

1 no longer an issue.

2 Page 23, the changes that were made
3 there are basically in compliance with your ruling or
4 it dealt with OSSF.

5 I would reurge the allowance of both the
6 evidence on Page 16 as well as what you previously
7 struck on 23 based upon the qualifications that
8 Mr. Stowe has just testified on.

9 JUDGE NORMAN: Now, you're talking about
10 Pages 16 and 23. Is that right?

11 MR. RODRIGUEZ: Yes, sir.

12 JUDGE NORMAN: Okay.

13 MR. RODRIGUEZ: Based upon the testimony
14 that Mr. Stowe just provided.

15 JUDGE NORMAN: Okay.

16 MR. RODRIGUEZ: And on Page 24 and 25,
17 you can see some deletions there.

18 JUDGE NORMAN: Right.

19 MR. RODRIGUEZ: So --

20 JUDGE NORMAN: Okay.

21 MR. RODRIGUEZ: In addition, we've
22 removed Schedule JES-E, which dealt with the
23 comparison of the sewer rates, and also Attachments
24 JES-8, 9, 10, 11 and 12 have been removed because
25 those all dealt with on-site septic facilities.

1 JUDGE NORMAN: Right. Okay. All right.

2 MR. RODRIGUEZ: So at this point, Your
3 Honor, we would reurge Mr. Stowe's ability to testify
4 on the matters that were previously struck on 23. And
5 you allowed me an opportunity --

6 JUDGE NORMAN: I did.

7 MR. RODRIGUEZ: -- to prove up on
8 Page 16, the testimony beginning at Line 1 through 11,
9 and I would reurge the allowance of that testimony.

10 JUDGE NORMAN: And then there's on
11 Page 16 also --

12 MR. RODRIGUEZ: Yes.

13 JUDGE NORMAN: -- there's Lines 17
14 and 18?

15 MR. RODRIGUEZ: Yes, sir.

16 JUDGE NORMAN: An then on Page 23 --

17 MR. RODRIGUEZ: On Line 23, the Lines 14
18 through 15, we're comfortable with that remaining
19 struck or stricken.

20 JUDGE NORMAN: Okay.

21 MR. RODRIGUEZ: The question on Line 2
22 as well as the answer on Line 5 --

23 JUDGE NORMAN: Right.

24 MR. RODRIGUEZ: -- we would reurge its
25 offering.

1 JUDGE NORMAN: Okay. And then on
2 line -- on Page 24, Line 20 through Line 4 on Page 25.
3 Correct?

4 MR. RODRIGUEZ: Yes, sir.

5 JUDGE NORMAN: All right. And so you're
6 reurging that testimony on the basis of his foundation
7 this morning?

8 MR. RODRIGUEZ: On the basis of the
9 foundation just laid.

10 JUDGE NORMAN: Mr. Carlton?

11 MR. CARLTON: I think we just reurge our
12 motions.

13 JUDGE NORMAN: Okay.

14 MR. CARLTON: I would point out I'm
15 confused on Page 24 because that answer all relates to
16 wastewater.

17 MR. RODRIGUEZ: Yeah, I would agree with
18 that, Your Honor. That's fine.

19 MR. CARLTON: It doesn't matter. I
20 don't care.

21 MR. RODRIGUEZ: Yeah, I do -- yeah, and
22 that's fine --

23 JUDGE NORMAN: So you want to leave that
24 struck?

25 MR. RODRIGUEZ: -- if 24 remains,

1 beginning on Line 17 going on to the next page of 25.
2 I'm fine with that remaining.

3 JUDGE NORMAN: All right. So we're just
4 looking at Page 16 then?

5 MR. CARLTON: And 23. I think the
6 "environmental and" was the language that you struck
7 from the question and the --

8 MR. RODRIGUEZ: Those were the only two,
9 and the answer.

10 JUDGE NORMAN: That's right. So that's
11 what we're looking at. And so you just want to reurge
12 your objections basically?

13 MR. CARLTON: Yes.

14 MR. RODRIGUEZ: So if I can make the
15 record clear, what we're reurging is Page 16, Lines 1
16 through 11, and --

17 JUDGE NORMAN: 17 and 18.

18 MR. RODRIGUEZ: -- Lines 17 and 18 on
19 Page 16.

20 JUDGE NORMAN: Okay.

21 MR. RODRIGUEZ: Line 23, the addition on
22 Line 2 of "environmental and" before the word
23 "economic"; on Line 5 the additions of the word
24 "environmental and" before "economic" --

25 JUDGE NORMAN: Okay.

1 MR. RODRIGUEZ: -- on those pages, Your
2 Honor.

3 JUDGE NORMAN: All right. So, okay.
4 And, Mr. MacLeod, what's your position?

5 MR. MacLEOD: We don't believe there's
6 any reason to believe that evidence should be
7 excluded. It seems probative.

8 JUDGE NORMAN: You do not believe it
9 should be excluded, or you do?

10 MR. MacLEOD: We think it should be
11 admitted.

12 JUDGE NORMAN: Okay. Okay. I'm going
13 to admit the evidence.

14 MR. RODRIGUEZ: Thank you, Your Honor.

15 Mr. Stowe -- and we will conform the
16 copies -- in the copies here what's been stricken --
17 by your rulings have been stricken, but we will
18 provide replacement pages for that, Your Honor --

19 JUDGE NORMAN: All right.

20 MR. RODRIGUEZ: -- both in the record
21 set as well as in the appeal set.

22 JUDGE NORMAN: Okay.

23 Q (BY MR. RODRIGUEZ) Mr. Stowe, you've heard
24 all the changes that were made to your testimony this
25 morning.

1 A Yes, sir.

2 Q And you're the same Jack Stowe that filed
3 prefiled testimony on June 9, 2008, which has since
4 been updated today. Is that correct?

5 A That's correct.

6 Q And that's marked as Applicant's Exhibit 4?

7 A That's correct.

8 Q Now, with the changes that we just discussed,
9 Mr. Stowe, if I asked you those questions today, would
10 your answers be the same?

11 A Yes, they would.

12 Q Okay. Pending the changes that were made?

13 A I understand the changes that were made to
14 it.

15 Q Okay. And you're comfortable with them?

16 A I understand the changes that were made.

17 (Laughter)

18 JUDGE NORMAN: All right. And that is
19 your testimony?

20 Q (BY MR. RODRIGUEZ) And that is your
21 testimony?

22 A That is my testimony.

23 JUDGE NORMAN: All right.

24 MR. RODRIGUEZ: At this point, we move
25 for admission of Applicant's Exhibit 4.

1 JUDGE NORMAN: Okay. And except for the
2 objections already made and noted, any other
3 objections?

4 MR. MacLEOD: No.

5 JUDGE NORMAN: No?

6 MR. CARLTON: No.

7 JUDGE NORMAN: Okay. Mr. Stowe, you've
8 expressed opinions, I think, in your testimony, have
9 you not?

10 A Yes, sir, I have.

11 JUDGE NORMAN: And they were based on
12 outside sources, were they not?

13 A Yes, sir.

14 JUDGE NORMAN: Okay. Are the bases of
15 your opinion of a type reasonably relied upon by
16 people with your expertise in your field -- in your
17 particular field in forming opinions or inferences
18 upon the subject that you've testified about?

19 A Yes, sir.

20 JUDGE NORMAN: Okay.

21 A The information is commonly used within my
22 field.

23 JUDGE NORMAN: All right. Thank you. I
24 admit it.

25 (Exhibit APP No. 4 admitted)

1 MR. RODRIGUEZ: Thank you, Judge.

2 JUDGE NORMAN: Okay.

3 Q (BY MR. RODRIGUEZ) Mr. Stowe, at this point,
4 the --

5 MR. CARLTON: Just a clarification
6 question. I'm sorry. I realize you're admitting it.
7 At the prehearing conference, you had -- there was a
8 number of these you had just said "not for the truth,
9 but for the basis of showing his opinions."

10 JUDGE NORMAN: Same ruling.

11 MR. CARLTON: Great.

12 JUDGE NORMAN: Same ruling, right.

13 MR. CARLTON: Okay.

14 Q (BY MR. RODRIGUEZ) Mr. Stowe, at this point,
15 His Honor would like a narrative summary of what your
16 testimony contains.

17 A Your Honor, I'd be glad to do so, and I will
18 try. With the changes that have been made to the
19 testimony, I've had to make some changes in my
20 summary.

21 JUDGE NORMAN: Yeah, don't worry about
22 it if you overlap.

23 A And I hope the continuity is still there, but
24 basically my services were engaged by the City of
25 Lindsay to analyze, under TAC or Texas Administrative

1 Code Chapter 30, 291.102, the requirements that must
2 be met by the applicant in filing for an amendment to
3 a CCN.

4 And in summary -- to summarize those,
5 they can basically be classified in three primary
6 areas: Financial, managerial and technical.
7 Mr. Maroney handled the managerial and technical
8 aspects of that particular rule. I'm here to address
9 the financial aspects as required by the rule and my
10 assessment of the City of Lindsay's financial
11 capability and stability to provide continuous and
12 adequate water service into the area that's being
13 requested.

14 I am pleased to sit here today in light
15 of the financial crisis that this nation finds itself
16 to have a beacon of light up here in North Texas,
17 Cooke County, such as the City of Lindsay.

18 JUDGE NORMAN: Oh. I was wondering when
19 you said you're pleased to sit here, I'm a little
20 uncomfortable sitting here myself.

21 (Laughter)

22 A I am pleased to report there is a beacon of
23 light, perhaps a lesson we can all learn, from the
24 City of Lindsay --

25 JUDGE NORMAN: Okay.

1 A -- taking a conservative approach to their
2 fiscal responsibilities.

3 One of the measures that's even --
4 that's relied upon in my profession is the
5 debt-to-equity ratio to measure the financial risk
6 associated with the utility operation or any business
7 operation for that matter. In fact, that particular
8 measure is so noteworthy that it's even quoted
9 specifically within 291.102 to be looked at.

10 And for the city operations, I have
11 found that the City of Lindsay has basically zero
12 debt. This is a 100 percent self-funded operation,
13 city government, at this particular time as of
14 December -- I'm sorry -- September 30, 2007. And for
15 a timeframe reference, my analysis occurred from 2004
16 to 2007 using the audited financial statements of this
17 city.

18 In the utility operations, the
19 debt-to-equity ratio has ranged from .51 to .28. And
20 to put that in perspective, if we're at 1.0, that
21 means we have 50 percent debt employed and 50 percent
22 equity employed, so that the lower -- the percentage
23 means the less debt that we have. And to put that in
24 maybe a clearer picture is that in this four-year
25 period, the equity of Lindsay's utility operation has

1 ranged from 66 percent to 78 percent.

2 In fact, the only outstanding debt that
3 they have at this point in time is really not a debt
4 instrument at all. It's a surrogate debt, which is a
5 capital lease for a water well, that was put in place
6 in 1995 and is due to mature in the year 2015. So,
7 therefore, looking at these ratios, we find that
8 there's a very, very, very low financial risk.

9 But there's other measures that are
10 worthy to be analyzed, and one would be what we call
11 the working capital ratio. It's also referred to as
12 the current ratio. And that ratio is one that says
13 current assets to current liabilities, what's my
14 ability within the next 90 days or so to pay my bills.
15 And what we find at the city level, city operations,
16 they are demonstrating a current ratio of basically
17 nine to one. Utility operations are eleven to one.
18 So in other words, we have eleven times assets what we
19 have current liabilities, and we're talking liquid
20 assets, assets that can be converted to cash quickly.

21 In my industry, when we find one at two
22 to one, a ratio of two to one, we see that as a strong
23 measure at two to one. So obviously when we're
24 looking at nine and eleven to one, we have a very,
25 very strong financial position.

1 Another item that I look to is positive
2 cash flow, and this company -- this utility operation
3 and the city, for that matter, has demonstrated annual
4 cash flows in excess of \$100,000. Obviously part of
5 the contribution to your cash flow is the fact that
6 depreciation is constructed within rates. So that is
7 providing some of that cash flow. So if we take the
8 depreciation out of the cash flow, they're still
9 netting something in the neighborhood of 60 to \$70,000
10 annually, generating enough cash not only to replace
11 their assets, as they require replacement, but also
12 positioning itself for future growth.

13 Cash reserves is another one, especially
14 in today's market. The ability to go out and obtain
15 financing is not going to be like it's been. In fact,
16 the City of Arlington had to withdraw a public
17 offering. The City of Corpus Christi has just
18 withdrawn a public offering. The Dallas Water
19 Utilities has just put commercial paper out on the
20 market that was not taken up. So it's not going to be
21 business as usual, and the better you are in a cash
22 reserve basis, the better you're going to be.

23 MR. CARLTON: Your Honor?

24 A To see --

25 MR. CARLTON: Your Honor, if I could

1 object? And I apologize, Mr. Stowe, for interrupting
2 you.

3 THE WITNESS: Sure.

4 MR. CARLTON: But I'm not sure that all
5 this is within his testimony.

6 JUDGE NORMAN: Right, right.

7 MR. CARLTON: And I think we're
8 intending to have a summary.

9 JUDGE NORMAN: That's more of a summary
10 of the testimony.

11 MR. CARLTON: Yeah.

12 JUDGE NORMAN: It's interesting, what
13 you're saying.

14 MR. CARLTON: It is very. And I
15 apologize, Mr. Stowe, but in an effort to keep the
16 evidence on direct limited to --

17 JUDGE NORMAN: Right. Okay.

18 MR. CARLTON: -- what's in the
19 testimony.

20 THE WITNESS: I'll shorten it up a
21 little bit or try to --

22 JUDGE NORMAN: Okay.

23 THE WITNESS: -- although this is
24 specifically -- the cash reserve of the city is
25 currently at 700,000. The cash reserve of the utility

1 is about 600,000.

2 Final recourses is another item that we
3 look to. I mention in my testimony revenue bonds,
4 certificate of obligations, which is often referred to
5 as a double-barrel bond, general obligation bonds. I
6 talk about the taxing capacity of the city to support
7 debt, developer contributions we talked about.

8 It was mentioned yesterday, I believe,
9 by the TCEQ staff or perhaps Mr. Maroney, grant funds
10 availability through a city.

11 Finally, how do we compare, what do our
12 rates look like? And I've updated the testimony to
13 reflect the 2008 rate increase that was -- that became
14 effective October 1, 2008. And basically the city
15 ranks in the bottom 25 percent of the lowest most
16 affordable rates for cities 2,000 and under, about
17 281. I believe their ranking was in the 60 and 70
18 position based on five and 10,000 gallons.

19 So in my opinion, this city is -- and
20 its utility operations have demonstrated prudent
21 fiscal responsibility for the public funds that
22 they're in charge with and are positioned well to
23 provide continuous and adequate service into the
24 requested area.

25 MR. RODRIGUEZ: I tender the witness for

1 cross-examination.

2 JUDGE NORMAN: Mr. MacLeod?

3 CROSS-EXAMINATION

4 BY MR. MacLEOD:

5 Q Mr. Stowe, as a city, can Lindsay supplement
6 its water budget with funds other than those collected
7 by rates in order to keep water rates down?

8 A In order to keep water rates down?

9 Q Yes.

10 A They could -- they could do it through grant
11 funding. They could do it through a transfer from the
12 general fund from the tax revenues of the city. Those
13 would be primarily the only funding sources that come
14 to mind that would help keep rates down. Obviously if
15 they issued new debt, that potentially, not
16 necessarily, but that would perhaps require an
17 increase in rates to service that debt.

18 But as far as to keep rates down or hold
19 rates down, obviously they have general fund revenues
20 available to them if they chose to use those, and they
21 also have the grant funding applications that they
22 could make.

23 Q So if the city needed to build a new plant
24 for remote areas or had to pay for long extension
25 lines, pump stations, elevated storage and the like,

1 could it be financed through these other sources
2 rather than rates?

3 A Actually, the numbers that were talked about
4 yesterday, they could finance it with -- they wouldn't
5 have to finance it. They have the cash on hand to pay
6 for it. So they could pay for that and not have to
7 increase rates at all.

8 Q Do you know if it would be cheaper -- you
9 were here when the testimony was given yesterday about
10 serving the remote areas and potential costs. You
11 heard that testimony. Is that right?

12 A That's correct.

13 Q Do you have an opinion on whether or not it
14 would be cheaper to build a local plant to serve those
15 remote connection areas if the CCN were granted?

16 A No, I have not done a study to that and don't
17 know. I know the only numbers I've seen were talked
18 about yesterday and in the deposition of Mr. Myrick.
19 I hope I'm pronouncing that right. If I'm not,
20 correct me. But in the deposition of Mr. Myrick, I
21 think he identified the Lindsay Pure Water Company
22 would have to expend something like \$350,000 to
23 service the remote areas.

24 Q Well, if it were cheaper, again, could the
25 city finance that local plant with these other sources

1 of money, including cash reserves?

2 A Yes, uh-huh.

3 Q Now, if the city were awarded the CCN and it
4 received a request for service from a qualified
5 applicant, do you know how long the city has before
6 they can provide service? Do you know how long they
7 have to respond to a request to provide service?

8 A I know it's covered, but I don't know
9 specifically off the top of my head.

10 Q If I were to say that Rule 291.85(b) of the
11 TCEQ rules said you had to provide it within 180 days,
12 would that seem square with your --

13 A I could go along with that. I mean, I know
14 it would be -- I knew it was less than a year.

15 MR. MacLEOD: Pass the witness.

16 CROSS-EXAMINATION

17 BY MR. CARLTON:

18 Q I have a couple of questions, Mr. Stowe.
19 Page 16 of your testimony, Lines 19 through 21, you
20 state that as an example of reliability of water
21 service that if a water well malfunction occurs,
22 somebody could be out of water. And I want to make
23 sure that I understand that that example you're giving
24 is purely for a single-family residence, somebody
25 that's got their own well?

1 A That's for a private well.

2 Q Okay. So you weren't talking about, for
3 example, Lindsay Pure Water's well going down and
4 those folks in that subdivision being out of water?

5 A No. My testimony is addressing the service
6 area that's been applied for where Lindsay Pure Water,
7 the investor-owned utility, does not have wells in
8 that area or service. And that area currently, as my
9 testimony states, is being serviced by private wells.

10 Q Okay.

11 A So if their well goes down --

12 Q I just want to make the record clear that
13 this opinion here isn't -- that if Lindsay Pure
14 Water's well goes down, then those folks would be out
15 of water?

16 A I don't believe that they're servicing in the
17 area that we've requested. So, no, that's not --

18 Q All right. So let's turn then to Page 23
19 because that's the other thing that I wanted to clear
20 up. Page 23, Lines 21 through 23, at the bottom of
21 that page. And you say "According to the city's
22 application, there are no other utilities providing
23 service in the requested area."

24 Now, when you reached this opinion, did
25 you do any independent looking or verification to find

1 out whether or not Lindsay Pure Water Company was
2 serving outside of its CCN?

3 A No, not when I made this statement.

4 Q Okay. So if, in fact, Lindsay Pure Water is
5 serving within that quarter mile outside its CCN, this
6 statement would be inaccurate?

7 A If there's evidence that shows that
8 obviously. This statement, though, would not be --
9 the statement is not inaccurate because the statement
10 reads in the testimony "According to the city's
11 application."

12 Q Okay. All right. Well, then if you found
13 out that Lindsay Pure Water was providing service
14 within that quarter mile, then would your opinion
15 still be that there's no impact to other retail public
16 utilities?

17 A My testimony today, as we sit here, there may
18 or may not be based on the deposition I've read of
19 Lindsay Pure Water.

20 Q All right. Well, assume with me Lindsay is
21 providing service within a quarter mile of its CCN and
22 outside its CCN boundary. Would there be an impact to
23 Lindsay?

24 A Maybe, maybe not.

25 Q Okay.

1 JUDGE NORMAN: For granting the CCN?

2 MR. CARLTON: Right.

3 JUDGE NORMAN: Okay.

4 MR. CARLTON: And today I really meant a
5 couple of questions.

6 JUDGE NORMAN: Okay. Good deal.

7 MR. CARLTON: Pass the witness.

8 JUDGE NORMAN: Anything further?

9 REDIRECT EXAMINATION

10 BY MR. RODRIGUEZ:

11 Q Mr. Stowe, you were here earlier when the
12 Judge was asking for some testimony regarding one of
13 the factors that are contained in CCNs. Correct? You
14 were here when he asked that?

15 A Yes, sir.

16 Q Can you please -- and Mr. Carlton hit on
17 actually the question that I believe the Judge was
18 going toward or the factor the Judge was requesting
19 there on Page 23 of your testimony. When you say
20 "maybe or maybe not" that there might be an impact --

21 A Right.

22 Q -- on Lindsay Pure Water --

23 A Based on the evidence I've reviewed.

24 Q Can you please explain that?

25 A Yes. It's my understanding that when Lindsay

1 Pure Water, the investor-owned utility, when they
2 filed for their CCN, they were granted a CCN for
3 basically what is Phase I and Phase II of the -- I
4 believe it's Lindsay South Ridge.

5 JUDGE NORMAN: Okay.

6 A So to the extent that -- and currently within
7 Phase I and Phase II, it's my understanding that each
8 of those phases contained 15 lots. So it would be --
9 if anything is outside the CCN, it would be Phase III
10 of the development by the IOU.

11 The Phase III then would have to be
12 where these connections -- and it's my understanding
13 Phase III, based on the deposition, was completed in
14 the year 2006, and it's basically moved along pretty
15 good as far as the sale of lots.

16 I also understand by the deposition that
17 there's 25 to 26 actual water connections. We're not
18 talking lot sales, but we're actually talking
19 connected water customers. So to the extent there's
20 25 or 26, then some of those would have to be in
21 Phase III to be into the quarter mile, if I understand
22 from the deposition that the existing CCN covered
23 Phases I and II.

24 Now, when I say "maybe and maybe not,"
25 when I look at the testimony that Lindsay Pure Water,

1 the investor-owned utility, has operated at a loss
2 since its inception in the 1997-1998 timeframe and
3 only recently, according to the deposition, began to
4 break even was the term used. Well, if we have no
5 debt on the system, which I believe was also the
6 deposition, and we're only covering variable costs,
7 then to the extent that we were to lose a connection,
8 then -- and if we're losing money or barely breaking
9 even, there would be no impact financially upon the
10 system.

11 JUDGE NORMAN: Okay.

12 A So basically that's why I say just with what
13 I have right now, I'm not saying that is the case, but
14 I have a strong indication that that could be the case
15 based on the testimony of the president of the IOU.

16 Q (BY MR. RODRIGUEZ) Now, Mr. Stowe --

17 JUDGE NORMAN: I want to ask you a
18 question on that, though. There are fixed costs as
19 well as variable costs that are spread over each
20 connection. Is that true?

21 A To the extent that -- there are some fixed
22 costs, and that fixed cost right now, according to the
23 testimony since there's no debt, would only be for the
24 contract operator. So, yes, his fixed cost, whatever
25 that may be, unless he's charging his contract by

1 connections, which a lot of these contractors do. If
2 he's charging his contract costs by connections, then
3 if you lose a connection, you lose that associated
4 cost.

5 JUDGE NORMAN: Okay.

6 Q (BY MR. RODRIGUEZ) Now, Mr. Stowe, can you
7 please describe for the Judge what would be the impact
8 on Lindsay Pure Water or any other retail public
9 utility if Mr. Myrick's 42 acres are excluded from the
10 requested service territory of the City of Lindsay?

11 A Actually, Mr. Rodriguez, I haven't looked
12 specifically to that 42 acres. I mean, I can't answer
13 your question at this time.

14 Q Okay.

15 JUDGE NORMAN: Well, I'd like it asked
16 both in terms of Pure Water and also town of
17 Lindsay -- City of Lindsay.

18 Q (BY MR. RODRIGUEZ) Would there be any impact
19 on Lindsay Pure Water if the 42 acres that Mr. Myrick
20 owns that's not within Lindsay Pure Water Company's
21 CCN, would there be any impact on the company Lindsay
22 Pure Water if that -- if Lindsay's CCN is granted for
23 that territory?

24 MR. RODRIGUEZ: I believe that's the
25 testimony you were seeking. Correct?

1 JUDGE NORMAN: And I think he answered
2 that question.

3 MR. RODRIGUEZ: Okay.

4 JUDGE NORMAN: But I'd like to know the
5 impact on everyone, also town of Lindsay -- City of
6 Lindsay.

7 MR. RODRIGUEZ: All right.

8 Q (BY MR. RODRIGUEZ) Do you have an opinion
9 with respect to that area, the 42 acres, Mr. Myrick
10 owns -- I mean, yes, that if the City of Lindsay seeks
11 that area, what would happen if we were unable to be
12 certificated to that area?

13 A Could I ask --

14 JUDGE NORMAN: Sure.

15 A -- a clarifying question? The 42 acres, are
16 we talking the 42 acres of the original 100 acres --

17 Q (BY MR. RODRIGUEZ) Yes, sir.

18 A -- and he thought that he had a CCN, but he
19 finds out now that he doesn't have a CCN?

20 Q That's my understanding.

21 (Simultaneous discussion)

22 JUDGE NORMAN: I think that's it.

23 MR. RODRIGUEZ: That's my understanding.

24 JUDGE NORMAN: Phases I through IV, I
25 think. Is that right?

1 A I understand what the 22 acres is now.

2 MR. CARLTON: Yeah, I think Mr. Myrick's
3 testimony is there's 42 acres in Phases III and IV.

4 JUDGE NORMAN: Okay. In addition to the
5 acreage in I and II?

6 MR. CARLTON: In addition to Phases I
7 and II, which are from the maps at TCEQ apparently in
8 the CCN.

9 JUDGE NORMAN: All right.

10 MR. CARLTON: Even though when he filed
11 the application, he felt like -- he recalls filing for
12 the whole 96 acres and doesn't know why the map was
13 issued.

14 JUDGE NORMAN: Right.

15 MR. CARLTON: It's been some time ago.

16 Q (BY MR. RODRIGUEZ) Okay. And I appreciate
17 the clarification with Mr. Carlton, but with that
18 being the understanding, can you please detail what
19 the impacts would be on Lindsay's CCN to both the City
20 of Lindsay, Lindsay Pure Water Company and for any
21 other retail public utility in the area?

22 A Yes. On behalf of -- let me first address
23 the IOU, the investor-owned. It's my understanding
24 that the investor-owned utility does have
25 infrastructure ready to go in in place in Phase IV.

1 It obviously has infrastructure in place in Phase III.

2 Now, regardless of whether there's a
3 financial impact from continuing operations, there is
4 an investment, I think, that --

5 JUDGE NORMAN: Yes.

6 A -- needs to be recognized. And whether or
7 not -- if it's not granted, his investment stays in
8 place. If it is granted, in my opinion, there has to
9 be accommodations of some sort for that investment --
10 recognition of the investment that's there.

11 As for Lindsay, obviously the impact, if
12 they're granted, that particular area, the service
13 would have to be extended or the facilities that are
14 in the ground utilized and -- so there would be an
15 extension cost out to that area at some point in time.

16 JUDGE NORMAN: You mean beyond on the
17 other side -- on the south of --

18 A Right.

19 JUDGE NORMAN: -- South Ridge?

20 A Right. That's my understanding.

21 JUDGE NORMAN: All right.

22 A But have I looked at it specifically to
23 say -- to quantify that impact?

24 JUDGE NORMAN: Yes.

25 A No, sir.

1 JUDGE NORMAN: Okay. And, of course,
2 you know, I want the parties' positions on these
3 various alternatives, too, at some point.

4 Q (BY MR. RODRIGUEZ) I'm going to ask you the
5 final area that we want to cover with respect to the
6 redirect here based on what the Judge requested
7 earlier. If the City of Lindsay is not certificated
8 to its requested service territory south of
9 Highway 82 -- and you know which area I'm talking
10 about?

11 A Yes.

12 Q Let me ask, do you know what area I'm talking
13 about?

14 A Yes.

15 Q Can you please detail what the impact might
16 be on both the City of Lindsay, the Lindsay Pure Water
17 Company and any other retail public utility near that
18 area?

19 A Let me look -- could I look at a map?

20 JUDGE NORMAN: Sure. Please.

21 (Discussion off the record)

22 JUDGE NORMAN: And I already know the
23 parties' positions on cutting out south of 82.
24 Mr. Myrick is for it, the City of Lindsay is against
25 it. So we don't need to go into that, but I would

1 like to know as far as the other two alternatives --
2 and I'm particularly speaking of impact on Pure Water
3 and any other public utility, not necessarily on
4 Mr. Myrick's investment, just looking at the impact on
5 Pure Water. Okay?

6 A Excuse me, Your Honor?

7 JUDGE NORMAN: You were talking about
8 honoring Mr. Myrick's investment, and I did not see
9 that that's a legal standard that I'm supposed to look
10 at, but there is -- I am supposed to look at the
11 impact on another retail public utility --

12 A Yes, sir.

13 JUDGE NORMAN: -- and that is Pure
14 Water. And they may be one and the same, you know.
15 The investment may be in Pure Water itself, and so
16 they may be one and the same. I don't know. But
17 that's what I'm interested in is those legal standards
18 that I'm supposed to look at. Okay?

19 Q (BY MR. RODRIGUEZ) Do you need me to repeat
20 my question, Mr. Stowe?

21 A You can repeat it, and then I'll answer it.

22 Q Mr. Stowe, one of the areas that His Honor
23 this morning had requested some additional testimony
24 on was related to the effect of Lindsay's application
25 on other retail public utilities. Can you please

1 detail what the effect would be on the town of
2 Lindsay, Lindsay Pure Water Company and any other
3 retail public utility? First of all, let's go with
4 what is the effect on the town of Lindsay if it
5 receives the certificate south of Highway 82?

6 A Well, the effect is going to be -- and this
7 will be subject to engineering requirements to extend
8 and provide service, which I'm not an engineer. But
9 obviously the effect is going to be, number one, on
10 their available excess capacity right now and how much
11 they can capitalize on it. That's going to be the
12 same effect as pure -- the investor-owned utility to
13 the extent they have excess capacity. It's going to
14 be the distance of the lines that have to be extended.
15 So really that's more of an engineering question, I
16 think.

17 Now, I can answer it from a governmental
18 standpoint, is that granting the CCN to Lindsay, the
19 City of Lindsay will put that area under their
20 regulatory control for the quality of the
21 infrastructure and the standards to be employed,
22 assuming -- which we have to assume this city --
23 currently there's been testimony about and because of
24 the size of the city -- there's been testimony about
25 voluntary annexations.

1 There's a requirement within some of the
2 ordinances that have been discussed that with service
3 is a request for annexation. At some point in the
4 future, maybe not that far away, this town will be at
5 5,000 people and at that point in time becomes
6 eligible to annex within -- I believe it's a mile,
7 mile and a half of their existing city lines --

8 JUDGE NORMAN: Okay.

9 A -- within their ETJ. So one of the things
10 that -- and in my point of view, a very important
11 governmental planning standard, because I've been
12 involved in a lot of these involving cities that have
13 grown from a rural community to a population above
14 5,000, when that happens and they take over the WSCs
15 or other utility operations, they are faced with
16 substandard systems that don't meet their regulatory
17 requirements, and so it creates a big problem.

18 So by granting the CCN to Lindsay at
19 this point in time, we avert this problem in the
20 future as they continue to annex and the city limits
21 continues to grow and they provide service to their
22 citizens. So from that perspective, it has a very
23 dramatic impact on the City of Lindsay.

24 JUDGE NORMAN: Okay.

25 A That impact is not present for an

1 investor-owned utility. They don't have that
2 requirement other than to provide service and try to
3 make a profit. In fact that's why they're structured
4 the way they are.

5 The City of Lindsay will not go away.
6 We don't know whether Lindsay Pure Water will go away
7 or not.

8 JUDGE NORMAN: Okay.

9 Q (BY MR. RODRIGUEZ) Mr. Stowe, what is your
10 understanding of an ability for an investor-owned
11 utility to provide utility service outside of its CCN
12 territory? Let me ask it this way: Is there a
13 distance outside of a CCN that an investor-owned
14 utility can provide service without -- without
15 expanding its CCN?

16 A The quarter mile has been kicked around, but
17 I'm not sure, as I stop here and think about it now,
18 whether or not that's applicable to an IOU or not. It
19 may be.

20 Q So --

21 A If they do so, they're doing so at extreme
22 risk to their financial investors.

23 Q And please explain that risk to financial
24 investors for me, please.

25 A Because they're putting their capital at risk

1 knowing that they don't have the ability to serve or
2 the regulatory authorization to provide service in
3 that area. And to the extent such as we have here
4 there's an application that encroaches upon that
5 quarter-mile extension, they may or may not be able to
6 protect --

7 JUDGE NORMAN: Hold on to it?

8 A -- that investment.

9 JUDGE NORMAN: Okay. And also, you
10 know, I'm asking questions that are -- you know, I've
11 thought about since we broke, and anybody can object,
12 you know, to where I'm going.

13 MR. CARLTON: That's bad form.

14 (Laughter)

15 MR. RODRIGUEZ: I doubt you're going to
16 get much objection.

17 JUDGE NORMAN: Really, but -- I mean, I
18 do want to state that.

19 MR. CARLTON: Art, what are the odds on
20 the chance of getting success with him?

21 (Laughter)

22 JUDGE NORMAN: Just matters that
23 occurred to me, you know, after listening to the
24 testimony and looking at the standards again.

25 MR. CARLTON: I appreciate that.

1 JUDGE NORMAN: All right. I don't want
2 to mess up your case or direct your case. All right.

3 MR. RODRIGUEZ: Actually, I'm going to
4 pass the witness based on that.

5 JUDGE NORMAN: Okay. Mr. MacLeod?

6 RECROSS-EXAMINATION

7 BY MR. MacLEOD:

8 Q I believe part of your testimony was that the
9 city would rather have the CCN because sometimes a
10 city might be able to have to take in a substandard
11 system -- is that right -- and that can be a problem?

12 A That's happened in the past, yes.

13 Q But in your prefiled testimony, there's no
14 indication given that Lindsay Pure Water is
15 substandard. Is that right?

16 A According --

17 Q According to your prefiled, you don't have
18 any testimony showing that it was substandard, do you?

19 A As stated in my prefiled, based upon the
20 application, there was no utility -- other utility
21 operation within the area that we were -- that the
22 city is requesting.

23 Q Okay.

24 A So there would not be any testimony towards
25 that point.

1 Q So you're not indicating in any way that
2 Lindsay Pure Water is substandard? I just want to
3 make that clear.

4 A I wouldn't have the pertinent professional
5 foundation. I'd rely on Mr. Maroney whether it is or
6 isn't.

7 Q Okay. Also, just one more area, just another
8 minute maybe, and that is probably less. You
9 testified something like really the only fixed costs
10 they have to deal with is their contract with the
11 operator. Doesn't depreciation somehow weigh in
12 there, too? Wouldn't that be another consideration?

13 A No, sir.

14 Q So depreciation is not a fixed cost? They've
15 got to pay regardless of how many customers they have?

16 A Depreciation isn't a cost that you pay.
17 Depreciation is a recognition of the utilization of an
18 asset that's already been paid for.

19 Q Won't they have to replace that some time in
20 the future?

21 A They may have to, yes.

22 Q Where are they going to get the money for
23 that if they aren't accounting for that depreciation?

24 A According to Lindsay Pure Water, they'll go
25 borrow the money on a line of credit.

1 MR. MacLEOD: All right. That's all.
2 Maybe Lindsay will want to expand on that just a
3 little bit. I will pass the witness.

4 JUDGE NORMAN: All right. In someplace
5 then, you know, we brought up the part about, you
6 know, the standards and so on for a private investor
7 and for a town like Lindsay. And I'd like some sort
8 of evidence or briefing on whether or not the
9 standards are the same or different for, you know, the
10 town of Lindsay and a private investor-owned water
11 utility like Pure Water.

12 MR. RODRIGUEZ: Briefing on the
13 comparative abilities to provide service outside --

14 JUDGE NORMAN: No. I want to know if
15 the -- you know, Mr. Stowe said sometimes it happens
16 that when a city expands and it expands into a
17 previously -- you know, a previous operation by a
18 private investor, they find that -- sometimes the
19 cities find that the previous operation is substandard
20 according to their standards, according to the city's
21 standards.

22 What I want to know in briefing or in
23 some fashion is is the city held to higher standards
24 than an investor-owned utility? Somebody can tell me
25 that now, if they want to.

1 MR. CARLTON: In terms of the service,
2 the capacity requirements, minimum standards for
3 operation?

4 MR. RODRIGUEZ: The TCEQ minimum
5 standards that are not --

6 JUDGE NORMAN: Right, TCEQ.

7 MR. CARLTON: 290.45 is essentially what
8 you've got there.

9 JUDGE NORMAN: Okay.

10 MR. RODRIGUEZ: If you're a public water
11 system, regardless of the type of entity, you've got
12 certain requirements to meet.

13 JUDGE NORMAN: Same standards. Is that
14 right?

15 MR. RODRIGUEZ: As far as minimum
16 standards go, that's correct.

17 JUDGE NORMAN: Okay. All right.

18 MR. CARLTON: It really is dependent
19 upon size of the system --

20 MR. RODRIGUEZ: Right.

21 MR. CARLTON: -- the only adjustment in
22 standards.

23 JUDGE NORMAN: Okay.

24 MR. CARLTON: And I do have a couple of
25 questions.

1 MR. RODRIGUEZ: Tammy can correct us if
2 we're wrong on that.

3 MS. HOLGUIN-BENTER: No, that's what we
4 were just talking about.

5 JUDGE NORMAN: Okay.

6 THE WITNESS: But the city can invoke
7 higher standards.

8 MR. RODRIGUEZ: Right.

9 JUDGE NORMAN: All right.

10 MR. CARLTON: Well, I have a couple of
11 questions --

12 JUDGE NORMAN: Sure.

13 MR. CARLTON: -- based on that.

14 JUDGE NORMAN: It's your turn.

15 MR. CARLTON: Good.

16 JUDGE NORMAN: Well -- yeah,
17 Mr. MacLeod --

18 MR. CARLTON: I think he passed.

19 JUDGE NORMAN: Yeah, yeah.

20 RECROSS-EXAMINATION

21 BY MR. CARLTON:

22 Q Mr. Stowe, I want you to assume a couple of
23 facts for me, one of which you're already stated.
24 There's 26 customers currently on the Lindsay Pure
25 Water system?

1 A Yes, sir.

2 Q I want you to assume there are seven
3 customers within Phase III.

4 A Yes, sir.

5 Q And if Lindsay Pure Water were to lose seven
6 out of its 26 customers in terms of revenue, that
7 would be a significant revenue impact to Lindsay Pure
8 Water. Correct?

9 A Well, they'd lose the revenues, I agree, but
10 they'd also lose the variable expenses being incurred
11 in support of those revenues. So it's not a
12 one-for-one offset.

13 Q I understand. And when we talk about
14 investor-owned utilities, you, I understand -- you
15 have the expertise to understand what utility basis
16 accounting is as opposed to cash flow basis?

17 A That's correct, sir.

18 Q Okay. So for an investor-owned utility,
19 recovering depreciation is an appropriate expense that
20 they should be allowed to recover in their rates.
21 Correct?

22 A That is correct.

23 Q And to the extent cash flow has been break
24 even or negative, then the utility is not recovering
25 depreciation. Is that correct? Depreciation is not a

1 cash expense?

2 A If the utility has not been recovering cash
3 on cash requirements --

4 Q Correct.

5 A -- that's correct. They would not be
6 recovering the depreciation expense.

7 Q All right. And they're entitled under the
8 TCEQ's utility ratemaking standards to recover
9 depreciation?

10 A If they're not employing the cash basis,
11 which an IOU can employ the cash basis.

12 Q Okay. And they're also entitled to recover a
13 return on their investment, which is where the profit
14 comes from in an investor-owned utility?

15 A Which obviously they have. That's why I said
16 maybe and maybe not.

17 Q Okay.

18 A If I understand this utility -- this private
19 utility has been in operation less than ten years --

20 Q Right.

21 A -- or approximately ten years, and it was
22 debt financed, and they currently have no debt. So
23 obviously the rates generate sufficient funds coming
24 through that retired the debt. So if the debt retired
25 within ten years and we have assets that are 30 years

1 long, then obviously either through accelerated
2 depreciation, which is not allowed by this Commission,
3 or through some structure they've recovered more cash
4 than what they had invested in the situation -- in the
5 utility operations.

6 So they filed a rate application back in
7 1998 that has not been looked at, has not been
8 reviewed, and the president of the company doesn't
9 know how it was formulated. So whether or not the
10 rates are just and reasonable and how much cash has
11 been siphoned off or whatever by this investor-owned,
12 I have no idea.

13 Q Okay. So -- and I appreciate the
14 explanation.

15 MR. CARLTON: I'll object to the term
16 "siphoned off" and the connotations it has.

17 Q (BY MR. CARLTON) But your point being if the
18 cash flow was sufficient to pay off the debt-financed
19 infrastructure investment and that debt is no longer
20 out there, there may be cash flow that is now
21 available to begin recovering that depreciation?

22 A There could be. I have no --

23 Q Okay. I understand.

24 A I have no idea.

25 Q What I'm getting to is the Judge had asked

1 you a question about whether Mr. Myrick should be
2 compensated for his investment or not, and he's not
3 concerned about Mr. Myrick, and I would agree with
4 that. But Lindsay Pure Water, from the standpoint
5 that it debt financed this investment on its own and
6 that it's got invested assets in the ground that
7 should be earning depreciation, it is entitled to get
8 recovery of those costs through its rates. Isn't that
9 correct?

10 A It's my understanding --

11 Q The utility is entitled to recover those
12 costs through its rates. Correct?

13 A If it has costs outstanding, which based on
14 the testimony it has paid for the investment cost
15 already.

16 Q But depreciation costs or expense it's
17 entitled to recover through its rates as well.
18 Correct?

19 A Only to the point that you recover the cost
20 of the investment. If you've already recovered your
21 cost of investment, then you're not entitled to
22 continue to depreciate an item if that item has been
23 paid for, either through accelerated or excess cash
24 flow, into paying down the investment.

25 Q But utility basis accounting allows both

1 depreciation and return on investment. Now, the
2 return on investment is determined based upon an
3 average interest rate, depending upon whether or not
4 you've invested cash or whether you've financed it.
5 Right?

6 A It's not an average interest rate, but it is
7 an average --

8 Q It's a weight --

9 A It's a rate of return, a weighted rate.

10 Q Weighted rate of return. My apologies on the
11 terminology.

12 So to the extent -- and I'm not
13 suggesting that there hasn't been depreciation being
14 recovered, but depreciation on an asset, as you said,
15 is not allowed to be accelerated under the TCEQ rules.
16 Correct?

17 A That's right. That doesn't mean it's not
18 taking place, though.

19 Q Correct. I understand. So these utility
20 assets, though, have generally a life longer than ten
21 years?

22 A That's correct.

23 Q Okay. So the utility is going to be in a
24 mode of recovering that depreciation over a period of
25 time. And if the utility loses customers and still

1 has assets out there for which it is entitled to
2 recover depreciation on a continuing basis, then its
3 rates would have to go up in order to compensate for
4 the loss of the customers. Is that correct?

5 A To the extent that there is undepreciated
6 property in comparison with the original investment of
7 the company, the funding of those investments, if the
8 rates have not generated enough money to pay off the
9 funds that were used to make the investment and
10 there's still invested funds out there associated with
11 depreciable lives beyond the ten years, yes, they're
12 still entitled to recover that.

13 Q Okay. And I would disagree with that on the
14 basis of -- could the utility have chosen to take the
15 portion of its return on investment and its
16 depreciation to accelerate the payoff of the debt?

17 JUDGE NORMAN: There's no question to
18 you.

19 MR. CARLTON: I said could the utility
20 have taken --

21 JUDGE NORMAN: Oh, okay.

22 MR. CARLTON: -- its return on
23 investment and its depreciation to accelerate the
24 payoff of the debt and then still be entitled --
25 having accelerated the payoff of the debt using funds

1 that weren't necessarily allocated for that and still
2 then be entitled in the future to recover the
3 depreciation that's continuing? Because it took its
4 cash and instead of taking it as a profit in the
5 interim, it plowed it back into the system.

6 A To the extent -- and that's what I was
7 referring to earlier. To the extent that they have
8 developed equity in the system, which would be, as you
9 say, paying off -- paying down a note with the return
10 money versus the -- and the depreciation and paying
11 down the note on the accelerated basis versus that of
12 the depreciation, yes, they would still be entitled to
13 earn not only return on that surviving equity, but
14 also the depreciation associated with that asset at
15 that point in time.

16 Q And so if the utility, from a cash flow
17 standpoint, hasn't paid off any profits to any of the
18 investors, wouldn't it be appropriate to assume that
19 all of that return on investment has been plowed back
20 into the utility --

21 A Not all of it.

22 Q -- to the extent there was any?

23 A Not all of it, I mean because we have some
24 tax issues that have to be addressed.

25 Q Appreciate all of it apart from what was used

1 to pay expenses of the utility has been plowed back
2 into the utility?

3 A To the extent that they were servicing the
4 note faster and developing equity into the system, I
5 don't disagree with you, and that's why I said earlier
6 maybe, maybe not. We'd have to look at it.

7 Q And so to the extent that customers are
8 removed from the system, that would exacerbate a
9 problem of not being able to continue to recover those
10 depreciation and return on investment expenses in the
11 future?

12 A Maybe, maybe not.

13 MR. CARLTON: Okay. Thank you. No
14 further questions.

15 JUDGE NORMAN: Okay. Mr. Rodriguez,
16 anything further?

17 MR. RODRIGUEZ: No, sir.

18 JUDGE NORMAN: Thank you. Thank you
19 very much.

20 THE WITNESS: Thank you, Your Honor.

21 JUDGE NORMAN: All right.

22 MR. RODRIGUEZ: That's our last witness
23 in our direct subject to being allowed to question the
24 witnesses on these issues that you brought up this
25 morning on our rebuttal --

1 JUDGE NORMAN: Okay.

2 MR. RODRIGUEZ: -- just not have to
3 recall them at this time, Your Honor.

4 JUDGE NORMAN: Okay. I think it's your
5 turn, Mr. Carlton.

6 MR. CARLTON: Can we take a quick
7 restroom break before we start with Mr. Myrick?

8 JUDGE NORMAN: Sure. Let's be back in
9 ten minutes.

10 (Recess: 10:10 a.m. to 10:24 a.m.)

11 (Exhibit LPWC Nos. 1, 1A, 1B, 2 through
12 7 marked)

13 JUDGE NORMAN: We're back on the record.
14 Mr. Myrick, you have been sworn.

15 MR. MYRICK: Yes, sir.

16 JUDGE NORMAN: And you're under oath.

17 MR. MYRICK: Yes, sir.

18 JUDGE NORMAN: Okay.

19 PRESENTATION ON BEHALF OF LINDSAY PURE WATER COMPANY

20 (CONTINUED)

21 JAMES MYRICK,

22 having been first duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. CARLTON:

25 Q Would you please state your name for the

1 record?

2 A My name is James Thomas Myrick. I go by Jim.

3 Q And, Mr. Myrick, do you have in front of you
4 what's been marked LPWC Exhibits 1A, 1B and then 1
5 through 7? They should all be in that record copy.

6 A Yes, I do.

7 Q Okay. And with the exception of 1B, which
8 we'll talk about in just a second, is that your
9 prefiled testimony that you've submitted in this case?

10 A Yes, it is.

11 Q And are all -- would your answers be the same
12 today as they were when you filed that --

13 A Yes, sir.

14 Q -- if asked them of you today?

15 A Yes, they are.

16 Q Okay. Would you take a look at Exhibit 1B?

17 JUDGE NORMAN: I'm going to stop you for
18 just a moment. Help me again find -- I got to looking
19 at something else. Can you help me find what you just
20 fixed for me?

21 (Discussion off the record)

22 JUDGE NORMAN: Okay. Go ahead.

23 Q (BY MR. CARLTON) Would you take a look at
24 Exhibit 1B and --

25 MR. CARLTON: Your Honor, I'll represent

1 to you that you had asked us to bracket language that
2 was subject to some --

3 JUDGE NORMAN: Yes.

4 MR. CARLTON: -- rulings or concerns, I
5 guess, by you.

6 JUDGE NORMAN: Yes.

7 MR. CARLTON: And I believe you had
8 asked us to lay some additional foundation on Page 8,
9 Lines 18 through 23.

10 JUDGE NORMAN: I'm giving you that
11 opportunity.

12 MR. CARLTON: And Page 10 -- excuse
13 me -- Page 9, Lines 10 through 16. And so there are
14 brackets --

15 JUDGE NORMAN: I see that.

16 MR. CARLTON: -- on the edges of those
17 paragraphs. And would you like me to have Mr. Myrick
18 summarize his testimony first and then lay the
19 foundation, or vice versa?

20 JUDGE NORMAN: No, lay the foundation
21 first so that we can get it all in, however it's going
22 to be in.

23 MR. CARLTON: Okay.

24 JUDGE NORMAN: Okay?

25 MR. CARLTON: All right.

1 Q (BY MR. CARLTCEQON) Mr. Myrick, on Page 8 of
2 your testimony as shown on Exhibit 1B here, you
3 indicate that you didn't believe any of the requestors
4 had plans for developing their property. And can you
5 explain what forms the basis of your opinion that
6 there aren't any plans for developing their property?

7 A Yes, sir.

8 Q And would you do that for the Court?

9 A Yes, sir. I was born and raised in Muenster,
10 Texas in a German community founded by the same people
11 that founded Lindsay. My father was a doctor, and I
12 was privy to a lot of information as a child. My
13 education about the community has been lifelong. The
14 German community is a little bit different than any
15 other community and specifically Muenster and Lindsay.
16 They are thrifty, they are very prudent, and they are
17 very family oriented. The only way -- well, let me
18 back up.

19 They do not sell their land unless they
20 are forced to sell their land. They will it to their
21 children or pass it down to their children. And if it
22 doesn't go to children, it goes to brothers or sisters
23 if they can so afford. That's the nature of Muenster
24 and Lindsay, and we'll talk specifically about
25 Lindsay, but Lindsay -- there has been only -- well,

1 right now there's three developments that are
2 currently going, if you will, from family farms, land.
3 One happens to be the Nortman, which is called -- it's
4 not Nortman -- yeah, Nortman Estates, okay, and the
5 other one is Kupper.

6 JUDGE NORMAN: And that's K-U-P-P-E-R.
7 Is that right?

8 A That's correct.

9 JUDGE NORMAN: Nortman is N-O-R-T-M-A-N,
10 or two Ns?

11 A One N.

12 JUDGE NORMAN: One N, okay.

13 A And they have, you know, been developed
14 within one -- within the city and one that is north,
15 and that's the -- Kupper is north and the Nortman is
16 within the city now. It was taken in. And the other
17 one, the third one, is South Ridge. The only other
18 developments have been within the city, and some of
19 those have been family that have sold and for exactly
20 the reason that I said, the family didn't agree to
21 monetary values, or they didn't have enough land to
22 sell or to divide.

23 South Ridge, I have been seeking the
24 hundred acres of South Ridge since 1972 when I arrived
25 in Lindsay visiting with a bachelor, Joe Sandmann.