

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

OFFICE OF THE PUBLIC COUNSEL	)	
	)	
vs.	)	No. WC-2002155
	)	
WARREN COUNTY WATER & SEWER COMPANY	)	
and GARY L. SMITH	)	

Public Hearing  
March 11, 2002  
Incline Village  
Foristell, Missouri

REPORTED BY: Janina A. Jaeger, RPR  
Concannon & Jaeger

## PUBLIC SERVICE COMMISSION

BE IT REMEMBERED, that the above-entitled matter came on for public hearing at the Incline Village Community Center, 1226 Fairway Drive, in the City of Foristell, State of Missouri, on the 11th day of March, A.D., 2002, commencing at 6:00 in the afternoon of that day, said hearing having been called by the Public Service Commission pursuant to the issuance of due notice to all parties in interest, and the following is the transcript of all proceedings had during the course of said hearing.

KURT U. SCHAEFER, Esq.  
Warren County Water & Sewer Company  
and Gary L. Smith

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1 (Thereupon, the hearing was called to order.)

2 JUDGE HOPKINS: If you would like to testify  
3 and if you have not already signed up on the sign-up  
4 sheet, we have one here, and I believe there is another  
5 one circulating.

6 Barb, do you still have that?

7 MS. MEISENHEIMER: I brought it back, and  
8 I'll go get it.

9 JUDGE HOPKINS: If anyone wants to testify,  
10 we certainly want to give you the opportunity to testify.

11 We have here tonight Ruth O'Neill from the  
12 Office of Public Counsel.

13 We have Keith Krueger. He is from the  
14 General Counsel of the Public Service Commission, and Mr.  
15 Kurt Schaefer, who is representing the water company.

16 My name is Bill Hopkins. I'm the appointed  
17 judge tonight. And I will be the presiding officer here  
18 tonight in the public hearing in Case No. WC-2002155,  
19 titled Office of the Public Counsel versus Warren County  
20 Water & Sewer Company and Gary L. Smith.

21 First of all let, me thank the folks at  
22 Incline Village or the use of their facility, and I want  
23 to note that the views expressed are not necessarily those  
24 of Incline Village.

25 Let me introduce to you the commissioners who

1           are present this evening to hear the testimony.

2                       To my far left is Commissioner Connie Murray,  
3           and this is Commissioner Sheila Lumpe on my right here,  
4           and this is our newest commissioner, Bryan Forbis.

5                       Let me ask these lawyers here, that I  
6           previously introduced, if you would formally enter your  
7           appearance for the record, starting with Ms. O'Neill.

8                       MS. O'NEILL: Yes. Hi. My name is Ruth  
9           O'Neill, and I represent the Office of the Public Counsel,  
10          and we represent the public.

11                      My address is Post Office Box 7800, Jefferson  
12          City, Missouri 65102.

13                      Also from my office that are here tonight are  
14          Kimberly Bolin and Barbara Meisenheimer, and they are also  
15          available if you want to talk to them later.

16                      MR. KRUEGER: My name is Keith R. Krueger,  
17          and I represent the staff of the Missouri Public Service  
18          Commission. My address is P.O. Box 360, Jefferson City,  
19          Missouri 65102.

20                      Also here from the staff tonight are Steve  
21          Loethen, Martin Hummel, Tracie Hunsaker and Kay Niemeier.

22                      MR. SCHAEFER: Kurt Schaefer, with the law  
23          firm of Lathrop & Gage. I represent Warren County Water &  
24          Sewer Company. My address is 326 East Capitol Avenue,  
25          Jefferson City, Missouri 65101.

1 JUDGE HOPKINS: Thank you.

2 We are going to ask you to be sworn in before  
3 you testify.

4 I had a real interesting question come up,  
5 and they wanted to know why we didn't swear in the  
6 lawyers, and the reason for that is because lawyers are  
7 called officers of the court. This is not a court. This  
8 is an administrative agency, but, nonetheless, lawyers are  
9 called officers of the court, and they are considered to  
10 be always under oath. If they would commit some kind of  
11 perjury, or something, which I felt needed to be reported  
12 to the Office of the Chief Disciplinary Counsel, I would  
13 do so, so that is why we don't swear lawyers in.

14 We are here from the Missouri Public Service  
15 Commission, and that is a state agency that regulates  
16 investor owned utility companies in Missouri.

17 We ensure that the rates are just and  
18 reasonable, that the quality of service is satisfactory,  
19 and that safety practices are employed in their  
20 operations, while at the same time ensuring the utility  
21 company a reasonable, an opportunity for a reasonable rate  
22 of return for their shareholders.

23 The Missouri Public Service Commission is  
24 made up of five commissioners who are appointed by the  
25 governor and confirmed by the senate of the State of

1 Missouri, and they hear and decide cases regarding the  
2 public utility issues regulated.

3 I introduced you to three of the  
4 commissioners who are here tonight.

5 The commissioners who are not present are the  
6 Chair, Kelvin Simmons, and Commissioner Steve Gaw.

7 All of the commissioners, including those who  
8 are not currently present, will have the opportunity to  
9 read all of the witnesses' testimony and remarks that we  
10 take down tonight.

11 The Missouri Public Service Commission  
12 employs a staff of engineers, accountants, attorneys,  
13 financial analysts, and other specialists in the field of  
14 utility regulations, and the Commission relies upon their  
15 expertise, along with other expert testimony and consumer  
16 testimony.

17 These people that are here, that introduced  
18 themselves earlier, represent the PSC Water Staff, the  
19 Office of the General Counsel, the Office of the Public  
20 Counsel and, of course, the water company is here.

21 The Public Counsel represented by Miss  
22 O'Neill here is from the Office of the Public Counsel, and  
23 it's separate from the PSC. They represent the public's  
24 interest, specifically the Board of Public Service  
25 Commission.

1                   The purpose of this hearing tonight is to get  
2                   your input and to take evidence by way of your statement  
3                   or testimony, or any other written statements or documents  
4                   that you may wish to provide to the Missouri Public  
5                   Service Commission regarding allegations against Warren  
6                   County Water & Sewer Company and Gary L. Smith, and we  
7                   will take your comments tonight and we will have these  
8                   transcribed by the court reporter here, and all of the  
9                   commissioners will be able to read the transcript, and if  
10                  I could just say one thing here.

11                  This is the night for your testimony, and we  
12                  don't allow questions to the commissioners, or to me, or  
13                  to the lawyers, or to anybody else that is here, the water  
14                  company, or the staff, or anybody else. That is not what  
15                  happens here tonight.

16                  We are here for your testimony, and we are  
17                  merely interested in hearing your testimony, and this lady  
18                  right here is a court reporter and, like the rest of us,  
19                  she can't listen to two people at the same time, so if  
20                  someone else is speaking, please wait your turn so we can  
21                  be sure to get down every word.

22                  At this time I'm going to ask if any of the  
23                  commissioners would like to have this time for an opening  
24                  statement.

25                  Commissioner Murray?



1 COMMISSIONER MURRAY: No. I will pass.

2 JUDGE HOPKINS: Commissioner Lumpe?

3 COMMISSIONER LUMPE: Just briefly. We really  
4 appreciate you coming out. It's a very good crowd, and we  
5 look forward to hearing your testimony and what it is you  
6 would like to tell us.

7 As the Judge said, this is the time for  
8 consumers to testify and tell us what your concerns are,  
9 so we do appreciate you coming out, and we look forward to  
10 hearing what your concerns are.

11 JUDGE HOPKINS: Commissioner Forbis?

12 COMMISSIONER FORBIS: You did a fine job.  
13 Thank you.

14 JUDGE HOPKINS: Public Counsel, do you wish  
15 to make an opening statement?

16 MS. O'NEILL: Thank you.

17 Do you want me to go to the microphone?

18 JUDGE HOPKINS: If you would, so everybody  
19 can hear you.

20 MS. O'NEILL: Good evening, Your Honor,  
21 Commissioners, Counsel, and good evening to all of you  
22 customers of Warren County Water & Sewer Company.

23 My name is Ruth O'Neill and, if you don't  
24 mind, I'll turn this a little bit so I talk.

25 As I said earlier, I am an attorney with the

1 Office of the Public Counsel. That is a state agency, and  
2 our job is to represent the concerns of you, the public,  
3 in cases which come before the Missouri Public Service  
4 Commission.

5 And in this particular case, my office has  
6 filed a complaint with the Commission where we have made  
7 some allegations regarding this company and its  
8 management.

9 Those are on this blue sheet, which the  
10 Commission prepared for you to kind of get an idea of what  
11 is going on tonight.

12 When I said we represent the public, that is  
13 the public in general. I don't represent any particular  
14 faction. I don't represent just part of the customers in  
15 this case, because my office represents residential  
16 consumers and small business customers, and in this  
17 particular case everybody is a customer, at least would  
18 qualify, residential customer or small business customer,  
19 so my office serves everybody.

20 I do encourage you to come up and testify if  
21 you would like to tell the Commission about your  
22 experiences with this company, and I know there is a  
23 sign-up sheet still going around.

24 Thank you so much for coming out, and we look  
25 forward to hearing what you have to say. What you say,

1       your testimony is evidence in this case, and that is one  
2       of the reasons that the court reporter is writing down  
3       what you say, so we really appreciate you coming out.

4               Thank you.

5               JUDGE HOPKINS: Counsel, any statement?

6               MR. KRUEGER: No, Your Honor, I don't have a  
7       statement at this time. Thank you.

8               JUDGE HOPKINS: Mr. Schaefer?

9               MR. SCHAEFER: No, Judge, I don't have a  
10      statement at this time.

11              JUDGE HOPKINS: We will now proceed with the  
12      taking of testimony at this time, and if someone says what  
13      you wanted to say, or if you don't want to testify, you  
14      don't have to, even though you signed up. And since this  
15      is an official hearing, we have to swear the witnesses in,  
16      and I'll swear you in.

17              When I call your name, if you wouldn't mind  
18      to come up here and stand up here and testify and, after  
19      you're sworn, we will ask you to state and spell your name  
20      and address, please.

21              So the first person on the list is Nick  
22      Kientzle.

23              (Thereupon, Nick Kientzle was sworn.)

24              JUDGE HOPKINS: Please state and spell your  
25      name.

1                   MR. KIENTZLE: My name is Nick Kientzle,  
2                   K-i-e-n-t-z-l-e, and I live at, or my residence is 1145  
3                   Hillside Drive.

4                   JUDGE HOPKINS: Go ahead.

5                   MR. KIENTZLE: I wasn't aware I was going to  
6                   be up here doing this.

7                   My complaint basically is when we were  
8                   building our house we built simultaneously with our next  
9                   door neighbor, Joe Turbach, at 1137 Hillside, and there  
10                  was a fourteen hundred dollar charge for trenching and  
11                  connecting to the water. That is digging a ditch across  
12                  the road and connecting to the other side of the road for  
13                  water.

14                 At the time when we built, there was one  
15                 trench built, and at that time Gary connected both my  
16                 water and my next door neighbor's service and charged us  
17                 both fourteen hundred dollars. Also by doing that, by  
18                 connecting there on that side, which I was not conferred  
19                 with when he made the connection, he brought the water  
20                 into a finished part of my house, rather than an  
21                 unfinished part of my house, and that is basically what  
22                 I'm complaining about.

23                 JUDGE HOPKINS: Let me see if any of the  
24                 attorneys or commissioners want to ask any questions.

25                 Ms. O'Neill?

1 MS. O'NEILL: Mr. Kientzle, you're a customer  
2 of Warren County Water & Sewer; is that right?  
3 MR. KIENTZLE: Yes.  
4 MS. O'NEILL: I have no questions.  
5 JUDGE HOPKINS: Mr. Krueger?  
6 MR. KRUEGER: No questions, Your Honor.  
7 JUDGE HOPKINS: Mr. Schaefer?  
8 MR. SCHAEFER: No questions.  
9 JUDGE HOPKINS: Commissioner Murray?  
10 COMMISSIONER MURRAY: When you say into a  
11 finished area of your home, brought it in there instead of  
12 an unfinished area --  
13 MR. KIENTZLE: Yes, ma'am.  
14 COMMISSIONER MURRAY: -- what do you mean,  
15 exactly?  
16 MR. KIENTZLE: Well, instead of connecting to  
17 the unfinished part of the basement, it comes into a  
18 bedroom, finished side, and then we had to divert the  
19 water up and over to the unfinished part, so I mean we got  
20 around the issue, but it would have been better had it  
21 been brought into the unfinished part of the basement.  
22 COMMISSIONER MURRAY: How is your service  
23 otherwise?  
24 MR. KIENTZLE: Well, we are moving in here  
25 April 3rd, so I have no pros or cons about the service, as

1 far as that goes.

2 COMMISSIONER MURRAY: All right. Thank you.

3 JUDGE HOPKINS: Commissioner Lumpe?

4 COMMISSIONER LUMPE: No questions.

5 JUDGE HOPKINS: Commissioner Forbis?

6 COMMISSIONER FORBIS: No questions.

7 JUDGE HOPKINS: Thank you very much, sir.

8 Mr. Stillman is next, and after Mr. Stillman

9 is David Turner.

10 (Thereupon, Chester Stillman was sworn.)

11 JUDGE HOPKINS: Would you please state and

12 spell your name, and give us your address, sir?

13 MR. STILLMAN: My name is Chester Stillman,

14 C-h-e-s-t-e-r, S-t-i-l-l-m-a-n. My address is 1153

15 Hillside Drive.

16 JUDGE HOPKINS: Go ahead.

17 MR. STILLMAN: My big problem is the water

18 pressure is just deteriorating something terrible. The

19 more homes that are built, the pressure keeps getting

20 worse, and it's to the point now where if we flush the

21 stool, the water in the basin won't hardly wash the soap

22 off, and it's a real concern. That is my biggest problem

23 right now.

24 JUDGE HOPKINS: Thank you very much.

25 Miss O'Neill, any questions?

1 MS. O'NEILL: When you say your water  
2 pressure, that is the water pressure you get from Warren  
3 County Water & Sewer?  
4 MR. STILLMAN: Yes.  
5 MS. O'NEILL: That's all.  
6 JUDGE HOPKINS: Mr. Krueger?  
7 MR. KRUEGER: No questions, Your Honor.  
8 JUDGE HOPKINS: Mr. Schaefer?  
9 MR. SCHAEFER: No questions, sir.  
10 JUDGE HOPKINS: Commissioner Murray?  
11 COMMISSIONER MURRAY: No questions. Thank  
12 you.  
13 JUDGE HOPKINS: Commissioner Lumpe?  
14 COMMISSIONER LUMPE: Is it your belief that  
15 as they continue to build houses that that will continue  
16 to make it worse?  
17 MR. STILLMAN: Yes. When I moved in, I moved  
18 in February 1, 1992, there were only like sixty something  
19 homes in here. The pressure was pretty darn good at that  
20 time, although the water had problems with rust and that  
21 kind of stuff, but Gary has done some things that has  
22 helped that situation, but the pressure now, we've got  
23 probably 300 homes, or something, in here, and we don't  
24 have no pressure at the top. Like last year one time, I  
25 think there was a line cut or something, we didn't have

1       any water at all. Down at the lake they got pressure  
2       because they are low and, you know, they get further.

3               COMMISSIONER LUMPE: It would be your  
4       perception that the system is not adequate now for the  
5       number of --

6               MR. STILLMAN: As far as I'm concerned I  
7       don't think it is. I mean I can be watering the lawn with  
8       the sprinkler, and my wife can start the dishwasher or  
9       something in the house, and you can't see the water come  
10      out.

11              COMMISSIONER LUMPE: Thank you, sir.

12              JUDGE HOPKINS: I've got one question.  
13              You and Mr. Kientzle --

14              MR. STILLMAN: Yes. He is my next door  
15      neighbor. He just built a house next to me.

16              JUDGE HOPKINS: You both referred to Gary. I  
17      am assuming you're speaking about the owner?

18              MR. STILLMAN: Mr. Smith from Warren County  
19      Water & Sewer.

20              JUDGE HOPKINS: Thank you very much.  
21              David Turner is up next, and Earl Dennler is  
22      after him.

23              (Thereupon, David Turner was sworn.)

24              JUDGE HOPKINS: Please state and spell your  
25      name for the court reporter, and then give your address?



1                   MR. TURNER: David R. Turner, T-u-r-n-e-r.  
2                   JUDGE HOPKINS: Your address?  
3                   MR. TURNER: My address, 2818 Magnolia Drive,  
4 Foristell, Missouri.  
5                   JUDGE HOPKINS: Go ahead.  
6                   MR. TURNER: Where do I start? Me and Gary,  
7 we got a pretty long history of problems, really.  
8                   It starts out with the water problems back in  
9 late '90s before I built my new house. I guess that would  
10 be back in '97, when we would lose water for a day or two,  
11 you know, and I asked him if he is going to flush the  
12 lines, and the lines would never be flushed. We lived at  
13 the end of the line.  
14                   There was a fire hydrant right there on the  
15 property. The water hydrant was never flushed.  
16                   The water was always dirty. We had a water  
17 softener, water filters. The water still smelled bad.  
18                   We built a new house in 1998. I mean I've  
19 got it all documented. I could waste a lot of time here  
20 telling you guys about all of this stuff. I can just give  
21 you this. I mean it's up to you.  
22                   I've got a new problem tonight.  
23                   I got home from work, which we have had  
24 problems with our lift station before leaking up into our  
25 laundry room because the top on the lid wasn't sealed

1           tight. Well the floats wouldn't work properly. It backed  
2           up into our house. We had to clean that up.

3                       Finally to fix that we screwed eye bolts onto  
4           the lid, so the lid would seat down tight. Nobody could  
5           fall in it, but if the water comes up, instead of running  
6           into the house, it will run into the yard, but tonight  
7           when I got home we noticed a big wet spot on the asphalt  
8           out in front of our house that runs parallel with the  
9           sewer line coming out, and there is a great big soggy  
10          spot, so it looks like our sewer line is busted, or at  
11          least has a leak in it somewhere.

12                     JUDGE HOPKINS: Okay, thank you.

13                     MR. TURNER: We have already filed with the  
14          Public Service Commission back in, in 2000, and we won the  
15          case, but we have gotten nothing from it, and that's all  
16          documented right here.

17                     JUDGE HOPKINS: Any questions, Ms. O'Neill?

18                     MS. O'NEILL: Mr. Turner, you filed a  
19          complaint regarding, was that regarding a connection to  
20          your new house?

21                     MR. TURNER: Yes.

22                     MS. O'NEILL: And that is the one that was in  
23          front of the Public Service Commission?

24                     MR. TURNER: Right.

25                     MS. O'NEILL: Thank you.

1 JUDGE HOPKINS: Mr. Krueger?  
2 MR. KRUEGER: No questions, Your Honor.  
3 JUDGE HOPKINS: Mr. Schaefer?  
4 MR. SCHAEFER: No questions, Your Honor.  
5 JUDGE HOPKINS: Commissioner Murray?  
6 COMMISSIONER MURRAY: I don't think so.  
7 Thank you.  
8 JUDGE HOPKINS: Commissioner Lumpe?  
9 COMMISSIONER LUMPE: Mr. Turner, we would  
10 want to have those documents.  
11 MR. TURNER: You guys already have all of  
12 these documents. You've got everything I have right here.  
13 I've got some pictures in here, and you've got those.  
14 I'll leave these with you if you want to look at them  
15 tonight.  
16 COMMISSIONER LUMPE: If we have them already,  
17 that's fine.  
18 JUDGE HOPKINS: Commissioner Forbis?  
19 COMMISSIONER FORBIS: No.  
20 JUDGE HOPKINS: All right. Earl Dennler is  
21 next, and then after Mr. Dennler is a person who has  
22 handwriting worse than mine.  
23 Adrian; is that correct? No one wants to own  
24 up to that. Anybody named Adrian here? Well, if Adrian  
25 is not here --

1 MR. KUCHARCZYK: I'm here.

2 JUDGE HOPKINS: Thank you, sir. You're next  
3 then after Mr. Dennler.

4 (Thereupon, Earl Dennler was sworn.)

5 JUDGE HOPKINS: Please state and spell your  
6 name, and then give us your address?

7 MR. DENNLER: Earl Dennler, D-e-n-n-l-e-r,  
8 2563 Fairway Drive.

9 I also am the chairman of the ACC. The ACC  
10 is the Architectural Control Committee, and the things I  
11 want to discuss about the water and sewer company are  
12 those things that concern the ACC and the water and sewer  
13 company.

14 JUDGE HOPKINS: Go right ahead.

15 MR. DENNLER: Here on Cypress Street we have  
16 a hydrant that is sunk down very low and it needs an  
17 extension, and that extension has been really needed since  
18 about June of last year, and it has a cap that is off of  
19 it, and I have a picture of that here. And you may  
20 already have this picture, but I will give it to you.

21 JUDGE HOPKINS: I want to know, for the  
22 record, if we have that?

23 MS. O'NEILL: I don't know that we have. We  
24 may want to have this marked, Your Honor.

25 JUDGE HOPKINS: As a Public Counsel exhibit?

1 MS. O'NEILL: That will be fine.

2 JUDGE HOPKINS: We'll mark this as Public  
3 Counsel Exhibit No. 1.

4 (Public Counsel Exhibit No. 1 marked.)

5 JUDGE HOPKINS: Go ahead, sir.

6 MR. DENNLER: One of the complaints that the  
7 ACC has about the water and sewer company has to do with  
8 our roads. A lot of times we have to -- the roads have to  
9 be bored in order to get to the water connection or the  
10 sewer connection.

11 Sometimes the water and sewer connection is  
12 on the side of the road where they are building a home,  
13 where that is not required, but many times it's on the  
14 other side, and our guidelines specify that the water and  
15 sewer company shall contact the ACC committee prior to  
16 boring so that we can be there to observe the boring, and  
17 that way we can tell if they actually took the borer and  
18 cut the road, and that doesn't happen too often for us.

19 I have been the ACC chairman since June of  
20 this last year, and I have been notified one time by one  
21 of the workers that they were going to bore, and I know  
22 the other chairman of the ACC prior to me had similar  
23 problems, as well as the problems that I'm having.

24 Also, I have one of the contracts for the  
25 water and sewer company, and the contract states it should

1       be \$1200 instead of \$1400 for cutting the road, and I  
2       thought I might draw that to your attention because that  
3       is, at least, in the contract that I have in my files.

4                   I had to tell the water and sewer company one  
5       day -- they were actually digging on the one lot, and the  
6       owner called me and wanted to know what they were doing  
7       there, so I went over and talked to them, and actually  
8       what I found out was that they didn't have a contract with  
9       that owner to do the digging, so I asked the water  
10      company, you know, to please not dig, which they did, and  
11      got out of there, but I thought it was kind of strange  
12      that they were over there digging, and they didn't want  
13      them to dig because they didn't have a contract. They  
14      wanted to put copper pipe in from the house to the street,  
15      so that was one of the reasons that they had asked me to  
16      go over and talk to them.

17                  Another complaint that we have against the  
18      water and sewer company is that we just don't feel that  
19      they have the type of equipment that they really need to  
20      do a good job of boring, because we do have a lot of rock  
21      under our roads here, and we end up having way too many  
22      cuts on our road.

23                  I think we had thirty-six of them fixed this  
24      last year, and I don't know how far back those actually  
25      go, but when I observed the boring, it really wasn't

1 boring, it was pushing. It was pushing the rock under the  
2 road kind of with a backhoe, you know, bring a backhoe  
3 this way and push the rock through, and it just seems to  
4 me that they should have more sophisticated type equipment  
5 for that type of job.

6 That's all that I have.

7 JUDGE HOPKINS: Thank you, sir.

8 Any questions, Miss O'Neill?

9 MS. O'NEILL: Just a couple.

10 Sir, you have been talking about boring under  
11 the road as opposed to cutting the road.

12 Is there a reason that your committee decided  
13 to ask the water company to bore instead of cut the road  
14 when they put their lines in?

15 MR. DENNLER: Yes, because it destroys like  
16 the integrity of our roads, because a lot of times the  
17 road isn't repaired exactly the way it should be and it  
18 needs to be. It needs to be done with better material,  
19 and we just really don't want it cut.

20 MS. O'NEILL: Were you on the committee when  
21 the decision was made that you would ask that the road be  
22 bored under instead of cut? Were you on the committee at  
23 that time, or did you come on after that policy started?

24 MR. DENNLER: I come on right about that  
25 time, right about that time.

1 MS. O'NEILL: Was part of the problem the  
2 quality of the workmanship regarding repairing the road  
3 after the road cut? Is that part of the reason for this  
4 policy?

5 MR. DENNLER: Yes.

6 MS. O'NEILL: Was it the committee's belief  
7 that Warren County Water & Sewer Company was not  
8 adequately repairing the road after it made the road cuts?

9 MR. DENNLER: That's correct.

10 MS. O'NEILL: Now, we have shown the  
11 Commission the photograph of the hydrant that we have  
12 marked Exhibit 1.

13 Does that picture accurately depict that  
14 hydrant?

15 MR. DENNLER: Yes, ma'am.

16 MS. O'NEILL: I would ask that that Exhibit  
17 No. 1 be admitted into evidence for the record.

18 JUDGE HOPKINS: Any objection to that being  
19 admitted into evidence?

20 Mr. Krueger?

21 MR. KRUEGER: No, Your Honor.

22 JUDGE HOPKINS: Mr. Schaefer?

23 MR. SCHAEFER: No.

24 JUDGE HOPKINS: Hearing no objection, I'll  
25 admit that into evidence as Public Counsel Exhibit No. 1.



1           That is a picture of a hydrant.

2                       Thank you.

3                       (Public Counsel's Exhibit No. 1 was

4                       admitted.)

5                       MS. O'NEILL: Sir, you also said that you had

6                       a copy of a contract with you?

7                       MR. DENNLER: Yes, I do have a copy of the

8                       contract.

9                       MS. O'NEILL: And is that a contract that is

10                      a form contract, or a contract that you entered into?

11                      MR. DENNLER: It's a contract that the owner

12                      of the water and sewer company gave me.

13                      MS. O'NEILL: Do you mind if we have that

14                      marked as an exhibit, as well?

15                      MR. DENNLER: I have it in my file at home.

16                      MS. O'NEILL: You don't have it with you here

17                      this evening?

18                      MR. DENNLER: No. But I can get it this

19                      evening.

20                      MS. O'NEILL: I don't have any further

21                      questions.

22                      MR. KRUEGER: No questions, Your Honor.

23                      JUDGE HOPKINS: Mr. Krueger, no questions?

24                      MR. KRUEGER: No questions.

25                      JUDGE HOPKINS: Mr. Schaefer?

1                   MR. SCHAEFER: Mr. Dennler, the fire hydrant  
2                   that is identified in Public Counsel's Exhibit No. 1, do  
3                   you know whose property that fire hydrant sits on?

4                   MR. DENNLER: I don't know their name, but  
5                   it's the only house on Cypress Street. I couldn't tell  
6                   you their name.

7                   MR. SCHAEFER: Does there appear on that  
8                   photo to be dirt that has been put in around that fire  
9                   hydrant, fill, basically?

10                  MR. DENNLER: Yes. What it appears to be is  
11                  like mud flow that come down from up above into that area.

12                  MR. SCHAEFER: Do you know who, if anyone,  
13                  actually filled that dirt in on that fire hydrant?

14                  MR. DENNLER: No, sir.

15                  MR. SCHAEFER: You discussed briefly a  
16                  distinction between the contract cost for road cutting. I  
17                  believe you said there is a difference between the \$1200  
18                  figure and \$1400 figure.

19                  Are you aware whether or not there is a  
20                  difference between that amount for tariffed areas as  
21                  opposed to nontariffed areas?

22                  MR. DENNLER: No.

23                  MR. SCHAEFER: Are you aware of when the  
24                  dates of those contracts are?

25                  MR. DENNLER: No, I'm not.

1                   MR. SCHAEFER:  Would you be aware if, for  
2                   example, the rate increased at a certain date, that the  
3                   contract may be for more at a later date after a contract  
4                   increase?  
5                   MR. DENNLER:  No.  I wouldn't be aware of  
6                   that.  
7                   MR. SCHAEFER:  Are you aware of the road cuts  
8                   that you were discussing, whether or not those road cuts  
9                   are actually provided by Warren County Sewer & Water as a  
10                  utility service, or whether or not those are actually  
11                  provided by Mr. Smith in his capacity as an independent  
12                  contractor?  
13                  MR. DENNLER:  I couldn't answer that and give  
14                  you a for sure answer.  
15                  MR. SCHAEFER:  Thank you, Mr. Dennler.  
16                  JUDGE HOPKINS:  Commissioner Murray?  
17                  COMMISSIONER MURRAY:  No questions.  
18                  JUDGE HOPKINS:  Commissioner Lumpe?  
19                  COMMISSIONER LUMPE:  Thank you for your  
20                  testimony.  
21                  JUDGE HOPKINS:  Commissioner Forbis?  
22                  COMMISSIONER FORBIS:  Nothing.  
23                  JUDGE HOPKINS:  Thank you, sir.  
24                  Okay.  Adrian, and then after him is Bobby G.  
25                  Baker.

1 (Thereupon, Adrian Kucharczyk was sworn.)

2 JUDGE HOPKINS: Would you please state and  
3 spell your name for the court reporter, and then give your  
4 address.

5 MR. KUCHARCZYK: My name is Adrian  
6 Kucharczyk. A-d-r-i-a-n, the last name is  
7 K-u-c-h-a-r-c-z-y-k.

8 JUDGE HOPKINS: Go ahead.

9 MR. KUCHARCZYK: The only problems I had with  
10 the house was -- I'm new. I'm on 742 Willow Court.

11 Gary Smith was supposed to do work on my lift  
12 station and he would show there and then he would leave.  
13 He wouldn't finish it. I had to get my electrician. He  
14 said it was wired for a 110 and a 220, and it was only a  
15 220 for that lift station, and he kept on arguing with me  
16 it was a 110 and 220.

17 The 220 ran the lift station, and then I had,  
18 I had to set my own floats, and I had no idea what I was  
19 doing with my floats, just to get my sewer going because I  
20 had problems when it was running. When I finally tinkered  
21 around trying to get the floats right, I was getting sewer  
22 in my basement, and I had to clean that all up, and that  
23 was a mess. He seemed nice. And I'm still missing my  
24 lift station lid that I was supposed to have, and I had it  
25 on there, and he took it, I don't know what the reason

1        was, and I still don't have that today. I have a piece of  
2        plywood on top of it.

3                I drove by his house and I spoke with him  
4        five times and he said he would bring it by, and he never  
5        did, and I'm the kind of person, I'm laid back and I'm  
6        polite, I don't argue, and I'm still missing a water lid.

7                I mean, like I said, I'm new here. I don't  
8        know -- I mean I have no idea about the lift station and  
9        all that.

10               I have one more thing to say, and that is  
11        when he ran my water line in, in the foundation, I had  
12        water coming inside my foundation. I have mud stains  
13        coming down on my concrete, but, I mean -- I mean that's  
14        little. I mean I can deal with that, but I mean just with  
15        the lift station not working and all that, I had to clean  
16        that for -- oh, it took me eight hours to clean that whole  
17        thing, and I mentioned it to him on the phone. I was  
18        polite to him. I said I had this problem, and he had no  
19        really like, "I'm sorry. We'll get this fixed for you."  
20        He had his guys working there. I mean -- I don't know.  
21        I'm at work. I have no idea. He said he's going to take  
22        a look at it.

23               Me and my electrician -- I'm not an  
24        electrician, but with the floats, to get it to working so  
25        it can flush out, we messed with it in the nighttime just

1       to get it halfway decent, and I mentioned it to him, and  
2       he didn't have the common courtesy to come out and say,  
3       "Hey, let me help you on the floats," and that was really  
4       the only thing that really bugged me, but that's pretty  
5       much all of what I have to say.

6               JUDGE HOPKINS: Thank you, sir.

7               Miss O'Neill?

8               MS. O'NEILL: How long was it that you were  
9       waiting for Warren County Water & Sewer to come in and  
10      help you with your sewer to get the flow going before you  
11      and the electrician tried to make it work yourselves?

12              MR. KUCHARCZYK: I had the electrician out  
13      there, but he kept on saying that I needed a 110 and a  
14      220, and my electrician said on the specs for that lift  
15      station there wasn't -- you did not need a 110. 220 would  
16      have ran everything, and we figured out with the floats  
17      and all that, that was what was my problem.

18              MS. O'NEILL: About how long of a time  
19      period?

20              MR. KUCHARCZYK: Oh, I would say at least  
21      eight, nine months ago.

22              MS. O'NEILL: And how long, how long a time  
23      period was it that you were trying to make your sewer  
24      flow, that you weren't getting a response from the  
25      company?

1                   MR. KUCHARCZYK: Well, that was -- it's hard  
2                   to remember. When I was building -- I mean I was working.  
3                   I would say -- oh, geez, I couldn't really tell you the  
4                   date.

5                   MS. O'NEILL: Would you say that this problem  
6                   went on for several days?

7                   MR. KUCHARCZYK: Yes, and I mentioned it to  
8                   him, and he kept on replying like he was, you know, I  
9                   would have to have my electrician, but my electrician, we  
10                  figured it all out.

11                  MS. O'NEILL: Was this going on while you  
12                  were living in the home?

13                  MR. KUCHARCZYK: Yes.

14                  MS. O'NEILL: About how long after you moved  
15                  into the house did you finally get your flow figured out  
16                  with your electrician?

17                  MR. KUCHARCZYK: It was after -- it was  
18                  like -- it was before I lived in there. It was before,  
19                  and not when I was living there, thank God, because I've  
20                  got all of my stuff down in the basement. Still stuff got  
21                  a little damaged, but I would say -- I couldn't give you  
22                  an exact date, but it was around that time, around seven,  
23                  eight months ago.

24                  MS. O'NEILL: And you said something about  
25                  getting sewer in your basement?

1 MR. KUCHARCZYK: Yeah, uh-huh.

2 MS. O'NEILL: When did that happen?

3 MR. KUCHARCZYK: The exact time, the date?

4 MS. O'NEILL: Just in general. Was that

5 after you moved in?

6 MR. KUCHARCZYK: Yes.

7 MS. O'NEILL: Was it a one time deal? Did it

8 happen more than once?

9 MR. KUCHARCZYK: No. It was one time.

10 MS. O'NEILL: Okay. And how long -- did you

11 contact the company and see if they would come and take

12 care of it?

13 MR. KUCHARCZYK: I talked to him and he

14 didn't really say much, so.

15 MS. O'NEILL: How did you resolve that

16 problem? Did you do that on your own?

17 MR. KUCHARCZYK: I just cleaned up the mess

18 and went along with it, because I --

19 MS. O'NEILL: And you said your lift station

20 lid is missing. How long has that been gone?

21 MR. KUCHARCZYK: For a long time.

22 MS. O'NEILL: Several months?

23 MR. KUCHARCZYK: At least.

24 MS. O'NEILL: And you have asked the company,

25 or Mr. Smith to bring it back?



1 MR. KUCHARCZYK: Yes.

2 MS. O'NEILL: And they have not replaced that  
3 yet?

4 MR. KUCHARCZYK: Huh-uh. I still have a  
5 piece of plywood on top.

6 MS. O'NEILL: And you said there is also a  
7 water lid that is missing. Where is that at?

8 MR. KUCHARCZYK: It's in the front.

9 MS. O'NEILL: Is it in a place where it could  
10 be dangerous to other people?

11 MR. KUCHARCZYK: It's -- I mean I'm up on a  
12 hill, so I mean it's not nothing real big, but at least I  
13 got a piece of plywood on my lift station.

14 MS. O'NEILL: And is that also -- that water  
15 lid that is missing, have you also got that covered?

16 MR. KUCHARCZYK: The lift station, you mean?

17 MS. O'NEILL: The lift station is covered?

18 MR. KUCHARCZYK: I have a piece of plywood, a  
19 three-quarter piece of plywood on it.

20 MS. O'NEILL: Thank you.

21 JUDGE HOPKINS: Mr. Krueger?

22 MR. KRUEGER: With regard to the work on the  
23 lift station, do you know who is responsible for doing  
24 that, or whom you were expecting to do that? Was it  
25 Warren County Water & Sewer, or was it another entity?

1                   MR. KUCHARCZYK: It was Gary Smith.

2                   MR. KRUEGER: Personally, or was it his

3                   company, or do you know?

4                   MR. KUCHARCZYK: I don't understand what you

5                   mean.

6                   MR. KRUEGER: Did you think you were dealing

7                   with the water and sewer when this work was being done?

8                   MR. KUCHARCZYK: No. I thought I was dealing

9                   with -- well, I mean, yeah. It's Gary Smith that is

10                  Warren County.

11                  MR. KRUEGER: That's all.

12                  JUDGE HOPKINS: Mr. Schaefer?

13                  MR. SCHAEFER: Sir, do you actually live in

14                  your house now?

15                  MR. KUCHARCZYK: Uh-huh.

16                  MR. SCHAEFER: How long have you been living

17                  there?

18                  MR. KUCHARCZYK: It's going on almost three

19                  months.

20                  MR. SCHAEFER: You testified that there is a

21                  cover -- is it one cover missing, or two covers missing?

22                  MR. KUCHARCZYK: There is two.

23                  MR. SCHAEFER: How big are those covers?

24                  MR. KUCHARCZYK: The lift station diameter, I

25                  would say -- I don't know the exact measurement, but it's

1           about like that (indicating) on the lift station.

2                       JUDGE HOPKINS: For the record, you're

3           gesturing your arms held out in front of you.

4                       MR. KUCHARCZYK: I would say -- I don't know.

5                       JUDGE HOPKINS: Three feet?

6                       MR. KUCHARCZYK: Maybe two foot.

7                       JUDGE HOPKINS: Thank you.

8                       MR. SCHAEFER: Thanks, Judge.

9                       JUDGE HOPKINS: That is kind of hard to see

10          in the transcript.

11                      MR. KUCHARCZYK: I don't know exactly. I

12          would have to go out there and measure it.

13                      MR. SCHAEFER: You say there is another cover

14          missing, also?

15                      MR. KUCHARCZYK: Yeah. It's a water lid. I

16          would say that is probably, maybe twelve-inch diameter, or

17          fifteen-inch. I don't know.

18                      MR. SCHAEFER: You were discussing the power

19          that goes to the pump?

20                      MR. KUCHARCZYK: Uh-huh.

21                      MR. SCHAEFER: Are you aware that it's a 220

22          line that powers the pump?

23                      MR. KUCHARCZYK: The thing that runs the

24          whole lift station is 220.

25                      MR. SCHAEFER: Do you have an alarm on your

1 pump?

2 MR. KUCHARCZYK: Yes, I do.

3 MR. SCHAEFER: Do you know what type of line

4 it takes to power that alarm for the pump?

5 MR. KUCHARCZYK: 220.

6 MR. SCHAEFER: And are you aware of whether

7 or not it actually takes a 110 line to power that alarm?

8 MR. KUCHARCZYK: No, because the 220 runs

9 everything.

10 MR. SCHAEFER: How do you know that, sir?

11 MR. KUCHARCZYK: My electrician wired it up.

12 MR. SCHAEFER: I have nothing further.

13 JUDGE HOPKINS: Thank you.

14 Commissioner Murray, any questions?

15 COMMISSIONER MURRAY: No questions.

16 JUDGE HOPKINS: Commissioner Lumpe?

17 COMMISSIONER LUMPE: Sir, are the issues more

18 the sewage, or the water, or both?

19 MR. KUCHARCZYK: Well, it's sewage, and just

20 the problems like I was explaining.

21 COMMISSIONER LUMPE: More the sewer line than

22 the water system?

23 MR. KUCHARCZYK: Well, yeah, and I'm leaking

24 around my pipe for my water, and just missing the lids.

25 COMMISSIONER LUMPE: So it's both water and

1 sewer?

2 MR. KUCHARCZYK: Yes, ma'am.

3 COMMISSIONER LUMPE: Thank you for your  
4 testimony.

5 JUDGE HOPKINS: Commissioner Forbis?

6 COMMISSIONER FORBIS: Nothing.

7 JUDGE HOPKINS: Thank you very much, sir.

8 Mr. Baker, Bobby G. Baker.

9 (Thereupon, Bobby Baker was sworn.)

10 JUDGE HOPKINS: Before I ask you to state  
11 your name and everything, let me say that T. Lee King is  
12 next.

13 Would you state and spell your name for the  
14 court reporter, and give us your address.

15 MR. BAKER: It's Bobby Baker, B-a-k-e-r, 2407  
16 Fairway Drive, Foristell, Missouri.

17 My complaint is I have extremely low water  
18 pressure and very, very discolored water many times. A  
19 lot of times we put it into a pitcher, you know, where you  
20 have the filters in, and it's amazing the color. At  
21 certain times it's almost brown.

22 And I had one incident when I first moved in.  
23 I came home and I heard a loud noise in my basement, and  
24 when I went down, I traced the noise down to my water  
25 softener, and my water softener was imploding.

1                   What had happened was a water breakdown in  
2                   the line, and the vacuum just completely sucked the resin  
3                   carrier in the water softener, and at that time I asked  
4                   why that could happen. I asked my contractor, and he said  
5                   there was no check valve on it, and when I asked the water  
6                   and sewer company, an employee there, he said there was a  
7                   check valve, and my contractor said it wouldn't have  
8                   imploded if it had a check valve, and he installed a check  
9                   valve and I haven't had a problem since.

10                  That's all that I have.

11                  JUDGE HOPKINS: Any questions, Miss O'Neill?

12                  MS. O'NEILL: And the water company, your  
13                  water company is Warren County Water & Sewer Company?

14                  MR. BAKER: Yes.

15                  JUDGE HOPKINS: Mr. Krueger?

16                  MR. KRUEGER: Have you ever attempted to  
17                  measure the water pressure, or do you know how much it is?

18                  MR. BAKER: No, sir. All I can do is when I  
19                  go over to a friend's house and, you know, we went and  
20                  visited in Texas with our friends and, you know, I almost  
21                  scared myself when I turned their water on.

22                  I can say that if my wife and I took showers  
23                  at the same time, somebody wouldn't get wet.

24                  MR. KRUEGER: No other questions.

25                  JUDGE HOPKINS: Nobody can follow that, Mr.

1 Krueger.

2 Mr. Schaefer?

3 MR. SCHAEFER: Mr. Baker, did you ever voice

4 this complaint to Warren County Water and Sewer?

5 MR. BAKER: Yes, I had, and I was told that

6 the check valve was installed.

7 MR. SCHAEFER: Who told you that?

8 MR. BAKER: Gary Smith and one of his

9 employees.

10 MR. SCHAEFER: Approximately when was that?

11 MR. BAKER: About three years ago.

12 MR. SCHAEFER: No further questions.

13 JUDGE HOPKINS: Any questions, Commissioner

14 Murray?

15 COMMISSIONER MURRAY: No.

16 JUDGE HOPKINS: Commissioner Lumpe?

17 COMMISSIONER LUMPE: Thank you for your

18 testimony.

19 JUDGE HOPKINS: Thank you, sir.

20 Now, we will have T. Lee King up, and next is

21 Rick Kolodgie.

22 (Thereupon, Terral King was sworn.)

23 JUDGE HOPKINS: Would you please state and

24 spell your name for the court reporter, and give us your

25 address?

1                   MR. KING: My first name is Terral,  
2           T-e-r-r-a-l, the last name is King, K-i-n-g. I'm at 1272  
3           North Fairway Drive, Foristell.

4                   My complaint is the discolored water, the  
5           numerous water breaks that I am aware of personally, and  
6           we have never received a boil order. Never had the lines  
7           flushed or anything. Now, what kind of sediment I have in  
8           my house in the water heater and stuff like that, I don't  
9           know, but I refuse to drink any water out of the faucet  
10          without it going through a filtering process. And the  
11          other thing is the chlorine. Sometimes the chlorine smell  
12          is overpowering. Is that too much? I don't know, but it  
13          makes me nervous.

14                  That's all that I have.

15                  JUDGE HOPKINS: Miss O'Neill?

16                  MS. O'NEILL: No questions.

17                  JUDGE HOPKINS: Mr. Krueger?

18                  MR. KRUEGER: No questions, Your Honor.

19                  JUDGE HOPKINS: Mr. Schaefer?

20                  MR. SCHAEFER: Nothing.

21                  JUDGE HOPKINS: Commissioner Murray?

22                  COMMISSIONER MURRAY: The problems you spoke  
23          of are mainly water problems?

24                  MR. KING: Yes.

25                  COMMISSIONER MURRAY: Have you had any sewer



1 problems?

2 MR. KING: I worry about the capacity with  
3 all of the new houses. We have added about fifty houses a  
4 year in the last three years, and we haven't had any  
5 change in the sewers.

6 COMMISSIONER MURRAY: Thank you.

7 JUDGE HOPKINS: Commissioner Lumpe?

8 COMMISSIONER LUMPE: Thank you for your  
9 testimony.

10 JUDGE HOPKINS: Commissioner Forbis?

11 COMMISSIONER FORBIS: Nothing.

12 JUDGE HOPKINS: Rick Kolodgie is next, and  
13 after that is Fran Hopkins.

14 (Thereupon, Rick Kolodgie was sworn.)

15 JUDGE HOPKINS: Would you please state and  
16 spell your name for the court reporter, and give us your  
17 address?

18 MR. KOLODGIE: Rick, R-i-c-k, Kolodgie,  
19 K-o-l-o-d-g-i-e, 2721 Mahogany.

20 JUDGE HOPKINS: Go ahead.

21 MR. KOLODGIE: I am an employee of Incline  
22 Village, and I have made many a trip around the village,  
23 and one of the things that we observed, or I observed was  
24 the excavation work done during the digging of some of our  
25 holes here for the hookup of water and sewer.

1                   Before I go any further, I'll tell you that  
2                   OSHA has been advised of all of these violations. They  
3                   are aware that all of these things occurred, but I want to  
4                   bring them to your attention also.

5                   I have here pictures of various excavation  
6                   work that involved things such as no safety barrier around  
7                   holes, a twelve-foot deep hole with no shoring, an  
8                   individual down working in the hole, another twelve-foot  
9                   deep hole that was full of water and no barriers around  
10                  the hole, another hole that has nothing around it and the  
11                  dirt is dumped in the street, but the hole is there and no  
12                  workers or nothing. There is another hole that was just  
13                  recently dug about three weeks ago, and up until about a  
14                  week ago it was left exposed. Nobody bothered to come  
15                  back and finish it.

16                  And the same thing with another repair job  
17                  that was left unfinished for almost thirty days and just  
18                  looked horrible on the street where these people live.

19                  I have also a picture of a lift station that  
20                  had been called to be repaired by the owner to the Warren  
21                  County Water and Sewer. She told me that they made three  
22                  trips out and were never able to repair it, and if you  
23                  will look at these photographs I have, you can see the  
24                  sewage on the lawn sitting there. Nobody to clear it up  
25                  or anything.

1 I would also ditto the water pressure problem  
2 that everybody else seems to have.

3 That's it.

4 JUDGE HOPKINS: Thank you.

5 Any questions, Miss O'Neill?

6 MS. O'NEILL: Yes, sir, Your Honor.

7 I would like to have these photographs  
8 marked, and I have just a couple of questions.

9 JUDGE HOPKINS: These are all computer  
10 printouts and I'm going to have the excavation work, OSHA  
11 violations, I'm going to call that Public Counsel No. 2;  
12 twelve foot deep, no shoring, I'm going to call it Public  
13 Counsel No. 3; open ditch, twelve-foot at the corner of  
14 Ponderosa and Fairway, I'm going to call that Public  
15 Counsel No. 4; ten-foot deep, no shoring, I'm going to  
16 call that Public Counsel No. 5; another hole that is open  
17 on -- another hole left open by WCWS, Public Counsel No.,  
18 6; three weeks without finishing, Public Counsel No. 7;  
19 lift station, Public Counsel No. 8; and this looks like  
20 sewage on the lawn, we will call that Public Counsel No.  
21 9; and sewage on lawn, Public Counsel No. 10.

22 (Public Counsel's Exhibit Nos. 2 through 10  
23 were marked.)

24 JUDGE HOPKINS: I'll try to talk into the  
25 mike. If somebody has trouble hearing, just raise your

1 hand.

2 Go ahead, Miss O'Neill.

3 MS. O'NEILL: Thank you, Your Honor.

4 Sir, I'm going to show you what we now have

5 just marked as Public Counsel Exhibit No. 2, No. 3, No. 4

6 and No. 5. Are these some of the pictures you were just

7 speaking about?

8 MR. KOLODGIE: That's correct.

9 MS. O'NEILL: And the notes that are on

10 these, the sheets that have these pictures on them, did

11 you write these notes?

12 MR. KOLODGIE: Yes, I did.

13 MS. O'NEILL: And the locations that are on

14 here, do you have personal knowledge that those locations

15 are accurate?

16 MR. KOLODGIE: They are accurate.

17 MS. O'NEILL: Do these pictures accurately

18 depict the situations that you described in your

19 testimony?

20 MR. KOLODGIE: They do.

21 MS. O'NEILL: Your Honor, at this time I

22 would move for admission of Public Counsel's Exhibits 2,

23 3, 4 and 5.

24 JUDGE HOPKINS: Any objection to those being

25 entered into evidence?

1                   MR. SCHAEFER: Yes. If I may take one more  
2 look, and I may have a number of questions.  
3                   MR. KRUEGER: I have no objection.  
4                   MR. SCHAEFER: Mr. Kolodgie, Public Counsel's  
5 Exhibits No. 2 through 5 all seem to be excavation work  
6 that has been done at various places; is that true?  
7                   MR. KOLODGIE: I would have to see the  
8 pictures.  
9                   MR. SCHAEFER: Sure. Would you like to see  
10 them?  
11                   MR. KOLODGIE: Two and three are in the same  
12 area. Four is a different area, and five is a different  
13 area.  
14                   MR. SCHAEFER: I want to ask you, are you  
15 aware whether or not this excavation work is actually the  
16 service, the utility service that is provided by Warren  
17 County Water & Sewer?  
18                   MR. KOLODGIE: I only presume it is.  
19                   MR. SCHAEFER: But you don't know for sure?  
20                   MR. KOLODGIE: I would have no knowledge of  
21 that, no.  
22                   MR. SCHAEFER: Did you actually take these  
23 paragraphs yourself?  
24                   MR. KOLODGIE: I did.  
25                   MR. SCHAEFER: I don't have any objections to

1 Exhibits 3 through 5.

2 MS. O'NEILL: How about 2?

3 MR. SCHAEFER: I'm sorry, 2 through 5.

4 JUDGE HOPKINS: Exhibits 2 through 5 will be  
5 admitted into evidence.

6 (Public Counsel's Exhibits 2 through 5 were  
7 admitted.)

8 MS. O'NEILL: Then, sir, I'm showing you what  
9 has been marked now as Public Counsel's Exhibits 6, 7, 8,  
10 9 and 10, and are these also photographs you have been  
11 testifying here about tonight?

12 MR. KOLODGIE: They are.

13 MS. O'NEILL: Now, on Exhibits 6, 7 and 8  
14 there is also handwriting. Is that your handwriting?

15 MR. KOLODGIE: Yes, it is.

16 MS. O'NEILL: Okay. I want to show you  
17 Exhibit Nos. 9 and 10, and you don't have any handwriting  
18 on those; is that correct?

19 MR. KOLODGIE: No, I do not.

20 MS. O'NEILL: But there are some red letters,  
21 or letters and numbers on each photograph?

22 MR. KOLODGIE: The camera indicated the date  
23 and time of the photographs.

24 MS. O'NEILL: Did you take these photographs,  
25 as well?

1 MR. KOLODIE: I did.

2 MS. O'NEILL: And do these photographs  
3 accurately depict the conditions that you took the  
4 pictures of?

5 MR. KOLODIE: They do.

6 MS. O'NEILL: And this is excavation that was  
7 also performed by Gary Smith and/or Warren County Water &  
8 Sewer Company; is that correct?

9 MR. KOLODIE: That is correct.

10 MS. O'NEILL: And you had indicated in your  
11 previous testimony that, regarding No. 8 and No. 9, that  
12 this was a lift station?

13 MR. KOLODIE: That's correct.

14 MS. O'NEILL: And this is a lift station that  
15 belongs to Warren County Water & Sewer Company, or  
16 provides service?

17 MR. KOLODIE: Apparently, according to the  
18 owner, it was installed by them. I cannot be a hundred  
19 percent clear on that, but she had called them out on at  
20 least two occasions to repair it, and the same problems  
21 kept occurring over and over again.

22 MS. O'NEILL: This is in the Warren County  
23 Water & Sewer Company's territory?

24 MR. KOLODIE: Yes.

25 MS. O'NEILL: And Public Counsel No. 10 is

1           that same area; is that correct?

2                       MR. KOLODGIE:  Yes, it is.

3                       MS. O'NEILL:  I would move for admission of

4           Exhibits 6 through 10.

5                       MR. SCHAEFER:  Judge, let me voir dire the

6           witness.

7                       MR. KRUEGER:  Let me take a quick look.

8                       MR. SCHAEFER:  Sorry about that.

9                       MR. KRUEGER:  I have no objection.

10                      JUDGE HOPKINS:  Thank you.

11                      MR. SCHAEFER:  Mr. Kolodgie, I'll show you

12           Public Counsel's Exhibit Nos. 6 and 7, and ask you do

13           those appear to depict excavation, certain types of

14           excavation?

15                      MR. KOLODGIE:  No. 6, yes, was excavation.

16           In fact, the hole is still open in this photograph.  The

17           second one here, No. 7, was not, was a previous

18           excavation, but had been covered over and was left in that

19           condition alongside the road for almost thirty days.  I

20           would say it was almost three weeks.

21                      MR. SCHAEFER:  And, again, I'll ask you

22           similar to a question I asked you before.

23                      Are you aware of whether or not that

24           excavation is actually utility service that is provided by

25           Warren County Water & Sewer?



1                   MR. KOLODGIE: I'll answer you as I did  
2 before. I assume that it was. Warren County personnel  
3 were doing the work.

4                   MR. SCHAEFER: Do you know that for sure?

5                   MR. KOLODGIE: That they were doing the work?

6                   MR. SCHAEFER: No. That it's actually  
7 utility service that is provided by Warren County Water &  
8 Sewer?

9                   MR. KOLODGIE: I, again, would presume that  
10 it was.

11                  MR. SCHAEFER: I don't have any objections to  
12 Exhibits 6 and 7.

13                  JUDGE HOPKINS: Exhibits 6 and 7, any  
14 objections to those being entered into evidence?

15                  (Public Counsel's Exhibit Nos. 6 and 7 were  
16 admitted.)

17                  MR. SCHAEFER: Mr. Kolodgie, Public Counsel's  
18 Exhibit Nos. 8 and 9, did you actually take these  
19 paragraphs yourself?

20                  MR. KOLODGIE: I did.

21                  MR. SCHAEFER: And there is some handwriting  
22 on the bottom of these photographs. Is that your  
23 handwriting?

24                  MR. KOLODGIE: No.

25                  MR. SCHAEFER: Excuse me. Just No. 8 has the

1 handwriting?

2 MR. KOLODGIE: Yes. This is my handwriting,  
3 this is my handwriting, and this is my handwriting. I  
4 don't know who wrote that.

5 MR. SCHAEFER: So there are some notations on  
6 this photograph that you didn't write?

7 MR. KOLODGIE: Correct.

8 MR. SCHAEFER: I don't have any objection to  
9 the photos other than the notations on the photographs  
10 that he didn't write I believe are hearsay.

11 JUDGE HOPKINS: All right.

12 MS. O'NEILL: May I voir dire?

13 JUDGE HOPKINS: Yes.

14 MS. O'NEILL: I'm going to show you what has  
15 been marked as Public Counsel No. 8. Can you read the  
16 portion of that that you did not write?

17 MR. KOLODGIE: "Overflowing February 2002.  
18 Public Counsel No. 8."

19 MS. O'NEILL: And who wrote, "Overflowing  
20 February 2002"?

21 MR. KOLODGIE: I have no idea. I don't  
22 remember.

23 MS. O'NEILL: Was this lift station  
24 overflowing in February of 2002, to your knowledge?

25 MR. KOLODGIE: Yes, February 7th, in the

1           afternoon.

2                       MS. O'NEILL:  You do have personal knowledge  
3           that it was overflowing?

4                       MR. KOLODIE:  Oh, yes.

5                       MS. O'NEILL:  I offer No. 8.

6                       MR. SCHAEFER:  I don't have an objection,  
7           other than to -- I do have an objection to hearsay, but  
8           other than that, I don't have an objection.

9                       JUDGE HOPKINS:  Those will be entered into  
10          evidence, and that would be Public Counsel Nos. 8, 9 and  
11          10.

12                      (Public Counsel's Exhibit Nos. 8, 9 and 10  
13          were admitted.)

14                      MS. O'NEILL:  Sir, to your knowledge, the  
15          utility services that Warren County Water & Sewer Company  
16          provides, is that through pipes that are above ground or  
17          below ground?

18                      MR. KOLODIE:  Below ground.

19                      MS. O'NEILL:  Thank you.  No further  
20          questions.

21                      JUDGE HOPKINS:  Mr. Krueger?

22                      MR. KRUEGER:  No questions, Your Honor.

23                      JUDGE HOPKINS:  Mr. Schaefer?

24                      MR. SCHAEFER:  Nothing, Your Honor.

25                      JUDGE HOPKINS:  Commissioner Murray?

1                   COMMISSIONER MURRAY: No questions. Thank  
2                   you.  
3                   JUDGE HOPKINS: Commissioner Lumpe?  
4                   COMMISSIONER LUMPE: No questions. Thank you  
5                   for your testimony.  
6                   JUDGE HOPKINS: Commissioner Forbis?  
7                   COMMISSIONER FORBIS: No questions.  
8                   JUDGE HOPKINS: Fran Hopkins is next, and  
9                   then Lois Dennler is after that.  
10                  MS. HOPKINS: Mine has to do with what David  
11                  Turner said earlier, but I have a little bit to add. I  
12                  don't know if it does any good.  
13                  JUDGE HOPKINS: What is your name?  
14                  MS. HOPKINS: Fran Hopkins.  
15                  JUDGE HOPKINS: Are you any kin to me?  
16                  MS. HOPKINS: No. That's what I wondered  
17                  when I heard you say Hopkins earlier.  
18                  JUDGE HOPKINS: I thought I saw you at the  
19                  family reunion last summer.  
20                  Lois Dennler then.  
21                  MS. HOPKINS: I don't get to say what I want  
22                  to say?  
23                  JUDGE HOPKINS: Go ahead, and then Lois  
24                  Dennler will be next.  
25                  (Thereupon, Franette Hopkins was sworn.)

1 JUDGE HOPKINS: Please state and spell your  
2 name?

3 MS. HOPKINS: Do you want my whole name, or  
4 what I go by? It's really Franette, F-r-a-n-e-t-t-e,  
5 Hopkins, H-o-p-k-i-n-s.

6 I live at 2824 Magnolia Drive here in Incline  
7 Village.

8 I just have a little bit to add to what David  
9 Turner was saying earlier, because I didn't see him today  
10 because he was at work, but I take my little doggy out in  
11 the morning and at night.

12 I did notice last night when I was in my side  
13 yard that is joining his, it was awfully spongy there, and  
14 I wondered why because it's been about a week since we had  
15 all of the rain or weather. I did think that, boy, it's  
16 so soft here, and then this morning, about 8:30, I was  
17 outside with my doggy and I saw this big wet spot.

18 It's about twelve by ten, wouldn't you say,  
19 Dave?

20 MR. TURNER: Yeah.

21 MS. HOPKINS: Twelve by twelve, or twelve by  
22 ten right on the asphalt, the road, and all day long, and  
23 every time I would see it I would think why isn't that  
24 drying at all, or anything, so that's all that I wanted to  
25 add.

1 JUDGE HOPKINS: Thank you, ma'am.  
2 Ms. O'Neill?  
3 MS. O'NEILL: No questions. Thanks.  
4 JUDGE HOPKINS: Mr. Krueger?  
5 MR. KRUEGER: No questions, Your Honor.  
6 JUDGE HOPKINS: Mr. Schaefer?  
7 MR. SCHAEFER: One quick question.  
8 Miss Hopkins, have you called anyone at  
9 Warren County Water & Sewer?  
10 MS. HOPKINS: Not yet, because I didn't know,  
11 I didn't know why it's there. I didn't think about what  
12 in the world is going on here. I will tomorrow.  
13 MR. SCHAEFER: Thank you.  
14 JUDGE HOPKINS: Let me see if the  
15 Commissioners have a question.  
16 COMMISSIONER MURRAY: No.  
17 JUDGE HOPKINS: Commissioner Lumpe?  
18 COMMISSIONER LUMPE: No.  
19 JUDGE HOPKINS: Commissioner Forbis?  
20 COMMISSIONER FORBIS: No questions.  
21 JUDGE HOPKINS: Lois Dennler is next, and  
22 then Leonard Cusumano.  
23 Miss Dennler.  
24 (Thereupon, Lois Dennler was sworn.)  
25 JUDGE HOPKINS: Would you please state and

1 spell your name for the court reporter?

2 MS. DENNLER: My name is Lois Denmler,  
3 L-o-i-s, D-e-n-n-l-e-r.

4 JUDGE HOPKINS: Your address?

5 MS. DENNLER: 2563 Fairway Drive.

6 JUDGE HOPKINS: Thank you.

7 MS. DENNLER: There has been a lot of talk  
8 about the water pressure, and my purpose is to give you  
9 just a couple of illustrations of just what it means when  
10 you have low water pressure.

11 I have a garbage disposal in my kitchen, and  
12 I can't use it very much because there is not enough water  
13 pressure when I try to grind the refuse up. There is not  
14 enough water pressure to get inside of the garbage  
15 disposal, and the other thing is it takes me forever to  
16 fill my washing machine. It just trickles in. Now, there  
17 is just the two of us, but if a family would move into our  
18 house, I think they would have to buy an old-fashioned  
19 washing machine until the water pressure would get better.

20 That's just mainly what I wanted to  
21 illustrate. You know, water pressure can be relative  
22 according to, you know, what you're used to, and that is  
23 my whole purpose.

24 JUDGE HOPKINS: Thank you.

25 Ms. O'Neill?

1 MS. O'NEILL: I don't have any questions.

2 JUDGE HOPKINS: Mr. Krueger?

3 MR. KRUEGER: No questions, Your Honor.

4 JUDGE HOPKINS: Mr. Schaefer?

5 MR. SCHAEFER: Nothing.

6 JUDGE HOPKINS: Commissioner Murray?

7 COMMISSIONER MURRAY: No questions.

8 JUDGE HOPKINS: Commissioner Lumpe?

9 COMMISSIONER LUMPE: Nothing.

10 JUDGE HOPKINS: Commissioner Forbis?

11 COMMISSIONER FORBIS: Nothing.

12 JUDGE HOPKINS: Thank you, ma'am.

13 After Mr. Cusumano is Jeff Middendorf. You

14 will be after this gentleman.

15 (Thereupon, Leonard Cusumano was sworn.)

16 JUDGE HOPKINS: Would you please state and

17 spell your name, and then give us your address?

18 MR. CUSUMANO: Leonard Cusumano,

19 C-u-s-u-m-a-n-o, 2435 Fairway Drive.

20 JUDGE HOPKINS: Go ahead.

21 MR. CUSUMANO: The problem is, like everybody

22 else has said, the water pressure is bad, and I buy my

23 water, my drinking water. I refuse to drink water from

24 here because of the rust in the water, and I don't want to

25 take any chances.



1                   About a year ago my wife was in the shower  
2                   and all of a sudden the water went out. I had to use my  
3                   bottled water to rinse my wife in the shower. That's  
4                   about it. The water pressure is bad, and we do have a  
5                   problem.

6                   JUDGE HOPKINS: Okay, sir, thank you.

7                   Ms. O'Neill?

8                   MS. O'NEILL: Do you have water pressure  
9                   problems on a regular basis?

10                  MR. CUSUMANO: Yes, always. There ain't no  
11                  way you can take a shower and flush the toilet. It's  
12                  impossible.

13                  MS. O'NEILL: Have you talked to the water  
14                  company, Warren County Water & Sewer and Mr. Smith about  
15                  the problem?

16                  MR. CUSUMANO: That won't do any good.

17                  MS. O'NEILL: Have you tried to talk to them?

18                  MR. CUSUMANO: Yes.

19                  MS. O'NEILL: You haven't been able to get  
20                  any result from that?

21                  MR. CUSUMANO: Nobody has.

22                  MS. O'NEILL: No further questions.

23                  JUDGE HOPKINS: Mr. Krueger?

24                  MR. KRUEGER: No questions.

25                  JUDGE HOPKINS: Mr. Schaefer?

1                   MR. SCHAEFER: No questions.

2                   JUDGE HOPKINS: Commissioner Murray?

3                   COMMISSIONER MURRAY: No questions.

4                   JUDGE HOPKINS: Commissioner Lumpe?

5                   COMMISSIONER LUMPE: No questions. Thank

6                   you, sir.

7                   JUDGE HOPKINS: Commissioner Forbis?

8                   COMMISSIONER FORBIS: No questions.

9                   JUDGE HOPKINS: Thank you, sir.

10                  Jeff Middendorf is next, and after Jeff

11                  Middendorf will be Herb Jacobs.

12                  (Thereupon, Jeff Middendorf was sworn.)

13                  JUDGE HOPKINS: Would you please state and

14                  spell your name for the court reporter and give us your

15                  address?

16                  MR. MIDDENDORF: My name is Jeff Middendorf,

17                  M-i-d-d-e-n-d-o-r-f. I live at 2911 Village Drive West.

18                  And my complaints are very much similar as

19                  everybody else's. It stinks around all of your sinks and

20                  toilets from just poor water. I have a water filter and a

21                  water softener, and we still cannot drink the water. It

22                  makes my wife sick. We end up buying bottled water for

23                  everything, cooking and what have you.

24                  And as we we were building our house, I guess

25                  the owner of Warren County Water & Sewer contacted my wife

1       wanting to get paid for services that were not completed.  
2       She was not going to pay for work that was not completed,  
3       which I do not blame her, and he went off on my wife  
4       screaming on the phone to her, and I just didn't think  
5       that was good practice for a business.

6               That is basically all I have to say.

7               JUDGE HOPKINS: Thank you, sir.

8               Ms. O'Neill?

9               MS. O'NEILL: I don't have any questions.

10              JUDGE HOPKINS: Mr. Krueger?

11              MR. KRUEGER: No. questions.

12              JUDGE HOPKINS: Mr. Schaefer?

13              MR. SCHAEFER: No questions.

14              JUDGE HOPKINS: Commissioner Murray?

15              COMMISSIONER MURRAY: No questions.

16              JUDGE HOPKINS: Commissioner Lumpe?

17              COMMISSIONER LUMPE: Thank you, sir.

18              JUDGE HOPLINS: Commissioner Forbis?

19              COMMISSIONER FORBIS: No questions.

20              JUDGE HOPKINS: Mr. Jacobs, and after him  
21       will be Chris Pieper.

22              (Thereupon, Herb Jacobs was sworn.)

23              JUDGE HOPKINS: Would you please state and  
24       spell your name, and then give us your address?

25              MR. JACOBS: My name is Herb Jacobs,

1 J-a-c-o-b-s, 2489 Fairway Drive.

2 My complaint is like everybody elses. It's

3 the water pressure. When we first moved into the house in

4 1999 the water was so bad, you turned the shower on, you

5 would have to stand real close to it, underneath it just

6 to rinse your head off. I called Gary and asked him about

7 this, and he said he was supposed to put some sort of

8 extension on to give us more water pressure. I don't

9 think that has ever been done yet. That has been about

10 three years ago. That's all that I have to say.

11 JUDGE HOPKINS: Thank you, sir.

12 Any questions, Ms. O'Neill?

13 MS. O'NEILL: When you say you called Gary,

14 that is Mr. Smith from Warren County Water & Sewer?

15 MR. JACOBS: Yes, ma'am.

16 JUDGE HOPKINS: Mr. Krueger?

17 MR. KRUEGER: No questions.

18 JUDGE HOPKINS: Mr. Schaefer?

19 MR. SCHAEFER: No questions, Your Honor.

20 JUDGE HOPKINS: Commissioner Murray?

21 COMMISSIONER MURRAY: No questions.

22 JUDGE HOPKINS: Commissioner Lumpe?

23 COMMISSIONER LUMPE: Thank you, sir.

24 JUDGE HOPKINS: Commissioner Forbis?

25 COMMISSIONER FORBIS: No questions.

1 JUDGE HOPKINS: Next is Chris Pieper and  
2 after --  
3 MR. PIEPER: I'm just representing the media.  
4 I'm not testifying.  
5 JUDGE HOPKINS: You are not testifying.  
6 Okay. Am I pronouncing that right, Pieper?  
7 MR. PIEPER: The first was actually correct.  
8 JUDGE HOPKINS: Pieper? You're with the  
9 media and you are not testifying. Thank you, sir.  
10 Mary Groeblichhoff-Ullrich, are you here?  
11 MS. ULLRICH: Yes.  
12 JUDGE HOPKINS: After her will be Barbara  
13 Myers.  
14 (Thereupon, Mary Groeblichhoff-Ullrich was  
15 sworn.)  
16 JUDGE HOPKINS: Would you state your name for  
17 the court reporter, and give us your address?  
18 MS. ULLRICH: Mary Groeblichhoff-Ullrich,  
19 G-r-o-e-b-l-i-n-g-h-o-f-f hyphen U-l-l-r-i-c-h.  
20 I had trouble with a toilet. When I would  
21 flush it, it would back up, so I called up Warren County  
22 Sewer & Water. I left a voice mail. Gary called back and  
23 said that the people that lived in my house before always  
24 had that problem and it was the way the toilet was  
25 installed, it was not his problem, but I asked him to

1       please come out and check it anyhow, and within two or  
2       three days he did come out and they pulled the lid off the  
3       pump station and it was full, so they decided to pump it  
4       out. That was a Friday night. I don't know the date.

5               The next morning they had a truck sitting out  
6       there and they pumped all of the raw sewage out in my  
7       yard. It ran into my garage where my dogs are tied up,  
8       and I live about forty yards from the lake, so it was  
9       running down towards the lake, so I took a bunch of  
10      pictures, which are on file in Jeff City.

11             I talked to the man that was working for  
12      Gary, his name was Steve, and I asked him why he was  
13      pumping that sewage in my yard, and I was very unhappy  
14      about it. He said he was told to do it, and that's the  
15      way it was done, so I took the pictures, got them  
16      developed, spoke with one of the neighbors, and in the  
17      meantime Steve and, I guess, Gary came back, I don't know,  
18      but somebody turned off the pump, and the pump was broke  
19      at the bottom of the station, and they said they would  
20      pour a concrete slab so it would work right, and when I  
21      got back they had put an eight-pound bag of premix in the  
22      bottom, just in the bag. It wasn't mixed. It was sitting  
23      on the bottom with the pump sitting on top of it, and I  
24      talked to Steve and I said, "That's not going to work.  
25      You know, it doesn't look like that's proper procedure,"

1           and he said that is the way Gary said it should be done,  
2           and that's what they did. It did work for awhile. I did  
3           have problems again. They came back. I wasn't home, but  
4           my neighbors took more pictures of what they pumped out in  
5           my yard, but apparently they remedied the problem. I  
6           haven't had backups since then, but I don't like the  
7           sewage being pumped out in the yard.

8                       JUDGE HOPKINS: I have a question.  
9                       You said these pictures are on file at Jeff  
10           City. Do you know where?

11                      MS. ULLRICH: She knows where.

12                      JUDGE HOPKINS: She, meaning Miss O'Neill. I  
13           just wondered which agency, and you indicated the Public  
14           Counsel, and that's fine.

15                      Ms. O'Neill, do you have any questions?

16                      MS. O'NEILL: And just so the record is  
17           clear, you sent those pictures to my office; is that  
18           correct?

19                      MS. ULLRICH: I gave them to Rick Kolodgie.

20                      MS. O'NEILL: And they were sent. Okay.  
21           Thank you.

22                      JUDGE HOPKINS: Mr. Krueger?

23                      MR. KRUEGER: No questions, Your Honor.

24                      JUDGE HOPKINS: Mr. Schaefer?

25                      MR. SCHAEFER: No questions.

1 JUDGE HOPKINS: Commissioner Murray?  
2 COMMISSIONER MURRAY: No questions.  
3 JUDGE HOPKINS: Commissioner Lumpe?  
4 COMMISSIONER LUMPE: Your address, ma'am?  
5 MS. ULLRICH: 1102 Post Oak Court.  
6 JUDGE HOPKINS: Thank you.  
7 Barbara Myers is next, and then Don  
8 Kassebaum.  
9 (Thereupon, Barbara Myers was sworn.)  
10 JUDGE HOPKINS: Would you please state and  
11 spell your name, and give us your address.  
12 MS. MYERS: Barbara Myers, M-y-e-r-s, 1002  
13 Sugar Maple Court.  
14 We built our house in the summer of 2000, and  
15 we had a niece and nephew that were already living here,  
16 and we were kind of excited being back to civilization  
17 where you had city water and sewers because we had been in  
18 Indiana for eleven years and we were on well and septic.  
19 We didn't have a problem with that, but we thought, oh,  
20 city water and sewer has to be better.  
21 But our niece had told us that they had had  
22 problems with the taste of the water and their water  
23 heater had, something had rusted inside of the water  
24 heater, so my husband had a whole house water filter  
25 installed before a drop of water went into the house



1 through the pipe, and he thought that would take care of  
2 it.

3 Well, I never have liked the taste of the  
4 water, and I have always carried the reverse osmosis water  
5 from the grocery store, and he'll let me carry as many  
6 jugs of water as I want to carry because it's my taste  
7 buds, but last summer when the water pressure started  
8 going down and he scrubbed the toilets and the shower,  
9 then he was exposed to the grit of calcium buildup and the  
10 rust and everything, and then he got a little upset about  
11 the quality of the water. So that's our problem.

12 JUDGE HOPKINS: Thank you, ma'am.

13 Miss O'Neill?

14 MS. O'NEILL: I don't have any questions.

15 JUDGE HOPKINS: Mr. Krueger?

16 MR. KRUEGER: No questions, Your Honor.

17 JUDGE HOPKINS: Mr. Schaefer?

18 MR. SCHAEFER: No questions.

19 JUDGE HOPKINS: Commissioner Murray?

20 COMMISSIONER MURRAY: No questions.

21 JUDGE HOPKINS: Commissioner Lumpe?

22 COMMISSIONER LUMPE: Thank you.

23 JUDGE HOPKINS: Commissioner Forbis?

24 COMMISSIONER FORBIS: No questions.

25 JUDGE HOPKINS: Thank you.

1 Don Kassebaum is next, and after Don  
2 Kassebaum will be Patricia Metz.

3 (Thereupon, Don Kassebaum was sworn.)

4 JUDGE HOPKINS: Would you please state and  
5 spell your name for the court reporter, and then give us  
6 your address.

7 MR. KASSEBAUM: My name is Don Kassebaum,  
8 K-a-s-s-e-b-a-u-m. My address is 2524 Village Lane,  
9 Foristell, Missouri.

10 JUDGE HOPKINS: Go ahead, sir.

11 MR. KASSEBAUM: Between September of 1997 and  
12 this past September of 2001, I was a trustee for Incline  
13 Village, and during that period of time I, on dozens of  
14 occasions, what might amount to in excess of a hundred  
15 times, spoke to this, spoke to the Public Service  
16 Commission either by phone, by fax, by letter, sent audio  
17 tapes, photographs.

18 I spoke to -- a lot of the times I spoke to  
19 Miss Shannon, who I believe is no longer a member of the  
20 Public Service Commission, and I also spoke to Mr.  
21 Merceil, Miss O'Neill, Mr. Loethen, and forgive me if I  
22 didn't say that correctly, Mr. Merceil is not here, of  
23 course, Mr. Krueger, and I spoke with the Department of  
24 Natural Resources.

25 I had a lot of conversations both in writing

1       and verbally with Mr. Smith, and all of these  
2       conversations and letters and photos were to do with  
3       problems that were conveyed to the Board of Trustees, and  
4       to me on many occasions, by customers of Warren County  
5       Water & Sewer. When I say customers I'm not just limiting  
6       it to Incline Village residents, because there were  
7       situations, although it may not be as great in quantity as  
8       the Incline Village residents, but there was situations  
9       where I was dealing with or speaking with customers  
10      outside of the Incline Village perimeter.

11               One example which was highly viewed on the  
12      news last winter was a customer, or customers of Warren  
13      County Water & Sewer whose water line, for whatever  
14      reason, had froze and was left, was in that condition for  
15      a long period of time.

16               We took -- my wife and I took hundreds of  
17      gallons of water to one of those families which we knew,  
18      and they dispersed them, I suppose, but what I'm  
19      discussing now is the situation whereby they, those folks  
20      had a, who had a problem and which they were out of water  
21      for a long time, and it was expressed on television and to  
22      me personally how in order for them to take a bath, they  
23      had to go gather snow and allow it to melt and to cook, or  
24      whatever they were doing with it, but that was their  
25      problem, one that I personally conveyed to the Public

1           Service Commission.

2                       Everything that I am speaking of now and in  
3           the next few moments has been documented to the Public  
4           Service Commission and/or the Department of Natural  
5           Resources and, as I said, by both letter, fax, photo or  
6           audio tape.

7                       I refer to audio tape because of situations  
8           whereby Mr. Smith used vulgarity, words which I wouldn't  
9           repeat to customers when they would complain, or when they  
10          would ask for something that they needed, and all they  
11          would get is an earful for an answer, and which they were  
12          not, they did not need to hear, in my opinion, from an  
13          owner of a company and, like I said, some of it was put on  
14          tape, you know, through an answering machine, or whatever,  
15          and then forwarded on to Shannon Cook at the time.

16                      We spoke earlier of a hookup fee that some  
17          people were referring to. It is my understanding it was,  
18          and I believe it still is, that the hookup fee that Warren  
19          County Water & Sewer charges to hook up to their water  
20          lines and their sewer lines is \$450 combined.

21                      In my conversations with Mr. Krueger, he  
22          produced to me copies of tariff sheets that I suppose was  
23          what kind of law that the utility company was to work  
24          under, and in those tariff sheets it described how, for a  
25          fee, Warren County Water & Sewer was to tap on to the

1 water line that runs throughout, and run a service line up  
2 to a water meter, and provide the water meter, and at that  
3 point it was the new customer's financial responsibility  
4 to then take and run a line from the water meter to their  
5 new home, or to their home.

6 Furthermore, in the tariff sheets it was  
7 described that, to my knowledge, the way I read it, when  
8 you pay a fee, part of this \$450 to Warren County Water &  
9 Sewer for hookup to their sewer line, that meant, in my  
10 opinion, that Warren County Water & Sewer was to tap into  
11 their, or hook on to their sewer line, and run a line to a  
12 cleanout somewhere between that point and the new  
13 construction.

14 That's the way I read it, and that's the way  
15 in my conversations to the Public Service Commission,  
16 that's the way I expressed my belief on how it was to be.

17 Well, I can tell as a homeowner who paid the  
18 fee, and then as a trustee who heard all, everything that  
19 was going on for four years and got involved with a lot of  
20 the situations, that \$450 bought you the right to hookup  
21 to those two lines, period, and it, you also received your  
22 water meter, depending on what kind you received, but you  
23 received a water meter for that fee, which you didn't pay  
24 extra for, but then on top of that the homeowner would  
25 then pay an additional fee which usually, depending on the

1 situation, was in excess of a thousand dollars or more to  
2 actually pay someone, either pay Mr. Smith's company,  
3 which I think he has an outside company called Smith &  
4 Associates, or another company to actually do the hookups  
5 and run the line, and do all of the work, and it was my  
6 contention that that was not the way that the tariffs  
7 spelled it out, and that's my opinion. If I'm wrong, so  
8 be it, but that's the way I read those tariffs.

9 In the summer of 1999, a previous employee of  
10 Warren County Water & Sewer took me and two other then  
11 trustees throughout this village and pointed out to us,  
12 which I made -- everything was in writing, and made aware  
13 to Shannon Cook at the time, and it was either the summer  
14 of '98 or '99, you'll have to forgive me, I don't know the  
15 exact date, a number of his words were violations that he  
16 was told to do by Warren County Water & Sewer, by Mr.  
17 Smith, things that, things such as pumping stuff, I call  
18 it sewage, I don't know what it is exactly, gray water,  
19 someone called it gray water, pumping stuff from this  
20 treatment plant down here close to the golf course,  
21 directly out of that hole, pumping it directly into the  
22 little lake that sits next to it which leads into the big  
23 220 acre lake.

24 He made us aware of hookups that normally  
25 would be done with, when two pieces of PVC are brought

1       together, normally you use PVC cement, and he made us  
2       aware, and showed us, although it would be underground,  
3       where duct tape was used to bring PVC together at a  
4       certain spot.

5               As many people in this room have already  
6       said, the water has been a problem for a long time. Prior  
7       to me becoming a trustee, there was a conditional use  
8       permit that was granted, I think I'm using the correct  
9       words, and Incline Village was sued in order to allow  
10      Warren County Water & Sewer to condemn two lots which were  
11      adjacent to his, to the water tower that is now, and the  
12      condemnation of these two lots was to provide proper land  
13      so that Warren County Water & Sewer could construct a new  
14      water tower, and it was spelled out there clearly by the  
15      Public Service Commission as to what was supposed to be  
16      done, and there was a very strict time line, and it was  
17      very well done and, coming in as a new trustee, you know,  
18      it was very impressive.

19             Unfortunately, it was all words, because in  
20      many, many conversations with Mr. Smith personally and at  
21      meetings where there was one or two hundred people in a  
22      room at an annual meeting, we were told that the water  
23      tower was being sand -- a new one was being sandblasted  
24      down in Tennessee, I believe, and was coming shortly. It  
25      was going to be installed the next spring.

1                   I can go back and look at water bills that  
2                   will say things about the new water tower, approximate  
3                   dates when it may be coming, or what the status is.

4                   My point is this, Incline Village lost two  
5                   lots. We were granted a damage dollar amount for those  
6                   lots, which was paid to Incline Village, but we lost the  
7                   two lots that became the property of Warren County Water &  
8                   Sewer, but there is no water tower, there is -- I mean  
9                   there is no new water tower. Those two lots have just  
10                  become fenced in, and basically become an area where  
11                  refuse and gravel and stuff has accumulated and, in my  
12                  opinion, has not become the purpose for which they were  
13                  intended.

14                  When we talk about the water, the smell of  
15                  sulfur in the water is pretty significant on occasion.

16                  Last summer -- excuse me. In the summer of  
17                  2000 there was a serious situation, in my opinion, I use  
18                  the word serious, whereby a number of customers had a  
19                  serious problem with chlorine, a heavy percentage of  
20                  chlorine in the water coming into their home.

21                  In fact, I saw with my own eyes a number of  
22                  situations where laundry was spotted white, if not turned  
23                  white, because of the excessive amount of chlorine coming  
24                  into their home at that point in time.

25                  Now, some will say maybe the homeowner did



1 something wrong. Maybe they poured something into their  
2 laundry. It happened in not just one home, but it was in  
3 more than just one home, and it happened at the same time.  
4 We are talking about the same week, the same, on the same  
5 days. It happened, and I find it hard to believe,  
6 although I'm not a chemist, and I don't profess to be, I  
7 find it hard to believe that that high a concentration of  
8 a substance in the water is acceptable, and acceptable to  
9 drink by children, taking the adult out of the question  
10 for a moment.

11 I want to make sure that I covered  
12 everything.

13 And then in conclusion, on the sewage side of  
14 the ledger, as the Public Service Commission is well  
15 aware, there was many a situation where raw sewage, or  
16 gray water, as Mr. Smith would call it, would be going  
17 from a manhole cover, or from a lift station, as expressed  
18 by Miss Ullrich, directly into a body of water and the  
19 lakes that we have here, and the three lakes that we are  
20 discussing are recreational lakes. People fish in all of  
21 them, and the main lake, everything from skiing to  
22 swimming to fishing to just general recreation takes  
23 place, so I find it hard to believe that the gray water or  
24 raw sewage on occasion, as in Miss Ullrich's situation, is  
25 acceptable in these bodies of water where fishing and

1 swimming, and what have you, take place.

2 Also in conclusion to the sewage, as many  
3 folks already have discussed or talked about the lift  
4 station, lift stations have been, were one of the hottest  
5 topics during the four years that I was a trustee, because  
6 alarms were -- I don't have a lift station, but an alarm  
7 is on a lift station, I believe, to tell someone that it's  
8 malfunctioning.

9 Well, I have driven by lift stations, and I  
10 have talked to people with lift stations who have had the  
11 ringer or the buzzer, if that is the right word, or the  
12 red light, that had those disconnected so that no one  
13 would know that they were malfunctioning.

14 Again, those have been documented to the PSC  
15 when those situations would arise.

16 I believe that is all that I have to say.

17 JUDGE HOPKINS: Thank you, sir.

18 For the record, I want to point out that  
19 Shannon Cook was an attorney with the Office of Public  
20 Counsel, and she was never with the Public Service  
21 Commission, as far as I know.

22 MR. KASSEBAUM: Well, to my knowledge, she  
23 was predecessor to Ruth O'Neill.

24 JUDGE HOPKINS: Yes, she was with the Office  
25 of Public Counsel.

1                   MR. KASSEBAUM: Okay. I'm sorry. I didn't  
2 say that correctly.

3                   JUDGE HOPKINS: Ms. O'Neill, any questions?

4                   MS. O'NEILL: Just a couple.

5                   And as you said, you have talked to people in  
6 my office as well as the Public Service Commission; is  
7 that right?

8                   MR. KASSEBAUM: Yes, sir.

9                   MS. O'NEILL: And DNR and other agencies, as  
10 well?

11                  MR. KASSEBAUM: Yes, sir.

12                  MS. O'NEILL: And I just want to go through a  
13 couple of things and ask you a little bit of  
14 clarification.

15                  You said that you heard from people who were  
16 not even in Incline Village. Were those people who also  
17 were within the Warren County Water & Sewer Company's  
18 service area?

19                  MR. KASSEBAUM: Yes.

20                  MS. O'NEILL: Places like Shady Oak?

21                  MR. KASSEBAUM: Shady Oak, and Miss Brinkman,  
22 as I referred to earlier, I think it's called Green  
23 Trails -- is it Green Trails, I forget the name of the  
24 establishment, but it's on Highway WW just a little bit --  
25 it's down the street from Shady Oak.

1 MS. O'NEILL: That is also a customer of  
2 Warren County Water & Sewer?

3 MR. KASSEBAUM: I'm assuming it is. I'm sure  
4 it is.

5 MS. O'NEILL: And that is the company that  
6 she had the problems with?

7 MR. KASSEBAUM: Yes, ma'am.

8 MS. O'NEILL: And you talked about an audio  
9 tape, and that was an audio tape that contained messages  
10 left by Mr. Smith on an answering machine of a customer;  
11 is that correct?

12 MR. KASSEBAUM: Yes.

13 MS. O'NEILL: And you gave that to Miss Cook?

14 MR. KASSEBAUM: I mailed it to her.

15 MS. O'NEILL: You were talking a little bit  
16 about the connection fees and indicated that there were  
17 things that after the \$450 was paid, the three hundred for  
18 water and one hundred fifty for the sewer connection, that  
19 there were more things that had to be done, and that was  
20 done by Mr. Smith, either the utility company or another  
21 company of his; is that correct?

22 MR. KASSEBAUM: I would say that the extra  
23 work was done by Smith & Associates, which would be his  
24 other company, or other companies. If you didn't want to  
25 hire Mr. Smith and his other company, you could hire other

1 companies, plumbers or trenchers, or what have you, to do  
2 the work for you.

3 MS. O'NEILL: Was there somewhere the utility  
4 said that the customer would have to pay the utility or a  
5 designee of some designated company that the utility  
6 picked to do the services? Did you ever hear about that  
7 complaint?

8 MR. KASSEBAUM: Say that again.

9 MS. O'NEILL: That Mr. Smith made the  
10 customers pay the services either to the utility company  
11 or to his other company, that said that they had to hire  
12 Smith & Associates?

13 MR. KASSEBAUM: There was -- gosh. There was  
14 a lot of situations whereby a new customer coming into  
15 this village who didn't know a thing about anybody, when  
16 they would go to Mr. Smith to pay the \$450 and fill out  
17 the contract for new service, many of them felt that they  
18 had to use Mr. Smith to do their hookups and what have  
19 you. Many felt -- in fact many told me that they were  
20 told that they had to.

21 MS. O'NEILL: Okay. And you said that you  
22 had several conversations, or were involved in several  
23 meetings where Warren County Water & Sewer through Mr.  
24 Smith indicated that the water storage tower was in the  
25 process of being obtained and was going to be put up?

1 MR. KASSEBAUM: That is correct.

2 MS. O'NEILL: But it hasn't been done yet?

3 MR. KASSEBAUM: That is correct.

4 May I add to that?

5 MS. O'NEILL: Sure.

6 MR. KASSEBAUM: A lot of people are talking  
7 about the low water pressure, and I'm no expert, but I do  
8 agree that what a couple of people have said about the  
9 more and more customers that are on the existing system,  
10 that may cause the water pressure to go down and down.

11 I thought it ironic that shortly after, and  
12 we are talking about a few weeks, maybe a month at most, a  
13 couple of months, shortly after, and this goes back to, I  
14 would say the fall of '97, or early '98, shortly after the  
15 Public Service Commission granted the conditional use  
16 permit for Warren County Water & Sewer, a new subdivision  
17 was being constructed in which water was, in my opinion --  
18 in my opinion, a new subdivision was being hooked up to  
19 this water service called Brandy Lynn, and it's in Lincoln  
20 County, I believe, and it was just another situation where  
21 that much more territory was drawing down on a system that  
22 couldn't handle what was already in line to service.

23 MS. O'NEILL: And just one other thing. You  
24 have testified about people complaining that the alarm  
25 mechanism on their lift stations had been disconnected?

1 MR. KASSEBAUM: Yes.

2 MS. O'NEILL: Do you know, or did they

3 explain to you who disconnected those alarms?

4 MR. KASSEBAUM: They told me that a worker,

5 in other words, a worker for Warren County Water & Sewer,

6 but they did not expressly say Mr. Smith and, to be honest

7 with you, I didn't know by name any of the workers for

8 Warren County Water & Sewer.

9 But to answer your question, when they would

10 call me they would say something to the effect that an

11 employee or worker from Warren County Water & Sewer

12 disconnected the alarm and now we still have our problem,

13 but now there is no alarm to tell us or anybody else about

14 it.

15 MS. O'NEILL: Thank you.

16 JUDGE HOPKINS: Mr. Krueger?

17 MR. KRUEGER: No questions.

18 JUDGE HOPKINS: Mr. Schaefer?

19 MR. SCHAEFER: No questions.

20 JUDGE HOPKINS: Commissioner Murray?

21 COMMISSIONER MURRAY: No questions.

22 JUDGE HOPKINS: Commissioner Lumpe?

23 COMMISSIONER LUMPE: No. Thank you very

24 much, sir.

25 JUDGE HOPKINS: Commissioner Forbis?

1 COMMISSIONER FORBIS: No questions.

2 JUDGE HOPKINS: Thank you.

3 Patricia Metz?

4 MS. METZ: I have nothing to say because

5 everything I was going to say has already been said, so I

6 am not going to testify.

7 JUDGE HOPKINS: If someone has said what you

8 wanted to say, you do not need to testify if you don't

9 want to.

10 Dale Hinton? After Mr. Hinton Roger Nichols

11 will be next.

12 (Thereupon, Dale Hinton was sworn.)

13 JUDGE HOPKINS: Please state and spell your

14 name, and give us your address?

15 MR. HINTON: My name is Dale Hinton,

16 H-i-n-t-o-n. I live at 261 English Road, and it's in the

17 Brandy Lynn subdivision.

18 JUDGE HOPKINS: Go ahead.

19 MR. HINTON: I just got a couple of things to

20 add that has already been mentioned. The water pressure,

21 I guess I've got to thank the good Lord above, that my

22 pressure is better than some of these people. My garbage

23 disposal doesn't work, so I guess I'm lucky there.

24 I purchased this lot -- I looked at it two or

25 three times in 2000 and 2001. There was a fire hydrant



1 out in front of it. Somebody damaged it and knocked it  
2 over, tore it up, or whatever. I was told that it would  
3 get replaced. It never has been replaced. So we don't  
4 have no fire hydrant over there. It seems like a little  
5 issue as compared to some of these other people.

6 Then I got a letter in the mail that says  
7 that this meeting was coming down. Maybe I ought to  
8 attend. It says in the letter here that Incline Village  
9 was trying to take over the water company, or something to  
10 that effect here, and it says that I could be  
11 disconnected, or possibly somebody else could be denied  
12 water, which is very upsetting if you build a new home and  
13 you're told you have water and everything works.

14 I come within about two hours of just  
15 forgetting the water and putting a well in, and I kind of  
16 wish we had done that now. There is the odor. You can't  
17 water your yard. The sprinkler won't work. It won't go  
18 around.

19 That's about all I've got.

20 JUDGE HOPKINS: Thank you, sir.

21 Ms. O'Neill?

22 MS. O'NEILL: Mr. Hinton, do you have a copy  
23 of that letter you were referring to?

24 MR. HINTON: Yes.

25 MS. O'NEILL: May I ask that it be marked for

1           the record?

2                       MR. HINTON:   Yes.

3                       MS. O'NEILL:   Can I have this marked, please.

4                       JUDGE HOPKINS:   We will call this Public

5   Counsel No. 11.

6                       (Public Counsel's Exhibit No. 11 was marked.)

7                       MS. O'NEILL:   Sir, I'm going to show you this

8   paper that has now been marked Public Counsel No. 11.

9                       Is that the paper you just gave me?

10                      MR. HINTON:   Yes, it is.

11                      MS. O'NEILL:   What is this paper?

12                      MR. HINTON:   It's a letter that I got from

13   Warren County Water & Sewer, the heading at the top.  It

14   briefly goes over about everything that was mentioned in

15   here tonight, the Forest Green subdivision and the other

16   ones, and so on and so forth.

17                      MS. O'NEILL:   Is the letter signed?

18                      MR. HINTON:   Yes.  It looks like Gary.

19                      MR. ONEILL:   Is there a typewritten name

20   under the signature?

21                      MR. HINTON:   Gary L. Smith.

22                      MS. O'NEILL:   Do you know who Gary L. Smith

23   is?

24                      MR. HINTON:   I personally never met him.

25                      MS. O'NEILL:   And is there a letterhead that

1           the letter is written on?

2                       MR. HINTON:  Yes.

3                       MS. O'NEILL:  What is that?

4                       MR. HINTON:  Warren County Water & Sewer

5           Company.

6                       MS. O'NEILL:  And up at the top left is there

7           a designation of president?

8                       MR. HINTON:  Gary L. Smith, President.

9                       MS. O'NEILL:  Is this the letter that you

10          received in the mail?

11                      MR. HINTON:  Yes, it is.

12                      MS. O'NEILL:  I would offer Public Counsel

13          Exhibit No. 11 into evidence.

14                      MR. KRUEGER:  No objection.

15                      MR. SCHAEFER:  No objection.

16                      JUDGE HOPKINS:  No objection being heard,

17          this will be the Warren County Water & Sewer company

18          letter of March 6th.

19                      (Public Counsel's Exhibit No. 11 was

20          admitted.)

21                      MS. O'NEILL:  I have no other questions.

22                      JUDGE HOPKINS:  Mr. Krueger?

23                      MR. KRUEGER:  No questions, Your Honor.

24                      JUDGE HOPKINS:  Mr. Schaefer?

25                      MR. SCHAEFER:  No questions.

1 JUDGE HOPKINS: Commissioner Murray?

2 COMMISSIONER MURRAY: Yes. You said that you

3 live in Brandy Lynn subdivision; is that right?

4 MR. HINTON: Yes, ma'am.

5 COMMISSIONER MURRAY: How long have you had

6 service problems with Warren County Water & Sewer?

7 MR. HINTON: Our water was probably turned on

8 back in July.

9 COMMISSIONER MURRAY: How long have you lived

10 there?

11 MR. HINTON: I'm sorry?

12 COMMISSIONER MURRAY: How long have you lived

13 there?

14 MR. HINTON: We moved in in September of

15 2001.

16 COMMISSIONER MURRAY: Thank you.

17 JUDGE HOPKINS: Commissioner Lumpe?

18 COMMISSIONER LUMPE: Mr. Hinton, you talked

19 about odor, and a number of people talked about odor.

20 Is it both sulfur and chlorine?

21 MR. HINTON: We haven't got chlorine. It's

22 more sulfur.

23 JUDGE HOPKINS: I have a question, sir.

24 Do you live in a fire protection district?

25 MR. HINTON: Yes. Wright City.

1 JUDGE HOPKINS: Is the fire protection  
2 district, or the water company responsible for having  
3 those fire hydrants?

4 MR. HINTON: I believe, I'm not a developer,  
5 but I believe the developer put the water lines in. The  
6 water definitely comes from Warren County.

7 JUDGE HOPKINS: How about the fire hydrants?

8 MR. HINTON: There are some there, too. In  
9 the subdivision itself I can go ahead and mention other  
10 things. Some of them, the caps are off of them, and I  
11 don't know the exact word, it's not operable or something.

12 JUDGE HOPKINS: Thank you.

13 Commissioner Murray?

14 COMMISSIONER MURRAY: I was just reading the  
15 letter that, skimming the letter that you received from  
16 the company, and it said that if you would like to express  
17 your position regarding the trustees of Incline Village,  
18 or the effect they might have on your water and sewer  
19 service, you may want to attend the public hearing.

20 Is that why you're here?

21 MR. HINTON: Yes, ma'am. I'm concerned.  
22 I've got a new home, and if my water got turned off, I  
23 would have a little problem there.

24 COMMISSIONER MURRAY: Are you satisfied with  
25 the service that you're receiving?

1                   MR. HINTON: No. I mentioned earlier that  
2                   the pressure was better than a lot of these people, it  
3                   sounds like, but you can't even water your yard, you know.  
4                   The sprinkler will not work. I have been calling and  
5                   spoke to Mr. Smith, I believe, on the phone, and I didn't  
6                   get a return -- I'm sorry, it was his answering machine,  
7                   and I never got a call back.

8                   COMMISSIONER MURRAY: So are you satisfied --  
9                   are you saying you're dissatisfied?

10                  MR. HINTON: I'm dissatisfied with the water  
11                  pressure and with the odor, and dissatisfied with somebody  
12                  for that fire hydrant.

13                  COMMISSIONER MURRAY: And are you  
14                  concerned -- do you have any concerns about the trustees  
15                  of Incline Village, other than what was stated in this  
16                  letter that you might be disconnected?

17                  MR. HINTON: That's all, yes.

18                  COMMISSIONER MURRAY: Thank you.

19                  JUDGE HOPKINS: Commissioner Forbis?

20                  COMMISSIONER FORBIS: No questions.

21                  JUDGE HOPKINS: Thank you very much.

22                  JUDGE HOPKINS: Roger Nichols is next, and  
23                  then after Roger Nichols is Fern Weld.

24                  (Thereupon, Roger Nichols was sworn.)

25                  JUDGE HOPKINS: Would you please state and

1 spell your name for the court reporter, and give us your  
2 address?

3 MR. NICHOLS: Roger Nichols, N-i-c-h-o-l-s,  
4 and I live at 2470 Village Lane.

5 JUDGE HOPKINS: Go ahead.

6 MR. NICHOLS: I'm going to start -- I'm a new  
7 resident to Incline Village. I purchased a home that was  
8 being constructed and I put a contract on it, roughly, in  
9 August.

10 At that time the exterior was done, the  
11 interior wasn't, and there was a manhole on the side of my  
12 house, and I asked the builder about it, and he said,  
13 "Well, that is the sewer line."

14 I was not aware that this sewage line would  
15 need a lift station or lift pump in it. Dumb me. I  
16 should know better. I have run into this before.

17 Before we moved into the house we talked to  
18 the builder several times after we found out about this  
19 lift pump. So we get into the house and so forth, this is  
20 all hearsay, but the builder said he was in contact, I  
21 don't know what his excuse was, but the lift pump was not  
22 being put in. I have no idea why. I know it was delayed.

23 Finally the lift pump was put in and the  
24 people finishing off the inside of the house started using  
25 the toilets, the sinks, and so forth. We kept telling

1       them not to because we had water backups coming into our  
2       basement. That was our first time with this.

3               We got moved into the house. Things went  
4       along pretty well up until February 2nd, about midnight, a  
5       neighbor come across the street and told us we had a red  
6       flashing light going on. We knew instantly what this was.  
7       There had been no siren. We were under the impression  
8       that there was supposed to be a buzzer that we could hear,  
9       since this light is on the blind side of the house.

10              I immediately called the Warren County Water  
11       Company and got the recorder and left a message. I went  
12       down in the basement. We had water backing up in our  
13       sewers again. At this time we had contents in the house.

14              The next morning at 9:00 o'clock I called  
15       Warren County Water and talked to Gary Smith, and he told  
16       me somebody would be right over. At 2:30 nobody had shown  
17       up. We had left the house -- it was Super Bowl. We left  
18       the house. We came back at 7:00 o'clock and there was no  
19       sewage in the basement.

20              We assumed that the pump had been repaired  
21       and we started flushing our stools and so forth, and right  
22       away we had clogged drains. We had this mess to clean up.

23              On Monday at 8:00 o'clock I checked the sump  
24       hole and it was filled with sewage again. I called Warren  
25       County Water and left a message. Wife called at noon and



1       talked to Gary Smith and he said somebody would be over  
2       shortly. At 2:30 no one had come to pump it out.

3               My wife was recovering from major surgery at  
4       this time and this was something that she was very upset  
5       about and she shouldn't have been bothered with.

6               After 2:30 and nobody had come over, she  
7       called the PSC to see what could be done.

8               At 5:30 an employee came out and pumped the  
9       sewage out of the line, and I was there when he did it,  
10      and he told me that apparently a fuse was the problem, and  
11      he would replace it the next day.

12              Tuesday, the 5th, the fuse was replaced, but  
13      the pump wasn't working. I had seen how the employee  
14      pumped the sump hole out that night, how he did it, so I  
15      pumped two times that day. I pumped the sump hole out so  
16      my wife would be able to use the water in the house.

17              February 6th, called twice and left message  
18      on the recorder. I had pumped it twice that day.

19              February 7, the PSC, one of the few people  
20      from PSC had been out and told Gary Smith, or called Gary  
21      Smith, and Gary Smith told him that he couldn't get an  
22      electrician, this was on a Thursday, he couldn't get an  
23      electrician out until Monday of next week. The PSC  
24      employee called us and relayed this to us.

25              The next two days my wife was home alone and

1 she had to go out and pump this thing out twice.

2 Monday, the electrician from Wentzville  
3 showed up and diagnosed the problem, and Gary Smith didn't  
4 have him repair it.

5 Later in the day an employee came and pulled  
6 the circuit breaker and left all of the hot wires exposed.

7 There is no way to pump the sewage out if you  
8 don't have circuit breakers or buttons in there to push.

9 On February 12th, Tuesday, about 10:55 an  
10 employee came by, looked, left, nothing done. In all of  
11 this time we never had a phone call from Gary Smith. The  
12 only time I had contact with anyone in person was when the  
13 employee was there.

14 February 14th a contractor doing some work on  
15 the house said Warren County Water came by and installed a  
16 new electrical box -- I'm sorry. We had left town that  
17 week, but the contractor working in the house called us  
18 when we were in Florida and told us they had been by and  
19 installed a brand new box. We arrived home to find that  
20 the new box was there. Everything looked fine.

21 My wife, the next day, heard water running.  
22 She looked outside and there was three people around this  
23 manhole. Come to find out, the floats had been put in  
24 wrong and PSC employes had come by to inspect it, saw it  
25 was wrong, and contacted Gary Smith to come and fix it

1 right.

2 Since that time I heard I had a water leak  
3 going. Apparently it has been leaking since October when  
4 Gary Smith was backfilling this sump hole.

5 A neighbor and also the contractor that was  
6 working there said that he backed over the water jar in  
7 the yard. They were going to fix it, and they have never  
8 fixed it, and it's sitting there at an angle, and an  
9 employee came out and dug up next to the jar between the  
10 meter and my house, said there was a little small leak,  
11 they tightened it up, however the water leak is still  
12 there. I think I'm in the fifth day of that now, and  
13 other than coming back and filling up the hole, that's all  
14 that has been done.

15 I would just like to say that I am an  
16 independent businessman, and it's my impression that if I  
17 gave the type of service that I have received and things  
18 that I have heard here tonight, I would be out of  
19 business.

20 I'm a captive user of this public utility,  
21 and I think that anybody with any decency in them at all  
22 would not put us through what we have gone through as a  
23 new resident. I think it's totally unacceptable.

24 That's all that I have.

25 (Applause.)

1 JUDGE HOPKINS: Thank you.  
2 Any questions, Ms. O'Neill?  
3 MS. O'NEILL: No questions.  
4 JUDGE HOPKINS: Mr. Krueger?  
5 MR. KRUEGER: No questions, Your Honor.  
6 JUDGE HOPKINS: Mr. Schaefer?  
7 MR. SCHAEFER: Mr. Nichols, were you home at  
8 7:00 a.m. on Sunday morning, the next day after you  
9 called?  
10 MR. NICHOLS: When the water broke, you mean?  
11 MR. SCHAEFER: Yes.  
12 MR. NICHOLS: Yes, I was.  
13 MR. SCHAEFER: You were home at 7:00 in the  
14 morning on that Sunday?  
15 MR. NICHOLS: Yes.  
16 MR. SCHAEFER: Are you aware that Mr. Smith  
17 did come by your house?  
18 MR. NICHOLS: He told me in a telephone  
19 conversation he was there. I have no reason to doubt  
20 that.  
21 MR. SCHAEFER: Are you aware that several  
22 times his employees did come and --  
23 MR. NICHOLS: I have no idea. They never  
24 communicated anything with me. I had no idea what was  
25 going on. Every time I would call, I did record it.

1 MR. SCHAEFER: No further questions.

2 JUDGE HOPKINS: Commissioner Murray?

3 COMMISSIONER MURRAY: Yes.

4 What would you like to see done? That we can  
5 do legally?

6 MR. NICHOLS: I haven't even got around to  
7 thinking about that. I left my last house because of the  
8 public utility and it was because the public utility had  
9 the right, and they treated me like I just got off a  
10 turnip truck. I was put through the ringer, went through  
11 a court case, and enough is enough, so I moved. I came  
12 out here.

13 I should have known better, because I'm no  
14 stranger to this area. I have lived in this county  
15 probably close to thirty years now, I guess, and it's kind  
16 of a strange thing, because my real estate agent showed me  
17 a house here and I kept telling him, "No, I don't want to  
18 live here," but when I came back out here, this place had  
19 changed since the last time I was here, and I thought this  
20 place is great, this community has moved along.

21 And to answer your question, I would like to  
22 see the utility company respond to the needs of their  
23 clients in one fashion or the other.

24 The water pressure here is a problem.  
25 Somebody asked how low is it. I had sod in my yard. I

1        had one sprinkler. That was all I could run at one time,  
2        and it was one of the rotating types, and it would throw  
3        water out about ten feet. In my other home I could run  
4        three of those and it would throw the water out  
5        twenty-five feet.

6                    I started asking people about this, and they  
7        started telling me, we've got low water pressure, we've  
8        got a high chlorine taste in the water at various times.  
9        I thought I've got other problems. I can get by with  
10       this, but I think for public safety, I think for the  
11       community that something needs to be done. Either Mr.  
12       Smith needs to straighten out his act, or we need somebody  
13       to come in and do this right. One of the two.

14                    (Applause.)

15                    COMMISSIONER MURRAY: Do you think that Mr.  
16       Smith and the Warren County Water & Sewer Company are  
17       capable or qualified to do the job right?

18                    MR. NICHOLS: From my experience, I would say  
19       no, but I have no idea, but my experience would be, I  
20       don't know if they are capable or not. All I know is I  
21       sat there for nineteen days and did not have a sewer  
22       system working properly in a brand new house. I sat there  
23       not knowing when I go home tonight if I have a problem or  
24       not.

25                    COMMISSIONER MURRAY: Do you think that the

1 value of your property is in any way affected by the type  
2 of water and sewer service you have?

3 MR. NICHOLS: I'm scared to think about that.  
4 I would say the way this community is growing, probably it  
5 isn't yet, but with TV exposure, press exposure, and  
6 things not improving, I would say definitely it's going to  
7 be a real problem.

8 COMMISSIONER MURRAY: Can you tell me  
9 approximately what percentage of lots and homes are sold  
10 in this area, and that eventually will be here?

11 MR. NICHOLS: That I have no idea. Like I  
12 say, I have been dealing with a lot of things besides  
13 sewer and water systems since I have moved in that was  
14 unplanned, but I don't know that much about the community.  
15 I think there is like three hundred homes here now, or  
16 something like this.

17 COMMISSIONER MURRAY: Is it accurate to say  
18 that they are still being advertised and being sold?

19 MR. NICHOLS: Oh, definitely so.

20 COMMISSIONER MURRAY: And --

21 MR. NICHOLS: I would say if this system  
22 continues like this, there is not going to be very many  
23 homes built.

24 First of all, the water pressure is not going  
25 to be able to handle it. Second of all, there are going

1           to be so many breakdowns with the sewer system and  
2           problems with the lift stations, there wouldn't be enough  
3           employees to take care of all of this, there is no way,  
4           unless they get this operating right.

5                       COMMISSIONER MURRAY: Thank you very much.

6                       JUDGE HOPKINS: Commissioner Lumpe, any  
7           questions?

8                       COMMISSIONER LUMPE: No.  
9           Thank you, sir.

10                      JUDGE HOPKINS: Commissioner Forbis?

11                      COMMISSIONER FORBIS: No questions.

12                      JUDGE HOPKINS: Thank you.

13                      We are going to take a short break now, and I  
14           would ask that that none of you speak with the  
15           commissioners during the break. They are trying to be  
16           fair to all parties concerned here, and really should not  
17           receive any evidence outside of this hearing. So we are  
18           going to take a short break and we'll get back in ten  
19           minutes.

20                      (Thereupon, a recess was taken.)

21                      JUDGE HOPKINS: Mr. Schaefer, you wanted to  
22           say something before we got started?

23                      MR. SCHAEFER: Yes, Judge. As long as we are  
24           back on the record, I just wanted to make a statement on  
25           the record that we have been hearing quite a bit of



1       hearsay statements of individuals talking about  
2       experiences of other individuals who are not necessarily  
3       here today to testify, and we want to be polite and make  
4       sure that everyone has a chance to say what they have to  
5       say.

6                       I would like to make a running objection to  
7       that hearsay, that we don't think it's necessarily  
8       appropriate for the Commission to base their decision on  
9       that.

10                      JUDGE HOPKINS: Thank you.

11                      (Thereupon, Fern Welch was sworn.)

12                      JUDGE HOPKINS: Would you please state and  
13       spell your name for the court reporter, and give us your  
14       address?

15                      Step about a foot closer to the microphone.

16                      MS. WELCH: Fern Welch, F-e-r-n, W-e-l-c-h,  
17       2740 Village Drive West, Foristell, Missouri.

18                      Mainly, you know, we agree with everything  
19       that has been said. We would never drink the water. We  
20       have lived here since '94 and we had a reverse osmosis put  
21       on our house, so we don't have to worry about that, but  
22       I'm very concerned about our lake, the thought of raw  
23       sewage going into our lake.

24                      My grandkids swim out in the lake all summer  
25       and we eat the fish every day, and that's what concerns

1 me. I mean, to me, we should know what's in that lake,  
2 what kind of readings are coming back after they are  
3 tested, because this is our life and our children's lives,  
4 and we are very big fish eaters and we eat fish all of the  
5 time, and we want to know, and that's why I'm here.

6 JUDGE HOPKINS: Any questions, Miss O'Neill?

7 MS. O'NEILL: No, Your Honor.

8 JUDGE HOPKINS: Mr. Krueger?

9 MR. KRUEGER: No questions.

10 COMMISSIONER HOPKINS: Mr. Schaefer?

11 MR. SCHAEFER: Nothing.

12 JUDGE HOPKINS: Do the commissioners have any  
13 questions?

14 COMMISSIONER MURRAY: No.

15 COMMISSIONER LUMPE: No.

16 COMMISSIONER FORBIS: No.

17 JUDGE HOPKINS: Chris Brunnert will be next,  
18 and after Chris Brunnert will be Shelley Sauer.

19 Chris Brunnert going once, going twice. He's  
20 not here.

21 Is Shelly Sauer here?

22 (Thereupon, Shelly Sauer was sworn.)

23 JUDGE HOPKINS: Would you please state and  
24 spell your name for the court reporter?

25 MS. SAUER: My name is Shelly Sauer,

1           S-a-u-e-r. I live at 2386 Village Drive East, Foristell.

2                   JUDGE HOPKINS: How do you spell Shelly?

3                   MS. SAUER: S-h-e-l-l-y.

4                   JUDGE HOPKINS: Go ahead.

5                   MS. SAUER: I'm a new homeowner. We moved in

6           in January, and I had no idea of all of the horror stories

7           that everybody has had. I definitely would not have built

8           in here if I would have known that.

9                   My complaint is I've got rust on my clothes,

10          in the washing machine, and my fish, there is rust on the

11          bowl. I thought maybe some other folks were having the

12          same problems and I would come and try and find out what I

13          could do.

14                   We went ahead and put a water softener in.

15          We put an iron filter in. We put Iron-out in, and this is

16          after all of that has happened. And as far as the service

17          goes, when we first moved in we had some problems with our

18          lift. It was going on and off every three seconds, it

19          would click on and off, on and off, and the alarm would go

20          off constantly.

21                   We never had any sewage in our house and

22          there was never anything down on the ground where it was

23          going to come out at, but every time I called they came

24          out. The guys worked very hard, the workers did. I felt

25          extremely sorry for them. One guy busted his hand while

1       he was working on our, digging the dredge underneath the  
2       road. I really didn't think conditions were very good for  
3       them, but, other than that, that's all that I've got.

4               JUDGE HOPKINS: For the record, you're  
5       referring to the jar of water you brought with you that  
6       has a fish in it?

7               MS. SAUER: Yes.

8               JUDGE HOPKINS: Did you put that in there?

9               MS. SAUER: My fish?

10              JUDGE HOPKINS: Yes.

11              MS. SAUER: My fish was in here, and I put  
12      the water in here for the fish, yeah.

13              JUDGE HOPKINS: Miss O'Neill?

14              MS. O'NEILL: Is this rust -- you said that  
15      you have taken several steps to try and get the rust out  
16      of the water?

17              MS. SAUER: Yes.

18              MS. ONEILL: You're still having those  
19      problems?

20              MS. SAUER: Yes. This is after I have taken  
21      those steps.

22              JUDGE HOPKINS: Mr. Krueger?

23              MR. KRUEGER: No questions.

24              MS. SAUER: We also have water, as far as  
25      pressure, it's also pretty poor, too.

1 JUDGE HOPKINS: Mr. Schaefer?

2 MR. SCHAEFER: When was the last time you

3 cleaned the fish bowl that you're holding there?

4 MS. SAUER: This is a week old.

5 MR. SCHAEFER: It's a week old, and your fish

6 seems to be doing fine in the water?

7 MS. SAUER: Yes, he is doing fine. I was

8 just concerned. It's like what else can I do to get rid

9 of rust? Can I set up my softener or can I add more

10 stuff, what can I personally do, and that's what I was

11 trying to see.

12 MR. SCHAEFER: I have nothing further.

13 JUDGE HOPKINS: Commissioner Murray?

14 COMMISSIONER MURRAY: Nothing.

15 JUDGE HOPKINS: Commissioner Lumpe?

16 COMMISSIONER LUMPE: No. Thank you.

17 JUDGE HOPKINS: Commissioner Forbis?

18 COMMISSIONER FORBIS: No.

19 JUDGE HOPKINS: Thank you, ma'am.

20 Wayne Rellergert. I'm sorry if I'm

21 mispronouncing that.

22 After him will be Robert Sebacher.

23 (Thereupon, Wayne Rellergert was sworn.)

24 JUDGE HOPKINS: Would you please state and

25 spell your name for the court reporter?

1                   MR. RELLEGERT: Wayne Rellergert, W-a-y-n-e,  
2                   R-e-l-l-e-r-g-e-r-t.  
3                   JUDGE HOPKINS: Give us your address.  
4                   MR. RELLEGERT: It's 9 Chestnut Court,  
5                   Foristell, Missouri.  
6                   Basically I have the same problem as  
7                   everybody else. Number one is the water pressure; two is  
8                   the chlorine and the smell of sulfur coming out of,  
9                   especially out of the bathroom faucets, and three is the  
10                  taste of the water.  
11                  We don't drink any of the water until  
12                  everything is filtered through the refrigerator. My  
13                  filters on the refrigerator are supposed to last six to  
14                  eight months, and I'm changing them on the average of  
15                  every thirty to forty-five days, and they are pretty  
16                  brown. They are really brown colored, and so it's the  
17                  extra cost of that. We just don't drink out of our faucet  
18                  at all. Other than that, I have nothing else to say.  
19                  JUDGE HOPKINS: Any questions?  
20                  MS. O'NEILL: No questions.  
21                  JUDGE HOPKINS: Mr. Krueger?  
22                  MR. KRUEGER: No, Your Honor.  
23                  JUDGE HOPKINS: Mr. Schaefer?  
24                  MR. SCHAEFER: Nothing.  
25                  JUDGE HOPKINS: Commissioner Murray?

1 COMMISSIONER MURRAY: No questions.

2 JUDGE HOPKINS: Commissioner Lumpe?

3 COMMISSIONER LUMPE: No questions.

4 JUDGE HOPKINS: Robert Sebacher. I'm sorry  
5 if I'm mispronouncing your name.

6 After him will be Mary Henke.

7 Please state and spell your name for the  
8 court reporter, and give us your address.

9 MR. SEBACHER Robert Sebacher, R-o-b-e-r-t,  
10 S-e-b-a-c-h-e-r.

11 The only reason --

12 JUDGE HOPKINS: Your address?

13 MR. SEBACHER: 2327 Village Drive East.

14 JUDGE HOPKINS: Thank you. Go ahead.

15 MR. SEBACHER: Someone mentioned a letter  
16 that they had received and they had some statements in  
17 there that I don't have in mine. It doesn't say anything  
18 about shutting down service or anything, so I thought if I  
19 got a different letter, you might want a copy of it.

20 And the other thing would be that I am not  
21 particularly happy about the service I've got. It's, you  
22 know, low water pressure like everybody else, but, on the  
23 other hand, as one of the council members was asking  
24 another gentleman earlier, if it mentioned something  
25 about, did he have any concerns about some of these other

1       issues that were in this letter, and I do.

2               I prefer that some other utility took over

3       the water or the sewer, if it's a case of somebody taking

4       over, or buying it out, rather than the trustees.

5               Thank you.

6               JUDGE HOPKINS:  Thank you, sir.

7               Any questions, Ms. O'Neill?

8               MS. O'NEILL:  Your Honor, if you would like,

9       we could have this letter marked if it has something

10       different in it, if you would like to do that.

11              JUDGE HOPKINS:  Is that the same letter, or a

12       different letter?

13              MR. SEBACHER:  Perhaps I could just read it.

14              MS. O'NEILL:  I would like this one marked

15       and admitted.  It's a different letter.

16              JUDGE HOPKINS:  This will be called Public

17       Counsel No. 12.

18              (Public Counsel's Exhibit No. 12 was marked.)

19              MS. O'NEILL:  Sir I'm going to hand you what

20       has been marked as Public Counsel No. 12.  Is this the

21       letter that you were referring to earlier?

22              MR. SEBACHER:  Yes.

23              MS. O'NEILL:  And is it signed?

24              MR. SEBACHER:  Yes.

25              MS. O'NEILL:  How is it signed?



1                   MR. SEBACHER: Gary L. Smith. Gary is the  
2                   signature, but underneath it's spelled out Gary L. Smith.  
3                   MS. O'NEILL: Is it on Warren County Water &  
4                   Sewer Company letterhead?  
5                   MR. SEBACHER: Yes.  
6                   MS. O'NEILL: Does that letterhead indicate a  
7                   president?  
8                   MR. SEBACHER: Gary L. Smith, President.  
9                   COMMISSIONER MURRAY: Your Honor, at this  
10                  time I would offer Exhibit 12 into evidence.  
11                  JUDGE HOPKINS: Any objection?  
12                  MR. KRUEGER: No, Your Honor.  
13                  MR. SCHAEFER: No objection.  
14                  JUDGE HOPKINS: I will admit that into  
15                  evidence.  
16                  (Public Counsel's Exhibit No. 12 was  
17                  admitted.)  
18                  JUDGE HOPKINS: Any other questions, Ms.  
19                  O'Neill?  
20                  MS. O'NEILL: No other questions.  
21                  JUDGE HOPKINS: Mr. Krueger?  
22                  MR. KRUEGER: Do you live in Incline Village?  
23                  MR. SEBACHER: Yes, I do.  
24                  MR. KRUEGER: That's all, Your Honor.  
25                  JUDGE HOPKINS: Mr. Schaefer?

1 MR. SCHAEFER: No questions.

2 JUDGE HOPKINS: Commissioner Murray?

3 COMMISSIONER MURRAY: I have no questions.

4 JUDGE HOPKINS: Commissioner Lumpe?

5 COMMISSIONER LUMPE: Thank you. No

6 questions.

7 JUDGE HOPKINS: Commissioner Forbis?

8 COMMISSIONER FORBIS: No questions.

9 MR. SEBACHER: Thank you.

10 JUDGE HOPKINS: Mary Henke is next, and after

11 her is Jim Roberts.

12 (Thereupon, Mary Henke was sworn.)

13 JUDGE HOPKINS: Would you please state and

14 spell your name for the court reporter, and give us your

15 address.

16 MS. HENKE: My name is Mary Henke, M-a-r-y,

17 H-e-n-k-e, and I live at 1028 Butternut Court, Foristell,

18 Missouri.

19 JUDGE HOPKINS: Go ahead.

20 MS. HENKE: We just moved in in November of

21 2001, so we are pretty new.

22 I guess I'll start at the beginning. One of

23 the things, we had heard rumors there might be problems

24 with water just by talking with other homeowners, and my

25 builder had -- we lived kind of far away. We lived in

1 Spanish Lake, and we weren't able to be out here every day  
2 and doing stuff, and he had some other problems, backups,  
3 so when we got to him and said that we would like to maybe  
4 not use, I guess it's Gary Smith's Company, Warren County  
5 to put in our hookup for our water, he said, "I have  
6 already done it," and, "I was told that I had to use him."  
7 So I do not know who he talked to, or why he was told  
8 that, but he said he was told that he had to use them. He  
9 said, "I know there are some problems, but I had to use  
10 them."

11 I wasn't going to say it earlier, but it was  
12 in my head when I heard another person saying that, but I  
13 do remember him saying that, and I thought, oh.

14 We had no problems with, any hookup problems  
15 or anything. We do have the chlorine smell that gets very  
16 strong at times. In fact, my daughter, who is like  
17 twenty-three or whatever, when she comes over she can't  
18 stand to be near the water. If it's like poured in a cup  
19 or something, she's like, "Oh gosh, it's so strong."

20 I haven't had any trouble with, you know,  
21 clothes being totally bleached out. I think we are too  
22 new, you know, to kind of notice that yet.

23 But our biggest problem is the water pressure  
24 and, you know, you buy a new house, we've got a shower  
25 that has a seat in it, and my husband was so looking

1 forward to it, that he was finally going to be able to sit  
2 down and have the hot water hit him. That was, you know,  
3 a big thing for him. He can't sit on the seat and have  
4 the water hit him. It doesn't go that far. You pay all  
5 of this money and it doesn't do that.

6 When we moved in November, it was still kind  
7 of nice weather, and we were putting stuff out in the  
8 yard. We had a few plants and we bought one of those  
9 regular sprinklers that go back and forth, and we turned  
10 it on full blast, nothing else going on in the house, and  
11 we thought maybe they're not working right, maybe somebody  
12 is taking a shower or something. We turned all of the  
13 water off in the house, and that sprinkler went that high  
14 at full blast. I'm like, you know, what --

15 JUDGE HOPKINS: You're gesturing about two  
16 feet?

17 MS. HENKE: Two, two and a half at the most.

18 Then, you know, we are very easy going people  
19 and we like to give people the benefit of the doubt that,  
20 well, maybe, you know, some of this stuff is going to be  
21 fixed, so I tried calling a couple of times, and I'm not  
22 real pushy. I'm like oh, we can kind of live with this a  
23 little bit and kind of wait and see if we run into him, or  
24 whatever.

25 I didn't run into Mr. Smith going around, so

1 I put a couple of calls in to him, and I work in a very  
2 busy place. I'm a nurse. You know, we have a lot of  
3 people with cell phones, you can't talk to them right  
4 away, so you get voice mail. You know, if you can't get  
5 them on one number, they give you another number, or they  
6 give you voice mail, which is very good for messages  
7 saying, "Call this number, call that number if I'm not  
8 here, I'll get back to you."

9 I put two or three calls in. I never said it  
10 was urgent. I think I gave, you know, the major things,  
11 you know, this is Mary Henke, you know, I need to talk to  
12 you, whatever. I never have been called back. And, you  
13 know, like I said, we are kind of easy going. I haven't  
14 pushed it.

15 I kind of think, you know, if you're running  
16 a business -- I know in the hospital we are so busy, but  
17 you always get back, even if it's a day later, you know,  
18 you always get back to the person, "I got your message.  
19 I'm sorry. I was busy, you know. I couldn't get back to  
20 you," and I've never gotten a phone call. I have voice  
21 mail. I've never even gotten a message on my voice mail  
22 saying, "I tried calling you, you weren't home," that kind  
23 of thing.

24 JUDGE HOPKINS: Thank you, Miss Henke.

25 Ms. O'Neill?

1 MS. O'NEILL: Ma'am, you said your contractor  
2 had indicated that he believed that Mr. Smith required him  
3 to use that company; is that right?

4 MS. HENKE: Yes.

5 MS. O'NEILL: What is your contractor's  
6 name?

7 MR. HENKE: Don Ebbert.

8 MS. O'NEILL: Where does he work out of?

9 MS. HENKE: Well, that's who it is, Don  
10 Ebbert & Associates. I don't remember like the last part  
11 of it. Ebbert Remodeling, that's what it's called.

12 MS. O'NEILL: Do you know what town he  
13 operates out of, his office is in?

14 MS. HENKE: I think -- I don't know that he  
15 has a specific office. He lives out on Bryan Road. He is  
16 a small contractor. He does like a house at a time.

17 JUDGE HOPKINS: Where is Bryan Road?

18 MS. HENKE: Bryan Road is in, I guess  
19 O'Fallon. It's just not too many exits off of 70 going  
20 back.

21 JUDGE HOPKINS: Mr. Krueger?

22 MR. KRUEGER: No questions.

23 JUDGE HOPKINS: Mr. Schaefer?

24 MR. SCHAEFER: Just a couple of questions.  
25 Do you have any personal knowledge what was

1           told to your contractor?

2                       MS. HENKE: All I know is what he told me.

3           And we wanted -- after we heard a few things, we thought

4           maybe we should get somebody else to put the water in, and

5           he's the one that said, "I already did it because I was

6           told that I had to use him."

7                       MR. SCHAEFER: I would like to object on the

8           basis of hearsay.

9                       JUDGE HOPKINS: We'll note the continuing

10          objection against hearsay, sir.

11                      Commissioner Murray?

12                      COMMISSIONER MURRAY: No questions.

13                      JUDGE HOPKINS: Commissioner Lumpe?

14                      COMMISSIONER LUMPE: No. Thank you.

15                      JUDGE HOPKINS: Thank you very much.

16                      Jim Roberts is next, and after Mr. Roberts we

17          are going to have Dan Purtle.

18                      (Thereupon, Jim Roberts was sworn.)

19                      JUDGE HOPKINS: Would you please state and

20          spell your name for the court reporter, and give us your

21          address?

22                      MR. ROBERTS: Jim Roberts, J-i-m,

23          R-o-b-e-r-t-s, 1034 Butternut Court, Foristell, Missouri.

24                      My problem mainly is water pressure, the

25          smell of chlorine, and I guess I kind of get offended when

1       somebody lies to me. I talked to Mr. Smith when I was  
2       first moving in about the water pressure because nobody  
3       warned me about it, and he told me, and I inquired also, I  
4       have a friend that runs a water company for a major city,  
5       and he told me what the requirements were for the water  
6       pressure, and he told me that it couldn't be lower than  
7       twenty psi, and he gave me a gauge to bring home to hookup  
8       to my house and check it, and I registered something like  
9       seventeen and a half, and I approached Mr. Smith about  
10      that, and he said, "You live on top of that hill. That's  
11      probably right," and he said, "We are going to put a tank  
12      in and it's going to raise the water pressure," and that's  
13      been two years ago, and there has been no tank yet.

14               We've had lots of times when the water would  
15      be shut off without any warning and turned back on without  
16      any warning. You could have a load of clothes in the  
17      washing machine and they would be brown because of the  
18      brown water after he turned the water back on without  
19      warning anybody.

20               Like I said, I can hear at night my water  
21      softener trying to start, trying to suck some water in to  
22      purify it, and this guy that was in here earlier talking  
23      about the fire hydrant, that got me to thinking. I would  
24      hate to see what the water pressure in the fire hydrant  
25      is. If I don't have water pressure to run a sprinkler,



1       how are they going to put my house out if it's on fire?  
2       We have no knowledge of what kind of water pressure that  
3       fire hydrant has, and that really scares me, and then I  
4       also have a strong feeling against sewage in our lakes. I  
5       think that is a crime. They should be punished.  
6               That's all that I have.  
7               JUDGE HOPKINS: Thank you, sir.  
8               Ms. O'Neill?  
9               MS. O'NEILL: No questions.  
10              JUDGE HOPKINS: Mr. Krueger?  
11              MR. KRUEGER: Has this water pressure been  
12      consistent or is it just occasionally?  
13              MR. ROBERTS: No, it's consistent. I tell  
14      you what, if the wash machine is running or somebody is  
15      taking a shower and you flush the toilet, you have to go  
16      get a plunger because the toilet doesn't have no pressure  
17      to force it through.  
18              MR. KRUEGER: Have you measured it more than  
19      once?  
20              MR. ROBERTS: I just measured it the one time  
21      when I approached Mr. Smith.  
22              MR. KRUEGER: And on the time you did that,  
23      was that typical of the kind of pressure that you  
24      generally have?  
25              MR. ROBERTS: Right. It's not changed. It

1           don't go up and it don't go down. It's strictly low.

2                   MR. KRUEGER: That's all of the questions.

3                   JUDGE HOPKINS: Mr. Schaefer?

4                   MR. SCHAEFER: No questions.

5                   JUDGE HOPKINS: Commissioner Murray?

6                   COMMISSIONER MURRAY: No questions. Thank

7           you.

8                   JUDGE HOPKINS: Commissioner Lumpe?

9                   COMMISSIONER LUMPE: You don't have the

10          sulfur, you just have the chlorine?

11                  MR. ROBERTS: I notice the chlorine. I don't

12          know that I smell the sulfur that much, but I do smell

13          chlorine. I don't have bleached out clothes, no, but I

14          can spell chlorine.

15                  JUDGE HOPKINS: Thank you.

16                  Dan Purtle is next, and after that we have

17          Darwin Zimmerman.

18                  (Thereupon, Dan Purtle was sworn.)

19                  JUDGE HOPKINS: Please state and spell your

20          name, and give your address.

21                  MR. PURTLE: My name is Dan Purtle,

22          P-u-r-t-l-e, 2724 Mahogany Drive, it's just like the wood,

23          Foristell.

24                  JUDGE HOPKINS: Go ahead, sir.

25                  MR. PURTLE: Most of my comments will be

1       somewhat redundant, as we came in a little late, but the  
2       primary issue I think is water pressure, or lack thereof.

3               It gets to the point where you can't even run  
4       the aerator in the kitchen because it won't force the  
5       water out of there, and also the coloration is frequently  
6       rusty and dirty and you have to change the little wire  
7       screen meshes in the faucets every four to six weeks in  
8       order to get the rust and residue out of there.

9               We have also been the victim of the chlorine  
10       problem. I've lost several pair of slacks that have come  
11       back a different color, shirts and that sort of thing,  
12       streaked from the chlorine and a little bit of the sour  
13       egg smell, but not nearly as bad as the chlorine issue.

14              I would like to, rather than go into detail,  
15       just revalidate the comments of Don Kassebaum in  
16       particular. Most of those issues that he brought up we  
17       were involved with together, as I was on the board at that  
18       same time and was familiar with a lot of those comments.

19              That's about the extent of it.

20              JUDGE HOPKINS: Thank you, sir.

21              Any questions, Miss O'Neill?

22              MS. O'NEILL: Sir, do you have personal  
23       knowledge about the problems that Don Kassebaum testified  
24       about?

25              MR. PURTLE: Yes.

1 MS. O'NEILL: No further questions.

2 JUDGE HOPKINS: Mr. Krueger?

3 MR. KRUEGER: No questions, Your Honor.

4 JUDGE HOPKINS: Mr. Schaefer?

5 MR. SCHAEFER: No questions.

6 JUDGE HOPKINS: Commissioner Murray?

7 COMMISSIONER MURRAY: No questions.

8 JUDGE HOPKINS: Commissioner Lumpe?

9 COMMISSIONER LUMPE: You said you were

10 trustee at the same time Mr. Kassebaum was?

11 MR. PURTLE: Yes. We served in tandem for at

12 least a couple of years. He served more years than I did,

13 but there were two years that we were serving at the same

14 time.

15 COMMISSIONER LUMPE: Did you discuss when you

16 were the trustees about taking over the --

17 MR. PURTLE: It was a frequent topic of

18 conversation in our monthly board meeting.

19 COMMISSIONER LUMPE: What was the gist of

20 what you thought you might be able to do?

21 MR. PURTLE: Well, we met with Gary a number

22 of times to go over some of the problems with him, and

23 there was never any positive results out of it.

24 COMMISSIONER LUMPE: And you took no further

25 action then to try to do something?

1                   MR. PURTLE: It kind of got passed on to the  
2 next board, and it's been an ongoing situation as long as  
3 I have been out here, which has been between four and five  
4 years.

5                   JUDGE HOPKINS: Thank you very much, sir.

6                   The next person is Darwin Zimmerman, and  
7 after Mr. Zimmerman will be Tanya Brewington.

8                   (Thereupon, Darwin Zimmerman was sworn.)

9                   JUDGE HOPKINS: Please state and spell your  
10 name for the court reporter, and give us your address.

11                  MR. ZIMMERMAN: My name is Darwin Zimmerman,  
12 D-a-r-w-i-n, Z-i-m-m-e-r-m-a-n. I live at 2708 Village  
13 Drive West.

14                  I have been here for seven years. I'm a past  
15 trustee, and served as a trustee for five years and also  
16 served with Don Kassebaum.

17                  I, myself, have no real problems other than  
18 what has already been mentioned as far as the chlorine  
19 odor and some possibility of rust. I have replaced  
20 filters many, many times, but I think that what I wanted  
21 to get across here is the fact that I myself was quite  
22 involved with the trustees and going to Jefferson City and  
23 confronting the PSC and DNR about our problems.

24                  I also took samples of water and offered it  
25 to drink, which no one wanted to do, but that is neither

1       here or there.

2                   This has been going on for at least the last  
3       six years, that I know of, and I know for a fact that  
4       legally I have spent for the village close to \$60,000 on  
5       legal fees, and I'm hoping that something would come of  
6       it. Unfortunately it looks like it's coming about now,  
7       which is good.

8                   The one thing that I was virtually concerned  
9       about was the fact that there was a committee in Jefferson  
10      City that stated that the water tank was supposed to be  
11      installed after a period of time. This was never done.  
12      Why that was, I don't know.

13                  Being a trustee, I would be confronted by  
14      people about what is the village doing about the water and  
15      sewer? It's kind of hard as a trustee to say, well, our  
16      city officials, our county officials are handling it, it's  
17      being taken care of, Warren County Water & Sewer has been  
18      told what they have to do, it's going to come about, it's  
19      a matter of time now. It's been pretty long, and I think  
20      people are pretty exhausted over waiting and waiting, and  
21      that is basically what I wanted to say.

22                  JUDGE HOPKINS: Thank you very much.

23                  Ms. O'Neill?

24                  MS. O'NEILL: No further questions.

25                  JUDGE HOPKINS: Mr. Krueger?

1                   MR. KRUEGER: You said the village spent  
2                   \$60,000 on legal fees?

3                   MR. ZIMMERMAN: I, myself, know for a fact I  
4                   was involved with at least a \$60,000 bill for attorneys,  
5                   which I was a little embarrassed about because I didn't  
6                   know I spent that much money.

7                   MR. KRUEGER: Were these legal fees all  
8                   related to Warren County Water & Sewer?

9                   MR. ZIMMERMAN: I believe so, yeah, with the  
10                  phone calls and conversations between trustees at  
11                  different intervals and also meetings they were attending  
12                  in Jeff City. I wasn't the only one that attended the  
13                  meetings in Jeff City. There were two or three other ones  
14                  involved.

15                  MR. KRUEGER: Over what period of time were  
16                  these fees incurred?

17                  MR. ZIMMERMAN: The best that I can  
18                  recollect, I would have to say between -- I have been out  
19                  now for a year and a half, I guess. 1998 was, I believe,  
20                  when I was there. I was a trustee for five years, so I  
21                  had been on for a year and a half at that time, and it was  
22                  dumped in my lap and I tried to handle it the best I  
23                  could, and I couldn't get the county to help us look into  
24                  these things.

25                  As far as some of the things, we have been

1       showing these pictures for the last seven years and Chet,  
2       I don't know if Chet is here tonight, but he's had  
3       pictures -- there are records of all of the things that  
4       you talked about today. The trustees have records of all  
5       of this, and I'm sure that any of those can be subpoenaed.

6               MR. KRUEGER: That's all of my questions.

7               JUDGE HOPKINS: Mr. Schaefer?

8               MR. SCHAEFER: Mr. Zimmerman, are you aware  
9       that the original proposal for the water tower was to  
10      locate the water tower outside of Incline Village?

11              MR. ZIMMERMAN: I believe that was Warren  
12      County's intention, and that's why he annexed the lot next  
13      to his lot in order to do that, and that was never done,  
14      and that is one hundred fifty feet away from the existing  
15      tank.

16              MR. SCHAEFER: Isn't it true that the legal  
17      fees were actually incurred fighting the location of the  
18      water tower outside of Incline Village?

19              MR. ZIMMERMAN: No, not necessarily. It had  
20      to do with all the problems that we were having with the  
21      water system itself, the taste and smell and the pressure.

22              And in order to do this, then we had to  
23      further say how are we going to solve this problem, and  
24      that problem came from Warren County Water & Sewer, "Hey,  
25      I need a new tank." So we said okay, and that's what we



1       went to court over to get something moving here and, then,  
2       yeah, that was implemented and said you need to get  
3       another water tank and, getting back to your question,  
4       possibly yes, that could be what came about, all of the  
5       other transactions that came before that. There was  
6       smaller concerns that came legally before that.

7               MR. SCHAEFER: And are you aware that as a  
8       result of all of the legal action that you took, that the  
9       plan was changed and the water tower did have to be  
10      located within Incline Village?

11             MR. ZIMMERMAN: I got out of the trustees at  
12      that time. It was taken over by Don Kassebaum.

13             MR. SCHAEFER: Are you aware that those  
14      actions then resulted in a condemnation proceedings of the  
15      lot here at Incline Village?

16             MR. ZIMMERMAN: Yes, I'm aware if that.

17             MR. SCHAEFER: No further questions.

18             JUDGE HOPKINS: Commissioner Murray, any  
19      questions?

20             COMMISSIONER MURRAY: No questions.

21             JUDGE HOPKINS: Commissioner Lumpe?

22             COMMISSIONER LUMPE: Thank you, sir.

23             JUDGE HOPKINS: Thank you very much.

24             Tanya Brewington will be next, and then after  
25      her will be Frank Ziener, who will be our last speaker.

1 (Thereupon, Tanya Brewington was sworn.)

2 JUDGE HOPKINS: Please state and spell your  
3 name.

4 MS. BREWINGTON: Tanya Brewington, T-a-n-y-a,  
5 B-r-e-w-i-n-g-t-o-n. 2964 Village Drive West.

6 JUDGE HOPKINS: I didn't know you were  
7 waiting to speak, and I know you have a small child. Here  
8 she comes.

9 Go ahead.

10 MS. BREWINGTON: We moved in October of '98,  
11 and in December of '98 we kept hearing water leaking, and  
12 we turned off all the water. We heard water running, I  
13 should say.

14 We believed that there was a leak right  
15 outside of the foundation wall, so we were going Christmas  
16 shopping and we went up to the water house up there and we  
17 asked Gary, my husband did, to go down and investigate it  
18 and see if there was a problem. Gary got belligerent and  
19 ignorant, and I know that the two -- my husband does not  
20 go for that, and the two were about to go head to head  
21 with each other when one of Gary's employees got between  
22 the two of them and said, "Hey, I'll go down there and  
23 I'll take care of it and look at it."

24 By the time we got home, he had fixed the  
25 problem. He said when he got down to the water, water had

1       dug -- had shot up like forty feet.

2                       Well, before all of this happened, the  
3       basement had flooded. At that time it was all clear  
4       water, there was no sewer or anything, and I had lost  
5       stuff that I was saving for years for my kids.

6                       Well, then starting in May of '99 the sewer  
7       backed up in the basement, and we probably had three or  
8       four inches of raw sewage, and I had to ask my thirteen-  
9       year old son to come and help me clean that out.

10                      We had Roto-Rooter come out and they fixed  
11       it. We thought, okay, it was a one time fluke.

12                      August 22nd of '99 here comes Roto-Rooter  
13       again. I had to get my son again, because every time it  
14       happened it seemed my husband was at work.

15                      November 7th, here they come again. We've  
16       got raw sewage in the basement. It's like a pattern every  
17       three months.

18                      In November of '99 we finally asked Gary to  
19       come and check the system. We had been leaving voice mail  
20       messages and we never heard from him. He never did come.

21                      February 6th, here we go again. Now, we've  
22       got Drain Masters coming out. The first time with  
23       Roto-Rooter we had to pay, and the second, two times after  
24       that we didn't, but Drain Masters charged us every single  
25       time.

1                   July 13th we went again, sewage in the  
2                   basement.

3                   October 2000, we asked Gary to come help  
4                   again, and he never came.

5                   November 1st, it did it again. We probably  
6                   had six inches at that time.

7                   January and February, we asked Gary to check  
8                   the system again, and he said he would be down in March or  
9                   April when the weather broke, and he claimed he had never  
10                  heard from us before. He never came.

11                  So then, again, here we go to March 9, 2001.  
12                  More water -- or more sewage in basement. We asked Gary  
13                  to come again and, again, Gary didn't know we had a  
14                  problem down there. He never came.

15                  And I know that there was another time before  
16                  we finally had B & J Septic come September 14th to replace  
17                  the sewer line at a cost of a thousand fifty-eight  
18                  dollars. When they got down there -- I have pictures.  
19                  Unfortunately I don't have copies. If you would like  
20                  them, I can get copies for you and give them to you.

21                  You can see where the sewer line is bowing up  
22                  and going sideways, and there is no rock underneath the  
23                  sewer line, no rock under there to hold that sewer line in  
24                  place. There is one spot where there is like ten inches  
25                  of nothing underneath part of the sewer pipe where it

1        bowed under.

2                        Besides all of that, you know, there was  
3        sewage in the basement every three or four months.

4                        When we did move in, or when we were building  
5        our house, we were the general contractor, we were told by  
6        Gary we had to use him, and at that point I called Dan  
7        Purtle, and Dan said, "Tanya, it's your property. You can  
8        hire whoever you want." Well, we were getting pretty much  
9        flack, so we went ahead and used him.

10                      We have only been here a little over three  
11        years. We have replaced the dishwasher because of calcium  
12        buildup. We now have an eighty gallon tank in the  
13        basement that has to be installed because we are putting  
14        new heating elements in it every three months maybe, three  
15        or four months. We get the chlorine, we get the rust, and  
16        we get the sulfur.

17                      A lot of times we don't have water, which I  
18        have to admit has been a little better for us lately.

19                      When we first moved in we had no water meter  
20        outside and, I guess, I'm guesstimating five to six months  
21        they had to come in and physically read our water meter in  
22        the basement, and all of a sudden one time, I guess they  
23        weren't doing it for a period of time, we got one big  
24        utility bill.

25                      That's pretty much what I've got.

1 JUDGE HOPKINS: Thank you.

2 Ms. O'Neill?

3 MS. O'NEILL: You indicated there were

4 several times you actually had contact with Mr. Smith and

5 the company. Were there other times you left messages

6 while all of this --

7 MS. BREWINGTON: Every time the sewer would

8 back up, it was pretty much me, I would call and leave a

9 message. I would call that number that says, "If you

10 can't reach me here, call this." You would never get

11 anything there. My husband would actually go get in his

12 truck and track Gary down. Beings as we are contractors,

13 we have dealt with Gary before, so, you know, he would

14 pretty much track him down. He would just go find him.

15 MS. O'NEILL: So in addition to the times you

16 have said you had contact with him, there were other times

17 you tried to get a hold of him to try to fix a problem?

18 MS. BREWINGTON: Right. There are times that

19 we actually physically got to say something to him.

20 MS. O'NEILL: Okay, the ones that you

21 described, but every time it backed up, you tried to get a

22 hold of him?

23 MS. BREWINGTON: Right, because I wanted him,

24 instead of paying somebody to come, I wanted him to come

25 with his equipment and do it. It wouldn't happen.

1 MS. O'NEILL: And you have personal knowledge  
2 of Gary demanding that you use his services?

3 MR. BREWINGTON: Yes, because I'm the one  
4 that called Dan Purtle and asked.

5 MS. O'NEILL: Thank you.

6 JUDGE HOPKINS: Mr. Krueger?

7 MR. KRUEGER: Let me make sure. Did you say  
8 you talked to Gary and he told you that --

9 MS. BREWINGTON: My husband and I were  
10 present at the time, and the trustee had given us probably  
11 five different people that we could use to hook up for the  
12 water and sewer line.

13 We did try calling them, and a lot of them  
14 wouldn't return our calls. Gary said, "No, it's my  
15 property, it's my water line, you have to use us."

16 MR. KRUEGER: He told you that?

17 MS. BREWINGTON: He told us that. We were  
18 together, and in turn I called Dan Purtle, who was a  
19 trustee at the time, and said, "He's telling us that we  
20 have to use him."

21 He said, "Tanya, it's your property and you  
22 can use whoever you want." We did use him.

23 MR. KRUEGER: Thank you. That's all.

24 JUDGE HOPKINS: Mr. Schaefer?

25 MR. SCHAEFER: You and your husband were the

1           general contractor for your own house?

2                       MS. BREWINGTON:  Yes.

3                       MR. SCHAEFER:  And I know what you have

4           testified, and you have said what Gary told you.  You said

5           you knew you could have used anyone?

6                       MS. BREWINGTON:  Right.  We were having

7           trouble getting the other companies to get back with us.

8                       MR. SCHAEFER:  So knowing that, you chose to

9           use him?

10                      MS. BREWINGTON:  He was pretty much pushing,

11           let's put it that way.  I only had Dan's word to go by

12           that we didn't have to.

13                      MR. SCHAEFER:  Was it your understanding that

14           you could have used anyone to do that?

15                      MS. BREWINGTON:  When Dan said that.

16                      MR. SCHAEFER:  At the time you got the

17           hookup, was it your understanding that you could use

18           anyone to do that?

19                      MS. BREWINGTON:  Yes.

20                      MR. SCHAEFER:  And you chose Gary to do that?

21                      MS. BREWINGTON:  Due to pressure.

22                      MR. SCHAEFER:  I have nothing further.

23                      JUDGE HOPKINS:  Commissioner Murray?

24                      COMMISSIONER MURRAY:  No questions.

25                      JUDGE HOPKINS:  Commissioner Lumpe?



1 COMMISSIONER LUMPE: Thank you.

2 JUDGE HOPKINS: Thank you.

3 Our last witness is Frank Ziener.

4 (Thereupon, Frank Ziener was sworn.)

5 JUDGE HOPKINS: Would you please state and

6 spell your name for the court reporter, and give us your

7 address.

8 MR. ZIENER: My name is Frank Ziener,

9 Z-i-e-n-e-r. I live at 18 Greenbriar, that's one word,

10 Court, here in Incline Village. I have lived here since

11 1996.

12 My remarks will be rather brief. I'm

13 fortunate not to have some of the problems that I have

14 heard enumerated up here tonight. Where my area of

15 concern is, and I have set that concern down on paper, and

16 I suppose -- is everything Public Counsel's exhibit?

17 MS. O'NEILL: We can make that Public

18 Counsel's exhibit if the Judge will let us.

19 MR. ZIENER: My concern from the fact sheet

20 that was handed out tonight was the possibility of the

21 water system being put into a receivership, and I asked

22 one of the ladies here who the receiver would be, and that

23 is kind of up in the air.

24 The first thing I would like to do before I

25 start in on any remarks, is to thank and commend the

1       Public Service Commission for bringing the hearing to our  
2       front door.

3                       (Applause.)

4                       MR. ZIENER: Thank you very much.

5                       The second thing I'm going to say, if either  
6       this water system or sewer system has to change hands,  
7       you're my line of defense from the State of Missouri, and  
8       I don't want to lose you, and it's my understanding that  
9       if our group, the trustees of Incline Village, acquire the  
10      water system, you no longer have any authority or say over  
11      them, and I don't want to see that happen. I want you to  
12      stay where you are.

13                      We are not especially an inclusive group. We  
14      have approximately eight hundred twenty-two members who  
15      pay equal shares to fund this organization. By reason of  
16      some of the logistics that are manufactured, in my  
17      opinion, at the last annual meeting we had one hundred  
18      seventy voters of those eight hundred twenty-two. There  
19      is probably five hundred twelve people that don't know  
20      about this hearing tonight that own property here.

21                      I echo the comments of Mr. Sebacher. If you  
22      are going to take it away, and I'm sure there has to be  
23      just compensation, but if you are going to take it away  
24      from him, give it to another utility who knows how to  
25      operate it.

1 (Applause.)  
2 JUDGE HOPKINS: Any questions?  
3 MS. O'NEILL: Yes, I would.  
4 Sir, did you hand me a stapled set of papers  
5 that I took up?  
6 MR. ZIENER: Yes, ma'am I did.  
7 MS. O'NEILL: Did you prepare that?  
8 MR. ZIENER: Yes, ma'am, I did.  
9 MS. O'NEILL: And are those comments that you  
10 would like to have the Public Service Commission to  
11 consider as part of this case?  
12 MR. ZIENER: Yes, ma'am, they are.  
13 (Public Counsel Exhibit No. 13 marked.)  
14 MS. O'NEILL: Your Honor, I would move for  
15 admission of Public Counsel 13.  
16 MR. SCHAEFER: I haven't had a chance to read  
17 through the whole thing, but I don't have an objection.  
18 MR. ZIENER: There are probably some things  
19 that are over and above the scope of this hearing.  
20 Am I not supposed to say anything?  
21 MR. SCHAEFER: I won't have an objection.  
22 Essentially what is in the letter is what Mr. Ziener would  
23 testify to here anyway, other than I haven't had a chance  
24 to read it, and my running hearsay objection, if there is  
25 anything in there, I raise that objection until I have had

1 a chance to review it, but it looks like it's four pages,  
2 but essentially this is going to be Mr. Ziener's  
3 testimony, and I have no objection to that.

4 JUDGE HOPKINS: Mr. Krueger?

5 MR. KRUEGER: No objection.

6 JUDGE HOPKINS: I will take 13 into evidence.  
7 (Public Counsel's Exhibit No. 13 was  
8 admitted.)

9 JUDGE HOPKINS: Any other questions?

10 MS. O'NEILL: Nothing further.

11 JUDGE HOPKINS: Mr. Krueger?

12 MR. KRUEGER: Mr. Ziener, you mentioned a  
13 number of eight hundred connected with Incline Village?

14 MR. ZIENER: Eight hundred lots pay  
15 assessments, according to my calculation, sir, and I made  
16 that by dividing the annual income by what the assessment  
17 is. Eight hundred twenty-two, I believe.

18 MR. KRUEGER: But these people aren't all  
19 customers of Warren County Water & Sewer?

20 MR. ZIENER: No. They are all potential  
21 customers, but, no, they are not. They are not hooked up  
22 to the system.

23 JUDGE HOPKINS: Mr. Schaefer?

24 MR. SCHAEFER: I have nothing.

25 JUDGE HOPKINS: Commissioner Murray?

1                   COMMISSIONER MURRAY: In regard to your  
2                   comment about possibly going into receivership, are you  
3                   saying that you would prefer that Warren County Water &  
4                   Sewer continue to operate the company?

5                   MR. ZIENER: I'm saying that I personally  
6                   don't experience the problems that I heard enumerated up  
7                   here tonight. Everything I have on is washed in my house,  
8                   and you don't see bleach spots. I dress the same way  
9                   every day in black and white, so I don't have those  
10                  problems.

11                  I'm not saying that. I'm saying if somebody  
12                  has to run it, I don't know anybody on the Board of  
13                  Trustees that knows how to run a water and sewer system.  
14                  Let's get somebody in here that knows how to run one.  
15                  Missouri-American Water. I think you have to be smart  
16                  enough to realize if there is two hundred fifty or three  
17                  hundred houses, I don't know what we've got, and they pay  
18                  \$40 a month, we can't have St. Louis County Water System  
19                  here. I wish we did. I drink fifty cups of coffee a day,  
20                  but I guess I'm not taking a position in that regard,  
21                  except that I do not want to see somebody running this  
22                  utility that is not subject to your oversight and  
23                  authority.

24                  COMMISSIONER MURRAY: Have you had any sewer  
25                  problems?

1                   MR. ZIENER: No, ma'am. We did have a  
2 sewer -- I don't have a lift pump like these people are  
3 talking about. I forget what those are called. I think  
4 they are grinder pumps, but there is one down below us  
5 that went out about three years ago, and I will say this,  
6 personnel from Warren County Sewer & Water came out there  
7 in the ice, we had ice on the ground, for three days  
8 trying to get that thing straightened out.

9                   One other thing I would mention and, look,  
10 I'm the first one, me and a good looking gal, used to swim  
11 in that lake every day in the summertime, so we use it,  
12 and we appreciate that lake, but in the wintertime I seen  
13 a thousand geese sitting on the ice out there, and I never  
14 saw a one of them go to the port-a-potty.

15                  COMMISSIONER MURRAY: Is it important to you  
16 that your water and sewer company abide by the Department  
17 of Natural Resources --

18                  MR. ZIENER: Sure. Just like it's important  
19 for me to have the telephone company do what they are  
20 supposed to do, and they recently came through with the  
21 Internet.

22                  Yeah, I would like to see you force them to  
23 comply, if you can.

24                  COMMISSIONER MURRAY: Thank you.

25                  JUDGE HOPKINS: Thank you.

1 Any questions?

2 COMMISSIONER LUMPE: Thank you, sir.

3 JUDGE HOPKINS: Commissioner Forbis?

4 COMMISSIONER FORBIS: No questions.

5 JUDGE HOPKINS: Thank you, sir.

6 I have a couple of housekeeping measures and  
7 that is Public Counsel's Exhibits 1 through, I believe  
8 it's 13, I'm going to hand them over to Miss O'Neill and  
9 let you make sure that all of the other parties and  
10 commissioners get these. Thank you.

11 That concludes the hearing, and I want to  
12 tell you all that your testimony is extremely important to  
13 the Commission, and we certainly appreciate it.

14 Thank you very much.

15

16 (Whereupon, at 9:15 o'clock, p.m. the hearing  
17 was adjourned.)

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NOTARIAL CERTIFICATE

STATE OF MISSOURI            )  
                                  ) SS.  
COUNTY OF ST. CHARLES    )

I, JANINA A. JAEGER, a Registered Professional Reporter and a duly commissioned Notary Public within and for the State of Missouri, do hereby certify that I was personally present at the hearing in the above-entitled cause at the time and place set forth in the caption sheet hereof, that I then and there took down in stenotype the proceedings had, and that the foregoing is a full, true and accurate transcript of such stenotype notes so made at such time and place.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this \_\_\_\_\_ day of March, 2002.

My Commission expires April 1, 2004.

\_\_\_\_\_  
Notary Public, within and  
for the State of Missouri