

Exhibit No. _____

Witness/Type of Exhibit: Debra J. Williams

Surrebuttal Testimony

Company: Environmental Utilities, LLC

Case No. WA-2002-65

Issues: Surrebuttal to Testimony of Staff and Intervenors

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

CASE NO. WA-2002-65

FILED³
DEC 5 2001

Missouri Public
Service Commission

ENVIRONMENTAL UTILITIES, LLC

SURREBUTTAL TESTIMONY OF

DEBRA J. WILLIAMS

DECEMBER 5, 2001

Q. Please state your name for the record?

A. Debra J. Williams.

Q. What is the purpose of this testimony?

A. This testimony is in response to the rebuttal testimony filed by staff witnesses James Russo, Jim Merciel, and Martin Hummel. The purpose of the testimony is to point out and respond to some factual errors in their testimony. To a limited extent, this testimony is also in response to the rebuttal testimony of Kim Bolin of the Office of Public Counsel, and to the rebuttal testimony of David Hancock and William Cochran.

SURREBUTTAL TO JAMES RUSSO

Q. What factual errors did you find in the testimony of James Russo?

A. Apparently Mr. Russo was not aware at the time of preparation of the testimony that my husband and I have already paid for the water well and distribution system for the Golden Glade project from our personal funds, and have a complete accounting for those costs available. That accounting is attached hereto as Schedule EU-2. No additional financing from Central Bank of Lake of the Ozarks is required in order to complete the project.

Q. Have you provided Schedule EU-2 to Mr. Russo since the filing of his direct testimony?

A. Yes.

Q. Has he had an opportunity to review and audit the supporting accounting records for Schedule EU-2?

- A. Yes. Mr. Russo came to our office on November 29, 2001 and reviewed all of the supporting accounting records.
- Q. Do you agree with Mr. Russo's recommendation that the Commission wait 18 months to initiate a complete rate case and make a determination as to the allowable rate base for Environmental Utilities?
- A. No. All of the costs associated with construction of the water well and distribution system have been incurred and accounted for. It is important to Environmental Utilities and its investors that a determination of its investment allowable into rate base be made at or before the time that ownership of those assets is transferred to Environmental Utilities, so that the investors can be assured that none of their investment will be lost as a result of the transfer of the water system to a regulated utility. Therefore, the Company is requesting that the Commission make that determination in this case.
- Q. What is the total cost of the water well that you are requesting be allowed into rate base?
- A. \$76,115.48.
- Q. What is the total cost of the water distribution system that you are requesting be shown as a contribution in aid of construction on the company's books?
- A. \$11,139.82.
- Q. Are you requesting that the organizational costs of setting up Environmental Utilities, LLC be allowed into rate base?

A. Yes. The attorney's fee for forming the limited liability company was \$500, and the filing fee with the Secretary of State was \$105. Therefore the company is requesting that \$605 be included in rate base under account 301.

Q. Are you also asking that the costs of obtaining the certificate of convenience and necessity be included in rate base?

A. Yes. Those costs should be included as rate base under account 302.

Q. What is the amount of those costs?

A. Since this case involves a contested proceeding, it will not be possible to give the total amount of those costs until this proceedings is concluded, and therefore I request leave to file an accounting for those costs as a late filed exhibit with the final brief submitted to the Commission.

Q. Mr. Russo also took exception to the Company's request that a general contractor's fee of 10% of costs incurred in construction be allowed. Do you agree with his position?

A. No. In all construction projects there are general overhead costs including supervision, project coordination, and administrative matters such as obtaining funds, paying bills, and establishing a bookkeeping system. Those costs are generally stated as a percentage of the total project cost, with the percentage varying from as low as 7% on a multi-million dollar construction project to as high as 15% on a project involving a few thousand dollars. The project involved here is more than \$50,000 and less than \$100,000, and a general overhead allowance of 10% is customary and reasonable for a project of that size.

Q. If a detailed accounting of the general overhead costs were calculated, would it be more or less than the 10% requested, in your opinion?

A. It would be considerably more. The construction of regulated utility systems requires coordination of design and inspection by professional engineers, obtaining state permits, inspections by regulatory officials such as the Department of Natural Resources, and a higher level of accounting detail than would be required for a comparably sized project in a non-regulatory environment. The Company could reasonably request a higher general contractor's allowance simply because of these additional regulatory costs, but we don't want to push the total cost of the project that high.

Q. What do you propose for the capital structure of Environmental Utilities?

A. During the initial start-up period as customers are added to the water system, we propose that the capital structure be 100% equity, since the availability of cash to pay principal and interest on debt will be limited until the customer base reaches projected levels. Once the customer base is established, the Company will arrange for financing of not more than 60% of its capital base, and request that the Commission approve the issuance of debt at that time. As Mr. Russo has indicated, the Company has obtained a letter from Central Bank of Lake of the Ozarks expressing a willingness to make such a loan.

SURREBUTTAL TO JAMES MERCIEL

Q. Did you identify any factual errors in the testimony of James Merciel?

A. Yes. Mr. Merciel was clearly not aware that ownership and operation of the water system(s) at Eagle Woods was transferred to Osage Water Company by the Eagle

Woods developer in May of 2000, and that Osage Water Company currently has 25 water customers in that project. That system consists of two non-community wells and two separate distribution systems, which are easily interconnectable. Therefore, if the Commission grants the certificate requested herein, Osage Water Company will be readily able to contract with Environmental Utilities, LLC to provide a wholesale supply of water from a community water system, enabling it to operate the Eagle Woods system as a single water distribution system and to eliminate the existing non-community wells.

Q. Mr. Merciel also raised a concern about whether the existing homes in Golden Glade would ever connect to the central water system without the necessity of legal action. Is this a reasonable concern?

A. To a limited extent. Of the existing 11 houses in Golden Glade, 6 are presently served by 3 single family wells which were installed by the home builder at the time the houses were constructed to provide an interim water supply until the central water system was completed. The other 5 houses have no water supply other than the central system, and all of the unimproved lots are served solely by the central system. As stated in my direct testimony, the subdivision restrictions require that the existing 6 houses abandon the single-family wells and connect to the central system when it becomes available.

Q. Have any of those 6 homeowners expressed an unwillingness to connect to the central system?

A. No. We have discussed the connection requirement with several of the affected homeowners, and they have stated that they are aware of it as it was disclosed to

them at the time they purchased their houses. In addition, the central system will provide a superior level of service in comparison to the single-family wells because the quality of water is monitored to assure compliance with the water quality standards adopted by MDNR for community water systems.

Q. Mr. Merciel has also identified several concerns that he has with the proposed tariff filed in this case. Do you have a response?

A. Yes. The proposed tariff is based on the model tariff prepared by Mr. Merciel and furnished to the Company prior to the preparation of the Application, with the exception of Rules 15, 16 and 17, which were added by the Company. To the extent Mr. Merciel's critique is directed toward rules 1 through 14, it is a critique of his own work.

Q. Is the Company opposed to making the revisions described by Mr. Merciel?

A. In concept, no. However, the Company has requested that he prepare the specific language he believes should be incorporated into the tariff. Subject to actual review of this language, the Company has no objection to the changes he has suggested.

REBUTTAL TO MARTIN HUMMEL

Q. Do you have any rebuttal to the testimony of Martin Hummel?

A. Yes. Mr. Hummel seems to be very concerned that the Company has not actually executed a contract with Mike McDuffy to serve as the chief licensed operator for the Golden Glade Water System. However, the Company does not at this time own or operate the Golden Glade Water System, and does not need a chief operator for that water system. The Company will never need a chief operator for

the water system unless the Commission grants the certificate requested in this case. Therefore, it is not appropriate or reasonable for the Company to contract to pay someone to provide services it does not need at this time. The Company did obtain and furnish to Staff a proposed contract from Mr. McDuffy to serve as the chief operator in the event that the application herein is approved, and the proposed contract states a price that is affordable, but may not be the most economical. The Company is continuing to explore its options in order to satisfy the regulatory requirement that a licensed operator be provided for the Golden Glade water system. Another alternative is to have Jeffrey Smith obtain a general license with at least a DS-1 classification, which would enable him to operate the Golden Glade water system as well as the existing Osage Water Company systems, for which he qualifies for a "grand fathered" license under MDNR regulations because of his experience in operating those systems under the supervision of William P. Mitchell as the chief licensed operator. He is scheduled for the DS-1 license exam for January 8, 2002. This would be the most cost-effective means of complying with the chief operator requirement of MDNR.

Q. Is there any question or dispute about whether Environmental Utilities will have to provide a licensed operator for the Golden Glade water system?

A. No. The Company recognizes that the licensed operator is required, and will provide for the services of such an operator either by obtaining such a license for one or more of its employees, or by contract services with a licensed operator providing such service for hire, several of which are available in the Lake area.

REBUTTAL TO TESTIMONY OF KIMBERLY BOLIN

Q. Do you have any response to the testimony of Kimberly Bolin?

A. Yes. Ms. Bolin has taken exception to proposed tariff Rule 16. However, Mr. Merciel seems to favor that proposed rule. The Company's position is that the rule as proposed is reasonable, but not essential to the Company's proposed operations in the proposed service area. The Commission may approve or disapprove of that Rule without affecting the Company's desire to proceed with the project.

Q. Ms. Bolin also recommended several conditions as set forth in her Schedule KKB-2 and KKB-3. Does the Company have a response?

A. Yes. The Company is in substantial agreement that all of those recommendations are suitable for the operation of the Company. The Company plans to implement all of those practices and procedures whether the Commission requires it to do so or not, with the possible exception of separate service meters for condominium projects. Since there is no lakefront within the proposed service area, it is very unlikely that any condominiums will be developed within the service area. However, the Company has no objection to providing separate service meters for individual condominium units in the event that either the service area is expanded in the future to include a condominium project, or in the unlikely event that an off water condominium project is constructed within the service area. Finally, the Company has no plans to provide contract management services.

REBUTTAL TO TESTIMONY OF DAVID L. HANCOCK

Q. Do you have any rebuttal to the testimony of David L. Hancock?

A. As best I can tell, Mr. Hancock did not address any of the issues in this case. He seems to suggest that Mr. Johansen may have some bias in this case arising from some transactions that occurred back in 1994 between Mr. Johansen and Osage Water Company, but it is unclear whether that bias is in favor of or against the Company or its principals.

Q. Have you personally observed any bias by Mr. Johansen with respect to the Application in this case?

A. Well, he didn't recommend approval of the Application, so I don't think he has shown any bias in favor of the Company. I don't have enough experience in Staff's processing of similar applications by other companies to provide a basis for an opinion as to whether he is biased against the Company.

Q. Mr. Hancock also seems to suggest that the granting of the certificate requested in this case will have an adverse financial impact on Osage Water Company. Do you agree?

A. No. As can readily be ascertained from the economic feasibility studies provided in the Application and in Mr. Merciel's rebuttal testimony, the project involved in this case will not provide a substantial positive return over and above the return on capital required to fund the project. In fact, unless and until the minimum customer base is actually in place, the project will not be able to provide a full return on capital. In other words, for the first year or two the investors will either receive a reduced or no return on their investment. Therefore, the project will have to be "carried" until the homes in the development build out and an adequate

customer base is established to provide the necessary cash flow to cover both operating costs and a return on investment.

Q. Is Osage Water Company in a position to “carry” the Golden Glade project during the start up period?

A. No. The Commission is undoubtedly aware that OWC’s most recent rate case involved a request for a very substantial increase in rates, and took over 18 months to complete. The Commission ordered substantial changes in operations designed to improve customer service in connection with that rate case. The new rates went into effect less than six months ago, and all of the changes in operations were required to be implemented less than six months after the rate increase became effective. In addition, as a result of confusion in filing of the water tariff pages, OWC is faced with a reduction in its revenues during January, February, and March of this year. Between the increased cost of providing improved service and the upcoming revenue reduction, OWC will have a difficult time maintaining its existing operations, and has no revenues that could be utilized to “carry” an additional system that is not cash flow positive.

Q. As the investors in Environmental Utilities, are you and your husband willing to contribute the well and distribution system to OWC in exchange for additional stock or securities of OWC?

A. No. We contributed our water and sewer systems in our Chelsea Rose project to OWC in 1992 as approved by the Commission in exchange for preferred stock, and OWC owes a very substantial amount to us for legal work in connection with ongoing litigation with the City of Osage Beach. OWC has never paid any return

on the stock we received for the Chelsea Rose systems, and lacks the funds to pay its current legal fees. We have all of the investment in OWC that we desire at this point in time. The only terms on which we would be willing to transfer ownership of the water system in Golden Glade to OWC is for payment in cash of the cost the system, together with payment of the outstanding legal fees which OWC owes.

Q. Can OWC make such a cash payment?

A. No.

Q. Mr. Hancock has expressed some concern that customers of Osage Water Company may terminate their water service and connect to a water system owned by the City of Osage Beach. Is that concern valid?

A. Absolutely. OWC has seen a steady erosion of its customer base within the City of Osage Beach since 1997. OWC has addressed this in various lawsuits with the City, but has not been able to prevent or reverse this erosion to date. I have no reason to believe that the City will cease to solicit or coerce customers to transfer their water service from OWC to the City.

Q. How does this affect the Application by Environmental Utilities in this case?

A. There is no direct effect. However, it should help the Commission understand the unwillingness of the principals of Environmental Utilities to make further investments in OWC.

Q. Mr. Hancock's primary concern seems to be with the future value of his investment in OWC. Do you have a response?

A. I think that everyone who has an investment in OWC is very concerned with the future value of that investment, including the principals of Environmental Utilities.

Q. If the Commission grants the certificate requested by Environmental Utilities in this case, will the financial condition of OWC be harmed?

A. Not at all. OWC has an existing obligation to provide the customers in Eagle Woods with a community water system. It lacks the capital to provide such a system. It has not been able to pay a return on its existing capital, and therefore cannot obtain additional capital. Granting of the certificate to Environmental Utilities will allow OWC to satisfy its existing obligation by contract with Environmental Utilities without raising additional capital. At the same time, the capital of Environmental Utilities investors will be protected from the financial impact of future customer base loss by OWC within the City of Osage Beach, allowing Environmental Utilities to raise capital at a reasonable rate of return.

REBUTTAL TO TESTIMONY OF WILLIAM J. COCHRAN

Q. Do you have any response to the rebuttal testimony of William J. Cochran?

A. His testimony appears to consist of various opinions and conclusions that he has formed regarding Osage Water Company, its management, and its financial condition. He has not supported his opinions and conclusions with any factual information. Since opinions and conclusions are not evidence, there is nothing in his testimony to rebut.

Q. Has Mr. Cochran accurately stated the historical management of Osage Water Company?

A. No. Osage Water Company was formed in 1987 by William R. ("Bill") Mitchell, Martha Mitchell, his wife, and William Patterson ("Pat") Mitchell to own and operate a regulated water utility system in the City of Osage Beach. They remained as the sole owners and managers of the Company until 1992. At that time, with the approval of the Commission, additional stock was issued to David L. Hancock and Gregory D. Williams in exchange for water and sewer systems that they each owned. Pat Mitchell was appointed as president of OWC, and served in that capacity until 1996. David L. Hancock was appointed as vice-president, and served in that capacity until 1996. Gregory D. Williams was appointed as the secretary of OWC, and continues to serve in that capacity at the present time. As a result of various disagreements, including his failure to transfer ownership or operation of the water and sewer systems he had agreed to contribute to OWC in exchange for stock, Mr. Hancock was removed from office in 1996, Mr. Williams was appointed as president, and Mr. Mitchell was appointed as vice-president. Mr. Williams served as president until January of 2001, at which time Mr. Mitchell was again appointed as president, and continues to serve in that capacity at this time. With respect to general operations, Mr. Mitchell ran the business operations of OWC throughout the entire period of its existence until July 7, 2001, when he abruptly and without prior notice quit.

Q. Please explain Mr. Mitchell's "abandonment" of OWC.

A. On July 7, 2001 my husband and I returned to his law office after various appointments to find numerous boxes containing the records of OWC and the keys to its various water and sewer systems on the outside porch, together with a

letter from Mr. Mitchell indicating he no longer intended to operate OWC. A copy of that letter is attached as Schedule EU-4. I have managed OWC's operations since that date.

Q. Mr. Cochran ascribes various actions of OWC in 1994 as attributable to Mr. Williams. Is this consistent with the management and operation of OWC at that time?

A. No. Mr. Williams was the corporate secretary and attorney for OWC in 1994. Mr. Mitchell was the president, and Mr. Hancock was the vice-president. Mr. Mitchell and Mr. Hancock were the officers in charge of carrying out the business of OWC. Mr. Williams was in charge of the corporate minute book.

Q. Mr. Cochran asserts that assets of OWC have been transferred to Environmental Utilities and/or to other entities controlled by you and your husband. Is this accurate?

A. No. Mr. Cochran provides no documentation of such transfers because no such documentation exists, because no such transfers have ever occurred.

Q. Do you agree with Mr. Cochran's assertion that the financial demise of OWC is imminent?

A. There is no question but that OWC is financially challenged as a result of the overbuilding of its water systems by the City of Osage Beach, and the introduction of competition for water customers in service areas that are regulated by the Commission on the assumption that OWC holds a monopoly. As to whether OWC will be forced to cease operations, commence a bankruptcy proceeding, or take other drastic action, only time will tell. OWC is at present meeting its day-

to-day operating expenses, is providing safe and adequate service to all of its customers in all of its service areas, and is expanding its customer base in areas outside the City of Osage Beach. Whether its expansion outside the City and the capital expenditures associated therewith will be sufficient to offset in a timely manner the contraction occurring inside the City and capital losses associated therewith is impossible to accurately state at this time. The Commission may note that Mr. Cochran predicted the financial demise of OWC in 1998, and, as of the date of the hearing, it is now 2002. Any company may fail financially at any time, including OWC, for any reason. OWC will not fail as a result of the Commission granting Environmental Utilities a certificate to provide water utility service in Golden Glade Subdivision, but may fail for other reasons not related to this case.

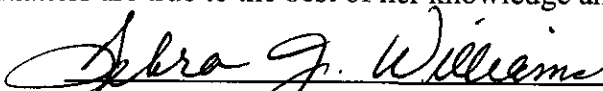
Q. Does this conclude your testimony in this case?

A. Yes.

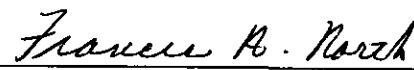
AFFIDAVIT OF DEBRA J. WILLIAMS

STATE OF MISSOURI)
) ss.
COUNTY OF CAMDEN)

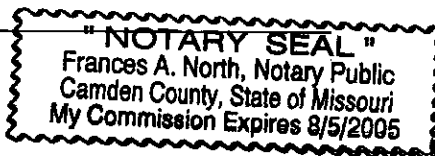
Debra J. Williams, of lawful age, on her oath states: That she has participated in the preparation of the attached written direct testimony, in question and answer form, consisting of 16 pages of surrebuttal testimony to be presented in the above case; that the answers in the attached written surrebuttal testimony were given by her; that she has knowledge of the matters set forth in such answers; and that such matters are true to the best of her knowledge and belief.


Debra J. Williams

Subscribed and sworn to before me this 5th day of December 2001.


Notary Public

My Commission Expires:



Golden Glade Water Expense Report

Category	Vendor Total Pd	General Contractor's Fee
<u>Distribution System</u>	<u>\$10,127.11</u>	<u>\$1,012.71</u>
<u>Well House</u>	<u>\$69,195.89</u>	<u>\$6,919.59</u>
<u>Water Totals</u>	<u>\$79,323.00</u>	<u>\$7,932.30</u>

Golden Glade Water Expenses

Vendor	Date	Amt. Pd
Agles Trucking		
	6/26/2001	\$618.00
	7/5/2001	\$122.13
	7/5/2001	\$217.36
Agles Trucking Totals		\$957.49
Apac		
	1/22/2001	\$110.53
	1/22/2001	\$110.95
	1/22/2001	\$114.06
	1/22/2001	\$335.54
	1/23/2001	\$928.23
	10/20/2000	\$112.25
	10/20/2000	\$110.31
	10/20/2000	\$111.07
	10/20/2001	\$333.63
	3/17/2001	\$192.01
	5/17/2001	\$97.35
	5/17/2001	\$95.46
	6/6/2001	\$144.58
	6/6/2001	\$102.85
	6/6/2001	\$105.06
	6/6/2001	\$105.25
	6/6/2001	\$603.30
	6/6/2001	\$144.58
Apac Totals		\$3,857.01
Bobcat		
		\$180.00
		\$33.75
Bobcat Totals		\$213.75
Ernie's		

Vendor	Date	Amt. Pd
	9/17/2001	\$3,551.60
Ernie's Totals		\$3,551.60
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Excavator		
		\$690.00
Excavator Totals		\$690.00
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Ezard's Ace		
	11/2/2001	\$3.18
	7/14/2001	\$6.12
Ezard's Ace Totals		\$9.30
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First Call		
	11/13/2001	\$21.00
First Call Totals		\$21.00
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Gilbert Electric		
	11/27/2001	\$3,387.89
Gilbert Electric Totals		\$3,387.89
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Heier, Paul		
	6/15/1999	\$523.08
Heier, Paul Totals		\$523.08
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Jack's Sporting		
	9/25/2001	\$103.43
Jack's Sporting Totals		\$103.43
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Jackson Engineering		
	12/22/1999	\$5,921.00
Jackson Engineering Totals		\$5,921.00
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Lowe's		
	11/13/2001	\$3.35
	11/6/2001	\$28.81
	11/7/2001	\$69.48
Lowe's Totals		\$101.64
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Midway Elec		

Vendor	Date	Amt. Pd
	3/21/2001	\$2.13
Midway Elec Totals		\$2.13
Midwest Block		
	11/6/2001	\$8.63
Midwest Block Totals		\$8.63
Moreland Rotary Drilling		
	10/28/2001	\$15,805.75
	7/20/2001	\$24,888.43
Moreland Rotary Drilling Totals		\$40,694.18
Osage Water		
	5/17/1999	\$1,000.00
	5/26/1999	\$1,000.00
Osage Water Totals		\$2,000.00
Ozark Rental		
	1/19/2001	\$937.68
	1/29/2001	\$397.80
	2/5/2001	\$45.40
	3/5/2001	\$34.09
	3/9/2001	\$90.60
	4/5/2001	\$34.09
	7/23/2001	\$51.14
	9/10/2001	\$89.64
Ozark Rental Totals		\$1,680.44
Smith, Jeff		
		\$553.50
		\$63.00
Smith, Jeff Totals		\$616.50
Summit Investment		
	10/19/2001	\$1,980.00
	10/22/2001	\$4,725.42
Summit Investment Totals		\$6,705.42

Vendor	Date	Amt. Pd
Sunrise Ace		
	11/16/2001	\$13.15
Sunrise Ace Totals		\$13.15
Tallman Company		
	10/31/2001	\$4.35
	11/2/2001	\$10.35
	6/18/2001	\$465.94
	8/28/2001	\$10.28
	8/28/2001	\$151.23
Tallman Company Totals		\$642.15
Union Electric		
	11/21/2001	\$5,790.23
Union Electric Totals		\$5,790.23
Water & Sewer Supply		
	7/11/2001	\$1,302.98
Water & Sewer Supply Totals		\$1,302.98
Winnellson		
	10/27/2001	\$530.00
Winnellson Totals		\$530.00

Total Expenses to-Date	\$79,323.00
General Contractor's Fee	\$7,932.30
Total Expenses Including Contractor's Fees	\$87,255.30

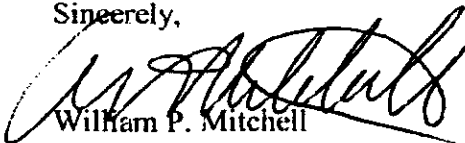
7/6/01

Greg-

I am tired and broke. You want all of assets you get all of the headaches.

1. The gravity line from the filter at sb5 is plugged. The treated water is not draining to the lake directly but appears to be coming up in the yard between tracts 1 and 2 Mr. Hopper who lives in the first house where the pipe exits his seawall told me several years ago that he would plug the line. I was hoping that the leak that we repaired was the clean looking water surfacing but further investigation last Saturday revealed the blocked line.
2. You need to arrange for pumping at Harbor Bay today. The pumps to building c-d are plumbed in but there is an electrical gremlin that has eluded me and they have never been operational. The wires may still be screwed up from when Roelofs cut them or there is an intermittent float or control problem. Until the electrical problem is solved the tank should not be backfilled. Keith sent another violation that was for a leak in the recirc. tank at SB5 and for hooking up the pumps that don't work dated June 4 and received on July 3. On June 4, the elect. to the control panel was not hooked up. The leak may be the blocked line backing up or is just dribbles.
3. You need a "C" licensed wastewater operator and a "D" licensed water operator today.
4. I am delivering to DNR today the last revisions that Keith wanted for KK and a box full of lead and copper samples that I took last weekend. All routine environmental samples for June have been processed and records sent to DNR. No sampling has been performed for July.
5. You need to arrange with someone to do construction at Harbor Bay and to install meters at Cedar Glen.
6. Cavern View has not signed their deed yet but has a new pump.
7. Good luck--you will need it.

Sincerely,


William P. Mitchell
On vacation

Schedule E1 - 4