

Exhibit No.:  
Witness: William J. Cochran  
Testimony: Surrebuttal  
Case No.: WA-2002-65

**FILED<sup>2</sup>**

DEC 03 2001

Missouri Public  
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

CASE NO. WA-2002-65

SURREBUTTAL TESTIMONY OF

WILLIAM J. COCHRAN

**SURREBUTTAL TESTIMONY  
OF  
WILLIAM J. COCHRAN  
ENVIRONMENT UTILITIES, INC L.L.C.  
CASE NO. WA-2002-65**

Q) Are you the same William J. Cochran who has previously filed rebuttal testimony in this docket?

A) Yes.

Q) What is the scope of this testimony?

A) This is surrebuttal testimony to Staff's rebuttal.

Q) Do you agree with Martin Hummel's testimony on page 2 that Environmental Utilities (EU) will not have enough customers and revenue to be a stand alone operation?

A) Yes. This statement goes directly to the Tartan criteria identified in Staff witness Dale Johansen's rebuttal.

Q) Using Mr. Hummel's stand alone operation standard, do you know which of the Tartan criteria cannot be met by EU

A) Yes. The Economic feasibility criteria.

Q) Do you have a basis for that conclusion?

A) Yes. EU's 16 to 46 customers cannot be charged adequate rates to support the \$60,000 well investment.

Q) Do you have a basis for the \$60,000 investment figure and the 16 to 46 EU customers?

A) Yes. Staff witness James Merciel's Schedule 1

Q) Do have a basis for your conclusion that EU customers cannot support a stand alone investment of the \$60,000 investment?

A) Yes. I agree with Mr. Merciel's figures and calculations, as seen on his schedule 1 that in 2002, 16 EU start up customers would only produce \$5,370 revenue against \$15,487 operating expenses and full EU 46 customer subscription in 2006 would only produce \$15,439 revenue against \$27,951 operating expenses.

Q) Has EU offered an economic feasibility study required by the Tartan criteria?

1 A) No. I agree Staff witness Russo's statement on page 4 of his rebuttal where he indicates EU  
2 has not offered any documentation showing what the system has or will cost.

3 Q) Do you have a conclusion on why EU has not offered any documentation on economic  
4 feasibility?

5 A) Yes. Two reasons.

6 Q) Can you identify the first reason?

7 A) Yes. Any economic feasibility study would be based on identification of cost of assets and  
8 would require Mr. and Ms. Williams to rely on books and records required by Commission Rules  
9 4 CSR 240-10.080 - Annual Report filings, 4 CSR-240-50.020- Preservation of Records and 4  
10 CSR-50.030 NARUC USOA. The principals refuse to keep proper books and records and file  
11 timely annual reports.

12 Q) Do you have a basis for your conclusion on their refusal to keep proper books and records  
13 and file timely annual reports?

14 A) Yes. Mr. Williams has refused to comply with these rules for the last eight years to the point  
15 he is going to allow OWC to "go down the tubes" by not meeting **Disposition Agreement**  
16 requirements in Case WR-2000-557.

17 Q) Can you identify the second reason?

18 A) Yes. A EU feasibility study would shed some light on Mr. and Ms. Williams' unauthorized  
19 asset transfer from OWC. It would also document their attempt use an OWC well to collect  
20 wholesale revenue from OWC customers.

21 Q) Do you have a basis for your conclusion OWC customers would be buying wholesale water  
22 from EU?

23 A) Yes. Mr. Merciel's Schedule 1 shows 25 to 34 OWC customers would be served from the  
24 Golden Glades water well site.

25 Q) Did Mr. Merciel indicate how OWC customers would be charged for this service?

26 A) Yes. He states on page 3 of his rebuttal that OWC would become a wholesale customer of EU

1 in order that it may provide service to potential customers in Eagle Woods

2 Q) Does any other Staff member envision how OWC customers will pay for water from an EU  
3 well.

4 A) Yes. Mr. Hummel identifies on page 2 and page 4 of his rebuttal that a wholesale contract  
5 between these "affiliated" companies would be necessary?

6 Q) Does this apparent affiliated operations address any of the Tartan criteria?

7 A) Yes. The criteria that this affiliated service must promote the public interest.

8 Q) Do you believe this affiliated contract characterized as a "wholesale contract between EU and  
9 OWC" promote the public interest?

10 A) No. There are three reasons why this affiliated contract will not promote public interest.

11 Q) Can you state the first reason?

12 A) Yes. The well producing the water was identified in Case WA-99-437 as being in OWC rate  
13 base. Ms Williams indicated in her direct it was taken out of OWC's rate base through an  
14 unauthorized transfer. It is not in the public interest for OWC customers to pay any wholesale  
15 rate to EU for water from a OWC well.

16 Q) Can you state the second reason?

17 A) Yes. Wholesale rates would be outside this Commission's jurisdiction

18 Q) Can you state the third reason?

19 A) Yes. Mr. Williams indicated on October 22, 2001 that after the Commission rescinds OWC's  
20 interim rate relief, OWC will not be able to pay electric bills. Mr. Williams, by allowing OWC to  
21 enter into a unregulated wholesale contract to buy water from EU, while he knows OWC will not  
22 have the funds to pay for this water is not in the public interest.

23 Q) Do you have any conclusion on why Mr. Williams, as a principal of OWC and EU, would allow  
24 OWC to enter into a Commission unregulated contract with EU knowing OWC could not meet its  
25 obligations?

26 A) Yes. Unpaid and outstanding OWC wholesale water bills would be a vehicle for Mr. Williams

1 to buy, seize and transfer assets from OWC for or to EU.

2 Q) Do you have a basis for your conclusion that Mr. and Ms Williams have engaged in  
3 unauthorized asset transfer from OWC to EU?

4 A) Yes. Mr. Hummel identifies on page 4 of his testimony that in OWC Case WA-99-437 Exhibit  
5 D-2 of the Application that the Golden Glades water well site was owned by OWC.

6 Q) Do you have a basis for that conclusion?

7 A) Yes. The exhibit D-2 cited above states "from OWC's water well site located in Golden Glade  
8 subdivision".

9 Q) Did the Commission find that an existing OWC water well site and distribution located in  
10 Golden Glade subdivision was a contribution to aid construction?

11 A) Yes. The Commission found:

12 that the project developer has and is willing to make contributions in aid of construction of either cash or water  
13 systems systems... Concerning the water system, Mitchell also stated that the Eagle Woods developer has  
14 agreed to contribute an existing well and distribution system to Osage,  
15

16 Q) Is this the same water well site that Ms Williams now claims is owned by her and her husband?

17 A) Probably. Mr. Williams claims it is owned by them.

18 Q) Do you have a basis for your conditional statements that it is "probably" the same water well site  
19 because of Mr. Williams "claimed...it is owned by the them"?

20 A) Yes. Mr. Williams hasn't yet responded to a data request on the Williams' source of funds used  
21 to either construct or acquire OWC Golden Glades water well site. Nor has he responded to the  
22 question of any "liens" against this water well. Finally, the principals did not identify the sunk costs  
23 nor the future costs of this water system at Golden Glades

24 Q) What was his basis for claiming ownership?

25 A) He claims they personally financed the construction and the professional engineer he hired to  
26 design this Water well was Ted Forrester.

27 Q) If they did finance this construction do you have an opinion on how they financed this

1 construction?

2 A) Yes. In my opinion, they floated a personal Guarantee loan for the Golden Glades well..

3 Q) Do you have any support for your opinion?

4 A) Yes. They floated a personal guarantee loan with the Bank of the Lake of the Ozarks for \$50,000  
5 to construct the Parkview Bay water well site.

6 Q) If Mr. and Ms Williams did personally finance the construction and/or purchase of the Golden  
7 Glades well, do you know if this well was treated as part of OWC's rate base in Case WA-99-437?

8 A) Yes. The Commission allows "Contributions in Aid of Construction". Based on Commission  
9 findings and the principals' supporting exhibit D-2 attached to their application , this well was  
10 contributed in aid to construction to the OWC rate base in Case WA-99-437

11 Q) Are you aware of any other "Contributions in Aid of Construction" by Mr. and Ms Williams?

12 A) Yes. The Parkview Bay water well site was a Contribution in Aid of Construction to the OWC  
13 rate base in Case WA-98-236/WF-98-211.

14 Q) Do you have a basis for your conclusion that Mr. and Ms Williams did personally finance the  
15 Parkview Bay water well construction?

16 A) Yes. Exhibit C attached to the Application in Case WA-98-236/WF-98-211 contains the document  
17 showing Mr and Ms Williams floated a personal guarantee loan for \$50,000 with the Bank of the  
18 Lake of the Ozarks to finance the construction of the Parkview Bay water well site.

19 OWC's 1997 Annual Report certified by President Gregory Williams shows on page 9  
20 "Contributions in Aid of Construction" that Mr. and Ms Williams contributed the \$10,000 Parkview  
21 Bay Well lot to the OWC rate base.

22 Q) Does Mr. Williams contend that OWC owns the Parkview Bay Water well site?

23 A) Yes. On November 25, 2001 Mr. Williams confirmed that OWC owns the Parkview Bay water  
24 well site.

25 Q) Do you believe Contributions in Aid of Construction to the OWC rate base of Golden Glades  
26 water well site and Parkview Bay water well site are essentially duplicate contributions in aid to

1 construction?

2 A) Yes.

3 Q) Once these assets are contributed to rate base does it take Commission approval to transfer these  
4 assets?

5 A) Yes

6 Q) Do you know why Ms. Williams is now attempting to claim they own the Golden Glades water  
7 well site while Mr. Williams denies their ownership of the Parkview Bay water well site?

8 A) Yes. The Williams' apparently believe non compliance with Commission Rules 4 CSR 240-50.020  
9 & 50.030 and Rule 4 CSR 240-10.080 allows them to make unauthorized transfers of assets.

10 Q) Are you aware of any Commission regulatory approval for Golden Glades water well site asset  
11 transfer from OWC to Mr and Ms Williams?

12 A) No.

13 Q) Do you have an opinion on why Mr and Ms Williams transferred the Golden Glades Water Well  
14 site out of OWC rate base while contending OWC owns the Parkview Water Well site?

15 A) Yes. The Golden Glade water well site is capable of producing a profitable revenue stream while  
16 the Parkview water well site is incapable of producing a revenue stream to pay off the loan guarantee  
17 to the Bank of the Lake of the Ozarks.

18 Q) Do you consider Mr and Ms Williams ownership treatment of these two water well sites as  
19 detrimental to the public?

20 A) Yes. Mr and Ms Williams are allowing OWC to pay off their Parkview Bay water well site  
21 personal guarantee loan for \$50,000 to the Bank of the Lake of the Ozarks. However, they are  
22 attempting to transfer the Golden Glades water well site out of OWC's rate base because it is capable  
23 of enhancing their personal wealth.

24 Q) What effect do these actions have on Hancock's \$240,000 debenture.

25 A) It strips profitable revenue producing assets out of OWC while leaving OWC with debt burdened  
26 unprofitable assets.

1 Q) Can you identify any other assets transferred to EU from OWC?

2 A) Yes. Mr. Hummel's page 5 identifies a miniexcavator and a bobcat that were originally OWC  
3 assets but are now claimed to be EU assets.

4 Q) Are you aware of any Commission regulatory approval for the transfer of these assets from OWC  
5 to EU.

6 A) No.

7 Q) Is there a regulatory requirement of Commission approval before assets can be transferred?

8 A) Yes. Annual Report form characterized as page 9 "Contributions to Aid in Contruction" states  
9 that Commission approval is required for any transfer. Also, Section 393.190 requires OWC to  
10 obtain Commission permission to transfer OWC's Golden Glades water well site, the miniexcavator  
11 and bobcat.

12 Q) Could these unauthorized asset transfers be part of the \$872,242 of OWC net water plant that you  
13 identified in your rebuttal that has disappeared off OWC books and records since 1997?

14 A) Yes.

15 Q) Do these unauthorized transfer of assets from OWC to EU go to any Tartan criteria?

16 A) Yes. These unauthorized asset transfers goes to this Application not being in public interest and  
17 the applicant not being qualified to provide the proposed service.

18 Q) Do you agree with Staff witness, James Russo, that EU does not have an established line of credit  
19 with an established institution nor a letter stating the Company has qualified for pre-approval for a  
20 certain dollar amount of financing.

21 A) Yes. Mr. Russo's conclusions are consistent with Schedules 3 and 15 attached to my rebuttal. Mr.  
22 Williams cannot obtain any financing for any company where he is identified by potential investors  
23 as a principal of that company.

24 Q) Do you know which of the Tartan criteria is addressed by yours and Mr. Russo's rebuttal?

25 A) Yes. The Tartan criteria where the applicant must have the financial ability to provide the service.

26 Q) Due to a lack of any investors committing to financing EU and/or Mr. Williams, do you believe



1 the principals can meet this Tartan criteria?

2 A) No.

3 Q) Do you agree with Mr. Russo's testimony on page 3 of his rebuttal where he indicates EU has not  
4 furnished any documentation supporting the proposed long term financing costs identified in Ms  
5 Williams direct testimony?

6 A) Yes. Lack of any documentation by Ms. Williams of long term financing costs goes directly to not  
7 meeting the Tartan criteria that the applicant must have the financial ability to provide the service.

8 Q) Do you agree with Mr. Russo's statements on page 3 of his rebuttal that Staff will be able to  
9 "defer any recommendation" and on page 4 that "delaying certain findings... for 18 months will  
10 provide staff the opportunity to... assure that appropriate books and records are maintained by the  
11 Company"?

12 A) No. Mr. Russo wants to delay or defer "certain findings" on the presumption these principals can  
13 produce NARUC USOA maintained books and records in 18 months. The Company will never  
14 produce appropriate books and records.

15 Q) Do you have a basis for that conclusion?

16 A) Yes. These principals have failed to produce NARUC USOA maintained books and records for  
17 the last 8 years.

18 Q) Do you have a basis for that statement?

19 A) Yes. Staff attempted through stipulations, agreements and disposition agreements in Cases WA-  
20 94-132/WF-94-361, WA-97-110, WA-98-36 and WR-2000-557 to require OWC compliance with  
21 NARUC USOA and filing proper Annual Reports. OWC has not and will not conform to NARUC  
22 USOA and file proper Annual Reports

23 Q) Do you have support for the statement "never" and "has not and will not conform to NARUC and  
24 proper Annual Reports"?

25 A) Yes. Mr. Williams indicated during an interview on October 22, 2001 he will let OWC go  
26 bankrupt after the Commission withdraws its interim rates on November 30, 2001.

1 Q) Did Mr. Williams give a reason why he will allow OWC to go bankrupt?

2 A) Yes. He will not set up OWC books and records under NARUC USOA and will not file 1999  
3 and 2000 Annual Reports in a proper form.

4 Q) Can you cite a Tartan criteria relevant to the principals' inability for 8 years to set up books and  
5 records under NARUC USOA and file proper 1999 and 2000 Annual Reports?

6 A) Yes. The applicant have demonstrated they are not qualified to provide the proposed service.

7 Q) Do you agree with Mr. Merciel's statement that there are alternatives to a central water system  
8 owned by EU.

9 A) Yes

10 Q) Do you agree with Mr. Merciel's statement on page 6 that a central water system could be owned  
11 and operated by the homeowners of Golden Glade?

12 A) Yes.

13 Q) Do you agree with Mr. Merciel's statement on page 7 that Eagle Woods and Golden Glade was  
14 originally intended to be connected to the OWC and that OWC would be an alternative server?

15 A) Yes.

16 Q) Do you believe Mr. Merciel's alternatives address the Tartan criteria?

17 A) Yes. These alternatives demonstrate this application does not meet the Tartan criteria that there  
18 is a need for the service.

19 Q) Do you have a basis for that conclusion?

20 A) Yes. In WA-99-437 these principals identified that OWC would serve Golden Glade subdivision  
21 . Mr. Merciel has offered another alternative that a homeowners association or OWC could provide  
22 the service.

23 Q) Does this conclude your surrebuttal testimony?

24 A) Yes.  
25  
26

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the matter of the application of Environmental Utilities, )  
LLC, for Permission Approval and Certificate of )  
Convenience and necessity Authorizing it to Construct )  
Install, Own, Operate, Control, Manage and Maintain )  
A Water System for the Public Located in Unincorporated )  
Portions of Camden County, Missouri (Golden Glade )  
Subdivision) )

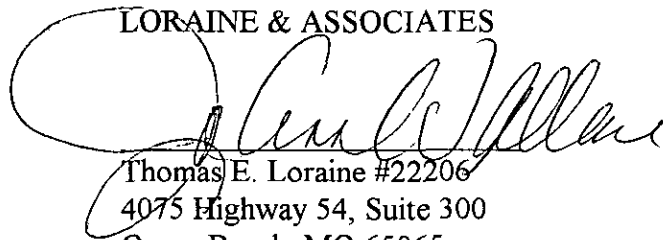
CASE #: WA-2002-65

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of **Surrebuttal Testimony of William J. Cochran** mailed hard copy, postage prepaid, this 30th day of November, 2001, **VIA FED EX** to **Gregory D. Williams**, Highway 5 at Lake Road 5-32, P.O. Box 431, Sunrise Beach, MO. 65079, and regular mail to Office of Public Counsel, P.O. Box 7800, Jefferson City, Missouri 65102, Presiding Commissioner, Camden County Courthouse, 1 Court Circle, P.O. Box 960, Camdenton, Missouri 65020, General Counsel, Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65102 and Missouri Department of Natural Resources, 205 Jefferson Street, Jefferson City, Missouri 65101.

Respectfully submitted,

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ATTORNEY FOR HANCOCK CONSTRUCTION

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the matter of the application of Environmental Utilities, )  
LLC, for Permission Approval and Certificate of )  
Convenience and necessity Authorizing it to Construct )  
Install, Own, Operate, Control, Manage and Maintain )  
A Water System for the Public Located in Unincorporated )  
Portions of Camden County, Missouri (Golden Glade )  
Subdivision) )

CASE #: WA-2002-65


**AFFIDAVIT OF WILLIAM J. COCHRAN**

STATE OF MISSOURI     )  
                                      ) ss  
COUNTY OF CAMDEN     )

William J. Cochran, of lawful age, being duly sworn: on his oath states: My name is William J. Cochran, I hereby swear and affirm that my answers contained in the attached surrebuttal testimony, therein propounded consisting of 9 pages to be presented in this case; that the answers in the foregoing testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.

  
WILLIAM J. COCHRAN

Subscribed and sworn before me this 30<sup>th</sup> Day of November, 2001.

  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

