

Missouri Public Service Commission

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a hearing of the Public Service
Commission, held in Jefferson City,
Missouri, on the 28th day of
August, 1978.

C O N S O L I D A T E D R E C O R D

CASE NO. WA-78-170

In the matter of the application of
OZARK MOUNTAIN WATER COMPANY for
(a) a certificate of convenience
and necessity to distribute water
as a public utility in various
areas in Barry and Stone Counties,
Missouri, and (b) to issue and sell
3,000 shares of Common Stock with a
par value of ten (\$10) dollars each.

CASE NO. WF-78-171

In the matter of the application of
Lakeside Investment Company to hold
more than ten (10%) percent of the
Common Stock issued by OZARK
MOUNTAIN WATER COMPANY.

CASE NO. WF-78-172

In the matter of the application of
Turkey Mountain Estates, Inc., to
hold more than ten (10%) percent of
the Common Stock issued by OZARK
MOUNTAIN WATER COMPANY.

Missouri Public Service Commission

1 **BEFORE:**

2
3 **STANLEY A. LORING, Presiding**

4
5 **HEARING EXAMINER.**

6
7 _____
8 **REPORTED BY:**

9 Judi Johnston,
10 Barb Skalla,
11 Irene O. McVay.

Missouri Public Service Commission

APPEARANCES:

LOUIS W. COWAN, Attorney at Law,
626 Woodruff Building,
Springfield, Missouri 65805,

FOR: APPLICANTS,
OZARK MOUNTAIN WATER COMPANY.

CHARLES J. FAIN, Attorney at Law,
CHARLES B. FAIN, Attorney at Law,
333 Madison,
Jefferson City, Missouri 65101,

FOR: INTERVENOR,
TURKEY MOUNTAIN HOMEOWNER'S
ASSOCIATION.

GARY W. DUFFY, Counsel,
Missouri Public Service Commission,
Post Office Box 360,
Jefferson City, Missouri 65102,

FOR: THE STAFF OF THE COMMISSION.

APPEARANCES OTHER THAN LEGAL:

JEAN C. GADDY,
Turkey Mountain Estates No. 2,
Shell Knob, Missouri,

FOR: APPEARING PRO SE.

E. L. SIMES,
Turkey Mountain Estates No. 2,
Shell Knob, Missouri,

FOR: APPEARING PRO SE.

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1 PURSUANT to a Notice of the Missouri Public
2 Service Commission, dated the 5th day of April, 1978,
3 entitled, "NOTICE OF HEARING," said Notice reads as follows:
4 "Please take notice that the Public Service Commission of
5 the State of Missouri has set the above-numbered cases for
6 hearing on Monday, the 28th day of August, 1978, at
7 10:00 a.m., before the Commission in its hearing room on
8 the tenth floor of the Jefferson State Office Building in
9 Jefferson City, Missouri."; at which time, date and place
10 the following proceedings were had:

11 (Written Entries of Appearance Filed.)

12 EXAMINER LORING: The hearing will come to
13 order please in Case No. WA-78-170, Case No. WF-78-171 and
14 WF-78-172.

15 Would you make your oral entries of appearance
16 please, starting with the Applicants.

17 MR. COWAN: Louis W. Cowan, 626 Woodruff
18 Building, Springfield, Missouri; appearing for the three
19 Applicants.

20 MR. CHARLES B. FAIN: Charles B. Fain from
21 Fain and Fain, and I'm appearing with my father, Charles J.
22 Fain, as attorneys for Intervenor Turkey Mountain Home-
23 owners Association No. 1. Our address is 333 Madison Street,
24 Jefferson City, Missouri.

25 MR. DUFFY: Gary W. Duffy appearing for the

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1 Staff of the Public Service Commission, P. O. Box 360,
2 Jefferson City, Missouri.

3 EXAMINER LORING: Have you given the Reporter
4 your written entries of appearance?

5 MR. COWAN: I have.

6 MR. DUFFY: Yes, Your Honor.

7 EXAMINER LORING: Anything preliminary?

8 MR. COWAN: Your Honor, there may be an order
9 already. If so, I haven't seen it. These cases, apparently,
10 are being heard on a joint record. If I'm correct in that,
11 I won't have anything further to say. If I'm incorrect, I
12 would like to move that the three cases be heard on a joint
13 record.

14 MR. CHARLES J. FAIN: Your Honor, we would
15 have--conditionally, we would have no objection to that.
16 However, before stating our position on that matter, we
17 would like to--we have two preliminary matters. We would
18 like to take those up, and the determination of those two
19 matters would have something to do with any statement that
20 we might make in regard to the consolidation. If you like,
21 I could state those at this time.

22 EXAMINER LORING: Well, to save a little
23 time, I'll take the application for intervention motion.

24 MR. CHARLES J. FAIN: Right.

25 EXAMINER LORING: Okay. Do you want a

1 discussion on the record before I make a ruling?

2 MR. CHARLES J. FAIN: Not on that one, Your
3 Honor. We simply are asking to be allowed to intervene for
4 all purposes in those two companion cases.

5 Now, I would like to make a statement on the
6 motion for a continuance if you want to take that up before
7 you rule on the intervention.

8 EXAMINER LORING: Let's take one at a time.
9 First, Mr. Cowan, do you have anything?

10 MR. COWAN: Obviously, if they're consolidated,
11 it seems to me, Mr. Fain's clients will be in all three
12 cases. If they're not consolidated, it seems to me they're
13 timely except as to the water company case.

14 EXAMINER LORING: Okay. Then, these three
15 cases will be heard on a consolidated record, and the
16 application to intervene in Case WF-78-171 and WF-78-172 are
17 granted and also, of course, the application to intervene
18 is granted in Case 170. That disposes of that issue.

19 We could discuss this motion for a continuance.

20 MR. CHARLES J. FAIN: The next matter I would
21 like to bring up, Your Honor, is the motion for a continuance.
22 Now, this, again, is a conditional matter, and I would like
23 my remarks to be construed in the light that it is
24 conditional.

25 First, I would like to say that in the

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1 representation of the Homeowners Association, which comprises
2 a large number of the homeowners in that area that is being
3 sought to be certificated, those homeowners have not come
4 here with the thought in mind of delaying a decision by the
5 Commission simply for the purpose of delay. Now, what the
6 homeowners are attempting to do by this motion is to gain
7 adequate knowledge for purposes of cross-examination.

8 Now, this is going to be a rather intricate
9 case. There are going to be a lot of issues involved, and
10 we think that it is awfully important that we get off on
11 the right foot in this hearing and also in this water
12 company, if and when, it is set up. So, that is why we are
13 here, basically, to see that the proper foundation is laid
14 for the water company.

15 Now, to do that, we need a great deal of
16 information, which has not been supplied us at this time.
17 In fact, the application itself stated that certain of these
18 exhibits would be filed at the time of the hearing. So,
19 they have not been available for study, and it will be
20 absolutely essential that we have access to these documents
21 in order to prepare for cross-examination of their witnesses,
22 especially, their accounting and engineering witnesses.

23 So, our thought on that, Your Honor, is that
24 we would certainly not in any way want to deter the witnesses
25 who are here to testify. In fact, we have many witnesses

1 here ourselves, and they've come a long way. And there is
2 no necessity that they not be able to testify. But, we
3 would like to ask that at the close of this hearing, that
4 whether it's today or tomorrow or whenever it might be, that
5 we be furnished with these documents and any other information
6 that might come out during the hearing that we would need,
7 and then we will want some time in which to prepare for
8 an adequate and proper cross-examination on these figures
9 and on the engineering of this plant. So, that is the basis
10 of this motion. We would not ask you to rule on it at this
11 time, except that we would like to say that the motion will
12 be renewed at the close of the Applicants' case, and we
13 would not want any cross-examination that we might enter
14 into on the limited knowledge that we have now to be taken
15 as a waiver of the motion; that is, a waiver of further
16 cross-examination when these exhibits have been supplied to
17 us and when we have had adequate time to prepare for further
18 cross-examination.

19 Along with that, we would also ask that these
20 witnesses and others whom we might subpoena will make them-
21 selves available for further cross-examination when we have
22 had that opportunity to prepare for it.

23 So, that's the basis of the motion.

24 MR. COWAN: Mr. Examiner, I don't want to
25 address my remarks specifically to the application for a

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1 continuance until Mr. Fain renews it, as he suggested he
2 would at the end of it, and I think at least by implication,
3 suggested that you not rule on it now, but wait until the
4 evidence is in.

5 I think Mr. Fain and I have a considerable
6 different view as to what the issues are in this case. I
7 have heard him express the views of his clients on what the
8 issues are. But, just a brief review of what has transpired
9 may throw a little light on the situation.

10 Back in--about this time last year, one of
11 the persons involved in this project, down in Stone and
12 Barry County, received a letter, which we'll put in evidence,
13 from the Staff of the Public Service Commission, suggesting
14 that perhaps it was a public utility operation or a group
15 of public utility operations, requesting information.

16 The person to whom it was addressed or his
17 associates answered that letter. A few days later, they
18 received another letter from the Staff of the Public Service
19 Commission to the effect that we think you're a public
20 utility.

21 At that time or shortly thereafter, the
22 principals in the company that we're talking about here
23 today came to my office, and I reviewed the correspondence
24 with them from the Public Service Commission, and told them
25 that I expected that when all the evidence--

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1 MR. CHARLES J. FAIN: Now, just a minute,
2 Your Honor. We'll ask that--we make this objection to any
3 statements made in his office out of the hearing of these
4 witnesses. It would, obviously, be hearsay. It is self-
5 serving. Now, if we get off on the right foot, I'm sure we
6 can keep the record clear.

7 MR. COWAN: You might like to hear it.

8 MR. CHARLES J. FAIN: Just a minute. So,
9 I'm going to object to any statement that might have been
10 made out of the hearing of these witnesses or that's not
11 made in accordance with the proper rules of evidence; that is,
12 at a hearing before some officer of the Commission. So,
13 I'll ask that he refrain and the record not include any
14 of these statements or conversations held when not in the
15 presence of our witnesses or an officer of this Commission.

16 EXAMINER LORING: I believe Mr. Cowan could
17 state the issues in general terms without using specifics.

18 MR. COWAN: Perhaps, Mr. Fain won't object
19 if I were to say that I told him I concurred in the Public
20 Service Commission's conclusions. And as a consequence, I
21 was asked to file this application on behalf of the company.

22 The reason why we filed the application, as
23 a new corporation, which has been organized, was to
24 consolidate, really, three operations into one. So that in
25 our dealings with the Staff of the Commission, the tax

1 people, and elsewhere, there would be only one corporation
2 rather than three operations--one operation rather than
3 three. So, it's my position, Your Honor,--

4 MR. CHARLES J. FAIN: Just a minute, Your
5 Honor. We want to preserve this record, obviously. I don't
6 want at some later date to say that we have concurred in
7 or that we have waived our right to any of this evidence.
8 And, so, we will object to any statements that have been
9 made in the opening statement as to reasons for the creation
10 of a new corporation, and we will ask that that matter be
11 stricken from the record.

12 MR. COWAN: Judge, I didn't know that
13 Counsel statements were evidence.

14 EXAMINER LORING: They don't carry any
15 weight, so I'll overrule the objection.

16 MR. CHARLES J. FAIN: I want to be sure that
17 I have made my objection for later purposes.

18 EXAMINER LORING: Yes, sir.

19 MR. COWAN: So, you now have before you an
20 application by Ozark Mountain Water Company, which is a new
21 corporation, for a certificate of convenience and necessity,
22 which really amounts to a confirmation of an operation that
23 has been going on for some time by four different corporations.

24 That, I believe, is an adequate explanation
25 of how this case developed.

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1 EXAMINER LORING: Mr. Fain, do you have any--

2 MR. CHARLES J. FAIN: Your Honor, we would re-
3 serve any opening statement until after we've heard the direct.

4 EXAMINER LORING: Let's go off the record.

5 (Discussion off the record.)

6 EXAMINER LORING: Let's go back on the record.

7 MR. GADDY: My name is Jean Gaddy. I'm president
8 of the Homeowners' Association of Turkey Mountain No. 2 in the
9 general area of Turkey Mountain No. 1. Our problems are very
10 much the same. Our living areas were constructed and sold by
11 the same organization, Turkey Mountain Estates, and we
12 have the same, general interests that they have, for an
13 adequate water system and a reasonable water rate. That's
14 the primary purpose of our presence here.

15 EXAMINER LORING: Mr. Gaddy, I take it you're
16 not represented by Fain & Fain?

17 MR. GADDY: No, we are not.

18 EXAMINER LORING: You're appearing in behalf
19 of yourself?

20 MR. GADDY: Yes, sir.

21 EXAMINER LORING: Thank you.

22 The other gentleman, would you please give
23 your name to the Reporter?

24 MR. SIMES: My name is E. L. Simes, Turkey
25 Mountain Estates Homeowners' Association No. 2.

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1 EXAMINER LORING: Thank you, sir.

2 Let's go off the record a minute.

3 (Witnesses sworn.)

4 EXAMINER LORING: Let's go back on the record.

5 Mr. Cowan, you may call your first witness.

6 MR. COWAN: Mr. Norman, take this chair right
7 up here.

8 APPLICANTS' EVIDENCE

9 J I M M I E N O R M A N, called as a

10 witness in behalf of the

11 APPLICANTS, being duly sworn,

12 testified as follows:

13 DIRECT EXAMINATION BY MR. COWAN:

14 Q State your full name, full name, for the
15 record, please.

16 A Jimmie Norman.

17 Q Where do you live, Mr. Norman?

18 A Turkey Mountain Estates, Shell Knob, Missouri.

19 Q What is your mailing address?

20 A Turkey Mountain Estates, Shell Knob, Missouri.

21 Q What is your relationship to Ozark Mountain
22 Water Company, the Applicant in Case WA-78-170 before this
23 Commission?

24 A I am elected President of that incorporation.

25 Q Are you also a member of its proposed Board

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1 of Directors?

2 A Yes.

3 Q What is your relationship to Turkey Mountain
4 Estates, Inc.?

5 A I am a member of the Board of Directors.

6 Q Are you also an officer?

7 A Vice President.

8 Q Vice President?

9 A Yes.

10 Q What is your relationship to Lakeside
11 Investment Company, Inc.?

12 A I am a member of the Board of Directors and
13 Vice President of it also.

14 Q Tomahawk Developers, Inc.

15 A Board of Directors and President of it.

16 Q Central Crossing Developers, Inc.?

17 A I have no title with it.

18 Q Are these four companies we just named all
19 corporations?

20 A Yes.

21 Q Taking Turkey Mountain Estates first, what
22 is the business of Turkey Mountain Estates?

23 A It is primarily engaged in the selling of
24 lakefront land.

25 Q In what areas?

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1 A In the Shell Knob, Barry and Stone County
2 areas.

3 Q What is the business of the Lakeside
4 Investment Company, Inc.?

5 A It is also engaged in the selling of land.

6 Q In that general area?

7 A Yes.

8 Q Tomahawk Developers, Inc.?

9 A The same, only it's all in Stone County.

10 Q Central Crossing Developers, Inc.?

11 A It is a small section in Barry County.

12 MR. COWAN: Mr. Examiner, I have a document
13 that's headed, "SUBDIVISIONS PROPOSED TO BE SERVED BY OZARK
14 MOUNTAIN WATER COMPANY" that I would like to have marked for
15 identification.

16 EXAMINER LORING: Be marked Applicants'
17 Exhibit No. 1 for identification.

18 (AT THIS TIME APPLICANTS' EXHIBIT NO. 1 WAS
19 MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)
20 BY MR. COWAN:

21 Q Mr. Norman, you have before you a document
22 which has been marked for identification as Applicants'
23 Exhibit No. 1. Would you state, very briefly, what is
24 reflected by this document?

25 A Okay. In the section one is a legal

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1 description of the land encompassed by the proposed water
2 company in Turkey Mountain Estates No. 1. It entitles--the
3 four different names of the subdivisions.

4 Q Is this all of the land that's subject to
5 development by Turkey Mountain Estates, Inc. under section
6 one?

7 A Yes, in that area.

8 Q What about section two, how does it differ
9 from section one?

10 A There would be no difference. It is six
11 subdivisions in Turkey Mountain Estates No. 2.

12 Q But, it describes different land, does it not?

13 A Yes, it's different land from the previous.

14 Q Is Turkey Mountain Estates, Inc., involved
15 in subdivisions in more than one location?

16 A Yes.

17 Q How far apart are Turkey Mountain--are the
18 properties described in section one and the properties
19 described in section two from each other?

20 A Approximately, ten miles.

21 Q Are they both located in Stone County?

22 A No. One of them is in Barry County and the
23 other in Stone.

24 Q Which one of them is located in Barry County
25 and which in Stone?

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1 A Turkey 1 is in Barry County; Turkey 2 is in
2 Stone County.

3 Q In other words, all the land described in
4 section one is in Barry County. All the land described in
5 section two is in Stone County?

6 A That's right.

7 Q What does section three of this exhibit show?

8 A Section three is Lakeside Heights Development.
9 Also--okay. Section three is Lakeside, which there is a
10 small portion of it in Barry County; the majority of it
11 being in Stone County.

12 Section four is the small tract in Barry
13 County of Central Crossing Developers, known as Lakeside
14 Heights Second Subdivision.

15 Section five is Tomahawk Developers or
16 Tomahawk Heights Subdivision, all in Stone County.

17 Q Now, are these the same pieces of property
18 that Ozark Mountain Water Company proposes to provide water
19 service to pursuant to a certificate of this Commission?

20 A Yes.

21 Q Now, over the years, Mr. Norman, have these
22 various corporations constructed plant for use in the
23 distribution of water?

24 A Yes, they have.

25 MR. COWAN: Mr. Examiner, I have a series of

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1 maps. I had proposed that they be marked Applicants'
2 Exhibits 2, 3 and 4. If we could mark all three of them at
3 the same time, I think it would be helpful.

4 EXAMINER LORING: Let's go off the record and
5 get these marked.

6 (AT THIS TIME APPLICANTS' EXHIBIT NOS. 2, 3
7 AND 4 WERE MARKED BY THE REPORTER FOR THE PURPOSE OF
8 IDENTIFICATION.)

9 EXAMINER LORING: Let's go back on the record.

10 MR. COWAN: Your Honor, we have had marked for
11 identification three maps.

12 The first map that was marked as
13 Applicants' Exhibit 2 has a legend down in the lower, right-
14 hand corner, "Turkey Mountain Estates" and "Mitten's Second"
15 Subdivision "S.D." "Shell Knob, Missouri."

16 Exhibit 3 is also a map. It has a legend
17 in the lower, right-hand corner, "Lakeside Heights & Tomahawk
18 Heights" "Shell Knob, Missouri."

19 Exhibit No. 4 has a legend in the lower,
20 right-hand corner, "Turkey Mountain Estates No. 2 Shell Knob,
21 Missouri."

22 EXAMINER LORING: Applicants' Exhibits 2, 3
23 and 4 have been marked for identification.

24 BY MR. COWAN:

25 Q Now, Mr. Norman, you have before you a

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1 document which has previously been marked for identification
2 as Applicants' Exhibit 2. Would you briefly state what this
3 document purports to show?

4 A Okay. This is a composite of the plats of--

5 Q You're looking at the top sheet only?

6 A Yes. A composite of the plats of Turkey
7 Mountain No. 1.

8 Q All right. What else does it show?

9 A Okay. It shows the location of the well,
10 which you will notice is at the north end of the golf course,
11 the pressure tank. The red lines are existing four-inch
12 lines. The green lines, solid lines, are existing two-inch
13 lines. The dotted red lines are proposed four-inch lines,
14 and the dotted green lines are proposed two-inch lines.
15 The small "h" you see in various places are locations of
16 houses that were in place or water hookups that were made
17 at the time this plat was drawn, which there has been some
18 revision since then.

19 Q We'll get into that in just a minute.

20 Are some of the statistics that you just
21 referred to reflected by the legend over on the right side,--

22 A Yes.

23 Q --where you'll see a red and green line and
24 a broken red line and a broken green line?

25 A Yes.

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1 Q With reference to the well, can you tell us
2 how deep it is?

3 A I will have to look. Just a minute. The
4 well is 553 feet deep.

5 Q Has the well been state approved?

6 A Yes, it has.

7 Q Do you know the capacity of the well?

8 A It was tested at 140 gallons a minute.

9 Q What size pump does it have?

10 A It has a 30 horse, Reda submersible pump.

11 Q Do you know what the pumping capacity of the
12 pump is?

13 A 120 gallons a minute.

14 Q Do you know what the productive capacity of
15 the well is?

16 A No. It would be--it was tested at 140. I
17 would presume it would make 140 gallons a minute.

18 Q Now, is there storage of any kind near the
19 well?

20 A Yes. There is a 5,000 gallon pressure tank.

21 Q Where is it located with reference to the
22 well?

23 A It is about 250 feet in a southerly direction
24 from the well.

25 Q It is reflected on this drawing, is it not,

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1 as a square drawn with a pencil?

2 A Yes.

3 Q Incidentally, was this plat or drawing
4 prepared by you or under your supervision?

5 A Yes, it was.

6 Q About when was it prepared?

7 A It was last winter or late spring. I don't
8 have the exact date.

9 Q Several months ago?

10 A Yes.

11 Q Have there been any changes? Has the company
12 made any changes that are not reflected by this drawing?

13 A There is some additional houses in place at
14 this time.

15 Q Can you give us an approximation of how many
16 in this particular plat, just an estimate?

17 A It would be three to four, something like
18 that.

19 Q Have there been additional lines laid? I'm
20 talking now about distribution lines, not service lines?

21 A I believe this map is relatively current on
22 the distribution lines.

23 Q Now, will you turn to Exhibit 3.

24 MR. CHARLES J. FAIN: Before departing from
25 that, Mr. Cowan, I believe he said, but I didn't catch it,

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1 or did he say how the lots are marked that have houses on
2 them?

3 MR. COWAN: With a red "h."

4 WITNESS NORMAN: It's in the legend, sir.

5 MR. CHARLES B. FAIN: It's not on our legend
6 and not on our exhibit.

7 EXAMINER LORING: Let's go off the record.

8 (Discussion off the record.)

9 EXAMINER LORING: Let's go back on the record.

10 BY MR. COWAN:

11 Q Do you know how many houses were in place
12 when this drawing was made?

13 A Sixty-five, I believe.

14 Q You stated that there possibly have been
15 five or six added since the drawing--

16 A Not more than five, under five.

17 Q All right, under five.

18 MR. COWAN: May we go off the record for just
19 a minute?

20 EXAMINER LORING: Off the record.

21 (Discussion off the record.)

22 EXAMINER LORING: Let's go back on the record.

23 BY MR. COWAN:

24 Q Now, would you turn, Mr. Norman, to the map
25 which has been marked for identification as Applicants'

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1 Exhibit 3. It has a legend in the right-hand corner,
2 "Lakeside Heights" and "Tomahawk Heights" "Shell Knob,
3 Missouri," and tell the Commission what this depicts.

4 A Okay. It's basically the same legend as
5 we have in the previous map, with the red solid lines
6 representing the four-inch lines and the solid green line
7 the two; the dotted lines are the proposed in both the four
8 and two, and the h's are the houses in place.

9 Q Is this property adjacent or near the
10 property that's reflected by Applicants' Exhibit 2?

11 A No. This one is roughly 15 miles by road
12 to it.

13 MR. CHARLES B. FAIN: Your Honor, our Exhibit
14 No. 3 is without the "h" designation also.

15 MR. COWAN: On the new set?

16 MR. CHARLES B. FAIN: Yes.

17 EXAMINER LORING: Off the record.

18 (Discussion off the record.)

19 EXAMINER LORING: Let's go back on the record.

20 BY MR. COWAN:

21 Q Was this exhibit prepared on the same plan as
22 Exhibit 2, same layouts, except it reflects a different area?

23 A A different area and, of course, the location.

24 Q It lies--the area lies across the Barry-Stone
25 County line?

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1 A Yes.

2 Q Is there a well located within this particular
3 area?

4 A Yes. It's on Lot 98 in Lakeside Heights.

5 Q Does it appear on this drawing?

6 A Yes.

7 Q Can you tell me the capacity of this well?

8 EXAMINER LORING: Let's go off the record
9 a minute.

10 (Discussion off the record.)

11 EXAMINER LORING: Let's go back on the record.

12 MR. COWAN: Mr. Norman said "98." He really
13 meant 86.

14 WITNESS NORMAN: Sorry about that.

15 BY MR. COWAN:

16 Q The well is located on Lot 86, as shown by
17 the drawing; that's correct, is it not?

18 A Yes.

19 Q Do you know the capacity of the well?

20 A Okay it's 404 feet deep. It has a sustained
21 pumping capacity estimated at 140 gallons per minute, and
22 it's equipped with two 500 gallon pressure tanks, and it
23 has a seven horsepower Reda pump in it.

24 Q Is that a submersible pump?

25 A Yes.

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1 Q Approximately, how many houses were constructed
2 in this area at the time this drawing was prepared?

3 A I believe that was 25.

4 Q Have there been additional houses since that
5 time?

6 A Yes, there have.

7 Q Approximately, how many?

8 A Again, I would say less than five. There's
9 some under construction right now, and I'm not sure about
10 their status.

11 Q Has there been any additions made to existing
12 water lines?

13 A There has been one correction made over in
14 the Tomahawk section. Approximately, 800 feet of two-inch
15 line has been installed.

16 Q Can you tell us where?

17 A It's in the area of Lots 62, 63, 64 and 65.

18 Q That would be over on the extreme, right-hand
19 side, then, to the east?

20 A Yes.

21 Q Now, the legend, as reflected here concerning
22 the size of the lines and whatnot, is comparable to the
23 legend on Exhibit 2; is it not?

24 A Yes.

25 MR. DUFFY: Excuse me. Could we inquire on

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1 this additional line that you mentioned? Is that indicated
2 by the legend on the map?

3 MR. COWAN: No. These maps were prepared,
4 Mr. Duffy, back when the application was submitted.

5 MR. DUFFY: So, the additional line is not
6 reflected--

7 MR. COWAN: Right.

8 MR. DUFFY: --by this proposed line on this
9 map?

10 WITNESS NORMAN: We changed that somewhat from
11 the way we made it on this one, the way we made the proposed
12 line. Due to a serious rock condition and a house there
13 reasonably close, we managed to get it in there without
14 having to blast and tear up anybody's property.

15 MR. DUFFY: Could you give us a detailed
16 route of where this new line is so we can draw it on our
17 map?

18 WITNESS NORMAN: Okay. You see where it
19 makes a jog on Lots 34 and 39, where it runs to the side of
20 the road--or is that 93? That's too far away. Thirty-four
21 and 93, I'm sorry. That is a nine, I guess.

22 MR. DUFFY: Okay that's this one. All right.
23 I found that point.

24 WITNESS NORMAN: Okay. If you come over here,
25 I'll finish it for you.

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1 EXAMINER LORING: Let's go off the record
2 a minute.

3 (Discussion off the record.)

4 EXAMINER LORING: Let's go back on the record.

5 BY MR. COWAN:

6 Q Does that new line that you're referring to
7 start at the southeast corner of Lot 94 on the right-hand
8 side of the map?

9 A Yes, it does.

10 Q Does it cross the road or the street--

11 A Yes.

12 Q --and then goes to the southwest along Lots
13 51 and 50?

14 A Yes.

15 Q Then, where does it go from there?

16 A It jogs back to the center line of 62 and
17 49.

18 Q In other words, does it follow the south line
19 of Lot 50--

20 A Yes.

21 Q --and goes to the line, the common boundary
22 of Lot 62 and 49?

23 A Yes. And, then, goes southerly--

24 EXAMINER LORING: Let's go off the record
25 a minute.

Missouri Public Service Commission

1 (Discussion off the record.)

2 EXAMINER LORING: Let's go back on the record.

3 BY MR. COWAN:

4 Q Mr. Norman, I'm going to ask you, again, to
5 describe for the record the new line that's been constructed
6 which is not reflected on the exhibit. I would like for you
7 to commence at the northeast corner of Lot 93 and describe,
8 with reference to the lot lines, where the new line goes.

9 A It goes directly across the road, down the
10 side of the lot line--

11 Q Of 51?

12 A --51, 52--or 50 to the center of the line
13 between 50 and 62; then, to the center section between 62
14 and 49, going in a southerly direction, following the lot
15 line to the middle of Lot 65.

16 Q Have there been any other changes of which
17 you're aware?

18 A I believe that's the only changes on that
19 plat.

20 Q Now, would you turn to the exhibit marked
21 for identification as Applicants' Exhibit 4, and tell us
22 what that exhibit reflects?

23 A This is an exhibit of the composite of the
24 six subdivisions in Turkey Mountain Estates No. 2, using
25 a legend with an orange line representing a six-inch line in

Missouri Public Service Commission

1 place is a solid line, a red solid line for four-inch lines,
2 a green solid line for two-inch lines, a dotted orange line
3 for proposed six-inch line, a red dotted line for four-inch
4 lines and a green dotted line for proposed two-inch lines.
5 Again, the "h" represents a house.

6 Q Was this drawing prepared at the same time
7 that the other two drawings were prepared?

8 A Yes.

9 Q Is this area, generally speaking, located
10 near the other two areas?

11 A It's directly across Table Rock Lake from
12 Lakeside and Tomahawk, and approximately ten miles from
13 Turkey Mountain Estates No. 1.

14 Q Is there a well located on this tract?

15 A Yes, it's located on Lot 97.

16 Q Now, with reference to the drawing,
17 approximately, where is it on the drawing?

18 A It's on the north side of the map.

19 Q Is it up in the extreme northeast corner of
20 the drawing?

21 A Yes, in the printed part of the drawing.

22 Q Do you have storage at this well?

23 A Yes. We have a 10,000-gallon pressure tank
24 in this area.

25 Q What is the well's capacity, pumping capacity?

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1 A The well is, approximately, 750 feet deep.
2 It is a state approved well, cased at 326 feet deep. It has
3 an estimated capacity of 140 gallons per minute. It also
4 has a 30 horsepower, Reda pump with a capacity of 120
5 gallons a minute.

6 Q Have there been any significant changes made
7 in the design of the system since the drawing was completed?

8 A There hasn't been anything in place. At the
9 present time we're in the process of building this proposed
10 six-inch line across the north part of the development.

11 Q Okay. Near what lots?

12 A It starts between Lots 66 and 68 in the fifth
13 subdivision up next to the well. It will run down the
14 center line between Lots 74 and 73. At that corner it will
15 turn east--west, excuse me, and go over to Lot 68. Now,
16 this plat shows it going straight on through, but due to
17 another rock condition and whatnot, and I think it would
18 make a better service for the area, we have proposed to move
19 that up to the center lines of Lot 65 and 67 and then taking
20 it across. Due to the terrain of the ground in that area,
21 that is the highest area, we felt it would be better to hold
22 it up higher if we could.

23 Q That's still a projected construction; right?

24 A Yes. The pipe is laying on the ground. The
25 clearing has commenced on it.

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1 Q Where will it terminate if it's built as you
2 presently plan it?

3 A It will terminate at the center line between
4 Lots 3 and 4 in the fifth subdivision.

5 Q Are you referring to the common boundary of
6 Lot 3 and 4?

7 A Yes.

8 Q How many houses were in the area when this
9 drawing was made?

10 A Ninety-six.

11 Q Have there been any added since the drawing?

12 A I believe there has been two.

13 Q Generally, has the construction followed the
14 same pattern through all of these areas?

15 A Yes, it has.

16 Q Of what material are the mains made of?

17 A They're schedule 40 plastic.

18 Q That has been used throughout the system?

19 A Yes.

20 Q Is that true even for the larger, six-inch
21 mains?

22 A Yes.

23 Q Are the existing houses, services, metered?

24 A No.

25 Q Are there drainage hydrants or taps at the

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1 ends of the lines to flush out the lines?

2 A Only one or two in various spots in Turkey
3 Mountain No. 2.

4 Q Is there an explanation for that?

5 A Eventually, these will all be tied into a
6 complete circle where there would be no, other than just a
7 drainage cog somewhere, it would be of no benefit that I
8 can see.

9 MR. CHARLES B. FAIN: Excuse me. Mr. Cowan,
10 is he still speaking of--

11 MR. COWAN: All three areas.

12 MR. CHARLES B. FAIN: --all three areas?

13 MR. COWAN: Right.

14 MR. CHARLES B. FAIN: He said that there will
15 be a complete system in each separate area or in all three
16 areas?

17 MR. COWAN: Well, I'll ask him to repeat what
18 he said.

19 BY MR. COWAN:

20 Q What was your reason for believing that
21 drainage hydrants or openings at the end of the line were
22 unnecessary?

23 A Eventually, the valves would have to be taken
24 out and the pipe just put together and run into a circular
25 line, tying it together.

Missouri Public Service Commission

1 Q Are you saying that you expect the system
2 when it is completed to be fully circulatory, the water will
3 not deadend anywhere.

4 A Yes. There will be possibly one or two very
5 short deadends with maybe one or two houses on them, which
6 at those areas I'm sure there would need to be a drainage
7 area. Otherwise speaking, it will all tie together.

8 Q Generally speaking, how deep have you set the
9 lines?

10 A We have tried to have at least an 18-inch
11 cover over everything. I'm sure there are some places in
12 rock areas and whatnot that we might be an inch or two shy,
13 but for the most part, that has been our goal.

14 Q Have you had any bad experiences with water
15 freezing in the distribution lines?

16 A We have never had a line frozen yet.

17 Q When was the construction first started? How
18 long has some of the lines been in place?

19 A Since '69, I believe, was the first.

20 Q Has the Division of Health or the Department
21 of Natural Resources approved the construction that has been
22 done to date?

23 A They have approved all three wells.

24 MR. CHARLES J. FAIN: I object to that, Your
25 Honor, for the reason it's not responsive to the question.

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1 He asked him if all construction has been approved. He said,
2 it approved the wells.

3 MR. COWAN: Well, we're going to get into
4 that further.

5 EXAMINER LORING: Would you read that back,
6 that question, Judi?

7 (At this time the Reporter reads back the
8 last question and answer.)

9 EXAMINER LORING: Do you want to clarify that?

10 MR. COWAN: That was just an introductory
11 question. I would like now to have marked for identification--

12 EXAMINER LORING: I've still got to get rid
13 of this objection.

14 MR. CHARLES J. FAIN: The objection, Your
15 Honor, is based upon the fact that we want to know whether
16 or not the construction has been approved. That's what the
17 question asked.

18 EXAMINER LORING: The whole system is what
19 your objection is to?

20 MR. CHARLES J. FAIN: Absolutely. He said
21 that wells have been approved. It was not responsive.
22 Whether or not they have approved the whole construction,
23 that is what the question asked.

24 MR. COWAN: Perhaps, this will satisfy Mr.
25 Fain. I have copies of the approvals, which I am in the

1 process of having identified and, therefore, they will speak
2 for themselves.

3 EXAMINER LORING: The ruling on the objection--

4 MR. CHARLES J. FAIN: I will withdraw the
5 objection, Your Honor, until we see--

6 MR. COWAN: I think the documents will speak
7 for themselves.

8 Your Honor, may I have marked for identification
9 a document issued by the Division of Health, a copy of it,
10 called, "PERMIT OF APPROVAL FOR SUPPLYING WATER TO THE PUBLIC
11 PERMIT NO. 6163."

12 EXAMINER LORING: That will be marked
13 Applicants' Exhibit No. 5 for identification.

14 (AT THIS TIME APPLICANTS' EXHIBIT NO. 5 WAS
15 MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)

16 MR. COWAN: I think the document has already
17 been identified, but, if not, I have handed to the Reporter
18 a document headed, "DIVISION OF HEALTH" "PERMIT OF APPROVAL"
19 "PERMIT NO. 6163" which has been marked for identification
20 as Applicants' Exhibit 5.

21 BY MR. COWAN:

22 Q Mr. Norman, will you tell us what that is?

23 A It's the certificate of approval that we
24 received when the well was put into the system.

25 Q At that time, what was in place?

1 A The well and the pump and the 10,000-gallon
2 pressure tank.

3 Q Of course, it's limited to the area described
4 on the face, to wit, Turkey Mountain Estates Subdivision No.
5 2?

6 A Yes.

7 MR. COWAN: Your Honor, may I have marked for
8 identification a permit of approval issued by the Department
9 of Natural Resources, Permit No. 6177?

10 EXAMINER LORING: That will be marked
11 Applicants' Exhibit 6 for identification.

12 (AT THIS TIME APPLICANTS' EXHIBIT NO. 6 WAS
13 MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)
14 BY MR. COWAN:

15 Q Mr. Norman, you have before you a document
16 which has been marked for identification as Applicants'
17 Exhibit 6. Could you state what that is, please?

18 A It is the approval by the Department of
19 Natural Resources for the well on Turkey Mountain Estates
20 No. 1, and it--the last page gives details.

21 Q This permit was issued when?

22 A April 22nd, 1976.

23 Q At the time this permit was issued, what
24 facilities had been completed?

25 A The well was in place. The pressure tank was

1 in place, the pump installed.

2 MR. CHARLES J. FAIN: Your Honor, may I
3 put just a few questions voir dire for the purpose of
4 whether or not I will voice an objection to these documents?

5 EXAMINER LORING: Okay.

6 MR. CHARLES J. FAIN: I just don't want
7 something to go by when I should have spoken up.

8 BY MR. CHARLES J. FAIN:

9 Q Mr. Norman, these two permits, do you have
10 more?

11 MR. COWAN: Yes.

12 MR. CHARLES J. FAIN: I will reserve the
13 voir dire until Mr. Cowan has put all of them in and that
14 will save time.

15 MR. COWAN: May I have a document headed,
16 "DIVISION OF HEALTH" "PERMIT OF APPROVAL" "PERMIT NO. 6162"
17 marked for identification as Applicants' Exhibit No. 7?

18 EXAMINER LORING: It will be so marked for
19 identification.

20 (AT THIS TIME APPLICANTS' EXHIBIT NO. 7 WAS
21 MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)

22 BY MR. COWAN:

23 Q Mr. Norman, I hand you a document that was
24 marked for identification as Applicants' Exhibit 7 and ask
25 you what that is?

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1 A It is also a certificate from the Division of
2 Health, granting a certification of Lakeside, Tomahawk
3 water well--water system well.

4 Q When was this issued?

5 A January 15, 1973.

6 Q What facilities were in place in that location
7 when that permit was issued?

8 A The well and pressure tank and pump.

9 MR. COWAN: Your Honor, I have a document here,
10 a letter from the Missouri Department of Natural Resources,
11 addressed to Mr. Norman, dated January 4, 1978 and signed by
12 John R. Nixon, P.E. Could I have it marked for identification
13 as Applicants' Exhibit 8, please?

14 EXAMINER LORING: It will be marked Applicants'
15 Exhibit 8 for identification.

16 (AT THIS TIME APPLICANTS' EXHIBIT NO. 8 WAS
17 MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)
18 BY MR. COWAN:

19 Q Now, Mr. Norman, has the Missouri Department
20 of Natural Resources inspected recently the water system
21 serving Turkey Mountain Estates No. 1 Subdivision?

22 A Yes, they have.

23 Q Have you received a written report?

24 A Yes.

25 Q You have before you a document, marked for

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1 identification as Applicants' Exhibit 8. Is that the written
2 report to which you just referred?

3 A Yes.

4 EXAMINER LORING: This would be a good time
5 to have a recess. Let's go off the record.

6 WHEREUPON, a recess was taken.

7
8 PURSUANT to a recess, the hearing of this
9 case was resumed, and the following proceedings were had:

10 EXAMINER LORING: Let's go back on the record.

11 MR. COWAN: I am not sure that Mr. Norman had
12 completed his discussion of Exhibit 8.

13 WITNESS JIMMIE NORMAN RESUMED THE STAND

14 DIRECT EXAMINATION BY COWAN: (CONTINUED)

15 Q Mr. Norman, would you refer to a document,
16 marked for identification as Applicants' Exhibit 8, and tell
17 us what area this document refers to?

18 A I don't know whether I have Exhibit 8 or not.
19 This is a document from the Missouri Department of Natural
20 Resources, dated January 4, 1978. It was a routine inspection
21 made by an officer of the Department of Natural Resources,
22 who came out to the subdivision and made various samples
23 and inspections of the plant and the system.

24 Q With reference to his visit, when did you
25 receive this correspondence?

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1 A Shortly after January 4.

2 MR. COWAN: Your Honor, I have a letter
3 from the Missouri Department of Natural Resources, dated
4 April 6, 1978, addressed to Mr. Norman, and signed by Mr.
5 John R. Nixon, Regional Administrator of the Springfield
6 office. May I have it marked for identification as
7 Applicants' Exhibit 9?

8 EXAMINER LORING: It will be so marked for
9 identification.

10 (AT THIS TIME APPLICANTS' EXHIBIT NO. 9 WAS
11 MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)
12 BY MR. COWAN:

13 Q Mr. Norman, you have before you a document,
14 marked for identification as Applicants' Exhibit 9. It
15 purports to be a letter dated April 6, 1978 from the Missouri
16 Department of Natural Resources. Did you receive that letter?

17 A Yes, we did.

18 Q With what area is it concerned?

19 A It's concerned with Turkey Mountain Estates
20 No. 2.

21 Q Did someone from the Department of Natural
22 Resources on or about that time inspect that area?

23 A They made an on-site inspection.

24 Q Did you receive that letter subsequent to
25 that inspection?

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1 A Yes.

2 Q Are the Exhibits 5 through 9 all of the
3 permits and approvals that the company has received to this
4 date from state agencies?

5 A To the best of my knowledge, it is.

6 Q What is your best judgment as to when the
7 water system, as now exists in these various areas, when was
8 it first started?

9 MR. CHARLES J. FAIN: Now, Your Honor, if I
10 may, I would like to--I'm sorry that I was not able to get
11 in ahead of Mr. Cowan's question. I would like to ask just
12 a few voir dire questions on these exhibits that have been
13 presented from the Department of Health and the Missouri
14 Department of Natural Resources.

15 EXAMINER LORING: Would you mind--

16 MR. COWAN: Of course, he has the right to
17 do it at the appropriate time. I haven't offered them into
18 evidence, but I guess now is as good a time as any.

19 MR. CHARLES J. FAIN: I'll ask Mr. Cowan
20 first, do you have anything else indicating approval of the
21 Missouri Department of Natural Resources of the Ozark
22 Mountain Water Company to operate a public utility? Are
23 these what you have?

24 MR. COWAN: As Mr. Norman says, as of this
25 moment, those are the only permits of which he is now aware.

Missouri Public Service Commission

1 MR. CHARLES J. FAIN: Okay. I'll ask Mr.

2 Norman:

3 BY MR. CHARLES J. FAIN:

4 Q Mr. Norman, are these being offered as the
5 final approval by the Department of Natural Resources for Ozark
6 Mountain Water Company to operate as a public utility?
7 Is that the purpose of them, or what is the purpose of your
8 offering them?

9 A I don't think I quite understand your
10 question.

11 Q Do you understand that you must get the
12 approval of the Missouri Department of Natural Resources to
13 operate a water utility?

14 A The Missouri Department of Natural Resources
15 has given us this--has approved our systems as being
16 adequate, potable water.

17 MR. DUFFY: Mr. Examiner, could we go off
18 the record a second?

19 EXAMINER LORING: Let's go off the record.

20 (Discussion off the record.)

21 EXAMINER LORING: Let's go back on the record.

22 MR. COWAN: In view of our off-the-record
23 discussion, Mr. Fain, I have a question I would like to
24 pose to you: Your clients' position in this matter is not
25 clear to the Applicant. Are you saying that these operations

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1 are not a public utility and should not be regulated by
2 the Public Service Commission?

3 MR. CHARLES J. FAIN: Which operations are
4 you talking about now, the operations of--

5 MR. COWAN: Of the existing water systems.

6 MR. CHARLES J. FAIN: --of these other
7 corporations or of Ozark Mountain Water Company?

8 MR. COWAN: I'm talking about the existing
9 water system. Is it your position that they are not
10 public utility operations that should be regulated by the
11 Commission?

12 MR. CHARLES J. FAIN: I'm not in a position
13 to make that assertion at this time.

14 MR. COWAN: Your Honor,--

15 MR. CHARLES J. FAIN: I may very well be able
16 to at the close of the--

17 MR. COWAN: --I think the issue in this case,
18 I think it's clear, and Staff knows it, is whether or not
19 these operations are in fact a public utility operation.
20 Now, if they are not, the company would be happy to go back
21 to resuming their nonregulated status. And this case, as I
22 tried to make clear in my opening statement, is merely a
23 matter to expedite the overseeing of its operations by the
24 Commission. Now, we are not going to spend a lot of time
25 arguing the public convenience and necessity case in the

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1 usual sense. We can go back to Stone and Barry County and
2 continue our operations. But, as I tried to say over Mr.
3 Fain's objection, it was my conclusion, based on the facts
4 that I have seen, if it is a proper utility operation,
5 it ought to be regulated in a manner consistent with the
6 public interests. If they're neglectful through oversight,
7 it's entirely possible they do not have all the permits,
8 they are required to get them the same as any other utility,
9 and we don't deny it. But, we think we already have. If
10 we're not a utility, we're wasting an awful lot of time.

11 MR. CHARLES J. FAIN: Has an offer been made
12 on the exhibits yet?

13 MR. COWAN: Not yet.

14 MR. CHARLES J. FAIN: I will reserve--I've
15 asked my voir dire questions. I am convinced from the
16 information, as to what the objection should be, I will
17 voice it at the proper time. No further voir dire at this
18 time on these exhibits.

19 EXAMINER LORING: Okay. Mr. Cowan, he's your
20 witness again.

21 BY MR. COWAN:

22 Q Mr. Norman, do you recall when Turkey Mountain
23 Estates was incorporated, approximately? If not, I have the
24 articles here.

25 A I don't have the exact date in my mind, no.

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1 MR. COWAN: Your Honor, may I have marked for
2 identification as Applicants' Exhibit 10 a certified copy
3 of the Articles of Incorporation of Turkey Mountain Estates?

4 EXAMINER LORING: Be marked 10 for identification.

5 (AT THIS TIME APPLICANTS' EXHIBIT NO. 10 WAS
6 MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)
7 BY MR. COWAN:

8 Q Mr. Norman, you have before you a document
9 which has been marked for identification as Applicants'
10 Exhibit No. 10. Do you recognize that to be a certified
11 copy of the Articles of Incorporation and a certificate of
12 incorporation of Turkey Mountain Estates, Inc.?

13 A Yes, sir.

14 Q Have there been any subsequent changes that
15 you know of?

16 A (No response.)

17 Q Well, let me put it this way: Have there
18 been any changes since August 16, 1978?

19 A August 16, 1978?

20 Q That's just last week, of course.

21 A No, none since then.

22 Q Looking at the certificate of incorporation,
23 would you state for the record the date of that certificate
24 of incorporation?

25 A The 12th day of September, 1967.

Missouri Public Service Commission

1 Q How does this document relate to the time
2 construction began of a water distribution in the area
3 developed by Turkey Mountain Estates, Inc.?

4 A The actual construction was probably started
5 within the next two years.

6 MR. COWAN: Your Honor, may I have marked for
7 identification a certified copy of the Articles of Incorporation
8 of Lakeside Investment, Inc.?

9 EXAMINER LORING: That will be marked Exhibit
10 11 for identification.

11 (AT THIS TIME APPLICANTS' EXHIBIT NO. 11 WAS
12 MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)
13 BY MR. COWAN:

14 Q Mr. Norman, I hand you a document, which has
15 been marked for identification as Applicants' Exhibit 11,
16 which purports to be a certified copy of the Articles of
17 Incorporation and amendments to it of Lakeside Investment
18 Company as of the 16th of August, 1978. Do you recognize
19 that document?

20 A Yes.

21 Q There have been no changes, have there, since
22 the date of the certificate by the Secretary of State on
23 August 16, I believe, it is, of this year?

24 A No.

25 Q What is the date shown on the certificate of

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1 incorporation?

2 A The 30th day of October, 1967.

3 Q With reference to the areas subdivided by
4 this corporation, about when did the construction of the
5 water distribution system commence?

6 A That would be roughly within the next two
7 years.

8 Q During that period of time to the present
9 time, was your company ever contacted by a representative
10 of the Public Service Commission?

11 A Not until last--when this all came about.

12 Q Do you recall when that was?

13 A No. I really don't. I think we have a letter
14 somewhere with that date on it.

15 Q How did the first contact occur? Did someone
16 call on your office, or did you receive something in the mail?

17 A We received a letter from the Commission.

18 MR. COWAN: May I have marked for identification
19 a letter addressed to Mr. Leland A. Mitten from the Missouri
20 Public Service Commission, dated August 19, 1977.

21 EXAMINER LORING: It will be marked Applicants'
22 Exhibit 12.

23 (AT THIS TIME APPLICANTS' EXHIBIT NO. 12 WAS
24 MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)
25

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1 BY MR. COWAN:

2 Q I hand you a document which has been marked
3 for identification as Applicants' Exhibit 12, and I'll ask
4 you to state what that is?

5 A This is a letter we received shortly after
6 August 19.

7 Q Of what year?

8 A 1977.

9 Q To whom was it addressed?

10 A To Leland Mitten, President of Turkey Mountain
11 Estates.

12 Q Does he require any further identification?
13 Who is Leland Mitten? Is he active in the business?

14 A Yes, he is. He is the President of Turkey
15 Mountain Estates.

16 Q Is he a substantial owner?

17 A Yes, he is.

18 Q Is that the communication that you just
19 referred to in an answer to an earlier question concerning
20 a contact from the Public Service Commission?

21 A Yes, sir, it is.

22 Q To your knowledge, is that the first contact?

23 A Yes, it is.

24 Q When you received that letter, what did the
25 company do?

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1 A We answered the questions at the bottom of
2 the second page and sent it back to the Commission.

3 Q Did you get a response?

4 A Yes.

5 MR. COWAN: May I have marked for identification
6 a letter addressed to Mr. Mitten, Leland A. Mitten, from
7 Mr. Mitten II, Counsel of the Public Service Commission,
8 dated September 15, 1977?

9 EXAMINER LORING: That will be marked Exhibit
10 13 for identification.

11 (AT THIS TIME APPLICANTS' EXHIBIT NO. 13 WAS
12 MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)
13 BY MR. COWAN:

14 Q After you mailed your response to the letter,
15 dated August 19, 1977 from the Public Service Commission,
16 did you receive further correspondence from the Commission?

17 A On September 15, 1977, we received this
18 response.

19 Q Now, you're referring to Applicants' Exhibit
20 No. 13?

21 A Yes.

22 Q How did you interpret that letter?

23 A Well, at this time it looked like we needed
24 to do something. So, we contacted you, and proceeded from
25 there on.

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1 Q What was the next step taken after retaining
2 Counsel?

3 A We proceeded to set up Ozark Mountain Water
4 Corporation.

5 Q The Applicant in this case?

6 A Yes.

7 Q Obviously, this particular application for
8 a certificate ensued?

9 A Yes.

10 MR. COWAN: Your Honor, I have the original
11 of the Articles of Incorporation and the Certificate of
12 Incorporation issued by the Secretary of State, which can
13 be checked if anyone cares to do so. I would like to offer
14 copies of them, have them marked for identification as
15 Applicants' Exhibit 14.

16 EXAMINER LORING: It may be marked Exhibit 14
17 for identification.

18 (AT THIS TIME APPLICANTS' EXHIBIT NO. 14 WAS
19 MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)

20 BY MR. COWAN:

21 Q Now, you stated a moment ago, Mr. Norman, that
22 subsequent to the receipt of the letter from the Public
23 Service Commission, identified as Applicants' Exhibit 13 in
24 this case, you contacted and retained Counsel?

25 A Yes.

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1 Q And you further stated that you--

2 MR. CHARLES J. FAIN: Your Honor, if it will
3 expedite matters, we will stipulate that this is the
4 Certificate of Incorporation and attached to it are the
5 Articles of Incorporation of Ozark Mountain Water Company.

6 MR. COWAN: And that it is what it purports
7 to be.

8 MR. CHARLES J. FAIN: Yes.

9 MR. COWAN: Thank you.

10 May we just have it established for discussion
11 here that the date of incorporation of the Applicant, Ozark
12 Mountain Water Company, was October 28, 1977.

13 BY MR. COWAN:

14 Q Has Ozark Mountain Water Company issued stock
15 as of yet?

16 A No, it hasn't.

17 Q Has there been stock subscribed for? In other
18 words, have people agreed to take stock?

19 A Yes. People will take the stock.

20 Q Of course, Mr. Taylor will get into that in
21 more detail. But, what does the company propose to do with
22 respect to the issuance of stock? Does it propose to sell
23 the stock for cash?

24 A Yes.

25 Q How many shares does it propose to issue?

Missouri Public Service Commission

1 A Thirty thousand.

2 Q Three thousand shares.

3 A Three thousand, okay.

4 Q Who are the subscribers or who will take
5 that stock?

6 A Who will take that stock? It will be the
7 various corporations owning the pertained subdivisions.

8 Q Can we also say--is this correct that it's
9 the same corporations that now hold title to the various
10 components that you expect to put into the water system?

11 A Yes.

12 Q How was the different amounts of stock
13 subscribed to determined? For example, I notice that in
14 the application that Turkey Mountain Estates, Inc. is to
15 take 2,220 shares. How was this percentage or allocation of
16 stock determined?

17 A It was determined by the number of lots in
18 the subdivision and divided accordingly by the various land-
19 owners.

20 Q Now, you expect to sell it to Turkey Mountain
21 Estates for \$10.00 per share in cash?

22 A Yes, sir.

23 Q Was the same procedure used for the amount of
24 stock allocated to Lakeside Investment Company, 630 shares?

25 A Yes, sir.

Missouri Public Service Commission

1 Q Tomahawk Developers,--

2 A Yes, sir.

3 Q --120 shares?

4 A Yes, sir.

5 Q And Central Crossing Developers, Inc., was
6 30 shares?

7 A That's right.

8 Q Now, there are companion applications by
9 Turkey Mountain Estates for authority to acquire more than
10 10 percent of the stock of Ozark Mountain; isn't that
11 correct?

12 A Yes.

13 Q And, of course, 2,220 shares is more than 10
14 percent of 30,000 shares? (sic)

15 A Yes.

16 Q There is a similar request with respect to
17 Lakeside Investment?

18 A Yes.

19 Q However, in the case of Tomahawk Developers
20 and Central Crossing Developers, the number of shares they
21 will receive will be less than 10 percent of the total?

22 A I believe that's right.

23 Q What does the company, if the certificate is
24 granted and the property is transferred to it from the
25 developers as proposed, what does it propose to do with this

Missouri Public Service Commission

1 \$30,000?

2 A It will be an operating expense to operate
3 the system.

4 Q In other words, you're putting it in there
5 so the company will have some capital with which to operate?

6 A That's right.

7 Q To pay its operating expenses, help and what
8 have you?

9 A Uh-huh.

10 Q How many employees would the aggregate
11 properties have excluding officers and directors?

12 A Basically, two.

13 Q Who are those two employees?

14 A A maintenance man and a bookkeeper.

15 Q Can you tell me what the maintenance man's
16 salary is?

17 A (No response.)

18 Q If you don't have it, I'm sure Mr. Taylor
19 does.

20 A I don't have it. I would rather you go into
21 that with him. He has the facts and figures on it.

22 Q All right. We won't talk about dollars.
23 We'll just talk about people.

24 You have two people?

25 A Yes.

Q The maintenance man, what are his duties

Missouri Public Service Commission

1 generally?

2 A To--well, as you know, there has to be water
3 samples collected every month, the light bills have to be
4 read--the meters read, and in case there is an outage or
5 a break in the line or anything like that, he would be on
6 call to come and see to it.

7 Q Does this man work full time for the water
8 operation?

9 A Yes. He would be a full-time employee of
10 the water company.

11 Q Is he competent and able to make repairs?

12 A He's been doing it for seven years.

13 Q I take it, then, he's a long-time employee?

14 A Yes, he is.

15 Q What kind of an office would you propose to
16 maintain insofar as Ozark Mountain Water Company is concerned
17 as distinguished from the development operations?

18 A It would consist of one bookkeeper that would
19 take care of billing and correspondence and that--

20 Q Do you think she would be full time?

21 A I don't think so. I think, possibly, one
22 week a month would take care of it.

23 Q Now, at the moment at least, do the officers
24 and directors that are proposed for the corporation, expect
25 to draw a salary?

A No.

Missouri Public Service Commission

1 Q They do expect some compensation for attending
2 meetings?

3 A A director's fee.

4 Q Mr. Taylor will go into that.

5 Do you recall who the proposed directors are
6 for the corporation?

7 A I believe I do.

8 Q Would you state who they are, please?

9 A Of course myself, Mr. J. B. Gum, Mr. Ken
10 Hamilton, Mr. Roger Taylor, Ms. Blanche Schafer and Mr.
11 Leland Mitten.

12 Q Are all the persons named substantially
13 interested in a financial way in one or more of the develop-
14 ments?

15 A Yes, they are.

16 Q Who are the proposed officers for the new
17 corporation?

18 A It would be myself as President, Mr. Gum as
19 Vice President, Mr. Hamilton as Second Vice President, Mr.
20 Mitten as Secretary, and Mr. Taylor and Ms. Schafer as Board
21 members.

22 Q Except for Mr. Taylor, who I'm sure most
23 everybody from southwest Missouri knows is a Certified
24 Public Accountant, are the other people more or less active
25 in the development business?

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A Yes, they are.

Q Even Mrs. Schafer?

A Yes, she is.

EXAMINER LORING: Let's go off the record for
just a minute.

(Discussion off the record.)

EXAMINER LORING: Let's go back on the record.
The hearing will be in recess until 1:30 p.m.
sharp.

WHEREUPON, a recess was taken.

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1 PURSUANT to the noon recess, the hearing of
2 this case was resumed, and the following proceedings were
3 had:

4 (AT THIS TIME APPLICANT'S EXHIBIT NO. 15 WAS
5 MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)

6 EXAMINER LORING: Let's go back on the record.

7 MR. COWAN: Judge, at the recess, Mr. Fain
8 and I agreed and I think Mr. Duffy, but I'll check with him,
9 that a document which has been marked by the Reporter as
10 Applicant's Exhibit No. 15 which represents the Certificate of
11 Common Stock proposed to be issued if a favorable Order
12 comes forth from the Commission, I understand we stipulated
13 that can be received in evidence.

14 MR. CHARLES B. FAIN: We'll so stipulate.

15 MR. DUFFY: The Staff has no problem with it.

16 EXAMINER LORING: Number 15 will be stipulated.

17 MR. COWAN: I'm handing the Reporter a document
18 which Mr. Fain has stipulated may be introduced in evidence.
19 It's an Order from the County Court of Barry County, Missouri.
20 I'd like to have it marked for identification as Applicant's
21 Exhibit No. 16.

22 I don't know whether Mr. Duffy has seen it
23 or not. It is a consent to put the water lines across the
24 roads and that sort of thing.

25 MR. DUFFY: The Staff will so stipulate.

1 EXAMINER LORING: Applicant's Exhibit 16
2 will be marked.

3 MR. COWAN: The most recent one, 16, is the
4 Order of the County Court of Barry County.

5 (AT THIS TIME APPLICANT'S EXHIBIT NO. 16 WAS
6 MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)

7 EXAMINER LORING: 15 and 16 are admitted into
8 evidence at this time.

9 (AT THIS TIME APPLICANT'S EXHIBITS NOS. 15 AND
10 16 WERE RECEIVED IN EVIDENCE AND MADE A PART OF THIS RECORD.)

11 WITNESS JIMMIE NORMAN RESUMED THE STAND.

12 DIRECT EXAMINATION (CONTINUED) BY MR. COWAN:

13 Q Mr. Norman, as you observe and it was
14 stipulated in the record that the Company, Ozark Mountain
15 Water Company, has an Order from the Barry County Court
16 permitting the crossing of public roads with water lines.
17 Are any of the roads of the subdivisions in question located
18 in Stone County subject to the jurisdiction of the County
19 Court of Stone County?

20 A There's roads in Stone County, but they're
21 not under maintenance by the Stone County Court.

22 Q Then they are not subject to the jurisdiction
23 of the Stone County--

24 A No, not at this time.

25 Q They're in essence private roads located within

Missouri Public Service Commission

1 the subdivisions?

2 A They're dedicated to the public, but they're
3 not maintained by the County.

4 MR. COWAN: For that reason, Your Honor,
5 there was no order obtained from the County Court of Stone
6 County.

7 BY MR. COWAN:

8 Q Now, Mr. Norman, I'm sure, as the spokesman
9 for the group of developers about whom we're talking today,
10 you've been informed that if a utility company continues to
11 operate or commences to operate under the jurisdiction of
12 the Commission, it is required to file a tariff in which
13 its rates are set forth, general rules, and regulations
14 pursuant to which it does business?

15 A Yes.

16 Q And if a favorable Order is received from the
17 Commission, does your Company propose to file such a tariff?

18 A Yes.

19 Q With reference to things such as extension
20 routes where the Company states with particularity the
21 conditions under which it will extend water maintenance,
22 what is the Company's position with respect to that?

23 A Well, the Company would be acting on its own
24 behalf; and the development companies have so stated that
25 they will furnish water to the property line. The development

Missouri Public Service Commission

1 companies would answer to the utility company to pay for
2 said lines and that sort of thing.

3 Q Has Ozark Mountain Water decided specifically
4 on how many of the tariff provisions should read as of this
5 date?

6 A No, we haven't.

7 Q How do you expect to handle that if a
8 certificate is issued?

9 A We would like to have some recommendation
10 from the Commission to help us on those lines.

11 Q Do you expect to file a tariff consistent
12 with what the Commission has deemed acceptable with similar
13 companies in the past?

14 A Yes.

15 Q Have you determined a rate for water service
16 that you feel is necessary to offset the operating expenses?

17 A In our application, I think we stated \$12
18 per month per user. In light of the inflationary trend that's
19 come upon us, we have updated that somewhat; and we came up
20 with one that possibly would be around \$15. But we did
21 state it at \$12 in the original.

22 Q But you did request \$12?

23 A Yes.

24 Q Will Mr. Taylor, your CPA, be a better
25 witness to explore that problem?

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1 A Much better.

2 Q Now, going to the question of maintenance and
3 repairs, I'll use a parlance with which I'm familiar. I
4 think it's pretty descriptive.

5 Let's use the last three-year period as an
6 example. Has this group of companies with reference to the
7 distribution of water had many reports of trouble or outages?

8 A Relatively few. We've had some problem with
9 one line.

10 Q Why don't you explain that while we're at it.

11 A In Turkey Mountain 2 we put in one of these
12 tie-up lines which we talked about earlier to alleviate the
13 need for dead-end valves and that sort of thing. And as a
14 result, we got a bad shipment of pipe; and we've had, I
15 think, seven breaks in that line. And it has been the
16 fault of the pipe just splitting for maybe 12 or 14 inches
17 right in the seam.

18 Q Has it been a lateral split?

19 A Yes.

20 Q Have you had other troubles within the last
21 three years?

22 A Very few other than the acts of man or God.

23 Q Have you had any pump trouble?

24 A We've had to replace two pumps at Turkey 2
25 in the last year.

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Q What caused that?

A It was contributed to lightning.

Q Lightning ran in on the pump, is that what you're saying?

A Yes.

Q Generally speaking, except for those instances you've just described, have your customers had outages of which you are aware?

A Not for any period of time that I'm aware of.

Q Has your supply been adequate?

A It has.

Q In the event that existing facilities should in the future prove insufficient to meet the growing demand, are you and your associates able to make further investment if necessary in the Water Company?

A I'm sure we would.

Q You touched on this subject. I'm not sure, however, that we finished our discussion of it.

Your operations are supervised either by the Bureau of Natural Resources or the Department of Health, are they not?

A Yes.

Q Which one is it?

A I think it's all one and the same anymore.

Q Is that old Department of Health now included

Missouri Public Service Commission

1 within the Department of Natural Resources as far as you
2 understand?

3 A That's the way I understand it.

4 Q Are you required to submit reports to them?

5 A We submit a monthly report to them.

6 Q Would you describe that report?

7 A They send us two sample bottles monthly for
8 each system. One sample is taken at the well, and the other
9 one is within the subdivision or out on the line somewhere.

10 And that has to be returned back to the
11 laboratory within 24 hours for analysis. And then usually
12 within two to three weeks, we receive a card stating the
13 analysis of what it contained.

14 Q How long has this been going on?

15 A Since we first got our first certificate for
16 state-approved water.

17 Q In other words, quite an extended period of
18 time?

19 A Yes.

20 Q Have you experienced any trouble with those
21 reports?

22 A None other than the time factor with the mail.
23 We had a few reports that they turned down due to the fact
24 that it took 72 hours for the mail to get them there.
25 We finally had to start sending them first class instead of
third class.

Missouri Public Service Commission

1 Q But it wasn't because the water was defective
2 in some way?

3 A No.

4 MR. COWAN: Your Honor, I have no further
5 questions at this time of Mr. Norman; and I offer in evidence
6 Applicant's Exhibits 1 through 14, I believe it is, that
7 have not been received.

8 MR. DUFFY: The Staff has no objection.

9 MR. CHARLES J. FAIN: We would ask that any
10 admission be reserved until conclusion of cross-examination.

11 EXAMINER LORING: Very well.

12 MR. COWAN: I'll tender Mr. Norman for
13 cross-examination.

14 CROSS-EXAMINATION BY MR. DUFFY:

15 Q Mr. Norman, I don't believe I know your
16 professional background. Are you an engineer, or would you
17 describe your educational background after high school maybe?

18 A I attended one year at the University in
19 the Ag Engineering School. Then I went into business, and
20 started in earth moving and that sort of related work.

21 Q How would you characterize your profession,
22 as a developer or construction or what?

23 A Primarily as a contractor.

24 Q But you're not a professional engineer?

25 A I'm not a professional engineer.

Missouri Public Service Commission

1 Q Who did the engineering work for the water
2 system in these different plats?

3 A The system in Turkey Mountain No. 2 and the
4 system in Lakeside and Tomahawk were drawn by Harry Hatcher.

5 Q He is an engineer?

6 A Yes. He's deceased now, but at that time
7 he--

8 Q Now, I believe you testified earlier that
9 these--are we talking about three different areas basically?

10 A Yes.

11 Q I believe you testified that these three areas,
12 the water systems in them were started in about 1969?

13 A Somewhere in that vicinity.

14 Q And they are still under construction from
15 the--

16 A Yes.

17 Q I notice that the corporation papers for
18 Ozark Mountain Water Company contain as one of its powers
19 that it will operate sewer systems. Are there sewers in
20 these areas right now?

21 A None whatsoever.

22 Q What sewage disposal facilities are there for
23 the people that live there?

24 A Septic tanks, individual septic tanks.

25 Q Do you envision providing sewer service through

Missouri Public Service Commission

1 Ozark Mountain Water Company in the future?

2 A Not unless it becomes an absolute necessity
3 by some regulatory agency. We were merely incorporating
4 at the time maybe to be aware of something if--

5 Q Are you aware that the Missouri statutes provide
6 that if you operate a sewer corporation with more than 25
7 outlets that you're subject to jurisdiction of the Public
8 Service Commission?

9 A I wasn't aware of it.

10 Q If you operated a sewer system with more than
11 25 customers, would you plan to apply for a certificate
12 from the Public Service Commission?

13 A I'd say at that time we would.

14 Q Now, do I understand that there's going to be
15 another witness on the proposed rates for water service,
16 that you're not going to testify to that today?

17 A Yes, Mr. Taylor.

18 Q Let me ask you a couple questions regarding
19 some of the exhibits that were introduced. One of them
20 relates to--it's Exhibit No. 4 which is Turkey Mountain
21 Estates No. 2.

22 Now, almost right in the middle of this
23 document below the inscription "NW Corner, SW⁴/ - NE⁴/"
24 and the boundary line between lots 343 and 342, I note
25 that there is an indication by an orange line coming into

1 that area that you have a six-inch existing water main
2 coming to that point. And then there is an area going
3 directly west through lots 342, 273, 272, then turning
4 south, lots 274, 276, 278, 280, 282, that the line adjoining
5 those lots is marked in red which indicates that it's a
6 four-inch line. Then on lot 284, it becomes an orange line
7 again which indicates that it's a six-inch line.

8 Now, the question I have is: Why is there
9 this section of four-inch line between two sections of six-
10 inch line?

11 A I was afraid you'd ask that. I think that
12 section was put in at a time when we were in the process
13 of buying pipe, and pipe was unavailable at the time.
14 And in order to finish the line up, we went ahead and tied
15 it together that way.

16 Q Do I understand then that it's a temporary
17 facility, that you plan to put in a six-inch line?

18 A If the need would arise, I'm sure it would be
19 no big problem to change.

20 Q While we're on Exhibit 4, can you tell me
21 how many homes are indicated on that exhibit?

22 A I believe it was 96. I think I stated that
23 once before.

24 EXAMINER LORING: I believe the previous
25 testimony was 96 plus two additional ones.

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1 WITNESS NORMAN: Ninety-six I believe is
2 correct.

3 BY MR. DUFFY:

4 Q Do any of the present customers on any of
5 these systems have water meters?

6 A There's no meters whatsoever.

7 Q What's the position of Ozark Mountain Water
8 Company with regards to meters?

9 A We would personally rather see it not happen
10 for the simple reason it would be a costly procedure as well
11 as we are going to have to go into everyone's yard and
12 tear it up and put these in. And there's places that rock
13 is so close that I don't know whether we could put in a
14 box with a meter in it that wouldn't freeze without considerable
15 expense.

16 Q Could you use inside meters?

17 A If there is such a meter. I'm not that
18 familiar with water meters.

19 Q Now, with regard to your testimony on an
20 extension rule, can you give me your interpretation of what
21 an extension rule is?

22 A Well, it would be the further building of
23 more lines.

24 Q In return for some contribution from somebody?

25 A Yes.

Missouri Public Service Commission

1 Q And who would be that somebody?

2 A That somebody would be the particular
3 developer involved.

4 Q The developer or the customer?

5 A The developer.

6 Q When we talk about extension rules in the
7 context of these plat maps that are in evidence or marked
8 as exhibits now, when you talk about an extension rule,
9 are you talking about going outside of the area that's
10 marked on these exhibits, or are you talking about installing
11 the lines that are indicated as proposed on these exhibits?

12 A I'm talking about the areas that are marked
13 as proposed, anything that was--of course, that would take
14 another hearing I presume to increase the boundary to go
15 outside this area. I'm sure that that would be--the expense
16 would be borne by whoever they went to.

17 EXAMINER LORING: Would you speak a little
18 louder, please, sir.

19 BY MR. DUFFY:

20 Q Could you explain again for me how all of these
21 various companies are going to contribute stock or property
22 or whatever to form or to flush out Ozark Mountain Water
23 Company? What's the financial arrangements that are going to
24 take place?

25 MR. COWAN: Mr. Duffy, I am no way trying

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1 to suggest that Mr. Norman shouldn't answer, except Mr.
2 Taylor is far more conversant with that.

3 MR. DUFFY: I'll ask him those questions.

4 BY MR. DUFFY:

5 Q Are you currently providing water service
6 to customers within the areas that are shown on these exhibits?

7 A Yes, sir.

8 Q Are you charging for that service?

9 A We've been charging a maintenance fee.

10 Q How much is that?

11 A It in two of the areas, in Turkey Mountain
12 No. 1 and Turkey Mountain No. 2, is currently \$50 per year.
13 And in the Lakeside and Tomahawk area, it is \$25.

14 Q Now, what do you mean by "maintenance fee"?

15 A Well, when Turkey Mountain and Lakeside and
16 Tomahawk were all originally started, we set up a fee of
17 \$25 a year for water which was strictly to pay the electricity
18 and that sort of thing. At that time we were in further
19 development, and we had men on the force to more or less
20 take care of the system which we weren't figuring as an
21 expense to the Company, to the Water Company.

22 But now that our developing has gone as far
23 as it's going, it has come to the point that he's strictly
24 just a maintenance man now instead of a man out here working
25 on building streets and whatever.

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1 Q He's a maintenance man only for the water
2 operations?

3 A That would be his sole purpose from now on.

4 Q Now, do I understand that the prices that
5 you charged were only supposed to cover the cost of the
6 maintenance man and that the water was free?

7 A Yes, just to cover the cost of pumping
8 primarily was all it was set up to be.

9 Q How were the customers billed for the
10 water service?

11 A Once yearly.

12 Q At \$25?

13 A Yes.

14 Q Did they sign a contract for that, or how was
15 that charge made known to the customers?

16 A I guess it was possibly--I really don't know.
17 Just common knowledge, I believe.

18 Q What is the nature of these development
19 corporations? And, by that, I mean, were you primarily in
20 the business of selling lakeside lots?

21 A Yes.

22 Q Did you use the mail to do that?

23 A Yes.

24 Q So you came under the Department of Housing
25 and Urban Development and the Interstate Land Sales Act?

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1 A Yes.

2 Q Did you have any problems with the Attorney
3 General's Office of the State of Missouri with regard to
4 complaints from people who bought lots at those areas?

5 A I don't recall of any serious complaints or--

6 Q Did the Attorney General contact you about
7 any complaints?

8 A Not that I'm aware of. There could be.

9 Q So you wouldn't have--

10 A My primary function is out in the field.
11 I really don't stay with the sales department that much.

12 Q I thought you were President of Turkey Mountain?

13 A No. I'm Vice-President.

14 Q You say this person who is the maintenance
15 man has been there for the last seven years?

16 A Yes.

17 Q And he intends to continue and will now
18 become the employee of Ozark Mountain Water Company rather
19 than Turkey Mountain Estates?

20 A Uh-huh.

21 Q How much is he being paid right now, or is
22 that a question I should ask Mr. Taylor?

23 A I think Mr. Taylor could probably fill you in
24 better on that.

25 Q Where is the office of the Water Company to be
located?

1 A That hasn't really been determined yet.
2 I'm sure it would be in an office building in the Plaza
3 Shopping Center, but --

4 Q Where is the Plaza Shopping Center?

5 A In Shell Knob.

6 Q How far away is that from these subdivisions?

7 A It's centrally located between them, between
8 1 and 2. Lakeside is across the lake.

9 Q Is that where the maintenance man will be
10 located?

11 A Presently he lives in Turkey Mountain No. 2.

12 Q Will he be the person that people call if they
13 have a complaint about the water system?

14 A He could be, or myself, or the office.

15 Q Well, do you envision having a 24-hour tele-
16 phone number pursuant to the regulations of the Commission
17 for emergency service?

18 A Yes. If the Commission requires it, we will
19 have.

20 MR. DUFFY: That's all the questions I have.

21 EXAMINER LORING: Mr. Fain?

22 CROSS-EXAMINATION BY MR. CHARLES B. FAIN:

23 Q Mr. Norman, let me get back here a little bit
24 to--Turkey Mountain Estates No. 1 is what I'm interested in.

25 Now, is the name of the corporation that

1 you're the Vice-President of just Turkey Mountain Estates?

2 A I believe it's Turkey Mountain Estates,
3 Incorporated.

4 Q And is that the owner of Turkey Mountain
5 Estates No. 1 and Turkey Mountain Estates No. 2?

6 A Yes.

7 Q Would one of these exhibits state who the
8 officers and directors were of Turkey Mountain Estates?
9 Can you tell me who those people are if it didn't?

10 A I don't know whether it did or not. The
11 President is Leland Mitten.

12 Q And he's not here today?

13 A No. The Vice-Presidents are myself and
14 J. B. Gum. The Secretary and Treasurer is Blanche Shafer.

15 Q And what about the Board of Directors?

16 A That constitutes the Board of Directors.

17 Q Same people?

18 A Same people.

19 Q Now, when was this corporation formed?

20 A That was on a previous document, I think.

21 Q If that's an exhibit, I don't need to know.

22 Now, does Turkey Mountain Estates, Incorporated,
23 own all of the land or did it own all of the land that was
24 subdivided into Turkey Mountain Estates No. 1 and Turkey
25 Mountain Estates No. 2?

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1 A Yes.

2 Q Who did they purchase that land from, in
3 Turkey Mountain Estates No. 1, to start with?

4 A It was purchased from Leland Mitten and myself.
5 Turkey Mountain No. 2--let's see. I believe there was--
6 I can think of two separate landowners in that. I'm not
7 sure. There may have been a third. But there was a Mr.
8 Plummer, and the other tract belonged to the Kidd Development
9 Company, I believe. And I don't really know who the
10 principals of that were.

11 Q But all the land in No. 1 came from you and
12 Leland Mitten, right?

13 A Yes. No. Wait a minute. I'm sorry.
14 There's one other tract. East 2nd Sub. was purchased from--
15 I can't tell you the name. It was a real estate agency,
16 and I really don't know the name of it.

17 Q Now, how far did you say Turkey Mountain
18 No. 1 was from Turkey Mountain No. 2 and these other two?

19 A It's approximately ten miles.

20 Q What about from Tomahawk and Lakeside?

21 A In regard to Turkey Mountain 1?

22 Q Turkey Mountain 1, yes.

23 A It would be something like 14 miles from
24 Turkey 1 to Tomahawk and Lakeside.

25 Q Now, you don't ever intend, of course, to

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1 interconnect these in any way, do you?

2 A There's no way. The lake is between them.

3 Q So these will be three systems run off three
4 wells, right?

5 A Yes.

6 Q Now, you've told us about the distance between
7 the two. What about the water systems themselves?

8 When I look at Turkey Mountain Estates No. 2,
9 I see that they have six-inch mains and four-inch mains
10 which is quite a bit different than No. 1, isn't it?

11 A Yes.

12 Q No. 1 just has four-inch mains which are their
13 largest mains?

14 A That's due primarily to the--I guess you'd
15 say the topographical area that it entails, the way it
16 was laid out. We felt that the four-inch mains were
17 adequate to handle the supply in demand.

18 Q Tell me again the difference in the depths
19 of the three different wells. Was one--

20 If we can just get a generality. Was one
21 about 750 and one about 550 and one about--

22 A Three something, I believe. They're all
23 drilled into the roubideaux sand formation.

24 Q Now, did you encounter--you said you encountered
25 some rock in TM No. 2 when you were putting these lines in

Missouri Public Service Commission

1 and had to move some lines and that sort of thing. Did you
2 have to do some blasting over there?

3 A Considerably.

4 Q Did you have to do any blasting over in
5 Turkey Mountain Estates No. 1?

6 A Yes.

7 Q About how many feet of line did you have to
8 blast, do you recall, in Turkey Mountain Estates No. 1?

9 A I don't really know.

10 Q Do you have any idea to your best recollection?

11 A It would be strictly a guess. I really don't
12 have that knowledge.

13 Q Do you have the bills from the blasting, or
14 did you do that yourself?

15 A We did it ourselves.

16 Q You did the blasting yourself?

17 A Yes.

18 Q Do you have any records indicating how much
19 blasting you had to do?

20 A No.

21 Q None at all?

22 A None other than just overall cost of powder
23 and caps and labor and that.

24 Q Now, how many lots do you have left to sell
25 in Turkey Mountain Estates No. 2 out of all these?

Missouri Public Service Commission

1 A That I can't truthfully answer because I
2 just really don't know.

3 Q Do you have any idea at all?

4 A I'd say approximately from 200 down.

5 Q You've got less than 200 left to sell?

6 A I believe that's right, but I'm not sure.

7 Q How many are in that plat, that exhibit you
8 gave us, this exhibit?

9 A They would all be in that exhibit.

10 Q Well, how many lots are there here?

11 A All told?

12 Q Yes.

13 A I believe there's approximately 1,600.

14 Q So your testimony is that of the 1,600 in
15 Turkey Mountain Estates No. 2, there's less than 200 left
16 to sell?

17 A I believe that's right.

18 Q How many were in Turkey Mountain Estates No. 1?

19 A Approximately 800, I believe, somewhere in that
20 vicinity.

21 Q And how many lots there are left to sell?

22 A Less than 50.

23 Q Less than 50 out of the 800 are left to sell?

24 A (Witness nodded head.)

25 Q Now, we heard your Counsel this morning talking

Missouri Public Service Commission

1 about how this all came about, how you got a letter from
2 the Public Service Commission telling you you might be a
3 public utility; is that correct?

4 A Yes.

5 Q And is his representation as to how it came
6 about essentially factual?

7 A Yes.

8 Q Now, according to him, you folks didn't have
9 any intention at all to become a utility?

10 A No, we weren't aware that we really should
11 comply with it.

12 Q You didn't look upon yourself as a utility
13 in any way, did you?

14 A Well, it was a not-for-profit deal. We weren't
15 trying to make any money on it.

16 Q You didn't have any intent and didn't ever
17 show a gain?

18 A No.

19 Q Now, when you sold these lots--and for all
20 practical purposes, you've got just about all of them sold
21 in Turkey Mountain No. 1--what was included in the price of
22 a lot?

23 A What was included in the price of a lot?

24 Q Yes.

25 MR. COWAN: Your Honor, I don't see the

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1 materiality of this. There's no claim made in a rate base
2 here for any investment in lines or anything else. As is
3 disclosed by Mr. Taylor's exhibit, the developers propose
4 to contribute their entire investment in lines, pumps, wells
5 and what have you. So it can't be involved in a rate case,
6 because we're not asking to earn on it.

7 MR. CHARLES B. FAIN: Well, the materiality of
8 this is that one of our contentions will be that the water
9 system was not only included in the price of the lots, but
10 that the water system itself, that our clients have an
11 equitable interest in the entire system and that they paid
12 for that and gave consideration for it.

13 And the intent of the parties was that this
14 is not a utility, and one of our assertions will be that
15 this is not a utility that comes under the jurisdiction
16 of the Public Service Commission. I think that the
17 relationship--

18 EXAMINER LORING: I'll overrule the objection
19 and let you go ahead.

20 BY MR. CHARLES B. FAIN:

21 Q The question was, I believe: Can you break
22 down the different things that the people paid for when
23 they bought these lots?

24 A Well, primarily,--

25 MR. COWAN: May I ask a qualifying question?

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1 Were these lots sold pursuant to a contract?

2 WITNESS NORMAN: Yes.

3 MR. COWAN: I would object to that question
4 until the contract is produced, because it's the best
5 evidence.

6 MR. CHARLES J. FAIN: Well, Your Honor, this
7 is cross-examination. This is not direct. We can ask
8 him anything about those contracts.

9 EXAMINER LORING: I'm going to overrule that
10 objection, too.

11 BY MR. CHARLES B. FAIN:

12 Q You can go ahead and answer the question.

13 A It included--I'm not a land salesman. I didn't
14 sell the land.

15 Q You did develop it, though?

16 A Yes.

17 Q Well, maybe I can simplify this for you.
18 Did it include the cost of those roads those people were
19 to drive on?

20 A Yes.

21 Q Did it include the cost of the survey to
22 survey this stuff out?

23 A Yes.

24 Q Did it include the cost of the water system?

25 A Yes.

Missouri Public Service Commission

1 Q So you recaptured all that cost when you
2 sold all these lots?

3 A In Turkey 1?

4 Q In Turkey Mountain No. 1.

5 A Turkey Mountain No. 1 and Lakeside. Not in
6 Turkey Mountain No. 2.

7 Q Turkey Mountain No. 1 is all I'm interested
8 in right now.

9 Now, also, in Turkey Mountain No. 1 you have
10 the little golf course?

11 A Yes.

12 Q And was that included in the sale of these
13 lots to the people?

14 A No. The golf course is a private entity.

15 Q They have to pay something extra to belong
16 to that?

17 A Yes.

18 Q What about the airstrip?

19 A We have never charged any rate or anything
20 for any use of it. It's been free to the public.

21 Q Now, you talked about when you sold these
22 lots how you furnished the water to Turkey Mountain Estates
23 No. 1 a minute ago. Do you remember that?

24 A Uh-huh.

25 Q Now, you testified that you charged a \$25 a

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1 year maintenance fee?

2 A Yes.

3 Q You didn't charge these folks anything at
4 all for the use of the water, did you?

5 A No. It was strictly for a maintenance fee.

6 Q So you didn't sell them any water? You didn't
7 sell them that service?

8 A No.

9 Q All you charged was the maintenance fee?

10 A That's right.

11 Q And that was per agreement with these landowners?

12 A Yes.

13 Q Which you said was common knowledge?

14 A (Witness nodded head.)

15 Q Now, you talked about the maintenance man
16 that's worked for you for seven years, right? What's that
17 fellow's name?

18 A Ed Standlee.

19 Q Ed Standlee?

20 A Uh-huh.

21 Q Now, just what do his duties entail right now?

22 Let me go to another question. Who does he
23 work for now?

24 A He's an employee of Turkey Mountain Estates.

25 Q Does he ever do any work over at Lakeside?

1 A At times they go over there and work, and
2 Lakeside reimburses Turkey Mountain for his time spent over
3 there.

4 Q And he works over at Tomahawk also?

5 A Yes.

6 Q Do they reimburse him also?

7 A Yes.

8 Q Just what do his duties entail as of today?

9 A Primarily keeping the systems functioning.

10 Q The water systems?

11 A Yes. And he has mowed road right-of-ways,
12 and just general all-around whatever comes up that has to be
13 done. Right now, he's in the process of this new line
14 that we're putting in. He's doing the right-of-way clearing.

15 Q Has he ever done any work on that golf course?

16 A He has at times swapped off with the man
17 on the golf course. When it was a two-man job and working
18 on a water line, they would trade work around.

19 Q Has he done the same thing with the airstrip
20 there?

21 A Yes.

22 Q And the roads when there had to be some work
23 on the roads?

24 A Uh-huh.

25 MR. CHARLES J. FAIN: Your Honor, may we have

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1 an affirmative reply?

2 EXAMINER LORING: Oh, was there not an audible
3 reply?

4 MR. CHARLES J. FAIN: I want to be sure that
5 the record shows what these answers are.

6 EXAMINER LORING: Yes. Sir, you'll have
7 to make an audible reply for the Reporter.

8 WITNESS NORMAN: Yes, if that's--

9 EXAMINER LORING: Thank you.

10 BY MR. CHARLES B. FAIN:

11 Q Now, tell me, this water system in Turkey
12 Mountain Estates No. 1, about what percentage of completion
13 is the system?

14 A Approximately 60, I believe, is the figure
15 that--

16 Q You say it's 60 percent complete?

17 A Yes.

18 Q How many lots are on here now that aren't
19 served by the water system?

20 A I would have no idea, sir.

21 Q It's certainly many more than the number of
22 50 which you said are the ones that aren't sold, isn't it?

23 A Yes.

24 Q Now, you previously testified that the cost
25 of the water system was part of the cost of the lot. The

1 lots that aren't being served by water now, those folks
2 have already paid for their water service too, haven't they?

3 A They paid for the lines that are on their--

4 Q And they've paid for their proportionate
5 share of the cost of the well and storage and everything
6 else?

7 A Uh-huh.

8 MR. CHARLES J. FAIN: Your Honor, may we have
9 an answer?

10 WITNESS NORMAN: I said, "uh-huh."

11 EXAMINER LORING: You'll have to say it a
12 little louder.

13 BY MR. CHARLES B. FAIN:

14 Q So what we're really getting down to is in Turkey
15 Mountain Estates No. 1, the well, storage facility,
16 all the trunk lines, all the service lines, all the connections,
17 and couplings and everything that goes with it have already
18 been paid for?

19 A Other than the saddle that the individual
20 pays for when they install a hookup.

21 Q The saddle at the point on their lot?

22 A Yes.

23 Q And in exchange for them paying that on their
24 lot, you all furnish water to them for nothing?

25 A That's the way we have done it, yes.

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1 Q So, once again, you don't sell any water
2 to them for a cost?

3 A No.

4 Q You just charge them this \$25 maintenance fee?

5 A At the present time we charge \$50.

6 Q Let's get into that. When did you first
7 start charging?

8 A When did we first start charging the \$25?

9 Q Yeah. Do you remember when the first bill was?

10 A No, I don't.

11 Q Do you know what year it was maybe? '67? Is
12 that too early?

13 A That would have been a little early. I would
14 say '69 or '70, somewhere along in there.

15 Q Do you recall how many years you charged those
16 folks \$25 a year?

17 A Up until last year.

18 Q Up until 1977?

19 A Yes.

20 Q So if it started in '70, that would be seven
21 years you charged them \$25 a year, right?

22 A Yes.

23 Q Did you charge these folks any tax on their
24 water?

25 A No.

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Q That's because you didn't sell it, right?
And that's because you are still not, right?

A Yes.

Q Now, you also were required as Mr. Duffy
said to file reports with HUD and probably with some other
federal agencies, weren't you?

A With HUD, yes.

Q Now, did you cover in the reports that you
filed in regard to Turkey Mountain Estates No. 1 that water
system?

A I think it was stated in the report that
at the present time the rate was \$25, if that's what you're
leading to.

Q That's in the report on Turkey Mountain
No. 1?

A Yes.

Q And you stated that water was available,
right?

A I believe it was.

Q And that there would be a \$25 maintenance
charge?

A Yes.

Q Did you also state in any reports to HUD
that the water system was adequate to serve all those lots
and would be adequate in the future?

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1 A I believe that was a question that was
2 answered affirmative.

3 MR. DUFFY: Can I inquire of Company's
4 Counsel if we could have a copy of this contract that we've
5 been talking about to HUD? Can we have a copy of the sample
6 land sale contract that's used?

7 MR. COWAN: I would assume one is available.
8 I have not seen it. I had nothing to do with it, but if we
9 can find it--

10 I haven't represented the Company except for
11 this one function, so Mr. Norman could answer the question
12 better than I could.

13 MR. DUFFY: I'd a whole lot rather see the
14 contract than try to figure out what it says from cross-
15 examination, if that's possible.

16 MR. COWAN: Well, that's the objection I made.
17 And if we can find the contracts--and I assume they're
18 available somewhere--I expect to offer it later as a late-
19 filed exhibit.

20 MR. DUFFY: I'd like to see one today if that's
21 possible.

22 MR. COWAN: We don't have one here I'm told.

23 EXAMINER LORING: Let's go off the record
24 a minute. Why don't we take a recess, 10 to 15 minutes,
25 to give you a chance to digest that.

1 WHEREUPON, a recess was taken.
2
3

4 PURSUANT to a recess, the hearing of this
5 case was resumed, and the following proceedings were had:
6

7 WITNESS JIMMIE NORMAN RESUMED THE STAND.

8 EXAMINER LORING: Back on the record.

9 CROSS-EXAMINATION (CONTINUED) BY MR. CHARLES B. FAIN:

10 Q Mr. Norman, now, we've talked about an
11 arrangement for the payment of a maintenance fee on the water
12 system in Turkey Mountain Estates No. 1; is that correct?

13 A Yes.

14 Q Did you have the same exact type of arrangement
15 in Turkey Mountain Estates No. 2?

16 A No, we did not.

17 Q It was quite a bit different?

18 A Yes.

19 Q So any agreements or arrangements you had
20 over in Turkey Mountain Estates No. 2 would not necessarily
21 reflect any agreements, arrangements, or contracts you had
22 in Turkey Mountain Estates No. 1?

23 A That would be right.

24 MR. CHARLES B. FAIN: I don't have any
25 further questions at this time.

EXAMINER LORING: Any redirect for Mr. Norman?

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1 MR. COWAN: Not at this time. I would like
2 to reserve the opportunity to recall him if I should deem
3 it necessary to fill in Mr. Taylor's testimony. But there
4 is no point repeating two witnesses. I'm not real sure that
5 Mr. Norman knows some of these things. I think Mr. Taylor
6 does.

7 EXAMINER LORING: Mr. Norman, you're excused,
8 sir.

9 MR. DUFFY: Mr. Examiner, could I ask a couple
10 other questions?

11 EXAMINER LORING: Okay.

12 FURTHER CROSS-EXAMINATION BY MR. DUFFY:

13 Q Mr. Norman, we've talked about several
14 corporations today, developers corporations and Ozark Mountain
15 Water Company. Do you know the difference between a general
16 business corporation and a not-for-profit corporation?

17 A Vaguely I know the difference.

18 Q Are any of these corporations we've talked
19 about today a not-for-profit corporation?

20 A No.

21 Q They're all general business corporations?

22 A Yes.

23 Q Who is presently operating the water systems
24 in all of these areas?

25 A They're being operated primarily by the

1 developments as such. In other words, Turkey Mountain
2 Estates operates Turkey Mountain Estates No. 1. And in
3 Turkey Mountain No. 2, we have just an account set up which
4 we call Sam's Waterworks which collects the fee. And they,
5 in turn, reimburse money back to Turkey Mountain Estates
6 as the money comes in.

7 We charge a \$200 hookup fee plus the saddle
8 in Turkey Mountain 2 to pay for the line.

9 EXAMINER LORING: Excuse me. What was the
10 name of that?

11 WITNESS NORMAN: Sam's Waterworks.

12 BY MR. DUFFY:

13 Q I take it that's not a corporation?

14 A It's not a corporation.

15 Q What I'm going after is: Are these corporations
16 that were formed by the developers operating the water system
17 as opposed to any kind of a homeowner's association operating
18 the water systems?

19 A Restate the question.

20 Q Are the homeowner's associations operating
21 the water systems?

22 A No, they are not.

23 Q Do they have any say in the water systems
24 whatsoever, in the operation of them?

25 A I would say not, no.

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Q Do the different developer corporations, Turkey Mountain Estates and Lakeside and Tomahawk, are these the corporations that are operating the water systems?

A Yes, at the present time.

Q Even though they may have some kind of a subsidiary entity called Sam's Waterworks that is an intermediary in there?

A It's strictly a way to keep the accounts straight.

Q And the residents of these areas are paying a charge for having water available to them, right?

A That's right.

Q And that was originally a \$25 charge, and now a \$50 charge?

A Yes, on two of them. The other one is still \$25.

MR. DUFFY: That's all the questions I have.

MR. CHARLES B. FAIN: Your Honor, I have a couple more that were brought up in light of the Staff's recross.

EXAMINER LORING: Okay.

FURTHER CROSS-EXAMINATION BY MR. CHARLES B. FAIN:

Q Mr. Duffy asked you if they were paying a fee for the water. As I recall, you testified that those folks weren't paying a penny for the water service, just for

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1 maintenance; isn't that correct, in Turkey Mountain
2 Estates No. 1?

3 A Yes, I think that's what I said.

4 Q So they're not paying for the gallons of
5 water?

6 A They're paying a maintenance fee.

7 Q Just on the lines and the pump?

8 A Yes.

9 MR. CHARLES B. FAIN: Nothing further.

10 EXAMINER LORING: I have just one question.

11 QUESTIONS BY EXAMINER LORING:

12 Q Mr. Norman, Exhibit No. 3, the Lakeside
13 Heights, all down on this lower left corner, are those
14 camper lots, those narrow lots?

15 I noticed on Lakeside Heights and over on
16 Turkey Mountain No. 2 you have some very narrow lots in
17 certain sections.

18 A Those were some advertising lots that we
19 set up in our advertising campaign.

20 Q Are they house lots?

21 A To meet the restrictions of the development,
22 there couldn't be a house built on them.

23 Q Are they suitable for campers?

24 A Yes.

25 Q There's no restrictions--

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1 A Twenty-five feet wide is what they are.

2 Q I noticed the proposed--I believe it's a
3 four-inch line there would provide possibility of water
4 service to some of those lots, but not all?

5 A You're in Lakeside and Tomahawk. Yes, it
6 would on that--those lots were sold without water rights.
7 They're essentially put in there to tie the line together
8 is the reason for it proposed in there that way.

9 EXAMINER LORING: That's all I have.

10 MR. COWAN: Now may I ask Mr. Norman a question?

11 EXAMINER LORING: Yes.

12 REDIRECT EXAMINATION BY MR. COWAN:

13 Q Mr. Norman, I believe you testified earlier
14 that statements of some sort are sent to the users of the
15 water on an annual basis?

16 A Yes.

17 Q And how are those statements worded?

18 A The water maintenance fee, I believe.

19 Q Water maintenance fee, is that what they're
20 called?

21 A Yes.

22 MR. COWAN: That's all for the moment.

23 EXAMINER LORING: Thank you, Mr. Norman.

24 (Witness excused.)
25

1 EXAMINER LORING: You may call your next
2 witness.

3 MR. COWAN: Mr. Taylor, please.

4 R O G E R H. T A Y L O R, called as a
5 witness in behalf of the APPLICANTS,
6 being duly sworn, testified as follows:

7 DIRECT EXAMINATION BY MR. COWAN:

8 Q State your name, please.

9 A Roger H. Taylor.

10 Q Where do you live, Mr. Taylor?

11 A Springfield, Missouri.

12 Q What is your business?

13 A Certified Public Accountant.

14 Q Did you study accounting in college?

15 A I did.

16 Q And from what school are you graduated?

17 A Missouri University.

18 Q And have you been a Certified Public Accountant
19 for some time?

20 A Yes, sir.

21 Q When were you admitted as a Certified Public
22 Accountant?

23 MR. CHARLES J. FAIN: We'll admit to Mr. Taylor's
24 qualifications as a Certified Public Accountant in the
25 State of Missouri.

1 BY MR. COWAN:
2

3 Q Mr. Taylor, as a Certified Public Accountant,
4 have you represented Turkey Mountain Estates and the other
5 corporations about which you have heard about today for some
6 time?

7 A Yes, sir.

8 Q Did you represent them when the corporations
9 were originally organized?

10 A Yes, sir.

11 Q And you've represented them continuously up to
12 this date?

13 A Yes.

14 Q I think just one further comment on your
15 qualifications. You've been active in the practice of
16 public accountancy for a long time?

17 A Yes, sir.

18 MR. COWAN: I'll ask the Reporter, Your
19 Honor, if I may, please, to mark a document composed of
20 three sheets. It's headed "Balance Sheet, November 31, 1977."
21 The second sheet is "Depreciation Schedule." The third
22 sheet is a "Pro Forma Profit and Loss Statement For a
23 Calendar Year."

24 I believe the next number is 17. I ask that
25 it be marked, the three sheets, as Applicant's Exhibit 17.

EXAMINER LORING: That will be marked

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1 Applicant's Exhibit 17 for identification.

2 (AT THIS TIME APPLICANT'S EXHIBIT NO. 17 WAS
3 MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)
4 BY MR. COWAN:

5 Q Mr. Taylor, you have before you a document
6 composed of three sheets which have heretofore been marked
7 for identification as Applicant's Exhibit 17. It's headed
8 "Balance Sheet, November 31, 1977," with ensuing sheets
9 on other subjects.

10 Was this prepared by you and under your
11 direction and supervision?

12 A Yes, sir.

13 Q Would you explain the premises and
14 assumptions that you made--let's start with the Balance
15 Sheet--in preparing this instrument?

16 A We went back through the year 1970 and took
17 the invoices and the cancelled checks that each of these
18 companies had expended on the waterworks.

19 Q Now, where are those figures reflected, Mr.
20 Taylor?

21 A They're reflected on the balance sheet in
22 wells, water lines, pumps, tanks, generator, well houses,
23 and the land.

24 Q You came up with a total of \$238,249.

25 A And 28 cents, right.

1 Q Now, continue with the next column, please.

2 A The next column?

3 Q Yes.

4 A Well, the next column represents a 50 percent
5 reserve for depreciation of \$118,624.64. This left a net
6 cost to be recovered of the same amount, \$119,624.64. This
7 left us total assets of \$149,624.64.

8 Q Now, if I understand this correctly, you went
9 back to the original invoices and determined the original
10 cost of the property used to distribute water to be the
11 \$238,249.28?

12 A That's right.

13 Q And after depreciation is taken into
14 consideration, you come up with a net value of \$119,624.64?

15 A Right.

16 Q And that results in the total assets of the
17 Company being what on a pro forma basis?

18 A With the capital which was to be purchased or
19 contributed of \$30,000 in cash, then \$119,624.64, it would
20 give you the \$149,624.64.

21 Q So based on your study, this company, if it
22 were to become active as of about this time, would have
23 total assets in the range of \$150,000?

24 A Right.

25 Q Now, what happens to those assets when we look

1 at the liability side of the balance sheet?

2 A They contributed the \$119,624.64, their
3 remaining cost to capital surplus. In other words, they
4 donated it to the Company.

5 Q And what is the \$30,000 for?

6 A The \$30,000 is for the cash that they will pay
7 for their common stock which will be used for operating the
8 company.

9 Q Now, we have companion applications in this
10 case being heard at the same time where Turkey Mountain
11 Estates and Lakeside Investment Company seek authority to
12 hold more than ten percent of the common stock issued and
13 outstanding of this company assuming \$30,000 is issued.

14 Did you help or were you responsible for
15 developing the proportion each one of these companies would
16 receive or would be able to buy?

17 A I did.

18 Q Would you explain how that calculation was
19 made and how this determination was made?

20 A It is from this sheet going back over the
21 seven years taking the cancelled checks and the invoices which
22 each company expended.

23 Turkey Mountain Estates for wells spent
24 \$15,486.01; water lines, \$133,298.29; pumps, \$2,914.40 (sic -
25 pumps, \$22,097.85; tanks, \$2,914.40); well houses, \$917.40;
land, \$500.

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1 Lakeside Investment Company expended for
2 wells \$811.40; water lines, \$44,561.59; pumps, \$3,747.80;
3 tanks, \$324.45; generator, \$1,168.00; well house, \$1,021.23;
4 land, \$500.00.

5 Then they received a refund from Central
6 Crossing of \$1,080.81 which we subtracted from that which
7 gave them a total cost contributed of \$51,553.66.

8 MR. DUFFY: Mr. Examiner, would it be
9 possible to get a copy of this? It's kind of hard to follow
10 just listening to him read it off.

11 EXAMINER LORING: Let's go off the record.

12 (Discussion off the record.)

13 EXAMINER LORING: Back on the record.

14 MR. COWAN: Ms. Reporter, could you help
15 Mr. Taylor by telling him where he was when we went off the
16 record.

17 THE REPORTER: "Then they received a refund
18 from Central Crossing of \$1,080.81 which we subtracted
19 from that which gave them a total cost contributed of
20 \$51,553.66."

21 BY MR. COWAN:

22 Q Go from there, Mr. Taylor, please.

23 A The costs contributed by Tomahawk Developers,
24 Inc., were water lines, \$8,276.00; a well house, \$150.00;
25 no land. Total costs contributed, \$8,426.00 or four percent.

1 Costs contributed by Central Crossing
2 Developers, Inc., were: Wells, \$740.20; water lines,
3 \$1,410.21; tanks, \$324.45; no land. They paid Lakeside on
4 a well--that's a part of it--\$1,080.81, making the total
5 they contributed \$3,555.67 or one percent.

6 So the 74, the percent which Turkey Mountain
7 contributed; Lakeside contributing 21 percent; Tomahawk,
8 four percent; Central Crossing, one percent; made the total
9 of 100 percent or \$238,249.28.

10 Q Now, going from there, Mr. Taylor, did the
11 management of the companies including the water company
12 make a judgment that it would need about \$30,000 in working
13 capital, that the water company would?

14 A Yes, sir.

15 Q And each developer agreed to contribute
16 through the purchase of stock its proportionate part of
17 that \$30,000?

18 A Yes, sir.

19 Q And that's what's reflected, of course, by
20 this sum shown here of \$22,200, \$6,300, \$1,200, and \$300
21 there on the liability side or the capital account of the
22 pro forma balance sheet?

23 A Yes, sir.

24 Q Is there anything else on the balance sheet
25 that you think--

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1 A No, sir. That's all, sir.

2 Q Did you make an assumption that depreciation
3 expense might be a proper item of expense and made a
4 calculation of it?

5 A I did.

6 Q And where is that shown?

7 A That's shown on the second sheet, "Depreciation
8 Schedule for a Calendar Year." That shows the original cost,
9 prior depreciation and amortization, the remaining cost,
10 the estimated life I used, and the current depreciation of
11 \$3,473.92.

12 Q As far as this case is concerned, we're not
13 particularly debating that point one way or the other,
14 but that's what it calculates out to?

15 A Yes, sir.

16 Q What does the third sheet show?

17 A The third sheet is a pro forma profit and
18 loss statement for a calendar year.

19 Q Before you get into your explanation, would
20 you give us the premises or the assumptions you used insofar
21 as revenue is concerned?

22 A Well, I used the revenue--I worked my
23 expenses first; then used my revenue so as to show a little
24 profit.

25 Q Go ahead and continue with your explanation.

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1 A On the operation and maintenance expenses,
2 the plant operation and maintenance, the salary of the
3 overseer at that time which was November of 1977 was
4 \$7,200. The payroll taxes on that \$7,200 is \$716.40.

5 The fuel and the power for the pumping of
6 electricity, that was taken from the three companies'
7 actual records. The supplies of \$300 a year is estimated.
8 The repairs of the water plant, I talked to Mr. Norman and
9 obtained my information from him over his past experience
10 which he stated that he believed that \$1,500 at that time
11 would be sufficient for the repairs of the water plant.

12 The transportation expenses, the pickup
13 depreciation, that's based on \$1,000 a year for five years
14 which would be \$5,000 plus \$1,000 for salvage. We're talking
15 about a four-wheel drive. It's about \$6,000. So that is
16 very conservative, \$1,000 a year depreciation. The gas,
17 oil, and tires, \$800 is what it will take to operate
18 conservatively that truck for one year, making a total of
19 \$1,800.

20 The depreciation we have gone over and
21 explained of \$3,473.92. That made a total plant operating
22 and maintenance expense of \$19,070.32.

23 Then general expenses. There's six directors
24 and this is based on paying these directors \$25 a month
25 which would be \$150 a month times 12 months which would be
 \$1,800.

1 We'd have to have a bookkeeper, and that's
2 based upon \$75 a month, to send out the statements, keep
3 the books, make all reports, write all letters, and so forth.

4 The office supplies and postage is based on
5 \$40 a month. The office supplies is \$300. That's an
6 estimated figure for pencils and stationery and the envelopes
7 and everything of that type.

8 The insurance-general is estimated it will
9 cost \$600; and the workman's compensation on that one man is
10 \$360, making a total of \$960.

11 The property taxes will be \$500 a year or more.
12 Miscellaneous general expense, we estimated that for
13 unforeseen things of \$40 a month or a total of \$480.

14 I talked to Mr. Norman, and we do have
15 uncollectibles. And we estimated that at \$576.

16 The professional fees of \$1,600 is for an
17 attorney and a Certified Public Accountant. That's a total
18 of \$7,596.

19 I then found out that we had 186 customers.
20 I wanted to break even, so I multiplied that times \$12 a
21 month which gave us a revenue of \$26,784. Subtracting our
22 expenses from our general revenue left us a net profit of
23 \$117.68.

24 Q With reference to Sheet 3 of Exhibit 17,
25 have you completed your explanation of it?

1 A Yes, sir.

2 Q Mr. Taylor, have you as of a very recent
3 date revised your income statement?

4 A I have.

5 MR. COWAN: I'd like to have marked for
6 identification a document headed "Ozark Mountain Water
7 Company, Amended Pro Forma Profit and Loss Statement for
8 a Calendar Year based on information as of August 23, 1978,"
9 marked as Applicant's Exhibit 18.

10 EXAMINER LORING: It will be so marked for
11 identification.

12 (AT THIS TIME APPLICANT'S EXHIBIT NO. 18 WAS
13 MARKED BY THE REPORTER FOR THE PURPOSE OF IDENTIFICATION.)
14 BY MR. COWAN:

15 Q Now, Mr. Taylor, just prior to coming to
16 testify in this proceeding, were you asked to bring to date
17 the pro forma income statement that you just described to
18 reflect more current conditions as you understand them to
19 exist?

20 A Yes, sir, I did.

21 Q You have before you a document marked for
22 identification as Applicant's Exhibit 18. Is that a
23 revised income statement for this proposed company, Ozark
24 Mountain Water Company?

25 A I did this as of August 23, 1978.

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1 Q You're referring to Applicant's Exhibit 18.
2 Would you go ahead with your explanation of it?

3 A Again, I worked my expenses first. I talked
4 to Mr. Norman, and the maintenance man's salary as of today
5 is \$8,400. So I added ten percent to that \$8,400 which
6 made \$840 more which would raise this man's salary to
7 \$9,240. Now, the ten percent which I added to his actual
8 salary is for an increase in salary for 1979 and 1980.

9 The payroll taxes on it, of course, are ten
10 percent. That would be \$924.

11 The fuel and the power for pumping electricity
12 has gone up, and I increased that ten percent.

13 The supplies, I used \$600. I doubled that.
14 Repairs to water plant, \$1,800. Transportation expenses,
15 I left the depreciation the same, but I raised the gas and
16 oil and tires and repairs on that truck \$200, raising it
17 to \$1,000, making a total of \$2,000.

18 I left the depreciation the same, making a
19 total of \$22,517.92 of operating and maintenance expense.

20 I went to general expenses and directors'
21 fees I left the same, \$1,800, \$25 a month for six directors
22 each.

23 The bookkeeper, I had received additional
24 information indirectly and directly saying that the bookkeeper
25 is going to have a much bigger job if the Public Service