

1 Development Board, which is a state agency, typically
2 funds municipalities with low-interest loans into
3 rural areas and for -- within the municipal areas.

4 Then there are community development
5 block grant funds, which are typically grant funds
6 that -- that cities can apply for and obtain those
7 grant funds.

8 There's also an agency known as ORCA,
9 acronym ORCA, which is the Office of Rural Community
10 Affairs, which also provides for grant funds to
11 municipalities. And then obviously a funding
12 mechanism would be rate increases, for example.

13 Q Now, Mr. Maroney, did you indicate that you
14 had -- that you had experience with those different
15 grant agencies and low-interest loan agencies?

16 A I've actually had experience with all of
17 those.

18 Q How many of those agencies would allow for
19 funding of investor-owned utilities?

20 A The rate increase part would obviously be
21 something that investor-owned utilities -- to my
22 knowledge, the other four -- the RUS or Texas Water
23 Development Board, CDBG or ORCA would not allow an
24 investor-owned utility.

25 Q There was some testimony yesterday,

31 1 Mr. Maroney, regarding certain limiting factors on
2 water systems. Are you familiar with the size of the
3 storage -- the storage facilities for the City of
4 Lindsay?

10:31 5 A I am.

6 Q Can you describe for me, Mr. Maroney, the --
7 based on well supply -- how many connections --
8 without adding in additional infrastructure what's the
9 well supply capacity for the City of Lindsay?

10:31 10 A Currently they have a well supply from three
11 wells totaling 420 gallons a minute, which could have
12 a service capacity of 700 connections.

13 Q How about total storage?

14 A Total storage they have a combination of
10:32 15 elevated storage and ground storage for a total
16 storage of 290,000 gallons. You convert the 290,000
17 gallons to capacity, it would allow for a connection
18 capacity of 1,450 connections.

19 Q And how about if it was just elevated
10:32 20 storage?

21 A The elevated storage portion which makes up
22 part of the total storage -- but the elevated storage
23 portion is 150,000 gallon elevated tank, and it has a
24 customer capacity of 1,500 connections.

10:33 25 Q But when you add that in with the ground

10:33 1 storage, the actual connection count increases a bit.

2 Is that correct?

3 A That's correct.

4 Q Now, how about the high service pump

10:33 5 capacities for the city?

6 A The city has two separate pump stations, two
7 pumps at each station. It has a total pump capacity
8 with all four pumps of 715 gallons a minute. And that
9 has a customer capacity of 1,192 connections.

10:33 10 Q Mr. Maroney, just in your experience, do you
11 have any experience with the regional water planning
12 studies that are done -- that are required throughout
13 the state?

14 A I do.

10:33 15 Q How are you familiar with them?

16 A The regional water planning study, I happen
17 to be the prime consultant on the Region B study and
18 the regional water planning group of Region B, which
19 is to the west of Region C. Cooke County is contained
10:34 20 within Region C, and I'm familiar with that plan in
21 that I have reviewed that plan and have in fact made
22 presentations to Cooke, Grayson and Fannin County as
23 it relates to proposed water improvements and water
24 management strategies that's been adopted by the Texas
10:34 25 Water Development Board and the Regional Water

1 Planning Group in Region C.

2 Q Now, based on your familiarity with the
3 Region C planning study, do you -- what is your
4 understanding regarding the availability of surface
5 water supplies to the City of Lindsay?

6 A As part of the Region C plan, the regional
7 water planning group has in fact adopted management
8 strategies that directly impact Cooke County as it
9 relates to the excess capacity that's in Moss Lake.
10 This would be a Cooke County water project, lake owned
11 and operated by the City of Gainesville. And that at
12 some point in time one of the strategies that's been
13 approved by Texas Water Development Board and the
14 regional water planning group is to provide surface
15 water to Lindsay and some of the other surrounding
16 areas in Cooke County.

17 Q And you're familiar with the City of
18 Lindsay's water system?

19 A I am.

20 Q Has the city taken any -- well, is the city's
21 facilities today in a position to be able to begin
22 accepting surface water?

23 A They obviously have various line sizes and
24 various infrastructure within the distribution system.
25 One particular line that was put in -- and I'm sorry I

10:36 1 can't tell you exactly when it was -- but it was put
2 in and extended east from Lindsay, east along Highway
3 82 to about the city limits between Lindsay and the
4 City of Gainesville.

10:36 5 Q And it's stubbed out to the eastern city
6 limits of the City of Lindsay?

7 A Yes, sir.

8 Q Okay. And towards -- to the western -- to
9 the west of the City of Gainesville?

10:36 10 A It would be on the western edge of the city
11 of Gainesville and on the eastern edge of the City of
12 Lindsay.

13 Q Along Highway 82?

14 A Along Highway 82.

10:37 15 Q I should have asked this question earlier,
16 Mr. Maroney, and I apologize, but how many connections
17 could a 1000-gallon pressure tank serve?

18 A A 1000-gallon pressure tank, based on 20
19 connections, would serve 50 customers; 20 gallons per
10:37 20 connection would serve 50 customers.

21 Q Okay. Now, you were in the courtroom
22 yesterday, Mr. Maroney, when the Judge asked for some
23 additional evidence regarding the impact of the CCN --
24 requested CCN on both the town of Lindsay and other
10:37 25 retail public utilities including Lindsay Pure Water?

10:37

1 A I was.

10:38

2 Q Now, can you describe for me, Mr. Maroney,
3 what the impact would be on the City of Lindsay and
4 Lindsay Pure Water if the city were granted its
5 requested CCN territory?

6 A I can.

7 Q Please provide that.

10:38

8 A Assuming that Lindsay was granted its
9 requested area, Lindsay would obviously be required to
10 provide a qualified service applicant with continuous
11 and adequate service in compliance with the TCEQ water
12 standards. In addition, Lindsay would include this
13 area in their strategic planning master plan and begin
14 planning for future improvements in these areas.

10:38

15 The property owners that requested the
16 service within this area would obviously be included
17 in the CCN as they requested. It would also allow
18 Lindsay to make application in this area, and it would
19 qualify for grant funds to extend facilities in the
20 requested area.

10:39

21 As it relates to Lindsay Pure Water, I
22 believe Lindsay Pure Water would have some minimal
23 effect in that they're currently serving customers
24 outside their CCN that in fact would end up in the
25 City of Lindsay's CCN.

10:39

1 Q How about -- now, an almost identical
2 scenario, but what would the effect on both
3 entities -- Lindsay and Lindsay Pure Water -- if the
4 town of Lindsay's application were granted with the
5 exception of the South Ridge of Lindsay subdivision?

6 A For Lindsay -- City of Lindsay there would be
7 exactly the same. For Lindsay Pure Water, there
8 would -- there would be no impact in that all of their
9 customers that are currently in Lindsay Pure Water
10 would remain with Lindsay Pure Water.

11 JUDGE NORMAN: Well, that's not the
12 question that was asked. The question was if -- I
13 believe -- if South Ridge was cut out, not if just the
14 existing customers were cut out. Isn't that true,
15 Mr. Rodriguez.

16 MR. RODRIGUEZ: Yes, that's what I
17 understood you to be asking.

18 JUDGE NORMAN: All or both or -- I
19 missed the answer to both questions.

20 Q (BY MR. RODRIGUEZ) Can you provide answers --

21 A Well, ask the question again.

22 Q Okay. What would the impact on -- and I
23 believe you provided the impact of the City of Lindsay
24 if the South Ridge of Lindsay subdivision were removed
25 from the requested service territory, right? That was

41 1 the answer you provided?

2 A Correct.

3 Q Can you please provide detail for the Judge
4 what the impact would be on Lindsay Pure Water if the
10:41 5 town of Lindsay's CCN were granted with the exception
6 of the town of Lindsay -- with the exception of the
7 South Ridge -- South Ridge of Lindsay subdivision?
8 We'll do that one first.

9 JUDGE NORMAN: Okay.

10:41 10 A With the South Ridge subdivision, all four
11 phases, there would be no impact to Lindsay Pure
12 Water.

13 JUDGE NORMAN: Okay.

14 Q (BY MR. RODRIGUEZ) Now, almost identical
10:41 15 scenario. What would be the impact on Lindsay Pure
16 Water Company if the CCN that's been requested by the
17 town of Lindsay were included, with the exception of
18 the current customers that Lindsay Pure Water is
19 serving outside of its CCN?

10:42 20 A If you include those customers -- eliminate
21 those customers, it would be no impact to Lindsay Pure
22 Water.

23 Q And why is that?

24 A Simply because those customers would be
10:42 25 continued to be served by Lindsay Pure Water.

1 Q Now, can you describe the impact to the City
2 of Lindsay if the -- if the City of Lindsay CCN is not
3 granted for all areas south of Highway 82?

4 A Well, in that particular case, Lindsay would
5 not financially commit any funds to extending their
6 service in that area. That area would not qualify for
7 grant funds -- assuming that Lindsay could obtain
8 grant funds, they could not use those grant funds in
9 that uncertified area. They also would not include
10 this area in their strategic planning or master water
11 plan. The landowners in that area would not be
12 granted their request to be included in Lindsay's CCN.
13 At the same -- in the same token, Lindsay Pure Water
14 would not be affected.

15 JUDGE NORMAN: Okay.

16 Q (BY MR. RODRIGUEZ) Now, do you have an
17 opinion as to how the City of Lindsay's application
18 impacts the Myra CCN or the city of Gainesville CCN --
19 Myra, excuse me.

20 A I don't see any impact to Myra CCN, city of
21 Gainesville -- the application does overlap a portion
22 of the city of Gainesville's CCN.

23 Q Now, if the overlap area with the city of
24 Gainesville were removed, does it have any impact on
25 the city of Gainesville at that point?

10:44

1 A It would not.

2 MR. RODRIGUEZ: I pass the witness, Your
3 Honor.

4 JUDGE NORMAN: Mr. Siano?

10:44

5 CROSS-EXAMINATION

6 BY MR. SIANO:

7 Q Good morning, Mr. Maroney.

8 A Good morning.

10:44

9 Q What the basis of your proposition that areas
10 outside of the certificated area would not be eligible
11 for grant funding?

12 A The area outside the certificated area -- it
13 would be my opinion that grant funds could not be
14 expended in an area that they would not have the right
15 to serve.

10:45

16 Q But for a district or municipality which
17 doesn't need a CCN, that wouldn't apply to them, isn't
18 that correct? They would not need a certificate to
19 serve outside of their territory.

10:45

20 A It's been my -- they do not need a
21 certificate to serve. It's been my experience that
22 grant funds could not be and would not be obligated to
23 an area of which they in fact do not have the right to
24 serve.

10:45

25 Q But you're not certain of that?

1 A I'm not positive about that.

2 Q And you speculated on the impact of
3 eliminating the customers -- Lindsay Pure's customers
4 that it's serving outside of its certificated area,
5 and I believe you represented that there would be no
6 impact to the customers, and I didn't hear what the
7 financial impact would be to Lindsay Pure?

8 A I didn't address the financial impact. I
9 left that to Mr. Stowe.

10 Q But you don't have an idea of the financial
11 impact of Lindsay Pure of eliminating customers --

12 A It would be my -- I would speculate that in
13 fact if they did not -- if those customers were not --
14 were left with Pure Water, then there would not be a
15 financial impact to Lindsay Pure Water.

16 Q And did you opine on the environmental impact
17 of taking those customers?

18 A No.

19 Q Do you have an opinion as to the
20 environmental impact?

21 A Of those staying with Lindsay Pure Water?

22 Q Well, staying with versus removing them.

23 A I do not see that there would be an
24 environmental impact to them staying.

25 Q Now, of course, putting in the, in essence,

1 duplicative infrastructure laying lines, et cetera,
2 that's disturbing the habitat --

3 A As far as from a construction standpoint,
4 should that occur, yes.

5 MR. SIANO: No further questions.

6 CROSS-EXAMINATION

7 BY MR. CARLTON:

8 Q Mr. Maroney, I want to go back to a
9 conversation we had a couple of days ago regarding the
10 improvements that will be made to Lindsay's system to
11 provide service to that Hellinger tract on 3108 -- or
12 south down 3108. Do you recall that from the other
13 day?

14 A Vaguely I do.

15 Q Me, too. I recall that you mentioned that
16 there was an abandoned tank that you -- that would be
17 used -- or could be used to pressurize that line. Do
18 you remember that?

19 A I do.

20 Q What kind of tank is that?

21 A It's a pressure tank.

22 Q How big is it?

23 A I believe a couple of thousand gallons.

24 Q So that wasn't included in your -- in either
25 the total storage that you were calculating?

1 A No.

2 Q Are you familiar with any projections on the
3 wholesale cost of surface water from Gainesville out
4 of Moss Lake?

5 A I am not.

6 Q What's your experience with the cost
7 differential between surface water and groundwater?

8 A Typically the surface water is more
9 expensive.

10 Q What's the magnitude of that difference, in
11 your experience?

12 A In the case with -- in this case with
13 Gainesville, I couldn't speak to that, but in the case
14 of the cities that have in fact purchased the surface
15 water, it could be double the cost.

16 Q And do you know when the Lindsay water system
17 was first installed?

18 A The original system? No, sir.

19 Q Are you familiar with some portions of the
20 system?

21 A I'm familiar with, for example, the elevated
22 storage tank was installed, from my understanding, in
23 about 1996.

24 MR. CARLTON: Okay. Pass the witness.

25 MR. RODRIGUEZ: Nothing.

10:51

1 JUDGE NORMAN: Mr. Siano?

2 MR. SIANO: Nothing.

3 JUDGE NORMAN: Thank you, Mr. Maroney.

4 MR. RODRIGUEZ: We have no further

10:51

5 rebuttal witnesses, Your Honor.

6 JUDGE NORMAN: And, Mr. Siano --

7 Mr. Carlton, do you have any additional evidence?

8 MR. CARLTON: I didn't think we could
9 have any rebuttal opportunity.

10:51

10 JUDGE NORMAN: Well, I'm going to give
11 you an opportunity -- we've heard more, and I'm going
12 to give you a chance to -- if you want the take a
13 break --

14 MR. CARLTON: If I can have a break, I
15 don't know that we will --

10:51

16 JUDGE NORMAN: All right.

17 MR. CARLTON: Will this be limited to
18 the issues that were brought up?

19 JUDGE NORMAN: I think so.

10:51

20 MR. CARLTON: Okay.

21 (Discussion off the record)

22 JUDGE NORMAN: All right. Let's go.
23 We're back on the record.

24 Mr. Myrick, you're still under oath.

25 WITNESS MYRICK: Yes, sir.

10:57

1 REBUTTAL PRESENTATION ON BEHALF OF
2 LINDSAY PURE WATER COMPANY

3 JAMES MYRICK,

4 having been previously duly sworn, testified as
5 follows:

6 DIRECT EXAMINATION

7 BY MR. CARLTON:

8 Q Mr. Myrick, I want to clarify a couple of
9 things that were raised in rebuttal testimony by
10 Mr. Stowe. And just for the record, do you have any
11 accounting expertise?

12 A None.

13 Q And do you keep the books for the Lindsay
14 Pure Water Company or Myrick Development?

15 A No, sir.

16 Q Who do you rely upon to do that?

17 A My accountant.

18 Q So when you testified on direct that any
19 money you recovered has been through lot sales, was
20 that based upon your understanding of the books and
21 records of Lindsay Pure Water?

22 A Yes, sir.

23 Q And how -- what is your -- what do you
24 understand about those records?

25 A Just what the accountant tells me. I hire an

1 accountant to do accounting and I hire a lawyer to do
2 my lawyering. If they're experts -- you've got to
3 have experts. And hopefully a lawyer to straighten
4 out my mess with the TCEQ.

10:58 5 MR. CARLTON: No further questions.

6 JUDGE NORMAN: Mr. Rodriguez?

7 MR. RODRIGUEZ: I have nothing, Your
8 Honor.

9 JUDGE NORMAN: Mr. Siano?

10:59 10 MR. SIANO: Nothing.

11 JUDGE NORMAN: Thank you, Mr. Myrick.

12 WITNESS MYRICK: Thank you.

13 JUDGE NORMAN: Okay. We're going to
14 talk about the schedule. When can we expect the
10:59 15 transcript?

16 THE REPORTER: Two weeks from today.

17 JUDGE NORMAN: Two weeks from today?

18 Okay. And then we'll want -- I'll want -- I think the
19 normal course is to have briefs on the basis of -- you
10:59 20 know, with citations to the record, including the
21 transcript and the exhibits. And so what's the usual
22 time for that?

23 MR. RODRIGUEZ: About a month after
24 the -- after the two weeks, so six weeks from today.

10:59 25 MR. CARLTON: So that would put us at

10:59

1 Thanksgiving, the week before Thanksgiving,
2 November 21st. I'm worried Thanksgiving would be in
3 the middle of that, but if we file right before
4 Thanksgiving, that's okay.

11:00

5 MR. RODRIGUEZ: That's fine with me. I
6 just would like some additional time afterwards.
7 Usually you do replies in two weeks, but given the
8 holidays, Thanksgiving and Christmas coming up --

11:00

9 MR. CARLTON: My travel plans aren't
10 until after Christmas.

11 MR. RODRIGUEZ: Yeah, I'm gone the
12 entire week after Thanksgiving.

13 MR. CARLTON: We could push to the
14 middle of January.

11:00

15 MR. RODRIGUEZ: If that's okay with Your
16 Honor, that would be fine with me.

17 JUDGE NORMAN: Is that -- does that
18 sound good to you?

19 MR. SIANO: I'm sorry?

11:00

20 JUDGE NORMAN: For final -- finally get
21 it all in mid-January. That's what we're looking at.
22 And y'all can divide that up any way you want to, if
23 you want to think about that. You may want to divide
24 it up differently than what you're talking about. In
25 other words, three weeks after the transcript you may

11:01

1 want -- Mr. Rodriguez you can divide that up.

2 Why don't you-all get your heads
3 together and divide that up.

4 MR. RODRIGUEZ: It's just that --

5 MR. CARLTON: It's just with the
6 holidays, we want to make sure everybody has enough
7 time to focus on stuff.

8 JUDGE NORMAN: Right.

9 MR. RODRIGUEZ: And I guess the other
10 thing is do you want proposed findings of fact and
11 conclusions of law with the briefs or with the
12 replies?

13 JUDGE NORMAN: You know, I don't find
14 them very useful.

15 MR. RODRIGUEZ: You don't want them?

16 JUDGE NORMAN: I don't need them. If
17 you want to give them --

18 MR. RODRIGUEZ: No, it's easier not
19 preparing them.

20 JUDGE NORMAN: Right.

21 MR. RODRIGUEZ: But if you -- some
22 judges find them useful.

23 JUDGE NORMAN: Yeah, I don't.

24 MR. SIANO: So no replies --

25 JUDGE NORMAN: No, no proposed findings

1 of fact and conclusions of law.

2 MR. SIANO: Let me call Brian MacLeod --

3 MR. RODRIGUEZ: Why don't we do this,
4 why don't the three of us just talk about it and then
5 we can submit a schedule for you.

6 JUDGE NORMAN: That's fine.

7 MR. RODRIGUEZ: Within the next two
8 weeks while we're waiting on the transcripts. Is that
9 okay?

10 JUDGE NORMAN: That's just fine. And
11 then you-all can just work backwards from mid-January.

12 MR. RODRIGUEZ: Okay.

13 JUDGE NORMAN: Sounds good.

14 MR. SIANO: Before we forget, I'd like
15 to get this --

16 JUDGE NORMAN: Absolutely.

17 MR. SIANO: Maybe if you could all just
18 break out your --

19 MR. CARLTON: The record is closed,
20 Christiaan.

21 (Laughter)

22 MR. SIANO: Well, it's a little bit of a
23 change, but just so you don't have two copies of the
24 same thing. It's marked exactly the same, and so
25 there's no way to identify the difference.

11:02 1 (Discussion off the record)

2 MR. RODRIGUEZ: So do I understand we're

3 replacing ED-4 with ED-4A or amended 4A?

4 MR. SIANO: I didn't -- it's just ED-4.

11:03 5 MR. RODRIGUEZ: So you're just yanking

6 what was here and removing it.

7 MR. SIANO: This is an exact

8 replacement, yes.

9 MR. RODRIGUEZ: Okay.

11:03 10 MR. SIANO: And what is deleted is

11 stricken through, and what is added is underlined.

12 JUDGE NORMAN: Okay.

13 MR. SIANO: If you guys want to take a

14 look at it to make sure it's okay, we can do that.

11:04 15 MR. RODRIGUEZ: I have no problem with

16 it, Judge.

17 JUDGE NORMAN: Okay.

18 MR. CARLTON: I'm fine.

19 JUDGE NORMAN: All smooth.

11:04 20 MR. CARLTON: I'm sure it's okay.

21 JUDGE NORMAN: Okay. That's it then.

22 You-all submit something to me within the next two

23 weeks, and I'm sure I'll go with it.

24 Okay. Thank you very much.

11:04 25 (Proceedings concluded at 11:04 a.m.)

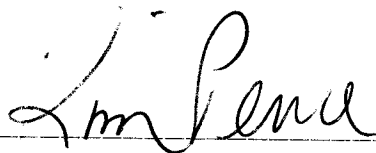
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STATE OF TEXAS)
COUNTY OF TRAVIS)

We, Lou Ray and Kim Pence, Certified
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hereby certify that the above-mentioned matter
occurred as hereinbefore set out.

WE FURTHER CERTIFY THAT the proceedings
of such were reported by us or under our supervision,
later reduced to typewritten form under our
supervision and control and that the foregoing pages
are a full, true, and correct transcription of the
original notes.

IN WITNESS WHEREOF, we have hereunto set
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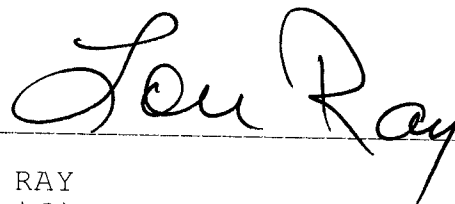
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