

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Formal  
Complaint of Duncan, Gavril,  
Workman, Bates, et al. against  
Eagle's Landing Water Company,  
LLC

Docket No. 13-2477-02

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HEARING PROCEEDINGS  
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TAKEN AT: Public Service Commission  
Hearing Room 451  
160 East 300 South  
Salt Lake City, Utah

DATE: Tuesday, April 15, 2014

TIME: 11:00 a.m.

REPORTED BY: Nancy A. Fullmer, RMR

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APPEARANCES

ADMINISTRATIVE LAW JUDGE:

MELANIE A. REIF

Trevor and Jessica Butterfield

HC 13 Box 311

Fairview, Utah 84629

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Hearing Proceedings

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## PROCEEDINGS

4

THE HEARING OFFICER: Good morning,

5

everyone. My name is Melanie Reif and I'm the administrative

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law judge for the Utah Public Service Commission. This

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morning is the hearing in the Docket No. 13-2477-02. This

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matter is entitled In the Matter of the Formal Complaint of

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Duncan, Gavril, Workman, Bates, et al. against Eagle's

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Landing Water Company, LLC.

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In particular, this hearing involves a request by the

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Butterfields who are a part of the complaining parties in this

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docket requesting the Commission to reconsider its order of

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March 6, 2014, which involves the ownership of their property

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and whether or not they are obligated to pay an additional

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thousand-dollar fee for the well set fee--excuse me--the meter

17

set fee.

18

Let's start by taking appearances. And I wish to

19

note for the record that we have no one here on behalf of the

20

Company. So, we will start with Mr. and Mrs. Butterfield. Mrs.

21

Butterfield, would you like to please state your full name for the

22

record, please?

23

MS. BUTTERFIELD: Jessica Ann Butterfield.

24

MR. BUTTERFIELD: Trevor J. Butterfield.

25

THE HEARING OFFICER: And, Mrs. Butterfield,

1 would you like to proceed, please?

2 MS. BUTTERFIELD: Okay. Do you want me to give  
3 my testimony now?

4 THE HEARING OFFICER: You're welcome to do  
5 that. I know you have some exhibits that you want to present,  
6 however you want to do that. If you want to present the exhibits  
7 and then move into your testimony.

8 MS. BUTTERFIELD: Okay. And I don't have to be  
9 sworn in.

10 THE HEARING OFFICER: Yes, you do have to be  
11 sworn in. So, I'm going to swear you in. And, actually, Mr.  
12 Butterfield, to the extent that you may be testifying, I'm going to  
13 swear you both in at the same time. Okay.

14 MS. BUTTERFIELD: Okay.

15 THE HEARING OFFICER: So, if you would kindly  
16 raise your right hand. And do you swear that the testimony  
17 you're about to give today is the truth?

18 MS. BUTTERFIELD: Yes.

19 MR. BUTTERFIELD: Yes.

20 THE HEARING OFFICER: Thank you both.

21 JESSICA AND TREVOR BUTTERFIELD, having been first duly  
22 sworn, was examined and testified as follows:

23 THE HEARING OFFICER: So you may proceed,  
24 Mrs. Butterfield.

25 MS. BUTTERFIELD: Okay. Well, I'll just

1 state--okay. I have exhibits here, the chain of title. Let me just  
2 state my testimony first.

3 THE HEARING OFFICER: Okay.

4 MS. BUTTERFIELD: At the last hearing, I  
5 presented some information incorrectly. I say that my husband  
6 was the original homeowner. And I was under the impression  
7 that he had bought lot 68 and then had the house built, when  
8 technically the original homeowner is Knight West Construction  
9 Company.

10 And I have the warranty deeds here showing Knight  
11 West Construction Company purchased the property from--let's  
12 see--Indianola Water Holdings, LLC. And, then, I have the  
13 warranty deed showing that my husband bought the property  
14 from Knight West Construction Company. So, I have those  
15 warranty deeds. And, then, I also have a Real Estate Purchase  
16 Contract.

17 THE HEARING OFFICER: The Real Estate  
18 Purchase Contract was submitted with your request for  
19 reconsideration, correct?

20 MS. BUTTERFIELD: Yes.

21 THE HEARING OFFICER: Okay. I have that  
22 already.

23 MS. BUTTERFIELD: Would you like the warranty  
24 deeds?

25 THE HEARING OFFICER: Yes, please. And would

1 you please provide a full copy to the court reporter? Because  
2 that document will be part of the transcript in this case.

3 MS. BUTTERFIELD: Okay.

4 Exhibit-1 marked

5 THE HEARING OFFICER: Okay. For the record,  
6 and just to make sure we're all looking at the same copies and  
7 we have a full set in front of us, the first document that I have is  
8 entitled "Warranty Deed" and it's signed by Rod Miller, Manager  
9 of Indianola Water Holdings, LLC. And it has a date stamp on it  
10 of November 30, 2011. And this document appears to be two  
11 pages.

12 MS. BUTTERFIELD: Yes.

13 THE HEARING OFFICER: The second document I  
14 have is a Warranty Deed, which is signed by West-Knight West  
15 Construction, Inc. It has a note that it's signed by William J.  
16 Young as its VP. And this document is dated December 2, 2011,  
17 and is two pages.

18 MS. BUTTERFIELD: Yes.

19 THE HEARING OFFICER: So, Mrs. Butterfield, you  
20 may proceed with your presentation.

21 MS. BUTTERFIELD: Okay. So, in order--

22 THE HEARING OFFICER: Is your microphone on?  
23 If it is, if you could make sure it's a little closer to you.

24 MS. BUTTERFIELD: Okay. Is that better?

25 THE HEARING OFFICER: That's excellent. Thank

1 you.

2 MS. BUTTERFIELD: So, in the order, it stated that  
3 the \$4,000 meter set fee does not apply to customers who  
4 became owners of subject property after the facilities were  
5 installed and the meter was set. And that was on page 23 of  
6 the order. So, we're asking that we not be held responsible for  
7 the thousand-dollar balance, because Knight West Construction  
8 had ownership of the house and lot when facilities were  
9 installed and meter was set. So--

10 THE HEARING OFFICER: Okay. Mr. Butterfield, do  
11 you wish to add anything?

12 MR. BUTTERFIELD: I think that's about it.

13 THE HEARING OFFICER: Okay. Mrs. Butterfield, in  
14 the notice that the Commission issued for this hearing, it states  
15 parties should come prepared to provide testimony and exhibits,  
16 including a copy of the chain of title for the Butterfields' home  
17 on whether the Butterfields are the original owners.

18 And, then, in the footnote, it states that--it basically  
19 explains how you can obtain a copy through the County Clerk's  
20 Office. And a chain of title usually goes back to the original  
21 owners. Is that, in fact, what you presented this morning?

22 MS. BUTTERFIELD: Not--how far back was I  
23 supposed to go?

24 THE HEARING OFFICER: Well, do you know if  
25 there was an owner prior to Indianola Water Holdings?

1 MS. BUTTERFIELD: Of the property?

2 THE HEARING OFFICER: Yes.

3 MS. BUTTERFIELD: I believe there was. So--

4 THE HEARING OFFICER: Okay. So, help me  
5 understand the nature of how you--I think this is probably a  
6 better question for you, Mr. Butterfield, since your name is on  
7 the warranty deed. How did you become contracted to purchase  
8 the--it was the lot initially. Is that correct?

9 MR. BUTTERFIELD: I never purchased the lot.  
10 Knight West Construction is the one that purchased the lot, I  
11 believe, from--was it Indianola Water Holdings? Yeah. And,  
12 then, they built the home on it. And, then, I came and I  
13 purchased the home from Knight West Construction.

14 THE HEARING OFFICER: Okay. Help me  
15 understand the building of the home. Did Knight West build the  
16 home for you specifically?

17 MR. BUTTERFIELD: They built it. I chose some  
18 things to put in it, but they built the home as a company and I  
19 came in and bought it from them.

20 THE HEARING OFFICER: Okay. Did you see the  
21 house under construction and then show an interest? Or  
22 explain to me how this came about.

23 MR. BUTTERFIELD: I was interested in purchasing  
24 or building up there in the Eagle's Landing Development. I went  
25 looking for builders to build a home. And Knight West

1 Construction, they had me get together with them. And I did  
2 choose, you know, the interior and stuff like that in it, but they  
3 basically built the home out of their own pocket, you know,  
4 whether I was going to buy it or not. And they built the home.  
5 And I came in and bought it from them.

6 THE HEARING OFFICER: Okay. Help me  
7 understand what you mean by they bought the--  
8 excuse me--they built the home out of their own pocket whether  
9 you would have bought it or not.

10 MR. BUTTERFIELD: Well, I didn't go and get a  
11 construction loan or anything like that to help fund the building  
12 of the home. They did it out of their company. And, then, I  
13 came in and purchased it from them when it was complete.

14 THE HEARING OFFICER: So, was it a spec house  
15 for them?

16 MR. BUTTERFIELD: They built it as a spec house  
17 up there.

18 THE HEARING OFFICER: Okay. And do you know  
19 if they do that frequently?

20 MR. BUTTERFIELD: No. They had never done it  
21 up there before.

22 THE HEARING OFFICER: Okay. And have they  
23 done it since?

24 MR. BUTTERFIELD: No.

25 THE HEARING OFFICER: Okay. Is there anything

1 further you could add?

2 MR. BUTTERFIELD: I don't think so.

3 THE HEARING OFFICER: Okay. Mrs. Butterfield, is  
4 there anything further you wish to add?

5 MS. BUTTERFIELD: I don't think so, no.

6 THE HEARING OFFICER: Okay. We'll be in recess  
7 for ten minutes. Okay.

8 MS. BUTTERFIELD: Okay.

9 THE HEARING OFFICER: Thank you.

10 (Recess taken.)

11 THE HEARING OFFICER: Mr. and Mrs. Butterfield,  
12 I have some additional questions for you to help me and the  
13 Commission better understand where you're coming from and  
14 what your position is. And, in part, I want to go back to the  
15 notice, which talks about the chain of title for the home. And  
16 the documents that you presented shows, from the best I'm able  
17 to understand them, it shows a chain of title for the lot. Do you  
18 have a chain of title for the home itself?

19 MS. BUTTERFIELD: No, I do not. I called the  
20 County and she had told me this is what the chain of title was.

21 THE HEARING OFFICER: Okay.

22 MS. BUTTERFIELD: So, this is what she gave me.

23 THE HEARING OFFICER: Okay.

24 MS. BUTTERFIELD: And I apologize. I didn't  
25 realize I needed to go farther back than this. I thought that we

1 just needed proof that we had bought from Knight West and  
2 Knight West had bought from previous owners.

3 THE HEARING OFFICER: Okay. Mr. Butterfield,  
4 did you talk with the company before they started building the  
5 home?

6 MR. BUTTERFIELD: Yes.

7 THE HEARING OFFICER: Can you tell me a little  
8 bit about those conversations?

9 MR. BUTTERFIELD: They--we had talked  
10 about--we were trying to negotiate a price on the lot and the  
11 home. And they figured it would be best if they was just to buy  
12 the lot themselves and build the home for me. And then,  
13 afterwards, I would come in and purchase the home from them.

14 THE HEARING OFFICER: Was there a reason  
15 behind that? For example, did they have greater accessibility to  
16 a construction loan or something like that?

17 MR. BUTTERFIELD: Yeah. They just figured it  
18 would save me some money if they was to do it, you know, out  
19 of their own pocket rather than have me go and get a  
20 construction loan to have the home built and everything. So, we  
21 just went about it that way.

22 THE HEARING OFFICER: And did you sign an  
23 agreement--a construction agreement?

24 MR. BUTTERFIELD: Yes.

25 THE HEARING OFFICER: Did you bring that with

1 you?

2 MR. BUTTERFIELD: Yeah. That's the one that  
3 we--

4 MS. BUTTERFIELD: That's the Real Estate  
5 Purchase Contract.

6 MR. BUTTERFIELD: Yeah. This is the one that I  
7 signed with them when they built it.

8 THE HEARING OFFICER: Which?

9 MR. BUTTERFIELD: It's a real estate contract.

10 THE HEARING OFFICER: The Real Estate  
11 Purchase Contract that has been submitted with your request for  
12 reconsideration.

13 MR. BUTTERFIELD: Uh-huh.

14 THE HEARING OFFICER: Okay. And do you know  
15 if the home was offered to the public, generally?

16 MR. BUTTERFIELD: They had a sign up  
17 advertising, but they just planned on me purchasing it. So, I  
18 don't think they actually advertised it publicly other than the  
19 sign.

20 THE HEARING OFFICER: And the sign that you're  
21 referring to, is it the kind of sign that says the name of the  
22 builder?

23 MR. BUTTERFIELD: Yeah. They had a sign,  
24 Knight West Construction, of the builder out front. And, then,  
25 they also had--Gary Jones, the realtor, had his sign out front

1 also while it was being built.

2 THE HEARING OFFICER: Okay. Is Gary Jones the  
3 agent who is involved in the real estate contract that you  
4 signed?

5 MR. BUTTERFIELD: Yes, that's correct.

6 THE HEARING OFFICER: Okay. And was that  
7 before or after you signed the real estate contract?

8 MR. BUTTERFIELD: The sign being put up or--

9 THE HEARING OFFICER: Yes, the sign being--

10 MR. BUTTERFIELD: It was put up since the time  
11 they broke ground for the home.

12 THE HEARING OFFICER: Okay. Did you  
13 eventually get a loan on the home?

14 MR. BUTTERFIELD: Yes. After it was all--the  
15 home was completed and it was ready to move in, I then went  
16 and got a loan to purchase the home from Knight West.

17 THE HEARING OFFICER: Was there anyone else  
18 who was going to buy the home?

19 MR. BUTTERFIELD: Not that I'm aware of.

20 THE HEARING OFFICER: Do you know when the  
21 certificate of occupancy was issued?

22 MR. BUTTERFIELD: I don't right off the top of my  
23 head.

24 THE HEARING OFFICER: Okay. Do you recall if  
25 you obtained the certificate of occupancy or whether that was

1 obtained by someone else?

2 MR. BUTTERFIELD: I'm not sure on that one.

3 THE HEARING OFFICER: Okay. Did the builder  
4 make any representations to you that they would pay the fee,  
5 the meter set fee?

6 MS. BUTTERFIELD: The water fees? Well, we  
7 have this--when this all came about when we received a  
8 thousand dollar bill from the water company, I called Knight  
9 West and asked if they had already paid those fees. And they  
10 said, Yeah, those fees have been paid. They had to have been  
11 paid for them to start construction on the house, because they  
12 have to run a water line and through house in order for them to  
13 build it.

14 So, they sent me this. I have a copy of this, the  
15 invoice of them paying. And they paid Eagle's Landing Water  
16 Company \$3,192.50. And, then, here is an email and it's from  
17 Dave Olsen. And it says this email is giving approval that the  
18 water fees have been paid for Lot 68, Eagle's Landing  
19 subdivision. The plans have been reviewed and accepted to  
20 start construction. Thank you, Dave Olsen, Manager.

21 So, they had paid those. And, then, they are trying  
22 to charge us the thousand dollars for the difference.

23 THE HEARING OFFICER: Do you have extra  
24 copies of those with you?

25 MS. BUTTERFIELD: You can have this.

1 THE HEARING OFFICER: Actually, we need at  
2 least two, because the court reporter needs one. We can make  
3 copies.

4 MS. BUTTERFIELD: Okay. I submitted these  
5 previously with our original--

6 THE HEARING OFFICER: Yes, I do recall. But I  
7 think it would be helpful to have them as a part of this hearing,  
8 as well. So, let's just take a short break. We'll be off the  
9 record.

10 (Recess taken.)

11 Exhibit-2 marked

12 THE HEARING OFFICER: We're back on the  
13 record. Ms. Butterfield, I'm reviewing what you've submitted,  
14 which the first document is at the top of the page, it says,  
15 "Knight West Construction Vendor QuickReport." And it shows a  
16 number of fees that have been paid. One of them being a water  
17 hookup fee in the amount of \$3,000. And that is listed on this  
18 page as being paid on August 15, 2011. Are there any other  
19 fees there that you believe relate to the water hookup fee?

20 MS. BUTTERFIELD: I don't think so.

21 THE HEARING OFFICER: Okay. And, then, there's  
22 an email that you've also submitted a copy of, which the subject  
23 line reads, "Water connection fees." It's from David Olsen.  
24 There is not a date, but there's a time of 9:28. And it's sent to  
25 someone at Utah.gov. and someone at Knightwest.com. And it

1 states this email is given approval that the water fees have been  
2 paid for Lot 68 Eagles Landing Subdivision. The plans have  
3 been reviewed and accepted to start construction. Thank you,  
4 Dave Olsen.

5 Mr. Butterfield, I know you weren't here for the last  
6 hearing, but it should be very apparent in the Commission's  
7 prior order that there were some things happening with the  
8 company that were not in line with their tariff. And I'll need to  
9 double check this. But could you remind me of your closing  
10 date? What date did you close on?

11 MR. BUTTERFIELD: It was--I can't remember  
12 exactly what date it was. It looks like--

13 THE HEARING OFFICER: Is it the same date as  
14 the warranty deed, the December 2, 2011? Or that could be the  
15 date it was recorded. Your closing date, it could be a different  
16 date.

17 MR. BUTTERFIELD: Yeah, it was in December of  
18 2011. I can't remember an actual for sure date on it, but it was  
19 in December of 2011.

20 THE HEARING OFFICER: Okay. So, would you  
21 say very likely it was on or about December 2, 2011?

22 MR. BUTTERFIELD: Yeah, right around there.

23 THE HEARING OFFICER: Okay. I'm going to ask  
24 you again, do you have anything from Knight West that they  
25 were going to charge you or they were going to cover fees for

1 you in conjunction with building the house?

2 MR. BUTTERFIELD: No. There was no additional  
3 fees. Just--I mean, everything was paid in full at the time of  
4 closing that they was going to charge me.

5 THE HEARING OFFICER: Okay. But inasmuch as  
6 the construction, it looks like they needed to pay some fees in  
7 order to get a construction permit. And that's what the water  
8 hookup fee was related to. Is that correct?

9 MR. BUTTERFIELD: Yeah. I was never contracted  
10 to pay anything additional. Knight West is the ones that was  
11 supposed to pay for all of that during construction.

12 THE HEARING OFFICER: Okay. And other than  
13 your assertion, do you have anything to back that up that they  
14 were obligated to pay that amount?

15 MR. BUTTERFIELD: No.

16 THE HEARING OFFICER: Mr. and Mrs. Butterfield,  
17 is there anything else you wish to add this morning?

18 MS. BUTTERFIELD: No. I do have one question.  
19 This--the owners of--from what I'm understanding, there's been  
20 a switch and there's a new owner for Eagle's Landing Water  
21 Company. So, this involves just Eagle's Landing Water  
22 Company, correct, not who the owner is?

23 THE HEARING OFFICER: We do not have any  
24 information about a new owner. But, yes, you're correct. The  
25 docket itself was filed under Eagle's Landing Water Company,

1 LLC. So, that is the company that your claims are being  
2 asserted against.

3 MS. BUTTERFIELD: Okay. All right.

4 THE HEARING OFFICER: Okay. Mr. Butterfield, do  
5 you have any further questions?

6 MR. BUTTERFIELD: I don't think so.

7 THE HEARING OFFICER: Okay. I want to thank  
8 you both for coming this morning and for assisting the  
9 Commission in re-examining this question. And I wish you a  
10 pleasant day and thank you for being here.

11 MS. BUTTERFIELD: Okay. Thank you.

12 THE HEARING OFFICER: We're adjourned.

13 (Hearing concluded at 11:30 a.m.)

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CERTIFICATE

This is to certify that the foregoing proceedings were taken before me, NANCY A. FULLMER, a Registered Merit Reporter and Notary Public in and for the State of Utah;

That the proceeding was reported by me in stenotype and thereafter caused by me to be transcribed into typewriting, and that a full, true, and correct transcription of said testimony so taken and transcribed 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.

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Nancy Fullmer, RMR