

1 one groundwater well. Is that correct?

2 A That is correct.

3 Q And the entirety of the customers of Lindsay
4 Pure Water Company are served by that one well. Is
5 that correct?

6 A That is correct.

7 Q Now, do you have a meter on that well?

8 A Yes, sir, I do.

9 Q Okay. How often do you read that meter?

10 A Except when I'm in Austin or other places,
11 between daily and every other day.

12 Q Can you tell me what the lowest gallons per
13 minute that you can recall reading from that meter
14 were?

15 A When I check it, which is almost every time
16 that I'm there, it registers anywhere from 100
17 to 105 gallons per minute, according to my stopwatch.

18 Q Okay. How much water is in the standpipe
19 when you make those readings?

20 A That will vary by about 30,000 gallons. At
21 the present time, I have the standpipe where it is --
22 the maximum is 65,000 gallons, and I drop down
23 to 40,000 gallons before I start the pump again,
24 before it automatically starts again.

25 Q Mr. Myrick, on Page 6 of your testimony --

1 direct testimony -- actually, I'm sorry. It's on
2 Page 5.

3 A LPWC-1A?

4 Q Yes, sir. On actually Page 5, Lines 16
5 through 18 there, you determined that the
6 ten-horsepower pump -- I'm sorry. On Line 13 you
7 determined that you have a ten-horsepower service pump
8 that has a 210 gallon per minute capacity. Is that
9 correct?

10 A Yes, sir.

11 Q Can you please tell me how you went about
12 calculating that 210 gallons per minute?

13 A I asked my service provider, which has a
14 water well license, to replace that ten-horse -- the
15 five-horsepower pump with a ten-horsepower pump
16 because the five-horsepower pump didn't sound -- it
17 sounded like it needed to be replaced, so I replaced
18 it. And when I did, I asked him what was the -- what
19 was its capabilities, and that is what he told me.

20 Q For the ten-horsepower pump?

21 A Yes, sir.

22 Q It's 210 gallons per minute?

23 A Yes, sir.

24 JUDGE NORMAN: Actually, I don't see
25 that. I see 420 per minute on Page 5.

1 MR. RODRIGUEZ: Ten-horsepower pump is
2 220 gallons per minute, Lines 13 through 14.

3 A Judge, may I answer that question?

4 MR. CARLTON: Hand on just a second
5 because I'm concerned about what the Judge is looking
6 at.

7 We submitted revised prefiled testimony
8 that struck the 420 and replaced it with 210.

9 JUDGE NORMAN: Okay. Well, we need to
10 make sure --

11 MR. CARLTON: We need to make sure that
12 you have that.

13 JUDGE NORMAN: That I have the right --

14 MR. CARLTON: Right.

15 JUDGE NORMAN: Before we leave today.

16 MR. CARLTON: Okay.

17 JUDGE NORMAN: Okay?

18 MR. RODRIGUEZ: Actually, if you want to
19 go through all these numbers now, John, I don't mind.

20 (Recess: 12:03 p.m. to 1:04 p.m.)

21

22

23

24

25

1 AFTERNOON SESSION

2 WEDNESDAY, OCTOBER 8, 2008

3 (1:04 p.m.)

4 JUDGE NORMAN: Okay. I think we'll go
5 back on the record.

6 PRESENTATION ON BEHALF OF LINDSAY PURE WATER COMPANY

7 (CONTINUED)

8 JAMES MYRICK,

9 having been previously sworn, continued to testify as
10 follows:

11 CROSS-EXAMINATION (CONTINUED)

12 BY MR. RODRIGUEZ:

13 Q I hope you enjoyed your lunch, Mr. Myrick.

14 A Excellent.

15 Q Before we broke for lunch, I asked you some
16 questions regarding the pump capacity of your booster
17 pumps. Do you recall that and how you were able to
18 calculate 210 gallons per minute?19 A Yes, and you were asking me which -- or I
20 would ask you which exhibit was that?

21 Q That was your prefiled testimony.

22 A I think someone straightened my desk up.
23 Okay.24 Q Can you tell me how you calculated the 210
25 gallons per minute? Well, actually, let me -- I

1 believe your testimony was that you relied on somebody
2 to tell you that it was 210 gallons per minute. Isn't
3 that correct?

4 A That is correct.

5 Q And was that Mr. Young, Charles Young, that
6 you relied on?

7 A No.

8 Q Who was it?

9 A James Neusch.

10 Q And is he the one that sold you the booster
11 bump?

12 A Yes. She's going to have a problem with
13 Neusch, N-E-U-S-C-H.

14 Q Now, Mr. Myrick, are you familiar with the
15 term "rated capacity" of a pump?

16 A I suppose.

17 Q Okay. What's your understanding of that
18 term?

19 A It gives you a -- what it basically will do.

20 Q Now, is the 210 gallons per minute that you
21 testified to on Lines 13 through 14 of Page 5 of your
22 testimony, which is I believe --

23 A 210 gallons.

24 Q -- Lindsay Pure Water 1A, yes, that
25 210 gallons, is that the rated capacity of the pump,

1 or is that the actual capacity?

2 A I think -- I truthfully don't know. Okay?

3 Q Mr. Myrick, do you know what a pump curve is?

4 A Yes, sir.

5 Q What is it?

6 A It will pump so much against a particular
7 head pressure. And then after it pumps for a little
8 while after you pump the -- bump the head pressure up,
9 it goes less and less, I believe, at least that's my
10 understanding.

11 Q And where do you get that understanding from?

12 A Common sense, sir.

13 Q You think it's common sense to know what a
14 pump curve is?

15 A I would think so.

16 Q Okay. Did you utilize a pump curve to come
17 to your 210 gallons per minute capacity for your
18 ten-horsepower service pump?

19 A As I stated previously, and I asked
20 Mr. Neusch and gave me that number.

21 Q Okay. Do you know if Mr. Neusch utilized the
22 pump curve?

23 A No, sir, I do not.

24 Q Do you know what the impeller size is of your
25 booster pump?

1 A No, sir, I do not.

2 Q Okay. Now, Mr. Myrick, on Lines 13 and 14 of
3 Page 5 of your prefiled testimony, which I believe is
4 LPWC-1A, when I use the term "booster pump," is it
5 synonymous with "service pump"?

6 A Yes, sir.

7 Q Okay.

8 A Well, yes. I also testified that I had a
9 down-hole pump, which was -- the down-hole pump went
10 out, and I had to replace it. Now, if you're talking
11 about Page 5, Line 13, that is a booster pump, and
12 it's a service pump.

13 Q "Booster pump" and "service pump" are
14 synonymous terms. Right?

15 A I would think so.

16 Q Mr. Myrick, can you please explain for me how
17 you calculated your well capacity for the system?

18 A I gave -- you're talking about the 100 to
19 105 gallons a minute?

20 Q Yes, sir.

21 A I gave that number to my lawyer, John
22 Carlton, and he told me how much it would be.

23 Q Do you know if Mr. Carlton relied on any
24 engineering data to come up with that?

25 A I don't know what -- where John Carlton came

1 up with that data.

2 Q Okay. Can you tell me, Mr. Myrick, isn't it
3 also true that you relied on your attorney to
4 determine what the pump capacity is or the capacity of
5 what your booster pumps are?

6 A No, sir.

7 Q Okay. Who did you rely on for that?

8 A James Neusch, as I stated previously, sir.

9 Q Okay. So on Page 6 of your prefiled
10 testimony, Line 5, beginning with "The currently pump
11 capacity is sufficient for 155 connections," that came
12 from Mr. Neusch?

13 A No, that did not. That came from
14 John Carlton.

15 Q So my question was the pump capacity
16 information came from Mr. Carlton. Is that correct?

17 A I apologize. I didn't quite understand what
18 you were saying.

19 Q So who provided you that information?

20 A John Carlton.

21 Q Okay. With respect to "The distribution
22 lines are sufficient for up to 250 connections," which
23 is on Line 7, isn't it true that Mr. Carlton provided
24 you that information?

25 A That is correct.

1 Q As far as the -- as far as the capacity for
2 your 100 gallon per well minute equaling 168
3 connections, Mr. Carlton was the one who performed
4 those calculations for you?

5 A Yes, he helped me.

6 Q Helped you, or he performed the calculations
7 for you?

8 A When he calculated, he helped me, yes, sir.

9 Q What was your role then in determining
10 what -- how to arrive at the 168 connections?

11 A I gave him the capacity of the booster pump,
12 the capacity of the well and the size of the pressure
13 tank and the pressure that the pressure tank operated
14 in and the size of my standpipe. I gave him the data.

15 Q Okay. And that was the limit of your
16 calculations. Right? You just provided the raw data.

17 A With the exception of the booster pump.

18 Q Okay. The booster pump --

19 A Being the service pump, if that's what you're
20 going to ask.

21 Q With respect to the booster pump, Mr. Carlton
22 provided the connection count, the equivalent
23 connection counts?

24 A That's correct.

25 Q Okay. And you just provided the gallons per

1 minute that you relied on from Mr. Neusch, I believe?

2 A That's correct. Neusch.

3 Q Now, Mr. Myrick, do you know whether
4 Mr. Carlton has any type of engineering background?

5 A I do not know, sir.

6 Q Did you ever ask him that question?

7 A No, I did not.

8 Q So it's fair to say that with respect to all
9 the connection counts that are contained on -- within
10 your testimony, you relied solely on your attorney for
11 that information?

12 A Yes, sir.

13 Q Mr. Myrick, can you please tell me what the
14 dimensions are for your pressure tank?

15 A No, I can't. It's a 2,000-gallon pressure
16 tank bought by Bulldog Tank -- bought from Bulldog
17 Tank.

18 Q Now, when your booster pumps are on --

19 A Yes, sir.

20 Q -- can you tell me what the discharge
21 pressure is?

22 A The booster pumps range from 38 pounds
23 to 60 -- 60 pounds.

24 Q Okay. Can you tell me what the booster pump
25 discharge pressure is when the pumps are off?

1 A No, I cannot. Well, when they turn off, they
2 should be at 60 pounds. That's -- no, sir, I cannot
3 tell you that.

4 Q I just want to go back and clarify some
5 testimony that you provided before lunch regarding the
6 water level in the standpipe.

7 A Yes, sir.

8 Q At what point does your water well turn on?
9 At what level in that standpipe does your water well
10 turn on and begin to pump?

11 A I believe it's 35 feet.

12 Q At what point does your water well pump turn
13 off?

14 A Between 60 and 65 feet, somewhere in there.

15 Q I'm sorry?

16 A Sixty-five feet.

17 Q Okay. So when the water level in the
18 standpipe gets up to 65 feet, your water well pump
19 shuts off?

20 A Yes, sir.

21 Q Mr. Myrick, has anyone ever approached
22 Lindsay Pure Water Company for the provision of
23 nonstandard water service?

24 A Are you talking about the fire department?

25 Q No, sir.

1 A Sale?

2 Q I'm talking about a retail customer.

3 A No. Nonstandard -- describe "nonstandard"
4 for me, please.

5 Q What's your understanding of a standard
6 service?

7 A Standard service is what I sell at retail
8 through a meter at -- I can't remember the point of
9 origin, I think is what you used.

10 Q Okay. Now, with respect to the 2005
11 discovery that your CCN is not what you thought it
12 was, am I correct in my understanding that you
13 directed someone to go and get that CCN for the
14 Lindsay Pure Water Company? Is that correct?

15 A Yes, sir.

16 Q Okay.

17 A I do not know who it was. I think -- I don't
18 know if it was John. I don't know. 2005 was a long
19 time ago.

20 Q But you don't recall if -- what area was
21 actually applied for in 2000 -- or 1997 when you
22 applied for it?

23 A Say that again.

24 Q And I'm going back to the deposition that you
25 and I had. My understanding is based upon what we

1 discussed in our deposition.

2 A Yes, sir, but ask it again, please.

3 Q I will. What you actually received in your
4 CCN --

5 A Yes, sir.

6 Q -- was different than what your memory is of
7 what you -- or what you thought you were getting. Is
8 that correct?

9 A That is correct.

10 Q Now, but you also don't recall what was
11 actually sought in 1997?

12 A Oh, I most definitely do.

13 Q Okay. Do you recall then why there is a
14 difference between what was actually issued and what
15 you believed to be the CCN that you applied for?

16 A Well, I know what I was given was Phase I
17 and II, and what I applied for was the 96 acres of the
18 entire -- well, 96 acres of South Ridge of Lindsay.
19 That's what I bought it for.

20 Q And since 2005, you've not sought to go back
21 and correct that CCN. Is that correct?

22 A That is correct.

23 Q Do you recall, Mr. Myrick, how much it cost
24 you to obtain the CCN for Lindsay Pure Water?

25 A Exact numbers, no, but it was somewhere

1 between 20 and 30,000.

2 Q Now, do you recall whether your application
3 for your CCN that you've been granted -- do you recall
4 whether that was protested at all by any entities?

5 A Entities? There was one protest, and that
6 was the resident to the south, Alfred Hess.

7 Q Did you have to go through a contested case
8 hearing on that application?

9 A I believe we did. I did not personally.

10 JUDGE NORMAN: A hearing like this one?

11 A I didn't -- I wasn't --

12 JUDGE NORMAN: But you believe that you
13 had to go --

14 A I'm pretty sure it was, yes. My mistake.

15 JUDGE NORMAN: I'm sorry?

16 A My mistake. I should have been here.

17 Q (BY MR. RODRIGUEZ) Do you have any estimates
18 or thoughts on how much it would cost Lindsay Pure
19 Water to seek a CCN for the South Ridge of Lindsay
20 property?

21 A Ask that question again, please.

22 Q Okay. If Lindsay Pure Water seeks to square
23 up its CCN --

24 A Yes.

25 Q -- with the South Ridge of Lindsay

1 subdivision, how much do you think it would cost
2 Lindsay Pure Water to get the application prepared?

3 A I don't know.

4 Q How much would you estimate it would cost to
5 actually -- from the application process to actual
6 receipt of the CCN?

7 A In today's money, I don't know.

8 Q Okay. Do you think it would be more or less
9 than the 20 to \$30,000 that it cost you in 1997?

10 A I'm quite certain it would be more. That's
11 the reason I don't have a clue how much it would be.

12 Q Mr. Myrick, in 1997, the 20 to \$30,000 that
13 it cost to get the CCN, did Lindsay Pure Water Company
14 pay the cost for that proceeding?

15 A Yes, I'm sure we did, but was it Lindsay Pure
16 Water that wrote the check? Is that your question?

17 Q Yes, yes, it is.

18 A I doubt very seriously if Lindsay Pure Water
19 would have wrote the check.

20 Q Who would have done that?

21 A Who would have known?

22 Q Who would have paid it?

23 A Myrick Development Company.

24 Q If Lindsay Pure Water Company today sought to
25 make application to square up its CCN with the South

1 Ridge of Lindsay development, does Lindsay Pure Water
2 Company have present funds to be able to spend 20 to
3 \$30,000 on a CCN case?

4 A In the bank right now, I doubt it seriously,
5 but Myrick Development Company does.

6 Q So would Lindsay Pure Water require Myrick
7 Development Company to pay the costs for amendment of
8 Lindsay Pure Water's CCN?

9 A I would anticipate that happening, yes.

10 Q Now, would that be a payment requirement of
11 Myrick Development, or would that be a loan from
12 Myrick Development to Lindsay Pure Water?

13 A I do not know because I'm not an accountant.
14 I would have to ask my accountant how he would handle
15 that, sir.

16 Q So whatever would be the most tax
17 advantageous might be the way you would handle that?

18 A I would surely hope so.

19 Q Now, Mr. Myrick, isn't it true that you
20 recently changed one of your booster pumps from a
21 three-horsepower to a ten?

22 A Well, three, five -- yes, I changed it to a
23 ten.

24 Q Okay.

25 JUDGE NORMAN: And he was wondering

1 whether you changed it from three to ten or five to
2 ten. Isn't that true, Mr. Myrick? But you did change
3 it?

4 A Yes. I don't know if it was a three or a
5 five, but I can look and see, but we've changed it.
6 It says three, so it was a three to a ten.

7 Q (BY MR. RODRIGUEZ) And, Mr. Myrick, that
8 pump cost about \$1,000 to replace. Is that right?

9 A The number that strikes me was 1400 and some
10 odd dollars, sir.

11 Q And Lindsay Pure Water Company paid for that,
12 is that correct?

13 A I am quite certain that they paid for it with
14 a Lindsay Pure Water Company check.

15 Q Okay. But Lindsay Pure Water Company needed
16 to borrow funds in order to make that payment. Is
17 that right?

18 A I'm also quite certain that we transferred
19 money from Myrick Development Company to Lindsay Pure
20 Water Company.

21 Q Okay.

22 (Exhibit APP No. 7 marked)

23 Q (BY MR. RODRIGUEZ) Mr. Myrick, I've just
24 handed you what's been marked as Applicant's Exhibit
25 No. 7.

1 A Yes, sir.

2 Q I ask if you can identify that document for
3 me.

4 A That is 2007 S-Corp return --

5 Q Okay.

6 A -- from Michael Kendall, my accountant.

7 Q Do you recognize this to be the actual return
8 for Lindsay Pure Water for the 2007 tax year?

9 A I'm sure it is, but I haven't seen my
10 signature yet. I'm sure it is.

11 MR. RODRIGUEZ: I move admission of
12 Applicant's Exhibit No. 7, Your Honor.

13 MR. MacLEOD: No objection.

14 MR. CARLTON: No objection.

15 JUDGE NORMAN: It's admitted.

16 (Exhibit APP No. 7 admitted)

17 Q (BY MR. RODRIGUEZ) Mr. Myrick, isn't it true
18 that from the inception of Lindsay Pure Water Company
19 to now, Lindsay Pure Water Company has never made a
20 profit?

21 A I don't believe they have.

22 Q Okay. And it's not only been until recently
23 that they've actually broken even. Isn't that true?

24 A That was my understanding from my accountant.

25 Q Okay. Now, when is it that they first

1 started breaking even?

2 A This year.

3 Q 2008?

4 A Yes.

5 Q And isn't it also true, Mr. Myrick, that
6 whatever deficits that occurred within Lindsay Pure
7 Water Company was made up by Myrick Development
8 Company?

9 A Yes, sir.

10 Q Okay. Mr. Myrick, isn't it true that Lindsay
11 Pure Water Company has no emergency reserve fund for
12 emergency repairs of the like?

13 A You're right, yes, sir.

14 Q Do you know what the cash reserves are as of
15 today or maybe at the end of -- let's just say
16 September 30, 2008, what the cash reserves are for
17 Lindsay Pure Water Company?

18 A I do not know the exact number, but it's --
19 no, I don't know the exact number.

20 Q And you're the president of the company.
21 Right?

22 A Yes, sir.

23 Q How often do you review that financial
24 information?

25 A I pass that financial information to my

1 secretary/treasurer.

2 Q Okay. I wasn't asking what you did with it.

3 I asked you how often do you review it?

4 A Three or four times a year.

5 Q When was the last time you reviewed it in
6 2008?

7 A Two weeks ago.

8 Q And as of -- from two weeks ago to today, you
9 can't tell me what the cash reserves are for Lindsay
10 Pure Water Company?

11 A No, sir, I can't.

12 Q Okay. What's the fiscal year for Lindsay
13 Pure Water Company?

14 A January to December.

15 Q So a calendar year?

16 A Yes, sir.

17 Q Mr. Myrick, can you please tell me what it
18 costs Lindsay Pure Water Company to produce a thousand
19 gallons of water?

20 A No, sir, I can't.

21 Q Can you tell me what Lindsay Pure Water
22 Company's annual revenue requirement is?

23 A No, sir, I can't.

24 Q Can you tell me what Lindsay Pure Water's
25 annual cost to provide service is?

1 A Not without looking at a report.

2 Q Now, any deficit that's been -- let me strike
3 that.

4 I believe your previous testimony was
5 that Myrick Development Company makes up for deficits
6 for Lindsay Pure Water Company. Is that true?

7 A That's true.

8 Q Okay. When Myrick Development Company makes
9 up for those deficits, does it gain an equity interest
10 in Lindsay Pure Water Company?

11 A You'd have to ask my accountant that
12 question. I do not know.

13 Q Okay. Or is it just loans that are made from
14 Myrick Development to Lindsay Pure Water?

15 A I do not know.

16 Q Are you also involved in the operations of
17 Myrick Development Company?

18 A Yes, sir.

19 Q Okay. Can you tell me what Myrick
20 Development Company's current cash balance is?

21 MR. CARLTON: Objection; relevance.

22 MR. RODRIGUEZ: Your Honor, if the
23 Myrick Development Company is the one who funds
24 Lindsay Pure Water Company --

25 JUDGE NORMAN: Overruled.

1 MR. RODRIGUEZ: -- their solvency is an
2 issue.

3 A Exact dollars?

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

5 A No, I cannot. I do not have a bank statement
6 with me, sir.

7 Q Okay. Can you tell me what Myrick
8 Development Company's operating reserve fund is?

9 A No, I cannot.

10 Q You would be the one to make that decision as
11 to what their operating reserve fund would be, though.
12 Right?

13 A Yes, sir.

14 Q Do you generally keep a certain amount of
15 money in reserves?

16 A That is correct.

17 Q And what would that be?

18 A Normally 30 to \$50,000.

19 Q Now, is that reserve fund maintained -- to
20 maintain the solvency of Myrick Development Company,
21 or is that reserve fund there to maintain the solvency
22 of Lindsay Pure Water Company?

23 MR. CARLTON: I'm going to object to the
24 form of the question. It's kind of like when did you
25 last beat your wife.

1 JUDGE NORMAN: Okay. And if -- let me
2 just ask you this, Mr. Myrick. Was it to maintain the
3 solvency of Myrick Development or Lindsay Pure Water
4 Company? And if you could say --

5 MR. CARLTON: Or some other reason.

6 JUDGE NORMAN: Right. You can say
7 neither, or you can answer the question, or you can
8 say you can't answer the question.

9 A I can't answer the question.

10 Q (BY MR. RODRIGUEZ) Okay. How much of Myrick
11 Development Company's operating reserves go toward
12 maintaining the solvency of Lindsay Pure Water
13 Company?

14 JUDGE NORMAN: If any.

15 A None.

16 Q (BY MR. RODRIGUEZ) Now, isn't it true that
17 Lindsay Pure Water Company maintains a \$310,000 line
18 of credit?

19 A No, it does not. Myrick Development Company
20 carries or has a \$310,000 line of credit.

21 Q Does Lindsay Pure Water Company maintain a
22 line of credit?

23 A No, it does not.

24 Q When is the \$310,000 line of credit that
25 Myrick Development Company maintains -- when does that

1 renew?

2 A I believe it's three years from now. So it
3 would be 2011.

4 Q Do you know what the interest rate is on that
5 line of credit?

6 A 7 percent.

7 Q Is the line of credit that Myrick Development
8 has like most other lines of credit in that it's
9 callable at any time?

10 A I do not know that, but I would -- I do not
11 know.

12 Q Other than Myrick Development Company's line
13 of credit, are you familiar with any other lines of
14 credit that you either personally have or through all
15 your other companies?

16 A I don't have any other lines of credit.

17 Q Okay. My understanding also, Mr. Myrick, is
18 that Lindsay Pure Water Company's tariff was approved
19 in 1998 approximately. Is that correct?

20 A That is correct.

21 Q And from 1998 through 2007, Lindsay Pure
22 Water Company had a negative balance at the end of
23 each year. Is that correct?

24 A I believe you're right.

25 Q And between 1997 or 1998 -- excuse me --

1 and 2007, Lindsay Pure Water Company never went to
2 seek a rate increase from the TCEQ. Is that correct?

3 A That is correct.

4 Q Other than Myrick Development Company, are
5 there other companies that are available for Lindsay
6 Pure Water to seek loans or cost recovery from?

7 A Not to my knowledge.

8 Q Is Myrick Development Company in some way
9 obligated to provide funds to Lindsay Pure Water to
10 maintain the solvency of the company?

11 A Repeat that.

12 Q Is Myrick Development Company in some way
13 obligated to maintain the solvency of Lindsay Pure
14 Water Company?

15 A No, they are not.

16 Q Now, isn't it true, Mr. Myrick, that you
17 operate Lindsay Pure Water Company out of your home?

18 A That is correct.

19 Q Okay. There's no formal business office for
20 Lindsay Pure Water Company, is there?

21 A No, there is not.

22 Q Okay. You also utilize your home phone
23 number for Lindsay Pure Water Company?

24 A Yes, I do.

25 Q Okay. There's no dedicated phone line for

1 Lindsay Pure Water?

2 A No, there is not.

3 Q Okay. Is there a dedicated customer service
4 line for Lindsay Pure Water Company?

5 A I designated my home phone number.

6 Q Okay. Which you utilize for home --

7 A Yes, I do.

8 Q -- for home calls as well. Isn't that right?

9 A Yes, I do.

10 Q All right. Mr. Myrick, you would agree with
11 me, wouldn't you, that the typical water usage for
12 Lindsay Pure Water Company is approximately
13 8,000 gallons?

14 A I believe that's the number that I gave in my
15 deposition.

16 Q Okay. And do you agree with that?

17 A Yes, I would agree with that.

18 JUDGE NORMAN: And that's the typical
19 usage?

20 MR. RODRIGUEZ: The average usage for a
21 Lindsay Pure Water customer.

22 JUDGE NORMAN: For what?

23 MR. RODRIGUEZ: On a monthly basis.

24 THE WITNESS: Yes.

25 JUDGE NORMAN: Okay.

1 MR. RODRIGUEZ: My apologies. Thank
2 you, Judge.

3 JUDGE NORMAN: All right.

4 Q (BY MR. RODRIGUEZ) Now, Mr. Myrick, based on
5 the proof tariff for Lindsay Pure Water, how much
6 would a customer that had 8,000 gallons pay on a
7 monthly basis?

8 A \$30.50 plus 1 percent to the -- \$30.81.

9 Q Mr. Myrick, I'm going to ask you to turn to
10 Applicant's Exhibit APP-2 and turn to Attachment
11 DLM-7, which is the schedule fees for the City of
12 Lindsay.

13 JUDGE NORMAN: That's a schedule --
14 DLM-7 is the schedule? Is that what you said?

15 MR. RODRIGUEZ: DLM-16 is an ordinance,
16 Your Honor. I'm sorry, did I say DLM-7?

17 JUDGE NORMAN: I thought so.

18 MR. RODRIGUEZ: I'm sorry. I meant 16.

19 JUDGE NORMAN: What do you mean, 16?
20 Okay.

21 Q (BY MR. RODRIGUEZ) Actually, Mr. Myrick, I
22 think we're going to come back to that. I don't think
23 we're going to do that right now.

24 A I figured you would. Okay.

25 Q We'll do that in just a second. But before

1 we get away from some of this other, I want to get
2 something else first. I'm sorry.

3 Lindsay Pure Water's operator --
4 licensed operator is Charles Young. Is that correct?

5 A That is correct.

6 Q Okay. And you're aware that Lindsay Pure --
7 that the City of Lindsay utilizes Mr. Young's services
8 as well?

9 A I believe in a sewer capacity, yes, sir.

10 Q Okay. And do you believe that Mr. Young is
11 capable of doing his services well, performing his
12 services well?

13 A Yes, he is.

14 Q How often does the Lindsay Pure Water Company
15 board meet?

16 A Once or twice a year. And let me -- let me
17 back up on that -- formally meet, eyeball to eyeball.
18 We visit quite frequently by phone.

19 Q Now -- I'm sorry. I've got Applicant's
20 Exhibit No. 2 already here for you, but I'm going to
21 ask you to turn to Attachment DLM-14. And do you
22 recall the document that's in Attachment DLM-14?

23 A Yes, I do.

24 Q What do you understand that to be?

25 A That is an agreement in 2002 between Mayor

1 Norbert Mages, myself, and it has a signature on the
2 back of myself, Mayor Mages and Walter Lutkenhaus.
3 Myself and Norbert Mages have signed it.

4 Q Now, it's not an agreement between you and
5 Mayor Mages. It's between --

6 A Lindsay Pure Water Company and the City of
7 Lindsay.

8 Q Okay. Now, this was a settlement agreement
9 between the City of Lindsay and Lindsay Pure Water
10 Company. Is that correct?

11 A That is correct.

12 Q Okay. Now, if you turn to the second page of
13 the agreement, which is Bates Page No. APP0457, I'm
14 going to direct you to the second paragraph under
15 Agreement. Do you see that?

16 A Yes, sir.

17 Q Now, that provision required the Lindsay Pure
18 Water Company to file a CCN application to amend its
19 CCN to incorporate certain areas that are contained in
20 Exhibit A to that agreement. Is that right?

21 A That's correct.

22 Q Okay. And in fact, there's an obligation to
23 do that within ten days from the execution date. Is
24 that right?

25 A That is correct.

1 Q And Lindsay Pure Water Company also never did
2 make that application, did it?

3 A That's correct.

4 Q To this date, they've still not made that
5 application?

6 A That's correct.

7 JUDGE NORMAN: What was the area that
8 you were going -- you were obligated to make an
9 application for?

10 A Judge, basically it's south of the City of
11 Lindsay.

12 JUDGE NORMAN: South of the City of
13 Lindsay?

14 A Yes, in the -- basically in the area that
15 they are now --

16 JUDGE NORMAN: Wanting a CCN?

17 A -- wanting to seek, yes.

18 JUDGE NORMAN: Okay.

19 A It might be a little smaller.

20 JUDGE NORMAN: Okay. Approximately?

21 A Give or take.

22 JUDGE NORMAN: Okay.

23 Q (BY MR. RODRIGUEZ) Mr. Myrick, you're
24 familiar with the \$310,000 line of credit that Myrick
25 Development Company has. Correct?

1 A Yes.

2 Q How much of that line of credit is available
3 for -- available to Myrick Development currently?

4 A 310,000.

5 Q Okay. None of the -- none of that --

6 A Wait a minute. Let me back up.

7 Q -- has been borrowed?

8 A 305,000.

9 Q So currently you have outstanding \$5,000 --
10 Myrick Development has \$5,000 outstanding from that
11 line of credit. Is that correct?

12 A That is correct.

13 Q Now, with respect to the development of the
14 South Ridge of Lindsay, did your development -- or I
15 guess Myrick Development's development of the South
16 Ridge of Lindsay was limited to basically the sale of
17 lots. Is that correct? You weren't -- you're not in
18 the business of building homes?

19 A I am in the business of building homes.
20 Myrick Development is not in the business of building
21 homes.

22 Q Okay.

23 A I personally.

24 Q Okay. Did you have a builder designated for
25 the South Ridge of Lindsay?

1 A No, unlike most, we don't do that.

2 Q Anyone could utilize any builder they want?

3 A Anyone who wishes to buy a lot can pick any
4 builder they wish.

5 Q Okay. Mr. Myrick, on the lines that are --
6 the distribution lines that are within the South Ridge
7 of Lindsay, can you tell me who paid for that
8 infrastructure?

9 A Myrick Development did in the end, but I
10 believe the accountability was through Lindsay Pure
11 Water Company.

12 Q Okay. The payment for that infrastructure
13 and the costs associated with that infrastructure, was
14 that in any manner imputed into the cost of any of the
15 lots in the South Ridge of Lindsay subdivision?

16 A Well, I'm quite certain that it and any and
17 all of the rest of the expenses would have had a great
18 part in pricing lots.

19 Q Okay. And that would -- that would go for
20 both the standpipe and your booster pumps and your
21 pressure tank, if I understand just your last
22 statement?

23 A Yes, sir.

24 Q Can you tell me how much of -- how much was
25 designated for each lot with respect to the capital

1 costs for the water improvements?

2 A No, sir, I cannot.

3 Q You've already got Applicant's Exhibit No. 2
4 in front of you. I'm going to ask you to open up
5 Attachment DLM-13.

6 A Yes, sir.

7 Q Okay. And I'm going to -- and while you've
8 got that out, I'm going to ask you to also likewise
9 look at ED Exhibit No. 3.

10 A Yes, sir.

11 Q Okay. And you understand that both of these
12 maps show the requested water service territory for
13 the City of Lindsay in this docket?

14 A Yes, sir.

15 Q Okay. You can agree with me on that?

16 A Yes, sir.

17 Q Okay.

18 JUDGE NORMAN: Okay. Now, what's the
19 other map you're having him look at?

20 MR. RODRIGUEZ: ED-3; ED-3.

21 JUDGE NORMAN: Okay.

22 Q (BY MR. RODRIGUEZ) Mr. Myrick, can you
23 please tell me what the cost would be for Lindsay Pure
24 Water Company to serve the -- how do you pronounce
25 that last name Fuhrmann?

1 A That's Fuhrmann.

2 Q Okay.

3 A Michael Fuhrmann.

4 Q The Michael Fuhrmann tract that is located
5 right at that just south of 82 and -- well, just south
6 of 82. Can you tell me what the estimated costs would
7 be for Lindsay Pure Water Company to provide service
8 there?

9 A If you were to take Mr. Maroney's \$350,000
10 for a well and you were to take storage that was
11 30,000 gallons -- I believe 30,000 was the dollar --
12 and if you were to have a six-inch C-900 pipe at \$18 a
13 foot and you went -- can I say \$20 a foot? \$20 a foot
14 is easier for me to figure -- and you went 1,000 feet,
15 that would be \$20,000; 400,000.

16 Q Excuse me?

17 A \$400,000.

18 Q And that would be -- that would be Lindsay
19 Pure Water's cost to extend service?

20 A Yes, sir.

21 Q Can you tell me what the cost would be for
22 the City of Lindsay to extend service to
23 Mr. Fuhrmann's property?

24 A No, sir, I can't, but it wouldn't be very
25 much.

1 Q Okay. Now --

2 A Well, I take that wouldn't be very much back.

3 Q Mr. Myrick, can you please tell me how many
4 creeks it would take for you to cross in order to
5 serve Mr. Fuhrmann's property?

6 A I would not cross a creek.

7 Q You would create a standalone system?

8 A That's the only way I would be able to do so.

9 Q Would it be your opinion that the City of
10 Lindsay would need to create a standalone system in
11 order to serve Mr. Fuhrmann's property?

12 A Let me see if I can get there in my head
13 first. No, they would not need a standalone system.

14 JUDGE NORMAN: And by "standalone
15 system," you just mean -- I assume you mean just put a
16 new system up there rather than trying to run it all
17 the way from Pure Water?

18 A I could not take a six-inch line from South
19 Ridge of Lindsay to Michael Fuhrmann's without -- I
20 could not service him without a standalone system. I
21 could not cross Elm Creek.

22 JUDGE NORMAN: Right. Okay. For the
23 record, it looks like that Mr. -- looks like his name
24 is spelled F-U --

25 A F-U-H-R-M-A-N-N.

1 JUDGE NORMAN: There's no R there that I
2 see.

3 A Double N.

4 JUDGE NORMAN: Who knows. Mr. Metzler,
5 is it F-U-H-R?

6 MR. METZLER: Yes, it is.

7 JUDGE NORMAN: Okay. It's not -- on the
8 map it's F-U-H, but it's actually F-U-H-R-M-A-N-N.

9 A He is my son-in-law's second cousin.

10 JUDGE NORMAN: Okay.

11 Q (BY MR. RODRIGUEZ) Likewise, Mr. Myrick, I'm
12 going to direct your attention down here to Albert and
13 Kay Anger. It's in the southwest corner of the city's
14 requested service area just north of 1630. Do you see
15 that?

16 A Yes, sir.

17 Q How much -- how much would it cost for
18 Lindsay Pure Water to provide service there?

19 A Same answer, sir.

20 Q Same answer as what?

21 A \$400,000. I would estimate that to be
22 somewhere in the neighborhood of seven to eight miles.

23 Q Now, Mr. Myrick, you understand that -- well,
24 let me ask this: Is Lindsay Pure Water Company
25 considered an investor-owned utility by the TCEQ?

1 A Yes, sir.

2 Q Okay. And is it your understanding that
3 Lindsay Pure Water Company can only serve outside of
4 its CCN territory up to one-quarter mile?

5 A Yes, sir, that's my understanding.

6 Q Okay. So if Mr. Fuhrmann or the Angers
7 wanted you to provide service to them, could you do it
8 under your present certificate?

9 A No, sir.

10 Q They're both out -- they're both well outside
11 your one-quarter mile halo around your CCN. Is that
12 correct?

13 A That is correct.

14 Q So it wouldn't be just the \$400,000
15 construction costs to provide service to them, would
16 it?

17 A You asked me what it would cost to service
18 that.

19 Q That's right.

20 A And I answered 400,000, but, no, it would be
21 more than that.

22 Q Okay.

23 A Because I would -- if I had the ability to
24 get a CCN, then it would cost considerably more.

25 Q Okay. Now, the -- so in addition to the

1 construction costs, you also need the regulatory
2 approvals to provide that service. Is that correct?

3 A Yes, sir, and you would need the need of
4 someone needing water.

5 Q Right. If these people came to you and asked
6 for service is what I'm asking you. That was the
7 premise that I gave you.

8 A Yes, sir, you're right.

9 Q And so the -- and so not only would you have
10 the construction costs, but you would also have to go
11 through the expense of obtaining the CCN. Is that
12 correct?

13 A That is correct.

14 Q And you estimated that would be at about 20
15 to \$30,000 or more earlier?

16 A No, sir, I estimated -- I said that when I
17 got my CCN in '97 I thought the cost was in that
18 range.

19 Q Okay. And then I asked you later would it be
20 more today, and you agreed with me that it would be.

21 A Oh, it definitely would be, I'm sure.

22 Q Okay. So how much of the 430 plus that it
23 would cost to provide service to the Angers or the
24 Fuhrmanns would Lindsay Pure Water charge to the -- to
25 those requestors of service?

1 A Repeat that question.

2 Q If it cost Lindsay Pure Water Company more
3 than \$430,000 to provide service, let's take the
4 Angers for instance, how much of that cost would be
5 borne by the Angers versus being borne by Lindsay Pure
6 Water Company?

7 A And you're saying if I had a CCN and was
8 requested service, how much would it cost?

9 Q No, sir. I asked you -- I think we already
10 established that it would be more than \$430,000 --

11 A Yes.

12 Q -- for you to provide service to the Angers.

13 A Yes.

14 Q My question is, how much of that \$430,000
15 would Lindsay Pure Water Company require the Angers to
16 pay in order for them to receive service?

17 A Probably all of it.

18 Q Mr. Myrick, you would agree with me, wouldn't
19 you, that someone might request water service without
20 subdividing their property. Right?

21 A They would want the protection of a CCN in
22 order to keep someone else out, yes.

23 Q I'm not asking that. I'm asking you about a
24 property owner. A property owner wants service
25 because their pump has gone out or for whatever other

1 reason, it's possible that that property owner might
2 make a request for water service without the intention
3 of subdividing his property, isn't it?

4 A And be serious and be ready to pay the price
5 of what it would cost to take them -- bring them
6 water?

7 Q No. My question is, might someone ask for
8 water service, Mr. Myrick, without the intention of
9 subdividing their property?

10 A I guess I could ask -- yes, the answer would
11 be yes.

12 Q Mr. Myrick, in the time that you have been
13 the owner of Lindsay Pure Water Company and its
14 president, has the water well pump ever gone -- become
15 inoperative?

16 A As I've stated previously, yes, it has.

17 Q Okay. I think you stated that in deposition.
18 I'm asking you -- the only reason why I'm asking you
19 again is because we're here today.

20 A Okay.

21 Q My apologies --

22 A Not a problem.

23 Q -- if I'm being repetitive to you.

24 MR. RODRIGUEZ: Your Honor, can I take
25 about five minutes? I think I'm about done --

1 JUDGE NORMAN: Sure.

2 MR. RODRIGUEZ: -- but I just want to
3 organize myself before I pass.

4 JUDGE NORMAN: Yeah, let's limit it to
5 five minutes, but anybody can take a break if they
6 want to, but let's be back in five minutes.

7 (Recess: 2:07 p.m. to 2:13 p.m.)

8 JUDGE NORMAN: Okay. Let's go back.

9 Q (BY MR. RODRIGUEZ) Mr. Myrick, I'm going to
10 use a term that's become famous by your attorney.
11 I've just got a couple more questions for you.

12 If Lindsay Pure Water needs additional
13 money for capital or for -- to fund a project or just
14 needs additional money --

15 A Such as putting infrastructure in Phase IV?

16 Q Such as that.

17 A Yes, sir.

18 Q That's a good example -- Lindsay Pure Water
19 could borrow the money. Is that correct?

20 A Myrick Development could.

21 Q Okay.

22 A And it would be -- it would be -- on the
23 books, it would be put into Lindsay Pure Water
24 Company.

25 Q Lindsay Pure Water Company would borrow the

1 money from Myrick Development. Is that correct?

2 A Yes.

3 Q Okay. Another option for -- to generate more
4 revenue for Lindsay Pure Water is it could add -- it
5 could increase rates as well. Right?

6 A Yes, it could.

7 Q If it went through the proper TCEQ process,
8 et cetera?

9 A If it -- yes.

10 Q And would another funding mechanism be -- for
11 Lindsay Pure Water would be to get new equity?

12 A Explain.

13 Q Do you know what equity is?

14 A Yes.

15 Q Stock?

16 A Yes.

17 Q Would an additional funding source for
18 Lindsay Pure Water be new equity?

19 A No, I would not do that, unless my accountant
20 told me to.

21 Q What other funding sources might be available
22 to Lindsay Pure Water besides those three?

23 A That would be it.

24 Q Now, I believe, Mr. Myrick, in my -- we
25 talked about this, I believe, in the deposition. So I

1 apologize if this seems repetitive, but isn't it true
2 that you don't -- isn't it true that the City of
3 Lindsay has the capability of providing service
4 throughout this requested service territory?

5 A If you're talking about the funds to fund
6 any -- I suppose -- I guess the best way to say that
7 is the City of Lindsay could fund anything they want
8 to do with regards to taking water anywhere they want
9 to take it.

10 Q Anywhere within the requested service
11 territory?

12 A Well, I don't know. The city doesn't have to
13 have a CCN I understand.

14 Q I'm asking you about the requested service
15 territory.

16 JUDGE NORMAN: Do they have the ability
17 to do that?

18 A Yes, they do have the ability.

19 MR. RODRIGUEZ: Your Honor, I pass the
20 witness.

21 JUDGE NORMAN: Okay. Mr. Carlton?

22 MR. CARLTON: I guess I can't take a
23 break.

24 (Laughter)

25

REDIRECT EXAMINATION

BY MR. CARLTON:

Q I'm going to try and clarify a couple of things Mr. Rodriguez was asking you.

A Yes, sir.

Q You talked about your original application for a CCN.

A Yes, sir.

Q And you indicated it was protested by Mr. Hess.

A Yes, sir.

Q What did Mr. Hess do in protesting that application?

A I truly do not know.

Q Did he -- in what way did he -- well, did you ever reach an agreement with Mr. Hess?

A I would have had to because he dropped his protest, and I'm sure he probably, whenever we advertised for a CCN -- I would think that there's a place to either write or file a protest with the TCEQ, then the Railroad Commission, and I'm sure that's what he did.

Q And you said he dropped that protest?

A It's my understanding that he dropped that.

Q So I'm trying to get clarification. Was

1 there a contested hearing like this on that first
2 application, or was it with regard to the town of
3 Lindsay's amendment or both?

4 A Say that again.

5 Q I'm trying to clarify. You had testified
6 with Mr. Rodriguez that there was -- there was a
7 contested hearing --

8 A Yes.

9 Q -- an order -- a contested hearing like this
10 on your original CCN application.

11 A Yes, sir.

12 Q But you also testified Mr. Hess dropped his
13 protest. So I'm trying to clarify whether or not
14 there really was a hearing or whether or not there was
15 a process through which TCEQ just issued you the CCN,
16 if you recall.

17 A I was not here. So I do not recall.

18 Q Okay. You also told Mr. Rodriguez that you
19 have had a well pump failure. Do you recall that
20 testimony?

21 A Yes, sir.

22 Q What was the impact to your customers of that
23 well pump -- well pump failure?

24 A The biggest impact was for me to go around
25 and tell them that I had a well failure, and if they

1 would curtail their use of water for at least a few
2 hours, 12 to 14 hours, I would have it back on line.
3 And I had it back on line in less than 24. And it
4 was -- if you were talking about impact of water,
5 there was zero impact.

6 Q What did you do to get the well back on line?

7 A I called Mr. Neusch and told him the problem
8 that I had. He came out within a few hours, which is
9 a miracle, and assessed the problem, got a pump and
10 put it in that night.

11 Q Were the customers ever without water?

12 A The customers were never without water. I
13 had like between 30 and 60,000 gallons in my
14 standpipe, and it was more than enough for a couple of
15 days.

16 Q Have any customers ever filed any complaints
17 with you or, to your knowledge, with the TCEQ
18 regarding the quality of service they receive?

19 A None to my knowledge, and I'm sure I would
20 know if they were.

21 Q You went through -- I'll call it a convoluted
22 discussion with Mr. Rodriguez about the various lots
23 in Phases I, II and III --

24 A Yes.

25 Q -- that have houses --

1 A Yes, sir.

2 Q -- on them. Would you pull out ED Exhibit 2?

3 A Yes, sir.

4 Q I believe in your testimony you indicated
5 that all the lots had been sold, except for Lot 3,
6 within Phase I, which is shown on the first page.

7 A Yes, sir.

8 Q Now, there are some lots shown on the first
9 page that don't have any numbering on the inside of
10 those. Are those lots part of Phase I?

11 A No, sir. Those are Phase II only, there to
12 show where Phase I would be.

13 Q Okay. Now, Mr. Rodriguez asked you -- or
14 stated whether any of the seven lots that don't have
15 homes on them receive service from Lindsay Pure Water.
16 Do you recall that?

17 A Yes, sir, I do.

18 Q And I believe you testified that none of them
19 receive service. Is there service available to those
20 lots should they desire it?

21 A Yes, sir.

22 Q And how is that available to them?

23 A There is a -- there's a meter box with a
24 three-quarter inch -- and I want to say it's called an
25 incorporation -- there to accept a meter.

1 Q So there are service lines, stubs --

2 A There's service lines -- stubs to every lot
3 that's available.

4 Q And would that be true for the lots in Phases
5 II and III as well?

6 A Yes, sir, it is -- well, with the exception.
7 The three lots -- if you turn to Page 2, the three
8 lots on the extreme left side, which are floodplain
9 lots, there isn't -- there is not water taps -- there
10 are not water taps there.

11 Q You testified there were ten homes in
12 Phase I. Correct?

13 A Let me count them. I may have counted ten,
14 but I count eleven right now. Just a minute. Let me
15 count them again. I'm not going to write on your --

16 Q Do you need a piece of paper?

17 A No. I need my -- I promise I won't write on
18 it. Jolly, Kohler, Horn, Cooney, Knight -- there
19 are 12.

20 Q And so that would mean there are only five
21 lots in Phase I without homes. Correct?

22 A There are five without homes.

23 Q And would you tell me -- would you go through
24 that same process to verify the number of homes in
25 Phase II?

1 A Yes, sir. There are eight homes in Phase II.

2 Q Okay. And how many of those homes are within
3 the area that you now -- within the area that's
4 generally shown as part of the CCN in TCEQ's records
5 in Phase II?

6 A Well, if I were to assume that TCEQ's map is
7 correct, there would be 12, Phase I only. It is my
8 belief and my understanding that Phase I and Phase II
9 were -- had a CCN.

10 Q Okay. Now, in response to Mr. Rodriguez's
11 questioning, you indicated that in Phase II the lots
12 that are adjacent to 3108 would be within the CCN --

13 A Yes, sir.

14 Q -- as depicted on TCEQ's maps?

15 A That's correct.

16 Q Are there any homes on any of those lots?

17 A One -- well, yeah, one.

18 Q So would one of the eight homes in Phase II
19 be potentially within --

20 A Phase II.

21 Q -- TCEQ's CCN?

22 A Repeat that.

23 Q Would that one home on those lots adjoining
24 3108 be within the TCEQ boundary as shown -- with the
25 CCN boundary as shown in TCEQ's records?

1 A Yes.

2 Q So the other seven would not?

3 A That is correct.

4 Q And none of the homes in Phase III would be?

5 A That is correct.

6 Q I believe you also talked with Mr. Rodriguez
7 about the corporate structure for your entities, and
8 he asked you a question about South Ridge of Lindsay.
9 Do you recall that?

10 A Yes, sir.

11 Q Is the South Ridge of Lindsay a separate
12 corporation?

13 A The South Ridge of Lindsay -- I testified
14 that it was a corporation. It is not. Myrick
15 Development Company is a corporation. South Ridge of
16 Lindsay is the name that we use, and I stand corrected
17 by my accountant that I called just a little bit
18 ago -- well, at dinner a little bit ago.

19 Q How much of the 96 acres -- well, excuse me.
20 Let me start over.

21 There's a portion of the South Ridge of
22 Lindsay, the 96 acres, that is not apparently within
23 the CCN boundaries as shown on the TCEQ maps.

24 A Yes, sir.

25 Q How much of that area that's not within the