 paying the 320 percent -- paying the 320 homes that
6 are not on the line? White paid for them? That's
7 why he wasn't putting money into it because they
8 weren't on the line. This is a speculation, and it
9 was a speculation when they bought it because they
10 knew what the loss were at the time they bought it.
11 So it's not us preventing growth. I can tell you
12 honestly, that if we felt they were up more upfront,
13 I think more people would be in favor of it.

14 Personally I think there's a lot of bugs
15 that can be worked out. Personally I think we can
16 work together to find out the best way to allow you
17 to build and maybe it is incorporating some of it
18 with Eagle Mountain and leaving us alone for now. If
19 it's a private company, the water doesn't need to be
20 under the same mantle necessarily. Maybe there are
21 things we can work out that will allow you to build
22 in some of your area without subjecting us to Eagle
23 Mountain's higher tax rates and different things that
24 are making -- I think it's just public relations
25 right now as far as how we can manage this, but the

70

Letitia L. Meredith, RPR
DepomaxMerit

1 thing is we, 120 homes, we'll never be able to --
2 even if you raise them to \$10 every 10,000, we will
3 never be able to compensate for the growth they are
4 planning, and so my point is we are not pro-growth
5 (sic). I have four driving teenagers, and trust me I
6 would love to see them be able to work closer to
7 home. I would love to see that road improved so that
8 it wasn't a hazard that it is. I want to reiterate
9 we are not anti-growth out here. We are not wanting
10 to go bankrupt. That is -- we cannot afford the
11 growth under certain circumstances, and that's what
12 we've got to work on.

13 THE COURT: Thank you.

14 Mr. Jackson, Mr. Mcfarlane, I'll give you
15 the last word. Anything else to add?

16 Mr. Mcfarlane.

17 TODD MCFARLANE: Thank you, Your Honor. I think
18 that whole discussion is probably off point, so I
19 don't have any intention to continue that, but I do
20 want to emphasize in our master planning new growth
21 will pay for the growth. There's no intention
22 anywhere for the current residents to pay for any new
23 growth, any new infrastructure or anything that
24 benefits the new growth, but there's no reason that
25 they shouldn't be able to stand on their own two feet

71

1 and pay for what they and only they presently benefit
2 from. And we don't know what the future holds in
3 terms of the market or what will happen that way, but
4 there's no reason that White Hills Water Company
5 shouldn't be able to be financially self-sufficient
6 based on its current customer base.

7 THE COURT: All right.

8 TODD MCFARLANE: And a plan put in place to do
9 that.

10 THE COURT: Thank you. I'm going to end with
11 Mr. Mcfarlane. We did want to discuss a hearing
12 because there were some problems with the notice for
13 today's hearing. My guess is it would be somewhere
14 around mid-January. I'm thinking probably
15 January 15. What we'll do is send out notice. In
16 essence what that is is for anybody that wasn't able
17 to come today, especially public witnesses, they can
18 attend. For those that are here, you can also
19 attend, but my feeling is it's just a formality.

20 We'll send out notice of that hearing on
21 January 15th. We'll take everything that's been said
22 here under oath under advisement and take
23 administrative notice of the filings and amendments,
24 and then I'll make a recommendation to the Commission
25 and then we'll have an order issued. Okay. Thank

72

1 you.

2 (Whereupon the taking of this hearing was

3 concluded at 11:58 a.m.)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

STATE OF UTAH)
)
COUNTY OF UTAH)

THIS IS TO CERTIFY that the foregoing hearing was taken before me, Letitia L. Meredith, Registered Professional Reporter and Notary Public in and for the State of Utah and State of California.

That the hearing was reported by me in Stenotype, and thereafter transcribed by computer under my supervision, and that a full, true, and correct transcription is set forth in the foregoing pages.

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 Spanish Fork, Utah, this ___ day of _____, 2008.

Letitia L. Meredith, CSR/RPR

My commission expires:
February 9, 2009

