

CASE: UW 120
WITNESS: CRAIG SOULE

**PUBLIC UTILITY COMMISSION
OF
OREGON**

INTERVENOR SOULE EXHIBIT 1

DIRECT TESTIMONY

AUGUST 25, 2008

1 Q. PLEASE STATE YOUR NAME AND ADDRESS.

2 A. My name is Craig Soule. My address is 11953 SW Horny Hollow Trail,
3 Terrebonne, Oregon 97760.

4 Q. PLEASE DESCRIBE YOUR RELATIONSHIP TO CROOKED RIVER RANCH
5 WATER COMPANY.

6 A. I am member and customer of the Crooked River Ranch Water Company.

7 Q. PLEASE EXPLAIN YOUR RELATIONSHIP TO THIS PROCEEDING BEFORE
8 THE OREGON PUBLIC UTILITIES COMMISSION.

9 A. I am an Intervenor in the proceeding before the Oregon Public Utility
10 Commission.

11 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

12 A. The purpose of my testimony is to:

- 13 • Present the outcome of the discovery process with Crooked River
14 Ranch Water Company conducted during this proceeding.
15
16 • Present opinions based on the discovery process with Crooked River
17 Ranch Water Company.
18
19 • Discuss the status of Oregon Public Utility Commission Order No. 07-
20 527.
21
22 • Discuss the status of the acting Board of Directors of the Crooked
23 River Ranch Water Company.
24
25 • Discuss the status of the "Special Assessment" fund balance.
26

27 Q. DID YOU PREPARE ANY EXHIBITS TO ACCOMPANY YOUR TESTIMONY?

28 A. Yes, Exhibit Number 2 contains exhibits in support of this testimony.

29 Q. HOW IS YOUR TESTIMONY ORGANIZED?

1 A. The testimony is organized as follows:

- 2 • Discussion on discovery.
- 3 • Opinions formed based on the lack of discovery.
- 4 • Discussion of the status of Oregon Public Utility Commission Order
- 5 No. 07-527.
- 6 • Recommendations regarding the "Special Assessment" fund.
- 7 • Discussion on the status of the acting Board of Directors of the
- 8 Crooked River Ranch Water Company.
- 9 • Final Recommendations/Comments.

10 DISCUSSION ON DISCOVERY

11 Q. HAVE YOU SERVED DATA REQUESTS ON CROOKED RIVER RANCH

12 WATER COMPANY?

13 A. Yes. I have served Crooked River Ranch Water Company with 85 data requests.

14 Data Requests No. 1 through 66 were served on Crooked River Ranch Water

15 Company prior to Order No. 07-527. Data Requests No. 67 through 85 were

16 served on Crooked River Ranch Water Company after Order No. 07-527. The

17 data requests are included in Intervenor Exhibit 2.

18 Q. DID CROOKED RIVER RANCH WATER COMPANY INITIALLY RESPOND TO

19 YOUR DATA REQUESTS SERVED PRIOR TO ORDER NO. 07-527 (DR 1

20 THROUGH 66)?

21 A. No. Crooked River Ranch Water Company did not initially respond to my data

22 requests served prior to Order No. 07-527 (DR 1 through 66).

1 Q. DID YOU MAKE ADDITIONAL ATTEMPTS TO OBTAIN RESPONSES FROM
2 CROOKED RIVER RANCH WATER COMPANY TO YOUR DATA REQUEST
3 SERVED PRIOR TO ORDER NO. 07-527 (DR 1 THROUGH 66)?

4 A. Yes. I contacted Crooked River Ranch Water Company General/Operations
5 Manger – James Rooks by email attempting to informally address the production
6 of the requested documents/information on my data requests served prior to
7 Order No. 07-527 (DR 1 through 66). When the additional attempts to informally
8 address the production of the requested documents/information did not elicit a
9 meaningful response from Crooked River Ranch Water Company, I formally
10 requested the ALJ to issue Motions to Compel on July 18, 2007; July 31, 2007;
11 August 21, 2007 and November 4, 2007. The ALJ granted my Motions to Compel
12 on August 3, 2007; August 21, 2007; October 5, 2007 and November 29, 2007,
13 directing Crooked River Ranch Water Company to provide full and complete
14 answers to the subject data requests. The granted Motions to Compel are
15 included in Intervenor Exhibit 2. Crooked River Ranch Water Company did not
16 respond to the Motions to Compel. Subpoenas were requested from the ALJ,
17 subsequently issued by the ALJ and served on the General/Operations Manager
18 and acting member of the Board of Directors of the Crooked River Ranch Water
19 Company – James Rooks. Also, subpoenas were requested from the ALJ for the
20 acting Crooked River Ranch Water Company Board of Directors. The subpoenas
21 were subsequently issued by the ALJ and served on the acting board members;
22 Brian Elliott, Richard Keen, Randolph Scott and Richard Miller. The subpoenas
23 directed the individuals served to provide the documentation/information

1 requested in the subject data requests. Neither the Board of Directors nor the
2 management of the Crooked River Ranch Water Company responded to the
3 subpoenas. The subpoenas served on the General/Operations Manager and
4 acting member of the Board of Directors of the Crooked River Ranch Water
5 Company – James Rooks are included in Intervenor Exhibit 2.

6 Q. DID YOU PERSUE THE LACK OF RESPONSE TO YOUR DATA REQUESTS
7 SERVED PRIOR TO ORDER NO. 07-527 (DR 1 THROUGH 66) BEYOND THE
8 SUBPOENAS?

9 A. Yes. On January 28, 2008 Contempt Proceedings against Crooked River Ranch
10 Water Company and James Rooks – Individually were initiated in Jefferson
11 County Circuit Court as case number CV08-0028 for failure to produce
12 documents/information responsive to the subpoenas. The initial filing in the
13 contempt proceeding addressed the subpoenas concerning data request
14 numbers 1 through 26. The scope of the contempt proceeding was expanded to
15 include data requests number 27 through 66 at the direction of the Court.

16 Q. DID THE JEFFERSON COUNTY CIRCUIT COURT ADDRESS THE
17 RELEVANCY OR OTHERWISE MODIFY THE RULINGS OF THE ALJ
18 REGARDING YOUR DATA REQUESTS SERVED PRIOR TO ORDER NO. 07-
19 527 (DR 1 THROUGH 66)?

20 A. Yes. The Court addressed each of the individual data requests and its sub-parts
21 individually, subsequently issuing rulings regarding each data request and/or
22 sub-part. The Courts rulings placed the data requests into the following
23 categories:

- 1 • The Crooked River Ranch Water Company and James Rooks were
2 ordered to provide information/documentation.
3
4 • I was directed by the Court to obtain the information/documentation
5 through public record requests.
6
7 • The Court found the data request or subpart not relevant, ordering
8 that Crooked River Ranch Water Company and James Rooks were
9 not required to produce any documentation/information.
10
11 • I agreed to withdraw the data request or not require a response since
12 the information/documentation had been obtained through means
13 outside of the data request process.
14
15 • The information/documentation requested did not exist based on the
16 testimony of the Crooked River Ranch Water Company and James
17 Rooks.
18
19 • The information/documentation provided by The Crooked River
20 Ranch Water Company in response to the PUC's data requested
21 would be made available for viewing and reproduction.
22

23 The Court's Orders¹ are included in Intervenor Exhibit 2.

24 Q. DO YOU AGREE WITH THE RULINGS OF JEFFERSON COUNTY CIRCUIT
25 COURT REGARDING YOUR DATA REQUESTS SERVED PRIOR TO ORDER
26 NO. 07-527 (DR 1 THROUGH 66)?

27 A. No. A Motion for Reconsider of the Court's rulings regarding the
28 relevancy, directing me to source certain information/documentation through
29 public records and the existence of specific documents was filed on August 7,
30 2008. On August 21, 2008 the Court denied the Motion for Reconsider. The
31 Motion for Reconsideration and subsequent ruling denying the Motion are

¹ The Court made verbal rulings regarding data request number 27 through 66 during the phone hearings conducted May 6, 2008 and July 8, 2008. The Court directed the Respondent's attorney to write an order containing the verbal rulings. On July 15, 2008 the final version of the written order, reflecting the verbal rulings, was provided to the Court for the Judge's signature. As of the date of this "Motion" the Petitioner has not received a copy of the signed order.

1 included in Intervenor Exhibit 2. The Courts rulings on this matter are particularly
2 problematic in that it removes the Oregon Public Utility Commissions ability to
3 effectively make determinations regarding discovery and neutralizes the
4 discovery process. A party's ability to effectively participate in the process in a
5 timely manner to protect their interest is severely compromised.

6 Q. HAS CROOKED RIVER RANCH WATER COMPANY AND JAMES ROOKS
7 FULLY COMPLIED WITH THE RULINGS OF JEFFERSON COUNTY CIRCUIT
8 COURT CONCERNING YOUR DATA REQUESTS SERVED PRIOR TO ORDER
9 NO. 07-527 (DR 1 THROUGH 66)?

10 A. No. Crooked River Ranch Water Company and James Rooks did not fully comply
11 with the Court's rulings. A majority of the responses to the data requests ordered
12 to be provided by the Court were either incomplete, late or not made available
13 within the time period stated in the Court's ruling.

14 Q. DID YOU SERVE DATA REQUESTS AFTER ORDER NO. 07-527 ON
15 CROOKED RIVER RANCH WATER COMPANY?

16 A. Yes. I served data requests numbers 67 through 85 on Crooked River Ranch
17 Water Company after Order No. 07-527. The data requests are included in
18 Intervenor Exhibit 2.

19 Q. DID CROOKED RIVER RANCH WATER COMPANY INITIALLY RESPOND TO
20 DATA REQUEST NUMBERS 67 THROUGH 74?

21 A. Yes. River Ranch Water Company through their attorney – Tim Gassner
22 responded to data requests numbers 67 through 74. Crooked River Ranch Water
23 Company's response is included in Intervenor Exhibit 2.

1 Q. DID CROOKED RIVER RANCH WATER COMPANY'S INITIAL RESPONSE
2 PROVIDE DOCUMENTATION/INFORMATION RESPONSIVE TO DATA
3 REQUEST NUMBERS 67 THROUGH 74?

4 A. No. Crooked River Ranch Water Company objected to data request numbers 67
5 through 74 variably citing relevancy to the establishment of rates, the data
6 request being argumentative or citing OAR 860-014-0070(2).

7 Q. DID CROOKED RIVER RANCH WATER COMPANY INITIALLY RESPOND TO
8 DATA REQUEST NUMBERS 75 THROUGH 85.

9 A. No. Crooked River Ranch Water Company did not provide a meaningful
10 response to data request numbers 75 through 85.

11 Q. DID YOU MAKE ADDITIONAL ATTEMPTS TO OBTAIN RESPONSES FROM
12 CROOKED RIVER RANCH WATER COMPANY TO YOUR DATA REQUEST
13 SERVED AFTER ORDER NO. 07-527 (DR 67 THROUGH 85)?

14 A. Yes. Regarding data request numbers 67 through 74, I contacted Crooked River
15 Ranch Water Company via letter attempting to informally address the production
16 of the requested documents/information. Regarding data request numbers 75
17 through 85, I contacted Crooked River Ranch Water Company
18 General/Operations Manger – James Rooks by email attempting to informally
19 address the production of the requested documents/information. When the
20 attempts to informally address the production of the requested
21 documents/information did not elicit a meaningful response from Crooked River
22 Ranch Water Company, I formally requested the ALJ to issue Motions to Compel
23 on June 18, 2008 and July 29, 2008. Crooked River Ranch Water Company

1 provided a document within it's response to the Motion to Compel, dated July 29,
2 2008, that was responsive to data request number 75(c). The ALJ granted my
3 Motions to Compel on July 14, 2008 and August 8, 2008. The granted Motions to
4 Compel are included in Intervenor Exhibit 2. Crooked River Ranch Water
5 Company did not respond to the Motions to Compel.

6 Q. DID YOU PERSUE THE LACK OF RESPONSE TO YOUR DATA REQUESTS
7 SERVED AFTER ORDER NO. 07-527 (DR 67 THROUGH 85) BEYOND THE
8 MOTIONS TO COMPEL?

9 A. No. At the time of filing this testimony I have elected to deem the
10 information/documentation (evidence) requested in the subject data requests that
11 Crooked River Ranch Water Company did not fully respond to be willfully
12 suppressed by Crooked River Ranch Water Company and invoke Oregon
13 Revised Statute 40.135(1)(c) – Oregon Evidence Code Rule 311. However, I
14 reserve the right to further pursue the lack of responses by Crooked River Ranch
15 Water Company.

16 Q. HAS CROOKED RIVER RANCH WATER COMPANY THREATENED ANY
17 ACTIONS AGAINST YOU FOR SERVING DATA REQUESTS ON THEM?

18 A. Yes. Crooked River Ranch Water Company's "Response to Intervenor Craig
19 Soule's Motion to Compel (Re: DR 67-74), dated July 3, 2008, in part states the
20 following:

21 *"CRRWC requests an order prohibiting further Data Requests by Craig*
22 *Soule. CRRWC does not wish to devote further resources to fighting the*
23 *harassment of Craig Soule however, if some intervention is not made by*
24 *the PUC then CRRWC will have no recourse but to pursue a separate civil*

1 *action against Craig Soule for intentional interference with economic*
2 *relations.”*
3

4 Q. DID THE LACK OF CROOKED RIVER RANCH WATER COMPANY'S
5 RESPONSES TO YOUR DATA REQUESTS AND THREATS OF LEGAL
6 ACTION AFFECT YOUR ABILITY TO PARTICIPATE IN THE RATE/TARIFF
7 SETTING PROCESS?

8 A. Yes. Due to the lack of responses to my data requests and threats of legal action
9 by Crooked River Ranch Water Company, I am unable to fully participate in the
10 rate/tariff setting process. Therefore, I am not able to evaluate
11 information/documentation critical to setting rates/tariffs and to provide input into
12 the process to establish rates/tariffs balancing my needs as a customer and
13 member of Crooked River Ranch Water Company.

14 OPINIONS FORMED ON THE LACK OF DISCOVERY

15 Q. DID YOU FORM SPECIFIC OPINIONS BASED ON THE AVAILABLE EVIDENCE
16 AND THE LACK OF EVIDENCE TO THE CONTRARY FROM CROOKED RIVER
17 RANCH WATER COMPANY?

18 A. Yes. I deem the information/documentation (evidence) requested in the subject data
19 requests that Crooked River Ranch Water Company did not fully respond to; to be
20 willfully suppressed by Crooked River Ranch Water Company. Based on the
21 available evidence and willful suppression of evidence by Crooked River Ranch
22 Water Company, I have formed the following opinions:

- 23
- 24 • On or about June 29, 2006 the Crooked River Ranch Water Company was
25 dissolved by the Board of Directors.
26

- 1 • On or about June 29, 2006 the Crooked River Ranch Water Company was
2 dissolved by the Board of Directors without approval of the members.
3
- 4 • On or about June 29, 2006 the Crooked River Ranch Water Company was
5 dissolved by the Board of Directors without complying with the provisions of
6 Oregon Revised Statutes (ORS) Chapter 65, the CRRWC Articles of
7 Incorporation and the CRRWC Bylaws regarding dissolution.
8
- 9 • The Board of Directors did not discuss the dissolution of Crooked River
10 Ranch Water Company prior to dissolving the Crooked River Ranch Water
11 Company on or about June 29, 2006
12
- 13 • On July 5, 2006 Crooked River Ranch Water Cooperative filed Articles of
14 Incorporation - Cooperative and Restated Articles Incorporation -
15 Business/Professional/Nonprofit with the Oregon Secretary of State. The
16 Crooked River Ranch Water Cooperative has not been in full compliance with
17 the provisions of ORS Chapter 62 from the date of incorporation to the
18 present.
19
- 20 • Crooked River Ranch Water Company cannot account for the \$1000.00
21 discrepancy regarding the purchase of the 2001, 6 X 12 Dump/44" purchased
22 from trailer Diamond B Trailer Works on March 3, 2001.
23
- 24 • Crooked River Ranch Water Company cannot account for the \$1600.00
25 discrepancy regarding the purchase of the Husky HH200 Excavator Hammer
26 purchased from Cascade Machinery Company on September 23, 2005.
27
- 28 • Accounting of the "Special Assessment" fund has not been conducted by a
29 Certified Public Accountant.
30
- 31 • Documentation substantiating expenditures from the "Special Assessment"
32 fund does not exist.
33
- 34 • Crooked River Ranch Water Company has used company funds and
35 company resources on behalf of the Crooked River Ranch Cooperative.
36
- 37 • Crooked River Ranch Water Company has used company funds for the legal
38 services that were not authorized by the highest authority of Crooked River
39 Ranch Water Company.
40
- 41 • The Crooked River Ranch Water Company Board of Directors did not deem
42 that each main water line extension completed since 1999 was in the best
43 interest of the existing customers of Crooked River Ranch Water Company.
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- The Crooked River Ranch Water Company Board of Directors did not authorize the main water line extension completed since 1999.
 - Crooked River Ranch Water Company paid the legal expenses for the representation of James Rooks in the following cases?
 - State of Oregon vs James Rooks - Jefferson County Circuit Court M106-0202 filed 6/24/06 (Community Property Damage)
 - Berry vs Crooked River Ranch Water Company, Rooks, Keen, Combs, Scott, Elliot - Jefferson County Circuit Court 06-CV-0055 filed 10/6/06 (civil suit for assault, intentional infliction of emotional distress, negligent retention of employee, failure to supervise an employee)
 - Crooked River Ranch Water Company did not file an exemption application and receive a letter of determination from the IRS granting non-profit status to the co-operative when Crooked River Ranch Water Company attempted to change the legal status of the organization under ORS Chapter 62 in July 2006.
 - The amendments to the Articles of Incorporation and Bylaws made since 1999 did not meet the IRS requirements for the Crooked River Ranch Water Company to remain a non-profit under 501(c) 12.
 - Crooked River Ranch Water Company cannot explain how \$30,080.00 on equipment repairs in March 2008 constitutes a cut in equipment repairs.
 - The current acting Board of Directors of Crooked River Ranch Water Company do not meet the requirements of the Crooked River Ranch Water Company's Articles of Incorporation, Crooked River Ranch Water Company's Bylaws and Oregon Revised Statute to represent the membership of the Crooked River Ranch Water Company.
 - A quorum of legal members of the Board of Directors of Crooked River Ranch Water Company was not present for the transaction of business conducted by Crooked River Ranch Water Company from July 1, 2005 to the present.
 - Crooked River Ranch Water Company has expended funds and resources on members of the Board of Directors of Crooked River Ranch Water Company who do not meet the requirements of the Crooked River Ranch Water Company's Articles of Incorporation, Crooked River Ranch Water Company's Bylaws and Oregon Revised Statute to represent the membership of the Crooked River Ranch Water Company.

1 Q. DID YOU FORM OVERALL OPINIONS BASED ON THE AVAILABLE
2 EVIDENCE AND THE LACK OF EVIDENCE TO THE CONTRARY FROM
3 CROOKED RIVER RANCH WATER COMPANY?

4 A. Yes. I have formed the following overall opinions based on the lack of a complete
5 responses to my data requests:

- 6 • The current acting Board of Directors and Management of the Crooked
7 River Ranch Water Company have demonstrated an unwillingness,
8 incapacity and refusal to effectively operate and manage the water system
9 to provide safe and adequate service to its customers in compliance with
10 Oregon statutes, rules, and standards.
- 11 • The current acting Board of Directors and Management of the Crooked
12 River Ranch Water Company has demonstrated an unwillingness,
13 incapacity and refusal to effectively operate and manage Crooked River
14 Ranch Water Company in the best interest of the membership of the
15 Crooked River Ranch Water Company as a whole.
- 16 • Due to the lack of adequate participation in discovery process and failure
17 to fully comply with Commission Orders and ALJ rulings, the current acting
18 General/Operations manager of Crooked River Ranch Water Company
19 has not conducted himself in the manner that his position and scope of
20 responsibility would reasonably require. Therefore, the General Manager's
21 pay should be set to the AWWA Weighted Average Pay range of a
22 Senior/Lead Water Treatment Plant (less than 25 employees) of \$44,322.
- 23 • The current acting Board of Directors of Crooked River Ranch Water
24 Company do not constitute a legal quorum of directors to conduct the
25 business of the corporation.

26 Q. BASED ON YOUR OVERALL OPINIONS FORMED ON THE AVAILABLE
27 EVIDENCE AND THE LACK OF EVIDENCE TO THE CONTRARY FROM
28 CROOKED RIVER RANCH WATER COMPANY DO YOU HAVE ANY
29 RECOMMENDATIONS FOR THE OREGON PUBLIC UTILITY COMMISSION?

30 A. Yes. That the Oregon Public Utility Commission of Oregon should immediately
31 appoint a regent with all of the powers provided in the provisions of Oregon
32
33
34
35

1				
2	5/25/06	\$989.00	Accounting Fees	Harrigan
3	8/25/06	\$538.00	Accounting Fees	Harrigan
4	10/25/06	\$435.00	Accounting Fees	Harrigan
5	12/25/06	\$559.00	Accounting Fees	Harrigan
6	2/25/07	\$470.00	Accounting Fees	Harrigan
7	3/25/07	\$1,081.00	Accounting Fees	Harrigan
8	5/25/07	\$2021.00	Accounting Fees	Harrigan
9	6/25/07	\$1500.00	Accounting Fees	Harrigan
10	7/25/07	\$60.00	Accounting Fees	Harrigan
11				

12 In addition, the "Supplemental Response to Order No. 08-243" dated June 3,
13 2008 in PUC Docket UW 120 stated the following:

14
15 *"Certified public accountant's were hired to handle the accounting of*
16 *special assessment funds. The cost is directly related to the need for the*
17 *assessment and thus was paid from assessment monies."*

- 18
19 a. *Please provide the accounting of the "Special Assessment" fund*
20 *provided by Harrigan represented by the above fees expended*
21 *from the "Special Assessment" fund.*
- 22
23 b. *Please explain why accounting expenditures represented by the*
24 *above documentation ended in July 2007 when the "Special*
25 *Assessment" fund was still actively receiving and expending funds*
26 *after July 2007?*
- 27

28 The data request is included in Intervenor Exhibit 2.

29 Soule data request number 81 stated the following:

30 *"CRRWC provided a "Response to Order No. 08-177" dated April 8, 2008 and*
31 *a "Supplemental Response to Order No. 08-243" dated June 3, 2008 in PUC*
32 *Docket UW 120. Both responses contained spreadsheet tables providing*
33 *essentially the same information on expenditures from the "Special*
34 *Assessment" fund. Please provide all documents including but not limited to*
35 *purchase agreements, bill of sales, sale contracts, invoices, receipts,*
36 *canceled checks, etc. from the named vendor detailing each of the individual*
37 *line items in the spreadsheets in the subject responses."*

38

39 The data request is included in Intervenor Exhibit 2.

1 Crooked River Ranch Water Company did not provide a response to these data
2 requests in the discovery process. Therefore, no evidence exists of an
3 accounting of the "Special Assessment" fund by a Certified Public Accountant.
4 Also, Crooked River Ranch Water Company's lack of response to data request
5 number 81 indicates there is no evidence of documentation substantiating
6 expenditures from the "Special Assessment". This is further evidenced by
7 Crooked River Ranch Water Company not filing the Certified Public Accountant's
8 accounting of the "Special Assessment" fund indicated in Crooked River Ranch
9 Water Company's "Supplemental Response to Order No. 08-243" dated June 3,
10 2008.

11 ORDERING PARAGRAPH NO. 4 - Crooked River Ranch Water Company has
12 not complied with ordering paragraph number 4. Ordering paragraph 4 of Oregon
13 Public Utility Commission Order number 07-527 stated the following:

14 *"Not later than 30 days from the date of this order, Crooked River Ranch*
15 *Water Company shall submit any contracts between itself and its General*
16 *Manager Mr. Rooks and members of the Rooks' family, along with*
17 *supporting testimony, to this Commission for approval."*
18

19 In Oregon Public Utility Commission dockets UI 281 and UI 282 Crooked River
20 Ranch Water Company filed individual Employment Agreements made with
21 James Rooks and Jacquie Rooks in the name of Crooked River Ranch Water
22 Cooperative² and executed by the Crooked River Ranch Water Cooperative.

² Order 06-642 dated 11/20/06 in part stated the following: "Contrary to CRRWC's arguments, the dissolution, transfer, and reorganization of a water company's assets requires approval under this statute. Having failed to obtain that approval, CRRWC's efforts to reorganize as a cooperative under ORS Chapter 62 are without legal effect."

1 Therefore, Crooked River Ranch Water Company has not complied with
2 Ordering paragraph 4 of Order number 07-527. The employment agreements are
3 included in Intervenor Exhibit 2.

4 RECOMMENDATIONS REGARDING

5 THE SPECIAL ASSESSMENT FUND

6 Q. DO YOU HAVE RECOMMENDATIONS REGARDING THE REMAINING FUNDS
7 IN CROOKED RIVER RANCH WATER COMPANY'S SPECIAL ASSESSMENT
8 FUND ACCOUNTS?

9 A. Yes. The Commission concluded, in Order No. 07-527, that the "Assessment
10 Fund" is a constructive trust established for the benefit of its' members. The
11 opinions previously noted above stated the following:

- 12 • The current acting Board of Directors of Crooked River Ranch Water
13 Company do not constitute a legal quorum of directors to conduct the
14 business of the corporation.
- 15 • Accounting of the "Special Assessment" fund has not been conducted
16 by a Certified Public Accountant.
- 17 • Documentation substantiating expenditures from the "Special
18 Assessment" fund does not exist.
- 19 • Crooked River Ranch Water Company has used company funds and
20 company resources on behalf of the Crooked River Ranch
21 Cooperative.
- 22 • Crooked River Ranch Water Company has used company funds for
23 legal services that were not authorized by the highest authority of
24 Crooked River Ranch Water Company.
- 25 • Crooked River Ranch Water Company has used company funds for
26 legal services that were not authorized by the highest authority of
27 Crooked River Ranch Water Company.
- 28 • Crooked River Ranch Water Company has used company funds for
29 legal services that were not authorized by the highest authority of
30 Crooked River Ranch Water Company.

31 Until such a time that a legal quorum of directors of Crooked River Ranch Water
Company is placed by the membership of Crooked River Ranch Water Company

1 and a full and complete accounting of the "Special Assessment" fund is
2 completed by a Certified Public Accountant, the "Special Assessment" fund
3 balance should remain on deposit with the Oregon State Treasury as a
4 constructive trust for the benefit of its' members.

5 DISCUSSION ON THE STATUS OF THE ACTING BOARD OF
6 DIRECTORS OF THE CROOKED RIVER RANCH WATER COMPANY

7 Q. DID YOU SERVE DATA REQUESTS ON CROOKED RIVER RANCH WATER
8 COMPANY CONCERNING THE STATUS OF INDIVIDUAL MEMBERS OF THE
9 CROOKED RIVER RANCH WATER COMPANY BOARD OF DIRECTORS?

10 A. Yes. Data request number 68 addressed the presence of Randolph Scott on the
11 Board of Directors of the Crooked River Ranch Water Company. Data request
12 number 69 addressed the presence of Richard Keen on the Board of Directors of
13 the Crooked River Ranch Water Company. Data request number 70 addressed
14 the presence of James Rooks on the Board of Directors of the Crooked River
15 Ranch Water Company. Data request number 71 addressed the presence of
16 Brian Elliott on the Board of Directors of the Crooked River Ranch Water
17 Company. Data request number 72 addressed the presence of Richard Miller on
18 the Board of Directors of the Crooked River Ranch Water Company. Each data
19 request provided evidence demonstrating that the person on the Board of
20 Directors of Crooked River Ranch Water Company addressed by the data
21 request was not in compliance with applicable articles, bylaws or statute.
22 Crooked River Ranch Water Company did not provide a response to counter the

1 evidence presented with the data requests. The data requests with the
2 supporting evidence is included in Intervenor Exhibit 2.

3 Q. DID YOU FORM OPINIONS BASED ON THE AVAILABLE EVIDENCE AND
4 THE LACK OF EVIDENCE TO THE CONTRARY FROM CROOKED RIVER
5 RANCH WATER COMPANY REGARDING THE PRESENCE OF SPECIFIC
6 INDIVIDUALS ON THE CROOKED RIVER RANCH WATER COMPANY BOARD
7 OF DIRECTORS?

8 A. Yes. I formed the following opinions on the specific individuals presence on the
9 Board of Directors of Crooked River Ranch Water Company:

- 10 • Randolph Scott is not a legal member of Crooked River Ranch Water
11 Company Board of Directors based on following Bylaws of the Crooked
12 River Ranch Water Company Amended 9/24/04:

13
14 *Bylaw 2.3 Termination of Membership*

15
16 (a) Membership in the Corporation shall terminate
17 automatically upon death, removal of the premises served
18 within the service area of the Corporation, or sale of the
19 premises served to another person or entity.

20
21 *Bylaw 4.5 Disqualification*

22
23 Termination of a Director's membership in the Corporation
24 shall terminate automatically that Director's membership on
25 the Board of Directors.

26
27 Randolph Scott sold his property entitling him to membership in the
28 Crooked River Ranch Water Company and therefore terminating his
29 membership on the Crooked River Ranch Water Company Board of
30 Directors on April 24, 2002.

- 1 • Richard Keen is not a legal member of Crooked River Ranch Water
2 Company Board of Directors based on following Bylaws of the Crooked
3 River Ranch Water Company Amended 9/24/04:

4
5 *Bylaw 2.3 Termination of Membership*

6
7 (a) Membership in the Corporation shall terminate
8 automatically upon death, removal of the premises served
9 within the service area of the Corporation, or sale of the
10 premises served to another person or entity.

11
12 *Bylaw 4.5 Disqualification*

13
14 Termination of a Director's membership in the Corporation
15 shall terminate automatically that Director's membership on
16 the Board of Directors.

17
18 Richard Keen sold his property entitling him to membership in the
19 Crooked River Ranch Water Company and therefore terminating his
20 membership on the Crooked River Ranch Water Company Board of
21 Directors on June 29, 2005.

- 22 • James Rooks is not a legal member of Crooked River Ranch Water
23 Company Board of Directors based on following Bylaws of the Crooked
24 River Ranch Water Company as Amended 9/24/04:

25
26 *Bylaw 7.3 Conflicts of Interest*

27
28 *** Any person serving or acting as a Board member shall
29 not retain or apply for any regular full time position paid
30 through this corporation while a director or for a period of
31 sixty months after that persons term has expired. This
32 restriction does not include short term contractual work that
33 is necessary for the benefit of the Corporation. ***

1 *Bylaw 6.10 Officers*

2
3 *No Corporation employee, nor any relative, or significant*
4 *other, may be elected to the Board of Directors while the*
5 *Corporation employs that person as a regular employee.*
6 *Subcontract work shall be permitted for tasks, but only as an*
7 *independent contractor. This same restriction shall apply for*
8 *a period of five (5) years after such person ceases to be*
9 *employed by the Corporation.*
10

11 The first Bylaw quoted above indicates that for James Rooks to retain
12 his position as a director he would have had to relinquish his position as
13 general manager. James Rooks has continued to retain his position as
14 General Manager of CRRWC while acting as a director. The second
15 Bylaw quoted above, does not allow an employee to be elected as a
16 director while the Corporation employs that person as a regular
17 employee. James Rooks was appointed and subsequently elected to
18 the board of directors while a regular employee.

- 19 • Brian Elliott is not a legal member of Crooked River Ranch Water
20 Company Board of Directors based on following Bylaws of the Crooked
21 River Ranch Water Company as Amended 9/24/04:

22 *Bylaw 5.5 Quorum*

23
24 *Three of the five members of the Board of Directors shall*
25 *constitute a quorum necessary for the transaction of any and*
26 *all business of the Corporation.*
27

28 At the time Brian Elliott was appointed to the Board (September 25,
29 2005) neither Richard Keen nor Randolph Scott were legal members of
30 the Board (see discussions above). The only potential remaining legal

1 members of the Board were John Combs and Wayne Sutton. Brian
2 Elliott's appointment to the Board was invalid because Richard Keen
3 and Randolph Scott were not legal members of the Board, and John
4 Combs and Wayne Sutton were prevented from appointing Brian Elliott
5 to the BOD by Crooked River Ranch Water Company Bylaws.

- 6 • Richard Miller is not a legal member of Crooked River Ranch Water
7 Company Board of Directors based on following Bylaws of the Crooked
8 River Ranch Water Company as Amended 9/24/04:

9 *Bylaw 5.5 Quorum*

10 *Three of the five members of the Board of Directors shall*
11 *constitute a quorum necessary for the transaction of any and*
12 *all business of the Corporation. No one (1) director may*
13 *dictate day to day policy without a quorum consent of the*
14 *Board of Directors.*
15
16

17 At the time Richard Miller was appointed to the Board (winter
18 2005/2006) neither Richard Keen, Randolph Scott nor Brian Elliott were
19 legal members of the Board (see discussions above). Wayne Sutton
20 was no longer on the Board (removed 12/8/05). The only remaining
21 potential legal member of the Board was John Combs. Richard Miller's
22 appointment to the Board was invalid because Richard Keen, Randolph
23 Scott and Brian Elliott were not legal members of the Board. John
24 Combs was prevented from appointing Richard Miller to the board of
25 directors by the Crooked River Ranch Water Company Bylaws. Further,
26 the property owned by Richard Miller at Crooked River Ranch is served

1 by a domestic water well and no evidence exists of water being hauled
2 to the subject property or otherwise supplied to the property by Crooked
3 River Ranch Water Company. Richard Miller does not receive water
4 service from the Crooked River Ranch Water Company and therefore is
5 not a member as stated in the Bylaws of the Crooked River Ranch
6 Water Company as Amended 9/24/04:

7 *Bylaw 2.1 Qualifications*

8
9 *Any person, firm, association, corporation or body politic*
10 *which owns property within portions of Crooked River Ranch*
11 *or other adjacent properties then served by the Corporation*
12 *or must haul water to their property on the Crooked River*
13 *Ranch, shall be eligible for membership in this Corporation,*
14 *subject to acceptance for membership as hereinafter*
15 *provided.*

16
17 Richard Miller is not a member of Crooked River Ranch Water
18 Company and therefore prohibited from serving on the Crooked River
19 Ranch Water Company Board of Directors by the Crooked River Ranch
20 Water Company Bylaws as amended 9/24/04:

21 *Bylaw 4.1 Number of Board of Directors*

22
23 *The Board of Directors shall consist of five members of the*
24 *Corporation.*

25
26
27 Q. DID YOU FORM OPINIONS BASED ON THE AVAILABLE EVIDENCE AND
28 THE LACK OF EVIDENCE TO THE CONTRARY FROM CROOKED RIVER
29 RANCH WATER COMPANY REGARDING CROOKED RIVER RANCH WATER
30 COMPANY EXPENDING FUNDS AND RESOURCES ON THE BOARD OF
31 DIRECTORS OF CROOKED RIVER RANCH WATER COMPANY?

1 A. Yes. I have formed the opinion that Crooked River Ranch Water Company has
2 expended funds and resources on the members of the Board of Directors of
3 Crooked River Ranch Water Company who did not meet the requirements of the
4 Crooked River Ranch Water Company's Articles of Incorporation, Crooked River
5 Ranch Water Company's Bylaws and Oregon Revised Statute to represent the
6 membership of the Crooked River Ranch Water Company.

7 Q. DID YOU SERVE DATA REQUESTS ON CROOKED RIVER RANCH WATER
8 COMPANY CONCERNING A QUORUM OF THE BOARD OF DIRECTORS OF
9 THE CROOKED RIVER RANCH WATER COMPANY NECESSARY TO
10 CONDUCT BUSINESS?

11 A. Yes. Data request number 73 citing the Crooked River Ranch Water Company
12 Bylaws requested the following,:

13 *Please provide documentation that a quorum of legal members of the*
14 *Board of Directors was present for the transaction of all business*
15 *conducted by CRRWC from July 1, 2005 to the present.*
16

17 Crooked River Ranch Water Company did not provide a response to data
18 request number 73. The data request is included in Intervenor Exhibit 2.

19 Q. DID YOU FORM OPINIONS BASED ON THE AVAILABLE EVIDENCE AND
20 THE LACK OF EVIDENCE TO THE CONTRARY FROM CROOKED RIVER
21 RANCH WATER COMPANY REGARDING A LEGAL QUORUM OF THE
22 BOARD OF DIRECTORS OF THE CROOKED RIVER RANCH WATER
23 COMPANY NECESSARY TO CONDUCT BUSINESS?

24 A. Yes. In conjunction with the opinions formed concerning data request 68 through
25 72 discussed above, I formed the following opinion regarding a legal quorum of

1 the Board of Directors of the Crooked River Ranch Water Company necessary to
2 conduct business:

- 3 • A quorum of legal members of the Board of Directors of Crooked River
4 Ranch Water Company was not present for the transaction of all
5 business conducted by Crooked River Ranch Water Company from
6 July 1, 2005 to the present.
7

8 FINAL RECOMMENDATIONS/COMMENTS

9 Q. DO YOU HAVE FINAL RECOMMENDATION FOR THE OREGON PUBLIC
10 UTILITY COMMISSION?

11 A. Yes. I have the following final recommendations for the Oregon Public Utility
12 Commission:

- 13 • Given that discovery is an integral part of the Oregon Public Utility
14 ratemaking process. Given that Crooked River Ranch Water Company
15 has willfully suppressed information critical to setting rates/tariffs in the
16 proceeding before the Oregon Public Utility Commission. Given that
17 Crooked River Ranch Water Company has not responded fully and
18 completely to data requests by the parties. Given that Oregon Public
19 Utility Commission staff and intervenors do not have a full and
20 complete picture of all aspects of the financial condition of Crooked
21 River Ranch Water Company. Given that Crooked River Ranch Water
22 Company has not fully complied with Oregon Public Utility Commission
23 Order number 07-527. Given, that normally, the rate/tariff setting
24 process is in itself a self reported audit, in that if an investor owned
25 utility or privately owned company did not provide the information, the

1 non-disclosure would affect their bottom line. Given, that the Oregon
2 Public Utility Commission is tasked with balancing the needs of the
3 owners and customers in the rate/tariff setting process. Given, that
4 Crooked River Ranch Water Company customers are the owners.
5 Given, that the setting of rates/tariffs without a full and complete audit
6 would adversely impact the members/customers of Crooked River
7 Ranch Water Company. Given, that a full and complete audit is
8 necessary to balance to needs of the members/customers of Crooked
9 River Ranch Water Company in the rate/tariff setting process. It is
10 strongly recommended that the Oregon Public Utility Commission
11 retain the rates/tariffs established in Order number 07-527, until such a
12 time as a full and complete certified audit delving into all aspects of the
13 finances of Crooked River Ranch Water Company is completed.

- 14 • Given the overwhelming available evidence and the lack of evidence to
15 the contrary from Crooked River Ranch Water Company, it is strongly
16 recommended that the Oregon Pubic Utility Commission issue an
17 order finding that the Crooked River Ranch Water Company did not
18 have a quorum of legal members of the Board of Directors of the
19 Crooked River Ranch Water Company for the transaction of all
20 business conducted by Crooked River Ranch Water Company from
21 July 1, 2005 to the present.
- 22 • Given the overwhelming available evidence and the lack of evidence to
23 the contrary from Crooked River Ranch Water Company, that the

1 Crooked River Ranch Water Company does not have a quorum of
2 legal members of the Board of Directors of the Crooked River Ranch
3 Water Company present for the transaction of business. Given the
4 overwhelming available evidence in Oregon Public Utility docket
5 number UW 120, that the current acting Board of Directors and
6 Management of Crooked River Ranch Water Company has shown a
7 unwillingness, incapacity and refusal to effectively operate and
8 manage Crooked River Ranch Water Company to provide safe and
9 adequate service to its members/customers in compliance with Oregon
10 statutes, rules, and standards. It is strongly recommended that the
11 Oregon Public Utility Commission of Oregon immediately appoint a
12 regent with all of the powers provided in Oregon Administrative Rule
13 860-36-0365.

- 14 • It is strongly recommended that the Oregon Public Utility Commission
15 appeal the rulings of the Circuit Court in CV08-0028 to the Oregon
16 Court of Appeals to protect the rights of parties to fully and completely
17 participate in the discovery process of contested case hearings.
18 Alternately, it is recommended that the Oregon Public Utility
19 Commission of Oregon sponsor legislative changes that will keep the
20 entire discovery process within the Oregon Public Utility Commission.

21 Q. DO YOU HAVE FINAL COMMENTS FOR THE OREGON PUBLIC UTILITY
22 COMMISSION?

1 A. Yes. Failure of the Oregon Public Utility Commission to immediately appoint a
2 regent to administer and operate the Crooked River Ranch Water Company as a
3 public utility will allow irreparable harm to the members/customers of Crooked
4 River Ranch Water Company and the public to continue.

5 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

6 A. Yes.

CASE: UW 120
WITNESS: CRAIG SOULE

**PUBLIC UTILITY COMMISSION
OF
OREGON**

INTERVENOR SOULE EXHIBIT 2

EXHIBIT in SUPPORT of TESTIMONY

AUGUST 25, 2008

DATA REQUEST

DATE: June 28, 2007

TO: Board of Directors & JR Rooks-General Manager
Crooked River Ranch Water Company
PO Box 2319
Terrebonne, Oregon 97760

FROM: Craig Soule-Intervenor
11953 SW Horny Hollow Trail
Terrebonne, Oregon 97760
cby_64@yahoo.com

DOCKET: UW 120

REQUEST AUTHORITY: OAR 860-014-0070 (1)

RESPONSE REQUIRED BY: July 13, 2007

Please provide responses and the requested appropriate documentation to the following request for information. If the request is unclear, contact the requestor for clarification in a timely fashion to allow a response by the required response date noted above.

1. As a follow-up to CRRWC's omission of information pertaining to question 36 of the rate filing/tariff application brief submitted to the PUC, dated April 17, 2007:

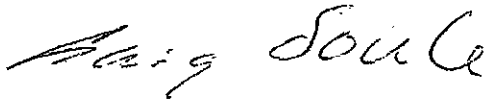
- a. Please provide copies of the "Letters of Interest/Pre-Applications" submitted by CRRWC to the Oregon Safe Drinking Water Revolving Loan Fund for the funding years 2004, 2005 and 2006.
- b. Please provide copies of all correspondence to and from CRRWC concerning the "Letters of Interest/Pre-Applications" submitted by CRRWC to the Oregon Safe Drinking Water Revolving Loan Fund for the funding years 2004, 2005 and 2006. (ie: invitations to submit a loan application, loan application, ranking status notification, etc.)

Please provide a copy of your responses to the following:

Craig Soule
11953 SW Horny Hollow Trail

Terrebonne, Oregon 97760

Sincerely,

A handwritten signature in cursive script that reads "Craig Soule".

Craig Soule - Intervenor
(541) 504-7516

cc: ALJ Patrick Powers
Service List

**DATA REQUEST
2 TO 6**

DATE: July 5, 2007

TO: Board of Directors & JR Rooks-General Manager
Crooked River Ranch Water Company
PO Box 2319
Terrebonne, Oregon 97760

FROM: Craig Soule-Intervenor
11953 SW Horny Hollow Trail
Terrebonne, Oregon 97760
cby_64@yahoo.com

DOCKET: UW 120

REQUEST AUTHORITY: OAR 860-014-0070 (1)

RESPONSE REQUIRED BY: July 19, 2007

Please provide responses and the requested documentation to the following request for information. If the request is unclear, contact the requestor for clarification in a timely fashion to allow a response by the required response date noted above.

2. As a follow-up to CRRWC's answer to the PUC's DR 46, the information provided by Director John Combs to Harry Brown in a letter dated, December 13, 2006, and the 2007 Federal Book Depreciation Schedule included in the rate filing/tariff application brief submitted by CRRWC to the PUC, dated April 17, 2007:

- a. Please provide details on the crane. (Make, model, year, tonnage, accessories and serial number)
- b. Please provide copies of all information concerning the acquisition of the crane by CRRWC, including but not limited to purchase agreements, bill of sale, sale contracts, ownership documents, etc..
- c. What is the purpose of the crane acquisition by CRRWC? Please detail past, current or future projects the crane will utilized for.
- d. Please provide minutes and the resolution of the CRRWC Board of Directors discussing and authorizing the crane acquisition and repairs utilizing special assessment funds.

- e. Please provide copies of all invoices for labor and materials concerning the crane repairs.
3. In an enclosure included in the December 2005 water billing detailing special assessment collection and expenditures, a line item states a hammer was purchased with \$25,000.00 in special assessment funds. The 2007 Federal Book Depreciation Schedule included in the rate filing/tariff application brief submitted by CRRWC to the PUC, dated April 17, 2007, lists a excavator attach-hammer:
- a. Please provide details on the hammer. (Make, model, year, size, and serial number)
 - b. Please provide copies of all information concerning the purchase of the hammer by CRRWC, including but not limited to purchase agreements, bill of sale, sale contracts, ownership documents, loan/financing documents, etc..
 - c. Was the hammer purchased as a separate item or as an accessory to another piece of heavy equipment? If purchased as an accessory in conjunction with another piece of equipment, please provide details on the combined purchase.
 - d. What was the total purchase price of the hammer? Were other funds utilized beyond the \$25,000.00 in special assessment funds? Please explain.
 - e. What is the purpose of the hammer purchase by CRRWC? As an accessory, what equipment owned by CRRWC is the hammer compatible with? Please detail equipment the hammer has been utilized on, and detail past, current or future projects the hammer equipped equipment will utilized on.
 - f. Please provide minutes and the resolution of the CRRWC Board of Directors discussing and authorizing the hammer purchase.
4. As a follow-up to the information provided by CRRWC in question 25 in the rate filing/tariff application brief submitted to the PUC, dated April 17, 2007 and the attached 2007 Federal Book Depreciation Schedule:
- a. Please provide copies of all information concerning the acquisition of the excavator-trackhoe by CRRWC, including but not limited to purchase agreements, bill of sale, sale contracts, ownership documents, loan/financing documents, etc..
 - b. Were additional accessories acquired in conjunction with excavator acquisition? If so please detail the accessories and associated costs.

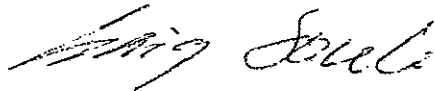
- c. What was the acquisition cost of the excavator and accessories? What funds were utilized for the acquisition? Please explain.
 - e. What is the purpose of the excavator acquisition by CRRWC? Please detail past, current or future projects the excavator will be utilized on.
 - f. What trailer is the excavator transported on? What vehicle is used to tow the trailer utilized to transport the excavator? Please provide details on the transportation equipment.
 - g. Please provide minutes and the resolution of the CRRWC Board of Directors discussing and authorizing the excavator acquisition.
5. As a follow-up to the 2007 Federal Book Depreciation Schedule included in the rate filing/tariff application brief submitted by CRRWC to the PUC, dated April 17, 2007 and CRRWC's answer to the PUC's DR 46:
- a. Please provide details on the trailers. (Make, model, year, configuration, weight, number of axles and serial number).
 - b. Please provide copies of all information concerning the acquisition of the trailers by CRRWC, including but not limited to purchase agreements, bill of sale, sale contracts, ownership documents, etc..
 - c. What is the purpose of the each of the trailers acquired by CRRWC. Please detail past, current or future projects the crane will utilized for.
 - d. Please provide minutes and the resolutions of the CRRWC Board of Directors discussing and authorizing acquisition of each of the trailers.
6. As a follow-up to the 2007 Federal Book Depreciation Schedule included in the rate filing/tariff application brief submitted by CRRWC to the PUC, dated April 17, 2007 and CRRWC's answer to the PUC's DR 46:
- a. Please provide details on the generators. (Make, model, year, size, serial number and type (fixed or portable)).
 - b. Please provide copies of all information concerning the acquisition of the generators by CRRWC, including but not limited to purchase agreements, bill of sale, sale contracts, ownership documents, etc..
 - c. What is the purpose and utilization of the each of the generators acquired by CRRWC.

- d. How is the 350 kw generator used for backup power transported to the various well sites?
- e. Please provide minutes and the resolutions of the CRRWC Board of Directors discussing and authorizing acquisition of each of the generators.

Please provide a copy of your responses to the following:

Craig Soule
11953 SW Horny Hollow Trail
Terrebonne, Oregon 97760

Sincerely,



Craig Soule - Intervenor
(541) 504-7516

cc: ALJ Patrick Power
Service List

DATA REQUEST 7 TO 15

DATE: July 12, 2007

TO: Board of Directors & JR Rooks-General Manager
Crooked River Ranch Water Company
PO Box 2319
Terrebonne, Oregon 97760

FROM: Craig Soule-Intervenor
11953 SW Horny Hollow Trail
Terrebonne, Oregon 97760
cby_64@yahoo.com

DOCKET: UW 120

REQUEST AUTHORITY: OAR 860-014-0070 (1)

RESPONSE REQUIRED BY: July 26, 2007

Please provide responses and the requested documentation to the following requests for information. If the request is unclear, contact the requestor for clarification in a timely fashion to allow a response by the required response date noted above.

7. CRRWC's answers to questions 26 (account No. 461.2 & 462), 30 and 31 of the rate filing/tariff application brief submitted by CRRWC to the PUC, dated April 17, 2007, indicates that CRRWC does not have commercial or fire protection service rates. The CRRWC Water Management and Conservation Plan – September 2003, indicates there is a commercial and fireflow customer class that is tracked for water use.
 - a. Are the commercial and fireflow customer class charged a water service rate? Is there another mechanism in place to compensate CRRWC for providing water service to the commercial and fireflow customer class? Please explain.
8. As a follow-up to the information provided by CRRWC in response to DR 25 received by the PUC May 29, 2007 and the information provided in a press release provided by Crooked River Ranch Rural Fire Protection District (CRRRFPD) and published in the Bend Bulletin, indicating Shad Road (CRR) would be closed April 11 & 12, 2007 for CRRWC to install water and utility lines to the new fire station:
 - a. Please provide clarification of the discrepancies between the record and the information provided by CRRWC.

9. CRRWC is donating work to the CRRRFPD new fire station project.
 - a. Please provide the minutes and the resolution of the CRRWC Board of Directors discussing and authorizing the donated work on the new fire station.
 - b. How does the donated work on the fire station provided by CRRWC result in a present or foreseeable future benefit to CRRWC or to its members as a whole?
 - c. Please detail and itemize all of the equipment, material and labor donated by CRRWC to the CRRRFPD new fire station project.
 - d. Please provide detailed information on the incident involving CRRWC damaging a major Qwest phone line during the installation of a water line and utilities to the new fire station. Was CRRWC found liable for the damages? If found liable, please provide a detailed itemized bill from Qwest for the repairs. If found liable, how was the Qwest repair bill paid (under liability insurance, directly by CRRWC, etc.)? Please provide details on the payment to Qwest.

10. As a follow-up to the rate filing/tariff application brief and the attached 2007 Federal Book Depreciation Schedule submitted by CRRWC to the PUC, dated April 17, 2007 and CRRWC's response to the PUC's DR 51:
 - a. Please provide the additional main water line extension projects not included in CRRWC's responses. For the additional unlisted main water line extensions, please include the information requested in the PUC's DR 51, 52, 53 & 54.
 - b. Please provide clarification on the main water line extensions listed in the depreciation schedules that do not indicate the location.
 - c. Please provide documentation of the approvals, permits and inspections for all of the main water line installations completed by CRRWC since 1999.
 - d. Please provide documentation that the CRRRFPD provided input on the placement and adequacy of fire suppression facilities in all of the main water line extensions done by CRRWC since 1999.
 - e. Please provide the minutes and the resolutions of the CRRWC Board of Directors authorizing and deeming that each main water line extension was in the best interest of the existing customers of CRRWC, at the time the project was authorized.

11. As a follow-up to the 2007 Federal Book Depreciation Schedule included in the rate filing/tariff application brief submitted by CRRWC to the PUC, dated April 17, 2007 and the PUC's DR 61:

- a. Please provide copies of all information concerning the acquisition of the land listed in the depreciation schedules as "Phase 15, Lot 45, including but not limited to purchase agreements, bill of sale, sale contracts, ownership documents, etc..
- b. What is the purpose and utilization of the land acquisition listed in the depreciation schedules as "Phase 15, Lot 45 ?
- c. Please provide the minutes and the resolution of the CRRWC Board of Directors discussing and authorizing acquisition of the subject land.

12. The CRRWC company has acquired land on Crater Loop Road for the development of a new deep water well.

- a. Please provide the minutes and the resolution of the CRRWC Board of Directors discussing and authorizing the acquisition and development of the property for the new well.
- b. What funds were used to acquire the well property? What date was the property for the new well acquired?
- c. Please provide the reference in the 20 Master Plan discussing the need and location of future well source(s) for the water system.
- d. Please provide copies of all information concerning the acquisition of the property for the new well, including but not limited to purchase agreements, bill of sale, sale contracts, ownership documents, etc..
- e. Please provide details, including the amount of all expenditures concerning the development of the property as a future well site. Please indicate the funding source for the subject expenditures.
- f. Has the development of the property as a well site received land use approval from Jefferson County?
- g. Have all of the easements necessary for the development of the property as a well site been obtained? Please provide relevant documentation.
- h. Has the water right point of diversion been transferred to the new well site? Please provide relevant documentation.
- i. Please provide detailed cost estimates for the development of the new well and related infrastructure.

13. CRRWC has initiated legal action against the Crooked River Club and Maintenance Association (HOA) in the Jefferson County Circuit Court (06-CV-0028).

- a. What is the nature and basis of the legal action?
- b. How does the legal action by CRRWC against the HOA result in a present or foreseeable future benefit to CRRWC or to its members as a whole?
- c. Please provide the minutes and the resolution of the CRRWC Board of Directors discussing and authorizing the legal action against the HOA.
- d. Please provide detailed financial records concerning the subject legal action, including the funding source for legal services.
- e. What is the current status of the subject legal action?

14. CRRWC has been a party to litigation. Please provide a brief summary of each of the following cases, please include the minutes and the resolution of the CRRWC Board of Directors discussing and authorizing engaging in the subject legal action:

- a. CRRWC vs Frank Hettick, Tom Hamlett, Dale Evans, Gloria Elliot, Silvio Frezza, Lexus Johnson, Vern Bowers, George Pierson; personally and as directors of CRRHOA - Jefferson County Circuit Court 00-CV-0025 filed 5/9/00
- b. State of Oregon (CRRHOA) vs CRRWC - Jefferson County Circuit Court M106-0202 filed 6/24/06
- c. Connie Griggs vs CRRWC - Jefferson County Circuit Court 02-CV-0006 filed 1/22/02
- d. Constance Albrecht vs CRRWC - Jefferson County Circuit Court 99-CV-0031 filed 7/9/99
- e. CRRWC vs William Hobbs - Jefferson County Circuit Court SC06-0306 filed 9/8/06
- f. CRRWC vs Hettick, et al - Jefferson County Circuit Court 99-CV-0016 filed 4/22/99
- g. Michael Drum vs CRRWC - Jefferson County Circuit Court 00-CV-0006 filed 2/16/00

If the litigation has been settled, please provide details on the settlement (ie: amount received or paid by CRRWC, terms of the settlement, payment by liability insurance, amount of deductible paid by CRRWC, total cost of litigation to CRRWC, source of funds for legal services for the subject litigation)

If the litigation has not been settled, please provide the current status of the litigation, settlement timeline, legal costs to date and source of funds for legal services for the subject litigation.

15. Please provide copies of all responses to the PUC's DR 1 – 120.

Please provide a copy of your responses to the following:

Craig Soule
11953 SW Horny Hollow Trail
Terrebonne, Oregon 97760
cby_64@yahoo.com

Sincerely,



Craig Soule - Intervenor
(541) 504-7516

cc: ALJ Patrick Power
Service List

**DATA REQUEST
16 & 17**

DATE: July 23, 2007

TO: Board of Directors & JR Rooks-General Manager
Crooked River Ranch Water Company
PO Box 2319
Terrebonne, Oregon 97760

FROM: Craig Soule-Intervenor
11953 SW Horny Hollow Trail
Terrebonne, Oregon 97760
cby_64@yahoo.com

DOCKET: UW 120

REQUEST AUTHORITY: OAR 860-014-0070 (1)

RESPONSE REQUIRED BY: August 6, 2007

Please provide responses and the requested appropriate documentation to the following request for information. If the request is unclear, contact the requestor for clarification in a timely fashion to allow a response by the required response date noted above.

16. The PUC's "Request for Information" question number 125 (DR 125), dated July 17, 2007 refers to the CRRWC office building. The documents provided previously to the members of CRRWC below state the following:

- ❖ CROOKED RIVER RANCH WATER COMPANY – NOTE 3 TO FINANCIAL STATEMENT - JUNE 30, 1998 states:

The Company is liable for the following:

General Fund

LOAN I. A note payable in the original amount of \$25,000, for the purchase of a new site for its office and maintenance shop. The note is secured by the property, and calls for payments of \$300 until May 2007, including interest at 8%.

LOAN II. A note payable in the original amount of \$110,000, secured by real estate (the office building under construction); interest accrues at 7.99% per year; payments of interest only from April to July 1998; beginning August 1998 payments will be \$890 including interest and principal; a balloon payment of \$85,182 is required on March 15, 2008. The company has currently withdrawn \$49,455 of the total available amount, and is expected to withdraw the balance by August 15, 1998, as anticipated in the loan contract.

	<u>Loan I</u>	<u>Loan II</u>	<u>Total</u>
June 30, 1999 (short-term portion)	\$ 1,687	\$ 1,793	\$ 3,480
June 30, 2000	1,834	2,111	3,945
June 30, 2001	1,986	2,286	4,272
June 30, 2002	2,151	2,475	4,626
Beyond	<u>15,099</u>	<u>101,335</u>	<u>116,434</u>
Total long-term portion	<u>21,070</u>	<u>108,207</u>	<u>129,277</u>
Total due	<u>22,757</u>	<u>110,000</u>	<u>132,757</u>

- ❖ CROOKED RIVER RANCH WATER COMPANY ANNUAL MEETING MINUTES - FEBRUARY 9, 2002 – CPA RICK BAILEY states:

“There are 2 notes outstanding, one for a pickup, and the other for the company building. There is approximately \$67,000 coming due in a balloon payment in about 6 years. The company is setting aside \$1000 per month in order to pay this when it comes due. There is currently \$10,177 in the account.”

- ❖ CONDENSED 20YEAR PROJECT REPORT AND EXPLANATION OF EXPENDITURES AND ASSESSMENTS – MARCH 2004 states:

“PAY OFF THE CRRWC OFFICE BUILDING

REASON:

- *This building was constructed in 1998 on a 10 year loan. The balloon payment of approximately \$79,000 is due in full in 2008.”*

- ❖ INFORMATIONAL DOCUMENT INCLUDED IN DECEMBER 2005 WATER BILLING lists the following special assessment expenditure:

Building \$ 11,000.00

- ❖ LETTER FROM CRRWC DIRECTOR JOHN COMBS – DECEMBER 13, 2006 states:

#5. *The table below shows assessment funds *** spent to date:*

Office building \$ 41,000.00

- a. Please explain the inconsistencies in the building loan information noted in the above documents provided to CRRWC members.
- b. Why wasn't the CRRWC office building loan refinanced to secure better loan terms?

17. CRRWC has recently entered into an agreement with Crooked River Ranch Rural Fire Protection District (CRRRFPD) regarding fire hydrants and standpipes. As a follow-up to the rate filing/tariff application brief submitted by CRRWC to the PUC, dated April 17, 2007:

- a. Is the recent agreement a renewal, replacement or update of a previous agreement between CRRWC and CRRRFPD regarding fire hydrants and standpipes? If so, please provide copies of previous agreements.
- b. If the agreement is new, what was CRRWC's past involvement in the installation, maintenance, testing, repair, removal and replacement of fire hydrants and standpipes?
- c. Please provide the minutes and the resolution of the CRRWC Board of Directors discussing and authorizing the subject agreement and associated costs.
- d. The subject agreement states that CRRWC shall maintain and regularly test the (fire) hydrants and standpipes. What is the maintenance and testing schedule for the fire hydrants and standpipes? Please provide documentation on all previous fire hydrant and standpipe maintenance and tests activities conducted by CRRWC.
- e. Does CRRWC conduct the fire hydrant and standpipe and maintenance and testing in-house? If so, does CRRWC own the testing equipment and use a standardized methodology to conduct the subject tests? Recent rate/tariff filings with the PUC do not provide information on the costs associated with the testing and maintenance of the fire hydrants and standpipes. Please provide.
- f. If CRRWC contracts out the fire hydrant and standpipe maintenance, please provide details, including associated cost.
- g. A "Fire Suppression Rating Schedule" application by CRRRFPD to ISO Commercial Risk Services Inc. concerning fire insurance rates, in 1995 indicated CRRWC was no longer involved in the fire hydrant testing, and the subject testing will be conducted twice a year by CRRRFPD. When did CRRWC resume fire hydrant testing?
- h. Documentation dated July 11, 2006 from CRRRFPD indicates the fire hydrant at the intersection of Chinook Drive and Mustang Road (CRR) was out of service. When was the subject hydrant placed back in service? Why was the subject

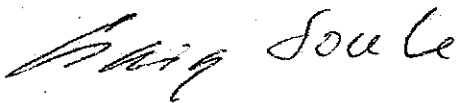
hydrant out of service? What was required to place the hydrant back in service?
What was the cost to place the subject hydrant back in service?

- i. Documentation dated July 11, 2006 from CRRRFPD indicates the fire hydrant near the Sunview Motel was removed in August 2005. Please provide documentation showing notification and participation of the appropriate entities prior to the removal of the subject hydrant. What was the cost to remove the subject hydrant? Was the subject hydrant reused by installation else where in the water system? If so, please provide the location and associated costs for re-installation.

Please provide a copy of your responses to the following:

Craig Soule
11953 SW Horny Hollow Trail
Terrebonne, Oregon 97760
cby_64@yahoo.com

Sincerely,



Craig Soule - Intervenor
(541) 504-7516

Encl: Agreement CRRRFPD & CRRWC 6/07

cc: ALJ Patrick Powers
Service List



**CROOKED RIVER RANCH
RURAL FIRE PROTECTION DISTRICT**

6730 S.W. Shad Road
Terrebonne (CRR), OR 97760-9250

INTERENOR/2
SOULE/16

Phone: (541) 923-6776
Fax: (541) 923-5247
Burn Info. Line: (541) 923-4633
email: crr_rfpd@msn.com

**MUTUAL REVOCABLE ACCESS LICENSE, EASEMENT, AND MAINTENANCE
AGREEMENT REGARDING FIRE HYDRANTS AND STANDPIPES**

This agreement is between Crooked River Ranch Water Company ("Water Company") and Crooked River Ranch Rural Fire Protection District ("Fire District").

RECITALS:

1. Water Company owns fire hydrants and standpipes located throughout its water system on community property and utility easements within the Crooked River Ranch development.
2. Water Company has access rights to all of its fire hydrants and standpipes, through property ownership, easement, license or other access agreements.
3. It is in the interest of Water Company and its customers that Fire District have access to fire hydrants and standpipes, in order to facilitate Fire District's fire suppression efforts. Water Company maintains and tests the standpipes and fire hydrants, and provides water for fire suppression, at no charge to Fire District.
4. Fire District is in the process of building a new fire station and intends to locate 2 fire hydrants on Fire District property near the station.

AGREEMENT:

1. **Access License for Hydrants and Standpipes.** Water Company hereby grants to Fire District, its employees and volunteers, a revocable license for access to all Water Company fire hydrants and standpipes, whether located on Water Company, community or private property, for the purposes of testing, training and fire suppression.
2. **Water Company Access to Fire District Property.** Fire District grants to Water Company access to Fire District's new fire station property to install and maintain 2 fire hydrants to be located on such property. The legal description of the property is attached as exhibit A. A drawing depicting the location of a fire hydrant to be installed is depicted on exhibit B. Fire District will grant an easement for maintenance of the fire hydrant along a utility easement along the east side of the station.
3. **Maintenance and Water Flow.** Water Company shall, to the best of its ability, maintain all standpipes and fire hydrants. Water Company shall regularly test the hydrants and standpipes, and shall make the results of those tests available to Fire District

upon request. Water Company shall endeavor to maintain adequate water pressure for fire flows in accordance with national fire protection Association standards. Fire District shall report to Water Company any maintenance or water pressure issues encountered with any standpipes or fire hydrants.

4. Revocation. Water Company may revoke all or any portion of the access license granted herein, upon one years advance written notice to Fire District. This provision shall not be deemed to require one years advance written notice of removal, repair or relocation of any standpipes or fire hydrants. However, Water Company shall endeavor to notify Fire District in advance of any fire hydrants or standpipes which it expects to be out of service, and the estimated length of time before such hydrants or standpipes will be in service again.

Crooked River Ranch Water Company

Crooked River Ranch Rural
Fire Protection District

By: *James Roats*
(Print) James Roats
Title Chairman - B.O.D.
Date 6/1/07

By: *Kay L. Lammers*
(Print) Kay L. Lammers
Title President, BofD
Date 6/1/07

DATA REQUEST 18 to 26

DATE: August 2, 2007

TO: Board of Directors & JR Rooks-General Manager
Crooked River Ranch Water Company (CRRWC)
PO Box 2319
Terrebonne, Oregon 97760

FROM: Craig Soule-Intervenor
11953 SW Horny Hollow Trail
Terrebonne, Oregon 97760
cby_64@yahoo.com

DOCKET: UW 120

REQUEST AUTHORITY: OAR 860-014-0070 (1)

RESPONSE REQUIRED BY: August 17, 2007

Please provide responses and the requested documentation to the following requests for information. If the request is unclear, contact the requestor for clarification in a timely fashion to allow a response by the required response date noted above.

18. CRRWC has amended the Corporation's Articles of Incorporation and Bylaws several times since the year 2000. (Note: CRRWC is a non-profit mutual benefit corporation with members. The 1991 Amendments to the Articles of Incorporation (contact for filing - David Glenn - Attorney for CRRWC) appear to conform to the laws governing an exemption under 501(c) 12. Subsequent Bylaws through 1996 appear to conform to the non-profit status of CRRWC.)
- a. Please provide the voting record for each of the subject amendments to the Articles of Incorporation and Bylaws that required a vote of the membership of CRRWC.
 - b. Please provide the minutes and the resolution of the CRRWC Board of Directors discussing and authorizing each of the subject amendments to the Articles of Incorporation and Bylaws that did not require a vote of the CRRWC membership.
 - c. How is each of the subject amendments to the Articles of Incorporation and Bylaws authorized by the CRRWC Board of Directors, in the best interest of the members of CRRWC?

- d. Please provide documentation showing that each of the subject amendments to the Articles of Incorporation and Bylaws placed before the membership of CRRWC or authorized by the CRRWC Board of Directors met the IRS requirements for the Corporation to remain a non-profit under 501(c) 12.
 - e. Please provide documentation showing that each of the subject amendments to the Articles of Incorporation and Bylaws placed before the membership of CRRWC or authorized by the CRRWC Board of Directors, where reviewed and found to be in compliance with all State and Federal laws concerning non-profits by an attorney/lawyer.
 - f. Please provide documentation demonstrating that CRRWC provided the Internal Revenue Service (IRS) with a conformed copy of each of the subject amendments to the Articles of Incorporation and Bylaws.
19. As a follow-up to the PUC's DR 68, please provide complete copies of Form 990 and all attachments filed with the IRS for the tax years 2000 to 2006. (Note: This is also a public records/inspection request under the US Code: Title 26 - Internal Revenue Code, Subtitle F, Chapter 61, Subchapter B, §6104.)
 20. Please provide copies of the exemption application submitted to the IRS, non-profit letter of determination from the IRS and all relevant documents and statements concerning the IRS non-profit application and determination letter for CRRWC as a mutual benefit corporation. (Note: This is also a public records/inspection request under the US Code: Title 26 - Internal Revenue Code, Subtitle F, Chapter 61, Subchapter B, §6104.)
 21. Did CRRWC file an exemption application and receive a letter of determination from the IRS granting non-profit status to the co-operative when CRRWC attempted to change the legal status of the organization under ORS Chapter 62 in July 2006? If so, please provide copies of the subject application, letter of determination and all relevant documents and statements. (Note: This is also a public records/inspection request under the US Code: Title 26 - Internal Revenue Code, Subtitle F, Chapter 61, Subchapter B, §6104.)
 22. As a follow-up to question 22 of the rate filing/tariff application brief submitted by CRRWC to the PUC, dated April 17, 2007, please provide updated employee information.
 23. Please provide documentation of all licenses or certifications held by the employees or board of directors of CRRWC that are required by, benefit or relevant to the operations of CRRWC.
 24. Please provide the minutes and the resolution of the CRRWC Board of Directors discussing and authorizing the employees of CRRWC to use company vehicles to travel between their place of residence and work, and allowing the vehicle to remain at the employee's residence overnight. Is the vehicle use a form of employee compensation?
 25. The minutes for the CRRWC Annual Meeting held February 9, 2002; Crooked River Ranch Rural Fire Protection District, Fire Chief Patrick Reitz stated:

The fire department and water company have a joint program in the works to rid the ranch of stand pipes and replace them with fire hydrants.

- a. Was the subject program implemented? If so, please provide information showing all details of the subject program, including but not limited to: the actual and proposed location(s) of the program; estimated and actual costs; correspondence concerning the program; permits, approvals & inspections; current and future implementation program schedule.
- b. Please provide the minutes and the resolution of the CRRWC Board of Directors discussing and authorizing the standpipe replacement program.

26. Is CRRWC paying legal expenses for the representation of James Rooks in the following cases?

- ❖ State of Oregon vs James Rooks - Jefferson County Circuit Court M106-0202 filed 6/24/06 (Community Property Damage)
- ❖ Berry vs CRRWC, Rooks, Keen, Combs, Scott, Elliot - Jefferson County Circuit Court 06-CV-0055 filed 10/6/06 (civil suit for assault, intentional infliction of emotional distress, negligent retention of employee, failure to supervise an employee)

If so, please provide information on the attorney and law firm providing representation, the costs of the representation and the source of funds for paying the cost of representation.

Please provide a copy of your responses to the following:

Craig Soule
11953 SW Horny Hollow Trail
Terrebonne, Oregon 97760
cby_64@yahoo.com

Sincerely,



Craig Soule - Intervenor
(541) 504-7516

cc: ALJ Patrick Power
Service List

DATA REQUEST
27 to 66

DATE: October 4, 2007

TO: Crooked River Ranch Water Company (CRRWC)
PO Box 2319
Terrebonne, Oregon 97760

FROM: Craig Soule-Intervenor
11953 SW Horny Hollow Trail
Terrebonne, Oregon 97760
cby_64@yahoo.com

DOCKET: UW 120

REQUEST AUTHORITY: OAR 860-014-0070 (1)

RESPONSE REQUIRED BY: October 19, 2007

Please provide responses and the requested documentation to the following requests for information. If the request is unclear, contact the requestor for clarification in a timely fashion to allow a response by the required response date noted above.

27. Wes Price - CPA with Harrigan Price Fronk & Co. LLP provided rebuttal testimony for CRRWC in PUC rate case UW 120.

- a. The subject rebuttal testimony indicates CRRWC accountant Wes Price may be qualified to provide input to the rate/tariff case. CRRWC's rebuttal testimony Number 4 - Tariff/Budget - states, "*Wes has been the company accountant for 9 years, has considerable education and skill in accounting practices, and represents many water and homeowner associations. Has extensive experience with PUC rate filings.*" Please provide written documentation (certification, degrees, licenses, professional association, list of represented water/homeowner associations and involvement list of PUC filings) substantiating the education and experience of Wes Price as stated in the subject rebuttal testimonies.
- b. Please provide all of the information/documentation referred to under the heading/title "Involvement with CRRWC" in the subject rebuttal testimony by Wes Price.
- c. Wes Price - Rebuttal to Staff 100/5 states, "*CRRWC believes that gives the members the status of owners ****". CRRWC Bylaws (4/6/01) Definitions states, "*Have not (no) financial interest in The Company, only voting rights.*" CRRWC

Bylaws (5/2/01) Definitions states, "Have not (no) financial interest in The Company, only voting rights" CRRWC Bylaws (9/24/04) Part II – Membership - Bylaw 2.2(c) states, "Membership in the Corporation shall vest only voting rights and shall not vest in the member any financial interest in the Corporation or its assets." CRRWC Cooperative Bylaws (6/30/06) Part II – Membership - Bylaw 2.2(c) states, "Membership in the Cooperative shall vest only voting rights and shall not vest in the member any financial interest in the Cooperative." CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony 21/12 - states, "*** this company, which is member owned ***." The record is conflicting. Are the members' owners with a financial interest in the assets of CRRWC or do the members only hold the right to vote for Board Members? Please provide clarification.

- d. Wes Price - Rebuttal to Staff 100/5 states, "CRRWC has operated as a mutual benefit entity with members since its formation on April 27, 1977. All forms 990 filed have shown the appropriate status as a 501(c)12 mutual ditch company". CRRWC's rebuttal testimony Number 2 - Current PUC Action states, "CRRWC is a co-op." On July 5, 2006 Articles of Dissolution were filed with the Oregon Secretary of State (SOS). On July 5, 2006 CRRWC filed Articles of Incorporation with the SOS as cooperative under ORS 62. CRRWC refers to itself as a Cooperative and has continued the operation of the Corporation as a Cooperative. Please explain the discrepancies between the CPA's rebuttal testimony and CRRWC's rebuttal testimony and previous assertions of CRRWC. If CRRWC is a cooperative please provide documentation, beyond the filing with the SOS, demonstrating that CRRWC has operated and continues to operate in full compliance with all legal requirements of a cooperative.
- e. Wes Price - Rebuttal to Staff 100/5 states, "By definition in the IRS tax code, all parties who pay for services become members of the entity and are entitled to member capital credit for each year that they pay for water services. At the discretion of the Board of Directors, that capital can either be retained by the company as working capital or can be all or partially rebated to the members." Is the referenced IRS tax code concerning capital credit applicable to mutual benefit corporations? Please provide the minutes and the resolution of the CRRWC Board of Directors discussing and authorizing the retention or dispersion of the member capital credit. Please provide evidence of the recording and accounting for member capital credits for all members of CRRWC.
- f. Wes Price - Rebuttal to Staff 100/5 states, "The homeowners/ratepayers would feel a substantial increase in fire insurance rates if CRRWC was not able to provide adequate fire flows on demand." The CRRWC Water Conservation Management Plan – September 2003 indicates that CRRWC is unable to provide adequate fire flows. Additionally, Chief Larry Langley – Crooked River Ranch Rural Fire Protection District has stated in a letter to CRRWC dated, September 17, 2007 that fire flows provided by the CRRWC system are inadequate. Demonstrate how a "substantial increase" in fire insurance rates would be possible with no change from the current status of CRRWC's inability to provide inadequate fire flows.

- g. Wes Price - Rebuttal to Staff 100/6 and 7 states, "*A single wildfire incident in May, 2007 used over 600,000 gallons of water to extinguish ****" CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony 44/11 - states, "*During a recent wildland fire at the ranch, Mr. Rooks had all pumps running. At one point, the 700,000 gallon tower was down to 1' of water.*" Please provide documentation substantiating the statements. What was the source of the 600,000 gallons of water?
 - h. Wes Price - Rebuttal to Staff 100/6 and 7 states, "**** Using existing customers August, 2006 peak demand at 927,182 gallons, the total peak demand assuming the same usage for 2600 customers would be 1,551,270 gallons per day.*" Please provide documentation demonstrating that CRRWC intends to and has the ability to provide water service to the entire ranch at complete build out of 2600 lots.
 - i. Wes Price - Rebuttal to Staff 100/37 states, "*A number of meter sets are in steep and difficult to access locations exposing the company to loss of time injuries.*" Please provide documentation showing the past history of loss of time injuries related to meter reading activities.
 - j. Wes Price - Rebuttal to Staff 100/38 states, "**** a number of system line extensions that were only partially paid by users were excluded at 100%.*" Please provide documentation showing the relevant line extension(s) and the percentage that was paid by users of the subject line extension project. Please provide documentation of the individual water line extension user's payment to CRRWC for the water line extension. Who paid for and what was the source of funds for the portion of the relevant line extension that was not paid for by the users of the line extension project?
28. CRRWC's rebuttal testimony Number 2 – Current PUC Action - states, "*5/12/06 CRRWC files for Judicial Review with Oregon Court of Appeals*". The subject statement is inconsistent with the record. Please provide clarification.
29. CRRWC's rebuttal testimony Number 3 –Tariff Process – 8/13/07 Settlement Conference - states, "*NOTE: The company filed a challenge to Craig Soule and Charles Nichols being intervenors, based primarily on the fact that they belong to the Watch Dogs, an "activist" group, and both failed to list it on their intervenor applications. In addition, the CRRWC felt that they would try to introduce subjects that have nothing to do with the tariff case only to prolong the proceeding. This, in fact, has happened.*" The Statement James Rooks filed with CRRWC's Rebuttal Testimony states, "*Mr. Soule filed a complaint with the Bar Association against Mr. Gassner. It was not founded, but none the less, proves the ulterior motive, just as the company had stated in their opposition letter.*"
- a. Please provide documentation demonstrating that the PUC requires intervenors to disclose affiliation to groups or organizations as part of the intervenor application process.

- b. Please provide documentation that intervenor Soule and Nichols have introduced irrelevant subjects to prolong the proceeding.
 - c. Please provide documentation of the ulterior motive(s) of the intervenor Soule.
30. CRRWC's rebuttal testimony Number 3 –Tariff Process – 8/13/07 Settlement Conference - states, *"At the Public Meeting held in Terrebonne on 6/11/07, ALJ Power, AAG Jones, and Michael Dougherty informed the public that they would not be participating in the settlement conferences. However, Jones, Dougherty, and Manager Marc Hellman allowed the public, which were primarily Watch Dogs, and some were not even members of the water company, to ask questions and make comments."* CRRWC's rebuttal testimony Number 3 –Tariff Process – 8/28 Second Settlement Conference - states, *"Once again, several people in the audience were non-members, but were allowed to ask questions and/or make comments in a proceeding which the public was not to be participating in. According to the PUC's handout, identified on their website as "Rate Making 101", page 6, only "parties" may participate in a Settlement Conference. Another example of the PUC not following their own rules!"*
 - a. Please explain why CRRWC believes the subject settlement conferences was still in session after CRRWC chose to leave the proceeding?
 - b. Please provide documentation that the public was allowed to participate in the subject settlement conferences prior to CRRWC leaving the proceeding.
31. CRRWC's rebuttal Testimony refers to a budget of individual activities, items or categories. Please explain how the PUC rate/tariff setting process has established a subject line item budget.
32. CRRWC's rebuttal testimony Number 3 – Tariff Process – 8/28 Second Settlement Conference - states, *"Craig Soule then began to address questions to Tim Gassner. Tim told them that he would not respond to Soule's questions. Soule had filed a complaint with the Bar Association against (against) Tim Gassner and Dave Glenn. It was an unfounded complaint designed to harass the company attorney's. Soule said the issue was not over and although the Bar Association declined to take any action he had the opportunity to furnish more information. The opportunity granted by the Bar for Soule to furnish that information has now passed and no action has been taken by the Bar against company counsel. Soule feels that Tim works for the members, however, Tim said that is not true."*
 - a. Please provide documentation demonstrating that the subject bar complaint was unfounded and designed to harass the CRRWC's attorneys.
 - b. Please explain why attorney Tim Gassner no longer represents James Rooks in Jefferson County Circuit Court case 06-CV-0055.
 - c. Please provide documentation that the opportunity for Mr. Soule to provide more information to the Oregon State Bar as of 9/21/07 has passed.

- d. Please explain who and who's interest attorney David Glenn and Tim Gassner represent concerning matters involving CRRWC.
33. CRRWC's rebuttal testimony filing refers to several exhibits. The exhibits were not included in the emailed subject rebuttal testimony filing. A hard copy of the subject rebuttal testimony was not received by Intervenor Soule. Please provide the exhibits referenced in the documents filed 9/21/07.
34. CRRWC's rebuttal testimony Number 4 – Tariff/Budget - states, "*Michael Dougherty has never asked what the company does with the money brought into the company.*"
- a. Please explain why the rate/tariff filing by CRRWC and subsequent data/information requests from the PUC and intervenors was not an adequate inquiry into "what the company does with the money that is brought into the company".
- b. Please provide a complete audit for the years 2004, 2005, 2006 and 2007 (to date) showing all aspects of the financial activities and status of CRRWC.
35. CRRWC's rebuttal testimony Number 4 – Tariff/Budget - states, "*Michael Dougherty has failed to make any allowance for unpaid accounts. Since this company has no income other than customer accounts, it is vital that an allowance be made for unpaid accounts and the cost of staff time to attempt collection.*"
- a. Please provide documentation demonstrating that CRRWC has no income other than customer accounts.
- b. Please provide documentation showing the past history of unpaid customer accounts and associated staff time devoted to the attempted collection of unpaid customer accounts.
36. CRRWC's rebuttal testimony Number 4 – Tariff/Budget - states, "*In the 20+ years our accountant has dealt with the PUC, he has never seen a rate case proceed in this manner (i.e., Mr. Dougherty requiring receipts for all expenditures).*" Please explain how this rate case is proceeding differently from other rate cases the accountant for CRRWC has been involved with.
37. CRRWC's rebuttal testimony Number 4 – Tariff/Budget - states, "**** Michael Dougherty refers to staff having not performed a "prudence review of the well".*"
- a. Please provide the minutes of the CRRWC Board of Directors discussing all aspects of the new well, including but not limited to the need, location, cost analysis and comparisons against other options.
- b. Please provide documentation that outside opinions, recommendations, input or counsel was sought concerning all aspects of the new well.
38. CRRWC's rebuttal testimony Number 5 – The Budget – Line Items - states, "*Due to his*

(James Rooks) hearing disability, and the fact that cell service is lacking in many parts of the ranch and general tri-county area, this service (satellite phone) is absolutely necessary in order for the manager to maintain contact with the office and the water system."

- a. Please provide documentation that James Rooks hearing disability requires satellite phone service for him to maintain contact with the office and the water system.
- b. Please provide documentation showing the historic and recent use of the satellite phone service for the manager to maintain contact with the office and the water system.

39. CRRWC's rebuttal testimony Number 5 – The Budget – Line Item #19 - states, "*He (Mike Dougherty) was provided a year end financial statement for 2006, however, he chose to not use that report, ****". Please explain how the CRRWC 2006 year end financial statement, an un-audited compilation of financial information provided by CRRWC to the accountant, was adequate for rate/tariff setting purposes.

40. CRRWC's rebuttal testimony Number 5 – The Budget – Line Item #23 - states, "**** which primarily the majority of the expenses have been caused by members of the Dogs*". Please provide documentation that a majority of CRRWC's legal expenses have been caused by the CRR Water Watch Dogs.

41. CRRWC's rebuttal testimony Number 5 – The Budget – Line Item #23 - states, "*The Water Watch Dogs file frivolous legal claims against the company ****". Please provide documentation demonstrating that the CRR Water Watch Dogs has filed legal claims against CRRWC.

42. CRRWC's rebuttal testimony Number 5 – The Budget – Line Item #29 - states, "**** the company spends approximately \$2400 per year in repair costs when the computer system scrambles in lightening storms, repairing damage from vandalism at the SCADA sites, etc.*" Please provide documentation (sheriff's reports, repair orders or insurance claims) of the damage to the system caused by lightening and vandalism.

43. CRRWC's rebuttal testimony Number 5 – The Budget – Line Item #36 - states, "*Since the excavator has been used primarily for water company business, it is a legal responsibility for the company to cover the insurance costs while in use.*"

- a. Please provide documentation that the excavator, owned by James Rooks, is used primarily for water company business.
- b. Please provide documentation that it is the legal responsibility of the company to cover liability insurance costs while the subject excavator is being used for CRRWC business.
- c. Please provide documentation that CRRWC is not paying for liability insurance when the subject excavator is not being used for CRRWC business.

44. CRRWC's rebuttal testimony Number 5 – The Budget – Line Item #46 - states, "*On-going staff also require recertification and ongoing training, which all have costs attached.*" Please provide documentation, by staff member, showing the historic, recent and current requirements for recertification and training.
45. CRRWC's rebuttal testimony Number 5 – The Budget – Line Item #52 - states, "*CRRWC pays property taxes on 2 pieces of property: the property purchased for expansion next to the company office, and the property on Crater Loop that will be used for the new well. The 2006 taxes for these 2 properties totaled \$426.31.*" Please provide documentation showing that CRRWC is assessed and pays property taxes on the subject properties.
46. CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony 3/6 - states, "*Our rates are not excessive and include a 15 year plan of improvements.*" Please provide the 15 year plan of improvements. When was the plan initiated? Please provide documentation showing which improvements in the 15 year plan have been completed.
47. CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony 3/6 - states, "*This recommended budget will not only destroy the company's efforts, it will also place 5000 peoples lives and homes in extreme danger for lack of adequate fire protection.*"
- a. Please explain and provide documentation on how the recommended PUC rate/tariff for CRRWC would place 5000 peoples lives and homes in extreme danger for lack of adequate fire protection.
 - b. Please provide documentation of all efforts by CRRWC to provide adequate fire protection since the year 2000.
48. CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony 3/6 - states, "*The Crooked River Ranch Rural Fire Protection District is dependent on CRRWC for fire protection resources.*" Please provide documentation demonstrating that the Crooked River Ranch Fire Protection District is dependent on CRRWC for fire protection resources.
49. Wes Price - rebuttal to Staff 100/6 & 7 in the subject rebuttal testimony states, "**** Fire flows are also a significant reason for CRRWC attempting to true up its water rights at the 5cfs level rather than settling for the existing level.*" CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony 6/15-16 - states, "**** the company cannot prove up on this permit without the new well.*" CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony 6/15-16 - states, "*The transfer of water rights from the Association Well #3 to the new well that the CRRWC intends to drill, has nothing to do with the fact that the company has until 10/08 to prove up.*" CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony 7/12 - states, "*What we have said, is that due to the way this system is configured, we cannot prove up on our 5.0 cfs without the new well.*"
- a. Please provide complete documentation concerning water right permit G-11376, including all amendments, transfers and certifications.
 - b. Is the subject water right a "certified water right?"

- c. Please explain what is meant by “true up its water rights” & “prove up on the water right” and how do fire flows equate into truing up or proving up the subject water right?
 - d. The subject testimony concerning the water rights and new well is confusing and conflicting, please provide clarification.
50. CRRWC’s rebuttal testimony Number 6 to Dougherty’s Testimony 7/12 - states, “*Our \$8 assessment was levied by the Board of Directors primarily to address source water for fire protection, and that is the proposed Well #3, and secondly, to prove up on our water rights.*” Please provide documentation demonstrating that the primary function of the special assessment passed by resolution of the Board of Directors was to address source for fire protection and to prove up on CRRWC’s water rights.
51. CRRWC’s rebuttal testimony Number 6 to Dougherty’s Testimony 9/12 - states, “*As far as intervenors are concerned, water company policy is that we will answer policy questions from non-biased intervenors. Soule and Nichols do not fall into this category.*” Please provide a copy of the written policy of CRRWC supporting the subject statement.
52. CRRWC’s rebuttal testimony Number 6 to Dougherty’s Testimony 15/17 - states, “*ORS 94.595 “Reserve Account for replacing common property: reserve study: 30-year maintenance plan” states, in part, “(1) The declarant shall: (a) Conduct a reserve study...and (b) establish a reserve account for replacement of all items of common property which will normally require replacement...” #2 (a) A reserve account established under this section must be funded by assessments against the individual lots for which the reserves are established.” The Company has met the requirements as outlined in this rule. ORS 94.595 is a mandatory requirement for all “association” as that term is defined under Chapter 94 of the Oregon Revised Statutes.*”
- a. Please provide documentation that CRRWC is a homeowners association and therefore governed by and in full compliance with ORS 94.
 - b. Please provide documentation that special assessment funds have been used to maintain, repair or replace items of common property identified in the reserve study.
 - c. Please provide documentation that a reserve account has been established and funded by assessments against individual lots for which the reserves were established.
53. CRRWC’s rebuttal testimony Number 6 to Dougherty’s Testimony 15/17 - states, “*In the last 10 years under the existing management ****” The Statement of James Rooks filed with CRRWC’s rebuttal Testimony states, “ ****the General Manager who has successfully run this company for almost a decade, and has been owner/operator of various company’s over the last 35 years, *****”
- a. Please provide documentation that the existing management has successfully run and been in place at CRRWC for the last 10 years.

- b. Please provide a detailed list, including the name, location, size and characteristics of the companies James Rooks has owned/operated over the last 35 years.
54. CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony 20/17 & 23/7 discusses the contract that Mr. Rooks has with the company to perform the repair and maintenance of equipment. Please provide a copy of the subject contract.
55. CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony 21/1 - states, "*Outside bids to repair 700,000 gallons standpipe = \$175,000; it was repaired in house for under \$50,000. Line extensions - contractor bid = \$37.50 per foot - actual in-house cost was under \$25 per foot. The closing of loops per Water Resources Division requirements: outside and in-house bids same as above. Another comparison, mechanical repair of vehicles and equipment. The outside bid, which covered only oil changes, air filters, basic preventative, was \$3750 per month. In house repairs, including preventative maintenance, R & R of engines, rebuilding transmissions, all hydraulic and electrical repairs, welding, engine tune-ups, etc., \$2000 per month. Repairs to Well #2, outside bid for R & R of building, rebuild well, approximately \$75,000 - accomplished in house for under \$30,000. These same comparisons hold true for the extension of the office building, enlarging the shop, installing security fencing around the stand pipe, repair to the 100,000 gallon cistern, on-going repairs to piping, fire hydrants, and the pump station.*" Please provide copies of the bids and documentation of the contrasting in-house costs; including material receipts, time sheets for labor and equipment use logs for all of the projects noted in the subject statement.
56. CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony 21/12 - states, "*Michael Dougherty does not know the qualification of James Rooks, nor does he know the amount of work performed, the quality of work, or the skills he possesses.*" CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony 48/3 - states, "*The Board of Directors of the CRRWC established his (James Rooks) duties when they developed his employment contract.*"
- a. Please provide documentation showing the qualifications and skills qualifying James Rooks to hold the CRRWC general manager position.
- b. Please provide documentation comparing the quality and quantity of work performed by James Rooks with individuals holding similar positions in water companies with similar characteristics.
- c. Please provide a copy of the subject contract and list of duties.
57. CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony 25/19 - states, "*Mr. Dougherty took the first 3 months of 2007 to use as an average. The winter is a time when little work is done. Mr. Dougherty did not ask for further information. The company provided the year end financial statement to show the amount spent in 2006. Mr. Dougherty's use of the first quarter of 2007 is a deliberate attempt to cut finances for this company.*" Please explain why CRRWC requested 2007 as the rate case test year, and is now disputing that the partial year information available for 2007 did not accurately reflect the

company's annual financial picture.

58. CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony 28/5 - states, "*In fact, every legal expense listed on his chart was the result of Mr. Rooks employment and happened while on the job.*"
- a. Please provide documentation that every legal expense on the subject chart was a result of James Rooks employment with CRRWC.
 - b. Please explain how the legal costs and representation of individual employees of CRRWC in criminal & civil proceedings addressing the employee's behavior and conduct that is outside the realm of the individuals' employment with CRRWC is in the best interest of the organization.
59. CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony 30/7 - states, "*The crane is an important asset to the company as it is needed for maintenance due to the 1000' foot depth of the wells.*" Please provide documentation that the 2 wells owned by CRRWC are 1000 feet deep and that the pumps are installed at the 1000 foot depth.
60. CRRWC's rebuttal testimony discusses radio read meters. Please provide documentation demonstrating that CRRWC has thoroughly studied and evaluated all aspects of the proposed radio read meter conversion program.
61. CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony 33/3 - states, "*The original developer, in order to recoup his money invested in the water system, subdivided Phase 3 and subsequently other Phases from 5 acre parcels to 1 acre parcels, increasing his revenue substantially above and beyond the water facilities installation.*" Please provide documentation supporting the subject statement.
62. CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony 44/11 - states, "*Because of the PUC's failure to retain the Assessment charge, the company will not be able to begin the new well, which means an extension will need to be filed for the company's water rights. According to Mr. Dougherty, the company will also need to request another point of diversion transfer with WRD.*" Water Resources Department final order T-9663 amending water right permit G-11376 states October 1, 2008 is the date for complete application of water. The Condensed 20 Year Project Report and Explanation of Expenditures and Assessments - March 2004 states the cost of the construction of the new well is \$860,000. CRRWC has gone on the record stating that funds will not be borrowed; projects will be constructed on a pay as you go basis. Please explain how CRRWC intends to construct the new well, providing complete application of water, by October 1, 2008, when the current balance of the special assessment fund plus future revenue (if the special assessment continued) would not be adequate to fund the construction of the new well by the subject deadline.
63. CRRWC's rebuttal testimony refers to CRRWC's 20 Year Master Plan as being "out of date and antiquated".
- a. Please explain how the 20 Year Master Plan is "antiquated/out of date" if the plan

covers the time period from 1997 to 2017.

- b. Please explain why CRRWC has not amended or up dated the "out of date/antiquated" 20 Year Master Plan.

64. Please provide copies of all responses to the PUC's DR 121 to 139.

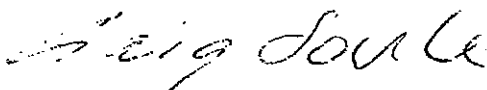
65. The Statement James Rooks filed with CRRWC's Rebuttal Testimony states, "*The backflow installation and testing is paid for by the customer, but it still involves many hours of staff time to monitor and record the results.*" Please provide documentation detailing the amount of staff time devoted to monitoring and recording the results of the backflow installation and testing.

66. The Statement James Rooks filed with CRRWC's Rebuttal Testimony states, "*The company has not done anything wrong, which can be proven by the Department of Justice and the local District Attorney's office.*" Please provide documentation that CRRWC has been cleared of any wrong doing in the on-going criminal investigation being conducted by the Jefferson County District Attorney and Oregon Department of Justice.

Please provide a copy of your responses to the following:

Craig Soule
11953 SW Horny Hollow Trail
Terrebonne, Oregon 97760
cby_64@yahoo.com (541) 504-7516

Sincerely,



Craig Soule - Intervenor

cc: ALJ Patrick Power
Service List

DATA REQUEST 67 to 74

DATE: April 26, 2008

TO: Crooked River Ranch Water Company (CRRWC)
PO Box 2319
Terrebonne, Oregon 97760

FROM: Craig Soule-Intervenor
11953 SW Horny Hollow Trail
Terrebonne, Oregon 97760
cby_64@yahoo.com

DOCKET: UW 120

REQUEST AUTHORITY: OAR 860-014-0070 (1)

RESPONSE REQUIRED BY: May 12, 2008

Please provide responses and the requested documentation to the following requests for information. If the request is unclear, contact the requestor for clarification in a timely fashion to allow a response by the required response date noted above.

67. In a letter dated March 26, 2008 to the Members of CRRWC from the CRRWC Board of Directors, the following is stated:

*The Board of Directors and management have made adjustments in order to try to continue operations with the budget required by the PUC. ***no major repairs have been undertaken, all upgrades have been cancelled due to lack of funds, and the equipment repairs have been cut. ****

On March 27, 2008, CRRWC provided a spreadsheet to the Oregon Public Utility Commission (PUC) titled "Assessment Monies Used in March 2008". The spreadsheet indicates "Special Assessment" funds where used for the following:

"Repairs Dump Truck	\$11,473.00"
"Repairs Back Hoe	\$18,607.00"

Please explain how the expenditure of \$30,080.00 on equipment repairs in March 2008 constitutes a cut in equipment repairs as stated in the communication with the CRRWC membership dated March 26, 2008.

68. PUC Order No. 06-642, Entered 11/20/06, Finding of Fact, states the following:

CRRWC is a non-profit corporation organized as a "Nonprofit Corporation, Mutual Benefit with Members," and provides domestic water to Crooked River Ranch, a planned development community in central Oregon.

The PUC concludes that CRRWC is a Nonprofit Corporation, Mutual Benefit with Members; therefore the provisions of the CRRWC 9/24/04 Bylaws apply.

The Bylaws for the CRRWC as Amended 9/24/04 state the following:

Bylaw 2.3 Termination of Membership

(a) Membership in the Corporation shall terminate automatically upon death, removal of the premises served within the service area of the Corporation, or sale of the premises served to another person or entity.

Bylaw 4.5 Disqualification

Termination of a Director's membership in the Corporation shall terminate automatically that Director's membership on the Board of Directors.

Evidence demonstrates that Randolph Scott has acted as a member of the CRRWC Board of Directors from 1999 until recently and evidence indicates he is still a member of the CRRWC Board of Directors.

Randolph Scott's membership with CRRWC and therefore his membership on the CRRWC Board of Directors was based on his ownership of the property at 13715 SW Golden Mantel Road, Terrebonne, Oregon (13-12-15D TL 0400) (Jefferson County Assessors Account # 6355).

Randolph Scott sold his interest in the property at 13715 SW Golden Mantel Road, Terrebonne, Oregon (13-12-15D TL 0400) (Jefferson County Assessors Account # 6355) on April 24, 2002, terminating his membership in the Corporation (CRRWC), thereby terminating his membership on the Board of Directors April 24, 2002 (see exhibit A, page 1 - Recorded Warranty Deed-4/24/02, Instrument # 2002-1908).

On November 1, 2005, Randolph Scott acquired an interest in the property at (No Numbers) SW Commercial Loop Road, CRR (13-12-24B TL 2400) (Jefferson County Account # 7360) from James H. Rooks & Jacquelyn R. Rooks. (see exhibit A, page 2 - Bargain & Sale Deed - 11/1/05, Instrument # 2005-006345).

On December 29, 2005 the CRRWC Board of Directors (Rick Keen, John Combs, Brian Elliot & Randy Scott) passed the following resolution (see exhibit B page 1 - CRRWC Resolution – 12/29/05):

Any existing Board member who was elected or appointed to the Board while they were a member of the this company, who establishes a residence other than Crooked River Ranch, may remain as a Board member and may run for re-election.*

*Note the Bylaw provision governing membership in the corporation; addresses owning an interest in a connected lot or hauling water. Residing at Crooked River is not a factor in membership of the corporation.

Randolph Scott's acquisition of an ownership interest in the property at (No Numbers) SW Commercial Loop Road, CRR (13-12-24B TL 2400) (Jefferson County Account # 7360) was after his membership with CRRWC and therefore membership on the CRRWC Board of Directors was terminated due to the sale of his interest in the property at 13715 SW Golden Mantel Road, Terrebonne, Oregon (13-12-15D TL 0400) (Jefferson County Assessors Account # 6355).

With the exception of the Commercial Loop property, no evidence exists of Randolph Scott owning an interest in other property at Crooked River Ranch that would entitle him to membership with CRRWC.

No evidence exists of Randolph Scott being appointed or elected to the CRRWC Board of Directors after his acquisition of an interest in the property at (No Numbers) SW Commercial Loop Road, CRR (13-12-24B TL 2400) (Jefferson County Account # 7360).

- a. Is Randolph Scott currently acting as a member of the CRRWC Board of Directors? If Randolph Scott is no longer acting as member of the CRRWC Board of Directors please provide documentation demonstrating that Randolph Scott resigned or was removed from his position in conformance with ORS Chapter 65, the CRRWC Articles of Incorporation and the CRRWC 9/24/2004 Bylaws.
- b. If Randolph Scott is no longer acting as member of the CRRWC Board of Directors please provide documentation demonstrating that the position he formally held was properly filled according to ORS Chapter 65, the CRRWC Articles of Incorporation

and the CRRWC 9/24/2004 Bylaws. Please provide the name of the individual filling the subject position.

- c. Please provide documentation demonstrating that Randolph Scott is/was a legal board member of CRRWC after the sale of the property noted above and in conformance with ORS Chapter 65, the CRRWC Articles of Incorporation and the CRRWC 9/24/2004 Bylaws.
- d. Please provide copies of all board resolutions signed by Randolph Scott since April 24, 2002.
- e. Please provide documentation showing all fees for legal services provided by the attorneys of CRRWC on Randolph Scott's behalf.
- f. Please provide documentation showing the CRRWC accounts sourced to pay for the legal fees paid for legal services provided by CRRWC attorneys on behalf of Randolph Scott.
- g. If CRRWC cannot provide adequate documentation of Randolph Scott's legal presence on the CRRWC Board of Directors; Please explain how Randolph Scott is able to perform the duties required by ORS Chapter 65, the CRRWC Articles of Incorporation and as stated in the CRRWC Bylaws (9/24/04) Part IV - Board of Directors – Bylaw 4.7(a) which states,

The Board shall have general supervision and control over and shall manage and conduct the affairs and business of the Corporation, and shall make all necessary rules and regulations, not inconsistent with law or with the Bylaws or Articles of Incorporation, for the management of the Corporation and the guidance of the officers, employees and agents of the Corporation.

- h. If CRRWC cannot provide adequate documentation of Randolph Scott's legal presence on the CRRWC Board of Directors; please explain how Randolph Scott is able to receive legal services on his behalf through the attorneys for CRRWC.

69. PUC Order No. 06-642, Entered 11/20/06, Finding of Fact, states the following:

CRRWC is a non-profit corporation organized as a "Nonprofit Corporation, Mutual Benefit with Members," and provides domestic water to Crooked River Ranch, a planned development community in central Oregon.

The PUC concludes that CRRWC is a Nonprofit Corporation, Mutual Benefit with Members; therefore the provisions of the CRRWC 9/24/04 Bylaws apply.

The Bylaws for the CRRWC as Amended 9/24/04 state the following:

Bylaw 2.3 Termination of Membership

(a) Membership in the Corporation shall terminate automatically upon death, removal of the premises served within the service area of the Corporation, or sale of the premises served to another person or entity.

Bylaw 4.5 Disqualification

Termination of a Director's membership in the Corporation shall terminate automatically that Director's membership on the Board of Directors.

Evidence demonstrates that Richard Keen has acted as a member of the CRRWC Board of Directors from 1999 until recently and evidence strongly indicates he is still a member of the CRRWC Board of Directors.

Richard Keen's membership with CRRWC and therefore his membership on the CRRWC Board of Directors was based on his ownership of the property at 13850 SW Commercial Loop, Terrebonne, Oregon (13-12-14D TL 1100)(Assessors Account # 6194)

Richard Keen sold his interest in the property at 13850 SW Commercial Loop, Terrebonne, Oregon (13-12-14D TL 1100)(Assessors Account # 6194) on June 29, 2005, terminating his membership in the Corporation (CRRWC), thereby terminating his membership on the Board of Directors June 29, 2005 (see exhibit C, page 1 - Recorded Warranty Deed-6/29/05, Instrument # 2005-003605).

On November 1, 2005, Richard Keen acquired an interest in the property at (No Numbers) SW Commercial Loop Road, CRR (13-12-24B TL 2400) (Account # 7360) from James H. Rooks & Jacquelyn R. Rooks. (see exhibit A, page 2 - Bargain & Sale Deed - 11/1/05, Instrument # 2005-006345)

On December 29, 2005 the CRRWC Board of Directors (Rick Keen, John Combs, Brian Elliot & Randy Scott) passed the following resolution (see exhibit B, page 1 - CRRWC Resolution –

12/29/05):

Any existing Board member who was elected or appointed to the Board while they were a member of the this company, who establishes a residence other than Crooked River Ranch, may remain as a Board member and may run for re-election.*

*Note the Bylaw provision governing membership in the corporation; addresses owning an interest in a connected lot or hauling water. Residing at Crooked River is not a factor in membership of the corporation.

Richard Keen's acquisition of an ownership interest in the property at (No Numbers) SW Commercial Loop Road, CRR (13-12-24B TL 2400) (Jefferson County Account # 7360) was after his membership with CRRWC and therefore membership on the CRRWC Board of Directors was terminated due to the sale of his interest in the property at 13850 SW Commercial Loop, Terrebonne, Oregon (13-12-14D TL 1100)(Assessors Account # 6194)

With the exception of the Commercial Loop property, no evidence exists of Richard Keen owning an interest in other property at Crooked River Ranch that would entitle him to membership with CRRWC.

No evidence exists of Richard Keen being appointed or elected to the CRRWC Board of Directors after his acquisition of an interest in the property at (No Numbers) SW Commercial Loop Road, CRR (13-12-24B TL 2400) (Jefferson County Account # 7360).

- a. Is Richard Keen currently acting as a member of the CRRWC Board of Directors? If Richard Keen is no longer acting as member of the CRRWC Board of Directors please provide documentation demonstrating that Richard Keen resigned or was removed from his position in conformance with ORS Chapter 65, the CRRWC Articles of Incorporation and the CRRWC 9/24/2004 Bylaws.
- b. If Richard Keen is no longer acting as member of the CRRWC Board of Directors please provide documentation demonstrating that the position he formally held was properly filled according to ORS Chapter 65, the CRRWC Articles of Incorporation and the CRRWC 9/24/2004 Bylaws. Please provide the name of the individual filling the subject position.

- c. Please provide documentation demonstrating that Richard Keen is/was a legal board member of CRRWC after the sale of the property noted above and in conformance with ORS Chapter 65, the CRRWC Articles of Incorporation and the CRRWC 9/24/2004 Bylaws.
- d. Please provide copies of all board resolutions signed by Richard Keen since July 1, 2005.
- e. Please provide documentation showing all fees for legal services provided by the attorneys of CRRWC on Richard Keen's behalf.
- f. Please provide documentation showing the CRRWC accounts sourced to pay for the legal fees paid for legal services provided by CRRWC attorneys on behalf of Richard Keen.
- g. If CRRWC cannot provide adequate documentation of Richard Keen's legal presence on the CRRWC Board of Directors; Please explain how Richard Keen is able to perform the duties required by ORS Chapter 65, the CRRWC Articles of Incorporation and as stated in the CRRWC Bylaws (9/24/04) Part IV - Board of Directors - Bylaw 4.7(a) which states,

The Board shall have general supervision and control over and shall manage and conduct the affairs and business of the Corporation, and shall make all necessary rules and regulations, not inconsistent with law or with the Bylaws or Articles of Incorporation, for the management of the Corporation and the guidance of the officers, employees and agents of the Corporation.

- h. If CRRWC cannot provide adequate documentation of Richard Keen's legal presence on the CRRWC Board of Directors; please explain how Richard Keen is able to receive legal services on his behalf through the attorneys for CRRWC.

70. PUC Order No. 06-642, Entered 11/20/06, Finding of Fact, states the following:

CRRWC is a non-profit corporation organized as a "Nonprofit Corporation, Mutual Benefit with Members," and provides domestic water to Crooked River Ranch, a planned development community in central Oregon.

The PUC concludes that CRRWC is a Nonprofit Corporation, Mutual Benefit with Members; therefore the provisions of the CRRWC 9/24/04 Bylaws apply.

The Bylaws for the CRRWC as Amended 9/24/04 state the following:

Bylaw 7.3 Conflicts of Interest

**** Any person serving or acting as a Board member shall not retain or apply for any regular full time position paid through this corporation while a director or for a period of sixty months after that persons term has expired. This restriction does not include short term contractual work that is necessary for the benefit of the Corporation. ****

Bylaw 6.10 Officers

No Corporation employee, nor any relative, or significant other, may be elected to the Board of Directors while the Corporation employs that person as a regular employee. Subcontract work shall be permitted for tasks, but only as an independent contractor. This same restriction shall apply for a period of five (5) years after such person ceases to be employed by the Corporation.

James H. Rooks has been employed by CRRWC since the Fall of 1998. James H. Rooks was appointed to the board of directors in March 2007. James H. Rooks was placed on the ballot and elected to a position as a director June 2, 2007. During the time period since his appointment to the CCRWC Board of Directors and subsequent election James H. Rooks has acted as a member of the CRRWC Board of Directors. Evidence indicates James H. Rooks is still a member of the CRRWC Board of Directors.

The first provision of the 9/24/04 Bylaws quoted above, indicates that a current director shall not be allowed to retain a regular full time paid position. The first provision of the 9/24/04 Bylaws quoted above indicates that for James H. Rooks to retain his position as a director he would have had to relinquish his position as general manager. James H. Rooks has continued to retain his position as General Manager of CRRWC while acting as a director.

The second provision of the 9/24/04 Bylaws quoted above, does not allow an employee to be elected as a director while the Corporation employs that person as a regular employee. James H.

Rooks was appointed and subsequently elected to the board of directors while a regular employee.

James Rooks Declaration, dated January 28, 2008, submitted to the PUC indicates that CRRWC's employment and equipment maintenance contract with Rooks was rendered null and void by Commission Order 07-527.

- a. Is James H. Rooks currently acting as a member of the CRRWC Board of Directors? If James H. Rooks is no longer acting as member of the CRRWC Board of Directors please provide documentation demonstrating that James H. Rooks resigned or was removed from his position in conformance with ORS Chapter 65, the CRRWC Articles of Incorporation and the CRRWC 9/24/2004 Bylaws.
- b. If James H. Rooks is no longer acting as member of the CRRWC Board of Directors please provide documentation demonstrating that the position he formally held was properly filled according to ORS Chapter 65, the CRRWC Articles of Incorporation and the CRRWC 9/24/2004 Bylaws. Please provide the name of the individual filling the subject position.
- c. Please provide documentation demonstrating that James H. Rooks is/was a legal board member of CRRWC in conformance with ORS Chapter 65, the CRRWC Articles of Incorporation and the CRRWC 9/24/2004 Bylaws.
- d. Please provide copies of all board resolutions signed by James H. Rooks since March 2007.
- e. Please provide documentation showing all fees for legal services provided by the attorneys of CRRWC on James H. Rooks behalf.
- f. Please provide documentation showing the CRRWC accounts sourced to pay for the legal fees paid for legal services provided by CRRWC attorneys on behalf of James H. Rooks.

- g. Please provide documentation that the ballot concerning the election of James H. Rooks presented to the CRRWC membership in May 2007 met the requirements of ORS 65.222.
- h. Please provide copies of all contracts between James H. Rooks and CRRWC demonstrating that the work performed by James H. Rooks for CRRWC was as an independent subcontractor limited to small tasks.
- i. If CRRWC cannot provide adequate documentation of James H. Rooks legal presence on the CRRWC Board of Directors; Please explain how James H. Rooks is able to perform the duties required by ORS Chapter 65, the CRRWC Articles of Incorporation and as stated in the CRRWC Bylaws (9/24/04) Part IV - Board of Directors – Bylaw 4.7(a) which states,

The Board shall have general supervision and control over and shall manage and conduct the affairs and business of the Corporation, and shall make all necessary rules and regulations, not inconsistent with law or with the Bylaws or Articles of Incorporation, for the management of the Corporation and the guidance of the officers, employees and agents of the Corporation.

- j. If CRRWC cannot provide adequate documentation of James H. Rooks legal presence on the CRRWC Board of Directors; please explain how James H. Rooks is able to receive legal services on his behalf through the attorneys for CRRWC.

71. PUC Order No. 06-642, Entered 11/20/06, Finding of Fact, states the following:

CRRWC is a non-profit corporation organized as a "Nonprofit Corporation, Mutual Benefit with Members," and provides domestic water to Crooked River Ranch, a planned development community in central Oregon.

The PUC concludes that CRRWC is a Nonprofit Corporation, Mutual Benefit with Members; therefore the provisions of the CRRWC 9/24/04 Bylaws apply.

The Bylaws for the CRRWC as Amended 9/24/04 state the following:

Bylaw 5.5 Quorum

Three of the five members of the Board of Directors shall constitute a quorum necessary for the transaction of any and all business of the Corporation.

Bylaw 4.4 Vacancies

Any vacancies on the Board of Directors not caused by expiration of term may be filled for the unexpired term by majority vote of the remaining members of the Board of Directors.

Bylaw 4.4 Vacancies and 5.5 Quorum are in conflict with each other. Filling a vacancy would be construed as the transaction of business of the Corporation.

At the time current board director Brian Elliott was appointed to the Board (9/25/05) neither Richard Keen nor Randolph Scott were legal members of the Board (lack of property ownership). The only remaining legal members of the Board were John Combs and Wayne Sutton. Brian Elliott's appointment to the Board was invalid because Richard Keen and Randolph Scott were not legal members of the Board, and John Combs and Wayne Sutton were prevented from appointing Brian Elliott to the BOD by Crooked River Ranch Water Company Bylaws as Amended 9/24/04, which states:

Bylaw 5.5 Quorum

Three of the five members of the Board of Directors shall constitute a quorum necessary for the transaction of any and all business of the Corporation.

Brian Elliott was appointed to the board of directors on September 25, 2005. Brian Elliott was placed on the ballot and elected to a position as a director June 3, 2006. During the time period since his appointment to the CCRWC Board of Directors and subsequent election Brian Elliott has acted as a member of the CRRWC Board of Directors. Evidence indicates Brian Elliott is still a member of the CRRWC Board of Directors.

- a. Is Brian Elliott acting as a member of the CRRWC Board of Directors? If Brian Elliott is no longer acting as member of the CRRWC Board of Directors please provide documentation demonstrating that Brian Elliott resigned or was removed from his position in conformance with ORS Chapter 65, the CRRWC Articles of Incorporation and the CRRWC 9/24/2004 Bylaws.

- b. If Brian Elliott is no longer acting as member of the CRRWC Board of Directors please provide documentation demonstrating that the position he formally held was properly filled according to ORS Chapter 65, the CRRWC Articles of Incorporation and the CRRWC 9/24/2004 Bylaws. Please provide the name of the individual filling the subject position.
- c. Please provide documentation demonstrating that Brian Elliott is/was a legal board member of CRRWC in conformance with ORS Chapter 65, the CRRWC Articles of Incorporation and the CRRWC 9/24/2004 Bylaws.
- d. Please provide copies of all board resolutions signed by Brian Elliott since September 25, 2005.
- e. Please provide documentation showing all fees for legal services provided by the attorneys of CRRWC on Brian Elliott's behalf.
- f. Please provide documentation showing the CRRWC accounts sourced to pay for the legal fees paid for legal services provided by CRRWC attorneys on behalf of Brian Elliott.
- g. Please provide documentation that the ballot concerning the election of Brian Elliott presented to the CRRWC membership in May 2006 met the requirements of ORS 65.222.
- h. If CRRWC cannot provide adequate documentation of Brian Elliott's legal presence on the CRRWC Board of Directors; Please explain how Brian Elliott is able to perform the duties required by ORS Chapter 65, the CRRWC Articles of Incorporation and as stated in the CRRWC Bylaws (9/24/04) Part IV - Board of Directors – Bylaw 4.7(a) which states,

The Board shall have general supervision and control over and shall manage and conduct the affairs and business of the Corporation, and shall make all necessary rules and regulations, not inconsistent with law or with the Bylaws

or Articles of Incorporation, for the management of the Corporation and the guidance of the officers, employees and agents of the Corporation.

- i. If CRRWC cannot provide adequate documentation of Brian Elliott's legal presence on the CRRWC Board of Directors; Please explain how Brian Elliot is able to receive legal services on his behalf through the attorneys for CRRWC.

72. PUC Order No. 06-642, Entered 11/20/06, Finding of Fact, states the following:

CRRWC is a non-profit corporation organized as a "Nonprofit Corporation, Mutual Benefit with Members," and provides domestic water to Crooked River Ranch, a planned development community in central Oregon.

The PUC concludes that CRRWC is a Nonprofit Corporation, Mutual Benefit with Members; therefore the provisions of the CRRWC 9/24/04 Bylaws apply.

The Bylaws for the CRRWC as Amended 9/24/04 state the following:

Bylaw 5.5 Quorum

Three of the five members of the Board of Directors shall constitute a quorum necessary for the transaction of any and all business of the Corporation. No one (1) director may dictate day to day policy without a quorum consent of the Board of Directors.

Bylaw 4.4 Vacancies

Any vacancies on the Board of Directors not caused by expiration of term may be filled for the unexpired term by majority vote of the remaining members of the Board of Directors.

Bylaw 4.4 Vacancies and 5.5 Quorum are in conflict with each other. Filling a vacancy would be construed as the transaction of business of the Corporation.

At the time current board director Richard Miller was appointed to the Board (winter 2005/2006) neither Richard Keen nor Randolph Scott were legal members of the Board (loss of membership rights with CRRWC due to sale of property – no subsequent appointment or election after acquisition of property that may qualify for board membership). At the time current board director Richard Miller was appointed to the Board (winter 2005/2006) Brian Elliott was not a legal member of the Board (lack of adequate quorum of directors when

appointed). Wayne Sutton was no longer on the Board (removed 12/8/05) The only remaining legal member of the Board was John Combs. Richard Miller's appointment to the Board was invalid because Richard Keen, Randolph Scott and Brian Elliott were not legal members of the Board. John Combs was prevented from appointing Richard Miller to the board of directors by the Crooked River Ranch Water Company Bylaws as Amended 9/24/04, which states:

Bylaw 5.5 Quorum

Three of the five members of the Board of Directors shall constitute a quorum necessary for the transaction of any and all business of the Corporation. No one (1) director may dictate day to day policy without a quorum consent of the Board of Directors.

Richard Miller was appointed to the board of directors in Winter 2005/2006. Richard Miller was placed on the ballot and elected to a position as a director June 3, 2006. During the time period since his appointment to the CCRWC Board of Directors and subsequent election Richard Miller has acted as a member of the CRRWC Board of Directors. Evidence indicates Richard Miller is still a member of the CRRWC Board of Directors.

The Bylaws for the CRRWC as Amended 9/24/04 state the following:

Bylaw 2.1 Qualifications

Any person, firm, association, corporation or body politic which owns property within portions of Crooked River Ranch or other adjacent properties then served by the Corporation or must haul water to their property on the Crooked River Ranch, shall be eligible for membership in this Corporation, subject to acceptance for membership as hereinafter provided.

Bylaw 2.2 Application & Acceptance

Application for membership shall be in writing. The application shall include the physical address, phase, lot and tax numbers of the premises for which water or water services obtained from the Corporation is requested and shall include documentary proof of applicant's ownership of the premises and be in such form as the Board of Directors of the Corporation from time to time shall prescribe.

Richard Miller's membership with CRRWC and therefore his membership on the CRRWC Board of Directors was based on his ownership of the property at 13439 SW Chipmunk Road, Terrebonne, Oregon (13-12-15 BD TL 00500)(Assessors Account # 6269).

With the exception of the property at 13439 SW Chipmunk Road, no evidence exists of Richard Miller owning an interest in other property at Crooked River Ranch that would entitle him to membership with CRRWC.

A "Water Supply Well Report", received by the Oregon Water Resources Department on June 1, 2000 indicates there is a 605 foot deep domestic water well on the subject property owned by Richard Miller. The well is adequate to supply all domestic needs of the subject property. (see exhibit D page 1 - Water Supply Well Report - 6/1/00 – Well ID # 38157)(note: address and legal description were changed by Jefferson County – formally 13455 SW Chipmunk Road, 13-12-15B TL 1900)

A water meter is installed in front of the subject property owned by Richard Miller. No evidence exists of a main waterline service extending between the water service connection and the dwelling on the subject property. Evidence exists that no water is being used by the subject property through the water service connection. (see exhibit D pages 2- 5 "Site Visit Reports")

No evidence exists of a water cistern or other method of storing water on the subject property.
No evidence exists of water bring hauled to the subject property.

- a. Is Richard Miller acting as a member of the CRRWC Board of Directors? If Richard Miller is no longer acting as member of the CRRWC Board of Directors please provide documentation demonstrating that Richard Miller resigned or was removed from his position in conformance with ORS Chapter 65, the CRRWC Articles of Incorporation and the CRRWC 9/24/2004 Bylaws.
- b. If Richard Miller is no longer acting as member of the CRRWC Board of Directors please provide documentation demonstrating that the position he formally held was properly filled according to ORS Chapter 65, the CRRWC Articles of Incorporation and the CRRWC 9/24/2004 Bylaws. Please provide the name of the individual filling the subject position.

- c. Please provide documentation demonstrating that Richard Miller is/was a legal board member of CRRWC in conformance with ORS Chapter 65, the CRRWC Articles of Incorporation and the CRRWC 9/24/2004 Bylaws.
- d. Please provide copies of all board resolutions signed by Richard Miller since the Winter 2005/2006.
- e. Please provide documentation showing all fees for legal services provided by the attorneys of CRRWC on Richard Miller's behalf.
- f. Please provide documentation showing the CRRWC accounts sourced to pay for all legal fees paid for legal services provided by CRRWC attorneys on behalf of Richard Miller.
- g. Please provide documentation that the ballot concerning the election of Richard Miller presented to the CRRWC membership in May 2006 met the requirements of ORS 65.222.
- h. Please provide documentation that Richard Miller has legal access to water provided through CRRWC.
- i. If Richard Miller has legal access to water provided by CRRWC, please provide the documentation required by the following section of the CRRWC Bylaws (9/24/04) which states:

Bylaw 2.2 Application & Acceptance

Application for membership shall be in writing. The application shall include the physical address, phase, lot and tax numbers of the premises for which water or water services obtained from the Corporation is requested and shall include documentary proof of applicant's ownership of the premises and be in such form as the Board of Directors of the Corporation from time to time shall prescribe.

- j. If Richard Miller has legal access to water provided by CRRWC, please document how Richard Miller receives water service from CRRWC.
- k. If Richard Miller has legal access to water provided by CRRWC, please provide copies of all water bills, receipts and canceled checks demonstrating that Richard Miller has received water service from CRRWC from the Winter 2005/2006 to the present.
- l. If Richard Miller has legal access to water provided by CRRWC through a service connection at the subject property, please provide documentation of Richard Miller's financial participation in the cost of the main waterline extension installed on Chipmunk Road by CRRWC.
- m. If Richard Miller has legal access to water provided by CRRWC through a service connection at the subject property, please provide documentation that the appropriate water service hook up fees were paid to CRRWC to obtain water service from CRRWC.
- n. If CRRWC cannot provide adequate documentation of Richard Miller's legal presence on the CRRWC Board of Directors; Please explain how Richard Miller is able to perform the duties required by ORS Chapter 65, the CRRWC Articles of Incorporation and as stated in the CRRWC Bylaws (9/24/04) Part IV - Board of Directors – Bylaw 4.7(a) which states,

The Board shall have general supervision and control over and shall manage and conduct the affairs and business of the Corporation, and shall make all necessary rules and regulations, not inconsistent with law or with the Bylaws or Articles of Incorporation, for the management of the Corporation and the guidance of the officers, employees and agents of the Corporation.

- o. If CRRWC cannot provide adequate documentation of Richard Miller's legal presence on the CRRWC Board of Directors; please explain how Richard Miller is able to receive legal services on his behalf through the attorneys for CRRWC.

73. PUC Order No. 06-642, Entered 11/20/06, Finding of Fact, states the following:

CRRWC is a non-profit corporation organized as a "Nonprofit Corporation, Mutual Benefit with Members," and provides domestic water to Crooked River Ranch, a planned development community in central Oregon.

The PUC concludes that CRRWC is a Nonprofit Corporation, Mutual Benefit with Members; therefore the provisions of the CRRWC 9/24/04 Bylaws apply.

CRRWC Bylaws (9/24/04) Part V - Bylaw 5.5 - Quorum - states:

Three of the five members of the Board of Directors shall constitute a quorum necessary for the transaction of any and all business of the Corporation. No one (1) director may dictate day to day policy without a quorum consent of the Board of Directors.

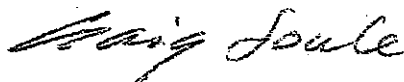
Please provide documentation that a quorum of legal members of the Board of Directors was present for the transaction of all business conducted by CRRWC from July 1, 2005 to the present.

74. Please provide copies of the responses to the PUC's DR 140(a), 140(b), 140(c), 141(a), 141(b), 142(a), 142(b), 143(b), 143(d), 143(e), 143(g), 145, 146, 147, 148, 149, 150(a), 150(b), 150(c), 150(d), 151, 152, 153, 154, 155(a), 155(b), 156, 157 and 158.

Please provide a copy of your responses to the following:

Craig Soule
11953 SW Horny Hollow Trail
Terrebonne, Oregon 97760
cby_64@yahoo.com (541) 504-7516

Sincerely,



Craig Soule - Intervenor

Encl: Exhibits A, B, C, D

cc: ALJ Patrick Power
Service List

INTERENOR/2
SOULE/50



After recording return to:
DARLENE E. DENTON, TRUSTEE
13715 SW GOLDEN MANTEL ROAD
CROOKED RIVER RANCH, OR 97760

Until a change is requested all
tax statements shall be sent to
the following address:

DARLENE E. DENTON, TRUSTEE
13715 SW GOLDEN MANTEL ROAD
CROOKED RIVER RANCH, OR 97760

Escrow No. RD042148RR
Title No. 5171

JEFFERSON COUNTY OFFICIAL RECORDS
KATHLEEN B. MARSTON, COUNTY CLERK

2002-1908



\$36.00

00002353200200019000020027
04/30/2002 10:49:36 AM
D-WD Cnt=1 Stn=2 KATE
\$10.00 \$11.00 \$10.00 \$5.00

WARRANTY DEED

RANDOLPH M. SCOTT AKA RANDOLPH MICHAEL SCOTT,
Grantor(s) hereby grant, bargain, sell, warrant and convey to:
DARLENE E. DENTON AS TRUSTEE OF THE KELSEY P. DENTON TRUST dated 2/27/86
Grantee(s) and grantee's heirs, successors and assigns the following described
real property, free of encumbrances except as specifically set forth herein in
the County of JEFFERSON and State of Oregon, to wit:
SEE EXHIBIT A WHICH IS MADE A PART HEREOF BY THIS REFERENCE
ACCT. NO. 6355 13-12-15D-400

SUBJECT TO: all those items of record and those apparent upon the land, if
any, as of the date of this deed and those shown below, if any;
and the grantor will warrant and forever defend the said premises and every
part and parcel thereof against the lawful claims and demands of all persons
whomsoever, except those claiming under the above described encumbrances.

The true and actual consideration for this conveyance is \$ 212,000.00.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT
IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR
ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY
SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY
APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST
PRACTICES AS DEFINED IN ORS 30.930.

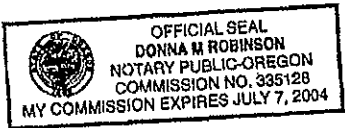
Dated this 24th day of April, 2002.

RANDOLPH M. SCOTT

State of Oregon
County of DESCHUTES

This instrument was acknowledged before me on April 24, 2002 by
RANDOLPH M. SCOTT AKA RANDOLPH MICHAEL SCOTT.

(Notary Public for Oregon)
My commission expires 7/7/04



First Oregon Title Company

NN

NO PART OF ANY STEVENS-NESS FORM MAY BE REPRODUCED IN ANY FORM OR BY ANY ELECTRONIC OR MECHANICAL MEANS.



JAMES & JACQUELYN R. ROOKS
 PO BOX 1477
 REDMOND, OR 97756
Grantor's Name and Address
 JAMES & JACQUELYN R. ROOKS & RANDALL
 SCOTT & RICHARD KEEN, PO BOX 1477
 REDMOND, OR 97756
Grantee's Name and Address

After recording, return to (Name, Address, Zip):
 SAME AS ABOVE

Until requested otherwise, send all tax statements to (Name, Address, Zip):
 SAME AS ABOVE

INTERENOR/2 SOULE/51
 STATE OF OREGON,
 County of _____ } ss.

Jefferson County Official Records
 Kathleen B. Marston, County Clerk 2005-006345



\$31.00

00036578200500063450010014

11/02/2005 03:55:17 PM

D-BSD Cnt=1 Stn=2 KATE
 \$5.00 \$11.00 \$10.00 \$5.00

NAME TITLE
 By _____, Deputy.

BARGAIN AND SALE DEED - STATUTORY FORM

(INDIVIDUAL GRANTOR)

JAMES ROOKS AND JACQUELYN R. ROOKS, Grantor,
 conveys to JAMES ROOKS, JACQUELYN R. ROOKS, RANDALL SCOTT & RICHARD KEEN, Grantee,
 the following real property situated in JEFFERSON County, Oregon, to-wit:

Lot 52, Crooked River Ranch No. 16, Jefferson County, Oregon

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE)

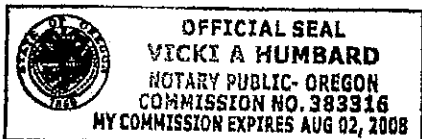
The true consideration for this conveyance is \$to change vesting (Here, comply with the requirements of ORS 93.030.)

DATED November 1, 2005

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

James Rooks
Jacquelyn R Rooks

STATE OF OREGON, County of Jefferson) ss.
 This instrument was acknowledged before me on November 2, 2005
 by James Rooks & Jacquelyn R. Rooks



Vicki A. Humbard
 Notary Public for Oregon
 My commission expires Aug 2, 2008

DATE: December 29, 2005
TO: Board of Directors
Crooked River Ranch Water Company
FROM: James H. Rooks
General Manager/Operations Manager

SUBJECT: DISQUALIFICATION OF A BOARD OF DIRECTOR

Issue: Our current by-laws state that "termination of a Director's membership in the Corporation shall terminate automatically that Director's membership on the Board of Directors." (Bylaw 4.5) To retain qualified Board members for the best interest of the company and its members, it is necessary to amend our bylaws to allow Directors to continue on the Board even though they are no longer members of the company.

Recommendation: Any existing Board member who was elected or appointed to the Board while they were a member of the company, who establishes a residence other than Crooked River Ranch, may remain as a Board member and may run for re-election.

Resolution:

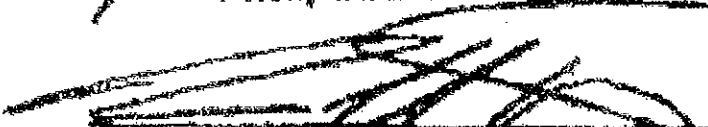
APPROVED:


Rick Keen, President

Date: _____


John Combs, Director

Date: 12-29-05


Brian Elliott, Director

Date: _____


Randy Scott, Director

Date: _____

INTERENOR/2
SOULE/53

Jefferson County Official Records
Kathleen B. Marston, County Clerk

2005-003605



\$31.00

06/30/2006 03:19:31 PM

D-WD Cn=1 SIn=2 KATE
\$5.00 \$11.00 \$10.00 \$5.00

After recording return to:
PETER C. FISHER AND LINDA J. FISHER
20832 TUMALO ROAD
BEND, OR 97701

Until a change is requested all tax statements
shall be sent to the following address:
PETER C. FISHER AND LINDA J. FISHER
20832 TUMALO ROAD
BEND, OR 97701

WARRANTY DEED -- STATUTORY FORM

RICHARD A. KEEN, JR., WHO ACQUIRED TITLE AS RICHARD K. KEEN, Grantor,
conveys and warrants to
PETER C. FISHER AND LINDA J. FISHER, husband and wife, Grantee,
the following described real property, free of encumbrances except as
specifically set forth herein, to wit:

LOT 28, CROOKED RIVER RANCH NO. 16, JEFFERSON COUNTY, OREGON.

Tax Account No(s): 6194
Map/Tax Lot No(s): 13-12-14D-1100

This property is free from encumbrances, EXCEPT: All those items of record, if
any, as of the date of this deed, including any real property taxes due, but
not yet payable.

The true consideration for this conveyance is \$ 113,900.00.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN
THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND
REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE
PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE
APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED
USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR
FOREST PRACTICES AS DEFINED IN ORS 30.930.

Dated this 29 day of June, 2005.

RICHARD A. KEEN, JR.

STATE OF OREGON, COUNTY OF DESCHUTES) SS.

This instrument was acknowledged before me on June 29, 2005 by RICHARD A.
KEEN, JR., ALSO KNOWN AS RICHARD K. KEEN.

(Notary Public for Oregon)
My commission expires 12/9/2005



TITLE NO. 37500
ESCROW NO. 12-0085805

13-12-14D-1100

JEFFERSON COUNTY TITLE COMPANY

37500

STATE OF OREGON
WATER SUPPLY WELL REPORT
 (as required by ORS 537.765)

Instructions for completing this report are on the last page of this form

JEFF
50639

INTERENOR/2
 SOULE/54

WELL ID # L **38157**
 (START CARD) # **126688**

(1) OWNER: Well Number: _____
 Name **Richard & Dorothy Miller**
 Address **13455 Chipmunk Rd.**
 City **Crooked River Ranch** State **OR** Zip **97780**

(2) TYPE OF WORK:
 New Well Deepening Alteration (repair/recondition) Abandonment

(3) DRILL METHOD:
 Rotary Air Rotary Mud Cable Auger
 Other

(4) PROPOSED USE:
 Domestic Community Industrial Irrigation
 Thermal Injection Livestock Other

(5) BORE HOLE CONSTRUCTION:
 Special Construction approval Yes No Depth of Completed Well **605** ft.
 Explosives used Yes No Type _____ Amount _____

HOLE			SEAL			Amount	
Diameter	From	To	Material	From	To	sacks or pounds	
12-in	0	19	Bentonite	0	19	13 bags	
8-in	19	605					

How was seal placed: Method A B C D E
 Other **Poured Dry**
 Backfill placed from _____ ft. to _____ ft. Material _____
 Gravel placed from _____ ft. to _____ ft. Size of gravel _____

(6) CASING/LINER:

Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing: 8-in	+1	19	.250	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Liner:				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Final location of shoe(s) _____

(7) PERFORATIONS/SCREENS:

Perforations Method _____
 Screens Type _____ Material _____

From	To	Slot size	Number	Diameter	Tool/pipe size	Casing	Liner
						<input type="checkbox"/>	<input type="checkbox"/>

(8) WELL TESTS: Minimum testing time is 1 hour
 Pump Boiler Air Flowing Artesian

Yield gal/min	Drawdown	Drift stem at	Time
15+	5	600	1 hr.

Temperature of Water **59** Depth Artesian Flow found _____
 Was a water analysis done? Yes By whom _____
 Did any strata contain water not suitable for intended use?
 Salty Muddy Odor Colored Other _____
 Depth of strata: _____

(9) LOCATION OF WELL by legal description:
 County **Jefferson** Latitude _____ Longitude _____
 Township **13S** N or S. Range **12E** E or W. of W.M.
 Section **15B** SW 1/4 NW 1/4
 Tax lot **1900** Lot _____ Block _____ Subdivision **CRR**
 Street Address of Well (or nearest address) **13455 Chipmunk Rd.**
Crooked River Ranch, OR 97780

(10) STATIC WATER LEVEL:
532 ft. below land surface. Date **4/7/2000**
 Artesian pressure _____ lb. per square inch. Date _____

(11) WATER BEARING ZONES:
 Depth at which water was first found **568**

From	To	Estimated Flow Rate	SWL
568	605	30+	532

(12) WELL LOG: Ground elevation _____

Material	From	To	SWL
Brown Top Soil	0	4	
Tan Caliche	4	6	
Dark Brown Sandstone	6	15	
Light Brown Sandstone	15	27	
Dark Brown Sandstone	27	52	
Black Sandstone	52	59	
Brown Sandstone	59	134	
Gray Sandstone	134	151	
Brown Sandstone	151	158	
Tan Sandstone	158	178	
Brown Sandstone	178	191	
Gray Basalt	191	308	
Light Red Rock	308	314	
Gray Basalt	314	329	
Brown & Gray Sandstone	329	460	
Light Reddish Brown Sandstone	460	484	
Gray Sandstone	484	510	
Brown Sandstone	510	568	
Brown & Black Sandstone & Gravels	568		
WB		580	532
Black Sandstone WB	580	605	532

Date started **4/4/2000** Completed **4/7/2000**

(unbonded) Water Well Constructor Certification:
 I certify that the work I performed on the construction, alteration, or abandonment of this well is in compliance with Oregon water supply well construction standards. Materials used and information reported above are true to my best knowledge and belief.

W/WC Number _____
 Signed _____ Date _____

(bonded) Water Well Constructor Certification:
 I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon water supply well construction standards. This report is true to the best of my knowledge and belief.

W/WC Number **1385**
 Signed **Robert D. Buckner** Date **5/5/2000**
Robert D. Buckner

RECEIVED

JUN 01 2000

ORIGINAL - WATER RESOURCES DEPARTMENT FIRST COPY - CONSTRUCTOR SECOND COPY - CUSTOMER

WATER RESOURCES DEPT.
 SALEM, OREGON

SITE VISIT REPORT

DATE: 2/22/08

TIME: 1:45 pm to 2:15 pm

WEATHER: Clear, Sunny

SITE ADDRESS: 13439 (13455) SW Chipmunk Road, Terrebonne (CRR), OR
97760

LEGAL DESCRIPTION: 13-12-15BD 00500 (13-12-15B 01900)

ASSESSORS ACCOUNT No.: 6269

PROPERTY OWNER: Miller, Richard J & Dorothy (Jefferson County Assessors
ownership document available) (Richard Miller (CRRWC
Board of Director Member)

PHOTO NUMBER: Miller #1, Miller #2, Miller #3, Miller #4, Miller #5, Miller #
6, Miller #7

OBSERVATION POINT: Chipmunk Road Right of Way fronting subject
property and adjacent property to the south.

WATER METER PRESENT: Yes

WATER METER MFG: Neptune

WATER METER SERIAL No.: 42003619

WATER METER READING: 31.18 cubic feet

REPORT:

Water meter vault is present in the ROW in front of property adjacent to and south of the subject property. Water meter is present in the meter vault. Meter vault is dirty and full of cobwebs and does not appear to have been accessed for some time. Water meter manufacture is "Neptune". Water meter serial is # 42003619. Water meter reading is 31.18 cubic feet. Water meter face was observed for approximately 20 minutes. During this time period no movement was noted on the dials of the water meter, indicating no water was flowing through the water meter. No evidence exists of a main waterline service extending between the water service connection and the dwelling on the subject property. No evidence exists of a water cistern or other method of storing water on the subject property. No evidence exists of water bring hauled to the subject property.

BACKGROUND:

Richard Miller's alleged membership with CRRWC and therefore his membership on the CRRWC Board of Directors is based on his ownership of the property at 13439 SW Chipmunk Road, Terrebonne, Oregon (13-12-15 BD TL 00500)(Assessors Account # 6269).

With the exception of the property at 13439 SW Chipmunk Road, no evidence exists of Richard Miller owning an interest in other property at Crooked River Ranch that would entitle him to membership with CRRWC.

Richard Miller was appointed to the CRRWC board of directors in Winter 2005/2006. Richard Miller was placed on the ballot and elected to a position as a director June 3, 2006. During the time period since his appointment to the CRRWC Board of Directors and subsequent election Richard Miller has acted as a member of the CRRWC Board of Directors. Evidence indicates Richard Miller is still a member of the CRRWC Board of Directors.

A "Water Supply Well Report", received by the Oregon Water Resources Department on June 1, 2000 indicates there is a 605 foot deep domestic water well on the subject property owned by Richard Miller. The well is adequate to supply all domestic needs of the subject property. (see attached Water Supply Well Report - 6/1/00 - Well ID # 38157 available)(note: address and legal description were changed by Jefferson County - formally 13455 SW Chipmunk Road, 13-12-15B TL 1900)

SITE VISIT REPORT

DATE: 4/1/08

TIME: 5:40 pm to 5:50 pm

WEATHER: Clear, Sunny

SITE ADDRESS: 13439 (13455) SW Chipmunk Road, Terrebonne (CRR), OR
97760

LEGAL DESCRIPTION: 13-12-15BD 00500 (13-12-15B 01900)

ASSESSORS ACCOUNT No.: 6269

PROPERTY OWNER: Miller, Richard J & Dorothy (Jefferson County Assessors
ownership document available) (Richard Miller (CRRWC
Board of Director Member)

PHOTO NUMBER: Miller #8, Miller #9, Miller #10, Miller #11, Miller #12 (photos
available)

OBSERVATION POINT: Chipmunk Road Right of Way fronting subject property
and adjacent property to the south.

WATER METER PRESENT: Yes

WATER METER MFG: Neptune

WATER METER SERIAL No.: 42003619

WATER METER READING: 31.18 cubic feet

REPORT:

Water meter vault is present in the ROW in front of property adjacent to and south of the subject property. Water meter is present in the meter vault. Meter vault is dirty and full of cobwebs and does not appear to have been accessed for some time. Water meter manufacture is "Neptune". Water meter serial is # 42003619. Water meter reading is 31.18 cubic feet. Water meter face was observed for approximately 4 minutes. During this time period no movement was noted on the dials of the water meter, indicating no water was flowing through the water meter.

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A "Water Supply Well Report", received by the Oregon Water Resources Department on June 1, 2000 indicates there is a 605 foot deep domestic water well on the subject property owned by Richard Miller. The well is adequate to supply all domestic needs of the subject property. (Water Supply Well Report - 6/1/00 - Well ID # 38157 available)(note: address and legal description were changed by Jefferson County - formally 13455 SW Chipmunk Road, 13-12-15B TL 1900)

DATA REQUEST
75 to 85

DATE: June 27, 2008

TO: Crooked River Ranch Water Company (CRRWC)
PO Box 2319
Terrebonne, Oregon 97760

FROM: Craig Soule-Intervenor
11953 SW Horny Hollow Trail
Terrebonne, Oregon 97760
cby_64@yahoo.com

DOCKET: UW 120

REQUEST AUTHORITY: OAR 860-014-0070 (1)

RESPONSE REQUIRED BY: July 14, 2008

Please provide responses and the requested documentation/information to the following requests for information. If the request is unclear, contact the requestor for clarification in a timely fashion to allow a response by the required response date noted above.

75. On July 5, 2006 Crooked River Ranch Water Company (CRRWC) filed Articles of Dissolution with the Oregon Secretary of State. The Articles of Dissolution indicate the following:

- *The dissolution of CRRWC was authorized June 29, 2006.*
 - *The dissolution was approved by a sufficient vote of the board.*
 - *Approval of members was not required and the dissolution was approved by a sufficient vote of the board or incorporators.*
- a. Please provide documentation that approval by the members of CRRWC was not required to dissolve CRRWC.
 - b. Please provide the minutes of the Board of Director discussing the dissolution of CRRWC.
 - c. Please provide the Board of Director resolution authorizing the dissolution of CRRWC.

- d. Please provide documentation that the provisions of Oregon Revised Statutes (ORS) Chapter 65, the CRRWC Articles of Incorporation and the CRRWC Bylaws regarding dissolution were complied with during the dissolution of CRRWC.
76. On July 5, 2006 Crooked River Ranch Water Cooperative filed Articles of Incorporation - Cooperative and Restated Articles Incorporation – Business/Professional/Nonprofit with the Oregon Secretary of State. Numerous filings in PUC docket UW 120 have indicated that CRRWC is a cooperative. Please provide documentation that Crooked River Ranch Water Cooperative has been in full compliance with the provisions of ORS Chapter 62 from the date of incorporation to the present.
77. In response to Intervenor Soule's data request number 5, CRRWC provided documentation on the purchase of a 2001, 6 X 12 Dump/44" trailer by CRRWC. The subject documentation and earlier documentation provided by CRRWC in PUC docket UW 120 indicates the following:
- The CRRWC 2007 Federal Book Depreciation Schedule dated December 31, 2007 provided to the PUC earlier in the proceeding; Machinery and Equipment entry 87 lists a Diamond B Trailer – the trailer was acquired by CRRWC on 3/3/01 for a cost basis of \$6595.00.
 - A portion of the CRRWC 2007 Federal Book Depreciation Schedule dated December 31, 2007 in the subject documentation provided by CRRWC entry 87 lists a Diamond B Trailer – the trailer was acquired by CRRWC on 3/3/01 for a cost basis of \$6595.00. See exhibit A - page
 - Invoice #3083 in the subject documentation provided by CRRWC indicates a 2001, 6 X 12 Dump/44" trailer was acquired by CRRWC on 3/3/01 from Diamond B Trailer Works for a cost of \$5595.00. See exhibit A - page
 - A copy of Western Bank check stub #7208 in the subject documentation provided by CRRWC, indicates a utility dump trailer was acquired on 3/3/01 from Diamond B Trailer Works for a cost of \$6595.00. See exhibit A - page

Please provide documentation substantiating the \$1000.00 dollar discrepancy between the Diamond B Trailer Works invoice #3083 stating that the subject trailer was purchased by CRRWC for \$5595.00 and the CRRWC 2007 Federal Book Depreciation Schedule dated December 31, 2007 and the copy of Western Bank check stub #7208 indicating that CRRWC acquired the subject trailer for \$6595.00.

78. In response to Intervenor Soule's data request number 3, CRRWC provided documentation on the purchase of a Husky HH200 Excavator Hammer by CRRWC. The subject documentation and earlier documentation provided by CRRWC in PUC docket UW 120 indicates the following:
- The CRRWC 2007 Federal Book Depreciation Schedule dated December 31, 2007 provided to the PUC earlier in the proceeding; Machinery and Equipment entry 108 lists an Excavator Attach - Hammer – the excavator hammer was acquired by CRRWC on 9/23/05 for a cost basis of \$23,400.00.

- An invoice in the subject documentation provided by CRRWC indicates that a Husky HH200 Excavator Hammer was purchased from Cascade Machinery Co. by CRRWC for a cost of \$23400.00. The invoice indicates that the hammer was paid in full with check #3470. See exhibit A - page
- A copy of the CRRWC/Washington Mutual Bank cancelled check #03470 in the subject documentation provided by CRRWC was presented as evidence that a Husky HH200 Excavator Hammer was purchased on 9/23/05 from Cascade Machinery Co. by CRRWC for a cost of \$23400.00. See exhibit A - page
- An informational letter to the membership of CRRWC included in the December 2005 water billing indicated CCRWC had acquired a hammer with an expenditure of \$25,000.00 in "Special Assessment" funds. See exhibit B - page

Please provide documentation substantiating the \$1600.00 dollar discrepancy between the information provided to the membership of CRRWC in December 2005 water billing and the other documentation noted above indicating the excavator hammer was acquired for \$23,400.00.

79. Please provide copies of CRRWC's responses to the PUC's DR 162, 163, 164, 165, 166, 167, 168(a) through (q), 170, 171, 172, 173, 174, 175, 176, 177, 178(a)(b)(c), 179, 180(a)(b), 181(a)(b)(c), 182, 183.
80. CRRWC filed a "Supplemental Response to Order No. 08-243" dated June 3, 2008 in PUC Docket UW 120. Included in the filing was information on expenditures from the "Special Assessment" fund for the accounting fees associated with the "Special Assessment" fund. The subject expenditure information indicated the following:

Date	Debits	Notes	Vendor
5/25/06	\$989.00	Accounting Fees	Harrigan
8/25/06	\$538.00	Accounting Fees	Harrigan
10/25/06	\$435.00	Accounting Fees	Harrigan
12/25/06	\$559.00	Accounting Fees	Harrigan
2/25/07	\$470.00	Accounting Fees	Harrigan
3/25/07	\$1,081.00	Accounting Fees	Harrigan
5/25/07	\$2021.00	Accounting Fees	Harrigan
6/25/07	\$1500.00	Accounting Fees	Harrigan
7/25/07	\$60.00	Accounting Fees	Harrigan

In addition, the "Supplemental Response to Order No. 08-243" dated June 3, 2008 in PUC Docket UW 120 stated the following:

Certified public accountant's were hired to handle the accounting of special assessment funds. The cost is directly related to the need for the assessment and thus was paid from assessment monies.

- a. Please provide the accounting of the "Special Assessment" fund provided by Harrigan represented by the above fees expended from the "Special Assessment" fund.
 - b. Please explain why accounting expenditures represented by the above documentation ended in July 2007 when the "Special Assessment" fund was still actively receiving and expending funds after July 2007?
81. CRRWC provided a "Response to Order No. 08-177" dated April 8, 2008 and a "Supplemental Response to Order No. 08-243" dated June 3, 2008 in PUC Docket UW 120. Both responses contained spreadsheet tables providing essentially the same information on expenditures from the "Special Assessment" fund. Please provide all documents including but not limited to purchase agreements, bill of sales, sale contracts, invoices, receipts, canceled checks, etc. from the named vendor detailing each of the individual line items in the spreadsheets in the subject responses.

82. CRRWC's "Supplemental Response to Order No. 08-243" dated June 3, 2008 in PUC Docket UW 120 stated the following:

CRRWC retained the services of legal counsel in order to secure rights to use property not owned by CRRWC.

Please provide documents specifically linking each individual line item expenditures noted as "easement rights" in the spreadsheet tables included in the subject "Response" to individual parcels of land not owned by CRRWC.

83. Several filing in PUC Docket UW 120 and UM 1381 used the term cooperative or state that CRRWC is a cooperative.

- a. Is CRRWC paying for the legal services provided on behalf of the cooperative?
- b. Is CRRWC expending company funds or otherwise using Company resources on behalf of the cooperative?
- c. If CRRWC is expending company funds or otherwise using Company resources on behalf of the cooperative, please provide the minutes and resolution of the CRRWC Board of Directors discussing and authorizing the expenditures of such funds or resources expended on behalf of the cooperative.

84. CRRWC is expending company funds for legal services from several attorneys/law firms.

- a. Please provide the minutes and resolution of the CRRWC Board of Directors authorizing all expenditures of CRRWC funds for legal services.
- b. Please provide documentation that all legal services have been in best interest of the CRRWC membership as a whole.

- c. Please provide documentation that all legal services provided on behalf of CRRWC have been authorized by the highest authority of CRRWC.
- d. Please explain what entity, individual or group of individuals was represented by the following:
- Balyeat & Eager
 - Paul J. Speck
 - Harrang/Long/Gary/Rudnick
 - Karnopp Petersen LLP
 - Glenn, Sites, Reeder & Gassner
- e. If CRRWC cannot provide documentation that all legal services have been authorized by the duly authorized highest authority of CRRWC, please provide the following given that the membership of CRRWC is the client for the legal services:
- Copies of all legal invoices for the time period of November 2007 through March 2008.
 - Explain the legal services during the above time period provided by:
 - Balyeat & Eager
 - Paul J. Speck
 - Harrang/Long/Gary/Rudnick
 - Karnopp Petersen LLP
 - Glenn, Sites, Reeder & Gassner

85. As a follow-up to the information provided in the 2007 Federal Book Depreciation Schedule attached to the rate filing/tariff application brief, dated April 17, 2007 submitted by CRRWC to the PUC.

- a. Please provide a complete list of all items comprising the following line items in the subject depreciation schedule:

Furniture and Fixture

Entry 102 (4) New Computers, Monitors

Improvements

Entry 111 New Construction 2006

Entry 112 New Construction 2007

Machinery and Equipment

Entry 40 Tools

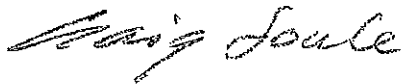
Entry 42	Shop Tools & Equip.
Entry 48	Tools
Entry 58	Equipment
Entry 59	Grainger
Entry 64	Equipment
Entry 84	Shop Tools

- b. Please provide copies of all information concerning the acquisition of the individual items comprising the above line items in the subject depreciation schedule (including but not limited to purchase agreements, bill of sale, sale contracts, ownership documents, loan/financing documents, etc.)

Please provide a copy of your responses to the following:

Craig Soule
11953 SW Horny Hollow Trail
Terrebonne, Oregon 97760
cby_64@yahoo.com (541) 504-7516

Sincerely,



Craig Soule - Intervenor

Encl: Exhibits A & B

cc: ALJ Patrick Power
Service List

CRRWC RESPONSE TO INTERVENOR DATA REQUEST 67-74

**TO: CRAIG SOULE, INTERVENOR, 11953 SW HORNY HOLLOW TRAIL,
TERREBONNE, OR 97760**

**FROM: Crooked River Ranch Water Company
PO Box 2319
Terrebonne, OR 97760**

DOCKET NO.: UW-120

DATE: May 13, 2008

- No. 67: Request 67 is argumentative and CRRWC objects to the inquiry on that basis.
- No. 68: CRRWC objects to DR 68 as not relevant to the establishment of rates.
- No. 69: CRRWC objects to DR 69 as not relevant to the establishment of rates. FYI, Richard Keen resigned his position on the Board of Directors in 2007.
- No. 70: CRRWC objects to DR 70 as not relevant to the establishment of rates.
- No. 71: CRRWC objects to DR 71 as not relevant to the establishment of rates.
- No. 72: CRRWC objects to DR 72 as not relevant to the establishment of rates.
- No. 73: CRRWC objects to DR 73 as not relevant to the establishment of rates.
- No. 74: CRRWC objects based on OAR 860-014-0070(2).

ISSUED: August 3, 2007

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UW 120

In the Matter of)
)
CROOKED RIVER RANCH WATER)
COMPANY) MEMORANDUM
)
Request for rate increase in total annual)
revenues from \$806,833 to \$868, 453, or)
8.13 percent.)

DISPOSITION: MOTION TO COMPEL GRANTED

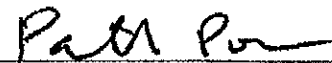
On July 19, 2007, Intervenor Craig Soule (Soule) filed a motion to compel a data request response from Crooked River Ranch Water Company (Crooked River). Crooked River did not file any response to Mr. Soule's motion.

Mr. Soule states that he served the data request on Crooked River on May 28, 2007. He has received no response. His efforts to confer with Crooked River regarding this matter have been unsuccessful.

In his motion, Mr. Soule states the content of his data request and explains its relevance. The query relates directly to the subject matter of this proceeding and is highly relevant.

IT IS ORDERED that: Within five days, Crooked River provide full and complete answers to Mr. Soule data request no. 1.

Dated at Salem, Oregon, this 3rd day of August, 2007.



Patrick Power
Administrative Law Judge

ISSUED: August 21, 2007

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UW 120

In the Matter of)	
)	
CROOKED RIVER RANCH WATER)	
COMPANY	)	RULING
)	
Request for rate increase in total annual)	
revenues from \$806,833 to \$868,453, or)	
8.13 percent.)	

**DISPOSITION: MOTION TO COMPEL GRANTED;
TIME SHORTENED FOR REPLIES**

On July 31, 2007, Intervenor Craig Soule (Soule) filed a motion to compel data request responses from Crooked River Ranch Water Company (Crooked River or the Company). Crooked River did not file any response to Mr. Soule's motion.

Mr. Soule states that he served the data requests on Crooked River on July 5 and July 12, 2007. He has received no response. His efforts to confer with Crooked River regarding this matter have been unsuccessful.

In his motion, Mr. Soule states the content of the data requests and explains their relevance. The queries relate directly to the subject matter of this proceeding and are highly relevant.

I note that I previously have granted a motion to compel filed by Mr. Soule and have issued him a subpoena duces tecum for the production of the documents required by the motion. I further note that Crooked River has not filed any reply or conferred with Mr. Soule regarding its responses to his data requests.

Apparently the Company believes that it may ignore the data requests and disregard the motions to compel. In light of the Company's actions, I shorten time for the Company to reply to any further motions to compel to five days.

The schedule calls for the submission of Staff and intervenor testimony on September 7, 2007, and the Company's rebuttal testimony on September 21, 2007. I do not intend to extend these dates.

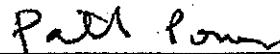
Staff and intervenors may submit their testimony and ask that the Commission impute whatever values they may consider reasonable or whatever presumptions they believe are fair, where the Company's data request responses have been deficient. The Company's rebuttal case will be limited to information that has been provided to parties through discovery.

The schedule allows for discovery on the Company's rebuttal testimony. In the event the Company does not respond fully to discovery by Staff and Intervenors, the Company's rebuttal testimony will be stricken.

IT IS ORDERED that:

1. Within five days, Crooked River shall provide full and complete answers to Mr. Soule's data request nos. 2 through 6 and 7 through 15.
2. The time for Crooked River to respond to motions to compel is shortened to five days.

Dated at Salem, Oregon, this 21st day of August, 2007.



Patrick Power
Administrative Law Judge

ISSUED: October 5, 2007

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UW 120

In the Matter of)	
)	
CROOKED RIVER RANCH WATER)	
COMPANY	)	RULING
)	
Request for rate increase in total annual)	
revenues from \$806,833 to \$868,453, or)	
8.13 percent.)	

DISPOSITION: MOTION TO COMPEL GRANTED

On August 21, 2007, Intervenor Craig Soule (Soule) filed a motion to compel data request responses from Crooked River Ranch Water Company (Crooked River or the Company). Crooked River did not file any response to Mr. Soule's motion.

Mr. Soule states that he served the data requests on Crooked River on July 23 and August 2, 2007. He has received no response. His efforts to confer with Crooked River regarding this matter have been unsuccessful.

In his motion, Mr. Soule states the content of the data requests and explains their relevance. The queries relate directly to the subject matter of this proceeding and are highly relevant.

Intervenor Craig Soule's motion to compel is granted. Crooked River Ranch Water Company shall provide full and complete answers to Mr. Soule's Data Request Nos. 16 & 17 and 18 to 26 within five days of service of this ruling.

Dated at Salem, Oregon, this 5th day of October, 2007.

Patrick Power
Administrative Law Judge

ISSUED: November 29, 2007

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UW 120

In the Matter of)	
)	
CROOKED RIVER RANCH WATER)	
COMPANY	)	RULING
)	
Request for rate increase in total annual)	
revenues from \$806,833 to \$868,453, or)	
8.13 percent.)	

DISPOSITION: MOTION TO COMPEL GRANTED

On November 19, 2007, intervenor Craig Soule (Soule) filed a motion to compel data request responses from Crooked River Ranch Water Company (Crooked River). Crooked River did not file any response to Mr. Soule's motion.

Mr. Soule states that he served the data requests on Crooked River on October 4, 2007. He has received no response. His efforts to confer with Crooked River regarding this matter have been unsuccessful.

In his motion, Mr. Soule states the content of the data requests and explains their relevance. The queries relate directly to the subject matter of this proceeding and are highly relevant.

IT IS ORDERED that, within five days of the date of this ruling, Crooked River provide full and complete answers to Mr. Soule's data request nos. 27 to 66.

Dated at Salem, Oregon, this 29th day of November, 2007.



Patrick Power
Administrative Law Judge

ISSUED: July 14, 2008

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

LW 120

In the Matter of)	
)	
CROOKED RIVER RANCH WATER COMPANY	)	RULING
)	
Request for rate increase in total annual revenues from \$806,833 to \$868,453, or 8.13 percent.)	

DISPOSITION: MOTION TO COMPEL GRANTED

On June 18, 2008, intervenor Craig Soule (Soule) filed a motion to compel data request responses from Crooked River Ranch Water Company (Crooked River or Company). On July 3, 2008, Crooked River filed a response to Mr. Soule's motion.

Mr. Soule states that he served the data requests on Crooked River on April 26, 2008. On May 13, 2008, he received a written response from Crooked River objecting to the data requests.

Mr. Soule states that he next undertook to informally address the production of the requested documents/information with the Company. He states that he did not receive "a meaningful response" from Crooked River, and files this motion to compel responses.

The subject data requests are numbered 67 to 74. In his motion, Mr. Soule addresses the relevance of each data request.

In Data Request No. 67, Mr. Soule asks for information regarding expenditures reported by the Company. He argues that the information is relevant to rate-setting.

Data Requests Nos. 68-73 propounds a series of inquiries that ask Crooked River to prove that its Board members are duly elected/appointed. Mr. Soule argues that such information is relevant to the Board's legitimacy and the financial condition of the Company.

Data Request No. 74 asks for copies of data request responses to certain enumerated Staff data requests of the Company. Soule cites OAR 860-014-0070 (2) in support of his motion.

In its response, the Company first states that Mr. Soule filed his motion knowing that counsel for the Company was otherwise occupied and could not make a timely response.¹ Crooked River argues that Mr. Soule's actions demonstrate a "lack of good faith."

Regarding Data Request No. 67, Crooked River argues that the request is argumentative.

Regarding Data Requests Nos. 68-73, Crooked River argues that the subject matter of the data requests is "not relevant to the establishment of rates." The Company argues that Soule's actions consistently are not in good faith. According to Crooked River, Soule's participation "has only served to unreasonably broaden the issues, burden the record and delay the proceedings." The Company requests an order prohibiting further discovery by Soule, threatening legal action against Soule if no such order is forthcoming.

Regarding Data Request No. 74, Crooked River cites the last sentence of OAR 860-014-0070(2): "A party may not file a blanket request to receive copies of responses to all data requests."

Mr. Soule's motion is granted.

Regarding Soule's apparent indifference to Crooked River's attorney's schedule, the Company had never before filed a response to one of his motions to compel. He had no expectation that the Company would respond in this instance.

Data Request No. 67 is not argumentative. It asks the Company to reconcile a statement to its members with a filing at the Commission. The response is relevant for rate-making purposes.

Data Requests Nos. 68 to 73 raise very serious issues regarding the legitimacy of the Company's Board of Directors that go to the very heart of these proceedings.

Soule has the burden of proving that the Board is not legally constituted. His questions are sharply focused and allow direct answers.

The Company's posture is troubling. If the Board is legally constituted, that can be proven decisively in the Company's responses.

¹ In an earlier ruling, Crooked River's time to respond to discovery motions was shortened to five days.

Regarding Data Request No. 74, Crooked River is mistaken in its characterization of Soule's request as a "blanket request." Mr. Soule did not ask for "all" or "every" or "each" data request propounded to the Company by the Commission Staff. He enumerated specific Staff data requests as the subject of his own request. His request is valid and is granted.

If Crooked River believes it would be burdensome to provide all the information to Soule, it may offer to make its responses available for his inspection at a location acceptable to both parties.

IT IS ORDERED that, within ten days of the date of this ruling, Crooked River Ranch Water Company provide full and complete answers to Mr. Soule's Data Request Nos. 67 to 74.

Dated at Salem, Oregon, 14th day of July, 2008.

PATRICK POWER
Administrative Law Judge

ISSUED: August 8, 2008

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UW 120

In the Matter of)	
)	
CROOKED RIVER RANCH WATER)	
COMPANY	)	RULING
)	
Request for rate increase in total annual)	
revenues from \$806,833 to \$868,453, or)	
8.13 percent.)	

DISPOSITION: MOTION TO COMPEL GRANTED

On July 29, 2008, Intervenor Craig Soule (Soule) filed a motion to compel data request responses from Crooked River Ranch Water Company (Crooked River or Company). On August 1, 2008, Crooked River filed a response to Mr. Soule's motion.

Mr. Soule's motion encompasses his data requests nos. 75 to 85. Mr. Soule states that he served the data requests on Crooked River on June 27, 2008. Having received no response, on July 21, 2008, Mr. Soule conferred (via email) with Crooked River's attorney. On July 23, 2008, he received an email from counsel for Crooked River indicating that some information would be forthcoming. However, no information has been provided to Mr. Soule.

In his motion, Mr. Soule addresses the relevance of each data request.

In Data Request No. 75, Mr. Soule asks for information regarding the dissolution of Crooked River as a non-profit mutual benefit corporation. He states that Crooked River's corporate status "is critical to identifying the entity" appearing before the Commission.

In Data Request No. 76, Mr. Soule asks for information regarding the formation and operation of the purported Crooked River Ranch Water Cooperative. He again states that Crooked River's corporate status "is critical to identifying the entity" appearing before the Commission.

In Data Requests Nos. 77 and 78, Mr. Soule seeks to elicit information regarding Crooked River's acquisition of equipment. He states that such information is relevant to rate setting.

In Data Request No. 79, Mr. Soule asks that he be provided copies of Crooked River's responses to certain enumerated Staff data requests. Mr. Soule cites OAR 860-014-0070 (2) in support of his motion.

In Data Requests Nos. 80, 81 and 82, Mr. Soule asks for information regarding accounting issues associated with Crooked River's special assessment surcharge account. Mr. Soule argues that such information is relevant to rate setting.

In Data Request No. 83, Mr. Soule asks for information regarding the use of Crooked River funds and resources on behalf of the "Crooked River Ranch Water Cooperative." Mr. Soule argues that such information is relevant to rate setting.

In Data Request No. 84, Mr. Soule asks for information regarding Crooked River's legal expenses. Mr. Soule argues that such information is relevant to rate setting.

In Data Request No. 85, Mr. Soule asks for information that expands upon information provided by Crooked River in a filing with this Commission. He argues that such information "is of major importance to the rate setting process."

Crooked River responds to Data Request No. 75 subparts separately. Regarding (a), the Company argues that the data request is argumentative and calls for a legal conclusion. Regarding (b), the Company claims the information is "not available." Regarding (c), Crooked River states that a copy of the requested information is attached to its response. Regarding (d), the Company argues that the data request calls for a legal conclusion and no documentation is available.

Regarding Data Request No. 76, Crooked River argues that the request is argumentative and calls for a legal conclusion. The Company states that Mr. Soule is well aware of the ongoing litigation regarding its corporate status.

Regarding Data Request Nos. 77 and 78, Crooked River states that it has no information available.

Regarding Data Request No. 79, Crooked River states that it will provide Mr. Soule the requested information in the same manner as has been ordered by the Jefferson County Circuit Court.

Regarding Data Requests Nos. 80, 81 and 82, Crooked River states: "no response available."

Regarding Data Request No. 84, Crooked River repeats its response to No. 76: the request is argumentative and calls for a legal conclusion. Mr. Soule is well aware of the ongoing litigation regarding its corporate status.

Regarding Data Request No. 84, Crooked River objects to the request as "both argumentative and privileged."

Regarding Data Request No. 85, Crooked River states: "no information available."

More generally, Crooked River states that "When the Jefferson County Circuit Court reviewed the legal relevancy of Data Request's (sic) submitted by [Mr. Soule] a substantial portion of those data requests were deemed irrelevant, argumentative or both." However, according to Crooked River, the Jefferson County Circuit Court did order the Company to provide some responses to Soule because "there was no harm in requiring (the Company) to produce certain information."

Now, according to Crooked River, "the harm in producing that information has become readily apparent." Crooked River argues that Mr. Soule's actions are in bad faith: "Soule has taken the information provided and used it to justify further inquiry which is irrelevant, argumentative and constitutes harassment of [Crooked River]." Crooked River states that Mr. Soule "continues to submit data requests the likes of which have already been denied by the Circuit Court, in an effort to harass" the Company. Crooked River requests an order prohibiting further data requests from Mr. Soule "and a ruling denying the Motion to Compel in it's (sic) entirety."

Mr. Soule's motion is granted.

Data Requests 75 and 76 raise serious issues regarding the corporate status of the Company enterprise. Mr. Soule may be aware of the ongoing litigation regarding the Company's corporate status, however, that knowledge does not disqualify him from propounding discovery; it informs his discovery.

Crooked River's responses to Data Requests Nos. 77 and 78 -- the Company "has no information available" -- are not adequate. Mr. Soule either may demand the Company to explain and defend its responses, or he may ask that the Commission draw certain inferences from the Company's failure to provide the information.

In regard to Data Request No. 79, Crooked River states that it will furnish the information to Mr. Soule in the same manner as has been ordered by the Jefferson County Circuit Court. Without knowing what is intended by that response, the Company is ordered to provide the information to Mr. Soule.

In its responses to Data Requests Nos. 80, 81 and 82, Crooked River states: "no response available." One cannot discern whether the Company means

anything different than its responses to Data Requests Nos. 77, 78 and 85: "no information available." The responses are not adequate. Mr. Soule either may demand the Company to explain and defend its responses, or he may ask that the Commission draw certain inferences from the Company's failure to provide the information.

Crooked River's objection to Data Request No. 84 is misinformed. Queries regarding the Company's legal expenses are highly relevant to rate setting and do not implicate any privilege.

In its response to Data Request No. 85, Crooked River repeats its response to Nos. 77 and 78: no information is available. Again, Mr. Soule either may demand the Company to explain and defend its responses, or he may ask that the Commission draw certain inferences from the Company's failure to provide the information.

Whether any of the data requests are of "the likes of which have already been denied by the Circuit Court" is irrelevant. The Circuit Court has no jurisdiction to decide the relevance of data requests in a proceeding before this Commission. Whether the Circuit Court has that authority in the case of a contempt proceeding is not an issue in this proceeding.

IT IS ORDERED that, within ten days of the date of this ruling, Crooked River Ranch Water Company provide full and complete answers to Intervenor Craig Soule's Data Request Nos. 75 to 85.

Dated at Salem, Oregon, 8th day of August, 2008.

Patrick Power
Administrative Law Judge

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UW 120

TRUE COPY OF ORIGINAL

Walter Allen Soule

In the Matter of)
)
CROOKED RIVER RANCH WATER)
COMPANY)
)
Request for rate increase in total annual)
revenues from \$806,833 to \$868,453, or)
8.13 percent.)

SUBPOENA DUCES TECUM

To: James R. Rooks, General Manager
Crooked River Ranch Water Company (CRRWC)
13845 Commercial Loop
PO Box 2319
Terrebonne, OR 97760

IN THE NAME OF THE STATE OF OREGON:

GRAND JURY / CONFERENCE ROOM

You are hereby commanded to appear on OCTOBER 10, 2007 at 11:00 AM at
75 SE "C" STREET, SUITE B, ✓ (address), in the City of MADRAS,
County of JEFFERSON, State of Oregon, and to bring with you and produce at
the time and place aforesaid the following:

- Copies of the "Letters of Interest/Pre-Applications" submitted by CRRWC to the Oregon Safe Drinking Water Revolving Loan Fund for the funding years 2004, 2005 and 2006.
- Copies of all correspondence to and from CRRWC concerning the "Letters of Interest/Pre-Applications" submitted by CRRWC to the Oregon Safe Drinking Water Revolving Loan Fund for the funding years 2004, 2005 and 2006. (ie: invitations to submit a loan application, loan application, ranking status notification, etc.)

Should you fail to comply with this subpoena, the judge of the Circuit Court of any county, on the application of the agency or of the party requesting the issuance of this subpoena, may compel your obedience by proceedings for contempt, or the court may issue a warrant for your arrest.

Given under my hand officially this 17th day of August, 2007.

PUBLIC UTILITY COMMISSION OF OREGON

By *Patrick Power*
Patrick Power
Administrative Law Judge

James R. Rooks

BEFORE THE PUBLIC UTILITY COMMISSION

INTERENOR/2
SOULE/79

OF OREGON

UW 120

In the Matter of)
)
CROOKED RIVER RANCH WATER)
COMPANY)
)
Request for rate increase in total annual)
revenues from \$806,833 to \$868,453, or)
8.13 percent.)

SUBPOENA DUCES TECUM

To: James R. Rooks, General Manager
Crooked River Ranch Water Company (CRRWC)
13845 Commercial Loop
PO Box 2319
Terrebonne, OR 97760

IN THE NAME OF THE STATE OF OREGON:

GRAND JURY/CONFERENCE ROOM

You are hereby commanded to appear on OCTOBER 10, 2007, at 11:00 AM at 75 SE "C" STREET, SUITE B (address), in the City of MADRAS, County of JEFFERSON, State of Oregon, and to bring with you and produce at the time and place aforesaid the documents described in the attachment (documents relating to Soule Data Requests 2-6 and 7-15).

Should you fail to comply with this subpoena, the judge of the Circuit Court of any county, on the application of the agency or of the party requesting the issuance of this subpoena, may compel your obedience by proceedings for contempt, or the court may issue a warrant for your arrest.

Given under my hand officially this 29th day of August, 2007.

PUBLIC UTILITY COMMISSION OF OREGON

By *Patrick Power*

Patrick Power
Administrative Law Judge

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

TRUE COPY OF ORIGINAL

UW 120

[Handwritten signature]

In the Matter of)
)
CROOKED RIVER RANCH WATER)
COMPANY)
)
Request for rate increase in total annual)
revenues from \$806,833 to \$868,453, or)
8.13 percent.)

SUBPOENA DUCES TECUM

To: James R. Rooks, General Manager
Crooked River Ranch Water Company (CRRWC)
13845 Commercial Loop
PO Box 2319
Terrebonne, OR 97760

IN THE NAME OF THE STATE OF OREGON:

You are hereby commanded to appear on October 16, 2007, at 11:00 AM at
13845 Commercial Loop (address), in the City of Medford,
County of Joseph, State of Oregon, and to bring with you and produce at
the time and place aforesaid the documents described in the attachment (documents
relating to Soule Data Requests 16 and 17 and 18-26).

Should you fail to comply with this subpoena, the judge of the Circuit
Court of any county, on the application of the agency or of the party requesting the
issuance of this subpoena, may compel your obedience by proceedings for contempt, or
the court may issue a warrant for your arrest.

Given under my hand officially this 16th day of October, 2007.

PUBLIC UTILITY COMMISSION OF OREGON

By Patrick Power
Patrick Power
Administrative Law Judge

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UW 120

TRUE COPY OF ORIGINAL

Patricia Power

In the Matter of)
)
CROOKED RIVER RANCH WATER)
COMPANY)
)
Request for rate increase in total annual)
revenues from \$806,833 to \$868,453, or)
8.13 percent.)

SUBPOENA DUCES TECUM

To: James R. Rooks, General Manager
Crooked River Ranch Water Company (CRRWC)
13845 Commercial Loop
PO Box 2319
Terrebonne, OR 97760

IN THE NAME OF THE STATE OF OREGON:

You are hereby commanded to appear on GRAND JURY / CONFERENCE ROOM
JANUARY 7, 2008, at 1:00 PM @
75 SE "C" STREET, SUITE B, (address), in the City of MADRAS,
County of JEFFERSON, State of Oregon, and to bring with you and produce at
the time and place aforesaid the documents described in the attachment (documents
relating to Soule Data Requests 27 through 66).

Should you fail to comply with this subpoena, the judge of the Circuit
Court of any county, on the application of the agency or of the party requesting the
issuance of this subpoena, may compel your obedience by proceedings for contempt, or
the court may issue a warrant for your arrest.

Given under my hand officially this 7th day of December, 2007.

PUBLIC UTILITY COMMISSION OF OREGON

By Patrick Power
Patrick Power
Administrative Law Judge

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF JEFFERSON

CRAIG SOULE, through the PUBLIC UTILITY COMMISSION OF OREGON)	CASE NO.: CV 08 0028
)	
Petitioner)	
	)	ORDER FOR PRODUCTION OF
vs	)	DOCUMENTS
)	
JAMES R. ROOKS, individually, and CROOKED RIVER RANCH WATER COMPANY)	
)	
Respondent)	

THIS MATTER came before the Court on March 20, 2008, for a Show Cause hearing to determine whether Respondent should be held in contempt of court for failing to honor Three Subpoena Duces Tecum issued by Patrick Power, Administrative Law Judge. A copy of these Subpoenas Duces Tecum are attached to this Order as Exhibit 1 and is incorporated herein by reference.

The Court having considered this matter and being fully advised in the premises,

The Court found that the Subpoenas Duces Tecum covered Data Requests 1 through 26, by Petitioner. The Court addressed each Data Request and its sub-parts individually and made the following rulings on those data requests:

CRRWC is hereby ordered to provide information pursuant to the following Data Requests of Petitioner, Craig Soule : 1(a); 2(a); 2(b);2(e); 3(a), (b), (c), (d); 4(a),(b) ,(c), (d), (e); 5(a), (b); 6(a), (b), (c), (d); 9(c); 10(a), (b), (c); 11(a); (b); 19; 20; 22; and 23.

1 The court found the following Data Requests contained information available as a matter of
2 public record and directed Petitioner to acquire the requested information through public records
3 requests: 14(a); (b); (c); (d); (e); (f); (g).

4 The court found the following Data Requests contained information not relevant and ordered
5 that the respondent was not required to produce any information or response: 1(b); 2(c); (d); 3(f);
6 4(f); (g); 5(c); 5(d); 6(e); 9(a); (b); 10(d); (e); 11(c); 13(b); (c); (d); (e); 16(a); (b); 17(a); (b); (c);
7 (d); (e); (f); (g); (h); (i); 18(a); (b); (c); (d); (e); (f); 24; 25(a); (b); 26.

8 Petitioner agreed to withdraw the following Data Requests: 3(e); 7(a); 8(a); 9(d); 12(a); (b);
9 (c); (d); (e); (f); (g); (h); (i); 13(a); 21.


10 With respect to the information ordered to be provided, the Respondent shall produce all
11 responsive documents not later than April 21, 2008.

12 The Court shall deny the Petitioner's contempt motion if the Respondent produces all
13 responsive documents as required by this Order not than April 21, 2008.

14 The Respondent shall be held in contempt of court if they fail to produce all responsive
15 documents as required by this Order by April 21, 2008. If this occurs, Respondent shall be fined
16 \$50,000 plus an additional fine of \$1,000 per day for each day after April 21, 2008, during which
17 Respondents fail to produce all responsive documents.

18 Petitioner shall not release any documents or information subject to the Protective Order in
19 Jefferson County case CV07-0150. A copy of the Protective Order in Jefferson County case No.
20 CV07-0150 is attached to this order as Exhibit 2 and is incorporated herein by reference.

21 DATED this 6th day of May 2008.

22
23 
24 HONORABLE GREG HENDRIX
25 Circuit Court Judge Pro-tempore
26

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4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF JEFFERSON

6 CRAIG SOULE, through the PUBLIC
7 UTILITY COMMISSION OF OREGON

8 Petitioner

9 vs

10 JAMES R. ROOKS, individually, and
11 CROOKED RIVER RANCH WATER
COMPANY

12 Respondent

) CASE NO.: CV 08 0028

) SECOND ORDER FOR PRODUCTION
) OF DOCUMENTS

13 THIS MATTER initially came before the Court on March 20, 2008 for a Show Cause
14 Hearing to determine whether the respondent should be held in contempt of court for failing to honor
15 Three Subpoena Duces Tecum regarding Petitioner's Data Requests 1-26 issued by Patrick Power,
16 Administrative Law Judge.

17 On March 26, 2008 under the direction of the Court, the Petitioner and Respondent met by
18 telephone conference regarding production of material in response to Petitioner's Data Requests 27-
19 66. A copy of Data Requests 27-66 is attached as "Exhibit 1" and hereinafter incorporated by
20 reference. Petitioner and Respondent agreed to the following:

21 27(a); 27(b); 27(f), 27(g), 27(h), 27(i); 35(a); 39; 47; 49(c); 49(d); 50; 52; 53; 56(a); 60; and
22 63 were addressed at the evidentiary hearing on October 25th and 26th of 2007, and no information
23 is required to be produced by Respondent.

24 27(j); 43 - Lists the information provided to the Public Utility Commission through PUC

1 Data Requests, copies of information provided to the PUC by CRRWC will be furnished to
2 Petitioner by Respondent.

3 28; 37; 38; 56(b); 62 - Relates to information already answered earlier in the proceeding.

4 Respondent is not obligated to provide any response.

5 27(c); 27(d), 27(e); 31; 33; 34; 35(b); 42; 44; 51; 57; 61; 65; 66- Respondent will provide
6 a response to Petitioner.

7 36; 41; 46; 48; 49(b) - Have been answered to the satisfaction of the Petitioner and no
8 response is required to be provided by Respondent.

9 45; 49(a) - Requested information will be acquired by Petitioner through Public Records
10 Requests, no production is necessary by Respondent.

11 The production of the remaining disputed Data Requests of the Petitioner came before the
12 Court on May 6, 2008 by telephone hearing. The Court having considered this matter and being
13 fully advised in the premises made the following rulings:

14 29(a). No documentation is available and Respondent is not responsible for quoting relevant law
15 to Petitioner.

16 29(b). No documents are available.

17 29(c). No documents are available.

18 30(a). No response required.

19 30(b). No documentation exists.

20 32(a)-(d). The Petitioner's inquiry relates to a separate administrative procedure and therefore is
21 not relevant. The Respondent is not required to provide any documentation to the Petitioner.

22 40. Petitioner's inquiry is not relevant and Respondent is not required to provide any
23 documentation.

24 54. No documents exist. Nothing is required to be produced.

1 55. Respondent will provide any and all available documentation.

2 56(c). No contract exists.

3 58(a)-(b). The Petitioner's inquiry is not relevant and Respondent is not required to provide any
4 documentation.

5 59. Respondent will provide well logs for both wells to the Petitioner.

6 By June 5, 2008 the Respondent shall make available to the Petitioner all of the
7 information/documentation provided to the PUC in their Data Requests 1-139 for viewing and
8 reproduction. Photo copying of all documents shall be a cost to ten cents (\$.10) per page to
9 Petitioner due upon receipt. The viewing and reproduction of the information/documents shall take
10 place at the Law Offices of Glenn, Sites, Reeder & Gassner, LLP in Madras, Oregon. Respondent
11 will allow Petitioner to electronically scan documents and will furnish Petitioner with access to an
12 electrical outlet and suitable work space. Petitioner shall provide all necessary equipment for
13 scanning of documents.

14 Respondent shall furnish the required information pursuant to this order not later than June
15 5, 2008.

16 Dated this _____ day of July, 2008.

17
18 _____
19 HONORABLE GREG HENDRIX
20 Circuit Court Judge Pro-tempore
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IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF
JEFFERSON

CRAIG SOULE, through the PUBLIC
UTILITY COMMISSION OF OREGON,
Petitioner,

Case No. CV08-0028

v.

MOTION FOR RECONSIDERATION

JAMES ROOKS, individually, and
CROOKED RIVER RANCH WATER
COMPANY, Respondents.

MOTION

Craig Soule (Petitioner) moves for a reconsideration of the Courts rulings, contained in the written "Order for Production of Documents", dated May 6, 2008 ("Written Order") and subsequent verbal rulings¹. The Court ruled that numerous data requests of the Petitioner contained information not relevant to the proceeding before the PUC or available as a matter of public record. Ruling that the Respondent was not required to produce any information or response to the subject data requests.

¹ The Court made verbal rulings during the phone hearings conducted May 6, 2008 and July 8, 2008. The Court directed the Respondent's attorney to write an order containing the verbal rulings. On July 15, 2008 the final version of the written order, reflecting the verbal rulings, was provided to the Court for the Judge's signature. As of the date of this "Motion" the Petitioner has not received a copy of the signed order.

1 Also, additional compelling information is available regarding the Court's verbal rulings
2 on two of the Petitioner's data requests.

3
4 For the reasons set forth below, the Petitioner respectfully requests that the Court
5 reconsider the earlier rulings and order the Respondent to provide full and complete
6 answers/documentation to the subject data requests of the Petitioner.

7
8 **DISCUSSION**

9
10 On March 20, 2008 the matter of production of documents/information by James Rooks
11 and the Crooked River Ranch Water Company (Respondent) in a proceeding before the
12 Oregon Public Utility Commission (PUC) came before the Court for a "Show Cause
13 Hearing for Failure to Obey Subpoenas Duces Tecum".

14
15 The "Written Order" contained a ruling that the following data requests in the proceeding
16 before the PUC contained information that was not relevant and that the Respondent
17 was not required to produce any information or response to the Petitioner:

18
19 1(b), 2(c), 2(d), 3(f), 4(f), 4(g), 5(c), 5(d), 6(e), 9(a), 9(b), 10(d), 10(e), 11(c),
20 13(b), 13(c), 13(d), 13(e), 16(a), 16(b), 17(a), 17(b), 17(c), 17(d), 17(e), 17(f), 17
21 (g), 17(h), 17 (i), 18(a), 18(b), 18(c), 18(d), 18(e), 18(f), 24, 25(a), 25(b), 26.

22
23 The verbal rulings found that the following data requests (inquiries) in a proceeding
24 before the PUC were not relevant and that the Respondent was not required to produce
25 any documentation to the Petitioner:

26 ///

1 32(a), 32(b), 32(c), 32(d), 40, 58(a), 58(b).
2

3 The "Written Order" contained a ruling finding that the following data requests contained
4 information available as a matter of public record, directing the Petitioner to acquire the
5 requested information through public records requests:
6

7 14(a), 14(b), 14(c), 14(d), 14(e), 14(f), 14(g).
8

9 Compelling information is available concerning the verbal rulings by the Court on the
10 following data requests of the Petitioner:
11

12 54 and 56(c)
13

14 **ORS 756.543(2)**
15

16 The Court's rulings determining the relevancy of the Petitioner's data requests
17 (inquiries) in a proceeding before the PUC is not supported by statute. Further, the
18 Court's rulings directing the Petitioner to acquire the requested information in a
19 proceeding before the PUC through public record requests is not supported by statute.

20 ORS 756.543(2) states the following:
21

22 *"If any person fails to comply with any subpoena so issued or any party or witness*
23 *refuses to testify on any matters on which the person may be lawfully interrogated,*
24 *the judge of the circuit court of any county, on the application of the commission, or*
25 *of the party requesting the issuance of the subpoena, shall compel obedience by*
26 *proceedings for contempt as in the case of disobedience of the requirements of a*

1 *subpoena issued from such court or a refusal to testify therein.”*

2
3 The Court exceeded the authority granted by ORS 756.543(2) by ruling on the
4 relevancy of the Petitioner’s data requests in the proceeding before the PUC and
5 directing the Petitioner to acquire the information/documents requested in the
6 proceeding before the PUC through public records.

7
8 **Participation & Failure to Plead**

9
10 The Respondent had the following opportunities during the proceeding before the PUC
11 to provide input or to respond to the Petitioner’s data requests:

12
13 OAR 860-014-0070(1): Provides a party, the data request was directed to, the
14 opportunity to respond with a written objection in lieu of answer to a data request.

15
16 OAR 860-014-0070(3): Provides the parties the opportunity to informally address
17 the disputed data requests prior to seeking a “Motion to Compel”.

18
19 OAR 860-014-0070(3) & 860-013-0025: Provides a party the opportunity to
20 provide a response to a motion to compel an answer to a data request.

21
22 OAR 860-014-0091(1)(a): Provides a party the opportunity to appeal the ruling of
23 an Administrative Law Judge (ALJ) to the Commission of the PUC.

24
25 Oregon Rule of Civil Procedure – Subpoena – Rule 55 B: Provides a party, the
26 data request was directed to, the opportunity to provide a written objection to

1 inspection or copying of any or all of the data requests.

2
3 OAR 860-013-0055(1) in part states the following:

4
5 *"If a party fails to plead or otherwise appear within the time specified in OAR 860-*
6 *013-0050, the party shall be in default. All material allegations of the complaint*
7 *shall be deemed admitted and hearing waived. ****"*

8
9 CRRWC failed to provide input, respond or otherwise plead regarding the Petitioner's
10 data requests and was therefore in default. CRRWC accepted the subject data requests
11 as written/submitted and should be required to provide full and complete answers to all
12 of the Petitioner's data requests.

13
14 **Jurisdiction**

15
16 Administrative Law Judge (ALJ) Patrick Power, by ruling, found the Petitioner's data
17 requests related directly to the subject matter of this proceeding and were highly
18 relevant. CRRWC was ordered to provide full and complete answers. (See Exhibit B, Page
19 5; Exhibit C, Pages 16 & 17; Exhibit E, Page 17 to "Petition for Contempt" and Exhibit A, Page 1 attached
20 hereto)

21
22 A ruling by the ALJ may not be overruled or otherwise modified, except by the
23 Commissioners of the PUC following the provisions stated in OAR 860-014-0091.

24
25 A ruling in the subject proceeding before the PUC, dated June 25, 2008 by ALJ Patrick
26 Power (See Exhibit A, Page 2 & 3 attached hereto) in part stated the following:

1 *"This Commission has exclusive jurisdiction over its ratemaking function, and a*
2 *circuit court has no authority to decide what information is relevant for purposes*
3 *of the Commission's business."* (See Exhibit A, Page 3 attached hereto)

4
5 The Court does not have the authority to overrule or otherwise modify the rulings of the
6 ALJ in this matter.

7
8 **Familiarity with Proceeding Before the PUC**

9
10 The Court does not have a working familiarity with the proceeding that is the grounds for
11 this case, nor did the court inquire into specific matters to apprise themselves of the
12 specifics of this proceeding before the PUC. The Court's rulings regarding the data
13 requests of the Petitioner where made without being fully aware of their relationship to
14 the proceeding before the PUC.

15
16 **Conflict with Recent Rulings/Orders**

17
18 The recent case of the State of Oregon, by and through the Public Utility Commission of
19 Oregon vs. James R. Rooks, individually, and the Crooked River Ranch Water
20 Company – Jefferson County Circuit Court Case Number CV-07-0150 was in all
21 material issues identical to the subject case now before the Court. The Court did not
22 address the relevancy of the PUC's data requests in the proceeding before the PUC nor
23 did the Court direct the PUC to obtain information/documents responsive to the PUC's
24 data requests in the subject proceeding before the PUC through public records.

25 ///

26 ///

1 The Court's rulings in this case are not consistent with earlier rulings and orders made
2 in a similar recent case before the Court. The Petitioner, as a legal party to the
3 proceeding before the PUC, is being treated differently by the Court.

4
5 **Data Request 54**

6
7 The Petitioner's data request number 54, dated October 4, 2007, states the following:

8
9 *"CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony 20/17 & 23/7*
10 *discusses the contract that Mr. Rooks has with the company to perform the repair*
11 *and maintenance of equipment. Please provide a copy of the subject contract."*

12
13 The verbal ruling on data request number 54 stated the following:

14
15 *"No documents exist. Nothing is required to be produced."*

16
17 PUC Order No. 08-347 issued on June 30, 2008 in PUC docket UI 281 (see Exhibit A,
18 Page 4 through 11 attached hereto) in part stated the following:

19
20 *A description of the filing and its procedural history is contained in the Staff*
21 *Report, attached as Appendix A, and incorporated by reference. (see Exhibit A,*
22 *Page 4 attached hereto)*

23
24 Appendix A – Staff Report in part stated the following:

25
26 *At the time of the Commission Order (Note: UW 120 Order No. 07-527, 11/29/07) Mr.*

1 *Rooks also maintained an equipment maintenance contract with CRRWC. (see*
2 *Exhibit A, Page 8 attached hereto)*

3
4 CRRWC's "Post-Hearing Brief", dated June 25, 2008 filed in PUC docket UCR 100 (see
5 Exhibit A, Page 12 through 23 attached hereto) in part stated the following:

6
7 *Furthermore, the costs of supplies was not included in the repair and*
8 *maintenance contract between CRRWC and J.R. Rooks. (see Exhibit A, Page 19 &*
9 *20 attached hereto)(Note: UCR 100 concerns cost involved with a waterline extension done in*
10 *2005)*

11
12 PUC Order No. 08-177 issued on March 24, 2008 in docket UW 120 (see Exhibit A, Page
13 24 through 34 attached hereto) in part stated the following:

14
15 *If it's the Company's point that any contract has not been reduced to writing, it is*
16 *the Company's obligation to offer a narrative statement that explains and defends*
17 *all contract terms. (see Exhibit A, Page 28 attached hereto)*

18
19 The documents referenced above strongly indicate a repair and maintenance contract
20 existed on October 10, 2007; the date data request number 54 was made.

21
22 **Data Request 56(c)**

23
24 The Petitioner's data request number 56(c), dated October 4, 2007, states the following:

25
26 *"CRRWC' s rebuttal testimony Number 6 to Dougherty's Testimony 21/12*

1 states, "Michael Dougherty does not know the qualification of James Rooks, nor
2 does he know the amount of work performed, the quality of work or the skills he
3 possesses." CRRWC's rebuttal testimony Number 6 to Dougherty's Testimony
4 48/3 - states, "The Board of Directors of the CRRWC established his (James
5 Rooks) duties when they developed his employment contract". Please provide a
6 copy of the subject contract and list of duties."
7

8 The verbal ruling on data request number 56(c) stated the following:
9

10 "No contract exists."
11

12 A "Resolution of CRRWC's Board of Directors", dated March 31, 2008 (see Exhibit A, Page
13 35 & 36 attached hereto) in part states the following:
14

15 "When Mr. Rooks was originally hired by CRRWC, a contract was developed
16 between Mr. Rooks and the Board of Directors. The PUC, in developing a budget
17 for this company, severally reduced the rates which, in effect, canceled the
18 employment contract of Mr. Rooks, at least as far as salary is concerned." (see
19 Exhibit A, Page 35 attached hereto)
20

21 " *** the employment contract, as far as the monetary amount, was voided by the
22 passage of the PUC budget and rates. It was not voided by the Board of
23 Directors or Mr. Rooks. Mr. Rooks has continued his employment as
24 General/Operations Manager since November 29, 2007 (the date the PUC order
25 was signed reducing rates and revenues)." (see Exhibit A, Page 35 attached hereto)
26

///

ISSUED: November 29, 2007

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UW 120

In the Matter of)	
)	
CROOKED RIVER RANCH WATER)	
COMPANY	)	RULING
)	
Request for rate increase in total annual)	
revenues from \$806,833 to \$868,453, or)	
8.13 percent.)	

DISPOSITION: MOTION TO COMPEL GRANTED

On November 19, 2007, intervenor Craig Soule (Soule) filed a motion to compel data request responses from Crooked River Ranch Water Company (Crooked River). Crooked River did not file any response to Mr. Soule's motion.

Mr. Soule states that he served the data requests on Crooked River on October 4, 2007. He has received no response. His efforts to confer with Crooked River regarding this matter have been unsuccessful.

In his motion, Mr. Soule states the content of the data requests and explains their relevance. The queries relate directly to the subject matter of this proceeding and are highly relevant.

IT IS ORDERED that, within five days of the date of this ruling, Crooked River provide full and complete answers to Mr. Soule's data request nos. 27 to 66.

Dated at Salem, Oregon, this 29th day of November, 2007.

Patrick Power
Administrative Law Judge

ISSUED: June 25, 2008

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UW 120

In the Matter of)	
)	
CROOKED RIVER RANCH WATER	)	RULING
COMPANY)	
)	
Request for rate increase in total annual)	
revenues from \$806,833 to \$868,453 or)	
8.13 percent.)	

DISPOSITION: STAFF MOTION TO COMPEL GRANTED

On June 6, 2008, the Public Utility Commission of Oregon Staff (Staff) filed a motion to compel data responses from Crooked River Ranch Water Company (Crooked River or the Company). Crooked River filed a response to Staff's motion on June 16, 2008.

Staff states that it served its Data Requests Nos. 166 through 175 on May 6, 2008. According to Staff, Crooked River did not provide full and complete answers to Data Requests Nos. 166, 167, 170, 171, 173, 174, and 175.

In its motion Staff explains the relevance of each request. In its reply Crooked River offers some information or disputes the relevance of each of Staff's requests.

In its Data Requests Nos. 166 and 167 Staff requested information regarding legal services provided to the Company "performed by five legal firms during the November 2007 through March 2008 timeframe." In its reply Crooked River provides some information regarding matters of "public record," but objects to providing any further information, citing the attorney-client privilege.

The purpose of the attorney-client privilege is to encourage full disclosure to attorneys so they are able to render effective legal assistance. There has been no showing that disclosure of the information requested by Staff would intrude on the Company's communications with its attorneys. The attorney-client privilege does not apply here. The information requested is relevant and shall be disclosed.

In its Data Requests Nos. 170, 171, 173, 174, and 175 Staff requested information concerning the Company's Board of Directors, Board minutes and resolutions, and Board elections. In support of its motion Staff cites ORS 756.070.¹

In its reply Crooked River argues that the information "is outside the scope of the PUC's authority," citing a ruling by the Jefferson County Circuit Court in a contempt proceeding regarding the Company's failure to respond to data requests propounded by intervenor Soule in this matter. The Company further argues that information regarding actual employee compensation is not relevant for setting rates.

This Commission has exclusive jurisdiction over its ratemaking function, and a circuit court has no authority to decide what information is relevant for purposes of the Commission's business. The circuit court's reported ruling is of no moment in this proceeding.


Discovery is an integral part of the Commission's ratemaking process. Where a party believes that discovery responses have been inadequate, it may file a motion for an order to compel the production of that information. The opposing party may file in opposition to the motion to compel.

If the motion to compel is granted, and if the information is not provided, the moving party may choose how to proceed further. The party may request a subpoena, and if the information is not provided, may proceed to Circuit Court with a motion and order to show cause for failure to produce the information. Alternatively, the party simply may deem the evidence "willfully" suppressed and invoke Evidence Code Section 311(c): Evidence willfully suppressed would be adverse to the party suppressing it. (ORS 40.135(1)(c)). The Commission's rules do not require that a party initiate contempt proceedings as a condition precedent to invoking the Evidence Code.

The information requested by Staff is plainly relevant to the management of the Company. Utilities provide essential public services and the Commission has both the authority and the responsibility to take such measures as are necessary and convenient in the exercise of its power and jurisdiction.

IT IS ORDERED that: Within five days, Crooked River Ranch Water Company shall provide full and complete answers to Staff's Data Requests Nos. 166, 167, 170, 171, 173, 174, and 175.

Dated at Salem, Oregon, this 25th day of June, 2008.



PATRICK POWER
Administrative Law Judge

¹ ORS 756.070 provides: The Public Utility Commission may inquire into the management of the business of all public utilities and telecommunications utilities and shall keep informed as to the manner and method in which they are conducted and has the right to obtain from any public utility or telecommunications utility all necessary information to enable the commission to perform duties.

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UI 281

In the Matter of)	
)	
CROOKED RIVER RANCH WATER	)	ORDER
COMPANY)	
)	
Affiliated Interest Application with James)	
Rooks.)	

DISPOSITION: APPLICATION APPROVED WITH CONDITIONS

On May 20, 2008, Crooked River Ranch Water Company (the Company) filed an application with the Public Utility Commission of Oregon (Commission) pursuant to ORS 757.015, ORS 757.495, and OAR 860-036-0730, requesting approval of an affiliated interest contract with James Rooks (Rooks). A description of the filing and its procedural history is contained in the Staff Report, attached as Appendix A, and incorporated by reference.

Based on a review of the application and the Commission's records, the Commission finds that the application satisfies applicable statutes and administrative rules. At its Public Meeting on June 25, 2008, the Commission adopted Staff's recommendation.

OPINION

Jurisdiction

ORS 757.005 defines a "public utility," and the Company is a public utility subject to the Commission's jurisdiction.

Affiliation

An affiliated interest relationship exists, as defined under ORS 757.015.

Applicable Law

ORS 757.495 requires public utilities to seek approval of contracts with affiliated interests within 90 days after execution of the contract.

ORS 757.495(3) requires the Commission to approve the contract if the Commission finds that the contract is fair and reasonable and not contrary to the public interest. However, the Commission need not determine the reasonableness of all the financial aspects of the contract for ratemaking purposes. The Commission may reserve that issue for a subsequent proceeding.

Discussion

Parties at the Commission public meeting discussed the meaning of "condition 4" of the Staff report regarding the amount of Rooks' compensation to be allowed in rates. The Commission advised the parties that approval of Staff's condition does not limit the Company's right to seek recovery of all of its compensation payable to Rooks in any subsequent general rate case, or prejudge the Commission's decision if the issue is raised.

CONCLUSIONS

1. The Company is a public utility subject to the jurisdiction of the Commission.
2. An affiliated interest relationship exists.
3. The agreement is fair, reasonable, and not contrary to the public interest.
4. Staff's "condition 4" does not limit the Company's right to seek recovery of all of its compensation payable to Rooks in a subsequent general rate case.
5. The application should be granted, as modified herein, including certain conditions and reporting requirements.

ORDER

IT IS ORDERED that the application of Crooked River Ranch Water Company to enter into an affiliated interest contract with James Rooks is approved, subject to the conditions further stated in Appendix A.

Made, entered, and effective JUN 30 2008

BY THE COMMISSION:



Becky L. Beier
Becky L. Beier
Commission Secretary

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

ITEM NO. CA12

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: June 25, 2008**

REGULAR _____ CONSENT X EFFECTIVE DATE _____ NA _____

DATE: June 9, 2008

TO: Public Utility Commission

FROM: Michael Dougherty *MD*

THROUGH: *LS* Lee Sparling and *MH* Marc Hellman

SUBJECT: CROOKED RIVER RANCH WATER COMPANY: (Docket No. UI 281) Affiliated interest application with James Rooks.

STAFF RECOMMENDATION:

The Commission should approve the application of Crooked River Ranch Water Company (CRRWC or the Company) for an affiliated interest agreement with James Rooks subject to the following conditions:

1. CRRWC shall provide the Commission access to all books of account, as well as all documents, data, and records that pertain to any transactions with affiliates.
2. The Commission reserves the right to re-review, for reasonableness, all financial aspects of this arrangement in any rate proceeding or earnings review under an alternative form of regulation.
3. CRRWC shall notify the Commission in advance of any substantive changes to the agreement, including any material changes in any cost. Any changes to the agreement terms that alter the intent and extent of activities under the agreement from those approved herein, shall be submitted for approval in an application for a supplemental order (or other appropriate format) in this docket.
4. Assuming 2007 as the base year, the maximum that the Commission should allow in rates concerning the employment contract with Mr. Rooks is \$66,868 in total compensation (wages and benefits). Subsequent years should be escalated by the consumer price index (CPI-U). Any overage above this amount should be disallowed for ratemaking purposes.

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June 9, 2008
Page 2

5. CRRWC shall file a written employment contract for Mr. Rooks within 15 days of the June 25, 2008, Public Meeting date. In addition, CRRWC shall file all associated Board of Director's minutes and resolutions concerning Mr. Rooks' employment and pay with CRRWC within 15 days of the June 25, 2008, Public Meeting date.

DISCUSSION:

This application was filed on May 20, 2008, pursuant to ORS 757.015, 757.495 and OAR 860-036-0730. Docket UW 120, Order No. 08-243 dated May 2, 2008, stated that:

Crooked River Ranch Water Company shall file with the Public Utility Commission of Oregon its application for approval of its contracts with James and Jacquie Rooks within 15 days of the date of this order.

Calendar days are normative for Commission purposes in this determination unless some other specification is made. Therefore, this filing is overdue. James Rooks is the General Manager of CRRWC. The filing arises from UW 120 Order No. 07-527, dated November 29, 2007, page 2:¹

Because the General Manager also is a member of the Board, and because he has relatives that are also employed by Crooked River, we treat the manager and his family as "affiliated interests" and require that the Company file any contracts with the manager and his family for Commission approval.

In its application, Crooked River states:

Crooked River Ranch Water Company ("CRRWC") submits this application under compulsion by the PUC without waiving its position that the PUC has no authority to demand the filing of this application and that CRRWC is under no legal obligation to obtain PUC's approval of the employment relationship described herein.

¹ At the time of the Commission order, Mr. Rooks also maintained an equipment maintenance contract with CRRWC. However, CRRWC and Mr. Rooks suspended this contract and Mr. Rooks is no longer receiving payment from CRRWC for these services.

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CRRWC is factually wrong concerning its legal obligation to obtain the Commission's approval. The Commission asserted jurisdiction of CRRWC in Commission Order No. 06-642 dated November 11, 2006. Because the Commission clearly has jurisdiction over CRRWC, the Company is obligated to follow the Commission's statutes and rules. As a result, Staff takes no recognition of the application's disclaimers of Commission authority concerning this filing.

For the purposes of this application, Mr. Rooks is presumably a Director of CRRWC. However, the "Bylaws for Crooked River Ranch Water Company" dated September 24, 2004,² would result in Mr. Rooks being ineligible to be a Director since Mr. Rooks, as an employee, is prohibited from being a Director.

Additionally, at least two Board Members do not appear to meet the qualifications of membership of CRRWC, which would disqualify them from being Board members and not authorized to make employment and wage resolutions concerning Mr. Rooks. With that said, these issues are not addressed by Staff in this docket as they are more appropriately reviewed in UW 120, or other forums as deemed more appropriate by the Commission.

However, based on the Commission order to file an application for an affiliated interest agreement, the following issues were investigated:

- Scope of the Agreement
- Transfer Pricing
- Determination of Public Interest Compliance
- Records Availability, Audit Provisions, and Reporting Requirements

Scope of the Agreement

No written agreement was submitted with the application. According to the application, Mr. Rooks' duties include administrative oversight, plant maintenance, and regulatory compliance responsibilities.

Transfer Pricing

The application requests an annual salary of \$83,500 plus medical and dental benefits.

² CRRWC amended its Bylaws as a Cooperative on June 30, 2006; however, Commission Order No. 06-642 was clear that CRRWC's reorganization as a cooperative was invalid. As a result, the September 24, 2004, Bylaws are recognized by Staff as being the Bylaws in effect.

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Pursuant to OAR 860-036-0739, Allocation of Costs by a Water Utility, the amount paid by a utility to an affiliated interest is required to be at cost or the market rate, whichever is lower. Given the nature of the proposed contract - between the Company and a Director, Staff's focus was on analyzing the market rate.

To perform this analysis, Staff took the average of the Oregon Employment Department's Oregon Labor and Market Information System (OLMIS - www.olmis.org) 50th Percentile Rate for General and Operations Managers and the American Water Works Association (AWWA) Water Utility Compensation Survey Average Rate for Water Operations Managers as a proxy to determine the market rate.

The 2007 American Water Works Association Water Utility Compensation Survey weighted average salary for water utilities' Water Operations Manager is \$53,153 (\$25.60 per hour).

The OLMIS 50th Percentile Rate for General and Operations Managers in Crook/Deschutes/Jefferson Counties is \$33.35 per hour. As a result, the lower of cost or market rate for Mr. Rocks should be set as \$29.48 an hour or \$61,190 annually. This amount is \$21,600 less than the requested amount.

In UW 120, Staff examined the Company's costs concerning medical and dental benefits. Staff recommended and the Commission accepted a Company amount of \$28,390 for 5 Full-time Employees (FTE). As a result, \$28,390 divided by 5 FTE equals \$5,678 for medical and dental benefits for each FTE.

The aforementioned calculations result in the following:

<u>Position</u>	<u>Hourly Wage</u>	<u>Benefits Cost</u>	<u>Annual Compensation</u>
General Manager	\$29.48	\$5,678	\$66,868

It is noted that \$61,900 in salary and \$66,868 in total compensation for Mr. Rocks is the maximum that the Commission should allow in rates. Subsequent years should be escalated by the consumer price index (CPI-U).

Determination of Public Interest Compliance

This agreement with Staff's recommended conditions is presumed fair and not unreasonable and therefore not demonstrably contrary to ratepayer interest. However, Staff notes that the Commission set a lower level of pay (Senior/Lead Water Treatment Plant Operator) for Mr. Rocks in UW 120.

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With that said, additional inquiry into the Board membership and effect on the contract should continue to be examined in UW 120.

Records Availability, Audit Provisions, and Reporting Requirements
Staff Recommendation Condition No. 1 affords necessary access to any relevant records.

PROPOSED COMMISSION MOTION:

The affiliated interest application for the employment contract between James Rooks and Crooked River Ranch Water Company be approved subject to the five recommended conditions.

UI 281

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UCR 100

In the Matter of:)	
)	
G.T. & T. T.)	
	)	POST -HEARING BRIEF
Complainants)	
)	
vs.)	
)	
CROOKED RIVER RANCH WATER)	
COMPANY)	
)	
Defendant)	

COMES NOW Crooked River Ranch Water Company (CRRWC) and submits it Post-hearing Brief in the above-referenced matter.

INTRODUCTION

The Complainants in this matter requested water service from Defendant CRRWC. CRRWC considered the Complainants' application dated May 2, 2008. The Board of Directors voted to accept the Complainants' application for water service upon the condition that they Complainants paid \$8,000 to cover the Water Company's cost of construction and installation for the water mainline on Golden Mantel Road which would provide service to the Complainants. The

1-POST HEARING BRIEF
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complaining parties filed a Complaint with the Public Utility Commission alleging that they should not have to pay the \$8,000 connection fee requested by CRRWC. Documentation was provided by CRRWC to PUC Staff reflecting the actual cost of the mainline extension to Golden Mantel Road and the basis for the \$8,000 charge to the Complainants. Staff refused to accept the documentation provided by CRRWC and performed its own cost analysis of the Golden Mantel extension. Staff has made a proposal that the Complainants be required to pay \$3,716.00 for the service connection to CRRWC, however, that submission may be altered based on testimony produced at the hearing on June 11, 2008.

DISCUSSION

CRRWC disagrees with the results of Staffs' analysis regarding the Golden Mantel extension project. CRRWC's actual costs for the Golden Mantel project and the complaining parties pro rata share of those costs is equal to \$8,000. Additionally CRRWC would seek to recover legal fees and additional staff time required by the complaining parties' refusal to pay the actual costs for their connection to CRRWC's mainline on Golden Mantel.

The mainline extension on Golden Mantel Road by CRRWC was completed between April and September 2005, prior to the PUC's assertion of jurisdiction over CRRWC. Although CRRWC was not under the jurisdiction of the PUC at the time of the Golden Mantel extension, CRRWC maintained a Board approved uniform policy governing the amount of main extension and applicable charges that would be made to connect a new customer. OAR 860-036-0065(1). CRRWC's policy for the last thirty years was that the charges for connection would be based upon actual costs for installation of the mainline and a connection fee of \$1,500.00. CRRWC has never sought to earn a profit by charging fees above and beyond cost for mainline extensions and service

connections. The practice of CRRWC in providing mainline extensions for new customers always was consistent with OAR 860-036-0065 even though no tariffs were submitted as CRRWC was not under PUC jurisdiction.

Staff has cited both general OAR's related to water company operations as well as the actual tariffs approved in Commission Order No. 07-527 for docket number UW120. It is not clear from Staff's testimony whether they believe that the general OAR's or the particular tariffs are controlling of CRRWC's rights and obligations in the present matter. Staff cites the specific tariffs for CRRWC as the basis for their position that CRRWC should only be allowed to charge \$450 for connection as a "standard service connection charge." In addition to contesting the Staff analysis and recommendation for what the actual cost was for the Golden Mantel extension, CRRWC disputes Staff's classification of the installation to the complaining parties' property as "standard" and the amount which CRRWC is lawfully allowed to charge for that installation. The \$450 service connection charge recommendation and recommendation for cost based charge for mainline extension will be addressed in turn.

SERVICE CONNECTION CHARGE

The charge listed in CRRWC's tariffs for service connection is \$450, presumably based on the text of OAR 860-036-0030, "threshold levels of rates and charges for water utilities serving fewer than 500 customers." CRRWC notes that Division 36 of the *Oregon Administrative Rules* regarding water utilities and associations make distinctions for water utilities serving fewer than 500 customers, however, no additional distinctions are made for companies larger than 500 customers. CRRWC serves 1,550 connections, putting it well outside the scope of OAR 860-036-0030. As a larger utility there is no basis for CRRWC to be subject to the maximum \$450 standard service

3-POST HEARING BRIEF

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connection charge. Staff acknowledges that any nonstandard installation should be "at cost." Staff asserts that there is no reason to believe the connection for the complaining parties in this matter would be anything but "standard." At the June 11, 2008, hearing PUC Staff conceded that they had not made any visual inspection of the property associated with the Golden Mantel extension or the Turnbow property and that they designation of the service connection as "standard" was based on an assumption made by Staff with no supporting data. Staff testimony was that they had relied only on diagrams of the area which CRRWC asserts were incomplete and misleading. A "standard" service connection for CRRWC means that the mainline service connection and meter box have previously been installed. The only requirement is the addition of a meter and activation of water flow. Other actions by CRRWC outside those just described constitute "nonstandard" installations which would consist of a mainline extension, hot tap, installation of new service line, meter box and re-setter.

There are many variables for a "nonstandard" service connection, including, but not limited to the following:

1. Distance to the main;
2. The necessity of rock hammer;
3. The amount of backfill needed;
4. Whether the line must cross the road;
5. Whether the road is gravel or paved;
6. Time of year;
7. The possibility of more than one connection to the road crossing; and
8. Extreme variation in prices for equipment and supplies from year-to-year.

Each "nonstandard" connection must be individually bid based upon unique circumstances for that service connection. Uniform price structure for "nonstandard" service connections would result in either significant loss to the Company or overpayment by customers for service

connections. Staffs' assumption regarding "standard" versus "nonstandard" service connections are made by individuals without any firsthand experience in the installation of water line, individuals who are not licensed contractors, and individuals who have no familiarity with the landscape of Crooked River Ranch.

In the present case the "nonstandard" installation for the Turnbows would require installation of a service line, meter box, re-setter, and activation of the water line. It should also be noted that the Turnbows' property would require a nonstandard one-inch meter whereas the normal standard for CRRWC customers is five-eighths meter. The connection charge estimate for the Turnbow's would be as follows:

1.	1 Backhoe for 1 hour	\$65.00
2.	Rock hammering	\$125.00
3.	Labor - 2 men, 4 hours	\$200.00
4.	Saddle - 2"	\$23.35
5.	Corp Stop	\$127.80
6.	Jumbo Meter Box	\$98.40
7.	Jumbo Lid	\$59.85
8.	Resettor	\$1009.50
9.	Backfill	\$150.00
10.	Office Staff:	\$27.00
Estimate Total		\$1775.90

The Public Utility Commission should not accept the Staff assumption that the complaining parties' property required a standard connection as explained above.

GOLDEN MANTEL EXTENSION COST ANALYSIS

Staff rejected the documentation submitted by CRRWC to substantiate the actual cost of the Golden Mantel extension and instead chose to perform their own independent analysis of what the Golden Mantel extension might have cost when it was performed between April and September of 2005. The information relied upon by Staff is inherently less reliable than the documentation

submitted by CRRWC as documentation by CRRWC represents actual costs. Information relied upon by Staff is not their own and is not accurate for time, location and circumstance. Furthermore, the information has been interpreted through Staff's subjective analysis and the point of view a person not experienced in installation of water line, making it less credible than the numbers submitted by CRRWC.

Fuel costs

Staffs' analysis of fuel costs associated with the Golden Mantel project are inaccurate and reflects Staffs lack of knowledge regarding the reality of costs associated with construction projects. Staff has annualized the costs to CRRWC for fuel and made multiple comparisons between different years, representing a "shell game" in an attempt to understate the Company's actual costs for this project. Staff fails to recognize that fuel consumption during the project period is considerably higher than other times during the year. Simply annualizing fuel costs does not isolate the actual cost of fuel used during the months which the Company was performing the construction project. The correct method of calculation would be to take a baseline amount of fuel calculated by an average of the monthly fuel costs for the months where there was no construction on the Golden Mantel project. Amounts in excess of that baseline number for the months in which construction was being performed and fuel purchased for Golden Mantel would represent the actual cost of fuel for the project. This represents the most accurate method for calculating fuel costs under the circumstances. As stated CRRWC was not under PUC jurisdiction at the time of the Golden Mantel project and more precise accounting of fuel consumption was not maintained due to the tedious nature of that practice and the impracticality of such a practice.

In it's analysis of fuel costs Staff has once again proffered the completely unsupported

allegation that the General Manager and other CRRWC employees have been using company fuel for personal use. This allegation of Theft against the Manager and other CRRWC employees will not stand. It is unfortunate that Staff has chosen to accept the slanderous allegations of the detractors from the Water Company and reproduce them on the record in this proceeding. Staff fails to recognize the same Water Company detractors that Staff gives audience to have been making baseless allegations against the Water Company for several years, which have been proven time and again not to be true. Most notably in the recent case of State vs. James Rooks, Jefferson County Circuit Court case number MI06-0202. In the future unsupported allegations by PUC Staff will result in an action against Staff for defamation. Any future unsupported allegations by PUC Staff will result in an action against Staff for defamation.

Equipment Rental

Staff has requested that the Commission not accept the equipment rental costs for the bulldozer used on the Golden Mantel project because "there is no reasonable basis to ascertain the equipment was actually rented for the Golden Mantel project." Prior to Staffs' testimony, Staff was presented with the invoice for the bulldozer rental from Hooker Creek Equipment and Supply which clearly indicated the ship to address as "Crooked River Water District - Golden Mantel." The invoice indicates that this was a one-day rental where Hooker Creek delivered the bulldozer to Golden Mantel. Nonetheless, Staff asserted in their testimony there was no information that the bulldozer was actually used on Golden Mantel. When confronted with this failure in logical reasoning at the June 11th hearing, Staff begrudgingly conceded that the bulldozer was most likely used on the Golden Mantel project and agreed to include the costs in costs for the project. The testimony by Staff regarding equipment rental and attempt to exclude it from project costs

represents either negligence or the manifestation of the Staffs' personal enmity towards CRRWC.

Neither of which is acceptable.

In addition to the bulldozer rental CRRWC was also required to required to rent a rock saw from S. A. Moore, LLC, for exclusive use on the Golden Mantel project. CRRWC has attached the sales receipt from S. A. Moore, LLC, for the rock saw to this Brief with the expectation that the invoice will be included in project costs.

Fill and Gravel

CRRWC does not dispute Staff testimony regarding the cost of fill and gravel.

Thrust Blocks

CRRWC does not dispute Staff testimony regarding thrust blocks.

Equipment, Parts, Supplies and Filters

Staffs' assertions with regards to equipment repairs are incorrect and once again reflect Staffs' lack of first hand knowledge of the requirements and actual costs associated with construction projects. The cost invoices from High Desert Auto Parts for grease, fuel filters, lube, oil, rags, air filters, hydraulic oil, antifreeze and hoses are specific to the Golden Mantel project and are not part of routine operation and maintenance. The routine operation and maintenance of equipment does not require the additional costs represented by the \$1,986.07 in invoices. Construction of a project such as the Golden Mantel extension is particularly hard on equipment and requires on-site maintenance such as continuous greasing of moving parts; replacement of filters and replacement of other parts of equipment which get worn or break due to the heavy wear and tear caused by this type of project. These parts are not part of normal operation and maintenance. The equipment was not used for other company projects as there was no CWIP at the time. Furthermore, the costs of

● supplies was not included in the repair and maintenance contract between CRRWC and J. R. Rooks. ●

As has been stated time and again to PUC Staff that contract was for labor and the use of James Rooks' personal facility and shop tools. James Rooks was not responsible for the cost of such items as grease, fuel filters, lube, oil, rags, air filters, hydraulic oil, antifreeze, and hoses, etc. under his agreement with CRRWC. Staff is well aware of the nature of the former agreement for maintenance and repairs and the inclusion of this argument by Staff in its justification for not allowing the \$1,986.07 for equipment repairs lacks good faith.

Pipe & Plumbing Supplies

According to Staff, CRRWC is attempting to double count Golden Mantel pipe expenditures. This is not the case. CRRWC's previous submission in the contempt hearing regarding the pipe is an accurate statement, however, clarifying information can be provided to account for the pipe on the Golden Mantel project and perhaps other projects which shows that CRRWC does not double count pipe used. The pipe purchased in bulk by CRRWC is stored by CRRWC and routinely used for construction work in progress as well as needed repairs. In the event of a project such as a mainline extension pipe is pulled from storage to be used in the mainline extension and the amount of pipe used in the mainline extension is accounted for. CRRWC is then required to replace the pipe used for the mainline extension project in order to maintain its stock. The cost of the pipe to replace company stock is the cost attributed to the mainline extension project using a last in, first out accounting method.

Staff's assertion that CRRWC claimed only \$420.96 for the Golden Mantel project is not correct. CRRWC used 45 sticks of pipe which had a total cost of \$3618.00 as claimed by James Rooks in his testimony. The receipt provided from Ferguson Plumbing confirms this amount.

Meters

CRRWC collected the meter cost at the June 11th hearing to accurately reflect the cost per meter of \$65 a piece.

Labor

The labor costs of \$12,800 does not include labor costs associated with normal operations in repair, maintenance, etc. As previously stated no other CWIP was in progress and the \$12,800 represents actual costs of labor for Golden Mantel with reasonable allowance for some labor during the requisite time period to be attributed to routine maintenance and repair.

AMOUNT OF SERVICE CONNECTIONS

There is only four possible hookups for the Golden Mantel extension. Homeowners who are on wells were contacted and asked if they were interested in connecting to the water system. The homeowners responded emphatically that they both had new wells and had no interest in connecting to the water system. In the thirty year history of the Company no resident of Crooked River Ranch with their own well has ever connected to the water system. The average useful life of a well on Crooked River Ranch is thirty years and CRRWC should not be required to wait that time period in order to recoup its costs in the unlikely event that a homeowner eventually seeks a connection. By using six possible connections the Company if forced to charge its current members for the cost of the extension which is a violation of Company's policy and is inconsistent with the relevant OAR's. Staff has alleged that one customer on the Golden Mantel extension who owned two lots only paid \$8,000 and received two connections for the price of one. At the time of the contract for extension of water service between CRRWC and the customer in question, that customer owned two lots to be connected to the Water Company. During the course of construction of the mainline

extension the customer in question sold one of the lots to another party. That party never paid the \$8,000 connection fee and the property is currently in foreclosure. The eventual purchaser/owner of that property will be required to pay \$8,000 if they choose to be connected to the Water System.

CONCLUSION

CRRWC has always maintained a policy of providing mainline extensions to customers who wish to join the water system at cost. CRRWC's policy would be to charge the customer connecting to the system the actual cost so that other existing CRRWC members would not bear the burden of paying for additional customers to join the water system. This policy is consistent with the Oregon Administrative Rules regarding regulation of water utilities. The recommendations submitted by Staff would result in the subsidization of the complaining parties by both existing customers on Golden Mantel as well as the larger membership of CRRWC. This result is not fair or just to other CRRWC customers and is not consistent with the Oregon Administrative Rules.

In James Rooks written testimony amounts were provided for the costs associated with this project. Since the evidentiary hearing those estimates have been reviewed and errors have been corrected. The corrected costs associated with the Golden Mantel project are as follows:

1.	Fuel	\$1340.40
2.	Equipment Rental	\$5017.90
3.	Fill/Gravel	\$2785.50
4.	Thrust Blocks	\$150.00
5.	Equipment Parts/Supplies/Filters	\$1689.28
6.	Pipe	\$3618.00
7.	Plumbing Supplies	\$3172.96
8.	Meters	\$195.00
9.	Labor	\$20325.64
	Total	\$38,294.67

Staff recommends that if CRRWC refuses to connect the complaining parties to the Water System they be allowed to use a certified contractor to connect the complaining parties to the system. Title 42, Chapter 6A, Subchapter XII, Part B, Section 300i-1, (b) states: "Any person who attempts to tamper or makes a threat to tamper, with a public drinking water system may be imprisoned for not more than ten years, or fined in accordance with Title 18 or both." In addition to the requirements of federal law, it is company policy that no work is to be performed on the Water System except by CRRWC employees. If the Public Utility Commission accepts the Staffs' recommendations they will violate Company policy and potentially break federal law.

Dated this 25 day of June 2008.

/s/ Timothy R. Gassner
Timothy R. Gassner, OSB 02309
Attorney for Defendant

ORDER NO. 08-177

ENTERED 3/24/08

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UW 120

In the Matter of)	
)	
CROOKED RIVER RANCH WATER)	
COMPANY	)	ORDER
)	
Request for rate increase in total annual)	
revenues from \$806,833 to \$868,453, or)	
8.13 percent.)	

**DISPOSITION: CROOKED RIVER RANCH WATER COMPANY
FOUND TO HAVE FAILED TO COMPLY WITH
ORDER NO. 07-527; COMPANY DIRECTED TO
DISTRIBUTE SURCHARGE ACCOUNT FUNDS**

I. BACKGROUND

By motion dated March 7, 2008, the Staff of the Public Utility Commission of Oregon requests an order confirming that Crooked River Ranch Water Company (Crooked River) is in violation of Commission Order No. 07-257, specifically Ordering Paragraphs 4, 5, and 6. Together with its motion, Staff filed a declaration of James (J.R.) Rooks (Rooks) provided by Crooked River to Staff on January 28, 2008, and Staff's Report on the outcome of contempt proceedings involving the Company's failure to respond to earlier discovery during the general rate case proceedings.

As noted by Staff, in Order No. 07-527 the Commission ordered Crooked River, among other things, to:

4. Not later than 30 days from the date of this order, Crooked River Ranch Water Company shall submit any contracts between itself and its General Manager James Rooks and members of Rooks' family, along with supporting testimony, to this Commission for approval.
5. Not later than 30 days from the date of this order Crooked River Ranch Water Company shall file an accounting of its collection of funds through its special assessment surcharge and the disposition of such funds, from the inception of the fund to the present.

ORDER NO. 08-177

6. Not later than 30 days from the date of this order, Crooked River Ranch Water Company shall file a report stating its need for funds for new capital improvements, including the intended projects, the estimated cost of each such project, and the time that each investment would be required.

Crooked River did not request an extension of time to comply with the Commission's order. Nor did the Company make any filings with the Commission in response to these ordering paragraphs of Order No. 07-527.

II. STAFF'S MOTION

A. Introduction

Staff contends that Crooked River has failed to comply with these ordering paragraphs. Staff reports that it did inquire of Crooked River regarding its compliance with the Commission order, receiving from the Company the Rooks' Declaration in response. In his declaration, Rooks explains the Company's alleged compliance with the order. Staff believes that the actions described in the Rooks' Declaration do not satisfy the requirements of the order.

B. Ordering Paragraph 4

As noted above, by Ordering Paragraph 4, Crooked River was directed to file any contracts between itself and its General Manager, Rooks, as well as any contracts between the Company and other members of the Rooks family. In his declaration, Rooks claims that his employment contract was "terminated by Commission Order 07-527 and is no longer in effect." Likewise, he claims that his maintenance and repair contract with the Company was "effectively terminated" by the order. He further explains that his wife, Jackie Rooks, is an "at-will employee," and not under an employment contract, while his daughter no longer works for the Company.

Staff argues that Rook's Declaration does not comply with Ordering Paragraph 4 of Order No. 07-527. Contrary to the Company's claim, Order No. 07-527 did not "terminate" any contracts. The Company submitted no testimony or other evidence to prove that the contracts have been terminated. Meanwhile, Rooks apparently remains on the Board, and both Rooks and his wife apparently are still employed by the Company.

C. Ordering Paragraphs 5 and 6

The Commission initiated contempt proceedings in the Jefferson County Circuit Court (Circuit Court) relating to Crooked River's failure to comply with discovery orders relating to Staff data requests in the general rate case before the Commission. On January 8, 2008, Crooked River provided information to Staff pursuant to an order of the Circuit Court. In his declaration, Rooks asserts that the information provided to Staff on January 8, 2008, satisfies the Company's obligation to

ORDER NO. 08-177

file the accounting required by Ordering Paragraph 5 and the Report required by Ordering Paragraph 6.

Staff argues that Crooked River failed to file the accounting or report as required by Ordering Paragraphs 5 and 6, respectively. Staff considers the filings of the accounting and report to be unrelated to the Company's duty to produce the information requested through discovery.

D. Relief Sought

Staff argues that the Company "should be made to comply" with Ordering Paragraphs 4, 5, and 6 of Order No. 07-527. Staff proposes that the consequences of the Company's failure to comply with the order should be visited on the Crooked River Board of Directors (the Board), "because it is the members of the Board of Directors who are responsible for complying (in this case, not complying) with the Commission's Order."

Staff cites ORS 757.994, which provides for civil penalties for violations of commission orders. Each "person" who violates a commission order is subject to a civil penalty of up to \$500 for each violation. Staff argues that, because the Crooked River Board is responsible for the operation of the Company, each of its members should be held accountable for the Company's failure to comply with Order 07-527.

Staff argues that the Company's noncompliance with each of the three aforementioned ordering paragraphs constitutes a separate violation. The penalties accrue each day that the Company fails to comply. Staff proposes that the Commission issue an order that confirms that the Company is in violation of Order No. 07-527 and states that the Commission intends to seek civil penalties against each of the Board Members if the Company does not comply within a stated time. Staff recommends that the amount of the penalty that would be imposed should be \$1500 per day, \$500 per separate violation.

III. CROOKED RIVER'S RESPONSE

A. Ordering Paragraph 4

Regarding Ordering Paragraph 4, Crooked River states that "no employment contracts written or otherwise exist between any family member of James Rooks" and the Company. The Company states that it previously provided information on its agreement with Rooks to provide for maintenance and repair work. It claims that no additional information is available "in any form."

With respect to its contract with Rooks in his capacity as General Manager, Crooked River states that this contract "was rendered null and void by Commission Order 07-527 (which) set forth compensation for Rooks which was not consistent with James' Rooks' employment agreement."

ORDER NO. 08-177

Crooked River argues that Staff has taken the words "any contract" in Ordering Paragraph 4 out of context. The Company states that it understood the term to mean "those contracts which (Crooked River) sought the Commission's approval of." Because "there were no contracts for the Commission to approve, no contracts were submitted."

Crooked River dismisses Staff's argument that the Company failed to offer any testimony to prove that its contracts with Rooks have been terminated. The Company cites Rooks' Declaration to that effect and argues that no Board resolution was necessary to terminate the contracts – such a resolution "would have been an unnecessary waste of precious time and resources."

B. Ordering Paragraph 5

Regarding Ordering Paragraph 5, Crooked River argues that "Staff has once again isolated several words from Section 5 of that Order." Staff alleged that the Company failed to "file an accounting." Crooked River states that the term "accounting" has not been defined, and the Company has no guidance regarding what it is required to produce.

According to Crooked River, in its discovery document production it provided spreadsheets that show "all special assessment funds collected, all disbursements made from the Special Assessment Fund and how those funds were spent." The Company refers to the Staff Report filed with Staff's motion and argues that Staff's use of the information "conclusively demonstrates that the information requested was provided as it contains several pages of analysis of that information."

C. Ordering Paragraph 6

Regarding Ordering Paragraph 6, Crooked River observes that the paragraph itself includes four elements – a) new capital improvements; b) intended projects; c) estimated cost of each project; and d) time when each investment would be required. The Company cites Rooks' Declaration, where he states "no new construction or capital improvements are in progress or planned at the current time as the funds are not available." When the Company prepares its request for a rate increase, it will prioritize necessary capital improvements and present supporting evidence.

D. Conclusion

Crooked River argues that the Board of the Company has fully complied with Order No. 07-527. Neither the Board nor the General Manager has willfully violated any provision of the order and there should be no penalty assessed.

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IV. CROOKED RIVER'S SUPPLEMENTAL RESPONSE

On March 21, 2008, the Commission received Crooked River's "Supplemental Response" to Staff's motion. In its Supplemental Response the Company states it disagrees with certain findings made by Staff in its report submitted to the Commission together with this motion.

Crooked River states that, in its earlier response, it addressed Staff's findings that were directly relevant to Staff's Motion. However, the Company claims that it "has not had the opportunity to respond to or correct the factual record underlying the findings in the Staff Report that are beyond the scope of the Staff's Motion."

According to Crooked River, the findings in Staff's Report could have a significant impact on Crooked River's operations. The Company requests that it be afforded the opportunity for a hearing before any action is taken directly on the Staff's Report. Crooked River objects to the Commission issuing an order that addresses any issue that is outside the subject matter of Staff's Motion.

Crooked River states that it "was required to file a response to Staff's Motion within five days" pursuant to an order of the Administrative Law Judge (ALJ). The Company argues that five days was not a sufficient time to compile a complete response to the Staff report.

IV. DISCUSSION

A. Ordering Paragraph 4

While Crooked River's exact position with regard to Ordering Paragraph 4 cannot be discerned from its filings, the Company appears to argue that oral contracts are exempt from the provisions of ORS 757.495. Such a construction would render the statute meaningless, as it would allow for utilities to deal freely with persons with affiliated interests without Commission oversight. ORS 757.495(3) requires that the Commission investigate all contractual relationships between a utility and its affiliates to determine whether each contract is "fair and reasonable and not contrary to the public interest." As ordered by Order No. 07-527, Crooked River must submit any contracts between itself and Rooks and members of the Rooks family for Commission approval. If it's the Company's point that any contract has not been reduced to writing, it is the Company's obligation to offer a narrative statement that explains and defends all contract terms.

In his declaration, Rooks does not characterize his own relationship with the Company. Rooks does not identify himself as General Manager or otherwise indicate that he is affiliated with the Company in any respect.¹ Based on Rooks'

¹ For this reason, we question whether Rooks' Declaration may be received as a declaration by Crooked River. While Rooks is on the Crooked River Board, no board member may speak for a Company except

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declaration and the Company's response to Staff's motion, one cannot determine what exactly is Rooks' role. Is he General Manager? Does he receive a salary? Is he paid an hourly wage? Is he paid overtime? Does he receive benefits? These are all questions that must be addressed by the Company.

B. Ordering Paragraph 5

Regarding Ordering Paragraph 5, Crooked River's alleged inability to understand what the Commission intended the Company to file would have been suitable content for a motion for clarification that could have been filed on a timely basis. The Company's failure to file either the accounting or a motion establishes its lack of good faith.

Even if we were to agree that "an accounting" plausibly is a vague term, we could not agree that the information furnished by Crooked River to Staff in discovery to settle the contempt proceeding would satisfy the Company's obligation pursuant to Ordering Paragraph 5 of Order No. 07-527.

From the Staff Report, we learn that Crooked River did provide Staff with records that allowed Staff to perform a partial accounting of the Company's collection of funds through its special assessment surcharge and the disposition of such funds. The Company cannot rely on Staff's work in compiling that information into a useful report to satisfy its obligation to submit a full accounting of the amounts collected and their disposition.

Staff's report shows that the Company collected \$476,682 in surcharge funds. According to Staff, it was able to account for \$131,081 of funds expended for the purposes intended for the surcharge. It also accounted for \$75,777 in funds expended for unintended purposes (enumerated by Staff). According to Staff, the actual balance in the fund, as of November, 2007, was \$118,028. That leaves \$140,881 of funds not accounted for.

In its response, the Company argued that Staff's report "conclusively demonstrates that the information requested was provided as it contains several pages of analysis of that information." Based on the Staff Report, the amount of unspent funds collected from the surcharge is \$269,824. Crooked River must account for the full amount of the funds collected.

C. Ordering Paragraph 6

Regarding Ordering Paragraph 6, we accept at face value Rooks' statement that the Company does not plan any new capital investment in the near term. However, that does not excuse the Company's failure to comply with Ordering Paragraph 6 and report to the Commission regarding its need for new capital.

as has been authorized by corporate bylaws, and we are not able to assume that Rooks has authority to speak on behalf of the Company, where he is neither General Manager nor Chairman of the Board.

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The import of Ordering Paragraph 6 was that the Company's response would determine the disposition of the funds collected through the surcharge (that are accounted for in Ordering Paragraph 5). As the Commission stated in Order No. 07-527, "if the plant additions are not likely to be undertaken within a reasonable time, or in a sufficient amount, the Commission may consider other disposition of the fund balance." Based on Crooked River's response, no plant additions are likely to be undertaken "within a reasonable time." Thus, the Commission will provide for disposition of the fund balance.

We find that Rooks' Declaration satisfied the Company's obligation to file a report pursuant to Ordering Paragraph 6. However, that submission was 28 days after the report was due. We do not excuse the Company's late filing.

D. Liability of Board Members

In its motion Staff proposed that the Commission issue an order directed at the Board Members, with the intent that each Board Member would be held personally liable for the Company's further failure to comply with the Commission's order. We do not share Staff's belief that a separate order directed expressly at the Board Members is necessary.

Crooked River's Board is ultimately responsible for conducting the Company's business, and its Board Members are jointly responsible for any failure to comply with the Commission's order. For purposes of assessing any penalty, that liability attaches first to the Board, not to its members, per se. It is the Board that would pay whatever fine that would be imposed in a civil proceeding to enforce the Commission's order. Thus, pursuant to ORS 757.994, the maximum penalty that might be assessed under Staff's proposal would be \$1500 per day for the period of time Crooked River fails to comply with all three of the ordering paragraphs.

However, as noted in Order No. 07-527, the unique corporate structure of Crooked River² requires that the Commission recognize that measures that might be suitable in the ordinary course of Commission business do not fit the Crooked River example.

In the ordinary course, the Commission would impose a penalty on the Board, knowing it would be shareholders that would bear the penalty, because our ratemaking authority would protect the ratepayers from having the amount of the penalty passed through in rates. In this case the shareholders and ratepayers are the same.

Thus, in this case we intend that, if it is the Board that will have incurred any penalty, it is the Board Members themselves that will be responsible for its payment.

² "Unique," in the sense that this Commission typically regulates investor-owned utilities, while Crooked River's owners are also its customers.

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We intend that each of the Board Members will be jointly and severally liable for payment of the penalty.

We note that ORS 757.994 allows the Commission to assess penalties against "a person who violates any . . . order of the Public Utility Commission related to water utilities." ORS 756.010 defines "person" to include "corporations and associations or their officers. . . ." We will provide notice of the penalty proceedings to each of the Board members, as required by ORS 183.745.

Whether to assess a penalty for failure to comply with the Commission's order is only one of the issues to be resolved in this phase of the proceeding. The Company's failure to file an accounting leaves open the question of whether Crooked River has properly accounted for the proceeds of the special assessment surcharge. To the extent that funds are not accounted for or have otherwise been misappropriated, the Commission will take further action to recover such funds from the Board Members of the corporation.

E. Supplemental Response

In its Supplemental Response, Crooked River asks that the Commission take no action on Staff's report beyond the scope of Staff's motion. The Company alleges errors in certain Staff findings. Crooked River does not indicate what findings it deems erroneous. On that basis its response is ineffective.

However, this Order is based on Staff's motion and does not rely on extraneous information in Staff's report. Crooked River itself offered Staff's accounting of the assessment fund surcharge balance as evidence that the Company did comply with Ordering Paragraph 5.

Regarding the ALJ's order shortening time, Crooked River likely references the ALJ's ruling, dated August 21, 2007, where he stated: "In light of the Company's actions, I shorten time for the Company to reply to any further motions to compel to five days." Staff's motion "regarding violations of Order No. 07-527" is not a motion to compel, so the ALJ's ruling shortening time for Crooked River to reply does not apply.

VI. RESOLUTION

We will immediately convene a penalty phase of this proceeding, pursuant to ORS 757.994.

We order Crooked River to file, within fifteen days of this order, a full and complete explanation of its relationship with Rooks and other members of the Rooks family, from November 29, 2007, to the date of the filing. The filing should include records of all payments made by the Company to Rooks, and any family members, and should explain the basis for each such payment. If any employment relationship exists between Crooked River and Rooks or any family member, the Company must also

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submit declarations specifying the terms of any such relationship for Commission approval, as required by ORS 757.495.

We further order Crooked River to file, within fifteen days of this order, a full and complete accounting of all funds collected from the special assessment surcharge and the disposition of such funds, from the inception of the fund to the present. As noted above, Staff found that the Company collected \$476,682 in surcharge funds. Staff found that the Company expended \$131,081 for purposes intended for the surcharge. According to Staff, if the Company properly used the funds solely for their intended purpose, the remaining balance as of November 30, 2007, should have been \$345,601. The actual remaining balance was \$118,028. The filing must account for, explain and defend the \$227,574 of surcharge account funds that have been spent by the Company.

The accrual of additional penalties to be collected from the Board Members will cease with the filing of adequate responses to these directives.

Crooked River does not challenge Staff's calculation that the Company had on hand \$118,028 that it collected through the surcharge. Based on Rook's Declaration to the effect that the Company has no need for capital, now, or in the near future, we order Crooked River to pay out that amount to its shareholders in a one-time lump-sum amount on an equal share basis to all current shareholders as of the date of this decision.

However, based on the Company's inability or unwillingness to account for substantial funds, we direct the Company to report to the Commission within two working days of this order the remaining balance of the fund. In the event that the amount reported is less than the \$118,028 shown in the Staff report, the Company simultaneously shall file an accounting showing the disposition of all such funds.

The disposition of funds to shareholders is a partial distribution of the funds collected through the special assessment fund surcharge. Depending on the review of the Company's accounts, we may provide for an additional distribution to shareholders, including the unaccounted for funds, as well as some or all of the funds accounted for, but spent for purposes not authorized by the enabling resolution.

The Company's filings will be received at the hearing convened for the purpose of assessing penalties against Board Members, convened pursuant to ORS 757.994 and ORS 183.745.

Crooked River's actions and posture suggest "an unwillingness or incapacity or refusal to effectively operate and manage the water system to provide safe and adequate service to its customers in compliance with Oregon statutes." Such a finding by the Commission may constitute grounds for appointment of a regent to operate and manage the water system pursuant to OAR 860-036-0365. Given the Company's willful refusal to comply with a Commission order suggests that appointment of a regent should be considered. A regent also may be necessary if the

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Company cannot fully account for the funds collected through the surcharge. Financial mismanagement by the General Manager or the Board of Directors would constitute grounds for appointment of a regent.

An appointed regent may be responsible for not only the daily operations of the water utility, but also restoring confidence in management. The regent might convene a timely election of a board of directors, leading to the hiring of a successor general manager to run the Company. The regent also might be responsible for collecting any shareholder funds that may have been misappropriated by current management, including any misfeasance on the part of the Board Members.

Crooked River's response to this Order will be decisive in terms of whether the Commission determines that a regent should be appointed.

Findings of Fact

1. Crooked River failed to file evidence of any contracts that it has with Rooks or other members of the Rooks family.
2. Crooked River failed to file an accounting of funds collected through its special assessment surcharge.
3. Crooked River failed to file a report regarding its needs for new capital.
4. Rooks' Declaration, submitted to Staff on January 28, 2008, addresses the need for new capital.
5. Based on the Rooks Declaration, Crooked River needs no capital in the near term.
6. Because Crooked River needs no new capital, the balance in the special assessment fund should be paid out to shareholders.
7. Crooked River Board Members are responsible for the Company's failure to comply with Ordering Paragraphs 4, 5, and 6 of Order No. 07-527.

Conclusions of Law

1. Crooked River failed to comply with Ordering Paragraphs 4, 5, and 6 of Order No. 07-527.
2. Crooked River should pay out the surcharge account fund balance to its shareholders not later than the date of its next customer billings, after the date of this Order.

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3. Within two working days of the date of this Order, Crooked River shall report to the Commission the amount of funds remaining from its special assessment surcharge.

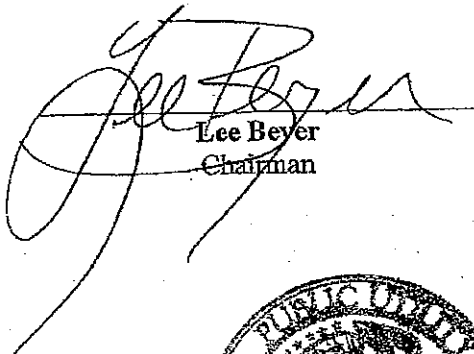
4. The Commission should initiate enforcement actions against the Board Members pursuant to ORS 757.994.

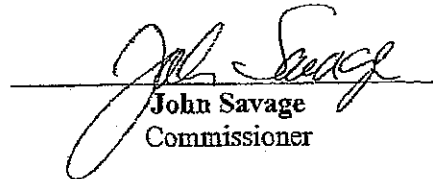
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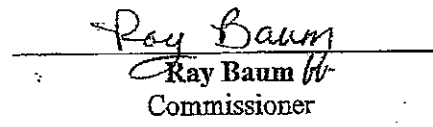
IT IS ORDERED that:

1. Crooked River Ranch Water Company shall file its response to this Order within 15 days of the date of this order.
2. Crooked River Ranch Water Company shall distribute \$118,028 to its current shareholders in a lump-sum amount of an equal share basis, not later than its next billing dates for its customers.
3. Within two working days of the date of this Order, Crooked River Ranch Water Company shall report to the Commission the amount of funds remaining from its special assessment surcharge.

Made, entered, and effective MAR 24 2008


Lee Beyer
Chairman


John Savage
Commissioner


Ray Baum
Commissioner



A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

DATE: March 31, 2008
TO: Board of Directors
Crooked River Ranch Water Company
FROM: James H. Rooks
General Manager/Operations Manager

SUBJECT: RESERVE FUND/STATUS and ROLE OF JAMES ROOKS

Issue: This resolution is addressing three separate issues:

1) The PUC, in order 08-177, ordered CRRWC to return \$118,028 in collected assessment funds to the members. We were granted a temporary stay in order 08-181, but need to establish the need to retain the monies. In addition to the amount listed above, The PUC has identified CD's that have been scheduled to meet the company needs, as part of this fund, bringing the total balance to \$233,889. If the company were to disburse all this money back to the customers, it would leave CRRWC with absolutely no reserves to meet any future emergency needs.

2) PUC order 08-181 put into question the status of James Rooks as the General Manager of CRRWC. When Mr. Rooks was originally hired by CRRWC, a contract was developed between Mr. Rooks and the Board of Directors. The PUC, in developing a budget for this company, severely reduced the rates which, in effect, canceled the employment contract of Mr. Rooks, at least as far as the salary is concerned. The PUC is now saying that they question the status of Mr. Rooks as General Manager and his authority to speak for the company.

3) As stated in #2 above, the employment contract, as far as the monetary amount, was voided by the passage of the PUC budget and rates. It was not voided by the Board of Directors or Mr. Rooks. Mr. Rooks has continued his employment as General/Operations Manager since November 29, 2007 (the date the PUC order was signed reducing rates and revenues). There has been no change in employment status requested by Mr. Rooks or ordered by the Board of Directors.

Order No. 08-181 requires a response by April 8, 2008.

Recommendation: The following resolution is recommended to the Board of Directors in response to the above issues;

1) The elected Board of Directors of the Crooked River Ranch Water Company, do hereby state in this resolution that the sum of \$233,889 are placed in an emergency reserve status that will not be distributed except in extreme emergencies (i.e., includes, but not limited to, to prevent the co-op from total bankruptcy, to preserve integrity of the system in case of a catastrophic failure, or in case of extreme health hazard, such as contamination of the system.)

A signed resolution by the CRRWC Board of Directors will be required before any of these monies may be distributed in any manner.

2) It is hereby stated by the Board of Directors of the Crooked River Ranch Water Company that James H. Rooks, as the General Manager and elected Board of Director member, holds the complete confidence of the entire Board of Directors in all matters concerning the administration and operations of the Crooked River Ranch Water Company. All communications between the Public Utility Commission and the CRRWC will be directed through James H. Rooks, General Manager of CRRWC.

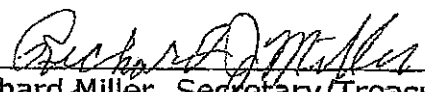
3) As stated in issue #3, the contract between James Rooks and the CRRWC Board of Directors was not canceled by either party. The contract became a nullity when the PUC severely reduced the revenue for CRRWC and wages/salary for Mr. Rooks. The Board of Directors, in no manner, have changed the expectations of Mr. Rooks job duties, which include his role as General Manager of Crooked River Ranch Water Company. Mr. Rooks current status is as an "at will" employee of the CRRWC, with his primary duties being the General Manager and Operations Manager of the Company. Mr. Rooks receives an annual salary, He is not paid overtime. Mr. Rooks receives medical and dental benefits. Mr. Rooks does not receive vision, retirement or any other benefits. He continues to perform all duties as required by the Board of Directors.

Resolution: The Board of Directors of CRRWC accept the recommendations as stated above and resolve that they become effective immediately.

APPROVED:

Brian Elliott, President

Date: _____


Richard Miller, Secretary/Treasurer

Date: 4/2/08


James Rooks, Director

Date: 4/4/08


Randy Scott, Director

Date: 4/3/08

Crook County Courthouse
300 NE Third Street
Prineville, OR 97754-1990
(541) 447-6541 • Fax (541) 447-5116
Reply to ()



Jefferson County Courthouse
75 SE "C" Street, Suite C
Madras, OR 97741-1750
(541) 447-3317 • Fax (541) 475-3421
Reply to ()

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SOULE/133

Amy D. Bonkosky
Trial Court Administrator

Twenty-Second Judicial District Trial Courts

August 21, 2008

Mr. Timothy Gassner, Esq.
Glenn, Sites, Reeder & Gassner
205 SE 5th Street
Madras, OR 97741

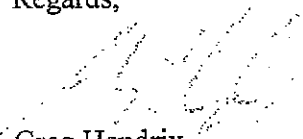
Mr. Craig Soule
11953 SW Horny Hollow Trail
Terrebonne, OR 97760

Re: *Soule thru PUC v. James Rooks* CV08 0028

Hello:

The Motion to Reconsider filed by Mr. Soule is denied. Mr. Gassner should prepare the Order.

Regards,


Greg Hendrix
Judge Pro Tempore

c: Jefferson County Circuit Court

EMPLOYMENT AGREEMENT

BETWEEN: Crooked River Ranch Water Cooperative ("CRRWC")
AND: James R. Rooks ("Rooks")

RECITALS:

- A. Rooks is currently employed by CRRWC as the General Manager at CRRWC located at 13845 SW Commercial Loop, Terrebonne, Oregon 97760.
- B. The parties wish to memorialize an agreement setting forth the terms and conditions of Rooks' employment with CRRWC.

AGREEMENT:

1. Duties.
 - 1.1 Rooks shall continue to be employed as the General Manager.
 - 1.2 Rooks shall have responsibility for oversight of all administrative functions; maintenance of the physical plant; and compliance with local, state and federal water service regulations.
2. Term of Agreement. There is no fixed term for this agreement. Rooks' employment with CRRWC is at-will.
3. Termination of Agreement. This Agreement may be terminated at any time by either party, with or without cause. The parties may, but are not required, to provide notice prior to terminating the agreement.
4. Salary and Benefits. CRRWC agrees to pay the following salary and benefits to Rooks in exchange for his services:
 - 4.1 An annual salary in the amount of \$83,500.
 - 4.2 CRRWC will provide Rooks with health and dental insurance. In the event CRRWC determines to provide additional benefits (such as retirement or disability insurance), Rooks will be entitled to receive those benefits on the same terms as provided for other full-time employees.
5. Review by Independent Counsel. Rooks, by signing below, acknowledges that he has had the opportunity to have this Agreement reviewed by legal counsel of his own choice and has either had this Agreement reviewed by his legal counsel or has chosen not to have this Agreement reviewed by legal counsel prior to executing this Agreement.
6. Waiver. The failure of either party at any time to require performance of any provision of this Agreement shall not limit that party's right to enforce the provision, nor shall any

waiver of the breach of any provision of this Agreement be construed as a continuing waiver of that provision or of any subsequent breach of that provision or of any other provision of this Agreement.

7. Binding Agreement. This Agreement shall be binding on the parties hereto and upon the heirs, executors, administrators, successors and assigns of each party.
8. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Oregon.
9. Severability. Should any provision of this Agreement, be held to be illegal, unreasonable, invalid or unenforceable by a court of competent jurisdiction, such provision shall be stricken from this Agreement and the remaining provisions of this Agreement shall not be affected, shall remain in full force and effect and shall not be rendered void or unenforceable.
10. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto concerning the subject matter of this Agreement and supersedes any and all prior or contemporaneous negotiations or agreements between the parties, whether written or oral, concerning the subject matter of this Agreement which are not fully expressed herein. This Agreement may not be amended or modified except by a writing signed by both parties.

CROOKED RIVER RANCH WATER COOPERATIVE

DATED: 7/8/08

By: 

Brian Elliot, President of the Board of Directors

DATED: 7/8/08

By: 

James R. Rooks

EMPLOYMENT AGREEMENT

BETWEEN: Crooked River Ranch Water Cooperative ("CRRWC")
AND: Jacquie Rooks ("Rooks")

RECITALS:

- A. Rooks is currently employed by CRRWC as the Office Manager at CRRWC located at 13845 SW Commercial Loop, Terrebonne, Oregon 97760.
- B. The parties wish to memorialize an agreement setting forth the terms and conditions of Rooks' employment with CRRWC.

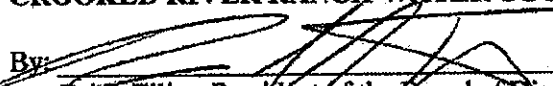
AGREEMENT:

1. Duties.
 - 1.1 Rooks shall continue to be employed as the Office Manager.
 - 1.2 Rooks shall have responsibility for bookkeeping, including A/R, A/P and payroll; oversight of company personnel; human resources issues; personnel training; general clerical duties; customer reception; customer relations; filing; and maintenance of office equipment.
2. Term of Agreement. There is no fixed term for this agreement. Rooks' employment with CRRWC is at-will.
3. Termination of Agreement. This Agreement may be terminated at any time by either party, with or without cause. The parties may, but are not required, to provide notice prior to terminating the agreement.
4. Pay and Benefits. CRRWC agrees to pay the following wage and benefits to Rooks in exchange for her services:
 - 4.1 Pay rate: \$18.00 per hour.
 - 4.2 Benefits: CRRWC will provide Rooks with health and dental insurance. In the event CRRWC determines to provide additional benefits (such as retirement or disability insurance), Rooks will be entitled to receive those benefits on the same terms as provided for other full-time employees.

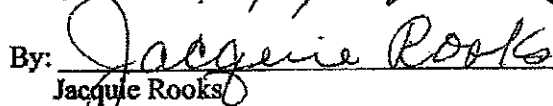
5. Review by Independent Counsel. Rooks, by signing below, acknowledges that he has had the opportunity to have this Agreement reviewed by legal counsel of her own choice and has either had this Agreement reviewed by her legal counsel or has chosen not to have this Agreement reviewed by legal counsel prior to executing this Agreement.
6. Waiver. The failure of either party at any time to require performance of any provision of this Agreement shall not limit that party's right to enforce the provision, nor shall any waiver of the breach of any provision of this Agreement be construed as a continuing waiver of that provision or of any subsequent breach of that provision or of any other provision of this Agreement.
7. Binding Agreement. This Agreement shall be binding on the parties hereto and upon the heirs, executors, administrators, successors and assigns of each party.
8. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Oregon.
9. Severability. Should any provision of this Agreement, be held to be illegal, unreasonable, invalid or unenforceable by a court of competent jurisdiction, such provision shall be stricken from this Agreement and the remaining provisions of this Agreement shall not be affected, shall remain in full force and effect and shall not be rendered void or unenforceable.
10. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto concerning the subject matter of this Agreement and supersedes any and all prior or contemporaneous negotiations or agreements between the parties, whether written or oral, concerning the subject matter of this Agreement which are not fully expressed herein. This Agreement may not be amended or modified except by a writing signed by both parties.

CROOKED RIVER RANCH WATER COOPERATIVE

DATED: 7/5/08

By: 
Brian Elliot, President of the Board of Directors

DATED: 7/8/8

By: 
Jacquie Rooks