

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
3 TRANSCRIPT OF PROCEEDINGS
4

5 IN THE MATTER OF THE APPLICATION OF)
CENTRAL JEFFERSON COUNTY UTILITIES,)
6 INC., FOR AN ORDER AUTHORIZING THE)
TRANSFER AND ASSIGNMENT OF CERTAIN) Case No.:
7 WATER AND SEWER ASSETS TO JEFFERSON) SO-2007-0071,
COUNTY PUBLIC SEWER DISTRICT AND) et al.
8 IN CONNECTION THEREWITH, CERTAIN)
OTHER RELATED TRANSACTIONS.)

9
10 PUBLIC HEARING
HILLSBORO, MISSOURI
11 VOLUME 2
TAKEN NOVEMBER 6, 2006
12 REPORTED BY: SUSANNAH WALMSLEY, CCR, CSR, RPR
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12 OTHER RELATED TRANSACTIONS.)

13 PUBLIC HEARING in HILLSBORO, MISSOURI taken on
14 the 6th day of NOVEMBER, 2006 between the hours of six
15 in the afternoon and ten in the afternoon of that day
16 at the location of JEFFERSON COLLEGE, 1000 Viking
17 Drive, Arts and Science Building I, Little Theatre, in
18 the City of Hillsboro, State of Missouri, before
19 Susannah L. Walmsley, a Registered Professional
20 Reporter, CSR and Notary Public, within and for the
21 State of Missouri, in a certain matter now pending
22 before the PUBLIC SERVICE COMMISSION of the STATE OF
23 MISSOURI in the Matter of the Application of Central
24 Jefferson County Utilities, Inc., for an Order
25 Authorizing the Transfer and Assignment of Certain
26 Water and Sewer Assets to Jefferson County Public
27 Sewer District and in Connection Therewith, Certain
28 Other Related Transactions.

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1 P R O C E E D I N G S

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3 JUDGE STEARLEY: May I have your attention
4 please?

5 Good evening. As you all know, it's
6 Monday, November 6, 2006. The Missouri Public Service
7 Commission has set this time for a local hearing, Case
8 Number SO-2007-0071 in which Central Jefferson County
9 Utilities, Incorporated seeks authority to sell its
10 water and sewer assets to the Jefferson County Public
11 Sewer District.

12 I am Harold Stearley. I am the Regulatory
13 Law Judge that is going to preside over tonight's
14 hearing. With me tonight are Chairman Jeff Davis and
15 Commissioner Connie Murray.

16 Our other three commissioners could not be
17 here tonight, but they will be reviewing the
18 transcripts and videotaping thoroughly on this as we
19 consider the case.

20 This is an official hearing. The
21 statements and testimony of the witnesses are going to
22 be recorded by our court reporter. Our court reporter
23 tonight is Susannah Walmsley.

24 Your statements will be taken under oath.
25 And the purpose of course is to hear from you all

1 tonight regarding the subject of this proposed sale.

2 I will call the names of each witness down
3 our witness list here in the order in which you all
4 signed it. I will try not to butcher any of your
5 names too badly, but if I do I hope you will correct
6 me when you get to the podium. And we will ask you to
7 spell your name so our court reporter has an accurate
8 record and state your address and then take your
9 testimony.

10 I may ask you a couple of preliminary
11 questions after I swear you in. And when you are done
12 making your comments the Commissioners may have
13 questions for you, the attorneys present tonight may
14 have some questions for you so when you are through
15 making your statements, please don't leave the podium
16 until we excuse you.

17 Does anyone have any questions about the
18 procedures we are going to follow?

19 We'll begin our public hearing on Case
20 Number SO-2007-0071 in the matter of the Application
21 of Central Jefferson County Utilities, Incorporated
22 for an Order Authorizing the Transfer and Assignment
23 of Certain Water and Sewer Assets to Jefferson County
24 Public Sewer District and in Connection Therewith,
25 Certain Other Related Transactions.

1 We'll begin by taking entries of
2 appearance from counsel beginning with Central
3 Jefferson County Utilities.

4 MR. ENGLAND: Judge, thank you. Let the
5 record reflect the attorneys W.R. England and Dana
6 Hockensmith on behalf of Central Jefferson County
7 Utilities.

8 JUDGE STEARLEY: Thank you, Mr. England.
9 Jefferson County Public Sewer District?

10 Let the record reflect we have no one
11 present for Jefferson County Public Sewer District.

12 The Raintree Plantation Property Owners
13 Association?

14 MR. SCHNAARE: I'm Stan Schnaare, local
15 counsel for the association.

16 JUDGE STEARLEY: Could you state your
17 address for us please, Mr. Schnaare?

18 MR. SCHNAARE: 321 Main Street, Hillsboro,
19 Missouri 63050.

20 JUDGE STEARLEY: Thank you very much.

21 Could you spell your last name for our
22 court reporter, please?

23 MR. SCHNAARE: S-C-H-N-A-A-R-E. You might
24 see it on a few signs around here.

25 JUDGE STEARLEY: The Missouri Department of

1 Natural Resources?

2 MR. DICKERSON: Paul Dickerson with the
3 Department of Natural Resources Water Protection
4 Program. And it's P-A-U-L D-I-C-K-E-R-S-O-N.

5 JUDGE STEARLEY: Thank you.

6 Staff of the Missouri Public Service
7 Commission?

8 MR. KRUEGER: Keith R. Krueger for the
9 staff of the Missouri Public Service Commission. My
10 address is P.O. Box 360, Jefferson City, Missouri
11 65102.

12 MR. MILLS: And the Office of Public
13 Counsel?

14 MR. MILLS: On behalf of the Office of the
15 Public Counsel my name is Lewis Mills. With me
16 tonight also is Christina Baker.

17 JUDGE STEARLEY: Thank you, Mr. Mills.

18 All right. We'll call the first witness.

19 I have John Kolisch. Did I get that right?

20 MR. KOLISCH: You got it right.

21 JUDGE STEARLEY: Mr. Kolisch, do you
22 solemnly swear or affirm that the testimony you are
23 about to give will be the truth, the whole truth and
24 nothing but the truth?

25 MR. KOLISCH: I do.

1 JUDGE STEARLEY: And, Mr. Kolisch, are you
2 a property owner in Raintree?

3 MR. KOLISCH: I am a property owner as
4 well as I have interests in the Jefferson Utility
5 Company itself.

6 JUDGE STEARLEY: And are you a homeowner as
7 well?

8 MR. KOLISCH: Yes, I am.

9 JUDGE STEARLEY: All right. You may
10 proceed.

11 Please spell your name.

12 MR. KOLISCH: K-O-L-I-S-C-H.

13 In 1990 I proposed to build a commercial
14 building on Highway B which is adjacent to Raintree
15 just outside the gate. To do that I had to secure
16 sewer and water for the building. I was mandated to
17 get that from Central Jefferson County Utilities. And
18 to do that I had to have installed and paid for nine
19 sewer connections in Raintree and twelve water
20 connections in Raintree.

21 And as I read this evening, I had gotten a
22 copy of the agreement, proposed agreement to transfer
23 the company, I noticed in there I'm not included, but
24 the hook-on fees that I have right to for those, a
25 total of 16 different hook-ons, comes to \$34,645.95.

1 And as to date I've collected on the hook-on fees
2 \$5,207.94.

3 So my contention is before the sewer and
4 water company be transferred I believe I should be
5 reimbursed for the balance of what I invested. And to
6 that point I have some copies, if I may, I have a copy
7 here for you for the order from the Public Service
8 Commission dated September 18, 1990 ordering the
9 Jefferson County Utility Company to allow me to hook
10 on as long as I paid for those sewer and water and
11 manholes which I did.

12 And also along with that is a copy dated
13 as late as March 10th, 1999. It's a letter that was
14 sent to the Central Jefferson County Utility Company
15 from the Public Service Commission telling them
16 exactly what the hook-on fees would be for each water
17 and sewer hook-on and those fees were set by the
18 Public Service Commission. And a sewer hook-on is
19 \$2,783.11. Water hook-on is \$799.83. So the average
20 household if they hook sewer and water both would be
21 \$3,582.94.

22 As late as May of 2004 I received the first
23 household hook-on. And the check that I had gotten
24 went through Central Jefferson Utility Company and it
25 was for \$3,582.94. When Raintree Plantation Building

1 wanted to hook a sewer system into the lines that I
2 have hook-on fees rights to they paid only \$1,625 for
3 the hook-on of the sewer. And the order clearly
4 states it should have been \$2,783.11.

5 So I'm here tonight to make mention to you
6 that I believe I should be reimbursed before the
7 company is turned over or sold simply because I have
8 legal rights to those hook-ons to sewer and water.
9 And if I may approach I will give you a copy of that.

10 JUDGE STEARLEY: You certainly may.

11 MR. KOLISCH: The back page is the cost.
12 That's basically what I'm here for with one other
13 exception.

14 The sewer lines that went to my commercial
15 building which is ten office spaces, I paid for those
16 myself and that had been deducted before this figure
17 was figured. Now the sewer lines that go, the last
18 manhole that I have that comes onto the property at
19 the property line of Raintree property and my
20 commercial property, there is approximately 167 feet
21 of line goes to another manhole, turns and then goes
22 to the building. Where it goes into the building that
23 manhole had been broken by a truck driving over it.

24 The rules and regulations from the Public
25 Service Commission deemed that the Jefferson County

1 Utility Company was to maintain those lines. That was
2 part of dedicating the lines to them. They had no
3 money to repair the lines. They still have not been
4 repaired properly.

5 So I'm going to ask as well the lines that
6 are on my property when they leave that first manhole
7 going the length up to the building that the new
8 company, whoever it's going to be, would have to
9 assume the maintenance of that line until it gets to
10 where the building hooks on.

11 That's basically what I have unless you
12 have a question, sir.

13 JUDGE STEARLEY: All right. Mr. Chairman?

14 CHAIRMAN DAVIS: Mr. Kolisch, now did you
15 say that you are one of the owners of Central
16 Jefferson County?

17 MR. KOLISCH: No, sir, I did not. I said
18 I have interest in it. The reason I say that, sir,
19 the way this is worded in the agreement that my sewer
20 lines and manholes that I have rights for the hook-on
21 fees would be turned over to the new company and I'm
22 not mentioned there that they would have to pay the
23 hook-on fees when homes are built. There is nothing
24 there to protect my interest at all in the new
25 agreement.

1 CHAIRMAN DAVIS: Okay. So you are saying
2 that you should either be reimbursed up front for
3 whatever it is, the \$3,500, \$3,582.94 for water and
4 sewer for every lot?

5 MR. KOLISCH: No, sir. I wouldn't word it
6 that way because some of the water lines do not have
7 sewer hookups. What I need reimbursement for is nine
8 sewer hookups and twelve water hookups. The amount of
9 money is \$29,438.

10 CHAIRMAN DAVIS: And nothing has been built
11 on those lots; correct?

12 MR. KOLISCH: There's nothing on those
13 lots. There has been a home built on another lot that
14 was part of this package, but that was paid for, so
15 I'm owed nothing for that.

16 CHAIRMAN DAVIS: Now what about the alleged
17 partial payment? The one that Raintree Properties --

18 MR. KOLISCH: For a Raintree Properties
19 owner's building, quite frankly, sir, if they had
20 asked they could have had it for free. We had -- the
21 Public Service Commission got involved because they
22 tapped into the line without permission. And when I
23 approached them Martin Toma, who at that time was the
24 president of the water company, he told me, too damn
25 bad you're not going to get any money for it. And I

1 got mad. And I was paid \$1,625 and was told there
2 were expenses involved. And I thought, well, it's
3 better than nothing. But quite frankly, they could
4 have gotten it for free. All they had to do was ask.

5 CHAIRMAN DAVIS: Now are the owners of
6 Raintree Properties the same people that own Central
7 Jefferson County Utility.

8 MR. KOLISCH: Central Jefferson County
9 Utility is owned by Raintree Incorporated.

10 CHAIRMAN DAVIS: Right.

11 MR. KOLISCH: It's not the same as the
12 people that own the property in Raintree. That was
13 the developer. They since have been distanced from
14 the actual properties.

15 My contention is that I believe that the
16 current utility company should have to satisfy me
17 before they are allowed to transfer their company over
18 to the county only because they are transferring it
19 over with no assets. So if it's allowed to be
20 transferred in that manner I'm going to lose the money
21 that I've invested since 1990 and which I have it
22 documented in many ways.

23 CHAIRMAN DAVIS: Or would it be acceptable
24 to you that if the people -- if it was worded in the
25 stip and agreement that people who subsequently build

1 on those lots have to reimburse you that amount, what
2 is your position on that?

3 MR. KOLISCH: It was worded that way with
4 Central Jefferson County Utility. I have no contract
5 with the new owners. And it's going to be apparently
6 the county is going to take it if that's the case.

7 CHAIRMAN DAVIS: Right, County Sewer
8 District.

9 MR. KOLISCH: No, I believe I should be
10 satisfied through the company I made the agreement
11 with and end it. Because I can foresee that I'm going
12 to have problems if we don't tackle this thing before
13 it's transferred.

14 CHAIRMAN DAVIS: So what you are asking is
15 that the owners of Central Jefferson County Utilities,
16 Incorporated just make you whole for the monies you've
17 expended?

18 MR. KOLISCH: Yes, that's right. I'm not
19 asking for interest or anything, just what I actually
20 put in it that they agreed they would pay me back when
21 it was hooked on. Now they are selling the company so
22 that let's them out of the agreement they made with
23 me. Not selling it, just transferring it up for no
24 assets at all.

25 CHAIRMAN DAVIS: Thank you, Mr. Kolisch.

1 MR. KOLISCH: Thank you.

2 JUDGE STEARLEY: Commissioner Murray, any
3 questions?

4 COMMISSIONER MURRAY: I don't have any
5 questions. Thank you.

6 JUDGE STEARLEY: Any questions from the
7 attorneys?

8 Thank you, Mr. Kolisch. You may be
9 excused.

10 MR. KOLISCH: Thank you.

11 JUDGE STEARLEY: We'll call Fred Rommel.

12 Mr. Rommel, do you solemnly swear or
13 affirm that the testimony you are about to give is the
14 truth, the whole truth and nothing but the truth?

15 MR. ROMMEL: I do.

16 JUDGE STEARLEY: Would you please spell
17 your name and give your address for the court
18 reporter?

19 MR. ROMMEL: My name is Fred Rommel,
20 R-O-M-M-E-L. I live at 33 Jerries Point in Hillsboro
21 in the Raintree Subdivision.

22 JUDGE STEARLEY: So you are both property
23 owner and homeowner?

24 MR. ROMMEL: Yes.

25 JUDGE STEARLEY: You may proceed.

1 MR. ROMMEL: My name is Fred Rommel and
2 I'm an elected board member of the Raintree
3 Subdivision. As a co-chair on the Sewer and Water
4 Committee it's my responsibility to help provide a
5 consensus of opinion for the community in regard to
6 various issues.

7 In regard to the transfer of assets the
8 community is pleased to see that EMC has recently
9 begun managing the treatment plant. We look forward
10 to seeing improved general maintenance.

11 There is some apprehension in regards to
12 not knowing what the new rates will be once the
13 transfer of assets is completed, EMC is fully
14 functioning and the expansion has been completed.

15 The current homeowners are concerned with
16 general maintenance and rates. The property owners
17 waiting to build are concerned with the time line of
18 the expansion that will allow them to build. In
19 either case, all parties are eager to put these issues
20 behind us so that we can grow our community.

21 In regard to the over earnings, a recent
22 audit published leads the POA to believe that there is
23 a basis for an over earnings case. The current
24 homeowners are concerned with the monies that have
25 been collected and not only in the audit year of 2005,

1 but 2006 as well and not spent to the benefit of the
2 community.

3 The lot owners waiting to build are
4 concerned with the hookup fees and how the money is
5 used since not all of the infrastructure has been
6 completed.

7 Currently the people of the community are
8 reluctant to drop this case because there is no
9 perceived benefit to them to stop pursuing it other
10 than they feel that they are being held hostage in the
11 transfer of assets case. That's it.

12 JUDGE STEARLEY: Commissioner Murray?

13 COMMISSIONER MURRAY: Yes. Thank you.
14 What are the rates that you are currently paying?

15 MR. ROMMEL: My wife pays them. Okay, I
16 lied. I pay them. I don't remember.

17 (Group of people say about \$25, \$35)

18 MR. ROMMEL: Anything else?

19 CHAIRMAN DAVIS: Okay. Mr. Rommel, how
20 long have you lived -- you live in Raintree Estates.

21 MR. ROMMEL: I've been there two years, two
22 years ago in May. I made it in right underneath the
23 wire. A lot of the property owners here that bought
24 property in August of the same year I did did not make
25 it in in time.

1 CHAIRMAN DAVIS: And by making it in in
2 time you are saying that you got hooked up in time to
3 have water and sewer that these other people bought
4 lots and then found out that they couldn't build
5 because there was no more capacity for water and
6 sewer?

7 MR. ROMMEL: Correct. There was nothing,
8 nothing said to me when I bought my lot or when I
9 built my house. Nobody ever told me that I was going
10 to get in just under the wire.

11 CHAIRMAN DAVIS: And who sold you your
12 house?

13 MR. ROMMEL: That's a whole convoluted
14 story. I bought it through -- I had a contractor and
15 a subcontractor.

16 CHAIRMAN DAVIS: So did you have the house
17 built?

18 MR. ROMMEL: Yes. I had several people
19 involved in building the lot. The lot was owned by
20 one person, the house was built by a company out of
21 Festus and I had the arrangements made by a third
22 party.

23 CHAIRMAN DAVIS: Okay. And so you've lived
24 there about two years. Can you tell me a little bit
25 about the quality of the water and sewer service that

1 you received from Central Jefferson Utilities?

2 MR. ROMMEL: My first-hand knowledge of the
3 sewer, I personally have not had any problem, but upon
4 building the lot I had a backflow preventer put in. I
5 know that I've had neighbors and other people talk
6 about how the sewers have backed up into their yards
7 and how previously the sewers were, the straining
8 system that keep the nonorganics from getting into the
9 system were not being maintained and caused a lot of
10 problems.

11 In fact, about a week or two ago I went
12 down to meet the people that were running the EMC
13 employees and they were telling me about how much
14 rainwater is getting into this system and they are
15 laying plans on trying to identify where the rainwater
16 is getting into this system that's causing some of the
17 over capacity, so they are laying plans to identify
18 and fix it.

19 CHAIRMAN DAVIS: Okay. What about the
20 service before EMC?

21 MR. ROMMEL: The service before EMC I have
22 not been involved in. I was not involved in it at all
23 until this past POA election, honestly. Although, I
24 have had some -- as far as the water goes I have had
25 some concerns and questions as I drive through the

1 gate and I see signs posted on the entrance that say
2 we're using well number such and such today.
3 Apparently we have two wells, one is leaded and one is
4 unleaded, so there is a lot of community concern over
5 mixing of the water in the water tower.

6 CHAIRMAN DAVIS: Okay.

7 MR. ROMMEL: There is also concern about we
8 use 200,000 gallons a day and our capacity is 50,000,
9 so if your electricity goes out the only water you've
10 got left is what's in the tower.

11 CHAIRMAN DAVIS: No further questions.

12 Thank you.

13 JUDGE STEARLEY: If you could hold on one
14 moment, Mr. Rommel, I want to give the attorneys an
15 opportunity here to ask any questions.

16 MR. ENGLAND: No questions.

17 JUDGE STEARLEY: Thank you.

18 Mr. Mills has a question.

19 MR. MILLS: Mr. Rommel, I'm not sure I
20 understood your testimony clearly and maybe you can
21 help me out. You talked in part about some of the
22 property owners that had not yet built are probably
23 more interested in seeing this transfer go through,
24 some of the current homeowners are probably more
25 interested in seeing what may or may not turn out to

1 be a question of rates that are currently set too high
2 being addressed. Is that generally what you said?

3 MR. ROMMEL: True. And as an elected board
4 member I'm obligated to represent both parties. I've
5 heard some homeowners say that they'd just as soon not
6 build any more homes out there because they like
7 having a secluded community such as that, but I'm
8 surrounded by a bunch of property owners that want to
9 get in where they've paid good money for property that
10 is basically useless to them at this point.

11 MR. MILLS: Well, as things are likely to
12 play out at the Public Service Commission if the
13 Public Service Commission decides this case, that is
14 the transfer case on the time table that it looks like
15 they are likely to the question of whether or not
16 Central Jefferson County Utilities' over earnings
17 probably will never ever get addressed. From your
18 perspective is that worth proceeding with the transfer
19 and ignoring the over earnings question or not?

20 MR. ROMMEL: I think if the people
21 understand and it's communicated properly to them that
22 you can have one or the other, but not both from a
23 legal point of view and it isn't just deals cut in the
24 back room, I think it could be accepted.

25 MR. MILLS: I hear some noise from the

1 crowd. We may hear from people who think differently,
2 but I appreciate your answer and I thank you very
3 much.

4 JUDGE STEARLEY: Mr. Rommel, we have
5 follow-up questions from the Chairman.

6 CHAIRMAN DAVIS: Mr. Rommel, do you think
7 that to the best of your knowledge do people buy lots
8 with the expectation that water and sewer would be
9 available?

10 MR. ROMMEL: Absolutely. They bought those
11 lots thinking that they could actually put a home on
12 there that they could live in.

13 CHAIRMAN DAVIS: They bought a lot thinking
14 they could just go out and start building their house
15 the next day?

16 MR. ROMMEL: Absolutely. There was their
17 understanding and belief.

18 CHAIRMAN DAVIS: You think Central
19 Jefferson Utilities and its owners ought to be held
20 accountable for that?

21 (Several crowd members clap and say yes)

22 MR. ROMMEL: Absolutely I think they should
23 be held accountable, but how long do you want to drag
24 this out? We all know that the legal system is going
25 to drag things out. As long as there's people making

1 money at it we can drag this out for ten years.

2 CHAIRMAN DAVIS: Mr. Rommel, how many
3 people are out there who currently own lots that
4 cannot be built on, do you have any idea?

5 MR. ROMMEL: How many lots?

6 CHAIRMAN DAVIS: How many lots have been
7 sold to customers who can't build a home?

8 MR. ROMMEL: Well, we have about 3,000 lots
9 and we have about 600 homes.

10 CHAIRMAN DAVIS: And you think all of the
11 lots are sold to the best of your knowledge?

12 MR. ROMMEL: No.

13 (Someone from crowd says, yes, all the lots are sold)

14 MR. ROMMEL: Somebody owns all the lots.

15 JUDGE STEARLEY: Excuse me just a moment.
16 We appreciate it if -- I know you all have interest in
17 the case and I know you want to be heard, but if you
18 can save your comments for when you are individually
19 testifying so the Commissioners can hear the
20 individuals speaking without interruption and it also
21 helps our court reporter for recording our testimony.

22 MR. ROMMEL: There are some investment
23 firms and some builders that own multiple lots, so I
24 can't say that there's 2,000 people out there waiting
25 to build homes. There's a number of companies and

1 investment companies that are waiting, also waiting to
2 build.

3 CHAIRMAN DAVIS: Mr. Rommel, to the best
4 of your knowledge, and I know you are not a realtor or
5 real estate appraiser, do you have any idea of what
6 some of these residential customers paid for their
7 lots that they have not been able to build on?

8 MR. ROMMEL: I would guess that a lake lot
9 probably goes for \$80,000 to \$100,000. I recently saw
10 in the leader I saw a lot on hole number 2 going for
11 \$10,000. Location, location, location.

12 CHAIRMAN DAVIS: Okay. So the price for
13 lots varies greatly depending on location?

14 MR. ROMMEL: Yeah.

15 CHAIRMAN DAVIS: Thank you, Mr. Rommel. No
16 further questions.

17 JUDGE STEARLEY: Hold on one moment,
18 please, Mr. Rommel. I want to make sure there are no
19 follow-up questions based upon your additional
20 testimony.

21 Okay. Thank you very much for your
22 patience.

23 MR. ROMMEL: Thank you.

24 JUDGE STEARLEY: I have John J., and I
25 don't know if this is Gale or Gaal.

1 MR. GAAL: Gaal.

2 JUDGE STEARLEY: Mr. Gaal, do you solely
3 swear or affirm that the testimony you are about to
4 give is the truth, the whole truth and nothing but the
5 truth?

6 MR. GAAL: I do.

7 JUDGE STEARLEY: If you will please state
8 and spell your name and give us your address?

9 MR. GAAL: My name is John J. Gaal, Jr.,
10 G-A-A-L. My address is 6490 Runde Forest in Barnhart,
11 Missouri 63012. I also have a P.O. Box which is P.O.
12 Box 147.

13 I have Lot 17, Section 12 at Raintree
14 which is on the main lake which has utilities which I
15 have invested in excess of over \$120,000 in. That's
16 not counting the money that I've lost. I've had that
17 lot, I closed on it in the beginning of August 1st or
18 2nd of 2004 and signed a contract on it, I believe it
19 was in June.

20 After becoming involved in this situation
21 I must say had I been disclosed to by any entities I
22 would have backed away from buying this property. I
23 had a lot, had a home in another lake development, so
24 I was quite familiar with lake developments. And the
25 utility company nor Jefferson County nor the POA nor

1 the realty company, they all failed to disclose the
2 problems at Raintree.

3 I am part of a group. There is more
4 people approximately that I know of in the short-term
5 as I mentioned before in the question and answer
6 meeting that this goes back to the nineties. And
7 there's been ongoing problems with the utility company
8 for some years and it's known and documented.

9 I spent much time researching this and had
10 been in contact with all of the different entities,
11 the utility company who failed to recognize me for
12 some time, said I never applied for a sewer permit.
13 And I bought the property with the intention of
14 building on it immediately.

15 In fact, shortly after that I had a
16 contract on my home in Barnhart which I lost down the
17 road. I had to sell my home at my other lake
18 development to float the boat so to speak to continue
19 to pay the bills. And then in the middle of
20 everything I am now on disability and am not working.
21 So this has not only been a financial disaster it's
22 put a tremendous cost to not only me, but my family.

23 There was another public meeting which I
24 spoke at, and I wasn't trying to get ahead of anyone,
25 I just wanted it to be known that I was waiting to

1 build my home and I wanted to build it right away. I
2 sent a letter addressing my concerns to Doyle
3 Childress with the Department of Natural Resources. I
4 sent the same letter to Dale Johannsson with the
5 Public Service Commission. I've spent hours and
6 hours. I have a stack of paperwork that is probably
7 two and a half feet thick.

8 It is my belief that the people in my
9 situation should be addressed before this thing goes
10 forward. There are approximately, that I know of,
11 there's about two dozen of us that were caught in
12 this. And there supposedly was supposed to be a list
13 of 15 homes originally. It has been told to me that
14 the several entities had known this was coming in
15 January of 2004, so what appears to me has happened is
16 you have people jumping property and wanting to get
17 out of property.

18 So there were people that brought bought
19 property before me that are still waiting to build.
20 And it's varying amounts. There's one gentleman I
21 have been in touch with. He's in around \$100,000.
22 And I feel that we should be addressed. We should
23 somehow -- if they are already hauling sewage out of
24 there -- it's my understanding they are hauling truck
25 loads of sewage out every day.

1 I found out they were already at one and a
2 half times capacity shortly after I bought my property
3 and within several months after that they were already
4 twice capacity.

5 And Linda Dennis who I spoke to many times
6 at the utility company and I do have documentation
7 that I spoke to her, but she fails to recognize she
8 ever saw me. As a matter of fact, when I had one
9 list, the list that was supposed to be 15 homes that
10 turned in to 50 something homes when I talked to her
11 she said they were going into a meeting, this was
12 early in August, that because they didn't have lines,
13 weren't able to expand lines, that I was on the main
14 lake that after this meeting I should be able to get
15 my sewer permit.

16 And I want wanted to pay for it. They
17 would not let me fill out an application. They would
18 not let me pay for it. Then it got to the point where
19 they stopped returning my calls or talking with me.
20 They even refused to meet with me at the office. I
21 finally one day had to call the Jefferson County
22 Sheriff's Department because they refused to talk to
23 me or refused to let me drop off documents to them.

24 And they in turn called the Herculaneum
25 Police Department who sat out front and then they came

1 and we got the issued resolved, but they still
2 wouldn't take the documents. I had to send them to
3 them in the mail.

4 And as far as the rate increase, what I
5 don't understand is that there has been going on for
6 years. I don't understand why they just can't expand
7 the system. Clearly to me it would seem to make sense
8 that they would expand both systems, pass the cost on
9 to all lot owners, whether it be a special assessment
10 how they work it out and everybody pay for it and be
11 done with it and move on, but the problem is there is
12 a big fight going on between, that I found out shortly
13 after I got into this, between the homeowners and they
14 have a Homeowners Association which is supposed to be
15 a community type thing, but then they have a Property
16 Owners Association which I did not know they had two
17 different things going on and basically when I got
18 involved the Property Owners Association basically was
19 representing the homeowners and there was very little
20 communication that I could see with the property
21 owners.

22 And the homeowners in effect feel that
23 they don't want all the added development. And when I
24 came in to build a home immediately, I was going to
25 build a very nice home and we were down-sizing, the

1 fact of the matter is that they don't want a bunch
2 more homes in there. They want to see it stay as it
3 is. And you have infrastructure with a water and
4 sewer facility that is inadequate and it has been
5 inadequate for years. And I sent letters addressing
6 my concerns, I don't want to go over that, to Doyle
7 Childress and Dale Johannsson as I said, but I feel
8 that we need to be addressed.

9 I also feel that -- I have my real estate
10 license. It's on referral with Coldwell Banker
11 Gundaker and I also have my broker's license for
12 property casualty insurance which they call a user
13 license now. So I am what I consider a more than
14 average educated person that I did not go into this
15 with a cold background. Like I said, I had another
16 house at another lake development.

17 And I feel that there's federal acts and
18 laws that have been broken and my civil rights and the
19 rights of others have been violated and I feel that
20 this needs to be investigated. And in particular I
21 feel that the Sherman Act, the Clayton Antitrust Act
22 and the Fair Housing Act have been violated and I
23 think it needs to be looked into. And I believe that
24 somehow we should either be able to pay for our shore
25 taps with a date in advance that we can hook to it.

1 the property with a signature so I have a note for the
2 property in excess of \$120,000 which I pay a monthly
3 interest payment on. Interest is accrued daily and it
4 goes up. And I've been paying that since August of
5 2004. And I had to sell my other property in order to
6 maintain my bills and in the middle had disability, so
7 I'm not looking to, you know, I just want to be
8 compensated. I want a way out of the situation and
9 feel that not only me, but the other people in my
10 situation that we need it to be addressed before this
11 thing moves on.

12 CHAIRMAN DAVIS: So it's your opinion that
13 we need to find a way to get this property transferred
14 and get the owners of Central Jefferson Utility to
15 make as many owners whole as possible; is that
16 correct?

17 MR. GAAL: That's correct.

18 CHAIRMAN DAVIS: Have you ever had, do you
19 feel like you were defrauded when you bought that lot?

20 MR. GAAL: Yes, I do.

21 CHAIRMAN DAVIS: Would you like us to refer
22 your testimony hear to both the Consumer Fraud Unit at
23 the Attorney General's Office as well as the U.S.
24 Attorney Office to get some action?

25 MR. GAAL: Yes. I sent a complaint to the

1 State Attorney General's Office; however, I know there
2 is different people working in there and there is a
3 relationship between one of the utility owners and the
4 person that is the Attorney General of Missouri so I
5 was reluctant to send that complaint for a long time,
6 but I did finally send one.

7 CHAIRMAN DAVIS: And how long ago did you
8 send it?

9 MR. GAAL: I don't have it. It's been a
10 few months ago. It's in my pile of stuff. I couldn't
11 tell you the date off the top of my head.

12 CHAIRMAN DAVIS: Okay. So you sent a
13 complaint to the Attorney General's Office a couple of
14 months ago and have you heard anything back from them?

15 MR. GAAL: Not as of yet, no.

16 CHAIRMAN DAVIS: So you sent a complaint to
17 the Attorney General's Office a few months ago and you
18 have not heard anything back from them?

19 MR. GAAL: No. No. And I don't have the
20 specific date to give you, but I did send it. It's
21 been the last two or three months.

22 CHAIRMAN DAVIS: It's been in the last two
23 or three months?

24 MR. GAAL: Yeah, something like that.

25 CHAIRMAN DAVIS: Okay.

1 JUDGE STEARLEY: Questions from the
2 attorneys?

3 MR. ENGLAND: Just one question, Mr. Gaal.
4 Who did you buy the lot from, was it the utility
5 company?

6 MR. GAAL: No, I bought the lot from Alpha
7 Mega Construction Company who was represented by
8 Coldwell Banker Gundaker.

9 MR. ENGLAND: Thank you.

10 JUDGE STEARLEY: Mr. Mills?

11 MR. MILLS: Mr. Gaal, you said you were
12 part of a group of maybe a dozen or 15 or 24 people
13 that are similarly situated. How do you describe that
14 group; how is that group different from the bulk of
15 the property owners?

16 MR. GAAL: Well, what transpired when I
17 was talking about these lists, that list that was
18 supposedly originally 15 which turned in to 50
19 something, I was supposed to be part of that list and
20 I was not put on that list. So that was a contention.
21 And then I contacted the realty company, I contacted
22 Martin Toma at Jefferson County, I contacted the
23 people at my bank and I had them send letters to the
24 utility company and basically didn't, that I can
25 remember, I don't believe I got a response out of

1 that.

2 MR. MILLS: And what was this list.

3 MR. GAAL: This was a list that since
4 there was going to be a moratorium on building a
5 connection, that they were going to limit connections
6 to the system, these people on this list were going to
7 be allowed to build and if you weren't on that list
8 you weren't going to be able to build.

9 Now they came out with a second list and
10 when they came out with a second list I was really
11 upset because I had no idea there was going to be a
12 second list and where the second list came from.
13 Supposedly the lists were coming from, they were
14 approved by the Department of Natural Resources and
15 Jefferson County Utility sent the list to Martin Toma
16 and Martin Toma in turn sent a letter to the Property
17 Owners Association stating that these people have been
18 accepted to build and they will be able to get
19 permits.

20 And if you weren't on the list -- and the
21 problem I had with this is there are individuals
22 waiting to build a home and there were a number of
23 spec homes being put up in somewhat inexpensive lots
24 and then you had realty companies continue to
25 advertise these lots. And even up until months ago

1 they put up a few homes and, you know, they get backed
2 up because of the capacity and then, boom, the next
3 thing you have, I call it behind the back door that I
4 see people, entities getting special interest is what
5 I see and I think it needs to be investigated.

6 MR. MILLS: How many homes would you say
7 have been built and hooked on to the system since you
8 bought your lot in August of 2004?

9 MR. GAAL: Probably 60 to 75. I
10 understand there are about 670 homes in there. 670 is
11 what I told and then I saw another figure of 660.

12 But I have paperwork, and as I said, when I
13 started getting into this I spent a lot of time doing
14 a lot of research to find out what was what. And it
15 is really a shame how many people have been left out
16 of this.

17 MR. MILLS: Thank you. That's all the
18 questions I have.

19 JUDGE STEARLEY: Commissioner Murray?

20 COMMISSIONER MURRAY: You said you are a
21 realtor; is that correct?

22 MR. GAAL: No. I am a licensed agent.
23 And my license is on referral with Coldwell Banker
24 Gundaker and has been for some years.

25 COMMISSIONER MURRAY: I was wondering to

1 your knowledge has anyone -- well, let me ask you
2 this. With your knowledge of real estate do you feel
3 that failure to disclose by a real estate agent is a
4 violation?

5 MR. GAAL: Yes, I do.

6 COMMISSIONER MURRAY: And --

7 MR. GAAL: Not only by the agent, but also
8 by the broker.

9 COMMISSIONER MURRAY: And do you think that
10 to your knowledge has anyone filed any kind of a
11 complaint against any of the real estate people
12 involved in these transactions?

13 MR. GAAL: To my knowledge, no. I have
14 spoken several times to the MRMEC and I have three
15 years to file my complaint and I haven't filed it yet
16 because there might be legal implications. But I
17 still, I have the paperwork and I have it filled out.
18 I haven't sent it in yet.

19 COMMISSIONER MURRAY: Okay. Thank you.

20 CHAIRMAN DAVIS: Okay. Mr. Gaal, do you
21 think Central Jefferson Utilities discriminated
22 against individual lot owners in favor of realtors or
23 home builders that were people in the business of
24 selling lots and selling homes?

25 MR. GAAL: Yes, I do.

1 CHAIRMAN DAVIS: Do you have any proof of
2 that?

3 MR. GAAL: Well, specifically, you know,
4 you get into he said she said, but I think if you
5 would look into the spec homes that were built it's my
6 understanding that Jefferson County has the building
7 permits, they are dated and numbered and there should
8 be some type of -- I don't know how they are filed,
9 but they should be able to be looked into as to how
10 that was.

11 CHAIRMAN DAVIS: So do you think that
12 people who were affiliated with Raintree Properties
13 might have gotten an unfair advantage?

14 MR. GAAL: Yes, I do. In fact, I was told
15 that if I bought property in there it would be, I
16 would be better off and it was implied to me and told
17 to me that I would be better off having one of the
18 builders that build in there build the home because
19 they could get it done.

20 I also had a real estate person tell me
21 that after supposedly you could not get anymore
22 permits, building permits, or tap-ons that they could
23 get it accomplished.

24 CHAIRMAN DAVIS: And they being Raintree?

25 MR. GAAL: Right, a person that lives in

1 Raintree. And it was a person that was a realtor.

2 CHAIRMAN DAVIS: Okay.

3 MR. GAAL: But there again you get into
4 the he said she said.

5 CHAIRMAN DAVIS: Anywhere else that we
6 should look for evidence of that, of any
7 discrimination, is there anything else we should look
8 for?

9 MR. GAAL: There might be something maybe
10 in home foreclosures, how the property is picked up,
11 somebody builds a home and they are in there a short
12 time might be another possibility of how property is
13 sold, if anyone has access to information regarding
14 maybe trusts or deceased persons where property is
15 going up for sale.

16 CHAIRMAN DAVIS: Mr. Gaal, thank you.

17 JUDGE STEARLEY: Any other follow-up
18 questions?

19 MR. MILLS: No, thank you.

20 JUDGE STEARLEY: Thank you.

21 Excuse me. Mr. Schnaare has a question
22 for you.

23 MR. SCHNAARE: Let me give you a little
24 preliminary.

25 In earlier discussions after the Property

1 Owners Association filed to be part of this action
2 there was a discussion about sending a mailing. The
3 final order said that the utility company would send
4 it to its users. Did you also receive a notification
5 from the Property Owners Association Incorporated
6 about tonight's meeting?

7 MR. GAAL: Yes, I did. And that is a
8 start. And I must say in the past a lot of the
9 information was not passed on. Former POA members had
10 some kind of website which I could never access to and
11 one of the persons who is on the committee has set up
12 a website and we've been getting information, so there
13 have been changes. And those changes I must say have
14 not come until people in my situation have stepped
15 forward and clamored and gotten involved. And there
16 are other people that have done the same thing.

17 MR. SCHNAARE: But my question focuses on
18 the fact that you had been mailed a notice. And the
19 reason I did that was so that the Office of Public
20 Counsel understands that you were actually a
21 non-resident member who had gotten notice of tonight's
22 meeting.

23 MR. GAAL: Yes.

24 MR. SCHNAARE: Which we did mail in excess
25 of 1,000 of those notices.

1 MR. GAAL: Yes, sir.

2 MR. SCHNAARE: Thank you very much.

3 JUDGE STEARLEY: As we continue here now
4 that we've had the opportunity for several people to
5 testify I would like to point out to you that if you
6 find that your own individual comments are going to be
7 essentially the same as those you've heard we would
8 like to keep things moving so that everyone gets an
9 opportunity to speak, so if you want to add additional
10 comments you are certainly welcome to, but if they are
11 going to be substantially the same as what we've heard
12 so far it's also acceptable for you to stand up and
13 say what he said and we'll move on.

14 We'll continue down our list here with Mr.
15 Rick Avila.

16 Good evening. Mr. Avila, do you solemnly
17 swear or affirm that the testimony you are about to
18 give is the truth, the whole truth and nothing but the
19 truth?

20 MR. AVILA: So help me God.

21 JUDGE STEARLEY: Would you please state and
22 spell your name for the court reporter?

23 MR. AVILA: Rick Avila, A-V-I-L-A. I live
24 at 3720 Majestic Drive in Festus, Missouri 63028.

25 JUDGE STEARLEY: And are you a property

1 owner in Raintree?

2 MR. AVILA: Yes, I am a property owner in
3 Raintree.

4 JUDGE STEARLEY: And are you a homeowner?

5 MR. AVILA: No, I am not.

6 JUDGE STEARLEY: You may proceed.

7 MR. AVILA: I'm a builder in Raintree and
8 I'm also on the Property Owners Association's Board.
9 Four years ago I started building in Raintree and I
10 started purchasing lots in there. Since the sewer
11 collection system has gotten shut down I got stuck
12 with a lot of lots just like Mr. Gaal did. As a
13 matter of fact, Mr. Gaal bought his lot from me.

14 And I know Mr. Gaal feels that disclosure
15 didn't happen, but it happened to everybody, not just
16 to him. As a matter of fact, after he closed on his
17 lot with me I bought 27 more lots. And I never would
18 have bought 27 lots had I known the sewer collection
19 was going to be shut down.

20 Right now I own 63 lots in Raintree. It's
21 cost me thousands and thousands and thousands and
22 thousands of dollars every month that it's shut down.
23 Before the system got shut down I averaged \$3,000,000
24 a year revenue in Raintree. Since it's been shut down
25 I have averaged zero. It's nothing but a loss the

1 last two years.

2 So it's very important economic wise and
3 for all of the people that live in Raintree for this
4 system to get up and running again. It's taken
5 millions of dollars out of the economy of Jefferson
6 County. It's putting people out of work.

7 There was a time when Raintree at
8 lunchtime people went up to the Outpost and spent
9 hundreds of dollars at lunch time. Now they are
10 probably lucky if they collect \$10 there at lunchtime.
11 You know, it's really hurt the economy. It's hurt
12 people. It's hurt families. It's very important that
13 it get up and running.

14 As a matter of fact, a little over a year
15 ago I entered into negotiations to buy Central
16 Jefferson County Utility. And everything hinged on
17 the Department of Revenue or the Department of Natural
18 Resources issuing me a letter stating that they would
19 not hold me liable for the stuff that was wrong. They
20 refused to do that so I could not go forward, I could
21 not take that liability.

22 I hope and I pray that the Department of
23 Natural Resources will do that for Jefferson County
24 and not hold them liable for anything that's wrong
25 with the system. They are taking over a system that

1 is flawed. They've got a plan to put it together, get
2 it up and running again. And that is what needs to
3 happen. And I hope the Commission would take that
4 serious that it's beneficial for the community and
5 everyone that lives in Raintree to get this system up
6 and running.

7 JUDGE STEARLEY: Commissioner Murray?

8 COMMISSIONER MURRAY: I have no questions.
9 Thank you.

10 JUDGE STEARLEY: Mr. Chairman?

11 CHAIRMAN DAVIS: Mr. Avila, who did you
12 buy your 27 lots from?

13 MR. AVILA: Individuals. They all came
14 from individuals. Every lot in there is owned by an
15 individual. There are 3,100 lots in Raintree.
16 There's probably 2,000 owners because some people own
17 multiple lots, one, two, three lots. Like myself, I
18 own 63 lots.

19 CHAIRMAN DAVIS: So after you sold Mr. Gaal
20 a lot you bought 27 lots?

21 MR. AVILA: I bought 27 more lots that
22 same month, yes.

23 CHAIRMAN DAVIS: And were those lots, were
24 those people selling those lots at a loss?

25 MR. AVILA: No. At any time before the

1 system got shut down there was 50 to 100 lots on the
2 market at all times. There was just a rotation of
3 people buying and selling lots. And when you've got a
4 community that's got 3,100 lots in it there's always
5 somebody wanting to sell a lot. And I'm in the home
6 building business so I was always in the market for
7 lots.

8 So we, my real estate agent and I, went
9 through the MLS and we looked at all of the lots that
10 were for sale. I think there were like 50 something
11 lots for sale at that time and of the 50 something we
12 went in and looked at them and we bought 27 of them
13 because they were good lots. It was just a business
14 proposition.

15 And like I said, they were all from
16 separate individuals that had them listed with real
17 estate companies and we wrote 27 different contracts
18 on.

19 CHAIRMAN DAVIS: All right. Do you think
20 the owners of the Central Jefferson Utility Company
21 are responsible for the maintenance and upkeep of the
22 system?

23 MR. AVILA: Yes.

24 CHAIRMAN DAVIS: And they are responsible
25 for the bad shape it's in now?

1 MR. AVILA: Yes.

2 CHAIRMAN DAVIS: And are you here today to
3 tell me that we should just transfer it to the local
4 county sewer district and just let those people off
5 the hook?

6 MR. AVILA: Well, I'm not saying you can
7 let them off the hook. You've got fines in place
8 right now. If they've got over earnings, take it in
9 fines and figure out what their over earnings are,
10 fine them that amount and donate it back to the
11 Jefferson County Utility to upgrade the system.

12 CHAIRMAN DAVIS: What do you think the
13 average water and sewer bill -- you are a resident;
14 correct?

15 MR. AVILA: No, I'm not a resident, but I
16 used to live in Raintree.

17 CHAIRMAN DAVIS: You used to live in
18 Raintree?

19 MR. AVILA: Yeah. Total between water and
20 sewer was probably about \$60 a month I believe.

21 CHAIRMAN DAVIS: \$60 a month?

22 MR. AVILA: Yeah.

23 CHAIRMAN DAVIS: Do you think they were
24 spending it on maintaining the plant and upkeep?

25 MR. AVILA: I would hope that they were,

1 but the way the system is I would say no.

2 CHAIRMAN DAVIS: So is it your opinion that
3 they were just collecting this money for a period of
4 years and not really putting anything back into the
5 property?

6 MR. AVILA: Yes. Yes.

7 CHAIRMAN DAVIS: No further questions.
8 Thank you.

9 JUDGE STEARLEY: Any questions from our
10 attorneys?

11 MR. MILLS: When was the last time you
12 were able to get a house built and hooked onto the
13 system in Raintree?

14 MR. AVILA: I've got a house right now
15 that I built for an elderly couple. They are retired
16 or one of them is ready to retire, one is retired.
17 They can't move into their house because I can't get a
18 tap on it. They can't move into their house because
19 they can't get an occupancy permit. The house is
20 finished, it's sitting and this elderly couple are
21 having to live in a mobile home or an RV park in an
22 RV. They were one of the ones that got caught in the
23 middle of the whole thing at the end. I've called
24 DNR, I've called EPA.

25 Like I said, they are an elderly couple

1 that probably aren't going to use 50 gallons a day.
2 There is no reason why those people can't hook on.
3 But, yeah, that was the last house I built in there
4 for those people. And like I say, they can't move in.

5 MR. MILLS: But before that one when was
6 the last time you were able to build a house that did
7 get hooked on?

8 MR. AVILA: When the moratorium got shut
9 down I had three houses under construction, I believe,
10 so when I finished those three out there that's all I
11 built.

12 MR. MILLS: When were those three?

13 MR. AVILA: In 2004. I finished them in
14 2005.

15 MR. MILLS: And you currently own how many
16 lots?

17 MR. AVILA: 63.

18 MR. MILLS: Are there many entities or
19 companies that own more lots than that out at
20 Raintree?

21 MR. AVILA: Yes, there are other builders
22 that own multiple lots just like I do.

23 MR. MILLS: Just roughly, how many of the
24 lots out there are owned by individuals that own one
25 or two lots they were planning to build on and how

1 many are owned by entities that plan to not live on
2 them themselves, but either build on them or resell
3 them, do you have any idea on that.

4 MR. AVILA: I would say probably 300 or
5 400 are owned by corporations that are planning on
6 building on them.

7 MR. MILLS: So the vast majority of the
8 un-built lots are owned by individuals who are waiting
9 to build houses for their own use?

10 MR. AVILA: Yes.

11 MR. MILLS: That's all the questions I
12 have. Thank you.

13 JUDGE STEARLEY: Any follow-up?
14 Commissioner Murray?

15 COMMISSIONER MURRAY: You said you
16 finished three homes before the moratorium; is that
17 correct?

18 MR. AVILA: I had them under construction
19 before the moratorium.

20 COMMISSIONER MURRAY: And then they were
21 actually hooked on; is that right?

22 MR. AVILA: Yes. Yes, they were. They
23 were on that list that Mr. Gaal talked about.

24 COMMISSIONER MURRAY: And the last one of
25 those you finished was in '05?

1 MR. AVILA: Yes.

2 COMMISSIONER MURRAY: And when did you
3 begin construction on this one that you say you built
4 for this elderly couple?

5 MR. AVILA: In March of '05, I believe.

6 COMMISSIONER MURRAY: Was that before the
7 moratorium or after?

8 MR. AVILA: It was after the moratorium.

9 COMMISSIONER MURRAY: Why did you begin
10 construction?

11 MR. AVILA: They had a building permit
12 issued to them and I felt confident that they would
13 be, since they had a building permit issued by
14 Jefferson County, that they would be able to get a tap
15 on when DNR looked at their situation.

16 COMMISSIONER MURRAY: Did you disclose to
17 them that there were problems with people getting
18 hooked on?

19 MR. AVILA: Oh, they knew. They knew.
20 They came to me and asked me would I build their house
21 because they couldn't get a tap on.

22 COMMISSIONER MURRAY: So they were not one
23 of the ones that were misled into thinking that they
24 could --

25 MR. AVILA: Well, they were because they

1 had their permit and their loan in place. They had
2 their permit and loan in place before the moratorium
3 in August, so they had their loan and everything in
4 place in August before the moratorium, so they were
5 caught in the middle of it, yes.

6 COMMISSIONER MURRAY: Another thing. You
7 said you sold one of your lots to Mr. Gaal?

8 MR. AVILA: Yes.

9 COMMISSIONER MURRAY: And then you turned
10 around and bought 27 more?

11 MR. AVILA: Yes.

12 COMMISSIONER MURRAY: Just out of
13 curiosity, why were you selling lots as well as
14 buying?

15 MR. AVILA: Because he wanted to build a
16 house and I was hoping if I sold him the lot I would
17 be able to build his house.

18 COMMISSIONER MURRAY: So that's why you
19 sold the lot, hoping that you would build on it?

20 MR. AVILA: Right. Right.

21 COMMISSIONER MURRAY: Okay. Thank you.

22 JUDGE STEARLEY: Any other follow-up
23 questions?

24 Thank you.

25 MR. AVILA: Thank you.

1 JUDGE STEARLEY: John Acock.

2 Mr. Acock, do you solemnly swear or affirm
3 that the testimony that you are about to give it the
4 truth, the whole truth and nothing but the truth?

5 MR. ACOCK: I do.

6 JUDGE STEARLEY: Please state and spell
7 your name for our court reporter.

8 MR. ACOCK: My name is John H. Acock,
9 A-C-O-C-K. I live at 5610 Forest Drive in Hillsboro
10 63050 and that is in Raintree. I currently own three
11 properties. My house is on two of them and one of
12 them is just to keep the neighbors from building right
13 next to me.

14 May I proceed?

15 JUDGE STEARLEY: Yes, you may.

16 MR. ACOCK: Thank you very much. As a
17 former Director of Land Use Development Code
18 Enforcement at Jefferson County and current home owner
19 in Raintree Plantation I truly appreciate your efforts
20 in providing this meeting to allow the property owners
21 and home owners in Raintree the opportunity to review
22 the respective contractual agreements between the
23 parties in the subject case and voice our comments and
24 concerns related to the future expansion of our
25 important sewer and water infrastructure.

1 Your professional consideration of my
2 individual as well as everybody's collective concerns
3 are of utmost importance to the future development of
4 our community.

5 I agree that the concept of a Jefferson
6 County Sewer District taking over that facility, over
7 the facility, and a reputable private company managing
8 it is a great and progressive plan. The financial
9 aspects of the agreement are in my opinion
10 unsatisfactory as far as I'm concerned.

11 The first issue is Case Number SO-2007 and
12 Case Number WC-200038, over earnings complaint. At a
13 re hearing conference held September 29th, 2006 in
14 Jefferson City, Missouri with Judge Harold Stearley
15 presiding the relationship between these two cases was
16 discussed.

17 And I request after reviewing the hearings
18 of that case, I request that you consider these two
19 important cases as inseparable and directly related to
20 the contractual agreements between all parties.

21 It is my personal opinion that the
22 property owners and homeowners of Raintree and other
23 properties outside of Raintree have been harmed and
24 deceived by the perceived fraudulent nature by which
25 Central Jefferson County Utilities, the original

1 Raintree POA, Inc. and realtors and developers made
2 false promises and ultimately misled the Raintree
3 residents who bought into this subdivision. And this
4 goes back to the beginning.

5 The original developer and associated real
6 estate agents sold properties to buyers and stated
7 that the subdivision had its own adequate water and
8 sewer treatment plant and that these facilities would
9 be expanded to accommodate growth.

10 We all paid our sewer and water tap-on
11 fees and our monthly bills only to learn that today
12 our long-term investment over hard earned money was
13 not set aside to accommodate the future infrastructure
14 expansion of Raintree.

15 Our internal infrastructure consists of
16 poorly designed main trunk lines, lift stations and
17 are all in a sad state of repair. Today Central
18 Jefferson County Utility says they do not have any
19 money to expand the waste water treatment facility and
20 water facilities or repair the existing
21 infrastructure. My question is where did that money
22 go. That's the promise.

23 Now the agreement between all parties. It
24 has been brought to my attention that there was a
25 contractual agreement between Central Jefferson County

1 Utilities and a firm called Aqua Source that would be
2 honored for the installation of main trunk lines in
3 Raintree and that Aqua Source would collect \$800 to
4 \$1,000 tap-ons per lot until the expansion is
5 complete. However, in addition to that the Jefferson
6 County Sewer District has agreed to give Central
7 Jefferson County Utility the same amount after the
8 contract when Aqua Source's contract is completed.

9 In essence the Jefferson County Sewer
10 District has agreed to absorb over \$100,000 in JC,
11 Jefferson County Sewer District's debt. If this is
12 true, then this is unacceptable. This money must only
13 be spent on our plant expansion.

14 Why are we paying Central Jefferson County
15 Utilities a dime for perceived deception? The
16 agreement between Aqua Source and Jefferson County
17 Utility Company is a mutually agreed upon, stand alone
18 contract and should not be a part of this case. It's
19 not our problem.

20 I am not willing to put one dime into JC,
21 Jefferson County Sewer District's pocket until they
22 can fully disclose why the promise was not met and
23 fully disclose where our money went.

24 And the last thing I have, we've already
25 discussed it, I think it's very important that the

1 people of Raintree where we're at right now, I mean if
2 we have a plan for the new expansion of the plant, we
3 have plans on the table, somebody should be able to
4 spin the numbers. Mr. Martin Toma said that it's 1.8
5 million dollars and that the homeowners of Raintree
6 and the property owners are going to pay for that.
7 Well, we want to know what that scheme is. We don't
8 know that today. We may not know a lot.

9 If that bill is a 15 percent increase in
10 my sewer rate, I'm fine with that, but if it's
11 exorbitant over the moon I've got an issue with that
12 probably along with everybody else in here.

13 And I would like to -- I have copies of
14 this. I would like to present this as an exhibit, if
15 I might.

16 JUDGE STEARLEY: Yes, you may.

17 MR. ACOCK: I have nothing further, sir.

18 JUDGE STEARLEY: Thank you.

19 Questions from the Commissioners?

20 COMMISSIONER MURRAY: No questions. Thank
21 you.

22 CHAIRMAN DAVIS: Okay, Mr. Acock. You
23 want the over earnings complaint to continue; is that
24 correct?

25 MR. ACOCK: That's what I'd like, yes,

1 sir.

2 CHAIRMAN DAVIS: You said the original
3 owners collected money and that money was supposed to
4 be used for future infrastructure improvements and
5 they spent it; is that correct?

6 MR. ACOCK: That is correct.

7 CHAIRMAN DAVIS: You said that the system
8 in your opinion is poorly designed. Can you elaborate
9 on that a little bit?

10 MR. ACOCK: Yes, I can. There are a lot
11 of home owners out here that have a large number of
12 problems. In fact, a lot of them go out and clean out
13 the manholes themselves. It's not a very pleasant
14 sight.

15 CHAIRMAN DAVIS: Is that sewer or water?

16 MR. ACOCK: Sewer. Mainly sewer. The
17 water issues out here related to our number 1 well
18 which is contaminated with lead based on EPA standards
19 which is too high.

20 When I was a Director of Planning and
21 Zoning probably 19 -- I'm going back now, whenever we
22 put the main water tower in it was probably seven
23 years ago. Martin Toma came to me. He was one of the
24 officers of Central Jefferson County Utilities at that
25 time. He wanted to put into a water tank because we

1 had low water pressure. That was good because we did
2 have low water pressure.

3 He did not disclose to me in my position
4 the fact that well number 1 had a high content of
5 lead. So how long had we been drinking out of well
6 number 1 over the years? That's the only water issue
7 that is of great importance to us right now, expanding
8 in that capacity, but mainly the sewer and the trunk
9 lines, the infiltrations of stations, a lot of
10 premature burn out of pump grinders and personally
11 I've gone through four myself. A lot of my neighbors
12 have gone through a number of them. They are very
13 expensive.

14 And if you -- the main trunk line that
15 runs along the forest is a 2 inch pipe line. It goes
16 for a mile and a half. Pump grinders have to move it
17 through that distance. During the wintertime that
18 clogs up, our pump grinders burn up.

19 It's a poor design from the start. And
20 you will find that it's a poor design of any system we
21 have. And I've contacted a lot of engineers that
22 design these systems and it's an easy remedy and needs
23 to be corrected, but I could go on and on about the
24 problems of that nature.

25 I was the one that called Mr. Rhodes at

1 DNR and told him it's about time you got your rubber
2 boots on and went down behind that plant and walked
3 that creek because it's atrocious. That's what kicked
4 this off. They had not been down to inspect.

5 It's a systemic problem with DNR and
6 probably the PSC but I don't know what the PSC's
7 involvement is, regulatory involvement is, but the
8 Department of Natural Resources, they claimed it's
9 because they didn't have enough inspectors, really
10 have oversight to come down and inspect these utility
11 companies to make sure that they are not spilling over
12 into the creek and that they are doing their job and
13 looking at their tests. Well, what they do is require
14 Central Jefferson County Utilities and one of their
15 officer or whoever to inspect and take the samples and
16 test and report back to DNR. Well, of course they're
17 always going to have a nice report to send up there.
18 It's like the fox guarding the hen house. And to my
19 knowledge I don't know of any unannounced inspections
20 where they walked in on them and said, you know, you
21 guys are in a mess, this should have been discovered
22 years ago, not in 2002.

23 I don't know if I answered your question,
24 but I went around the circle.

25 CHAIRMAN DAVIS: Okay. Can you describe --

1 so you are telling me that people actually had to pull
2 off the manhole covers?

3 MR. ACOCK: I think the gentleman is
4 sitting in this room.

5 (Someone in crowd says, right here)

6 MR. ACOCK: Yes.

7 CHAIRMAN DAVIS: Hopefully those gentlemen
8 will be signed up to testify and we'll have an
9 opportunity to hear from them a little bit later.
10 Thank you, Mr. Acock.

11 COMMISSIONER MURRAY: Had you contacted
12 the staff of the Public Service Commission at any
13 time?

14 MR. ACOCK: Basically we got the Public
15 Service Commission and DNR along with the POA here to
16 have a hearing sometime back. It was last year, I
17 believe, where we talked to -- where they presented us
18 the options of the sewer treatment plant and
19 everything.

20 COMMISSIONER MURRAY: That was at the time
21 you contacted DNR?

22 MR. ACOCK: No. I left it with DNR and
23 then also contacted the Commissioners of Jefferson
24 County who said, well, it's not our job to close the
25 plant down which is not true. They have an obligation

1 to uphold the laws of the State of Missouri, the Clean
2 Water Act. So they drug their feet. DNR finally
3 issued or told them to go ahead and stop the permits
4 that we were talking about. The original, there was a
5 list that came down and there were 15 people on there
6 that were in dire need to get hooked on because they
7 were halfway building their house. They weren't
8 developers, they weren't speculative and all of the
9 sudden the list grew between DNR and the county.

10 COMMISSIONER MURRAY: And when did you
11 contact the staff of the Public Service Commission?

12 MR. ACOCK: I'm trying to think. I don't
13 have the letter with me.

14 COMMISSIONER MURRAY: You did it by letter?

15 MR. ACOCK: I didn't. I forgot when we
16 sent them e-mails and stuff, but it was not about this
17 issue because at the time we weren't looking at rates,
18 we were trying to get everything stopped until we
19 could sort out where we were going. So basically the
20 issue was with DNR and the county at that time.

21 COMMISSIONER MURRAY: But you said you did
22 contact the Public Service Commission staff; is that
23 correct?

24 MR. ACOCK: Yes. We found that they were
25 also integrated and shared responsibilities in this

1 whole issue and that's when we decided to have a
2 public hearing here in this particular auditorium and
3 anybody could come down, invite them down, more of an
4 information type thing.

5 Did I contact them directly with the
6 complaint? No, I did not.

7 COMMISSIONER MURRAY: Thank you.

8 JUDGE STEARLEY: Questions from the
9 attorneys?

10 MR. ENGLAND: No, thank you.

11 JUDGE STEARLEY: Thank you, Mr. Acock.
12 You are excused.

13 Tom Kenefick?

14 MR. KENEFICK: Good evening.

15 JUDGE STEARLEY: Mr. Kenefick, do you
16 solemnly swear or affirm that the testimony you are
17 about to give is the truth, the whole truth and
18 nothing but the truth?

19 MR. KENEFICK: So help me God.

20 JUDGE STEARLEY: If you will please state
21 and spell your name.

22 MR. KENEFICK: My name is Tom Kenefick,
23 K-E-N-E-F-I-C-K. I live at 9555 East Vista Drive,
24 Hillsboro, Missouri in Raintree 63050. I'm currently
25 a member of the Raintree POA board. I'm on several

1 committees. I've lived in Raintree since 1999.

2 And today I'm going to try to keep this
3 brief and I hope you bear with me, but I want to
4 present what I consider evidence of fraud. If anybody
5 in here has bought their property from the original
6 developers they have one of these in their file
7 somewhere.

8 Could I have a show of hands as to who
9 bought their lots from the developer?

10 If you go home and you look in your pile
11 of papers you'll probably find one of these things.
12 It's called a Lot Reservation Agreement. And I'm just
13 going to read a couple sentences in it.

14 JUDGE STEARLEY: Excuse me.

15 Could you get the number of the show of
16 hands, please?

17 MR. KENEFICK: 13.

18 In this agreement which was part of the
19 closing documents, it's quite lengthy and there are a
20 lot of words on there, but I want to point out two
21 sentences in particular.

22 It says, Water and sewer facilities will
23 be provided by Central Jefferson County Utility
24 Company and the Missouri Public Service Commission
25 will control connection fees and monthly user rates.

1 Sewer and water facilities to provide services to all
2 lots in Sections 1, 2, 3 and 8 will be completed by
3 1981 and all others shall be completed in 1983. Now
4 this is a document that is signed by an officer of
5 Raintree Plantation, Inc., who owns Central Jefferson
6 County Utility Company.

7 Now the point is that when these lots were
8 sold that the price of the lot included the utilities,
9 water and sewer basically. Well, what has happened is
10 that there are a lot of lots that didn't get the trunk
11 lines to those lots, the water sewer lines; and not
12 only that, the facilities, the fresh water facilities
13 from the two wells and the sewer treatment facility is
14 not adequate to do what they said in this document to
15 provide water and sewer services to all lots. To me
16 this constitutes fraud.

17 Now these people that own Raintree
18 Plantation, Inc. put this money in their pocket and
19 away they went, boom. And at some point in time they
20 even quit supporting the utility company and would not
21 upgrade or fix anything or expand it. All they did
22 was stone wall it and they just sent their lawyers.
23 They never did anything.

24 There should be a way to pierce the
25 corporate veil to go back and collect and get the

1 money out of their pockets wherever it went and come
2 back and spend that 1.8 million to fix this problem.
3 That is chump change to those people.

4 Another small point is this overcharge
5 issue case. Actually, I believe it's an under
6 performance issue. I pay about \$25 a month for sewer
7 and around \$12 a month for water, so it's in the
8 neighborhood of \$36 to \$40 a month which isn't too
9 much, I don't think, but to me it's an under
10 performance issue. The lines aren't maintained, my
11 neighbors have to clean out their own manholes, the
12 trunk lines aren't run to all the lots, the facilities
13 are inadequate and I think they should come back and
14 fix it. That's all I have to say.

15 JUDGE STEARLEY: Questions from the
16 Commissioners?

17 COMMISSIONER MURRAY: Thank you. Are you
18 aware of anyone who has filed a civil lawsuit for any
19 of those things that you are talking about this
20 evening such as fraudulent misrepresentation?

21 MR. KENEFICK: No, I haven't. I've heard
22 some discussion, but it hasn't been done because the
23 cost would be prohibitive. They have their Army of
24 lawyers already and we would have to start from
25 scratch and pay lawyers to build this case.

1 COMMISSIONER MURRAY: Are you aware that
2 the Public Service Commission is not in a position to
3 make people good for those types of things and that we
4 cannot award damages?

5 MR. KENEFICK: Yeah, that was something I
6 was going to mention. I know it's not incumbent upon
7 you to do anything about this, but I just wanted to
8 take this opportunity to bring this up and point out
9 that I believe there is fraud in this case although
10 the Public Service Commission has no jurisdiction in
11 that.

12 COMMISSIONER MURRAY: But you are aware
13 that the problems that you allege here this evening go
14 far beyond what the Public Service Commission could
15 remedy, are you not?

16 MR. KENEFICK: Yes.

17 COMMISSIONER MURRAY: All right. Thank
18 you.

19 CHAIRMAN DAVIS: First of all, Mr.
20 Kenefick, I know you've got your original document
21 there and I don't know if it would be possible for us
22 to get a copy of it tonight, but we would very much
23 like to have a copy of that document.

24 Just to restate, it's your position that
25 the original owners of Raintree Plantation

1 Incorporated ought to make the property owners whole;
2 is that correct?

3 MR. KENEFICK: Absolutely. That's where
4 the money went. Find the money.

5 CHAIRMAN DAVIS: And this Commission has
6 the power to place conditions on the sale or transfer
7 of assets. Do you think we ought to exercise our
8 power to make people as whole as we can?

9 MR. KENEFICK: Well, we're walking a
10 tightrope here. We had the American Water Company
11 back out of this deal because they didn't like it and
12 now EMC has stepped up to the plate and they will come
13 in and rebuild it. And the scuttlebutt is that if we
14 cause too many waves EMC is going to turn around and
15 run and then where are we going to be.

16 So to answer your question, I think, yes,
17 we should proceed, but maybe it's not the wisest thing
18 to do.

19 CHAIRMAN DAVIS: So basically you're
20 concerned that any conditions that we would place on
21 Central Jefferson Utilities would somehow be imputed
22 to the new owners and that could prevent the new
23 owners from taking place?

24 MR. KENEFICK: Well, unless we could
25 pierce the corporate veil and go back and get the

1 money where it went.

2 CHAIRMAN DAVIS: And you think we ought to
3 go -- do you think somebody ought to go look for that
4 money, where it went?

5 MR. KENEFICK: Oh, absolutely. Then EMC
6 would not be picking up the tab and the fines levied
7 by DNR could be paid and this thing could just go
8 away.

9 CHAIRMAN DAVIS: Thank you, Mr. Kenefick.
10 No further questions.

11 JUDGE STEARLEY: Any questions from the
12 attorneys?

13 MR. MILLS: Mr. Kenefick, do you think
14 that Central Jefferson has, do you think they are able
15 and willing to provide safe and adequate service to
16 their customers at this point?

17 MR. KENEFICK: Oh, no. Absolutely not.
18 They are not willing to do anything. They are not
19 even willing to clean out the manholes. They sent
20 Roger out to put Band-Aids on everything to try to
21 keep them out of trouble and he did a pretty good job
22 of that, but they are not willing to buck up a dime
23 unless they absolutely have to.

24 CHAIRMAN DAVIS: Mr. Kenefick, who is
25 Roger?

1 MR. KENEFICK: That's Roger PIPPS. He was
2 the maintenance person that worked for Central
3 Jefferson County Utility Company for years.

4 CHAIRMAN DAVIS: Is he still in the area,
5 do you know?

6 MR. KENEFICK: Yes, he is in the area.
7 He's not employed anymore that I know of because EMC
8 has taken over. He may be, in an advisory capacity.

9 CHAIRMAN DAVIS: Mr. Kenefick, do you
10 think that the owners of Central Jefferson Utility and
11 who I guess were the owners of Raintree Plantation
12 Incorporated, do you think they owe everyone in this
13 room an apology?

14 MR. KENEFICK: Oh, you betcha, a lot more
15 than an apology. They own them their money back for
16 the portion that they didn't live up to the agreement
17 that they signed originally to all of the original
18 property owners.

19 CHAIRMAN DAVIS: Thank you.

20 JUDGE STEARLEY: Any other questions?

21 MR. KRUEGER: Is this document going to be
22 marked as an exhibit?

23 MR. KENEFICK: I have two copies. I can
24 make more.

25 JUDGE STEARLEY: We can accept the two that

1 you have tonight.

2 MR. KENEFICK: Okay. I've sent copies of
3 this to four or five different people at the EPA and
4 DNR. I don't think I sent it to PSC.

5 JUDGE STEARLEY: Thank you, sir.

6 I have on my list Marianne and Roger
7 Pryor. Do one of you wish to speak?

8 MR. PRYOR: My wife and I strongly agree
9 with everyone that's been ahead of us.

10 JUDGE STEARLEY: Thank you, Mr. Pryor.

11 MR. MILLS: Before we move on, did Mr.
12 Acock submit a document in the record as well?

13 JUDGE STEARLEY: Yes, Mr. Acock did.
14 We're going to go ahead since we didn't get them
15 marked at the beginning and mark them all at the end
16 here. Mr. Acock included a typed document outlining
17 the issues that he raised.

18 MR. MILLS: Thank you.

19 JUDGE STEARLEY: We did not take sworn
20 testimony of Mr. Pryor.

21 It looks like Jeremy Dressel.

22 MR. DRESSEL: Nothing to add.

23 JUDGE STEARLEY: Greg Petitt?

24 MR. PETITT: Nothing to add, sir.

25 JUDGE STEARLEY: Ed Williams?

1 MR. WILLIAMS: Nothing to add.

2 MR. MILLS: Before these people leave may
3 I just ask them to clarify when they say nothing to
4 add does that mean they agree with the people who have
5 already spoken or don't agree?

6 MR. PETITT: Strongly agree with the
7 previous residents.

8 MR. DRESSEL: Strongly agree.

9 MR. MILLS: For the Commissioners who are
10 here and for when we go back to read the transcript it
11 will be helpful for us to know what that means when
12 they say nothing to add.

13 JUDGE STEARLEY: That's a good point.
14 Thank you, Mr. Mills.

15 Kurt and Shirley Locke?

16 MR. LOCKE: I agree on everything that was
17 said tonight.

18 JUDGE STEARLEY: Chuck and Ruth Ann
19 Johnson?

20 (No response)

21 JUDGE STEARLEY: Diane Shaw?

22 MS. SHAW: My name is Diane Shaw.

23 D-I-A-N-E S-H-A-W. I live at 9549 East Vista Drive,
24 Hillsboro, Missouri 63050.

25 JUDGE STEARLEY: Mrs. Shaw, do you solemnly

1 swear or affirm that the testimony you are about to
2 give will be the truth, the whole truth and nothing
3 but the truth?

4 MS. SHAW: I do.

5 JUDGE STEARLEY: Thank you. And are you a
6 property owner in Raintree?

7 MS. SHAW: I own a home in Raintree along
8 with my husband.

9 JUDGE STEARLEY: Okay. You may proceed.

10 MS. SHAW: I had a written statement that
11 has been partially covered by other people who have
12 spoken so I'm going to try to pick through the
13 statement and then give my thoughts.

14 I have been involved with the water main
15 sewer issues for about two years now. My primary
16 concerns are, my personal concern is for our water
17 quality. I have talked to the EPA, the DNR and the
18 Public Service Commission several times about it and
19 most of the people here I think know who I am.

20 I am in contact with many of the property
21 and homeowners and have been for two years. I have a
22 little e-mail list that I keep of property and
23 homeowners and when I think the issues are important I
24 send information out to them regarding this and other
25 issues that have to do with Raintree Plantation. So I

1 think I can speak for more than myself when I say that
2 many of us have been victimized by the utility
3 company.

4 I don't personally understand why we have
5 to give up one case for the other here and if we do
6 then I believe the cases should be tied together. It
7 is my understanding that we didn't have to do that,
8 that we don't have to give up one case for the other.
9 I would like to ask if that's true. Is it?

10 JUDGE STEARLEY: At this particular point
11 in time the cases are filed separately. There's been
12 no motion by any of the legal parties involved that I
13 am aware of to consolidate the two cases.

14 MS. SHAW: My question is if we agree that
15 we think it's a good idea to transfer the assets to
16 the county do we then give up all of our rights to
17 pursue the wrongdoings of the company?

18 JUDGE STEARLEY: Both of the cases whether
19 they are consolidated or not at this point are going
20 to proceed. And I can't state for you now today if
21 the sale proceeds if that is going to somehow nullify
22 the over earnings case. To my knowledge it would not.
23 And Mr. Mills is a Public Counselor who has brought
24 that suit might be better able to answer that question
25 for you.

1 MR. MILLS: If you'd like, I'd be happy to
2 try to answer it. First of all, I don't believe that
3 there's a motion to consolidate the two cases;
4 although, my office did ask several months ago that
5 public hearings be held together in the two cases.
6 The Commission never ruled on that motion. And since
7 they have held one public hearing without the other
8 obviously they sort of de facto ruled on it. They
9 never issued an order saying they weren't going to do
10 it if they didn't do it.

11 JUDGE STEARLEY: Actually, the order
12 setting the hearing stated that they would not
13 consolidate.

14 MR. MILLS: I apologize.

15 But in response to your question about the
16 over earnings complaint, the Commission really acts
17 prospectively in terms of rates setting so that if we
18 were to proceed with our over earnings complaint, the
19 Commission were to find, yes, absolutely Central
20 Jefferson County is earning too much, their rates
21 should be reduced, that would take effect going
22 forward, but because of the timing if the sale is
23 approved, Central Jefferson will be out of the picture
24 and there wouldn't be any way to reduce Central
25 Jefferson's rates going forward because they wouldn't

1 be providing you service going forward.

2 MS. SHAW: What about the \$1,100 they want
3 to collect, is there any way you can impact on that?
4 If they are attempting from way back from, like Tom
5 came and showed you a contract and all of those people
6 are contractually obligated to Raintree Plantation,
7 Inc. to give them that \$1,100 and it was for sewer
8 services then I don't understand why we can't continue
9 forward and impact on the \$1,100.

10 MR. MILLS: And that's kind of a tricky
11 question because that contract wasn't with the utility
12 company and that wasn't to my knowledge a rate paid
13 pursuant to a Public Service Commission approved rate.
14 That was, for lack of a better term, a real estate
15 arrangement rather than a utility arrangement. And I
16 don't know that the PSC can address that on an ongoing
17 basis.

18 MS. SHAW: Is it part of the plan
19 agreement that that \$1,100 will be collected by the
20 sewer district and then passed on to Raintree
21 Plantation, Inc?

22 MR. MILLS: That I don't know.

23 MS. SHAW: I thought it was.

24 No one knows.

25 MR. MILLS: I don't know and nobody else

1 is talking.

2 MS. SHAW: I noticed that. Okay. To me
3 that is an issue that really needs to be addressed.
4 That is an attempt in the future to collect funds that
5 was in the past earmarked for sewer treatment.

6 MR. MILLS: And certainly to the extent if
7 it is in the agreement that they are asking the PSC to
8 approve the PSC would either have to approve that or
9 say, no, we're not going to approve it or we're going
10 to approve it with conditions, so if that is part of
11 the plan going forward that is something that the PSC
12 will have to address going forward in the case.

13 MS. SHAW: Then I would like to point out
14 in the record a request that they consider that.

15 Okay. I have been working on this problem
16 on behalf of the community kind of on my own for about
17 two years now and I've tried to get a copy of the
18 proposed plant building and have not been able to do
19 so.

20 I think that our Property Owners
21 Association would benefit greatly if we could get a
22 copy of the proposed plant building so that we can see
23 physically where it's going to be located and where
24 towers be and so forth.

25 I personally feel that we cannot as

1 property and homeowners give an opinion without
2 knowing the rates, so if there is some kind of
3 preliminary study that sets forth rates I would like
4 to get a copy of that for the Property Owners
5 Association. If not, then I would like to know when
6 that will be possible to get and hope to get that
7 before a decision is made so that we as property and
8 homeowners will know what we are buying into.

9 I'm not an engineer, I just know that I
10 have neighbors who are here tonight that regularly
11 clean out their sewers. I've gone out and taken
12 pictures of the collection boxes in their yards. And
13 I have a neighbor who had thousands and thousands of
14 dollars worth of a back up in her house.

15 In the summer you not only can smell raw
16 sewage, you can see saw sewage on the ground in our
17 yards. We have had not had good maintenance. The
18 equipment is not maintained. There is known to be
19 broken equipment that hasn't been fixed. And I think
20 all of this needs to be addressed before we move
21 ahead.

22 I would like to get a map of the
23 infrastructure as well so that I can see where the
24 lines have been placed, what size the lines are and
25 where they are not placed because there seems to be

1 some contention about whether or not those lines were
2 put in and in John Kolisch's case, who owns them. I
3 think we all deserve to have more information before
4 we are able to actually answer a question about
5 whether or not we approve of this.

6 I personally have heard from and know
7 people that are so adversely impacted that there's a
8 family of four that is living in a four room apartment
9 that I know. There is a family living in a trailer.
10 There are people that are trying to pay off adjustable
11 rate mortgages that have drug on because they have not
12 been allowed to build.

13 My personal opinion of what has taken
14 place is if this is reasonable, if the rates are
15 reasonable and if we can get a good idea of what we
16 are going to get for what we will pay then I am in
17 favor of it.

18 As people have said before, we have not
19 gotten good service from the existing company and none
20 of us would want to go back to that. I've checked EMC
21 out myself, done a little research on them and they
22 are an excellent company as far as I can see.

23 So I would not want to do anything that
24 would jeopardize this agreement, but I cannot agree to
25 it until we have the information we need to know what

1 we are talking about.

2 My concern is that currently we have the
3 Public Service Commission as our watchdog. If this
4 goes through, if the transfer goes through I'm aware
5 that we will lose that. And then the only recourse we
6 will have will be the sewer district itself and there
7 is no way we can impact on their decisions.

8 As a matter of fact, you know, I don't
9 know -- the people that are on the sewer board may not
10 ever have to ever be personally impacted by their own
11 decisions. In other words, if the board itself is
12 comprised of people who generally don't live in
13 Raintree then they are all making decisions for us and
14 none of them are going to pay the rates they decide.

15 So I think we haven't had good
16 representation in this entire picture. There is
17 tri-party agreement that was made, but no one there
18 spoke for us. This hearing that will take place,
19 there's no one there speaking for the family of four
20 that is living in a tiny apartment and people living
21 in trailers and people with untreated human waste in
22 their yards.

23 I think that we need to be considered and
24 we need to be provided the information that we need to
25 make a good decision.

1 We property owners are under some heavy
2 pressure to accept this. And I hope that this is
3 everything we think it is, but because I'm a believer
4 in the devil being on the details, I would like to see
5 the details before we actually make a decision. We've
6 come this far, we've suffered already for lack of
7 planning and not being concerned about the future. I
8 don't want to get rushed into making decisions that
9 could turn around and bite us and impact on us in the
10 future in any way.

11 I think that pretty much take cares of it.
12 The other people who have spoke covered my other
13 issues.

14 JUDGE STEARLEY: Questions from the
15 Commissioners?

16 COMMISSIONER MURRAY: Thank you. I have a
17 couple of questions for you, one of which is I think
18 you were probably here when I was asking a gentleman
19 early if anyone had filed any civil lawsuits or filed
20 any complaints with any other body. His answer was
21 that he did not know of any. Do you know of any?

22 MS. SHAW: I don't know of anyone who has
23 actually filed.

24 COMMISSIONER MURRAY: Do you understand
25 that the Public Service Commission is limited by

1 statute as to what it can do?

2 MS. SHAW: I understand that.

3 COMMISSIONER MURRAY: And do you understand
4 that we are charged with providing that you receive
5 safe and adequate service at just and reasonable
6 rates?

7 MS. SHAW: I understand that.

8 COMMISSIONER MURRAY: And that when we are
9 faced with a situation like this where there may have
10 been significant abuses, if everything that is alleged
11 here tonight is true then indeed there have been a lot
12 of people that have been injured, but do you
13 understand that the Public Service Commission cannot
14 make anyone whole for those injuries?

15 MS. SHAW: I bring that up to highlight
16 the point that there's a lot of pressure on us to okay
17 just about anything that comes along.

18 COMMISSIONER MURRAY: And as far as the
19 Public Service Commission's role in approving or
20 disproving those transfer of assets, we are charged
21 also with weighing whether or not that will allow you
22 as the customers and the homeowners and the lot owners
23 to receive safe and adequate service at just and
24 reasonable rates. Would you agree to that?

25 MS. SHAW: I'm not sure I understood what

1 you meant.

2 COMMISSIONER MURRAY: Well, that that is
3 primarily our concern is that --

4 MS. SHAW: That we get fair rates.

5 COMMISSIONER MURRAY: And that you receive
6 safe and adequate service so that if there have been
7 abuses beyond what the Public Service Commission could
8 take care of that it would behoove you and the others
9 perhaps to at least consult an attorney as to your
10 legal rights that go beyond anything that the Public
11 Service Commission could take on?

12 MS. SHAW: I understand that.

13 COMMISSIONER MURRAY: I don't want anyone
14 to have false hopes that the Public Service Commission
15 can do more than it is statutorily authorized to do.

16 MS. SHAW: I understand.

17 COMMISSIONER MURRAY: Okay. Thank you.

18 MS. SHAW: I want to add one more thing
19 that I forgot to say.

20 What I was going to say was that I'm not
21 an engineer and I can't judge what our system is, but
22 I know that the system is broken down and that our
23 equipment is poor. I personally believe that we need
24 to have a study of our infrastructure before any
25 additional stress is put on it so that if someone

1 would take a look at the lines that we know are
2 suffering from input/output problems like rainwater
3 that gets into the lines, I believe that before we add
4 any further stress to the system we need to study what
5 we've already got and make a determination as to
6 whether the system as it stands can handle the
7 additional demand.

8 CHAIRMAN DAVIS: Ms. Shaw, did you pay
9 money to either Raintree or to Central Jefferson
10 County Utilities for a sewer or water hookup?

11 MS. SHAW: No. We bought our house, I
12 think, secondhand.

13 CHAIRMAN DAVIS: So you bought your house
14 after?

15 MS. SHAW: Right. Someone owned our house
16 first.

17 CHAIRMAN DAVIS: Do you know people who
18 paid those fees?

19 MS. SHAW: Hookup fees?

20 CHAIRMAN DAVIS: And not gotten any sewer
21 service? Is that what you were saying earlier or
22 maybe I misunderstood? So nobody has been collected
23 to people who haven't gotten sewer or water service;
24 is that right?

25 MS. SHAW: Nobody has gotten collected

1 from people who have gotten sewer and water; is that
2 what you are asking?

3 CHAIRMAN DAVIS: Yes.

4 MS. SHAW: As far as I know.

5 CHAIRMAN DAVIS: Your pictures, would it
6 be possible if someone, if we had staff from the
7 Missouri Public Service Commission contact you and see
8 if we could not get copies of all of your pictures?

9 MS. SHAW: I may have already sent them.

10 CHAIRMAN DAVIS: I know I've seen some
11 pictures. I didn't know if they came from you or from
12 some other source, but yes, we do have some pictures
13 there at the facility.

14 MS. SHAW: Yes, those are the ones that I
15 sent.

16 CHAIRMAN DAVIS: Okay. Thank you, Mrs.
17 Shaw.

18 JUDGE STEARLEY: I want to make sure, do
19 the attorneys have questions for Mrs. Shaw?

20 And did you say you have written comments
21 for us as well?

22 MS. SHAW: I've written all over my
23 comments so I'm going to try to get a cleaner sheet to
24 you.

25 You know, these are not that bad.

1 JUDGE STEARLEY: All right. Thank you.

2 Tim and Brenda Powers?

3 MR. POWERS: Yes. John Gaal has pretty
4 much expressed our concerns, similar situation. We
5 are property owners that want to build and aren't able
6 to.

7 JUDGE STEARLEY: All right. Thank you.

8 And we have Jeremy and Robin Forsyth?

9 MS. FORSYTH: My husband and I have the
10 same concerns as those that have already been
11 testified to.

12 JUDGE STEARLEY: Thank you.

13 Belinda Harris?

14 Mrs. Harris, do you solemnly swear or
15 affirm that the testimony you are about to give is the
16 truth, the whole truth and nothing but the truth?

17 REPRESENTATIVE HARRIS: I do.

18 JUDGE STEARLEY: All right. If you'd
19 please state and spell your name and give us your
20 address?

21 REPRESENTATIVE HARRIS: My name is Belinda
22 Harris. Last name is H-A-R-R-I-S. And I live at 7158
23 White Road, Hillsboro, Missouri 63050.

24 JUDGE STEARLEY: Mrs. Harris, are you a
25 property owner in Raintree?

1 REPRESENTATIVE HARRIS: No, I am not, but
2 I am the State Representative and it is in my
3 district.

4 JUDGE STEARLEY: All right. You may
5 proceed.

6 REPRESENTATIVE HARRIS: Thank you. First
7 I'd like to say that I'm for selling Raintree sewer
8 problems and making sure that it's done in a fair
9 manner.

10 I would like to relay the concerns of many
11 constituents that have called my office with their
12 issues about Raintree. They feel that the money
13 previously collected by the utilities company to do
14 improvements, upgrades and expansions have not been
15 spent in these areas.

16 The utilities should not leave the burden
17 on the residents to pay for the expansion through
18 excessive rate increases. Because of the distrust of
19 the utilities company it is important for the Public
20 Service Commission to maintain a position of oversight
21 of the rate setting.

22 Since the Public Service Commission only
23 has authority over private utilities and the Jefferson
24 County Public Sewer District is a public utilities
25 then setting of the rates need to be done before the

1 transfer of the assets of Central Jefferson County
2 Utilities to the Jefferson County Public Sewer
3 District.

4 That's the end of my comments.

5 JUDGE STEARLEY: Any questions from the
6 Commissioners?

7 COMMISSIONER MURRAY: Thank you
8 Representative Harris for being here this evening.

9 CHAIRMAN DAVIS: Representative Harris,
10 thank you for coming and thank you for participating
11 tonight. You probably one of the few legislatures
12 who have had the experience of dealing with homeowners
13 that can't afford or literally in some cases can't
14 sell their home or can't sell their lot because they
15 have a sewer or water problem and in many cases it's
16 the most significant asset that they own.

17 You want the rates set before the transfer
18 occurs; is that correct?

19 REPRESENTATIVE HARRIS: I think that would
20 be very important. I think because of the distrust
21 the public really needs to know what the rates are
22 going to be and I feel that if those are set or at
23 least where you have oversight of them then the
24 transfer I think would be a little more comfortable.

25 I feel like a lot of the concerns that the

1 public had out here is associated with some of these
2 issues. I believe we need to move on, but I think
3 it's shown in the past that a lot of the trust -- our
4 public counsel here has made comments that there is an
5 over earnings. I mean, if this has already been
6 happening what do they have to expect for the future
7 and I think there's just this concern and I think
8 having the Public Service Commission being involved
9 before the transfer, that gives you the opportunity to
10 have some input on the rates. After the transfer, as
11 I understand, you will not.

12 CHAIRMAN DAVIS: Representative Harris,
13 you heard Mr. Mills talk earlier about the over
14 earnings complaint and the fact that we because of
15 what is called the Filed Rate Doctrine that we can
16 only set rates prospectively. If myself or someone
17 else were to come to you with a piece of legislation
18 that might alter the law in respect to certain things
19 do you think you would be willing to take a look at it
20 and possibly sponsor it?

21 REPRESENTATIVE HARRIS: Yes, I would.

22 CHAIRMAN DAVIS: Thank you, Representative
23 Harris.

24 JUDGE STEARLEY: Any questions from the
25 attorneys? Thank you, Representative.

1 REPRESENTATIVE HARRIS: Thank you.

2 James McClung?

3 MR. MCCLUNG: My names is James McClung.

4 The last name is M-C capital C-L-U-N-G. I live at 16

5 Sun Ridge Trail, Hillsboro, Missouri 63050.

6 JUDGE STEARLEY: Mr. McClung, let me swear

7 you in. Do you solemnly swear or affirm that the

8 testimony you are about to give is the truth, the

9 whole truth and nothing but the truth?

10 MR. MCCLUNG: I do.

11 JUDGE STEARLEY: And are you a property

12 owner in Raintree?

13 MR. MCCLUNG: I own property and I also

14 own a home.

15 JUDGE STEARLEY: All right. You may

16 proceed.

17 MR. MCCLUNG: I agree with everything that

18 Representative Harris said. I think that setting the

19 rate is very important. My primary concern however

20 has to do with the Commission's ability to review the

21 infrastructure that is currently there and assess the

22 necessary improvements to it that would decrease the

23 potential for microbial organic and inorganic

24 contamination of the drinking water.

25 We know that the lead content in one of

1 the wells is above the EPA guidelines. Those
2 guidelines will change in the future. I would like to
3 know that you have looked at the potential for
4 upgrading the lower limit of lead when you get to the
5 point where have you a validated method that will
6 detect at a lower level.

7 The EPA has indicated that there is no
8 safe level of lead so as the new technology is
9 developed the level of lead will continue to decrease.
10 This will have a significant impact on the cost and
11 the rates over time. Thank you.

12 JUDGE STEARLEY: Questions from the
13 Commissioners?

14 COMMISSIONER MURRAY: I don't have any.
15 Thank you.

16 CHAIRMAN DAVIS: No questions.

17 JUDGE STEARLEY: Questions from the
18 attorneys?

19 MR. MILLS: No.

20 JUDGE STEARLEY: Thank you, Mr. McClung.
21 Bob Weckback?

22 Mr. Weckback, do you solemnly swear or
23 affirm the testimony you are about to give is the
24 truth, the whole truth and nothing but the truth?

25 MR. WECKBACK: I do.

1 JUDGE STEARLEY: If you will state and
2 spell your name for us.

3 MR. WECKBACK: My name is Robert Weckback.
4 I live at 9599 East Vista, Hillsboro, Missouri 63050.

5 JUDGE STEARLEY: And the spelling of your
6 last name?

7 MR. WECKBACK: W-E-C-K-B-A-C-K.

8 JUDGE STEARLEY: And are you a property
9 owner in Raintree?

10 MR. WECKBACK: I am.

11 JUDGE STEARLEY: And are you a homeowner
12 as well?

13 MR. WECKBACK: I am.

14 JUDGE STEARLEY: All right. You may
15 proceed.

16 MR. WECKBACK: John Acock pretty much hit
17 it on the head here about different people at Raintree
18 having to go down into the sewers and having to clean
19 them out. I'm one of them; okay?

20 Between my house and the lot next door
21 there is a line that runs into the main line going
22 down to the treatment plant which enters Raintree
23 Lake. Autumn Lake is where the main trunk of this
24 line runs and it runs down into the treatment plant.
25 Well, right before the line runs into this main line,

1 the line from the street, there is a catch basin with
2 a filtering system inside it, a filter box like.

3 Well, if I don't clean this out periodically
4 that line builds up with sewage, blocks up, it's going
5 to flood into my basement. If I don't clean it it
6 won't get cleaned.

7 And the new sewer company that takes over,
8 I hope they understand this and do some kind of remedy
9 for this problem. That's my problem right there.
10 That's pretty much it.

11 JUDGE STEARLEY: Any questions from the
12 Commissioners?

13 CHAIRMAN DAVIS: Mr. Weckback, how long --
14 when approximately was the first time you had to go
15 out and clean that?

16 MR. WECKBACK: Well, at first I'd say --
17 we've lived there ten years. And the first couple of
18 years we lived there they came around, the maintenance
19 crew came around and they did the preventative
20 maintenance and cleaning on it. After that I had to
21 do it. They stopped doing it, I don't know why, but
22 it was never done again.

23 CHAIRMAN DAVIS: That was about, what, 1998
24 roughly?

25 MR. WECKBACK: I would say somewhere in

1 there. There's a couple other people in the audience
2 that might know the date better than I do, but yeah,
3 probably in that area somewhere in that time period.

4 CHAIRMAN DAVIS: So is that about the time
5 that you noticed sewage backing up?

6 MR. WECKBACK: Oh yeah.

7 I opened it up. There's a gasket in the
8 bottom of this thing where the sewer line enters this
9 basket. It's below the top of basket. Well, the
10 basket fills up with solids, okay, and it's got no
11 where to go except back into the line because the line
12 is lower than the top of the box.

13 CHAIRMAN DAVIS: So this has been going on
14 for seven or eight years.

15 MR. WECKBACK: Oh, yeah. I've been
16 cleaning it off and on for that time.

17 CHAIRMAN DAVIS: And how many times a year
18 do you have to go out and do that?

19 MR. WECKBACK: I'd say three or four
20 times.

21 CHAIRMAN DAVIS: Three or four times a
22 year. And approximately how long each trip does it
23 take you?

24 MR. WECKBACK: You mean to clean the line
25 out?

1 CHAIRMAN DAVIS: Yeah.

2 MR. WECKBACK: I would say a couple hours.

3 CHAIRMAN DAVIS: A couple hours?

4 MR. WECKBACK: Yeah. It is to prevent,
5 like I say, backing up. And the first spot it's going
6 to hit is my basement. And there are more laterals
7 that goes to this main around the lake to the
8 different coves, I would say five to six to each cove.

9 CHAIRMAN DAVIS: So there are five to six
10 to each cove?

11 MR. WECKBACK: I would guess that, yeah.

12 CHAIRMAN DAVIS: And there are several
13 coves?

14 MR. WECKBACK: Right, that have this
15 existing problem.

16 CHAIRMAN DAVIS: All right.

17 MR. WECKBACK: It needs preventative
18 maintenance is what it needs. It's what it's build
19 for and it's been neglected. I don't feel that I
20 should pay my sewer bill, my utility bill and work for
21 them too.

22 CHAIRMAN DAVIS: No further questions, Mr.
23 Weckback. Thank you.

24 JUDGE STEARLEY: One moment. Any
25 questions from the attorneys?

1 MR. MILLS: Mr. Weckback, the Central
2 Jefferson County used to do this maintenance.

3 MR. WECKBACK: Periodically they'd come
4 out and clean it up, right.

5 MR. MILLS: So at one point they were
6 willing and able to do that?

7 MR. WECKBACK: And all of the sudden it
8 just keeled. There was, you know, nobody to do it
9 anymore.

10 MR. MILLS: And sometime around 1998 they
11 abandoned that practice?

12 MR. WECKBACK: Yeah, I would guess that
13 would be the time period.

14 MR. MILLS: And decided not to maintain
15 the system?

16 MR. WECKBACK: For one reason or another.
17 I don't know.

18 MR. MILLS: But for your actions the
19 system wouldn't be working?

20 MR. WECKBACK: Well, I don't know if it
21 would or not, but I don't want to take that chance.
22 The lady down the cove did have it back up in her
23 basement, the sewage.

24 MR. MILLS: So you are there on the spot
25 and it's your understanding that if you didn't clean

1 it out it would back up into your basement?

2 MR. WECKBACK: Where else is it going to
3 go?

4 MR. MILLS: That's all the questions I
5 have.

6 JUDGE STEARLEY: Follow-up questions from
7 Commissioner Murray?

8 COMMISSIONER MURRAY: Did you ever call
9 the utility to ask them why they weren't doing it or
10 to ask them to do it?

11 MR. WECKBACK: No, I didn't and I should
12 have. I really should have.

13 COMMISSIONER MURRAY: Did you ever call the
14 Public Service Commission to let the staff of the
15 Commission be aware?

16 MR. WECKBACK: No, I didn't, but all I'm
17 saying is from hence forward I would rather not clean
18 that mine up no matter who owns it.

19 COMMISSIONER MURRAY: I certainly
20 understand your concern. Thank you.

21 CHAIRMAN DAVIS: Mr. Weckback, can you
22 identify the lady that had the sewage back up in her
23 basement; do you know her name?

24 MR. WECKBACK: Marie Kohler.

25 CHAIRMAN DAVIS: Do you know how to spell

1 that last name?

2 MR. WECKBACK: I guess it's K-O-H-L-E-R.

3 CHAIRMAN DAVIS: And then I am a little
4 confused, Mr. Weckback. If you are paying the sewer
5 bill why would you not call the sewer company up?

6 MR. WECKBACK: I know, I know. I've got
7 so many things going on in my life right now that I
8 just didn't and I should have. You know, it's my
9 fault.

10 CHAIRMAN DAVIS: Okay. Thank you, Mr.
11 Weckback.

12 MR. MILLS: Mr. Weckback, you testified
13 that this is going on at other locations around the
14 lake.

15 MR. WECKBACK: It has to be. If they are
16 not cleaning mine out they are certainly not cleaning
17 anybody else's.

18 MR. MILLS: So you know that they simply
19 just didn't lose track of this one box, they just quit
20 doing it around the lake.

21 MR. WECKBACK: No. No. There is one at
22 the end of the cove. There is another fellow, I'm
23 looking at him right now, he has to clean his out.

24 MR. MILLS: So it's not like they lost
25 track of one box, they just stopped doing it in the

1 whole area?

2 MR. WECKBACK: Stopped doing it, correct.

3 MR. MILLS: Thank you. That's all I have.

4 MR. WECKBACK: And I'm surprised there
5 wasn't more.

6 CHAIRMAN DAVIS: More backups?

7 MR. WECKBACK: Right, more backups and
8 more people calling. I didn't, but I'm surprised
9 somebody else didn't either.

10 JUDGE STEARLEY: Any additional follow-up?

11 I have five witnesses remaining on our
12 list. If the testimony is going to be lengthy we can
13 take a short break here. If it's going to be brief we
14 can push through.

15 (Whereupon a brief discussion was held off the record)

16 (Whereupon a brief recess was taken)

17 JUDGE STEARLEY: We are back on the record.

18 And we will pick up with our witnesses.

19 John W. Martin?

20 Mr. Martin, do you solemnly swear or
21 affirm the testimony you are about to give is the
22 truth, the whole truth and nothing but the truth?

23 MR. MARTIN: I do.

24 JUDGE STEARLEY: If you will please state
25 and spell your name for our court reporter?

1 MR. MARTIN: John W. Martin, M-A-R-T-I-N,
2 10151 Lake Ridge Drive, Hillsboro 63050.

3 JUDGE STEARLEY: And Mr. Martin, are you a
4 property owner in Raintree?

5 MR. MARTIN: I'm a property owner.

6 JUDGE STEARLEY: And a homeowner?

7 MR. MARTIN: And a homeowner, yes, sir.

8 JUDGE STEARLEY: You may proceed.

9 MR. MARTIN: Just very briefly, I agree
10 with all of the property owners and homeowners, but I
11 did want to make one point that I hadn't heard.

12 We moved up from Georgia in January of
13 2005. We purchased a piece of property, a lake front
14 piece of property in November of 2004 and found out
15 about a week before we closed that there was a good
16 chance we were not going to be able to build on it.

17 I had such confidence in the property of
18 Raintree that I purchased a vacant house a couple of
19 blocks down with the sole purpose of living in that
20 house and watching our lakefront house be built.

21 So the impact is now I have a house that
22 is losing value because of the reputation that
23 Raintree has. I believe that it's there. I can state
24 that as a fact.

25 And also, my lot that we were going to

1 build our house on we can't build on because now I
2 have a short-term loan that now I have to keep, I have
3 to refinance it and pay for that property that I don't
4 know when I'm going to be able to build on. That's
5 all I have.

6 JUDGE STEARLEY: Any questions from the
7 Commissioners?

8 COMMISSIONER MURRAY: I will ask you, have
9 you taken any legal action against anyone?

10 MR. MARTIN: No, ma'am.

11 COMMISSIONER MURRAY: Thank you.

12 MR. MARTIN: I'm kind of stuck there.

13 CHAIRMAN DAVIS: No questions. Thank you,
14 Mr. Martin.

15 JUDGE STEARLEY: Any questions from the
16 attorneys?

17 Mr. Martin, you are excused. Thank you.

18 Claude Hershel?

19 MR. HERSHEL: Yes. I have no further
20 comment. I agree with everything that has been said
21 and brought up.

22 JUDGE STEARLEY: Thank you, Mr. Hershel.

23 I have Joe and Rhonda Spooner.

24 MR. SPOONER: I agree with everything
25 that's been said.

1 JUDGE STEARLEY: Thank you, Mr. Spooner.

2 And Chris Friedrich?

3 Mr. Friedrich, do you solemnly swear or

4 affirm the testimony you are about to give is the

5 truth, the whole truth and nothing but the truth?

6 MR. FRIEDRICH: I do.

7 JUDGE STEARLEY: Will you please state and

8 spell your name for our court reporter?

9 MR. FRIEDRICH: Chris Friedrich. The last

10 name is F-R-I-E-D-R-I-C-H. I don't live anywhere

11 right now. I have a P.O. Box number. I lost my home.

12 I'm staying with my grandmother.

13 I have two lake lots. I purchased the

14 first one in '04 with the idea that I was going to

15 build my home on it. That didn't happen. I bought it

16 in June of '04. After I went and had the blueprints

17 drawn, everything lined up, my subcontractors to build

18 and everything, I didn't hear until November of that

19 year that the plug was pulled in August. I mean, I

20 wasn't even notified. I heard it through the

21 grapevine by talking to a concrete guy that said you

22 can't build out there now. So I had no knowledge of

23 that until months later after they pulled the plug on

24 it.

25 I've got like \$72,000 invested on property

1 that I can't sell that is not worth that anymore. And
2 I've got a note due next June on an interest only loan
3 because I had a construction loan to put both lots
4 together, finance and build the home myself. So I'm
5 up the creek without a paddle.

6 So anyway, I like everything I've heard
7 said here tonight. I'd like to thank everybody for
8 being here. This is the best meeting I've been to in
9 two years since this thing has been going on.

10 I've been given a pacifier every time and,
11 you know, I want to chew on some meat. I want a time
12 frame, a target date, something, something to go home
13 with so I can sleep at night knowing that maybe my
14 property may be worth something again or that I may be
15 able to build on it next year or the year after or
16 when.

17 So my question is is there a target date
18 if this is accepted and rolls through? Does anybody
19 know? Does anybody want to buy a lake lot?

20 JUDGE STEARLEY: Questions from the
21 Commissioners?

22 COMMISSIONER MURRAY: Thank you. Are you
23 in favor of the transfer going through; is that your
24 position?

25 MR. FRIEDRICH: I'm just in favor of

1 anything getting done where I can build. Yeah, if the
2 transfer is the answer. I don't know. I've heard a
3 lot of things here tonight, but I've heard a lot of
4 things the last two years and nothing has ever been
5 done. I guess if it gets it done.

6 But there's a lot of people. There's over
7 3,000 lots there. Everybody has their own opinion on
8 it. Everybody has different interests in it. I know
9 a few people that have a lot more money than I have
10 invested in it. Like I said, I'm one of the other
11 people.

12 It's just, like I said, my question is
13 simple. When. And to the best interest of everybody
14 involved is what I'd like to see.

15 COMMISSIONER MURRAY: And I assume you are
16 saying as quickly as possible?

17 MR. FRIEDRICH: That would be helpful.

18 COMMISSIONER MURRAY: Thank you.

19 JUDGE STEARLEY: Mr. Chairman?

20 CHAIRMAN DAVIS: No questions. Thank you,
21 sir.

22 JUDGE STEARLEY: Any questions from the
23 attorneys?

24 MR. MILLS: No questions.

25 JUDGE STEARLEY: I don't know that we can

1 answer your question for you tonight. I can tell you
2 at this moment there is an evidentiary hearing
3 scheduled about the proposed sale set for December
4 19th and 20th.

5 MR. FRIEDRICH: Then the time frame after
6 that though. I know how things drag on. That gets us
7 to another phase and then -- can you put us under two
8 years? Do you have any kind of target date?

9 JUDGE STEARLEY: I cannot give you an
10 accurate time frame on how the proceedings will go,
11 but I can tell you what the schedule is at this
12 moment.

13 MR. FRIEDRICH: Another pacifier, a bigger
14 one.

15 JUDGE STEARLEY: Any other comments for us?

16 MR. FRIEDRICH: That's all I have.

17 JUDGE STEARLEY: We thank you very much.

18 I have Dottie Schwantner?

19 MS. SCHWANTNER: My name is Dottie
20 Schwantner. I lived at 7212 Marlton Lane,
21 M-A-R-L-T-O-N. It's in St. Louis County, 63123.

22 COURT REPORTER: Please spell your last
23 name.

24 MS. SCHWANTNER: It's S-C-H-W-A-N-T-N-E-R.

25 JUDGE STEARLEY: Mrs. Schwantner, do you

1 solemnly swear or affirm the testimony you are about
2 to give will be the truth, the whole truth and nothing
3 but the truth?

4 MS. SCHWANTNER: I do.

5 JUDGE STEARLEY: All right. And are you a
6 property owner at Raintree?

7 MS. SCHWANTNER: I am a property owner.
8 My husband and I have been property owners since 1988
9 at Raintree. We were raising young children and we
10 didn't want to move out there years ago and now that
11 we are ready to move out to Raintree and build we
12 can't. We are very disappointed.

13 We feel that -- we are in a little bit
14 of -- we can't understand the PSC. You say that you
15 don't have any -- you have the ability to set the
16 rates that the utility company charges, but you don't
17 have any ability to police what they do. So they can
18 collect money, they don't have to provide service,
19 they don't have to maintain.

20 You know, I have a question in that what
21 government agency does protect us. I mean, can a
22 utility company actually come in and the PSC allows
23 them to do this, charge people rates, but they don't
24 have anything on their end that they have to do?
25 That's how it seems to me.

1 You asked about litigation. We've thought
2 about litigation, but what we're hearing is if we get
3 lawyers involved and we take this to court in lawsuits
4 it's going to be held up longer. It's like the one
5 man said. It's not just a matter of a few months or a
6 few weeks. We're looking at years. It could be held
7 up for years and years and years. So we don't want
8 that and so, you know, we're reluctant to go to a
9 lawyer and say, hey, you know, let's slap a lawsuit on
10 this company.

11 I know that if we go ahead and this does
12 get settled and this transfer go through, if we go to
13 hook on and I have to pay \$1,100 because of that
14 original contract that I signed with Raintree,
15 whoever -- you know, we bought our property from the
16 developers. If we have to pay \$1,100 to Raintree,
17 Inc. to hook up when these are the same people that
18 have been really cheating people and the whole
19 Raintree community for years, that is wrong. And I
20 would hope that somehow that can be addressed. That's
21 all I have.

22 JUDGE STEARLEY: Do we have questions from
23 the Commissioners?

24 CHAIRMAN DAVIS: Ma'am, I don't have any
25 questions, but I am sorry because it is apparent that

1 the State Government has failed these people including
2 yourself and for that I apologize. We'll try to make
3 it right as quickly as we can.

4 MS. SCHWANTNER: If you can put it on the
5 fast track I think we would all appreciate it.

6 COMMISSIONER MURRAY: Thank you for your
7 testimony.

8 I just wanted to clarify that when I was
9 asking the questions to the lady earlier I wasn't
10 trying to indicate that there's nothing we can do. I
11 just have heard a lot of things here this evening that
12 have indicated that there may be a lot more culpable
13 parties than one assuming that everything that was
14 said here tonight was correct and that it might
15 behoove the property owners to look at whether they
16 have legal remedies elsewhere because we are limited
17 at the PSC as to how much we can do.

18 For example, we are not allowed to award
19 damages, things like that, that maybe property owners
20 would have a right to in a situation in which they
21 have been harmed by more than one party, for example.
22 And I just wanted to in my questioning to the prior
23 witness, the prior lady who was testifying, to make it
24 clear that we do have limitations and that you may
25 have broader remedies.

1 MS. SCHWANTNER: The only thing I want to
2 say is if this transfer does not go through and
3 Central Jefferson County Utility Company remains in
4 control, you know, no one is making them do anything.
5 And they just say, well, we don't have the money and
6 we can't find a buyer. That's it. That's not right.

7 COMMISSIONER MURRAY: One of my questions
8 to some of the other witnesses has been have you
9 contacted the Public Service Commission at any time
10 during any of these problems; have you talked to
11 anyone on the staff at the Public Service Commission?

12 MS. SCHWANTNER: No. I've talked to staff
13 at DNR. And Diane has had contact with the Public
14 Service Commission. I'm on her e-mail list, keep up
15 with what she's finding out, so no, I haven't. And
16 maybe that's wrong.

17 COMMISSIONER MURRAY: Have you ever seen
18 anyone from the Public Service Commission staff out on
19 the property?

20 MS. SCHWANTNER: No. No. Well, I don't
21 live there.

22 COMMISSIONER MURRAY: You wouldn't be there
23 to see it if it happened?

24 MS. SCHWANTNER: That's true. That's
25 true.

1 COMMISSIONER MURRAY: All right. Thank you
2 for your testimony.

3 MS. SHAW: You guys were at the meeting in
4 January. The Public Service Commission was here then
5 and there were 200 people in this room talking to the
6 Public Service Commission that night.

7 MS. SCHWANTNER: Yeah, I know you were.

8 MS. SHAW: Okay. They heard from 200
9 people that night.

10 JUDGE STEARLEY: Your comments, Mrs. Shaw,
11 cannot go into the record because you weren't giving
12 your testimony while you are up there.

13 I wanted to ask you, you mentioned the
14 figure of \$1,100.

15 MS. SCHWANTNER: Yeah. This is what a
16 couple of people have brought this up. In the
17 original contract with the property owners there is
18 stipulations in there that we have to pay money to
19 Raintree Incorporated. And what I'm hearing from
20 people is that even though this transfer may go
21 through then of course if we build we'll have to pay
22 for a hookup I guess to the sewer district or EMC or
23 whatever, but we will also still have to pay this
24 money to Raintree, Inc. because we signed a contract
25 to that effect some years ago.

1 I mean, I thought that that was, yeah,
2 we're signing this contract because they would be the
3 ones that do our hookup. I didn't have a problem with
4 that, but if they are not the ones doing the hookup
5 then I don't want to pay them the money.

6 JUDGE STEARLEY: But at this point you have
7 not paid them the \$1,100?

8 MS. SCHWANTNER: No, I have not.

9 JUDGE STEARLEY: That's the amount that is
10 set in your contract?

11 MS. SCHWANTNER: Yes, sir.

12 COMMISSIONER MURRAY: That led to another
13 question. You are not saying that you are not willing
14 to pay a hookup fee; is that correct?

15 MS. SCHWANTNER: Oh, I'll pay a hookup
16 fee, but I don't think it's right if Raintree, Inc.
17 can collect the hookup fee if they no longer are
18 involved with the utility. That's what I meant.

19 COMMISSIONER MURRAY: I understand what you
20 are saying. Thank you.

21 CHAIRMAN DAVIS: Ma'am, would it make you
22 feel better if we told you that we will get to the
23 bottom of that issue before the transfer goes through?

24 MS. SCHWANTNER: Yes, I would like that.
25 It would, yes, sir.

1 CHAIRMAN DAVIS: No further questions.
2 Thank you.
3 JUDGE STEARLEY: Any questions from the
4 attorneys?
5 MR. MILLS: No questions.
6 JUDGE STEARLEY: You are excused.
7 I don't have anymore witnesses on my list.
8 Is there anyone else here who would like to speak here
9 tonight?
10 MR. NEIL: Yes.
11 JUDGE STEARLEY: If you would come on down?
12 Would you please state and spell your name
13 for our court reporter?
14 MR. NEIL: My name is Gene Neil. I live
15 at 9533 East Vista, Hillsboro, Missouri 63050.
16 JUDGE STEARLEY: And the spelling of your
17 last name, please.
18 MR. NEIL: N-E-I-L.
19 JUDGE STEARLEY: And, Mr. Neil, do you
20 solemnly swear or affirm that the testimony you are
21 about to give will be the truth, the whole truth and
22 nothing but the truth?
23 MR. NEIL: I do.
24 JUDGE STEARLEY: And are you a property
25 owner in Raintree?

1 MR. NEIL: Yes, I am.

2 JUDGE STEARLEY: And are you a homeowner?

3 MR. NEIL: Yes, sir.

4 JUDGE STEARLEY: You may proceed.

5 MR. NEIL: Okay. In 1995 I built a home
6 in Raintree and for the first, I'd say, two years the
7 sewer people came by and cleaned out a clean out which
8 is in the back of my yard and after that they quit
9 cleaning it out. And I was having sewer problems. It
10 smelled bad. And I called the sewer company and they
11 sent Roger out.

12 And to solve this problem he said he would
13 seal the sewer which did not solve the problem. And I
14 told him it wouldn't solve the problem because a lady
15 down the street from me had already had a backup in
16 her house.

17 And the problem is I have a gravity feed.
18 I don't have to have a pump, but the sewer from the
19 road comes down through the main sewer into a manhole
20 and then I have a lateral sewer going across the back
21 of my lot and from this manhole it goes into the
22 clean-out. Well, the clean-out stops up. And as Mr.
23 Weckback has said before, the line coming into the
24 clean-out is below where the filter stops up so
25 therefore this line stops up and when it does the

1 water coming down from the main sewer line from the
2 street comes to this manhole, it goes across this
3 lateral sewer and it blew the lid off of the lateral
4 sewer and raw sewage was going in the lake.

5 And yes, I did call the sewer company.
6 They came out and blew the line out and they said it
7 won't happen anymore. Well, I told him, I said,
8 Roger, every two weeks I clean my sewer out. If I
9 don't it's going to back up into that line and maybe
10 it won't come up in my house if it blows the lid off
11 the sewer again, but if it doesn't blow the lid off
12 it's going to back up into my house.

13 So that's where I stand. And I'm getting
14 tired like Mr. Weckback. I clean mine out at least
15 every -- once a month and most usually about every two
16 weeks. If I don't it gets to smelling so bad that you
17 can't stand it.

18 They've got to do something.

19 My biggest problem happened probably two
20 or three years ago when they built some more houses up
21 above me that had gravity feed. They didn't have to
22 have pumps so nothing is ground up and everything they
23 throw in the sewer stops this seal up. And it's
24 stopping up more easily all the time, every time
25 another house is built.

1 And if they build some more houses I'll
2 have to clean it out every week I guess, if they don't
3 do something about it, but I can't afford to let it
4 back up into my house.

5 They are going to have to do something with
6 the clean-outs because if they build more houses out
7 there and even if they make a bigger sewer plant, if
8 they don't do something to the clean-outs we're going
9 to have backed up sewers everywhere.

10 That's all I have to say.

11 JUDGE STEARLEY: Any questions from the
12 Commissioners?

13 CHAIRMAN DAVIS: No questions.

14 COMMISSIONER MURRAY: Thank you. Can you
15 tell me about the quality of your drinking water?

16 MR. NEIL: I've had no problem with the
17 drinking water, but I will tell you one problem I've
18 had.

19 We have fire hydrants. I have one that I
20 could throw a rock from my house and hit it and I went
21 over -- they are supposed to flush them out. They
22 never have flushed them out as far as I know. I flush
23 it out about twice a year.

24 COMMISSIONER MURRAY: The fire hydrant?

25 MR. NEIL: The fire hydrant.

1 I took my wrench and opened it up and it
2 just gurgles and everything and after a while rusty
3 water jumps out of it and eventually I get water, but
4 they are supposed to flush these things out. They
5 don't paint them, they don't flush them, they don't do
6 anything.

7 COMMISSIONER MURRAY: Thank you.

8 JUDGE STEARLEY: Mr. Neil, you mentioned
9 raw sewage going into a lake?

10 MR. NEIL: Right.

11 JUDGE STEARLEY: Could you tell us more
12 about this lake and is this a problem with more than
13 one home that you are aware of?

14 MR. NEIL: Well, I know of a lady down the
15 street, that Mary, I don't know what her last name is,
16 had thousands of dollars of damage.

17 But my biggest problem even with the sewer
18 company, when I called them and they came out and they
19 blew the line out and I showed them, which they should
20 have known what the problem was, it's this lateral
21 line that goes across, it's much lower than my house
22 and so it blew the lid off. The sewage was going into
23 the lake, raw sewage.

24 And I told Roger, I said you've got to do
25 something about this. And I said will you clean this

1 mess up. Oh, just leave it lay, it will dry up, he
2 says. And I said, what's going to happen. You know,
3 it's already going into the lake and all of this is
4 going onto my property and when it rains it's going to
5 wash the rest of it in the lake. And he says that
6 won't hurt nothing. They won't do nothing about it.
7 So that was their answer.

8 JUDGE STEARLEY: And have you notified DNR
9 about raw sewage going into this lake?

10 MR. NEIL: Well, what I said to Roger when
11 I saw him after I seen it going down in there, I said
12 whichever one of you gets out here first, you or DNR.
13 Well, he was out there in about 20 minutes, so, no, I
14 did not call DNR, but I have spoke with them.

15 One of the last meetings we had people
16 going around taking pictures, I don't know where they
17 were from, but they were taking pictures of these
18 clean-outs and the sewers. And we opened up -- this
19 lady down the street that had all the sewer problems
20 has a clean-out in her backyard just like mine and we
21 opened it up and it was just black. There wasn't
22 nothing running. It's a sewer. You're supposed to go
23 in there and clean out them under the lake. There was
24 no running water at all in there. It had totally
25 stopped up. Again.

1 JUDGE STEARLEY: Thank you. Any other
2 questions from the attorneys? Any follow-up questions
3 from the Commissioners?

4 Thank you, Mr. Neil. You may be excused.

5 JUDGE STEARLEY: And who else wanted to
6 speak?

7 MR. KENEFICK: I'm Tom Kenefick.

8 JUDGE STEARLEY: Mr. Kenefick, you already
9 testified for us earlier; is that correct?

10 MR. KENEFICK: Yes.

11 JUDGE STEARLEY: I'll remind you that you
12 are still under oath.

13 MR. KENEFICK: I have a question.

14 All of the people at Raintree that have
15 houses and people who intend to build are going to be
16 paying to Central Jefferson County Utility Company
17 their monthly bills and apparently paying \$1,100 to
18 Raintree Plantation, Inc.

19 My question is can we somehow send that
20 money to escrow so that when this problem is resolved
21 that that money could go toward what it should have
22 been going toward instead of into the rat hole where
23 it's been going?

24 And maybe that's a rhetorical question,
25 but if there's any way to do that I'd like to know.

1 CHAIRMAN DAVIS: Mr. Kenefick, there's
2 your man you need to talk to right there, Mr. Lewis
3 Mills.

4 MR. MILLS: And you've got my card.

5 JUDGE STEARLEY: Any additional questions
6 for Mr. Kenefick?

7 Thank you for your additional comments.

8 We have one more hand. Come on down.

9 If you'll please state and spell your
10 name?

11 MR. SHAW: My name is Jim Shaw, S-H-A-W.
12 I live at 9549 East Vista, Hillsboro and I am a
13 property owner and a homeowner in Raintree.

14 JUDGE STEARLEY: Let me swear you in here.

15 Mr. Shaw, do you solemnly swear or affirm
16 the testimony you are about to give is the truth, the
17 whole truth and nothing but the truth?

18 MR. SHAW: I do.

19 JUDGE STEARLEY: You may proceed.

20 MR. SHAW: I'd like to state that in
21 January, I believe it was January of this year there
22 was a meeting held in this room that contained members
23 of the Public Service Commission, the Department of
24 Natural Resources and the Federal Environmental
25 Protection Agency.

1 Many of the property owners and owners of
2 Raintree testified before that committee about many of
3 the same problems that we are addressing today. So
4 many of these complaints have been brought before the
5 Public Service Commission before. While the
6 individual may not have called on some hotline or
7 something of that sort, they have been reported. And
8 many of those are the same individuals who spoke here
9 tonight and there are also many more who are not here,
10 but that meeting had over 200 people in attendance.
11 And there was a transcript made. It was an official
12 meeting and there was a court subscriber or court
13 reporter there taking testimony just as she is now.
14 So I'd like to bring that to the attention of the
15 Public Service Commission. That should be in your
16 documentation.

17 JUDGE STEARLEY: Questions for the
18 Commissioner?

19 COMMISSIONER MURRAY: No, but thank you.

20 MR. SHAW: You're welcome.

21 CHAIRMAN DAVIS: Mr. Shaw, you are married
22 to Mrs. Shaw that testified earlier; is that correct?

23 MR. SHAW: Yes, I am.

24 CHAIRMAN DAVIS: I thought I would verify
25 that fact. Thank you.

1 JUDGE STEARLEY: Mr. Shaw, are you aware
2 if any of the property owners have filed an informal
3 or formal complaint with the Public Service
4 Commission?

5 MR. SHAW: No, I'm not. I don't know of a
6 formal or informal complaint. I do know that there
7 were, as Mr. Neil was talking about, when there was a,
8 I believe, a DNR investigator came out. And we
9 actually took a look at some of these manholes that
10 they are talking about where both he and Mr. Weckback
11 and some of the others have had to clean out and that
12 person, that investigator took pictures as well. And
13 I believe there was also an EPA person involved at
14 that time. As far as actually a formal complaint,
15 motion, lawsuit, something like that I'm not aware of
16 any.

17 JUDGE STEARLEY: All right. Any questions
18 from the attorneys?

19 Thank you, Mr. Shaw.

20 And I believe we have a couple more people
21 up here.

22 Please state and spell your name for our
23 court reporter.

24 MS. OAKES: Karin, K-A-R-I-N, Oakes,
25 O-A-K-E-S, 9711 East Vista Drive, Hillsboro, Missouri

1 63050.

2 JUDGE STEARLEY: Ms. Oakes, do you solemnly
3 swear or affirm that the testimony you are about to
4 give will be the truth, the whole truth and nothing
5 but the truth?

6 MS. OAKES: Yes.

7 JUDGE STEARLEY: And are you a property
8 owner in Raintree?

9 MS. OAKES: Homeowner.

10 JUDGE STEARLEY: Okay. You may proceed.

11 MS. OAKES: I just have a question. After
12 hearing all of the problems with the sewers and the
13 sewage and that the PSC and the DNR and all of the
14 initialed organizations that are represented here and
15 were at the meeting last year, is it possible that EMC
16 could work on these problems until the sale is done
17 because if they are taking over, are contracted to do
18 what the utility company hasn't done and should have
19 done, can they start working on these things tomorrow
20 since all they have to do is call Diane or call the
21 POA or call me, call anybody to find out or just look
22 around and they will see the problems.

23 So I'm not sure why we have to wait until
24 the sale is done before we get some action out there
25 for these critical problems. And I'm wondering if

1 somebody could tell me if we could do that since the
2 contract has been made. Maybe Jefferson utilities
3 attorneys who have been very silent tonight may be
4 able to tell us that.

5 MR. ENGLAND: We certainly are aware of it
6 and can make them aware of it.

7 MS. OAKES: Does that mean they will be
8 aware like the utility company was aware or actually
9 doing some work? Does that mean that they will get
10 work orders and proceed? Roger lives out there. He
11 can certainly tell them, bring them up to speed with
12 that.

13 MR. ENGLAND: I can't answer you what they
14 will do, but I can make them aware of the problems.
15 We make notes, we know where the people are living and
16 we can have them check these things out.

17 MS. OAKES: Well, does the contract
18 between Central Jefferson Utility and EMC include
19 maintenance today as we -- isn't there a contract
20 between the two right now?

21 MR. ENGLAND: Ordinary day to day
22 maintenance is covered by that contract and they are
23 doing that today.

24 MS. OAKES: So that means that Mr.
25 Weckback and the other gentleman can stop cleaning out

1 their traps?

2 MR. ENGLAND: They should and we're going
3 to look into it.

4 MS. OAKES: And how would we find out; who
5 would we call to find out if anything is done?

6 JUDGE STEARLEY: I don't want to cut you
7 off, but the conversation you are engaging in now is
8 not appropriate testimony on our record. And you are
9 certainly free to continue this discussion with the
10 attorneys after the meeting. We do appreciate your
11 comments.

12 Do the Commissioners have any questions
13 for Mrs. Oakes?

14 CHAIRMAN DAVIS: No, thank you.

15 Thank you, ma'am.

16 JUDGE STEARLEY: And one other gentleman
17 here?

18 MR. GARRITANO: Good evening. My name is
19 Tony Garritano, G-A-R-R-I-T-A-N-O. I live at 9448
20 Century Drive, 63050.

21 JUDGE STEARLEY: And Mr. Garritano, do you
22 solemnly swear or affirm the testimony you are about
23 to give will be the truth, the whole truth and nothing
24 but the truth?

25 MR. GARRITANO: Yes, I do.

1 JUDGE STEARLEY: And are you a property
2 owner in Raintree?

3 MR. GARRITANO: I'm a property owner and
4 land owner.

5 JUDGE STEARLEY: All right. You may
6 proceed.

7 MR. GARRITANO: I subsequently owned two
8 lots on the lake by Chris that I can't build on. I
9 love the community and ended up buying a home.

10 My reason for coming up, I wanted to go on
11 the record. You've asked numerous people what you
12 feel and/or agree with the sale, transfer. And on the
13 record, number one, I would like to obviously agree
14 with the sale.

15 It's pretty obvious that the management
16 that worked with engineers to put the infrastructure
17 together and/or have operated it have been at best
18 terrible and EMC obviously is a reputable company that
19 runs other utilities in St. Charles County and other
20 counties that I'm sure you guys are aware of who do a
21 very fine job, so why we as a community wouldn't want
22 to take them on I'm not sure. I totally agree as a
23 homeowner and land owner we look forward to them
24 taking management in Jefferson County Utility,
25 Jefferson County Sewer District owning, personally

1 anyways I do.

2 JUDGE STEARLEY: Are there any questions
3 from the Commissioner?

4 CHAIRMAN DAVIS: No questions. Thank you,
5 sir.

6 MR. GARRITANO: And I wanted to know if I
7 could ask DNR a question, the representative?

8 I speak on behalf of Mr. Avila Alpha
9 Omega. He spoke of a couple who are out there that
10 can't move into a home and they weren't able to be
11 here tonight.

12 JUDGE STEARLEY: Mr. Garritano, I don't
13 want to interrupt, but again this is not testimony
14 directed to the Commission. If you want to direct a
15 question to one of the attorneys after the meeting, by
16 all means you can certainly do so.

17 MR. GARRITANO: Okay.

18 JUDGE STEARLEY: Any questions from the
19 attorneys?

20 MR. MILLS: No.

21 JUDGE STEARLEY: Thank you very much.

22 Is there anyone else who would like to
23 testify that we haven't gotten to tonight?

24 CHAIRMAN DAVIS: Judge, I've got a couple
25 of questions for counsel.

1 Counsel for DNR, are you present?

2 MR. DICKERSON: We don't have counsel
3 tonight.

4 CHAIRMAN DAVIS: So you are not counsel?

5 MR. DICKERSON: No.

6 CHAIRMAN DAVIS: Just for the record, Mr.
7 England, if people have a problem with their water or
8 sewer service who should they contact?

9 MR. ENGLAND: That would be Linda Dennis
10 at the company's office and we're making her aware of
11 this.

12 CHAIRMAN DAVIS: And what is the phone
13 number?

14 MR. ENGLAND: I don't have that right off
15 the top of my head.

16 CHAIRMAN DAVIS: Also, Mr. England, we've
17 heard a lot of testimony here tonight about some
18 concern about this \$1,100, an alleged \$1,100 fee to be
19 paid to Raintree Properties Incorporated. Do you have
20 any knowledge of this fee? Once the property is
21 transferred to the Jefferson County Public Sewer
22 District for every hookup is Jefferson County Public
23 Sewer District going to be paying Raintree Properties
24 or Central Jefferson County Utilities \$1,100 pursuant
25 to some contract?

1 MR. ENGLAND: I believe there is an
2 arrangement. I don't know the exact arrangement on a
3 go forward basis. In the past, today and in the past
4 as I explained in the question and answer session, you
5 are right, there is a contract between Raintree, the
6 seller of the property and the individual lot owners.
7 That \$1,100 was to be paid at the time the homeowner
8 connected to the sewer system.

9 There was a complaint some years ago
10 before the Public Service Commission that that charge
11 is a regulated utility charge and the Commission found
12 that it was not, it was a matter of separate contract
13 between the developer and the land owner. So that is
14 the history on that charge.

15 CHAIRMAN DAVIS: Okay. So it's your
16 position that based on a prior Commission decision
17 that it's a contractual matter and this Commission
18 doesn't have authority over that transaction?

19 MR. ENGLAND: And that, as I understand,
20 was the Commission's decision in that case.

21 CHAIRMAN DAVIS: Mr. England, is it your
22 position that your client has been providing safe and
23 adequate service for the past eight years?

24 MR. ENGLAND: It is my opinion that that
25 is the case. I've heard the testimony tonight and we

1 obviously will look into it, but I'm not in a
2 position. I personally don't have knowledge.

3 CHAIRMAN DAVIS: So you haven't reviewed
4 the transcript from January, have you, the earlier
5 transcript?

6 MR. ENGLAND: No. I wasn't aware of that
7 meeting until I heard about it tonight.

8 CHAIRMAN DAVIS: Thank you. No further
9 questions.

10 (Lady from audience asks for a phone number)

11 CHAIRMAN DAVIS: Ma'am, I would direct
12 anyone that has any questions or concerns or problems
13 to call the PSC Consumer Help Line at 1-800-392-4211
14 and we have live people there to answer the phones
15 most days, this Friday is a holiday, between the hours
16 of 8 and 5.

17 (Whereupon a brief discussion was held off the record)

18 MR. MILLS: And it's on the green sheet
19 and the golden sheet if you picked them up at the
20 beginning.

21 JUDGE STEARLEY: Do we have someone else
22 who wants to testify?

23 UNIDENTIFIED SPEAKER: We have a lawyer
24 from the POA sitting here. Can he be addressed to
25 maybe answer the question about the \$1,100?

1 CHAIRMAN DAVIS: Sure.

2 Mr. Schnaare, what is your position on the
3 \$1,100.

4 MR. SCHNAARE: I've seen that in the
5 earlier agreements. Those contracts were between
6 Raintree, Inc. and the people who purchased it. It's
7 an debt and obligation that arises out of that
8 contract. It is between those people which is much in
9 harmony with what has been said about the findings by
10 the Public Service Commission.

11 However, having said that and heard the
12 testimony as well, it seems as though those
13 obligations were we will place the money up with you,
14 in exchange we will be receiving benefit from it by
15 way of the sewer. Once it does change hands if that
16 issue isn't addressed now it may be lost.

17 Ultimately the value that is that which
18 stands behind the judgment against the current utility
19 company may be lost is that obligation may not be
20 followed through with the utility people.

21 Now it strikes me odd though that if the
22 utility company makes this transfer that they are
23 really going to be standing around looking to collect
24 those \$1,100 figures because that represents your
25 right to then raise a claim against them for whatever

1 issues you might have, but I can't be assuring you
2 that they wouldn't do it, but it is part of the
3 original contract and it is an issue between each
4 individual purchaser and the Raintree, Inc., the
5 Raintree Incorporated, not to be confused with the
6 Property Owners Association and it's part of that
7 agreement solely.

8 CHAIRMAN DAVIS: Counselor, can I ask you
9 one more question?

10 MR. SCHNAARE: If it's easy.

11 CHAIRMAN DAVIS: In the original contract
12 was there agreement that sewer and water facilities to
13 all the lots in Sections 1, 2, 3 and 8 would be
14 completed in 1981 and that all of the others would be
15 completed in 1983; do you know anything about that?

16 MR. SCHNAARE: I have not been engaged in
17 reviewing those contracts so I can't comment on it to
18 that extent. I mean, I haven't read them. I've heard
19 about these certain mythologies, I've heard about
20 these documents, but I've never had one presented to
21 me to review.

22 CHAIRMAN DAVIS: All right. Thank you.

23 JUDGE STEARLEY: I believe we're going to
24 have a couple of closing remarks by the Commissioner.
25 Before we go there, I wanted to point out to you in

1 addition to the phone number the chairman has given
2 you all you can make written comments on our web page
3 and we have links. I can read those links off to you.

4 MS. SHAW: May I add one more thing? I
5 need to clarify something.

6 JUDGE STEARLEY: As far as your comments,
7 Ms. Shaw, your testimony?

8 MS. SHAW: As far as my husband's
9 comments.

10 My husband testified that there was a
11 court reporter at the meeting that we held here in
12 January and there wasn't. I did, however, take
13 minutes of the meeting and I have them and if there is
14 a need to know what I recorded, which isn't legal or
15 anything, but I did take minutes of that meeting.

16 JUDGE STEARLEY: All right. Thank you,
17 Mrs. Shaw.

18 I haven't looked at the green sheet that
19 was handed out. Is the web page on there?

20 MR. MILLS: Yes, it is.

21 JUDGE STEARLEY: The web address is on
22 that page. You are all welcome to go there and make
23 written comments. And on that page you fill in the
24 case number so that we all know what case that is
25 going to. It's certainly another avenue for you to

1 make additional comments.

2 Commissioner Murray would like to make
3 some closing remarks at this time.

4 COMMISSIONER MURRAY: First of all I just
5 want to thank everybody for making the effort and
6 spending the evening to inform us of your concerns.
7 And I also would like to thank as many people as I can
8 think of who made it possible to have this meeting
9 this evening including the college for letting us use
10 these nice facilities, the staff of the Public Service
11 Commission in the back of the room who have been here
12 all evening and I understand they didn't even get a
13 chance to have dinner and now they have to pack up
14 their equipment and drive back to Jefferson City and
15 that's not a small effort, so we really appreciate
16 that.

17 And I would also like to thank Representative
18 Harris for making us more aware of our need to be here
19 and for staying for the whole evening. That's unusual
20 for a State Representative or Senator to stay for an
21 entire meeting like this so we appreciate it.

22 CHAIRMAN DAVIS: I just want to thank the
23 college for being a gracious host to us here this
24 evening.

25 I want to thank all of you for your

1 participation. I knew the allegations were serious.
2 I was not aware of the volume of the allegations nor
3 the seriousness of those allegations. I promise you
4 that we will try to get to as expeditious a resolution
5 of these issues as possible. I can't promise you a
6 specific time, but we will do what we can to resolve
7 these matters as quickly as possible. Thank you for
8 your attendance.

9 JUDGE STEARLEY: Public hearing in Case
10 Number SO-2007-0071 is hereby adjourned. Thank you
11 all for coming.

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