

# Exhibit No. 9

Staff – Exhibit 9  
Jackie Johnson Testimony  
from WO-2024-0036  
File No. WC-2023-0353

BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

In the Matter of the Petition        )  
 for an Interim Receiver and for        )  
 an Order Directing the General        ) File No. WO-2024-0036  
 Counsel to Petition the Circuit        )  
 Court for the Appointment of a        )  
 Receiver for Misty Water Works        )

Wednesday, October 25, 2023  
 9:00 a.m. - 5:55 p.m.

Governor Office Building  
 200 Madison Street  
 Jefferson City, MO 65101  
 and WebEx

VOLUME 2  
 Pages 1 - 246

JOHN CLARK, Presiding  
 SENIOR REGULATORY LAW JUDGE

SCOTT T. RUPP, Chairman  
 MAIDA J. COLEMAN, Commissioner  
 JASON R. HOLSMAN, Commissioner  
 GLEN KOLKMEYER, Commissioner  
 KAYLA HAHN, Commissioner

Stenographically Reported By:  
 Beverly Jean Bentch, RPR, CCR No. 640

Job No. 155233



1 as follows:

2 DIRECT EXAMINATION

3 BY MS. KERR:

4 Q. Could you please state and spell your name for  
5 the record?

6 A. Jackie Johnson, J-a-c-k-i-e J-o-h-n-s-o-n.

7 Q. And by whom are you employed?

8 A. Missouri Department of Natural Resources.

9 Q. What's your position there?

10 A. I'm an Environmental Program Specialist.

11 Q. And how long have you been employed by DNR in  
12 that position?

13 A. Actually in my current position I recently  
14 received a promotion, but I've been in the same section  
15 for four years.

16 Q. And what do you do there for the -- What are  
17 your job duties?

18 A. I think the simplest way to describe it is  
19 primarily I'm a case manager. So I work with systems who  
20 have been referred to enforcement to help them return to  
21 compliance, and then I have some other associated  
22 compliance activities I help with.

23 Q. Just generally what does that involve?

24 A. For the complaints activities, we run some  
25 monthly reports to monitor systems that are out of



1 compliance and then coordinate with the regional offices  
2 so that we can sort of direct more attention to that and  
3 try and help with that. I issue some violations  
4 associated with those as well.

5 Q. Are you involved in any of the investigations?

6 A. I manage cases. We don't usually call it  
7 investigations, but we will do some research and figure  
8 out how a system ended up in enforcement and actions that  
9 need to be taken.

10 Q. Are you familiar ~~with~~ with Travis Blevins?

11 A. Yes.

12 Q. And how did you become familiar with  
13 Mr. Blevins?

14 A. There was a previous person in my section who  
15 was also named Jackie which I know is kind of confusing.  
16 She was previously assigned to be the case manager, but  
17 we knew that she had gotten a new job. In February, I  
18 started helping with the case and then it actually became  
19 really my case around March. I was part of a  
20 conversation over the phone with Mr. Blevins in the end  
21 of February. Then I met him for the first time in June  
22 at the public meeting with the Public Service Commission.

23 Q. When you say "February," it was February of  
24 '23?

25 A. Yes, sorry.

1 Q. That's okay. And so you said you've met  
2 Mr. Blevins?

3 A. Yes. We've met in person several times.

4 Q. So what's the nature of your involvement with  
5 Mr. Blevins in this case?

6 A. I'm working with Mr. Blevins to help with the  
7 three systems that DNR regulates. So Misty Mountain,  
8 Charity and Rolling Hills to help get those systems in  
9 compliance. So Misty Mountain has the Topo Drive well  
10 issues that's a little ~~bit~~-different than the others, but  
11 all three of those systems we've talked about will be  
12 needing noncompliant well agreements. I'm also working  
13 with him for all three systems for those inspection  
14 reports that Sebastien has written and presented on  
15 hoping to make sure that those required corrective  
16 actions are taken care of for the significant  
17 deficiencies and unsatisfactory findings.

18 THE COURT REPORTER: Could you slow down just a  
19 bit?

20 THE WITNESS: Sorry.

21 THE COURT REPORTER: It's been a long day.

22 BY MS. KERR:

23 Q. So what does that involve?

24 A. If we start with the inspection reports, there  
25 were identified significant deficiencies. Those are

1 required to be corrected. There were also identified  
2 unsatisfactory findings that need to be corrected. So as  
3 Sebastien talked about, there's some deadlines for those  
4 things to happen. So I'm keeping track of those  
5 deadlines, keeping track of things that have been  
6 submitted. For example, the first significant deficiency  
7 on all three of those reports relates to having someone  
8 who's not certified making operational decisions. So  
9 we've asked for some documentation that that won't  
10 continue, that the decisions will be made under the  
11 supervision or by the properly certified operator. So  
12 I'll keep track that that actually gets taken care of  
13 that we receive that information and I'll do that for all  
14 of the significant deficiencies and unsatisfactory  
15 findings. I'll work with the regional office, because  
16 some of that information may get submitted to them, it  
17 may come directly to me. We'll make sure that everybody  
18 knows about it.

19 And then for the case management for those  
20 three systems as well for Misty Mountain and Charity and  
21 for Rolling Hills I've drafted an administrative order on  
22 consent. We call that an AOC. So there will be an AOC  
23 for each system with its own required corrective actions.  
24 And those are all in a review process right now. That  
25 review has to go all the way to our director. So it does

1 take a little while but it has been started.

2 Q. Do you have exhibits sitting there in front of  
3 you?

4 A. Yes.

5 Q. I might refer to it and so make sure you have  
6 that there. So you've worked with Mr. Clos-Versailles?

7 A. Yes.

8 Q. And what's your involvement with or what's been  
9 your involvement with him in this case, in Mr. Blevins'  
10 case? -----

11 A. So initially the regional office where  
12 Sebastien works, Mr. Clos-Versailles, they were the ones  
13 that are initially working with this system. That's the  
14 way this typically works for our enforcement process is  
15 the regional office is involved first. They have a lot  
16 more I say boots on the ground. They actually go out and  
17 visit the systems. -----  
18 us, we still coordinate with the regional office. We  
19 kind of take over a little bit as far as responsibility  
20 for tracking things. And so I have kind of taken over  
21 the management of these three systems from  
22 Mr. Clos-Versailles but especially because he's now moved  
23 into a different position I'm still coordinating with his  
24 regional office, but really I'm sort of the primary  
25 contact.

1 Q. Okay. So in a step-by-step, they did the  
2 investigation and then it goes -- they make the findings  
3 and then it goes to your section and they make the  
4 recommendations and then it goes to your section and then  
5 you do the enforcement; is that kind of how the flow  
6 chart would work?

7 A. Yes, generally. It isn't usually this quick  
8 that it goes from a system being activated to  
9 enforcement, but it is a general process that the  
10 regional office works with the system, provides  
11 compliance assistance, maybe identifies issues during an  
12 inspection and then if a system has significant  
13 noncompliance or if they have a history of noncompliance,  
14 they may get referred to enforcement.

15 Q. You said it doesn't usually go this quick.  
16 What do you mean by that?

17 A. I should clarify we just don't activate a lot  
18 of systems in a yearly basis anyway. So it's already  
19 kind of a less common thing to be a brand new system as  
20 Misty Mountain, Charity and Rolling Hills were recently  
21 activated. And then for a system to have, for example,  
22 for Misty Mountain to have that ongoing boil order,  
23 that's unusual and that would be significant enough to  
24 warrant a pretty quick referral to enforcement.

25 For the other two systems for Charity and for

1 Rolling Hills, we determine that they have noncompliant  
2 wells and so in order for the system to be able to get a  
3 permit to dispense and to continue using those wells,  
4 they need that agreement. So that's also why it's a  
5 little bit faster to get into enforcement because we want  
6 to be able to give them that noncompliant well agreement.

7 Q. What is a noncompliant well?

8 A. So a noncompliant well is a well that's not  
9 compliant but it's more specifically it's not compliant  
10 with the regulations for a public drinking water system  
11 well. And as Mr. Clos-Versailles talked about earlier,  
12 there are different types of wells. We have domestic  
13 wells, we have multi-family wells, and we have the public  
14 water supply wells. They each have different regulations  
15 for how they need to be constructed. So in this case  
16 we've determined that the wells at all three, Charity,  
17 Rolling Hills and Misty Mountain, were not constructed to  
18 the proper standards for public water supply wells. So  
19 in order for the system to be able to continuing using  
20 those, we need this noncompliant well agreement in place,  
21 and that agreement will acknowledge that those are  
22 noncompliant wells that contains a few stipulations and  
23 there will be some stipulations in the permit that's  
24 ultimately issued.

25 Q. So that permit has not been issued yet?

1           A.    No.  We can't issue the permit until we have  
2 that noncompliant well agreement in place.

3           Q.    What is that agreement?  What does that  
4 agreement require?

5           A.    A noncompliant well agreement in general will  
6 have some sampling requirements.  So if it was a brand  
7 new system that had never done their initial sampling, we  
8 would require them to take care of some initial sampling.  
9 In this case these systems have already been in existence  
10 for a year and so it will require the systems Charity,  
11 Rolling Hills and Misty Mountain to continue the required  
12 sampling of the community water system.  If there are  
13 issues with those results, there are some triggered  
14 actions that happen.

15                   For example, if the system has E. coli positive  
16 samples, they may be required to add chlorination.  In  
17 addition to those specific requirements about sampling  
18 and then extra steps, if a system has issues with those  
19 samples, a noncompliant well agreement contains a  
20 stipulation that the system cannot add any more  
21 connections.  So we'll let them keep using the  
22 noncompliant well but as is.  They can't add more  
23 connections to that well in the future.

24                   For this one in particular though for Misty  
25 Mountain, because the Topo Drive well has collapsed and

1 it's nonfunctional and probably not ever going to be, we  
2 are going to ask Mr. Blevins to plug that well so that it  
3 doesn't pose a contamination risk to their groundwater  
4 supply. There's also a well at Charity that is not  
5 functional and has not been repaired that we'll also ask  
6 to be plugged.

7 Q. And so going forward, how does that -- what's  
8 the significance of that going forward then for those  
9 wells to have the noncompliance -- noncompliant well  
10 agreement?

11 A. Can you clarify that?

12 Q. Is there -- Once they have that agreement, are  
13 they, and they make that agreement, is there any  
14 significance going forward or they go or what happens  
15 next with those wells?

16 A. Okay. So once we have that noncompliant well  
17 agreement approved through our review process, it will be  
18 sent to Mr. Blevins. If he reads it and agrees with it,  
19 he will sign it. The department will also sign it and  
20 that becomes an effective order. It says in there a  
21 couple of required corrective actions. If the  
22 significant deficiencies and unsatisfactory findings are  
23 still unresolved from those inspection reports, we'll put  
24 those as corrective actions in that order. So like for  
25 the primacy fees have not been paid. So if the primacy



1 fees are still overdue when the order goes out, then the  
2 primacy fees would be included as a corrective action in  
3 that, but either way when the order is approved and  
4 signed and effective and the actions get completed within  
5 it, the department will be able to issue a permit to  
6 dispense which Mr. Blevins will have to apply for. As  
7 long as we issue the permit to dispense, we will be able  
8 to close that administrative order on consent, we'll send  
9 a letter that says that it's been closed, Mr. Blevins  
10 would have a permit to dispense water so he would be  
11 compliant with our drinking water regulations and then  
12 within that permit it has some stipulations about again  
13 not adding additional connections, need to notify future  
14 buyers of the status of the wells as being noncompliant  
15 wells, but as long as there are no issues with the wells  
16 going forward and he meets the terms of the noncompliant  
17 well agreement, then it would be done. Q. What if he  
18 doesn't meet some of those conditions?

19 A. We have a couple of things built into a  
20 noncompliant well agreement. AOCs in general, those  
21 administrative orders on consent, that if a system isn't  
22 meeting agreed upon deadlines in it we have stipulated  
23 penalties that we can assess for noncompliance with those  
24 deadlines. If we don't issue that permit to dispense,  
25 then we can't close the AOC but we also would not be able

1 to let Mr. Blevins continue using those noncompliant  
2 wells.

3 Q. Has he corrected any of those deficiencies up  
4 to this point that you know of?

5 A. Am I allowed to refer to the inspection  
6 reports? They're in Exhibit 7.

7 Q. Yes. Are you talking about the well  
8 determinations?

9 A. So Mr. Clos-Versailles --

10 Q. Were you talking about significant  
11 deficiencies?

12 A. You asked if they've been resolved. I want to  
13 make sure I look at them so I know.

14 Q. The first one for Misty Mountain starts on page  
15 59.

16 A. Okay. I'm on page 67 of Exhibit 7.

17 Q. So those would be the ones that would go into  
18 the agreement and would have to fix, right? Is that what  
19 you're saying?

20 A. Yes. You asked me if they've been resolved.  
21 But instead of trying to go from memory, I wanted to see  
22 which significant deficiencies there are.

23 Q. That's fine.

24 A. So on page 67 of Exhibit 7, the first  
25 significant deficiency refers to having individuals

1 making operational decisions that aren't under the direct  
2 supervision of a properly certified chief operator. As  
3 part of the consulting with the department, I think Lori  
4 Jean did provide a statement that they're working on  
5 that. And she talked to me, I actually spoke with her,  
6 it was this week, one of the days this week about  
7 potentially coming today and we talked about some of  
8 these things that were in here. So I think things are  
9 better but I still think we need a more specific  
10 statement from them to resolve that significant  
11 deficiency.

12 For number two, it talks about the Tricia well  
13 not being properly screened.

14 THE COURT REPORTER: Did you say the Tricia  
15 well?

16 THE WITNESS: Yeah. The wells are named after  
17 streets. So a lot of them are names. So it's Tricia.  
18 We received photographs last week from Lori Jean from the  
19 from the operator. I am not qualified to say if those  
20 photographs adequately address the significant  
21 deficiencies that are in here. I don't have an answer  
22 yet whether the photographs that were submitted cover  
23 this but I know something was submitted. So if it's not  
24 taken care of, it would be included in the order.

25 And then the third significant deficiency is

1 that the Tigger well No. 4 had an unprotected opening.  
2 Again some photographs were submitted. If those don't  
3 adequately cover this, we would include that in the  
4 order.

5 For the unsatisfactory finding, this is already  
6 part of it. It says that they need a permit to dispense.  
7 That's part of the noncompliant well agreement. The  
8 laboratory fees have been paid. They did submit a  
9 bacteriological site sampling plan for unsatisfactory  
10 finding No. 3. Unsatisfactory finding No. 4 as far as I  
11 know has not been addressed yet and this is actually --  
12 it refers to the rule in there. It's 10 CSR  
13 60-14.010(4)(a)6. All systems are required to have a  
14 contingency plan at all times for a properly certified  
15 backup operator. It doesn't mean that they have to hire  
16 someone, but they have to have a plan for it. So we need  
17 to know from the system that they have that plan.

18 No. 5 is the noncompliant well. So that's  
19 built into the agreement. And then No. 6, one of the  
20 wells was not accessible at the inspection. The key was  
21 unavailable. And so the system will need to let us know  
22 that they have a plan for how we can get there next time.  
23 There are similar corrective actions in the other two,  
24 and so as with this one if the corrective actions are  
25 completed we would not include that in the order. If

1 they're still open, we would put an action in there for  
2 it.

3 BY MS. KERR:

4 Q. So in these inspections there were samples  
5 taken?

6 A. Yes.

7 Q. And do you know how these inspections compared  
8 with the other inspections with regard to the sampling?

9 A. What do you mean?

10 Q. I'll withdraw ~~that~~. So were you involved in  
11 the inspections on these significant deficiency  
12 documents?

13 A. I attended the inspections but I'm not an  
14 inspector.

15 Q. Okay. So what was your role? Writing the  
16 reports or?

17 A. I reviewed the reports before they went out.  
18 Because I am the case manager for the enforcement case  
19 just to make sure that there wasn't anything in there  
20 that I didn't understand or that didn't fit with what  
21 we're doing with our normal enforcement process but it  
22 was mostly there as sort of a support role in case there  
23 were questions about enforcement while I was there.

24 Q. Did you have a chance to talk to Mr. Blevins  
25 about these deficiencies and how he would make changes or

1 how he would fix them?

2 A. Mr. Blevins came to Department of Natural  
3 Resources at the beginning of this month, I believe it  
4 was October 5, and we had a meeting in person. I gave  
5 him a printed copy of each of the inspection reports and  
6 I highlighted the significant deficiencies, I highlighted  
7 the unsatisfactory findings, and I highlighted the  
8 required actions and due dates and we went through each  
9 of the reports. And I have those paperclipped together  
10 by system with the invoices that were also due and I gave  
11 him those in a folder and made sure that we went over  
12 what we needed for each of the significant deficiencies  
13 and unsatisfactory findings.

14 Q. What was his reaction or how did he receive  
15 that?

16 A. He said he understood, but he also said that it  
17 was his operator's responsibility to submit some of the  
18 information. So I clarified that while his operator can  
19 help it's ultimately his responsibility to provide that  
20 information to us.

21 Q. The due dates are his due dates, correct?

22 A. Yes.

23 Q. Just like Mr. Clos-Versailles testified,  
24 ultimately, you said ultimately it's his responsibility  
25 to provide all the information and make all the fixes?

1 A. Yes.

2 Q. Is it your understanding that he's going to  
3 make the corrections that he's supposed to?

4 A. He said that he would, but so far we have not  
5 been able to resolve all of them.

6 Q. Okay. And these significant deficiencies,  
7 these documents were sent to him. They're dated July 18  
8 of this year?

9 A. Yes.

10 Q. How long does ~~he~~ have to make the fixes, make  
11 the corrections?

12 A. It's 120 days to make the corrections.

13 Q. Okay. So that would bring us to four months,  
14 right? So that's sometime in November?

15 A. Yes.

16 Q. And do you know what kind of progress he's  
17 made?

18 A. Well, as Mr. Clos-Versailles said, he has  
19 consulted. There's 30 days to consult and then 120 days  
20 total to fix and 90 days after that. We have had some  
21 progress. For example, the laboratory fees have been  
22 paid. We did receive some photographs. I'm not sure if  
23 they're sufficient to address all of the things. I know  
24 one of them was not. One of the wells we received a  
25 photograph that instead of replacing the well cap it was

1 covered with plastic. It looks kind of like what you  
2 would see in your yard where a sewer clean out is. So a  
3 plastic pipe with a top that has a square that sticks up  
4 on it and duct tape. And so we let Mr. Blevins know that  
5 that is not a sanitary seal. I guess it's better than  
6 nothing, but it's still not adequate to resolve that  
7 significant deficiency.

8 Q. Okay. So now you're just waiting for the rest  
9 of it to possibly be fixed or not?

10 A. Yes. -----

11 Q. If you could -- I'm sorry. If you could turn  
12 to page starting on page 129 document the subject line is  
13 Well Determination for Misty Mountain PWS. I think  
14 there's three of them. There's one for Rolling Hills and  
15 one for Charity as well?

16 A. Yes, I have them. -----

17 Q. Okay. So those are the three separate  
18 documents, but are they basically the same documents,  
19 just for each of the wells?

20 A. Yes.

21 Q. So what are those documents?

22 A. So this is a well determination. It is a memo  
23 that was sent from our permitting and capacity  
24 development section to my section compliance and  
25 enforcement. It describes that a determination has been



1 done for the wells at Misty Mountain and then there's a  
2 separate one for Charity and for Rolling Hills. And what  
3 a well determination is, there's a series of questions, a  
4 checklist that they go through to determine if a well was  
5 built to the public water system standards. So they will  
6 look at well drilling information if it's available,  
7 including when a well was drilled, materials that were  
8 used, if we have any records that have been filed with  
9 Department of Natural Resources or with Missouri  
10 Geological Survey and then they'll go through that  
11 checklist and determine if a well is noncompliant or it  
12 could even be unauthorized or if it's a compliant well.  
13 So this is a well determination for like for this first  
14 one for Misty Mountain it's for all of the wells at Misty  
15 Mountain together. There's a separate paragraph for each  
16 of those wells.

17 Q. Okay. And what's the significance of these  
18 documents?

19 A. This is the basis for us needing that  
20 noncompliant well agreement for each of those three  
21 systems. For example, if you look well No. 1 on Topo  
22 Drive, it says it was constructed without prior  
23 construction authorization. It's a domestic well, not a  
24 public water supply well or not a community well and it  
25 was completed in 2007. It has similar information for

1 the other four wells that Misty Mountain noting that they  
2 are all domestic or multi-family wells.

3 Q. Does this ask Mr. Blevins to do anything?

4 A. This does not. This is a document that goes  
5 between two sections and Department of Natural Resources,  
6 and then I drafted that noncompliant well agreement which  
7 is in review and that's what will tell him that he needs  
8 to do certain steps for the noncompliant well agreement.

9 Q. So Mr. Clos-Versailles has testified about  
10 Mr. Blevins' relationship with his licensed operator Lori  
11 Jean. Are you familiar with Ms. Jean?

12 A. I am.

13 Q. And how so?

14 A. I met her when we were at the inspection and  
15 then I've also talked with her on the phone several  
16 times.

17 Q. And do you think he knows and understands what  
18 his contractual relationship is with her?

19 A. He refers to her as his operator, yes.

20 Q. So have you discussed what his responsibilities  
21 are to Lori Jean, to his licensed operator?

22 A. We talked about it again when he was in person  
23 for that meeting at the beginning of October. As we were  
24 going through the significant deficiencies in the  
25 inspection reports, we clarified that as the certified

1 operator she needs to be the one responsible for the  
2 day-to-day decisions and operational decisions that  
3 impact the quality and the quantity of water and that he  
4 can do things but they need to be directed by her.

5 Q. And do you know if he does that?

6 A. The last time I talked to Lori she said that  
7 things were better, but there's still things that are  
8 happening. For example, she told me that their most  
9 recent routine samples, some of them were total coliform  
10 positive, and she told me--that she attributed that to  
11 Travis making changes at the system and not telling her.

12 Q. You said most recently. What about in the  
13 past?

14 A. In the past, another example would be I  
15 received a call from a customer who was upset about water  
16 pressure. And so I asked the customer, you know, have  
17 you talked to Mr. Blevins. He said that he hadn't. So  
18 he asked if I would talk to him. So I contacted the  
19 operator and I contacted Mr. Blevins. So I started with  
20 Lori Jean. She said she was unaware of any changes that  
21 would cause a change in pressure for that person. I  
22 reached out to Mr. Blevins. He said he was also unaware  
23 so he went out. I asked him to call me back and to call  
24 Lori back to make sure that Lori knew what was going on  
25 so that -- I mean, that's the way the relationship is

1 supposed to work is Lori should be involved in this  
2 decision too if it's going to be operational but also to  
3 make sure that the customer knew about the follow up.  
4 The customer needed to participate in the troubleshooting  
5 to figure out what was going on.

6 Q. Do you know what happened?

7 A. I heard back from Mr. Blevins that he was going  
8 to have someone come out. Is it Guill I think is the  
9 last name, G-u-i-l-l, a well person was going to come out  
10 and check on it, and then Lori said that she did hear  
11 from Mr. Blevins.

12 Q. And has Mr. -- In your working with  
13 Mr. Blevins, has he followed through with some of the  
14 changes that he's supposed to be making?

15 A. I was part of that conversation that happened  
16 in I guess, I'm not sure when it was, the conversation  
17 that Mr. Clos-Versailles referred to where we were asking  
18 Mr. Blevins about those required actions from the second  
19 level II assessment including excavating, trying to  
20 determine the cause of the E. coli. We really did press  
21 Mr. Blevins for why he wasn't setting a date. He gave us  
22 reasons about the weather and we pointed out it was great  
23 weather, we could do it that week. We really were pretty  
24 firm. It was a tense conversation pressing him on why he  
25 had not done it so far, what his plan was for when he



1 about not wanting to do this any more and wanting to  
2 figure out a solution either selling the wells or forming  
3 an HOA or doing something so that he won't be the  
4 responsible party any more.

5 Q. Do you have any thoughts as to how come?

6 A. Why he doesn't want to be responsible? He's  
7 talked about his wife's health issues; that she doesn't  
8 like him continuing to have all the assistance and all  
9 this responsibility and just wanting to be done, wanting  
10 to be retired.

11 Q. You talked about going forward with some  
12 enforcement actions that you're involved in with regard  
13 to Mr. Blevins' case. Why is DNR pursuing those actions  
14 now?

15 A. For Charity and for Rolling Hills, we have to  
16 have that noncompliant well agreement in order for there  
17 to be a way within our rules for him to continue using  
18 those wells and to get a permit to dispense which is  
19 required for his community water systems. For Misty  
20 Mountain, it's the same that we need that noncompliant  
21 well agreement but we also have the ongoing E. coli  
22 issues at the Topo Drive well which I know is now  
23 collapsed. That's now just a different issue that needs  
24 to be resolved. So we have to move forward with that  
25 enforcement process.

1 Q. So just, you know, short -- sorry. What's led  
2 DNR to go down that path? Just all of this combined?

3 A. Yeah. So it's not unusual. I mean, for  
4 Charity and for Rolling Hills this is the typical  
5 process. We identify noncompliant wells, we write a  
6 noncompliant well agreement, we get into the system, we  
7 do that. That is not an unusual process. We have quite  
8 a few systems that we're doing that with right now  
9 besides those two. For Misty Mountain, it would just be  
10 the noncompliant well agreement if we didn't also have  
11 this pressing health issue. So when we first started  
12 this enforcement case, citizens or customers were on a  
13 boil order and it was an ongoing boil order. We were not  
14 able to get consecutive days of clean samples. We kept  
15 getting E. coli samples. We were very concerned about  
16 the risk to those customers. And so that's where that --  
17 Misty Mountain started first and then Charity and Rolling  
18 Hills have kind of followed with their noncompliant well  
19 agreements. It's the ongoing risk to the health of the  
20 customers, because even though the Topo Drive well has  
21 collapsed and it's not producing water, as  
22 Mr. Clos-Versailles described, we weren't -- the system  
23 wasn't able to be properly shocked and that Topo Drive  
24 well does still exist. It's basically an opening to the  
25 groundwater and so that's a potential threat to the



1 groundwater.

2 Q. So what kind of threat to -- Is there a threat  
3 to just the residents living there or to the environment?  
4 What kind of threats are there?

5 A. The risk is ideally when you have a well,  
6 you're drawing water from that groundwater. That  
7 groundwater shouldn't be influenced by the surface. So  
8 having groundwater that's under the direct influence of  
9 surface water can introduce things like E. coli that  
10 we've talked about. You can have macroinvertebrates.  
11 You can have all sorts of things from the surface that  
12 shouldn't be there that can end up in that water. Once  
13 you've contaminated your actual groundwater, that's  
14 really difficult to treat. And at Misty Mountain while  
15 the houses are not all very close together, that's part  
16 of why there are multiple wells. That's how it was  
17 developed. They are still kind of close together. And  
18 so you wonder about the risk if there's contamination on  
19 Topo Drive to the surrounding wells.

20 Q. What kind of consequences does that have to the  
21 residents or could it potentially have to the residents?

22 A. It's a potential health risk. They could have  
23 contamination in their drinking water. It's not even  
24 just bacteria. There can also be chemical contamination.  
25 It's just that's why we're going to ask for Topo Drive



1 well to be plugged.

2 Q. Is that same reasoning for the other wells to  
3 be plugged, the other ones that you discussed?

4 A. Yeah. There's one other well at Charity that  
5 is not functional and has not been. And so if it's not  
6 going to be used for drinking water, it needs to be  
7 properly abandoned and that includes properly plugging  
8 it.

9 Q. So these aren't just -- You said there's some  
10 fee issues. Those have been taken care of, correct?

11 A. Partially. At the time of the inspection  
12 report, the lab fees were overdue. And those have been  
13 taken care of. They've been paid for all three systems.  
14 Since then the primacy fees have been due. So the  
15 laboratory fees cover the laboratory program and  
16 administration, so things like the kits and the testing.  
17 The primacy fee is also required by our regulations. The  
18 primacy fee is a fee paid by customers and then remitted  
19 to the Department of Natural Resources, and that helps  
20 cover us as a primacy agency. And those have not been  
21 paid.

22 THE COURT REPORTER: So you're saying privacy  
23 fees?

24 THE WITNESS: Sorry, primacy, p-r-i-m-a-c-y.

25 THE COURT REPORTER: Thank you.

1 BY MS. KERR:

2 Q. And how much are those?

3 A. It's a cost per connection. So under a hundred  
4 dollars I think for each system, but I haven't calculated  
5 it.

6 Q. So it's not thousands of dollars?

7 A. No.

8 Q. And is that something -- That's just something  
9 that Mr. Blevins would always -- Is that something he'd  
10 always pay in the past ~~or~~ is this something new?

11 A. He will have to pay it every year because he's  
12 a newly activated system and he was activated in the  
13 middle of the year. This was the first year that he owed  
14 that fee.

15 Q. Okay. Is there any reason that you know of  
16 that he hasn't paid it?

17 A. He asked me about it. We were talking about it  
18 before this hearing started today. I know that the  
19 primacy fee invoice is a little confusing because it  
20 shows no balance but that's because the system has to  
21 fill in some of the numbers on it. So we have a number  
22 of connections that were reported but that may not be the  
23 correct number of connections any more. So the system  
24 fills in how many connections there were. They multiply  
25 it times the cost per connection. They write down how

1 many of their connections they billed for, how many paid,  
2 and then they use those numbers to calculate how much  
3 they owe. So I get it that the fee -- the invoice looks  
4 like you don't owe anything. I know that Mr. Blevins  
5 talked with our fee section after we had that meeting in  
6 person at the beginning of October and they clarified  
7 that he does owe those fees and they sent him the  
8 invoices again and they still just have not been paid.

9 Q. Okay. Do you think -- Based on his -- He's  
10 already admitted as to whether he owns some of those  
11 wells or not or do you have any idea?

12 A. I don't know.

13 Q. That's fine. So the corrective actions and --  
14 the enforcement actions that you're taking, has  
15 Mr. Blevins indicated that he's going to comply with them  
16 that you know of?

17 A. Yes. He has been asking about getting those  
18 administrative orders.

19 Q. Do you know if he's taken action to -- I'm  
20 sorry. I probably already asked that. I'll withdraw  
21 that. Based on your work and your investigations and  
22 working with Mr. Blevins, do you have any concerns about  
23 his ability to maintain those systems in a safe and  
24 adequate manner?

25 A. I am concerned because at Misty Mountain those

1 customers were on a boil order for eight months. We  
2 provided a list of ways to try and troubleshoot that to  
3 try and prevent that ongoing boil order. Those actions  
4 were not taken. Eight months is a very long time for a  
5 boil order. I know you asked Mr. Clos-Versailles to  
6 estimate an average time. We're certainly talking about  
7 days to weeks, not months. So I am concerned that if  
8 that went on for so long that it shows that maybe there  
9 is an issue with properly operating and maintaining the  
10 systems.

11 Q. Sorry. Compared to the other systems that  
12 you've dealt with, would you say the systems Mr. Blevins  
13 operates, are they better or worse, about the same as  
14 some of the other systems that you see at DNR?

15 A. Some things are better. His operator does a  
16 great job of collecting samples. So the monitoring  
17 aspect is not an issue at these systems. I would say  
18 some aspects are not as good as the systems such as the  
19 followthrough with being directed to do something and  
20 getting it done in a timely manner. But I mean, I work  
21 in enforcement. Most of the systems I'm dealing with  
22 either can't or won't return to compliance. While there  
23 are some positives, and I think that's important to note,  
24 this is still a system that's in enforcement because of  
25 ongoing issues at Misty Mountain.

1 Q. Do you think that Mr. Blevins is providing safe  
2 and adequate drinking water to the residents that use his  
3 water system or his well systems?

4 A. At times. I think there are times where there  
5 are customers that don't have water. I think there were  
6 customers that definitely did not have safe water. There  
7 have been a lot of total coliform positive samples  
8 outside of Topo Drive well. There have been a lot of  
9 unsafe bacteriologically drinking water samples but not  
10 all the time.

11 Q. Compared to the others that you've seen at DNR,  
12 how do those samples compare?

13 A. Again, I kind of see the worst of the worst.  
14 So it's a hard question to answer.

15 MS. KERR: I understand. I don't think I have  
16 any other questions.

17 JUDGE CLARK: Mr. Blevins, do you have any  
18 questions for this witness?

19 MR. BLEVINS: I do, I think.

20 QUESTIONS

21 BY MR. BLEVINS:

22 Q. Ms. Johnson, have I ever refused to do  
23 something that you've asked me to do?

24 A. That's a good question. You have not told me  
25 no, I won't do something, but there have been times you

1 haven't done it.

2 Q. Okay. Did we talk about maybe the issues  
3 involved and something of that nature that maybe there  
4 was other issues?

5 A. For some of it.

6 Q. For some reason?

7 A. Yeah. You've given me reasons sometimes, but  
8 there were others where we haven't like for the lab fees.

9 Q. The what fees?

10 A. The laboratory fees. You didn't really provide  
11 a reason for why you didn't pay those.

12 Q. The laboratory fees. Okay. But they are paid  
13 now, right?

14 A. Yes.

15 Q. That was brought to my attention that I think I  
16 did tell you that I forgot it or did something. My mind  
17 doesn't work in the thirties and forties, fifties or  
18 sixties any more. The other question I might have. Topo  
19 seems to be a real issue and I think in that period of  
20 time there was a lot of difficulty, the pitless, the  
21 pitless part of it. From your understanding from my  
22 inspection of the pitless, there was no damage at the  
23 pitless.

24 JUDGE CLARK: Mr. Blevins, is there a question  
25 in there?

1 MR. BLEVINS: Yes, sir, there is. I'm just  
2 trying to get up to that point.

3 JUDGE CLARK: Okay.

4 BY MR. BLEVINS:

5 Q. Did you understand that there is still an issue  
6 with the pitless or what do you understand the real  
7 problem was that was discovered and who discovered it?

8 A. I understand that when the well failed you did  
9 some investigation to figure out why, and at that point  
10 in order to see the pitless that must be when you  
11 excavated since it's below the ground. But the way I  
12 understand it is that the well is not functional because  
13 of that crack that went around the casing which allowed  
14 the pump and the pipe to fall down into the well.

15 Q. Okay. You've probably been provided with some  
16 erroneous information.

17 MS. KERR: Objection.

18 MR. BLEVINS: The question is --

19 JUDGE CLARK: There's an objection made,  
20 Mr. Blevins. Go ahead.

21 MS. KERR: He's testifying again.

22 JUDGE CLARK: She's right.

23 MR. BLEVINS: I don't mean to testify. I'm  
24 sorry.

25 JUDGE CLARK: Okay. That objection will be

1 sustained. If you have a question, you're welcome to ask  
2 questions. You will have an opportunity tomorrow to  
3 choose to testify to tell us whatever you would like to  
4 tell us in regard to what you discovered or believe.

5 MR. BLEVINS: No further questions. Thank you.

6 JUDGE CLARK: I want to clarify I'm not trying  
7 to stop you from asking questions. If you have  
8 questions, I want you to ask them.

9 MR. BLEVINS: I'll just wait until tomorrow. I  
10 understand what you're saying, sir.

11 JUDGE CLARK: This witness will not be back on  
12 the witness stand.

13 MR. BLEVINS: I understand that also.

14 JUDGE CLARK: Okay. Any questions from the  
15 Commission? I hear none. I don't have very many for  
16 you. I do have one. You answered -- A lot of the ones I  
17 made notes on you actually answered as we went through  
18 which is good.

19 QUESTIONS

20 BY JUDGE CLARK:

21 Q. But if you cap both unused wells right now, the  
22 Topo because it collapsed and the Charity one that is  
23 just not being used and is unnecessary, where does that  
24 place the rest of those three systems in terms of safety  
25 of the customers using that water?



1           A.    The purpose of plugging the well would be to  
2    try to give them the best chance for safety.  I mean,  
3    obviously other things can go wrong with the other wells,  
4    but for now if there's a well that's not being used and  
5    not being properly maintained, that is a potential risk  
6    to the drinking water and especially if they're connected  
7    to the distribution system.  And it's actually built into  
8    the regulations.  I think it's 10 CSR 23-3 covers well  
9    construction and the abandonment of wells.  And so if a  
10   well is not going to be used, especially if the pump is  
11   removed, then there are rules for how long that well can  
12   just be essentially abandoned before it has to be plugged  
13   anyways.  And so rather than waiting for that time to  
14   occur -- Like for the Topo Drive well when we met in  
15   person at the beginning of October, Mr. Blevins told me  
16   it is not a priority for him to fix it.  He said it more  
17   than once.  I repeated it back.

18           Q.    Say that again to me.  What's not a priority  
19   for Mr. Blevins?

20           A.    Repairing the Topo Drive well.  So if it's  
21   going to remain nonfunctional, a potential risk, then  
22   we're going to ask that it be plugged.

23           Q.    Okay.  Back to my question.  I'll reword it a  
24   little bit differently.  So if those two wells are  
25   appropriately plugged and setting aside I'm not going to

1 call them non-safety issues but not direct water safety  
2 issues such as testing fees and such or lab fees as you  
3 indicated, how does that put the safety of those systems?  
4 Does that resolve a majority of the issues or does that  
5 just resolve those issues with the majority of the safety  
6 issues outstanding?

7 A. Okay. Thank you for that clarification. It  
8 would be the latter. So these are sort of adjacent  
9 issues to the things that we've already identified in the  
10 inspection reports. So ~~these~~ these are known things that need  
11 to be taken care of but are sort of outside of the main  
12 priority of the noncompliant well agreement for all three  
13 systems and specifically addressing the issues at Misty  
14 Mountain related to the Topo Drive well.

15 Q. Say that last part again, please.

16 A. So we have the three noncompliant well  
17 agreements which will address being able to continue  
18 using wells that were not built to standards. They  
19 include requirements in case there are issues with the  
20 safety of those samples that are taken from those wells,  
21 and then the Topo Drive well is going to be kind of  
22 outside of that noncompliant well agreement. We're not  
23 considering using that again in the future that that well  
24 would be plugged. So as far as the safety of the system  
25 going forward, Topo Drive would be removed from the

1 equation and then the extra well that's at Charity that's  
2 not in use and not functional would also be taken out.

3 Q. I guess at least in terms of the Misty Mountain  
4 system for those customers that were receiving water from  
5 the Topo well, would they then moving forward be  
6 permanent recipients of water from the Pulaski system?

7 A. Yes.

8 JUDGE CLARK: Okay. Thank you. I don't have  
9 any other questions at this time. Are there any  
10 questions based upon bench-questions?

11 MS. KERR: No.

12 JUDGE CLARK: Mr. Blevins?

13 MR. BLEVINS: One moment. Do you consider the  
14 Topo well a priority?

15 THE WITNESS: Yes.

16 MR. BLEVINS: Okay. A priority to be plugged  
17 or to be fixed?

18 THE WITNESS: I don't know how viable it is to  
19 fix that well.

20 MR. BLEVINS: Okay. No further questions.  
21 Thank you.

22 JUDGE CLARK: Any redirect from Staff?

23 MS. KERR: No.

24 JUDGE CLARK: Thank you, Ms. Johnson. You may  
25 step down.