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1 MR. CARLTON: Objection; leading.	1 question.
2 JUDGE NORMAN: Sustained.	2 MR. CARLTON: I'm not objecting to
3 Q (BY MR. RODRIGUEZ) Well, what would be your	3 Mr. MacLeod.
4 understanding as to where he would want service to be	4 JUDGE NORMAN: Okay. Sustained.
5 provided?	5 Q (BY MR. MacLEOD) Could you tell me what
6 A Well, it would be my understanding that he	6 LPWC-8 is, an ordinance dealing with how the city is
7 wants water and sewer brought to his property located	7 going to provide service to customers outside of the
8 near or on FM 3108, which is three different pieces of	8 city limits? Is that correct?
9 property that all appear to be touching FM 3108. So	9 A That's correct.
10 all three of them.	10 Q And that ordinance says that people that live
11 Q So is that your understanding for what other	11 outside the city could be cut off -- their services
12 requestors that have multiple tracts might be	12 could be cut off for any reason if the city wanted to
13 requesting?	13 cut them off. Is that correct? I think you find that
14 MR. CARLTON: Objection; leading.	14 under like the second page, (B)(2) I think it is. I'm
15 JUDGE NORMAN: Sustained.	15 not sure if that's the right -- actually, it's on the
16 MR. RODRIGUEZ: I didn't suggest an	16 first page. It's (A)(2). It's not (B). It's (A)(2).
17 answer, Your Honor. I didn't even assume any facts in	17 A Yes, the ordinance would give us, the city,
18 evidence.	18 the right to terminate services.
19 JUDGE NORMAN: I think you suggested an	19 Q But if you had -- if the CCN were granted, do
20 answer.	20 you understand that gives the city the duty to serve
21 MR. RODRIGUEZ: Okay.	21 those people and they can't be cut off or otherwise
22 Q (BY MR. RODRIGUEZ) With respect to the	22 come to the TCEQ and get an order requiring them to
23 others that have multiple tracts, Mr. Metzler, what	23 serve them if they're a qualified applicant. Is that
24 would be your understanding with regard to what they	24 your understanding?
25 were requesting?	25 A Yes, it is.
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1 A My understanding is that these people	1 Q Also, do you understand that outside the city
2 requesting water and sewer service from the city as	2 limits if you were granted the CCN, the city couldn't
3 asking for that water and service to any and all of	3 force anyone to accept service, their water or sewer
4 the properties they own.	4 service outside the city limits even with the CCN? It
5 MR. RODRIGUEZ: Your Honor, I pass the	5 doesn't give you a right to force service?
6 witness.	6 A Correct. I understand that.
7 JUDGE NORMAN: Okay. Mr. MacLeod.	7 Q You know, we've been talking about -- we're
8 FURTHER RECROSS-EXAMINATION	8 trying to get an idea of the total acreage of this
9 BY MR. MacLEOD:	9 request for a CCN, and the original CCN request was
10 Q I just want to clarify a little bit more on	10 for like over 18,000 acres, but now there's been some
11 the city ordinance that was labeled and admitted into	11 changes because there was a nunc pro tunc, and I don't
12 evidence as LPWC-8. Is it your understanding that	12 know how many acres are in that area that's doubling
13 that ordinance without the CCN means the city could	13 with Gainesville we want to take out. Can you make a
14 cut off service to anyone for any reason outside of	14 gross estimate as to how many acres would still be in
15 the city limits under that ordinance? Is that right?	15 your CCN request after those two adjustments were
16 A This ordinance seems to deal with inside the	16 made? If you can't, that's all right.
17 city limits of Lindsay, Texas.	17 A No, I would be uncomfortable trying to guess
18 Q Well, let me take a look at that again.	18 that one.
19 MR. RODRIGUEZ: Outside.	19 Q It's possible maybe one of your other
20 A Oh, outside. I mean -- well, it's --	20 witnesses --
21 MR. CARLTON: Object -- objection, Your	21 A Mr. Maroney might be able to answer that.
22 Honor. We're coaching the witness a whole lot down	22 MR. MacLEOD: All right. Pass the
23 here, and I'd like to have the witness testify and not	23 witness.
24 the attorney.	24 JUDGE NORMAN: Okay. Do you have a lot,
25 JUDGE NORMAN: Okay. Just restate your	25 Mr. Carlton, or not?

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1 MR. CARLTON: Some of it depends on the
2 answers.
3 JUDGE NORMAN: Right.
4 MR. CARLTON: I wouldn't say that I'm
5 going to be going for a real long time, though.
6 JUDGE NORMAN: Okay.
7 MR. CARLTON: Do you --
8 JUDGE NORMAN: No, we're back to you,
9 and this is your turn, but I'm going to limit redirect
10 to what your recross is. And then if there's
11 redirect, then I'll limit your cross to what the
12 redirect was.
13 MR. CARLTON: Okay.
14 JUDGE NORMAN: Okay.
15 FURTHER RECROSS-EXAMINATION
16 BY MR. CARLTON:
17 Q Mr. Metzler, the ordinance that's attached,
18 that is LPWC-8, was adopted in August of 2005.
19 Correct?
20 A Correct.
21 Q The same month that the application for the
22 CCN was filed. Correct?
23 A Prior to the application being made but to
24 the same month.
25 Q Okay. What's confusing to me and I need some

1 council was advised that if they were providing
2 service to someone within a CCN they couldn't just
3 terminate that service for no reason?
4 A Well, I wasn't at any of the meetings to be
5 able to answer that one.
6 Q And when you talk about the council would
7 need to take action to amend this ordinance, that's
8 your own personal opinion --
9 A Yes, sir.
10 Q -- and you don't have the ability to speak
11 for the council as a whole?
12 A It would be my opinion to take back, you
13 know, a recommendation to look at this and how it
14 applies to a whole new set of circumstances as of last
15 September 30th.
16 Q You also testified and then I think tried to
17 clarify your testimony that these service request
18 letters that are -- these letters that are in DLM-10
19 could be interpreted to be service for one small
20 parcel or more of the parcels that are owned by that
21 individual. Correct?
22 A Correct.
23 Q But then you later testified that you would
24 then assume no, no, no, that means all the parcels.
25 Right?

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1 help understanding is, why would the city adopt an
2 ordinance restricting or setting out very strict
3 guidelines for how it was going to be providing
4 service outside the city limits when it had never
5 provided that service in the past and was just then
6 applying for a CCN to provide service outside of its
7 city limits unless it intended to have that ordinance
8 apply after it got its CCN?
9 A I can't really answer your question. I
10 wasn't around for the debate or the discussion that
11 took place in this process of adopting this particular
12 ordinance.
13 Q Was the city council advised as to the
14 restrictions and limitations on obtaining -- on
15 holding a CCN prior to the time they filed for it?
16 A Well, I wasn't on the council. I can't
17 answer that question.
18 Q So you don't know whether the council knew
19 that they had to provide service to anybody who
20 requested it within the CCN once they were issued the
21 CCN?
22 A Well, once again, I'd be answering about a
23 conversation I was never a part of in this particular
24 situation.
25 Q And you didn't -- you don't know whether the

1 A Well, I think I said that it would -- it
2 would include all of the -- in other words, if one
3 person owned -- his name is down there four different
4 times on four pieces of property but he only sent us
5 one letter, I interpret that to mean all four
6 properties and not just the one.
7 Q But that's in conflict with your earlier
8 testimony that said it could mean just one of four?
9 A Well, I --
10 Q Why the difference?
11 A I'm starting to see a bigger interpretation
12 of what "property" means.
13 Q Let's talk a little bit about Page 1006 of
14 APP-1, Item F. I think Mr. Rodriguez asked you
15 whether that answer was correct given your
16 reevaluation of the fact that a utility only serves
17 within its CCN. Correct?
18 A That a utility only services -- yes.
19 Q Are you aware that utilities can provide
20 service outside their CCN?
21 A Yes.
22 Q And so the question -- well, the statement in
23 here is there are no other utilities providing
24 service.
25 A Within the requested area?

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<p>1 Q Correct.</p> <p>2 A And we have a requested area, and it</p> <p>3 surrounds Mr. -- or Lindsay Pure Water.</p> <p>4 Q Do you know whether Lindsay Pure Water is</p> <p>5 providing service outside of its CCN?</p> <p>6 A No, I don't know for a fact if they are or</p> <p>7 not.</p> <p>8 Q Did anyone go try to verify that when filling</p> <p>9 out the application?</p> <p>10 A Well, I don't know about that. I didn't fill</p> <p>11 out the application.</p> <p>12 Q So the statement could be incorrect if</p> <p>13 Lindsay is providing service outside of its CCN?</p> <p>14 A I guess it could be incorrect.</p> <p>15 MR. RODRIGUEZ: Objection, Your Honor.</p> <p>16 Did you say if Lindsay is providing service outside?</p> <p>17 MR. CARLTON: If Lindsay Pure Water is</p> <p>18 providing service outside its CCN.</p> <p>19 MR. RODRIGUEZ: Okay. I withdraw my</p> <p>20 objection, Your Honor.</p> <p>21 Q (BY MR. RODRIGUEZ) You had an interesting</p> <p>22 conversation with Mr. Rodriguez also about the</p> <p>23 distinction between what someone has to do with the</p> <p>24 city when they are requesting water service versus</p> <p>25 making an application for water service. What did you</p>	<p>1 the city if they wanted service from the city?</p> <p>2 A All right. A water request from -- service</p> <p>3 from the city, would it have to come to the city?</p> <p>4 Q If it was outside the city limits or ETJ.</p> <p>5 A Well, I guess they could come make</p> <p>6 application. Whether or not it would ever be granted</p> <p>7 is a different issue.</p> <p>8 Q From the tenor of your answer, I would assume</p> <p>9 that it wouldn't be granted if that was the case.</p> <p>10 MR. RODRIGUEZ: Objection, Your Honor.</p> <p>11 He's putting words --</p> <p>12 MR. CARLTON: I'm asking him to clarify.</p> <p>13 MR. RODRIGUEZ: -- putting words in his</p> <p>14 mouth and mischaracterizing his testimony.</p> <p>15 JUDGE NORMAN: It's cross-examination.</p> <p>16 I'll permit it.</p> <p>17 A Well, if I misunderstood your question,</p> <p>18 correct me. Someone that's outside of our CCN,</p> <p>19 outside of our ETJ. Correct?</p> <p>20 Q (BY MR. CARLTON) Right.</p> <p>21 A Drives down to city hall and says I need --</p> <p>22 "I would like to have water eight miles northwest of</p> <p>23 here"?</p> <p>24 Q Say four miles.</p> <p>25 A Well, I'm saying eight.</p>
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<p>1 understand the distinction between those two types of</p> <p>2 actions to be?</p> <p>3 A Making application is a more formal process</p> <p>4 than requesting.</p> <p>5 Q And so making application for service has to</p> <p>6 go before the city council?</p> <p>7 A Making application would eventually -- would</p> <p>8 come before council.</p> <p>9 Q So you haven't seen any applications for</p> <p>10 water service outside the city limits in your tenure</p> <p>11 on the council?</p> <p>12 A Correct.</p> <p>13 Q And you're not aware of any during your</p> <p>14 tenure on the planning and zoning commission?</p> <p>15 A No, I'm not.</p> <p>16 Q You also testified for Mr. Rodriguez that the</p> <p>17 city's planning and zoning commission jurisdiction for</p> <p>18 platting only extends to the ETJ. Do you remember</p> <p>19 that?</p> <p>20 A Uh-huh.</p> <p>21 Q Who has the jurisdiction outside the ETJ over</p> <p>22 plats?</p> <p>23 A I would think the county.</p> <p>24 Q Would any sort of water service requests,</p> <p>25 even if it was outside the city's ETJ, have to come to</p>	<p>1 Q Okay.</p> <p>2 A Eight miles north of here. Yes, I guess they</p> <p>3 could come in and ask for it, but I doubt that we</p> <p>4 would take any real action on it. But there's a lot</p> <p>5 of other -- you know, I guess there's hundreds of</p> <p>6 circumstances that we need to look at first, but</p> <p>7 anybody could come in and ask. I mean, I guess you</p> <p>8 could ask if we'd bring it down to your house down</p> <p>9 here. So my tenor, you know, I kind of doubt that</p> <p>10 we'd do that.</p> <p>11 Q So you explained for Mr. Rodriguez that the</p> <p>12 number of letters that were still considered by the</p> <p>13 city to be service requests was reduced to 41, and</p> <p>14 that that calculation already excluded the duplicates</p> <p>15 that we identified when I was cross-examining you</p> <p>16 earlier. Correct?</p> <p>17 A 41 plus the 13; 53 (sic). It would have been</p> <p>18 53 being the total number would be pretty accurate.</p> <p>19 We started with 55 this morning, and then it dropped</p> <p>20 to 53, but when we started going back through here and</p> <p>21 counting, we found what, four or five duplicates,</p> <p>22 meaning there's at least five extra pieces of paper in</p> <p>23 there that don't need to be there. And there were a</p> <p>24 total of 63, did I say, minus five; 58. Minus the one</p> <p>25 or two that are properties that might be in the</p>

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1 contested area or the overlap between Gainesville and
2 Lindsay's CCN, so down to 56 -- 55, 56.
3 Q How many of those remaining requests are
4 south of 82, do you know?
5 A Ooh, I don't know that.
6 Q Would you be able to determine that by taking
7 the requests and matching names to the area to the
8 south?
9 A I would think so.
10 Q Except I guess the only challenge there would
11 be in the case of somebody who owned properties both
12 north and south, we wouldn't know which property they
13 were requesting. Right?
14 A Well, I would assume they were requesting
15 both of them. And if one of them is already in the
16 CCN that's just granted to us, then the other one
17 would still be in an area that we're hoping to get.
18 MR. CARLTON: No further questions.
19 Pass the witness.
20 JUDGE NORMAN: Mr. Rodriguez?
21 FURTHER REDIRECT EXAMINATION
22 BY MR. RODRIGUEZ:
23 Q Just a few questions, Mr. Metzler. When does
24 the city council normally meet in regular session?
25 A Second Monday of each month.

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1 Q Okay. Between September 30th and today, has
2 the city council had a city council meeting?
3 A No, sir.
4 MR. RODRIGUEZ: Pass the witness, Your
5 Honor.
6 JUDGE NORMAN: Mr. MacLeod?
7 MR. MacLEOD: No questions.
8 JUDGE NORMAN: Okay. Mr. Carlton?
9 MR. CARLTON: No questions.
10 JUDGE NORMAN: Thank you very much,
11 Mr. Metzler.
12 THE WITNESS: You're welcome.
13 MR. MacLEOD: Your Honor?
14 JUDGE NORMAN: Yes?
15 MR. MacLEOD: Could we take a quick
16 break?
17 JUDGE NORMAN: Sure. Let's make this
18 five minutes. Okay? Is that enough time for you?
19 MR. MacLEOD: That's enough.
20 JUDGE NORMAN: Okay.
21 (Recess: 3:09 p.m. to 3:15 p.m.)
22 JUDGE NORMAN: Okay. We're back on the
23 record. And, Mr. Maroney, you've been sworn?
24 MR. MARONEY: I have, sir.
25 JUDGE NORMAN: You're under oath.

1 MR. RODRIGUEZ: And, Your Honor, I'd
2 just like to go through some of the changes --
3 JUDGE NORMAN: Sure.
4 MR. RODRIGUEZ: -- that have already
5 been confirmed in the testimony before we get -- we
6 jump right in to it.
7 On Page 6, Line 5, there was some -- the
8 copy of the official water CCN map of the city was
9 changed as well as KDM-3 was replaced with the one
10 that was done -- that was issued on September 30th
11 that we've talked about before. And you can see the
12 two deletions on Lines 10 and 11 and 15 and 16 --
13 JUDGE NORMAN: Okay.
14 MR. RODRIGUEZ: -- because of the --
15 because of your previous order to sever the sewer CCN
16 application from it.
17 And on some of the language on
18 Line 10 -- I'm sorry; I'm sorry. I went through that
19 already.
20 On Page 6 at the bottom, there's also
21 some deletions with respect to -- and going on to the
22 top of Page 7, deletions with respect to the
23 wastewater system of the city.
24 Page 8, likewise some deletions based on
25 the sewer CCN for the city. And beginning on Line 14

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1 some language was changed to conform to the new CCN
2 map that was approved by the Commission as well as
3 KDM-11 was added, which is the new proposed service
4 territory for the city because of the -- because of
5 the addition of the sewer CCN area.
6 Page 9 there were some deletions as well
7 with respect to the nunc pro tunc in the water CCN
8 area.
9 JUDGE NORMAN: Okay.
10 MR. RODRIGUEZ: Attachment KDM-7 was
11 removed, which is also discussed in that area.
12 On Page 12 beginning on Line 7 --
13 JUDGE NORMAN: I don't have a
14 replacement Page 12.
15 MR. MacLEOD: I don't either.
16 MR. CARLTON: I don't either.
17 MR. RODRIGUEZ: I'm sorry. Okay. I'm
18 sorry.
19 THE WITNESS: I didn't see anything.
20 MR. RODRIGUEZ: All right. It must have
21 been faulty notes on my part, Your Honor.
22 On 15 we've got some changes there with
23 respect to the sewer CCN, some deletions there. The
24 same thing on 16.
25 JUDGE NORMAN: Okay.

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1 MR. RODRIGUEZ: And the same thing on 17	1 A Yes.
2 with respect to the -- to that sewer CCN.	2 Q Okay. So we can strike that sentence?
3 And then if we go to Page 20, there's	3 A That's correct.
4 also some deletions there.	4 Q Now, with the corrections that I described as
5 So in all, the KDM-3 has been replaced.	5 well as the ones that you just made Mr. Maroney, if I
6 KDM-6 has been replaced with a new map. Attachment	6 asked you the same questions today, would your answers
7 KDM-7 and Attachment KDM-10 were removed, and KDM-11	7 be the same?
8 was added to his testimony.	8 A They would.
9 MR. CARLTON: Art, can you go through	9 MR. RODRIGUEZ: Your Honor, at this
10 that list again of the exhibits? I was still marking	10 point, I move for admission of Lindsay Exhibit APP-3.
11 stuff.	11 JUDGE NORMAN: Okay. Except for
12 MR. RODRIGUEZ: Sure. KDM-3 was	12 objections already made and ruled on, any other
13 replaced. Do you have that?	13 objections?
14 MR. CARLTON: Yeah.	14 MR. MacLEOD: No, Your Honor.
15 MR. RODRIGUEZ: KDM-6 was replaced,	15 MR. CARLTON: No, Your Honor.
16 KDM-7 and 10 were both removed, and KDM-11 was added	16 JUDGE NORMAN: Okay. It's admitted,
17 as the new requested service area map.	17 subject to those objections and rulings.
18 KERRY D. MARONEY,	18 (Exhibit APP No. 3 admitted)
19 having been first duly sworn, testified as follows:	19 Q (BY MR. RODRIGUEZ) Mr. Maroney, I believe at
20 DIRECT EXAMINATION	20 this time the Judge would like a summary of your
21 BY MR. RODRIGUEZ:	21 testimony, please. You can provide that in a
22 Q Good afternoon, Mr. Maroney.	22 narrative format.
23 A Good afternoon.	23 A Okay. Your Honor, as you're aware, the City
24 Q Of course we've met. Can you introduce	24 of Lindsay currently holds both a water CCN
25 yourself to the Judge, please?	25 certificate and also a wastewater or a sewer CCN
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1 A My name is Kerry Don Maroney.	1 certificate, the water being the 13025 and the sewer
2 Q Mr. Maroney, were you in the courtroom	2 being the 20927 numbers.
3 earlier when Mr. Metzler testified?	3 You're also aware on August 31, 2005
4 A I was.	4 Lindsay did file to amend both certificates to include
5 Q I'm going to ask you to turn to Page 14 of	5 an additional area, and the only protest to this
6 your testimony, and did you hear testimony regarding	6 amendment was Lindsay Pure Water Company.
7 three additional connections for water and sewer?	7 As documented in my prefiled testimony
8 A I did.	8 dated June 9, 2008 and as amended today, I on behalf
9 Q Okay. Do you have any changes to your	9 of Lindsay rendered a professional opinion as to
10 testimony there?	10 Lindsay's ability to provide continuous and adequate
11 A On Line 4 of my testimony, I had stated that	11 service to the requested service area.
12 "Lindsay currently has approximately 396 water	12 Having reviewed the application, having
13 connections." That should go to "399."	13 reviewed TCEQ compliance history in addition to
14 In addition, I stated that "396 sewer	14 performing some evaluation and analysis of the city's
15 connections," and that should also go to "399."	15 water and sewer facilities, I have determined that the
16 And then on Line 7, I talk about	16 City of Lindsay does have excess capacity available in
17 "approximately 470 additional homes without any	17 the system.
18 expansion." That should go to "467."	18 And in addition to that, based on the
19 Q Anything in the next paragraph?	19 criteria to be considered when amending a CCN
20 A Then also on Line 11, that "304 additional	20 application in accordance with 291.102(d)(1) through
21 customers" should be dropped by three to "301."	21 (8), it's my opinion that the City of Lindsay does
22 Q Okay. Now, I think we went through this	22 have the managerial and technical capabilities to
23 earlier where we attached KDM-10. Would it be okay to	23 provide continuous and adequate service to the
24 strike the -- on Line 8 the sentence that begins with	24 proposed area. And, therefore, it's my recommendation
25 "A copy" of that same page?	25 and opinion that this amendment to the water CCN be

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1 granted.
2 Q Mr. Maroney, you have -- you represent many
3 water utilities and sewer utilities throughout the
4 state. Is that correct?
5 A I do.
6 Q Now, are you familiar with the TCEQ rules on
7 granting or amending certificates of convenience and
8 necessity?
9 A I am.
10 Q Now, you have attached to your testimony,
11 which has been admitted, many different exhibits, that
12 you utilize in rendering your -- or do you utilize
13 those in rendering your professional expert opinion?
14 A I do.
15 Q Now, Mr. Maroney, is it -- are the documents
16 and the data that you used to formulate your opinion
17 the type that would be reasonably relied upon by other
18 experts in rendering opinions on certificates of
19 convenience and necessity?
20 A I believe so.
21 Q And you utilize that data to form your
22 opinions or make inferences based on CCNs. Is that
23 correct?
24 A That's correct.
25 MR. RODRIGUEZ: Okay. Your Honor, at

1 each of those wells?
2 A The well capacity sometimes is hard to
3 determine. I'm going to assume that you're asking
4 about the pump capacity.
5 Q Yes, the current pump capacity for those
6 wells.
7 A Currently, as best I can determine, Well
8 No. 1 pumps about 120 gallons a minute, Well No. 2
9 about a hundred gallons a minute and then Well No. 3
10 about 200 gallons a minute for a total of
11 approximately 420 gallons a minute.
12 Q And what's the requirement for well capacity
13 per connection?
14 A It depends on the system, but in general
15 minimum well capacity for Lindsay, for example, is
16 six-tenths of a gallon a minute per connection.
17 Q And what circumstances might that be
18 different?
19 A There are times you can get a reduction based
20 on use filing an engineering report, but for the most
21 part, the requirement as set forth under the minimum
22 standard is six-tenths of a gallon a minute.
23 Q And where are those standards found?
24 A In Texas Administrative Code 290, I think
25 .45, but I'll be happy to look for you.

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1 this point, I tender the witness for
2 cross-examination.
3 JUDGE NORMAN: Okay. Mr. MacLeod?
4 MR. MacLEOD: We don't have any
5 questions.
6 JUDGE NORMAN: Okay. Mr. Carlton?
7 MR. CARLTON: That was quick.
8 CROSS-EXAMINATION
9 BY MR. CARLTON:
10 Q Good afternoon, Mr. Maroney.
11 A Good afternoon, sir.
12 Q I have a couple of questions for you.
13 JUDGE NORMAN: Lawyers always say that.
14 I've heard that said many, many times, and I've never
15 heard it said truthfully actually, but that's not to
16 say --
17 MR. CARLTON: Define "couple."
18 JUDGE NORMAN: Right.
19 (Laughter)
20 Q (BY MR. CARLTON) If you would turn to
21 Page 14 of your testimony?
22 A Okay.
23 Q You indicate that Lindsay has three wells
24 from which it can provide service to approximately 301
25 additional customers. What is the well capacity of

1 Q Okay. I'm going to -- I'm going to tell you
2 that you're correct. It is 290.45.
3 Now, when you evaluate system capacity,
4 do you use the standards that are set out in 290.45 in
5 order to determine what the minimum -- what number of
6 connections a system can meet and still satisfy the
7 minimum requirements?
8 A I do.
9 Q So in this case, you would take the 420 gpm
10 and divide it by the .6 to come up with a total number
11 of connections?
12 A That would be correct.
13 Q And how many connections would that be?
14 A About 700.
15 Q So then you would just subtract the number of
16 existing connections to figure out how many additional
17 connections they could serve?
18 A That's correct.
19 Q So in this case, we're subtracting the 399
20 from the 700, which is going to leave you -- help me
21 with my math.
22 A 301.
23 Q 301, okay. Now, are there other requirements
24 for -- minimum requirements for capacity of water
25 system facilities?

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1 A There are, in fact, a number of them: Total
2 storage, pressure maintenance facilities, high service
3 pump capacity, distribution capacity, minimum
4 operating pressure based on a gallon and a half a
5 minute per connection throughout the distribution
6 system, maintaining a minimum of 35 psi. So, yeah,
7 there's a number of them. I don't know how much
8 detail you want me to go into, but I'm more than happy
9 to.
10 Q You're the expert. And all those are found
11 in 290.45. Correct?
12 A The distribution system may be in another
13 section that has to do with 1.5 gpm per connection and
14 maintaining a minimum of 35, but in 290 anyway.
15 Q Okay. Are there differences in requirements
16 for systems of different sizes?
17 A There are.
18 Q So in this instance with Lindsay having 399
19 connections, what category do they fall in?
20 A They'd fall in the category of more than 250
21 connections.
22 Q What are the other categories?
23 A I'd have to look, but below 250 is another
24 category. I could look to tell you.
25 Q Okay. Do you have a copy of the rules with

1 JUDGE NORMAN: Okay.
2 MR. RODRIGUEZ: The historical date.
3 JUDGE NORMAN: Okay. Okay.
4 Q (BY MR. CARLTON) So did you -- were you
5 asked to make a determination of the sufficiency of
6 Lindsay's other facilities to serve additional
7 connections?
8 A I was.
9 Q And did you determine that they were able to
10 provide additional service?
11 A I was.
12 JUDGE NORMAN: You did. Right?
13 A I did.
14 JUDGE NORMAN: Right. Okay.
15 Q (BY MR. CARLTON) Do Lindsay's existing
16 facilities have capacity to serve the entire proposed
17 CCN area?
18 A The short answer to that is yes.
19 Q And are you assuming that there are -- the
20 service demands within that area are the equivalent of
21 the development that is there today?
22 A I don't understand your question.
23 Q When you say yes, that those facilities are
24 capable of serving the entire area, I assume -- and
25 correct me if I'm wrong -- I assume that you mean all

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1 you?
2 A I think I do.
3 Q Would you mind getting those? And so would
4 you let us know where you are looking for this
5 information?
6 A I'm looking in Section 290.45 under Minimum
7 Water System Capacity Requirements and starting at (b)
8 Community water systems. "Groundwater supplies must
9 meet the following requirements: If fewer than 50
10 connections without ground storage, the system must
11 meet the following requirements; well capacity of
12 1.5." So it gives -- would you like me to go down
13 through there, or what do you want me to do?
14 MR. CARLTON: I think what we can do is
15 in order to avoid going through that, I just ask,
16 Judge, would you take official notice of 30 TAC
17 290.45?
18 JUDGE NORMAN: Any objections?
19 MR. MacLEOD: No.
20 JUDGE NORMAN: I do so. And are we
21 talking about -- has that rule been changed since the
22 filing of the application? Do we know? According to
23 Ms. Benter, it has not.
24 MR. RODRIGUEZ: The rules indicate that
25 it was last updated February of 2004.

1 those facilities have sufficient capacity to provide
2 service to any request for service within that entire
3 area. Is that correct?
4 A That's not correct.
5 Q So is it really -- is your testimony actually
6 that those facilities could be expanded if needed to
7 provide service anywhere in the proposed CCN?
8 A My testimony is that, in fact, that the water
9 supply of which we just went through at the 301
10 additional connections is actually the most
11 restrictive portion of the existing system as far as
12 what TCEQ looks at on the minimum requirements. In
13 fact, when you look at pressure maintenance
14 facilities, they can go up --
15 Q So let me stop you for a second because I
16 think what my question -- what my question was, is
17 there sufficient capacity within the existing Lindsay
18 system to serve the entire requested area? And you
19 said yes -- the short answer was yes. But if the
20 limiting factor is the well pump capacity at 301
21 additional connections, is it your testimony that
22 there are only going to ever be 301 connections within
23 the entire proposed CCN area?
24 A I don't ultimately know what that -- what
25 that capacity is, but the facilities that we have in

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1 place right now would be utilized to serve the entire
2 area as it relates to pressure maintenance, water
3 supply and storage facilities.

4 Q So if you would pull out -- I believe what's
5 attached to your testimony as KDM-6, and I'd like for
6 you to take a look at the southern end of that map. I
7 believe there's some property down off 1630 owned by
8 C. Hellinger. Do you see that property?

9 A I do.

10 Q Are the town of Lindsay's existing facilities
11 sufficient to provide service to that tract?

12 A They would be utilized to provide service to
13 that tract.

14 Q Okay. And what distribution improvements
15 would be necessary to provide service to that tract?

16 A That would have to be looked at in part of a
17 service plan to be able to -- the most efficient way
18 to provide service to that. However, the City of
19 Lindsay does have a six-inch waterline just north of
20 the Elm Fork of the Trinity River. That would be one
21 area that could be looked at to extend that line to
22 provide service to that area.

23 Q How far would that line extension be?

24 A Do you have a scale?

25 (Discussion off the record)

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1 A It could be about 12,000 feet or so, 13,000,
2 somewhere in that neighborhood.

3 Q (BY MR. CARLTON) And so were you here for
4 the testimony of Mr. Metzler?

5 A Yes.

6 Q And we discussed Lindsay Pure Water Company
7 Exhibit 8, which is the city's policy for how they
8 extend service outside the city limits. Do you recall
9 that?

10 A Correct.

11 Q Do you recall that there's a six-inch minimum
12 line size in that ordinance?

13 A In that particular ordinance?

14 Q Yes.

15 A I heard the discussion about that.

16 Q Okay. So if we assume that that six-inch
17 minimum line size is correct, what would the cost to
18 construct a six-inch line from the Elm Fork of the
19 Trinity all the way to the Hellinger property be?

20 A Construction costs, something in the
21 neighborhood of 250,000.

22 Q And is that -- are you using a cost per
23 linear foot to make that calculation?

24 A Using about \$18 a foot, I believe.

25 Q Would the city's existing elevated storage

1 tank be sufficient to provide water service to the
2 Hellinger tract?

3 A It would provide a portion of it.

4 Q How would you provide the other portion?

5 A You might modify the pump station at Pump
6 Station No. 1 to provide additional pressure
7 maintenance. There's an existing pressure tank at
8 Pump Station No. 1 at the present time. Depending on
9 the elevation -- I don't know the elevation down here
10 for the Hellinger tract, but depending on what that
11 elevation was and the route that you took for that
12 line, that's the most direct shot, that route you took
13 for that line. The elevated storage would supply some
14 of that -- some of that capacity.

15 Q So you'd have to make improvements to the
16 booster station?

17 A That's a possibility.

18 Q Would it be possible to provide the service
19 without those improvements and without any other
20 elevated storage?

21 A I'd have to look at that and see.

22 Q What would you need to see in order to
23 determine that?

24 A I'd need to know what demand you had in
25 that from the Hellinger tract. I'd need to know what

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1 demand you had between there and the river. I would
2 also need to know what the elevation is at the
3 Hellinger tract.

4 Q Have you reviewed the service requests that
5 are attached as Exhibit KDM-5 to your testimony?

6 A I have.

7 Q Do those provide you with any information
8 that would enable you to determine how much service
9 demand there would be along that route?

10 JUDGE NORMAN: That's KDM-10, I guess.

11 Is that right?

12 MR. CARLTON: No. It's actually KDM-5.

13 It's DLM-10.

14 JUDGE NORMAN: DLM-10, okay. Okay.

15 A Only that there's a location there in a
16 request and a need for service at that location or at
17 those locations, but no volumes or quantities are so
18 stated.

19 Q (BY MR. CARLTON) So you don't have a way to
20 determine, based on these letters, what the magnitude
21 of the need is?

22 A That's correct.

23 Q Is it possible that it would be less
24 expensive just to construct a new completely separate
25 standalone system to serve the Hellinger tract than

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1 the Lindsay system?
2 A I'm sorry?
3 Q Is it possible that it would be less
4 expensive to construct a standalone system to serve
5 the Hellinger tract than it would be to extend the
6 Lindsay system?
7 A That's a possibility.
8 Q How would you -- would that determination on
9 whether to construct a standalone system or extend the
10 Lindsay existing system be based upon cost?
11 A I think that's one factor you could look at.
12 Another would be -- reliability would be another issue
13 to look at. Once again, it would depend on when --
14 let's say the Hellinger tract came in and, in fact,
15 made an application for service and enumerated and
16 quantified their demands. Then those decisions would
17 and could be made at that time based on an engineering
18 study or evaluation.
19 Q Are you aware of any specific requests for
20 service to be extended for any of the areas south of
21 Highway 82 and outside the City of Lindsay's existing
22 CCN?
23 A Well, as I note on KDM-6 and as I tie those
24 back to those letters for the requests for service and
25 the request to be included in their CCN, yes,

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1 that's -- and they're so indicated and locations are
2 so indicated on KDM-6.
3 Q Let me restate the question or rephrase it
4 then so it's a little more clear. Perhaps I didn't
5 ask it well. Are you aware of any applications for
6 service where people have asked the town of Lindsay to
7 actually extend water service to their tract within a
8 given amount of time or with a certain quantity of
9 service for any areas south of state highway -- or
10 U.S. 82 and the existing CCN of Lindsay?
11 A No, sir, I am not.
12 Q Do you know what type of waterlines are
13 within the Lindsay water system?
14 A For the most part, PVC is my understanding.
15 Q Have you been asked to go out and inspect any
16 of the Lindsay system, or is this just based on your
17 communication with other folks?
18 A I made two site visit inspections to the
19 site.
20 Q Okay. What did you inspect? What did you
21 visit?
22 A I visited Well No. 3, Well No. 2, Pump
23 Station No. 2, Well No. 1 and Pump Station No. 1 and
24 an elevated tank site. And in addition to that, I
25 visited the wastewater treatment plant, visited with

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1 Joe Geray, inspected and looked at some stockpile of
2 pipe that Lindsay typically uses for installation of
3 their waterlines.
4 Q So your opinion on the PVC is based upon your
5 seeing that pipe on hand?
6 A And discussions with Joe Geray.
7 JUDGE NORMAN: Let me ask you a
8 question. It was back a while ago. Was your
9 testimony regarding how much it would cost, \$250,000
10 to get to the Hellinger property, was that based on
11 six-inch pipe? Did you assume that?
12 A I believe the question that he had asked was
13 what would it cost to run six-inch pipe --
14 JUDGE NORMAN: Okay.
15 A -- from the existing Lindsay system to the
16 Hellinger property.
17 JUDGE NORMAN: Okay.
18 A And that six-inch pipe was PVC C-900 pipe.
19 JUDGE NORMAN: And that's about \$18 a
20 foot?
21 A That's about what I used.
22 JUDGE NORMAN: Uh-huh, okay.
23 Q (BY MR. CARLTON) Let me go back to that one.
24 You said it was 12,000 -- about 12,000 feet. How did
25 you measure that distance?

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1 A I measured that distance down 3108, straight
2 shot down 3108 from about the north -- or the Elm Fork
3 of the Trinity River due south.
4 Q And does crossing the Elm Fork of the Trinity
5 present any additional impact on the costs?
6 A Very little.
7 Q But it does have an impact?
8 A It does have an impact.
9 Q And you were just contemplating construction
10 costs for the pipe, not easement acquisition or any
11 other sort of property acquisition necessary for the
12 waterline. Correct?
13 A I just gave you an estimated construction
14 cost.
15 Q You attached to your testimony as part of the
16 basis for your opinion Exhibit KDM-8. Was that
17 intended to show the growth in the town of Lindsay?
18 A Typically when I review and look at these
19 particular projects, I try to go back to the U.S.
20 Census Bureau and at least get an idea. And as you
21 know, the U.S. Census Bureau does population
22 projections, and the last census was 2,000. So I try
23 to look at, on a population basis, about where we are
24 in 2006, 2007, 2008. And so that just happened to be
25 from the U.S. Census Bureau the latest that they had.

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1 So I look at that population, correct.
 2 Q And you look at that in order to determine
 3 what sort of growth you expect in the area?
 4 A I do, from time to time.
 5 Q And so from July 1, '05 through July 1, '06,
 6 this U.S. Census Bureau data indicates that there
 7 was -- the city grew from 957 to 1,003. Right?
 8 A That's what it shows.
 9 Q Okay. How many new homes would you estimate
 10 that to be?
 11 A I couldn't tell you.
 12 Q What sort of population do you typically
 13 estimate as the number of people per household?
 14 A If you're looking at equivalent homes, you
 15 use about two and a quarter, two and a half.
 16 Q So if we took the 1,003 and subtracted
 17 the 957, what is it, about 46, 46 new people? Divide
 18 that by 2.5, how many homes is it?
 19 A About 18.
 20 Q About 18 homes in that one-year period.
 21 So if you would pull out LPWC-9 -- I
 22 don't know if it's out there. It's not one you've
 23 looked at yet. Do you have it there in front of you?
 24 A I do.
 25 Q Would you turn to Page 491?

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1 A Okay.
 2 Q And how many building permits were issued for
 3 new homes from July 1, 2005 through July 1, 2006?
 4 A I'm sorry. Give me those dates again.
 5 Q July 1, 2005 through July 1, 2006.
 6 A I guess I don't see that on this -- on this
 7 particular sheet.
 8 JUDGE NORMAN: You have to use two
 9 sheets to do that.
 10 MR. CARLTON: You have to use two
 11 sheets. I'm sorry. Use the following Page 492 as
 12 well.
 13 JUDGE NORMAN: Start in the middle
 14 of 491.
 15 A You want to go through July of '06?
 16 Q (BY MR. CARLTON) Through July 1, '06, that's
 17 correct.
 18 A Looks like maybe 12.
 19 Q Okay. And then based on your assumption of
 20 2.5 people per house, that would be 30 -- 30 folks,
 21 2.5 times 12?
 22 A Correct.
 23 Q So if we take that number and work off then
 24 the 46, really most of the growth in Lindsay is
 25 occurring because these new homes are being built in

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1 Lindsay. Right?
 2 A I think you could make that assumption.
 3 Q Do you know whether the Census Bureau
 4 information is just for the City of Lindsay city
 5 limits, or is it for the surrounding area as well?
 6 A It's my understanding it's the city limits.
 7 Q So that growth information doesn't tell us
 8 anything about the area outside the city limits?
 9 A No, sir.
 10 Q Would it be an indication of I guess a
 11 limited amount of growth if there were no subdivisions
 12 being created in the ETJ and surrounding areas in the
 13 town -- in the areas surrounding the town of Lindsay?
 14 A That would be an indicator.
 15 Q Would you turn to Page 8 of your prefiled
 16 testimony? In particular let's look at Line 21, your
 17 statement "There is currently no other water service
 18 provider in the proposed territory," and that's not an
 19 accurate statement, is it?
 20 JUDGE NORMAN: What line is that?
 21 MR. CARLTON: Line 21, Page 8.
 22 JUDGE NORMAN: Okay.
 23 MR. RODRIGUEZ: With the update, Your
 24 Honor, it's actually on Line 22.
 25 JUDGE NORMAN: Okay.

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1 MR. CARLTON: Oh, I see. There you go.
 2 Line 22.
 3 A I believe it is.
 4 Q (BY MR. CARLTON) So you didn't go out and
 5 attempt to verify whether Lindsay Pure Water Company
 6 was providing service in the quarter mile outside its
 7 existing CCN?
 8 A I did not verify that much.
 9 Q Would it surprise you if it is doing that?
 10 A Would it surprise me?
 11 Q If Lindsay Pure Water is providing service
 12 within a quarter mile of its CCN?
 13 A They may be.
 14 Q There would be an impact on Lindsay Pure
 15 Water if this CCN application is granted over the area
 16 that Lindsay Pure Water is already serving, wouldn't
 17 there?
 18 A There would be a minimal impact.
 19 Q Minimal. So do you know how many connections
 20 Lindsay Pure Water is serving outside of its CCN?
 21 A I do not.
 22 MR. RODRIGUEZ: I object. The question
 23 assumes facts not in evidence, Your Honor.
 24 MR. CARLTON: Mr. Myrick is going to
 25 testify in a little while.

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<p>1 JUDGE NORMAN: Well, you can ask him a</p> <p>2 hypothetical if you want to.</p> <p>3 Q (BY MR. CARLTON) So you're stating it would</p> <p>4 be a minimal impact without any basis or understanding</p> <p>5 for what actual impact it would have to Lindsay Pure</p> <p>6 Water, aren't you?</p> <p>7 A To the best of my knowledge, there has been</p> <p>8 no CCN granted by TCEQ within the proposed service</p> <p>9 area. Therefore, if there is service in that area,</p> <p>10 it's not being done within a CCN.</p> <p>11 Q But if this CCN is granted through the City</p> <p>12 of Lindsay and Lindsay Pure Water Company is providing</p> <p>13 service within that area, was is the impact to Lindsay</p> <p>14 Pure Water?</p> <p>15 A The impact would be whatever they're serving</p> <p>16 in there would likely be in jeopardy.</p> <p>17 Q So they would have to stop serving those</p> <p>18 connections?</p> <p>19 A Or they would -- they could actually serve as</p> <p>20 contracted with Lindsay if they wanted to, to continue</p> <p>21 that service within Lindsay's CCN.</p> <p>22 Q But that would be subject to the discretion</p> <p>23 of the town of Lindsay as to whether or not they would</p> <p>24 enter into that agreement?</p> <p>25 A It would be.</p>	<p>1 A All right.</p> <p>2 Q So 291.102(d), as it read prior to the filing</p> <p>3 of this application, states that the Commission shall</p> <p>4 consider "the effect of the granting of a certificate</p> <p>5 on any retail public utility of the same kind already</p> <p>6 serving the approximate area." Do you see that in</p> <p>7 (d)(3)?</p> <p>8 A I do.</p> <p>9 Q And so is it -- would the effect of</p> <p>10 eliminating those service connections from Lindsay</p> <p>11 Pure Water Company's ability to serve be an impact</p> <p>12 that the Commission has to consider in this case?</p> <p>13 A They would.</p> <p>14 Q And if that impact removed approximately</p> <p>15 one-third of Lindsay's existing customers, would you</p> <p>16 think that would be a significant impact?</p> <p>17 A It could be.</p> <p>18 Q Let's turn to the new rules, and would you</p> <p>19 look at (d)(3) in the new rules and let me know</p> <p>20 whether there is any difference in terms of what the</p> <p>21 Commission has to consider the impact on the existing</p> <p>22 retail public utility under those rules versus the old</p> <p>23 rules?</p> <p>24 A They're very similar.</p> <p>25 JUDGE NORMAN: Very similar with regard</p>
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<p>1 Q So the risks to Lindsay Pure Water Company is</p> <p>2 that they would then have to terminate service to</p> <p>3 however many connections there were within that</p> <p>4 quarter mile?</p> <p>5 A If they are serving there, that's the risk</p> <p>6 you run serving outside your CCN.</p> <p>7 Q Are you familiar with the water code</p> <p>8 requirements for consideration of CCN amendment</p> <p>9 applications?</p> <p>10 A I am, as reflected in 291.</p> <p>11 Q What's your understanding of where that is</p> <p>12 reflected in 291?</p> <p>13 A 291.102.</p> <p>14 Q Can you turn to that section?</p> <p>15 MR. RODRIGUEZ: Which version are we</p> <p>16 turning to, Your Honor?</p> <p>17 JUDGE NORMAN: Which version?</p> <p>18 THE WITNESS: Can I get my book?</p> <p>19 MR. RODRIGUEZ: Well, he had his book</p> <p>20 out before.</p> <p>21 THE WITNESS: No, that was my book.</p> <p>22 MR. CARLTON: Oh, I'm sorry.</p> <p>23 (Discussion off the record)</p> <p>24 Q (BY MR. CARLTON) Let's start with the old</p> <p>25 one.</p>	<p>1 to retail -- other retail public utilities. Correct?</p> <p>2 A As to the effect -- consideration of the</p> <p>3 effect --</p> <p>4 JUDGE NORMAN: Right.</p> <p>5 A -- on the retail public entity --</p> <p>6 JUDGE NORMAN: Okay.</p> <p>7 A -- or service provider.</p> <p>8 MR. CARLTON: There are differences, but</p> <p>9 they are in other areas.</p> <p>10 JUDGE NORMAN: Right.</p> <p>11 A And I'm assuming you were specifically</p> <p>12 talking about that area?</p> <p>13 Q (BY MR. CARLTON) Yes, the retail public</p> <p>14 utilities.</p> <p>15 Do you have any opinion about what the</p> <p>16 cost would be to drill a well in this area to</p> <p>17 successfully get potable water?</p> <p>18 A Somewhere in the neighborhood -- and I'm</p> <p>19 going to give you a change because those vary</p> <p>20 obviously -- somewhere in the neighborhood of 350,000,</p> <p>21 \$400,000. Now, that assumption is a municipal-type</p> <p>22 well and not an individual house well.</p> <p>23 Q Sure, and a well sufficient for providing</p> <p>24 service to a retail public utility system?</p> <p>25 JUDGE NORMAN: Correct?</p>

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1 Q (BY MR. CARLTON) Would that be a way to
2 describe that?
3 JUDGE NORMAN: Is that right,
4 Mr. Maroney?
5 A I'm sorry. Yes, that's correct.
6 Q (BY MR. CARLTON) You testified on Page 10,
7 Lines 6, 7 and 8 about water wells becoming
8 inoperative. Do you see that testimony?
9 A I do.
10 Q Do you have any evidence that you're relying
11 upon to determine that there has been some sort of
12 frequency of water wells in the Lindsay area becoming
13 inoperative?
14 A I do.
15 Q And what is that?
16 A Water wells are typically susceptible to
17 storms and to lightning, and I've done a number of
18 wells in the Lindsay area as it relates to Callisburg,
19 as it relates to Woodbine Water Supply Corporation. I
20 have had in Cooke County south of Lindsay some wells
21 that get contaminated by saltwater injection wells.
22 So I have -- I have known of them becoming
23 inoperative, and they do become inoperative from time
24 to time.
25 Q You said Callisburg. Where is Callisburg?

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1 A Callisburg is northeast, east of Gainesville
2 and north of 82.
3 Q So it's not particularly hydrologically
4 connected to the water in the Lindsay area?
5 A I'm sorry?
6 Q It's not hydrologically connected to the
7 water in the Lindsay area?
8 A That's not true.
9 Q Is it all part of the same aquifer?
10 A It is.
11 Q How far away is it?
12 A Seven or eight miles by the way the crow
13 flies.
14 Q So when you're talking about your experience
15 with wells in the Lindsay area, you're including a
16 pretty large radius around the town of Lindsay?
17 A I am.
18 JUDGE NORMAN: So just for the record,
19 seven or eight miles in a straight line. Is that
20 right?
21 A Yes, sir.
22 JUDGE NORMAN: Okay.
23 Q (BY MR. CARLTON) Would you turn to Page 12
24 of your testimony, Lines 20 and 21 and 22? You
25 indicate on those lines that "Lindsay Pure Water

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1 Company does not have the legal authority to provide
2 water service in Lindsay's proposed service
3 territory." Do you see that?
4 A I do.
5 Q Are you familiar with the agency's rules that
6 allow utility companies to provide service within a
7 quarter mile of their existing CCN boundaries?
8 A I am.
9 Q So your statement that Lindsay doesn't have
10 legal authority to provide service isn't exactly
11 correct. What you probably meant to say is that
12 Lindsay doesn't have -- Lindsay Pure Water doesn't
13 have the CCN to provide service in that area?
14 A They don't have a CCN, and likely they did
15 not file the proper paperwork in doing so.
16 Q What do you mean?
17 A Simply -- simply deciding to serve a quarter
18 of a mile there's -- in addition to that, there's some
19 writing, a map to be submitted to the Executive
20 Director, and my assumption is -- and it's an
21 assumption -- that that wasn't done.
22 Q You also point out that Lindsay hasn't filed
23 an application to amend its current CCN. Is your
24 understanding that Lindsay has, in order to protect a
25 service area or an area in general from being

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1 certificated that Lindsay has an obligation to file an
2 amendment to its CCN?
3 A Filing a CCN does, in fact, give additional
4 protection. It does give protection to Lindsay in
5 that it not only obligates them, but it also gives
6 them the right to serve a particular area.
7 Q But in protesting Lindsay's CCN application,
8 is Lindsay Pure Water obligated to file a competing
9 CCN amendment application?
10 A No.
11 Q Would you turn to Page 13 of your testimony?
12 And on Lines 8 through 18, you describe what you
13 consider to be a positive effect on the landowners in
14 the requested area. Do you see that?
15 A Yes, sir.
16 Q But you don't describe the fact that they
17 would have to bear the costs of extending Lindsay's
18 water system to serve their tracts, and that that cost
19 might be more than extending service from Lindsay Pure
20 Water Company, do you?
21 A I did not.
22 Q And, in fact, it would be a disadvantage to a
23 landowner if they were forced to extend service from
24 the town of Lindsay's system when they might be able
25 to get it less expensively from Lindsay Pure Water

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<p>1 Company's system?</p> <p>2 A If cost is the only factor, that would be</p> <p>3 true.</p> <p>4 Q And I assume what you are also talking about</p> <p>5 is reliability in terms of service, would be</p> <p>6 another -- would be the other factor?</p> <p>7 A Reliability would play a strong role in this,</p> <p>8 yes, sir.</p> <p>9 Q Do you have any information that suggests to</p> <p>10 you that Lindsay Pure Water company's system has</p> <p>11 failed or wells gone down or anything along those</p> <p>12 lines that would make you believe it to be an</p> <p>13 unreliable system?</p> <p>14 A Only they're not held to the same standard.</p> <p>15 As you noted earlier in the requirements, TCEQ</p> <p>16 requirements, they're only required to have one well</p> <p>17 at this time. Lindsay is required to have two or</p> <p>18 more.</p> <p>19 Q Okay. And that's because of the number of</p> <p>20 connections. Correct?</p> <p>21 A Will be the number of connections, correct.</p> <p>22 Q Okay. And so even though Lindsay Pure Water</p> <p>23 would be in compliance with TCEQ regulations under</p> <p>24 minimum requirements, you would argue that they would</p> <p>25 be a less reliable system because they have fewer</p>	<p>1 question.</p> <p>2 A Under that -- under your assumption and the</p> <p>3 assumption that Lindsay and Pure Water could not come</p> <p>4 to some agreement and Lindsay was adamant that they</p> <p>5 were going to require those people to get water from</p> <p>6 Lindsay, in fact they could drill their own well, for</p> <p>7 example. So there would be -- they would have an</p> <p>8 alternative, either be supplied by Lindsay or drill</p> <p>9 their own well or negotiate with -- you know, spur a</p> <p>10 negotiation between Lindsay and Pure Water, but that</p> <p>11 would be their options.</p> <p>12 Q (BY MR. CARLTON) How big of a lot do you</p> <p>13 need to drill a well?</p> <p>14 A It depends, but are you talking about a house</p> <p>15 well?</p> <p>16 Q Yes.</p> <p>17 A Large enough to get a rig in, maybe 30 by 30.</p> <p>18 Q Are you familiar with whether any</p> <p>19 restrictions exist in Cooke County on the size of lots</p> <p>20 for water wells?</p> <p>21 A I'm not familiar with that right now, no.</p> <p>22 Q Are you familiar with any deed restrictions</p> <p>23 that are in the South Ridge of Lindsay as far as</p> <p>24 drilling water wells on these sites?</p> <p>25 A I am not.</p>
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<p>1 wells?</p> <p>2 A That would be a factor.</p> <p>3 Q Let's talk about the impact to the landowners</p> <p>4 who are currently getting service from Lindsay Pure</p> <p>5 Water Company if the CCN is granted to the town of</p> <p>6 Lindsay. Okay? Those individuals would be forced to</p> <p>7 obtain service from the town of Lindsay barring some</p> <p>8 agreement. Correct?</p> <p>9 A Ask that question again.</p> <p>10 Q We have individuals that are receiving water</p> <p>11 service from Lindsay Pure Water Company outside its</p> <p>12 current CCN.</p> <p>13 A (Nodded)</p> <p>14 Q If this CCN is granted as applied for to the</p> <p>15 town of Lindsay, those individuals would no longer be</p> <p>16 able to receive service from Lindsay Pure Water absent</p> <p>17 some agreement and would be forced to obtain service</p> <p>18 from the town of Lindsay. Correct?</p> <p>19 MR. RODRIGUEZ: I'll object to the</p> <p>20 extent that he's assuming facts that aren't in</p> <p>21 evidence, Your Honor.</p> <p>22 JUDGE NORMAN: Well, make that</p> <p>23 assumption. Assume that Lindsay Pure Water Company is</p> <p>24 providing service to customers outside its CCN. Make</p> <p>25 that assumption and then see if you can answer that</p>	<p>1 Q So absent some of those limitations that</p> <p>2 might be imposed by Cooke County or the deed</p> <p>3 restrictions themselves, somebody could drill a well</p> <p>4 on their own lot, or they would have to pay to extend</p> <p>5 service from the town of Lindsay. Correct?</p> <p>6 A Or negotiate with Lindsay.</p> <p>7 Q Assume with me that they have to extend</p> <p>8 service from the town of Lindsay. What's going to be</p> <p>9 the impact on that landowner? How much is that going</p> <p>10 to cost for them to get service?</p> <p>11 A Some of it depends on the action by the</p> <p>12 council. As they look at if, in fact, they are</p> <p>13 granted the CCN, then based on Mr. Metzler's</p> <p>14 testimony, there's the potential for the city council</p> <p>15 looking at this extension ordinance. And if it would</p> <p>16 be typical for what I see in other cities, based on my</p> <p>17 experience, there's a good possibility that the City</p> <p>18 of Lindsay would share that cost, depending on, in</p> <p>19 fact, what the demand is.</p> <p>20 And so that water customer would, in</p> <p>21 fact, pay only on the capacity required. For example,</p> <p>22 if their capacity required a two-inch line, Lindsay</p> <p>23 might put a six, and they'll pay the difference</p> <p>24 between a two and a six. That remaining capacity</p> <p>25 would remain with the City of Lindsay and then get</p>

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1 prorated out as customers tie on.
2 Q Well, let's assume that Lindsay sticks with
3 its ordinance and requires a six-inch line to be
4 constructed out there and paid for by the service
5 requester because that's what we have today, no
6 changes yet. How much would the construction of a
7 six-inch line cost to go from the north side of the
8 Elm Fork of the Trinity to the South Ridge of Lindsay
9 subdivision?
10 A That would be the \$18 a foot plus \$35,000 for
11 crossing the river plus whatever -- based on whatever
12 distance that is.
13 Q Now, you said there might also be some
14 pressure facilities that would be needed in order to
15 abut grade along this route. We're talking about the
16 same route that we were talking about with the
17 Hellinger property. Do you know what the elevation
18 difference is between the two systems?
19 A Well, it varies between the two systems
20 substantially.
21 (Exhibit LPWC Nos. 10 and 11 marked)
22 Q (BY MR. CARLTON) Do you have a copy of
23 what's been marked as LPWC-10 and LPWC-11?
24 A I do.
25 Q Would you take a look at 10 and see if you

1 tank on LPWC-10?
2 A As best I could, yes, sir.
3 Q Okay. And that's identified by a green
4 highlight there within the area of the town of
5 Lindsay?
6 A Yes, sir.
7 Q Okay. What's the elevation at that location?
8 A Approximately 800.
9 Q How high is the elevated storage tank?
10 A A hundred and thirty-six feet.
11 Q So would you now take a look -- well, what's
12 the -- do you know what the system operating level is
13 for the water in that tank?
14 A It can vary, but typically they're anywhere
15 between overflow and five to six feet before pumps
16 come on.
17 Q Now, would you take a look at LPWC-11? So
18 can you find FM 3108 on that map?
19 A I can.
20 Q And it's in the northeast corner. Correct?
21 A It would be the northwest corner.
22 Q Excuse me, northwest. That's why you're the
23 engineer and I'm the lawyer.
24 If you'll follow 3108 down the map about
25 an inch and a half to the No. 844, do you see that

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1 could locate on that or find the approximate location
2 of the town of Lindsay's -- I guess would the booster
3 station be the appropriate place to set an elevation
4 for pressure?
5 A If that's what you want me to look for.
6 Q If you could find that?
7 A Okay.
8 Q Can you take -- I'll give you a green
9 highlighter. If you would mark on that map that
10 location?
11 A It would be their elevated storage tank,
12 which I believe is what you were asking for --
13 Q Okay.
14 A -- thereabouts.
15 JUDGE NORMAN: And where did you mark
16 again?
17 A I marked south of -- just south of 82, and
18 I'm not sure what that road is, 1199 or something,
19 that comes in there.
20 MR. CARLTON: Why don't we go off the
21 record real quick, and we'll mark all the exhibits.
22 JUDGE NORMAN: Okay.
23 (Discussion off the record)
24 Q (BY MR. CARLTON) All right. Mr. Maroney,
25 have you marked the location of the elevated storage

1 location?
2 A I'm sorry, an 844?
3 Q 844, there's an old farm road there.
4 JUDGE NORMAN: And you're looking in the
5 northwest quadrant?
6 MR. CARLTON: Yes, coming down 3108 from
7 the top of the map.
8 A I do.
9 Q (BY MR. CARLTON) Okay.
10 JUDGE NORMAN: Where is 3108?
11 MR. CARLTON: 3108, if you look at the
12 very top of the map, there's an arrow that says --
13 that points up and says "Lindsay .8 miles" right along
14 the northern edge of the map.
15 JUDGE NORMAN: I see it, okay. And
16 that's it. All right.
17 Q (BY MR. CARLTON) I'm going to represent to
18 you that that's the approximate location of the
19 northern boundary of the South Ridge of Lindsay
20 subdivision.
21 A I'm sorry. Could you repeat that?
22 Q I'm going to represent to you that that's the
23 approximate location of the north boundary of the
24 South Ridge at Lindsay subdivision. Okay?
25 A All right, sir.

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1 Q What elevation is that at?
2 A If it's where I think you're talking about,
3 it's been designated as 844.
4 Q Okay. And would you follow 3108 south to
5 where it intersects with another road, and do you see
6 the numbers 877?
7 A I do.
8 Q I'm going to represent to you that's
9 approximately the south boundary of the South Ridge at
10 Lindsay subdivision, and what's the elevation there?
11 A 877.
12 Q So with the elevation of the South Ridge at
13 Lindsay subdivision and the elevation of the storage
14 tank in the town of Lindsay, would there be system
15 improvements necessary to provide additional elevated
16 storage or pumping to serve the South Ridge at Lindsay
17 subdivision?
18 A And "the south" being the "877"?
19 Q Right, correct. The South Ridge at Lindsay
20 subdivision stretches from the 844 to the 877.
21 A At the 877 elevation, there would be.
22 Q What sort of improvements would have to be
23 made?
24 A You would either modify -- as I previously
25 said you could -- a couple of things. You could

1 the Lindsay Pure Water Company system in order to
2 determine its capacity?
3 A I would need to -- need to know the line
4 sizes, distribution line sizes in general. I would
5 need to know the height of -- if you're using a
6 standpipe or an elevated storage, I'd need to know the
7 height of that, I'd need to know the diameter of that.
8 I'd need to know the pressure tank capacity. I'd need
9 to know -- if you're using a pressure tank, two ways
10 to do pressure maintenance, either elevated or
11 pressure tank. I'd need to know the pumps with the
12 pump curves that are being used for high service
13 pumps, assuming you're not sizing just the well and
14 elevated storage. I'd need to know the pump setting.
15 I'd need to know -- if you've got a meter on the well,
16 I'd need to know what that well can pump, the pump
17 capacity of that well. That would be the majority of
18 it.
19 Q So if Lindsay Pure Water Company has a
20 hundred thousand gallon storage tank on site, how many
21 connections would that serve?
22 A It depends on what you use it for.
23 Q If you're using it strictly for ground
24 storage, total storage.
25 A If you're using it solely for ground storage,

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1 modify Pump Station No. 1 that's in the part that's
2 got -- not only does it pump to the elevated storage,
3 but it's also got an existing abandoned pressure tank
4 there that could be used then to repressure from Pump
5 Station No. 1 into this 877 elevation for a period of
6 time, depending on the demand.
7 Q And what would you anticipate the cost of
8 those improvements to be?
9 A If would be basically the line work,
10 converting the existing station -- one pump station to
11 serve two pressure plains with the existing ground
12 storage tanks already in place. And in addition to
13 that with the pressure tank already in place, maybe
14 another 25 or \$30,000 at Pump Station No. 1 and then
15 the additional line work as we've previously
16 described.
17 Q So given the 25 to \$30,000 of booster pump
18 work and the \$35,000 to get under the creek and then
19 the 100,000 or so for the construction of the six-inch
20 line, that distance of about a mile, we're talking
21 about 150 to \$200,000 worth of improvements to get
22 service from the town of Lindsay to a connection in
23 the South Ridge at Lindsay. Correct?
24 A Under the scenario you gave me, yes, sir.
25 Q What information would you need to know about

1 you're looking at total storage, it would have a rated
2 capacity based on minimum requirements of 500
3 connections.
4 JUDGE NORMAN: Five hundred?
5 A Five hundred.
6 Q (BY MR. CARLTON) And if the Lindsay Pure
7 Water system -- distribution system is entirely
8 constructed of six-inch lines, what capacity would
9 that system have?
10 A More than 250.
11 Q And if the well is capable of pumping
12 100 gallons per minute, what capacity would it have?
13 A Just arithmetic, the 167 customers based on
14 the six-tenths.
15 Q And if there's a pressure tank that's
16 2,000 gallons, what capacity would that have?
17 A A hundred connections.
18 Q And if the service pumps were able to
19 pump 420 gpm, how many connections would that make
20 them capable of serving?
21 A One pump or two pumps?
22 Q Two pumps.
23 A Are you going to run those pumps
24 simultaneously?
25 Q Let's assume they're running simultaneous.

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1 A And each pump has got a rated capacity of?
 2 Q 210 gpm.
 3 A At what head?
 4 Q Sixty.
 5 A Sixty feet, sixty psi?
 6 Q Psi.
 7 A Sixty psi. And the 210 did you say, 210
 8 each?
 9 Q Yes.
 10 A About 178 connections.
 11 JUDGE NORMAN: And tell -- say for the
 12 record what "psi" means.
 13 A Pounds per square inch.
 14 JUDGE NORMAN: Okay.
 15 Q (BY MR. CARLTON) Now, assume that Lindsay
 16 Pure Water Company is elevated -- storage tank is
 17 actually a cylinder -- well, no, strike that; strike
 18 that.
 19 JUDGE NORMAN: So the .6 gallons per
 20 minute is a constant requirement regardless of the
 21 number of connections. Is that right? That's what it
 22 sounds like.
 23 A That is -- that is well supply.
 24 JUDGE NORMAN: Okay.
 25 A You look at well supply, you look at pressure

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1 maintenance and you look at storage, and the well
 2 supply minimum requirements of six-tenths of a gallon
 3 a minute per connections that's connected to the
 4 system.
 5 JUDGE NORMAN: Regardless of the size of
 6 the -- in other words, if you're serving 100
 7 customers, that's the requirement. If you're serving
 8 500 customers, that's the same requirement.
 9 A For that number of customers. Now, if you
 10 get to a smaller number of customers and it's -- you
 11 know, you go to a gallon and a half, but it's an
 12 extremely small number of customers.
 13 JUDGE NORMAN: Okay.
 14 A But for everything we're talking about here,
 15 the six-tenths applies.
 16 JUDGE NORMAN: Okay. I was just
 17 wondering if there was any economy of scale. You
 18 wouldn't expect 500 people to be taking a shower at
 19 the same time, but it would be more likely that a
 20 large percentage of 100 might be, you know, early in
 21 the morning or something like that, but there's no
 22 relaxation requirements that are good on that?
 23 A Actually the six-tenths of a gallon per
 24 connection is based on a typical max day for any given
 25 connection, and that's based on historical data. And

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1 obviously you'd want your well supply to meet your
 2 maximum day.
 3 JUDGE NORMAN: Right.
 4 A And then you allow your storage facilities
 5 and your booster pumps to meet peak hour demand, and
 6 that's some of the probability that you're talking
 7 about. The larger the system, the less number of
 8 people are going to be using water simultaneously.
 9 However, on a well supply basis or on a water supply
 10 basis, you can pretty much count on they're going to
 11 use it. You just don't know when during that time of
 12 day.
 13 JUDGE NORMAN: Okay. Okay.
 14 MR. CARLTON: Judge, are you finished?
 15 JUDGE NORMAN: Yeah, I'm finished. I
 16 was just curious.
 17 Q (BY MR. CARLTON) You mentioned what I
 18 suppose would be rehabbing and putting back into
 19 service the booster pumps and the booster station, I
 20 believe, down in the town of Lindsay as a possible way
 21 of -- to have pressure coming up from the town of
 22 Lindsay to South Ridge?
 23 A That's correct.
 24 Q Okay. How much would it cost to just build a
 25 new pump station with pressure tanks? Say a

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1 2,000-gallon pressure tank and pumps, how much does
 2 that cost to put that in?
 3 A And I'm going to give you some ballpark
 4 numbers based on experience. A 2,000-gallon pressure
 5 tank, you might spend about 50 grand. On a pump
 6 station, you might spend 150 to \$175,000, depending on
 7 the type of building you put on that. And I'm
 8 assuming you're talking about a standalone system. So
 9 now you've got to look at ground storage to go along
 10 with that.
 11 Q How much is ground storage running?
 12 A Ground storage is probably around two or two
 13 and a half dollars a gallon. So you size your storage
 14 on the 200 gallons per connection. So if you're going
 15 to go with a 2,000-gallon pressure tank, that's 100
 16 connections and you're talking about a 20,000-gallon
 17 tank. So you're talking about another two and a half
 18 times 20,000; so it's \$50,000.
 19 Q Is the construction of the ground storage
 20 tank, does that cost vary if you're going strictly
 21 ground storage, you know, big, fat round storage
 22 versus a cylinder?
 23 A You know, it varies, but typically your
 24 taller tanks are going to be much more expensive. The
 25 standpipes, if that's what you're talking about, and

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1 they typically look at standpipes being over 75 feet
2 tall or something like that. So if you're looking at
3 a standpipe, you typically end up with additional
4 foundation because it's so tall and this type of
5 thing, and those are typically a little more cost per
6 gallon to use a standpipe as opposed to a more uniform
7 ground storage tank, say 30 feet tall and 15 feet in
8 diameter.

9 Q What kind of price range on the standpipes
10 per gallon?

11 A I haven't priced one of those. We haven't
12 used them in a long time. I typically go elevated
13 storage now, but you could be looking at three or
14 three and a quarter, something like that. Again, I'm
15 giving you ranges.

16 Q Yeah. Are you familiar with the fact that
17 the TCEQ rules do not require a municipality to hold a
18 CCN in order to provide service?

19 A I am.

20 Q And so if there were applications for service
21 in the area outside Lindsay's CCN, they would not have
22 been prohibited from going ahead and extending service
23 to those areas now even though they don't have this
24 CCN approved?

25 A They could make that decision to do that, but

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1 they would be putting the city at risk.

2 Q But they wouldn't be prohibited from doing
3 it?

4 A They would not be prohibited by law from
5 doing it.

6 MR. CARLTON: Can you give me just a
7 couple of minutes?

8 JUDGE NORMAN: Sure.

9 (Brief pause)

10 Q (BY MR. CARLTON) Let me ask you if Lindsay
11 were going to extend service to these customers shown
12 on KDM-6 south of Highway 82, would it -- would it be
13 accurate to say they would most likely extend that
14 service by primarily constructing water mains along
15 the existing roads?

16 A It's typically along existing roads, county
17 right of way, but more and more you may be paralleling
18 those roads, but you'd like to get private easements
19 to be able to do that, just from a cost standpoint.

20 Q And that's because you don't want to have to
21 relocate lines when the county builds a new road?

22 A That's starting to get more and more
23 prevalent.

24 Q Okay. So those lines would either be in the
25 county right of way or parallel the county right of

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1 way to extend service?

2 A That's where you would typically like to do
3 it. You're going to have some property obviously,
4 depending on the need for service and where it is,
5 that you might have to require a private easement
6 across tracts to get there.

7 Q And so in order to determine the cost of the
8 distribution system necessary to provide that service,
9 you wouldn't necessarily be able to do it by the way
10 the crow flies, you'd want to follow some of those
11 county roads, existing roads to the general location
12 where the service would be needed?

13 A That's typically true. But again, when you
14 talk about extending service, what typically happens
15 on the extension of these services where you may have
16 one or two customers extend service, it's not unusual
17 at all when you start plotting some of those routes to
18 pick up five, six or seven customers or ten customers
19 just by virtue of the line being installed out there.

20 Q But the length of the line, regardless of how
21 many customers you divide it among, is going to
22 generally be determined by where those lines run?

23 A That's a possibility.

24 MR. CARLTON: I'm going to pass the
25 witness.

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1 JUDGE NORMAN: Okay.

2 MR. CARLTON: Thank you.

3 THE WITNESS: Thank you.

4 JUDGE NORMAN: Go ahead.

5 REDIRECT EXAMINATION

6 BY MR. RODRIGUEZ:

7 Q Mr. Maroney, do you know what the difference
8 is between a water main and a distribution line?

9 A Those are typically synonymous terms.

10 Q Okay. Can you please explain for the Judge
11 why a city -- why a city would want to get a CCN
12 versus providing service to an area outside -- without
13 a CCN?

14 MR. CARLTON: Art, we can't hear you.

15 JUDGE NORMAN: Do you want to repeat the
16 question?

17 MR. RODRIGUEZ: Sure.

18 Q (BY MR. RODRIGUEZ) Can you explain,
19 Mr. Maroney, the reasons why a city would want to get
20 a CCN instead of operating in an area absent one?

21 A Sure. Let's assume that there is a city and
22 they decide to extend and serve people outside the
23 city limits, and their city limits, in fact, coincides
24 with their CCN, thereby expending funds if they're
25 city funds to extend out and let's say a mile. The

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1 cost of extending that line a mile if the city -- if
2 the city, in fact, pays for it or maintains and
3 operates it, that could, in fact, be a stranded cost.
4 That's very similar to the concern with, I suppose,
5 Lindsay Pure Water is serving outside their CCN.

6 So there's additional security in having
7 a CCN. As long as you extend within your CCN, then,
8 number one, you've got the right to be there. And
9 number two is that cost that you -- that's expended is
10 part of your obligation to serve, and you will
11 maintain and operate that line in general in
12 accordance with your standards.

13 Somebody comes in and decides to --
14 you're outside your CCN and they decide that they want
15 to develop that area and they go and obviously can get
16 a CCN for that, then you've got some stranded costs,
17 and you're definitely putting the city or that entity
18 at risk when they're serving outside their CCN. So
19 it's additional security.

20 JUDGE NORMAN: Because you have -- if
21 you have it within your CCN, you have an exclusive
22 right. Is that right?

23 A You've got exclusive -- you've got exclusive
24 rights, and that's -- I obviously wasn't involved in
25 the formulation of that policy, but the policy that's

1 A Are we talking 3 and 6?

2 Q 5 and 6.

3 A Oh, sorry. All right.

4 Q Mr. Maroney, can you please explain to me why
5 it's significant that there's these requests for
6 service throughout the city's requested service
7 territory? What does that tell you as one that's an
8 expert in the CCN area?

9 A The requests for service or the interest in
10 service within a CCN area goes to the level of
11 planning that that entity that owns that CCN needs to
12 look to. So these facilities don't happen overnight.
13 So as they build this infrastructure, whether that
14 infrastructure be elevated storage, pump station,
15 meeting the minimum requirements of the TCEQ, then
16 it's important to know what the potential for service
17 is and where that -- where that need may arise in the
18 area of the CCN.

19 Q Is there some planning component then to --
20 MR. CARLTON: Objection, objection, Your
21 Honor. I'm not sure how we're within the scope of
22 cross on this line of questioning.

23 JUDGE NORMAN: I'm not requiring that on
24 this. You know, if it keeps going back and forth for
25 a while, like I did last time -- you get your turn

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1 been talked about, I would surmise and the best I
2 could understand the reason that they were requiring
3 those applicants to pay for that outside the city
4 limits is because, in fact, that could become a --
5 could become a stranded cost. And that policy that's
6 being referred to was at a point in time when Lindsay
7 had no CCN outside their city limits. So if you want
8 to get service outside the city limits, you expend
9 your funds to do that.

10 Typically when you do get a CCN, then
11 that changes and there's a shared cost in that. Or in
12 the case of Lindsay or a municipality, there's
13 oftentimes grant funds available to extend those
14 lines. Therefore, not only does it not cost the City
15 of Lindsay any money, but it doesn't cost the
16 homeowner any money also. And that's part of -- you
17 can get that through ORCA and a number of grant funds
18 to be able to do this. So a municipality has lots of
19 options where a private water system does not have
20 those same financing options.

21 Q (BY MR. RODRIGUEZ) Mr. Maroney I'm going to
22 ask you to flip over to the attachment to Applicant's
23 Exhibit No. 3. It's Attachment KDM-5 of your prefiled
24 testimony and actually KDM-6, which is the property
25 owner map.

1 last.

2 MR. CARLTON: Right.

3 JUDGE NORMAN: And then I might impose
4 that, but right now I'm not requiring it.

5 MR. CARLTON: All right.

6 MR. RODRIGUEZ: Would you repeat my
7 question, Kim?

8 (Requested portion read)

9 Q (BY MR. RODRIGUEZ) What do these requests
10 for service then tell you about a city's necessity to
11 plan for a utility service?

12 A Well, what you're looking at, whether sewer
13 or water requests, is it gives you an indication of,
14 for example, where do you go to expand your system?
15 Where do you to get additional water supply and where
16 that additional water supply may be placed based on
17 the requests for service or the interest in that
18 service.

19 Q Mr. Maroney, there was an exhibit that was
20 introduced, LPWC-9. Can you grab that one? And also
21 flip over to your population projections that are in
22 Attachment KDM No. 8. Mr. Maroney, can you tell me
23 what a "building permit" is? Are you familiar with
24 that term?

25 A I am.

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<p>1 Q What is a "building permit"?</p> <p>2 A When an individual or a commercial</p> <p>3 establishment desires to construct any improvements on</p> <p>4 their property, then they are typically required by</p> <p>5 city ordinance to go get a building permit, and that's</p> <p>6 typically issued by the city that has jurisdiction</p> <p>7 over that area.</p> <p>8 Q Is the building permit, in your</p> <p>9 understanding, an authorization for someone to</p> <p>10 begin construction of a home, or is it an</p> <p>11 authorization for one to occupy a home?</p> <p>12 A An building permit is one that typically is</p> <p>13 taken out to construct a home.</p> <p>14 Q Okay. So if one takes out a building permit</p> <p>15 at a specific -- on a specific date, that doesn't</p> <p>16 necessarily mean that they're going to occupy it the</p> <p>17 day that it's pulled. Is that correct?</p> <p>18 A That's correct.</p> <p>19 Q Now, Mr. Maroney, we went and looked through</p> <p>20 the difference between July 1, 2005 and July 1, 2006</p> <p>21 in your KDM-8. Do you recall that?</p> <p>22 A I do.</p> <p>23 Q And Mr. Carlton asked you to count the number</p> <p>24 of new permits -- building permits during that same</p> <p>25 period -- during that same 12-month period of time.</p>	<p>1 Q Could you make that assumption for any of the</p> <p>2 building permits that were -- that you and Mr. Carlton</p> <p>3 counted?</p> <p>4 A I could not.</p> <p>5 Q Now, there was also -- do you recall a</p> <p>6 discussion with Mr. Carlton regarding some certain</p> <p>7 hypotheticals with respect to provision of water</p> <p>8 service outside of the Lindsay Pure Water CCN area?</p> <p>9 A I do.</p> <p>10 Q Okay. Assume with me for a second,</p> <p>11 Mr. Maroney, that Lindsay Pure Water was indeed</p> <p>12 serving outside its requested -- it's certificated</p> <p>13 service area.</p> <p>14 A Okay.</p> <p>15 Q What's the maximum distance that it could</p> <p>16 provide that service?</p> <p>17 A A quarter of a mile.</p> <p>18 Q Okay. Would you agree with me, Mr. Maroney,</p> <p>19 that based on the requested service territory for the</p> <p>20 City of Lindsay that much of the territory being</p> <p>21 requested is greater than one quarter mile outside of</p> <p>22 Lindsay Pure Water's certificated service area?</p> <p>23 A Are you asking me if the majority of the --</p> <p>24 what is your question?</p> <p>25 Q My question is, is the majority of the City</p>
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<p>1 Do you recall that?</p> <p>2 A I do.</p> <p>3 Q Now, Mr. Maroney, can you please tell me what</p> <p>4 the connection might be, if any, between one seeking</p> <p>5 to construct a new home and actual population during</p> <p>6 that period of time?</p> <p>7 A If would be difficult to draw that</p> <p>8 relationship.</p> <p>9 Q And why is that?</p> <p>10 A The population that may move into that area</p> <p>11 may be in existing facilities, for example. It may be</p> <p>12 moving into homes that are already constructed. What</p> <p>13 Mr. Carlton asked me to do basically was derive an</p> <p>14 equivalent unit.</p> <p>15 Q So let's take a look at APP0492, which is one</p> <p>16 of the pages that Mr. Carlton asked you to take a look</p> <p>17 at. Do you see on June 1, 2006 there was a new home</p> <p>18 building permit?</p> <p>19 A I do.</p> <p>20 Q Can you make the assumption, Mr. Maroney,</p> <p>21 that because a home was -- a permit was issued on</p> <p>22 June 1, 2006 that that would equate to 2.5 people</p> <p>23 being counted on July 1, one month later, 2006 in the</p> <p>24 Census Bureau?</p> <p>25 A I cannot.</p>	<p>1 of Lindsay's requested service territory more than one</p> <p>2 quarter mile from the Lindsay Pure Water certificated</p> <p>3 service territory?</p> <p>4 A Yes, sir.</p> <p>5 Q Okay. So then if there is any impact on</p> <p>6 Lindsay Pure Water based upon what they're legally</p> <p>7 required to provide service to now, what would the</p> <p>8 maximum impact be in a distance -- from a distance</p> <p>9 point of view?</p> <p>10 A A quarter of a mile.</p> <p>11 Q Okay. If Lindsay Pure Water had a request</p> <p>12 for service from -- I believe the Hellinger tract was</p> <p>13 the one that you had testified to earlier, what would</p> <p>14 the approximate distance be from the South Ridge of</p> <p>15 Lindsay to the Hellinger tract?</p> <p>16 A Approximately 7,000 feet.</p> <p>17 Q Okay. Is that more or less than one quarter</p> <p>18 mile from the certificated service area for the city</p> <p>19 of -- I'm sorry -- Lindsay Pure Water's CCN area?</p> <p>20 A That's considerably more than the quarter</p> <p>21 mile.</p> <p>22 Q What would Lindsay Pure Water need to do from</p> <p>23 a CCN standpoint in order to provide service to the</p> <p>24 Hellinger tract?</p> <p>25 A They would need to extend their CCN.</p>

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1 Q Okay. So would they have to make application
2 for that?
3 A They would need to make application through
4 TCEQ to amend their existing certificate.
5 Q If the Hellingers made a request to Lindsay
6 Pure Water today saying "Provide me service tomorrow,
7 I'm ready," could Lindsay Pure Water legally provide
8 that service?
9 A They could not legally provide that service.
10 Q What could Lindsay --
11 JUDGE NORMAN: Just for the record, how
12 many feet is in a quarter mile?
13 A 1320 feet.
14 JUDGE NORMAN: Okay.
15 Q (BY MR. RODRIGUEZ) And you said it was
16 approximately what, 7,000?
17 A 7,000 feet.
18 Q What could Lindsay Pure Water do to ensure
19 that the customers that it's currently serving, if, in
20 fact, they are, what could they do to ensure that no
21 one else would provide service to those customers?
22 A They could make application to amend their
23 CCN.
24 Q Okay. To your knowledge, has Lindsay Pure
25 Water Company sought to do that?

1 A For service to be provided to those
2 customers, the customers typically pay for those line
3 extensions.
4 Q Would it be uncommon for the utility to not
5 charge a customer for a line extension?
6 A In the systems I deal with, it would be
7 uncommon.
8 Q Okay. Mr. Maroney, there was some discussion
9 with respect to Page 10 -- oh, I'm sorry -- 13 of your
10 testimony regarding the reliability of having a water
11 system by -- for the City of Lindsay. Do you remember
12 having that discussion with Mr. Carlton?
13 A I do.
14 Q Mr. Maroney, if you were to construct a
15 standalone system, would you have different
16 reliability issues than if you were looped into a
17 system like the City of Lindsay's?
18 A Possibly.
19 Q Can you describe that for me?
20 A If you construct a standalone system and that
21 standalone system is to serve a small number of
22 customers, then you would typically end up with a
23 pressure tank system, a hydropneumatic tank and
24 potentially a small ground storage tank then to serve
25 a limited number of customers. A standalone system

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1 A Not to my knowledge.
2 Q Mr. Maroney, how many water utilities do you
3 represent at any one time?
4 A It's hard to say, but I'd say at least ten.
5 Q Okay. And how many -- how many have you
6 represented over your career, would you say?
7 A Seventy-five to a hundred.
8 Q Okay. Are you generally familiar with the
9 line extension policies of many of those water
10 systems?
11 A I am.
12 Q Okay. Mr. Maroney, is it uncommon for a
13 water system to require the -- a service requester or
14 a service receiver actually to bear the cost of the
15 extension of service?
16 A No, sir.
17 Q Okay. Is it common for a --
18 JUDGE NORMAN: Did you say -- was your
19 question is it common, or is it uncommon?
20 MR. RODRIGUEZ: I'd have to go back and
21 listen to the question and answer. I'll ask it again.
22 JUDGE NORMAN: Okay.
23 Q (BY MR. RODRIGUEZ) Is it common for a water
24 system to require that the customer bear the cost of
25 line extensions for service to be provided to them?

1 then would require typically just the one well.
2 And so that being the case, when you
3 lose the well, whether you lose power to the well or
4 whether you lose the well as it relates to a water
5 quality issue, for example, or whether you lose power
6 to the high service pumps to that station, you have a
7 loss of service, and the customer suffers.
8 Q Is cost the only consideration that one
9 should look at in operating the system to ensure
10 reliability?
11 A No, sir.
12 Q Okay. What are some of the other factors?
13 A Well, the other factors to look at would be
14 the service that's provided, the management redundancy
15 in the system. So when you look at -- you've got to
16 look at other things, the number of facilities, the
17 number of backup facilities you have, the number of
18 loop systems that you might have, then cost is a
19 factor, but there are other things to look that
20 relates to reliability.
21 MR. RODRIGUEZ: Your Honor, I pass the
22 witness.
23 JUDGE NORMAN: Mr. MacLeod?
24 MR. MacLEOD: I just want to clarify one
25 thing that came up in Mr. Carlton's cross-examination.

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1 RE CROSS-EXAMINATION
2 BY MR. MacLEOD:
3 Q He was asking you about Exhibit 8 to your
4 prefiled testimony, which is the growth for inside the
5 City of Lindsay -- or town of -- the City of Lindsay.
6 You gave an answer to a question. I can't remember
7 exactly what it was. I want to make sure that's what
8 you meant. You said -- I think it was something to
9 the effect that these do not reflect any growth
10 outside of the city. Did you mean to say that this
11 data is irrelevant for growth outside the city, or
12 could you explain that answer? I was just a little
13 unclear on that.
14 A Well, the issue here, at least the numbers
15 that are being -- that are being produced and compared
16 here from year to year are population within the city
17 limits.
18 Q Right -- and that's right. And you seemed to
19 indicate -- the answer that you gave could have
20 indicated you say this is irrelevant with respect to
21 growth outside the city limits. Is that what you --
22 is that what you said?
23 A No. I think any irrelevancy had to do with
24 trying to come up with an equivalent home to match
25 that particular population, assuming two and a half

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1 people. So you could have -- I think the irrelevancy
2 is trying to compare building permits necessarily with
3 population growth.
4 Q It's not that important. I guess I'm just
5 not making it clear. Let me try one more time.
6 Does that data -- do you think that data
7 shows nothing in terms of any growth outside of the
8 city? Because you've already got a CCN inside the
9 estimate. You're asking for one outside the city.
10 A But all this is is some population growth,
11 and it just happens to be -- those numbers happen to
12 be within the city limits. Now, I'm not -- I don't
13 have any other populations that are -- that give me
14 anything outside the city limits, but I guess you
15 could make the assumption that if the City of Lindsay
16 is growing, there's got to be some spillover
17 population if you want to go with that, but I couldn't
18 tell you what percentage that might be.
19 Q Right. I was just trying to see -- I was
20 trying to clarify that answer, and I think that's as
21 clear as it's going to get.
22 MR. MacLEOD: Thank you.
23 JUDGE NORMAN: Okay. Mr. Carlton? And
24 I am going to limit redirect to recross. And then if
25 there's more recross, I'll limit that to redirect.

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1 MR. CARLTON: Okay.
2 JUDGE NORMAN: All right. Go ahead.
3 RE CROSS-EXAMINATION
4 BY MR. CARLTON:
5 Q Mr. Maroney, you were talking about other
6 factors that would be considered with respect to
7 reliability, and one of those was the type -- I guess
8 the quality of the service that's being provided.
9 A Uh-huh.
10 Q Is that right?
11 A Yes.
12 Q And does the town of Lindsay provide fire
13 flow throughout its system?
14 JUDGE NORMAN: Provide what?
15 MR. CARLTON: Fire flow throughout its
16 system.
17 A I haven't done an analysis on the fire flow
18 to know whether they provide that or not. Based on
19 the system map that I've seen and not done a detailed
20 hydraulic analysis understand, but they certainly have
21 the pressure maintenance facility to do it, and they
22 certainly have the line capacity with the tens, eights
23 and loop sixes to be able to provide that fire flow
24 capacity, but I could not specifically tell you they
25 do provide that fire capacity. But I will tell you

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1 nor are they required by TCEQ to provide that fire
2 flow capacity.
3 Q (BY MR. CARLTON) I understand that, but
4 Lindsay Pure Water is not required to have two wells,
5 are they?
6 A That's correct, as to the number they have
7 sitting right here.
8 Q With respect to -- you also mentioned
9 management as another factor. Do you mean in terms of
10 operation of the system, how it's operated from day to
11 day?
12 A Yeah, and typically it's with all systems, is
13 the availability of the operators, the knowledge of
14 the operators, the preventative maintenance that's
15 done on the system; so sure.
16 Q So if Lindsay Pure Water Company and the City
17 of Lindsay have the same operator, that would be a
18 relatively neutral sort of comparison?
19 A I would sure think so.
20 Q And then you said loop systems are important
21 because obviously it allows if a line breaks in one
22 direction, you don't have cutoff of service
23 everywhere. And if Lindsay Pure Water has a loop
24 system as well, then that reliability would also be
25 sort of a neutral comparison to the town of Lindsay?

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1 A It could be, yes, sir.
2 Q Now, if TCEQ only requires one well for these
3 small systems, when do they start requiring two wells?
4 JUDGE NORMAN: Is that true?
5 A You'll have to give me the definition of
6 "small," but --
7 Q (BY MR. CARLTON) Well, let me ask it this
8 way: When is a system required to go from one well to
9 two or more wells?
10 A I believe it's going to be more than 250.
11 Q More than 250 connections?
12 A Two hundred and fifty connections, but I'd
13 like to check that, if you don't mind.
14 Q Okay.
15 A For more than 250 connections.
16 Q Okay. And so based on the differentiation in
17 the agency's rules, they're not concerned about the
18 quality of service that a system with less than 250
19 connections is going to get if it only has one well,
20 are they? I mean, they're not believing that those
21 people are at risk of having poor water service if
22 they only have one well on a system of less than 250
23 connections?
24 A I think they're concerned regardless of how
25 many wells you've got as far as service goes, and you

1 A The operative word is that there is no need.
2 Q Correct. So --
3 A Correct.
4 MR. CARLTON: Pass the witness.
5 JUDGE NORMAN: Okay.
6 FURTHER REDIRECT EXAMINATION
7 BY MR. RODRIGUEZ:
8 Q I guess flipping that around -- the last
9 question around, Mr. Maroney, if there is a need for
10 service, you could likewise go and seek a CCN for a
11 certain service territory, couldn't you?
12 A If you're convinced that you had the system
13 that could meet that need.
14 MR. RODRIGUEZ: I pass the witness, Your
15 Honor.
16 JUDGE NORMAN: Mr. MacLeod?
17 MR. MacLEOD: No questions.
18 JUDGE NORMAN: Mr. Carlton?
19 MR. CARLTON: No questions.
20 JUDGE NORMAN: Thank you, Mr. Maroney.
21 THE WITNESS: Thank you.
22 JUDGE NORMAN: Okay. We are done for
23 today.
24 MR. CARLTON: Can I ask a housekeeping
25 matter real quick?

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1 typically have that in the standard operation of your
2 system, that you're required to provide continuous and
3 adequate service. I don't care how many wells you've
4 got.
5 Q But TCEQ has determined that a minimum
6 requirement for continuous and adequate service for
7 systems less than 250 connections is one well?
8 A Their minimum requirements is as set forth in
9 290.45, and those are, in fact, minimum requirements,
10 at times they require more than the minimum.
11 Q You also testified in response to some of
12 Mr. Rodriguez's questions that the city would go apply
13 for a CCN in order to protect its area from
14 encroachment. Are there other ways to protect your
15 service area from encroachment by others applying for
16 CCNs?
17 A That's probably the most prevalent way.
18 Q It's also possible to protest CCN
19 applications when they come in, isn't it?
20 A Yes, you can do that.
21 Q And if, in fact, there wasn't a need for
22 service that might justify your application for a CCN
23 at some point in time, then your only option might be
24 to protest another CCN rather than apply for one on
25 your own. Wouldn't that be correct?

1 JUDGE NORMAN: Sure.
2 MR. CARLTON: Did I offer and get
3 admitted Exhibits LPWC-10 and 11?
4 JUDGE NORMAN: Why don't you do it now.
5 MR. CARLTON: I'd like to offer those.
6 JUDGE NORMAN: All right. Any
7 objections to LPWC Exhibits 10 and 11?
8 (No response)
9 JUDGE NORMAN: No?
10 MR. MacLEOD: No.
11 JUDGE NORMAN: They're admitted.
12 MR. CARLTON: Thank you.
13 (Exhibit LPWC Nos. 10 and 11 admitted)
14 (Proceedings recessed at 5:26 p.m.)
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