

## **Kathy Miller Testimony Rebuttal**

### **Issue 1**

#### **The Current Application Before the Commission**

Kathy Miller is correct I am requesting to abandon service to all of its 3 customers and Fish Mill Lodges and RV Park

2) The inefficiency and burden to provide regulated water utility service to such a small number of customers;

3) The legal and regulatory costs the water utility is unable to pass on to its customers. By regulatory cost I mean trying to enforce the regulation of the PUC. Millers/14 testimony line 8. "The Commission provides both informal and formal complaint processes to resolve customer and company disputes. These processes can be used in lieu of expensive legal fees"

*A process not shared with me.*

4) Abuses, complaints, and disputes with customers. and the customers can obtain alternative water service by the 3 customers sharing the cost of drilling a single well for all 3 of them to share service or drawing water from Siltcoos Lake and the 3 customers sharing the cost to do so, and the expense would pay for itself in just a few years in comparison to paying the current monthly fee that they now pay to Fish Mill Lodges and RV Park. The Durland property should not even be considered a customer due to the two times Mr. Durland admitted to reconnection his water service Exhibit 1-a & b. The quality of water even going to the lake would be just as good as the spring system that they are now being served from by this water system, since the spring is a tributary of Siltcoos lake as stated in the Feasibility Study Exhibit 2, done on the water system in 2009 as an aid in my application for a OECDD loan and grant in make improvement to the system, it was denied. Also see news paper article stating Siltcoos Lake is clean. Exhibit 3 The Siltcoos Lake is not contaminated by algae as stated by Bonnie Lucas and is not a seasonal occurrence as she has stated in past hearing, see algae warning for Siltcoos Lake. The last out break was three years ago and that was the second to occur in the twenty two years that I have lived here and the only two listed on this site. Exhibit 4

<http://public.health.oregon.gov/SearchCenter/Pages/results.aspx?k=siltcoos%20lake%20blue%20green%20algae&s=All%20Public%20Health&v1=date>

The Feasibility Study Exhibit 2. shows the system was beyond reasonable cost to repair and be able for the utility to recover its expense from only three customers stating it would cost more than \$130 thousand dollars to bring the antiquated system up to minimum standers to supply safe and reliable service and Fish Mill has refused service to the last 3 customers who applied for service dating back more than 7 years stating that the water system could not supply safe and reliable service, only to have OPUC staff force the last 3 customers to request

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service to be served against the water system operators' best judgment leading us to the present situation we find our selves in today. This system still can not provide safe and reliable service three years after the Feasibility Study but staff still refuses to face the financial reality and refuses to answer the repeated requests to explain how the finances can be obtained by only 3 customers and how this system can make the repairs that are need with out the financial income required to do so or how the expense could ever be recovered with only 3 customers, unless the monthly billing for the 3 customers is raised beyond reason for the customers to pay for the water system to cover the financial expense to accomplish the task of supplying safe and reliable service. This system has run out of water in the past. The PUC granted about ½ the amount an accountant stated would be needed to stay solvent at the rate case in 2007 Kathy Miller stated it would be customer shock. To fine the utility would only take funds away from solving these insurmountable problems and to suggest that a another operator or regent would be able to accomplish this task is not reasonable unless the OPUC grants the new operator or regent the funds that this water system has been denied all these years not to mention, that the water system staff has never been paid and to expect that a regent or manager would operate the utility for free as I and my sons have done is not realistic. Mrs. Miller makes quite an assumption in stating "Fish Mill no longer needs this asset" on Page 5 line 8. Also see Exhibit 1 File Name: Chris Peters North Ridge Water Co. 23 seconds in the conversation of how Kathy Miller has not treated this water system in the same manner as other water systems making it impossible for this water system to maintain the system and provide safe and reliable service keeping this system from the finances it and any other system needs to operate such as attorneys fees, Office space rental and office supplies, internet access, employee wages of at least minimum wage, PO Box, vehicles or wear and tear and gas to operate a privately owned vehicle required for the system and all the other expenses she has provided for all the other water systems she has written the rate increase recommendations that she has allowed for other water systems to be able to provide safe and reliable service.

1. Varenas Refusal of service letter February 3, 2009 Exhibit 8

2. E-Mail to Micheal Grant Dated Feb.2, 2011 Letter showing Phil Boyle and Kathy Miller have been keeping process of filing complaints against problem customers February 3, 2011 Exhibit # 9

3. Complaint against Phil Boyle ignoring complaints about illegal distribution laterals on Varenas property and keeping me from the customer complaint process Exhibit #10

4.. Telephone notes from Mr. Varenas saying Phil Boyle and Kathy Miller have been helping him interfere with this utility Exhibit #11

5.OAR 860-036-0305 Maintenance of plant and equipment (4) dead end mains and low flow portions need to be flushed for objective conditions of water Exhibit #12

6. Letter Dated March 3.2010 Varenas has no right to stop payments Exhibit# 13

## **Issue 2**

### **Fish Mill Description and Regulatory History**

In 1999 mandatory service territory allocation for all utilities was put into law and this included my water system, then in 2007 this water system requested a rate increase with my accountant supplying the figures of what it cost the water system to supply water at that time which came to \$120.00 per customer, I was only granted \$53.78 and this left me with out the money necessary to supply safe and reliable service and with out the necessary funds for attorneys fees which was pointed out in Bill Ohles supplemental testimony submitted to OPUC staff with a request for reconsideration of the 2008 rate increase stating the rate of \$53.78 dollars a month was woefully inadequate and was much to low for this water system to be able to pay for an attorney for future rate increases leaving me once again unable to supply safe and reliable service and nothing has changed. I have noticed that OPUC has granted abandonment to other utilities that had several times the customer base of this system, so once again I must point out the OPUC and staff asks me to do the impossible with the insufficient funds it allows me.

Exhibit 7 a) Supplemental Testimony of Shawn Bedsole

Exhibit 7 b) Declaration of William J. Ohle in support of motion for reconsideration.

## **Issue 3**

### **Staff's Analysis of Fish Mill's Application**

#### **Claim 1: Financial Constrants**

This water systems staff is not paid for its services nor for its bookkeeping nor for its labor expenses, so to compare it to 9 other rate regulated utilities that are is not reasonable as Kathy Miller has done in this section it is only reasonable to expect that fewer customers has to mean higher rates for the utility to be able to cover expenses but I notice Kathy Miller does not say how many of these utilities pay there employees a wage or money for office supplies or all the other expense a utility occurs such as how much the other utilities are allowed for legal fees telephone, office building and office expenses, internet services and so on. Nor do I see the age of these water system, mine is over one hundred years old.

## **Issue 3**

### **Staff's Analysis of Fish Mill's Application**

#### **Claim 2: *INEFFICENCY AND BURDEN TO PROVIDE TO SUCH A SMALL CUSTOMER BASE***

There is no minimum threshold for the number of customers, as Kathy Miller points out and this water system has not questioned that, only the financial ability to operate the system with out the finances needed to do so has been repeatedly questioned and the unreasonable rate it would have to charge the 3 customers to be able to acquire and recover more \$130 thousand dollars it would need to be able to supply safe and reliable service it has needed since the 2007 rate increase hearing.

**Issue 3**  
**Staff's Analysis of Fish Mill's Application**  
**Claim 3: Legal and Regulatory Costs**

The legal fees have been recurring since 2008 and as was pointed out in Bill Ohles supplemental testimony submitted to OPUC staff with a request for reconsideration of the 2008 rate increase stating the rate of \$53.78 dollars a month was woefully inadequate and was much too low for this water system to be able to pay for an attorney for future rate increases leaving me unable to supply safe and reliable service without the legal protection necessary to deal with the problem customer the OPUC has forced onto this utility ignoring its refusal of service letters submitted to the last three customers that applied for water service from this system.

And once again to compare this utility to other utilities that are much better off financially because of much larger customer base than this system with 3 customers is not reasonable.

**Issue 3**  
**Staff's Analysis of Fish Mill's Application**  
**Claim 4: Customer Abuses**

The customer abuses are covered in depth in the Phil Boyal Testimony Rebuttal for Docket UM148

**Issue 4**  
**New Developments**

The new development discussed by Kathy Miller were due to OPUC staff allowing customers to not pay monthly payment from March 3, 2010 to January 26, 2011 as stated in UCR 121 order dated March 2, 2011 Exhibit 5 leaving this water system without the ability to meet its financial obligation with the Health Department. Without the funds in the form of customer monthly payments the water system needs to meet its obligation, it is impossible for this water system to supply safe and reliable service and without the funds for an engineer to find the source of the problem the 2008 feasibility study is the only thing one can reasonably base its estimated cost to find and fix the contamination issue as the 2009 feasibility study recommends total replacement of the system as the only way to bring it up to minimum standards to provide safe and reliable standards as stated on page 3.3 of the feasibility study. Exhibit 2

**Issue 5**  
**Customer Concerns**

OPUC has not given me the money needed for legal fees to deal with the problem customers it has forced on to the system against its best judgment as to its ability to provide safe and reliable service and supported by the 2009 feasibility study one of my sons has been assaulted by Mr. Varenas and ruptured 2 of his disks and my other son is not willing to be assaulted and violate the law



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by working for the water system with out being paid at least minimum wage. I am left as the only person to do every thing for the water system and I simply can not do it I am 68 and cant see well because of cataracts, but I am forced to do paper work for free and write all the papers for hearing being held by the OPUC because I am not allowed attorneys fees to for an attorney to represent me at these hearing as all the other utilities do, I am left at a total disadvantage since the OPUC does have all the money it needs, paid employees to do its bidding and attorneys fees to help the OPUC take total advantage of me, while leaving me with out the ability or the finances to do the work that needs to be done and to find and fix the problems now facing the water system, this is all so ridiculous I find it hard to believe this is all legal, certainly not moral of even reasonable.

**Issue 6****Other Abandonment Cases**

Once again to compare this water system to another utility with 28 customers is not reasonable with its customer base the finances are not even in the same ball park and this other utility must have employees with such a large customer base but I don't see Kathy Miller stating those statistics, is this utility she is comparing me to also run by an old lady who cant see and is it being forced into doing every thing, with only one old lady as its entire staff and work force? I surely think not, however Kathy offers no statistics that even come close to the situation I am in. as stated before, the customers can obtain alternative water service by the 3 customers sharing the cost of drilling a single well for all 3 of them to share service or drawing water from Siltcoos Lake and the 3 customers sharing the cost to do so and the expense would pay for itself in just a few years in comparison to paying the current monthly fee that they now pay to Fish Mill Lodges and RV Park and they would not be paying a monthly fee to anyone which is offering them a very good financial incentive to do so. The quality of water even going to the lake would be just as good as the spring system that they are now being served from by this water system since the spring is a tributary of Siltcoos Lake as stated in the Feasibility study done on this water system in 2008, also see news paper article stating Siltcoos Lake is clean see Exhibit 3. The lake is not contaminated by algae as stated by Bonnie Lucas and it is not a seasonal occurrence as she has stated in past hearing. See PHD algae warning for Siltcoos Lake. Exhibit 4 The cost of going to the lake would only be around 2 to 3 thousand dollars and the cost of drilling a well would be around 5 to 10 thousand dollars, split 3 ways between the 3 customer and with no further monthly payments to be made the customers could use the abandoned water line from the water system to supply the 3 homes the cost would be a bargain compared to the monthly fees they now pay Fish Mill Lodges & RV Park.

Granting of Termination of Water Service by Commission Exhibit 6

**Issue 7****Alternative Resolution**

Rebuttal to Kathy Miller Testimony

Fish Mill Lodges

The alternatives offered by Kathy in this section are completely unreasonable and seem to be less than legal as this is my private property and assets Kathy is talking about conveying to the residential customers or a new owner and I do not agree to it under any circumstances the OPUC and its staff have created this giant mess against my will and to now suggest I should give it or sell it to any one at the discount price of \$10 thousand dollars as the OPUC staff has suggested is insane, if not totally illegal not to mention overstepping the OPUC jurisdiction by suggesting that I and my sons give up all legal and civil cases against anyone including its problem customers is just not going to happen and should not have even been mentioned. The OPUC oversteps its jurisdiction once again to entertain false charges of harassment and intimidation from my sons perpetrated against customers of FMLWS and such accusations would be a civil matter and the courts are open to anyone who would like to file such charges but these false claims of the water systems customer being harassed and intimidation are covered in depth in the Phil Boyal Testimony Rebuttal. Also Kathy Millers recommendation that I give up all easements is not even within the OPUCs authority.

If the OPUC and its staff truly wanted to protect these customers and see the water system provide safe and adequate service it should have allowed the water system the funds and employees it needs to do so, but instead OPUC and its staff suggest it will only provide the funds to do so to a new owner. I find this whole situation unreasonable, immoral and unlawful.

I find it worthy to note that the OPUC and staff gives no consideration to the noncustomers that are encumbered by the water systems distribution lines coming down from the spring and gives no consideration to their property rights as these other noncustomers wish to be able to use their property as they wish as well as I and every one else in this situation would like to be able to do.

### **IN CLOSING**

1. This is private property
2. You have no Beneficial Interest in this Private property it is the sole property of Judy Bedsole.
3. I do not consent to your mandated use of this property.
4. You have no lawful easements upon which to compel your claimed beneficial interest.
5. I have been compelled to provide water that I did not consent to do.
6. I have never consented to provide water to anyone on any properties along this pipeline that feeds Fish Mill Lodges and RV park and the easements were not signed by me they were signed by someone who did not possess and interest in the property which makes these easements void.

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7. I, Judy Bedsole have never earned a profit from either this water system or Fish Mill Lodges and RV Park and do not have the funds to pay for any proposed fine so any proposed fine would be more than simply adverse to me, I do not have the ability to pay any proposed fine and it would only divert funds from being applied to fix the problems which created this situation one of which was the OPUC and staffs admitted knowledge of customers refusal to make monthly payments for over 10 months in Order UCR 121 dated March 2,2011 P.1 paragraph 2, Exhibit 5

## II. PROCEDURAL HISTORY.

### Exhibit 1

File Name: OPUC hearing official recording Durland trespass

18 minutes 25 seconds in Don Durland admits to trespass on water system property and my comments on OPUC sentencing Fish Mill and the water system to financial doom.

23 minutes 3 second in The OPUC states they do not regulate water quality only the drinking water program regulates water quality.

## 8. Granting of Termination of Water Service by Commission Exhibit 6

### **UP 183 Vista Dale Water Company - Order No. 02-044, Issued January 24, 2002**

Signed by Becky L. Beier, Commission Secretary. The Application was filed on November 13, 2000. The Commission approved termination of water service to approximately 25 customers because the system had long been inadequate, represented a future health hazard, and its close proximity to septic systems gave no assurance that a new well would produce safe water. Vista Dale was completely surrounded by Junction City so an alternative water source was available. The Commission required Vista Dale to continue to provide water until September 30, 2003.

*I.e.: This water system has long been inadequate, and is a present hazard with the contamination of coliform. This water system is over one hundred years old.*

### **UM 303 Marastoni Water Company - Order No. 91-32, Issued January 9, 1991**

Signed by Ron Eachus, Myron Katz, Joan Smith. Application filed April 23, 1990. The Commission allowed the company to terminate service because of the age and health of the system owner and because there were alternative water supply options available. Marastoni served eight customers. The Commission gave the customers until April 1991 to find an alternative water source.

*I.e.: Judy Bedsole is old and has health problem as well.*

### **UW 12 Fruitdale Water Utility - Order 88-255, Issued March 10, 1988**

Signed by Ron Eachus, Paul Cook, Nancy Ryles. On September 17, 1986, Fruitdale filed for termination of water service to approximately 180 customers. On September

24, 1986, Fruitdale was notified that it was required to provide water service "until all reasonable alternatives had been explored and a practical solution" had been found. By July 1988, all but six customers had made arrangements for alternative water service with the city or other Local Improvement Districts. The Commission found that the remaining six customers had been presented with several reasonable water service alternatives and had been given sufficient time to make a decision. The Commission granted termination of water service to all customers, including the six undecided customers, when the last eight customers (who agreed to go with the city) switched to city water.

*I.e.: The Commission found that the remaining six customers had been presented with several reasonable water service alternatives. The Commission granted termination including the customers.*

## **Kathy Miller Testimony Rebuttal Exhibits**

Exhibit 1. File Name: Don Durland disconnection hearing  
UCR135 Official Recording 3.11.2011

a) 25 minutes 17 seconds in Mr. Durland admits to instructing his gardener to turn the water back on. This was after he received a 15 day and 5 day disconnection notice; this was done 2 times by Mr. Durland.

45 minutes 52 seconds in ALJ talks about Durland admitting to tampering with service, referring to Durland statement made 25 minutes 17 seconds in to hearing.

b) <http://www.oregon.gov/PUC/water/faqs/faqco.pdf>

This passage is found on the second to last page on the above link

Q. What should I do if someone reconnects service without authorization?

A. If someone reconnects service without authorization, that consumer is not a customer. Therefore, the water utility may disconnect without notice. Because this person is not a customer, he or she does not have the rights afforded to a customer. OAR 860-036-0010 (2) and (5) provides the definitions of a co-customer and a customer.

Exhibit 2. Feasibility Study 2009

Exhibit 3. News paper articles saying Siltcoos is clean

Exhibit 4. Public Health Department of Oregon Siltcoos Lake Report  
[Http://public.health.oregon.gov/SearchCenter/Pages/results.aspx?k=siltcoos%20lake%20blue%20green%20algae&s=All%20Public%20Health&v1=date](http://public.health.oregon.gov/SearchCenter/Pages/results.aspx?k=siltcoos%20lake%20blue%20green%20algae&s=All%20Public%20Health&v1=date)

Exhibit 5. UCR 121 Order dated March 2, 2011

Exhibit 6. Granting of Termination of Water Service by Commission

Exhibit 7 a) Supplemental Testimony of Shawn Bedsole

Exhibit 7 b) Declaration of William J. Ohle in support of motion for reconsideration.

Exhibit 8. Varenas Refusal of service letter February 3, 2009

Exhibit # 9. E-Mail to Micheal Grant Dated Feb.2, 2011 Letter showing Phil Boyle and Kathy Miller have been keeping process of filing complaints against problem customers February 3, 2011

Exhibit #10. Complaint against Phil Boyle ignoring complaints about illegal distribution laterals on Varenas property and keeping me from the customer complaint process

Rebuttal to Kathy Miller Testimony

Fish Mill Lodges

Exhibit #11. Telephone notes from Mr. Varenas saying Phil Boyle and Kathy Miller have been helping him interfere with this utility

Exhibit #12. OAR 860-036-0305 Maintenance of plant and equipment (4) dead end mains and low flow portions need to be flushed for objective conditions of water

Exhibit# 13. Letter Dated March 3.2010 Varenas has no right to stop payments

## ***CERTIFICATE OF SERVICE***

I hereby certify that on May 23, 2011, I served a true and correct copy of this letter by first-class mail and/or e-mail on the following:

Public Utility Commission, Filling Center  
550 Capital St NE Suite 215  
Salem OR 97302

Bonnie Lucas  
PO Box 87  
Westlake OR 97493  
[bonnie337@oregonfast.net](mailto:bonnie337@oregonfast.net);

Barbara Bower [bkbpc@juno.com](mailto:bkbpc@juno.com) (representative of Bonnie Lucas)

Dennis and Barbara Varenas  
721 Old Garden Valley Rd  
Roseburg OR 97470  
[varenas4@msn.com](mailto:varenas4@msn.com)

Don Durland  
123 OASIS DR  
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[durlandarts@texoma.net](mailto:durlandarts@texoma.net); [piet@texoma.net](mailto:piet@texoma.net)

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May 23,, 2011

Judy Bedsole  
Fish Mill Lodges  
PO Box 1373  
Florence OR 97439

**From:** Judy Bedsole [mailto:fishmill1@charter.net]  
**Sent:** Wednesday, May 04, 2011 9:11 AM  
**To:** POWER Patrick J.  
**Cc:** 'Ruth Pitts'; 'bford@kval.com'; 'puc.filingcenter@state.or.us'; 'puc.commission@state.or.us'; 'peter.mohr@tonkon.com'  
**Subject:** UCR 135

In reference to UCR 135

Mr. Durland has not sent any documentation as was scheduled to be delivered to the OPUC and myself by May 2, 2011 as he has not responded in the time prescribed and because of the law I found online in the Water Utility FAQ at the OPUC web site I am demanding an expedited hearing on this matter or that the OPUC and ALJ Powers follow the law and allow me to disconnect Mr. Durland permanently.

I insist the OPUC and its staff follow the law and stop coersing me and threatening me and harassing me.  
The OPUC also needs to follow the law and allow the immediate abandonment of this illegal entity it has created and assigned the name Fish Mill Lodges Water System.

<http://www.oregon.gov/PUC/water/faqs/faqco.pdf>

This passage is found on the second to last page on the above link

Q. What should I do if someone reconnects service without authorization?

A. If someone reconnects service without authorization, that consumer is not a customer. Therefore, the water utility may disconnect without notice. Because this person is not a customer, he or she does not have the rights afforded to a customer. OAR 860-036-0010 (2) and (5) provides the definitions of a co-customer and a customer.

# Siuslaw News

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WEDNESDAY

SERVING THE COMMUNITIES OF ASTORIA, DUNES CITY, HEIST LAKE, MARATHON, STANFORD, SIOUX, TILLAMOOK, WASHINGTON, WYLLA AND ALL 20

• ISSUE No. 60

JULY 28 • 2010

## Tests show Woahink, Siltcoos lakes are healthy

STORY AND PHOTO  
BY RYAN CRONK  
Siuslaw News

Woahink and Siltcoos lakes are the primary drinking water sources for Dunes City, and for that reason, preserving the quality of the lakes remains a high priority for the city's approximately 1,330 residents.

At the July 8 Dunes City Council meeting, Mark Chandler, volunteer project manager for the city's water monitoring program, presented data examining three water quality parameters for the lakes: clarity, chlorophyll-a, and total phosphorus.

Volunteers trained by the Oregon Department of Environmental Quality collected the statistics, which were recorded

over the last six years.

According to Chandler, the water clarity measurements were taken by lowering a standard disc into the lakes and recording the maximum visible depth.

At the Atlas site in Woahink Lake, the average depth currently is about 20 feet, greater than it was in 1990.

Data for Siltcoos Lake indicate less water clarity — five to six feet — in recent years, reflecting the 2007 and 2008 blue-green algal blooms.

Lower clarity readings correspond to either high rainfall and runoff or algal blooms, Chandler said.

Chlorophyll-a levels were tested in micrograms per liter at Woahink and Siltcoos lakes from 2004 to



*Woahink Lake data show somewhat stable levels of phosphorus and algae-causing chlorophyll-a, and no health concerns.*

June 2010. During this time, water University of Washington to samples were sent frozen to the process.

See **LAKES 6A**

# Lakes

from 1A

"The higher levels of chlorophyll indicate higher levels of algae in the water," Chandler said.

Woahink's average chlorophyll-a level, between 1 and 2 micrograms per liter, is fairly stable, but the occasional higher data points denote an elevated presence of algae in the water.

The increased levels generally are associated with springtime blooms.

"The algae that we get in the springtime in Woahink are gen-

erally a cyclotella, which is a diatom, or a chrysochromulina, which is a chrysophyte," Chandler explained. "These species do not raise health concerns, but they can impart a bad taste and odor into the water."

Chlorophyll-a levels are higher in Siltcoos, with some reaching almost 25 micrograms per liter over the last six years. Recent figures show levels at about 4 micrograms per liter.

The predominant species during the lake's elevated chlorophyll-a levels has been anabaena, a freshwater blue-green alga.

Total phosphorus levels were

also tested at both lakes, and the water samples were sent frozen to a lab at Oregon State University for analysis.

Chandler said lower total phosphorus levels are associated with better water quality because phosphorus is the nutrient that limits algal growth.

In Woahink, total phosphorus levels currently are lower than in previous years. Data for Siltcoos, however, show a cyclical pattern for phosphorus levels in 2008.

"This may be due to weed growth increasing in the spring, and that takes up the nutrients

and the water drops," Chandler said. "In the fall, the weeds spread down and you get more runoff (causing the higher levels)."

Since Woahink and Siltcoos lakes are the main water sources for Dunes City residents, city staff and volunteers are continuing to monitor and test the lakes' quality.

Woahink Lake also is the only permitted water source for Honeyman State Park's estimated 1.7 million annual visitors, according to the city.

Chandler suggested the following for proper care of the lakes:

*Epilobium*  
mm 3  
Pg 203





All Public Health

siltcoos lake blue green algae

Advanced Search

Results 1-2 of 2. Your search took 0.38 seconds.

Results by Modified Date

[2008 Blue-Green Health Advisories | Harmful Algae Blooms](#)

2008 **Blue-Green** Health Advisories ... Harmful **Algae** Bloom Surveillance Program ... **Siltcoos Lake**

<http://public.health.oregon.gov/healthyenvironments/recreation/harmfulalgaeblooms/pages/new2008.aspx> - 5/21/2011

[2007 Blue-Green Health Advisories | Harmful Algae Blooms](#)

2007 **Blue-Green** Health Advisories ... Harmful **Algae** Bloom Surveillance Program ... **Siltcoos Lake**

[http://public.health.oregon.gov/healthyenvironments/recreation/harmfulalgaeblooms/pages/2007\\_advisories.aspx](http://public.health.oregon.gov/healthyenvironments/recreation/harmfulalgaeblooms/pages/2007_advisories.aspx)

*Exhibit 4*

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ORDER NO.

11 073

ENTERED

MAR 02 2011

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UCR 121

D.V. and B.V.,

Complainants,

vs.

FISH MILL LODGES WATER SYSTEM,

Defendant.

ORDER

DISPOSITION: COMPLAINT RESOLVED

**I. INTRODUCTION**

Fish Mill Lodges Water System (Fish Mill) is a water utility providing service to three residential customers and its own business near Siltcoos Lake near the Oregon coast. Complainants D.V. and B.V. own one of the three residential properties served by Fish Mill. Complainants have filed several complaints against Fish Mill. In this Order, we resolve complainants' billing dispute with defendant.

**II. PROCEDURAL HISTORY**

Complainants filed a complaint regarding the parties' billing dispute on March 3, 2010. After attempts to resolve the issue informally failed, on January 26, 2011, an Administrative Law Judge for the Public Utility Commission of Oregon (Commission) conducted a hearing, at which both parties offered evidence and testimony.

### III. DISCUSSION

This case involves a billing dispute between Complainants D.V. and B.V and their water utility, Fish Mill. The following facts are not disputed:

1. Complainants began making monthly payments of \$53.87 to "Fish Mill Lodges Water System" in December of 2008.
2. Fish Mill cashed complainants' first 13 checks.
3. Complainants' next two checks, number 1784 (dated March 9, 2010) and number 1798 (dated March 26, 2010), went uncashed.
4. Fish Mill cashed complainants' next check, dated May 29, 2010.
5. Complainants have continued to send monthly checks to Fish Mill, but Fish Mill has not cashed them.
6. In April 2010, Fish Mill referred complainants' account to PRA Recovery, a collection agency. Some time later in 2010, Fish Mill referred complainants' account to a second collection agency, Pacific Coast Credit.

#### Uncashed Checks

The parties dispute the reason why checks number 1784 and 1798 went uncashed, and why Fish Mill has not cashed any checks after the May 29, 2010 check. Complainants testified that they have sent timely checks to Fish Mill each month in the same manner, and contend that Fish Mill's failure to cash the checks is retaliatory and in line with other hostile steps the utility has taken against them. Since they paid their bills on time each month, complainants ask that if they have to issue new checks for their 2010 bills, they be permitted to stop payments on their previously issued checks, and to charge the stop payment fees to Fish Mill. They also ask not to have to deal with Shawn or Chris Bedsole, sons of Fish Mills' owner Judy Bedsole. Finally, at the hearing, complainants noted that for future payments, their bank allows them to pay their checks using online banking, so that the checks would be issued by their bank and the date of issue would be independently verifiable.

In contrast, Fish Mill claims it never received checks 1784 and 1798, and was unable to cash the other checks because they were made out to the wrong name. Fish Mill states that at some point in 2010, their bank stopped cashing checks made out to Fish Mill Lodges Water System, and required that future checks be made out to Fish Mill Lodges and RV Park. Fish Mill further testified that it tried to open a bank account under the name of the water system at several banks, but was told that they could not do so

because the water system was not a business registered with the Oregon Secretary of State. To support this claim, Fish Mill offered a letter from their bank, dated November 1, 2010, stating that the bank cannot cash checks made out to Fish Mill Lodges Water System.

In support of its claim that it did not receive checks 1784 and 1798, Fish Mill provided the Commission all original checks it received from Complainants after March 26, 2010. The checks were uncashed and were, with the agreement of the parties, destroyed.

#### Referral to Collection Agencies

With regard to the collection agency accounts, complainants state that they paid their bills on time each month, as evidenced by Fish Mill's receipt of their checks, and that there were no grounds to refer them to collections. Complainants state that they did not receive any notice about needing to make payments to the RV Park rather than the water system until late 2010, far later than when Fish Mill referred them to collections. Complainants request that Fish Mill close the collection agency accounts against them and take steps to rectify any damage to their credit.

In response, Fish Mill explains that they referred complainants to collections because they had no other recourse. On March 29, 2010, Fish Mill disconnected complainants' water based on the utility's claim that complainant D.V. had assaulted a Fish Mill agent. After complainants filed a complaint, this Commission issued an expedited order requiring Fish Mill to restore service pending the resolution of the complaint. Since they did not have the option of terminating water service, Fish Mill states that its only option was to turn complainants over to collections. Fish Mill states that it is entitled to late fees for complainants' failure to pay their bills, and that complainants' numerous complaints have been prohibitively expensive and difficult for Fish Mill. Fish Mill testified at the hearing that both collection agency accounts against complainants have now been closed.

#### **IV. RESOLUTION**

With regard to the billing issue, we find that complainants D.V. and B.V. made timely payments of all monthly bills, including those paid by checks 1784 and 1798. We base this finding on complainants' credible evidence that they sent all checks to Fish Mill in the same manner. Based on that testimony, we further find that complainants did not receive timely notice that they were making payments to the wrong entity. Although Fish Mill may have received notice from their bank as early as March 2010 that checks to Fish Mill Lodges Water System could not be cashed, Fish Mill did not inform their customers of the need to make the checks out to a different entity until late 2010, after Fish Mill had referred complainants to collection agencies.

Moving forward, complainants D.V. and B.V. must send their water payments made out to Fish Mill Lodges and RV Park. Complainants agree to use online banking, which will provide an independent, third-party verification that the checks are being sent.

With regard to check cancellation fees, Fish Mill accounted for all checks sent by complainants except for complainants' checks 1784 and 1798, each for \$53.87. Rather than cancel the two missing checks and charge defendant for the cancellation fee, we instead find that if in the future Fish Mill cashes the checks, complainants' account will immediately be credited the cashed amount.

Fish Mill testified at the hearing that both collection agency accounts against complainants have been closed. We require Fish Mill to submit verification to the Commission and the complainants that the accounts have been closed. We reject Fish Mill's assertion that it was required to refer complainants to collections because it had no other options. Although the Commission had ordered the utility to restore service to complainants pending resolution of the complaint, complainants remained obligated to pay for service. If Fish Mill believed that complainants were not paying for service, it should have raised the issue with the Commission for resolution.

#### V. ORDER

IT IS ORDERED that:

1. Within 14 days of issuance of this Order, Defendant Fish Mill Lodges Water System will send to complainants D.V. and B.V., and to this Commission, verification that all collection agency accounts against complainants have been closed. To the extent Fish Mill's actions here have impacted complainants' credit rating, complainants may ask this Commission to examine the issue and determine what if any jurisdiction we have to address it.
2. Within 14 days of issuance of this Order, complainants D.V. and B.V. will pay all past due amounts to defendant in one payment, using online banking and made out to Fish Mill Lodges and RV Park.
3. Moving forward, complainants D.V. and B.V. will send their water utility checks made out to Fish Mill Lodges and RV Park, using online banking so that there is independent, third party verification that the checks are being sent.

GRANTING OF TERMINATION OF WATER SERVICE BY COMMISSION

**UP 244 Westland Estates Water System, Inc. - Order No. 08-360, July 7, 2008**

Signed by Commissioners Lee Beyer, John Savage, and Ray Baum. Application filed March 12, 2008. The Commission approved termination of water service to approximately 22 customers due to well nitrate contamination and the company's inability to drill a new well due to water right restrictions. The Company was required to provide service until May 31, 2009, or earlier if all customers had secured alternative water service.

**UP 183 Vista Dale Water Company - Order No. 02-044, Issued January 24, 2002**

Signed by Becky L. Beier, Commission Secretary. The Application was filed on November 13, 2000. The Commission approved termination of water service to approximately 25 customers because the system had long been inadequate, represented a future health hazard, and its close proximity to septic systems gave no assurance that a new well would produce safe water. Vista Dale was completely surrounded by Junction City so an alternative water source was available. The Commission required Vista Dale to continue to provide water until September 30, 2003.

**UW 41 Western Estates Water Company - Order No. 93-545, Issued April 14, 1993**

Signed by Ron Eachus, Roger Hamilton, Joan Smith. Application filed October 21, 1992. The Commissions allowed the company to terminate service to 62 customers. The customers were surrounded by the City of Keizer and the city was willing and able to accept the customers. The Commission required the company to provide service until all customers were connected with Keizer or for 90 days from the date of the order, whichever came first.

**UM 303 Marastoni Water Company - Order No. 91-32, Issued January 9, 1991**

Signed by Ron Eachus, Myron Katz, Joan Smith. Application filed April 23, 1990. The Commission allowed the company to terminate service because of the age and health of the system owner and because there were alternative water supply options available. Marastoni served eight customers. The Commission gave the customers until April 1991 to find an alternative water source.

**UW 23 Cleawox Acres Water Company - Order No. 90-879, Issued June 5, 1990**

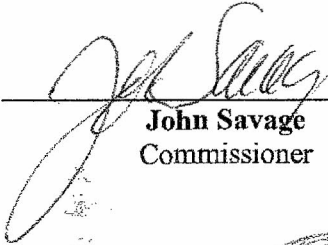
Signed by Ron Eachus, Nancy Ryles, Myron Katz. Application filed October 4, 1988. The Commission suspended the request to terminate service for six months. The suspension was extended twice more until November 29, 1989. On March 21, 1990, the ownership was transferred to the customers. The Commission ordered termination of Cleawox water service on June 5, 1990.

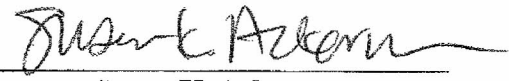
**UW 12 Fruitdale Water Utility - Order 88-255, Issued March 10, 1988**

Signed by Ron Eachus, Paul Cook, Nancy Ryles. On September 17, 1986, Fruitdale filed for termination of water service to approximately 180 customers. On September

4. If in the future defendant cashes any uncashed checks from complainants dated earlier than this month, complainants' utility account with defendant will immediately be credited for the cashed amount.

Made, entered, and effective MAR 02 2011

  
\_\_\_\_\_  
**John Savage**  
Commissioner

  
\_\_\_\_\_  
**Susan K. Ackerman**  
Commissioner



A party may request rehearing or reconsideration of this order under 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 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.



24, 1986, Fruitdale was notified that it was required to provide water service "until all reasonable alternatives had been explored and a practical solution" had been found. By July 1988, all but six customers had made arrangements for alternative water service with the city or other Local Improvement Districts. The Commission found that the remaining six customers had been presented with several reasonable water service alternatives and had been given sufficient time to make a decision. The Commission granted termination of water service to all customers, including the six undecided customers, when the last eight customers (who agreed to go with the city) switched to city water.



FISH MILL LODGES WATER SYSTEM  
PO Bos95  
Westlake, OR 97493  
541-997-2511

Mr. Dennis L. Varenas  
721 Old Garden Valley Rd.  
Roseburg, OR 97470

February 2, 2009

Mr. Verenas,

FMLWS will not be able to provide you service because you refused to sign this utility's agreement and in the best judgment of this water utility, the facilities of the customer or applicant are of such a character that safe and satisfactory service cannot be given because of the diversion of service and tampering with service and distribution lines that has occurred on your property the risk of contamination and damage of the utility's facilities and resulting risk to its customers is unacceptable, this utility has complained to both you and the OPUC about this unacceptable situation that risks this utilities facility and its customers and this utilities complaints have been ignored by both you and the OPUC so this letter is also to inform you that this utility will disconnect your service in five business days pursuant to OAR 860-036-0245 making the formal date for disconnection Monday February the 10<sup>th</sup> this utility has made several complaints to the OPUC about this situation and you can contact the OPUC for the information we have provided to them and you may challenge the water utility's refusal of service through the Commission's dispute resolution process pursuant to OAR 860-036-0025 and you Mr. Veranus can count your lucky stars that this utility does not pursue legal action against you for your behavior in this matter.

Public Utility Commission of Oregon  
550 Capitol St NE #215  
PO Box 2148  
Salem OR 97308-2148

---

Shawn Bedsole  
FMLWS

CC OPUC

**From:** Judy Bedsole [mailto:fishmill1@charter.net]  
**Sent:** Thursday, February 03, 2011 8:50 AM  
**To:** Cris  
**Subject:** Request for hearing durland non-payment Please print 3 ? copies  
Michael Grant  
Chief Administrative Law Judge  
Public Utility Commission  
PO Box 2148  
Salem, OR 97308-2011

February 3, 2011

I stated in the request for hearing letter what the utility is asking for from the hearing and the laws that apply as I was instructed from the enclosed letter Dated 1-6-2011 from Diane Davis, she did not quote the law that you did. Could you two please get together and find out which one of you is correct on how a utility files a complaint against a customer, every time I ask this question I get a different answer. Perhaps a form should be made and used by the OPUC staff, there seams to be much confusion around this issue which leaves utilities in a bad place as has happened with FMLWS in this situation, I have been requesting a hearing on this subject since August of 2010. please inform me in writing at PO Box 1373 Florence Oregon 97439 I just want a hearing as requested for what the utility requested in the letters, one signed and mailed first class mail and one by E mail if you need anything further for FMLWS to get a hearing on the Durland non-payment issue please write and let me know what you need so the utility can be paid for the services already rendered. This utility needs money to operate in this emergency situation.

Thank you,  
Judy Bedsole  
Fish Mill Lodges Water System  
PO Box 1373  
Florence Oregon 97439

Cc Sent by first class mail

Diane Davis  
Administrative Hearings Division  
PO Box 2148  
Salem, OR 97308-2148

Michael Grant  
Chief Administrative Law Judge  
Public Utility Commission  
PO Box 2148  
Salem, OR 97308-2011

PUC Administration Law Judge, Shani M. Pines, OPUC UCR 133  
PO Box 2148 Salem, OR 97308-2011

Public Utility Commission  
550 Capital Street NE, Suite 215  
PO Box 2148  
Salem, OR. 97308-2148  
[puc.filingcenter@state.or.us](mailto:puc.filingcenter@state.or.us)

March 5, 2011

Phil Boyle  
Manager, Consumer Service  
Oregon Public Utility Commission

I would like to file a complaint against Phil Boyal and or OPUC staff for ignoring utility complaints and not providing the process for FMLWS to file a complaint against a customer or simply transferring the utilities complaint to the OPUC filing center as is the other means by which a utility may be granted a hearing for its concerns and complaints leaving this utility with out money to operate between March, 3, 2010 and January, 26, 2011 as is stated in the final decision of UCR 121. by ignoring utility complaints and not informing FMLWS as to the process for a utility to file a complaint against a customer or forwarding utility complaints to the OPUC filing center by doing so Mr. Boyal has created the problems now faced by FMLWS and the fines being imposed by the Health Department on FMLWS. We ask that the OPUC expedite hearings on this matter and include the health department in these hearing so they can see first hand what has created these problems which FMLWS now faces, we would also ask the commission to instruct Mr. Phil Boyal to pay any fine that FMLWS may face from the Health Department because Mr. Boyal and or OPUC staff ignored Utilities complaints of nonpayment by 2 out of the 3 customer of FMLWS for over 11 months and therefore creating the situation FMLWS has been forced into by OPUC staff.

Thank You  
Judy Bedsole  
PO Box 13 73  
Florence, Or 97439

**CERTIFICATE OF SERVICE**

I hereby certify that on March 5, 2011, I served a true and correct copy of this letter by first-class mail and e-mail on the following:

Phil Boyle  
Manager, Consumer Service  
Public Utility Commission of Oregon  
550 Capitol Street NE, Suite 215  
PO Box 2148  
Salem, OR 97308-2148

*Exhibit  
10*

2-4-09 2:15pm Tel. message / Shawn  
From Dennis Veranes - 541 957-8368

Received your letter of disavowal.

Law suite, been in contact  
w/ Phil Boyd, Kathy Miller, PVC  
and his attorney - he has money  
to fight

PVC said they will send out police  
escort to reconnect. Shawn will be  
charged.

Shawn won't talk to him hangs  
up when he calls. Being unreasonable.

This is unnecessary. The water is  
hooked up the way it was when he  
purchased property.

I told him Shawn is in charge  
I have interest

PVC has been helping me & they  
don't like you very much do they.  
I have a lot of money & will force you  
to give me my service & the  
PVC is going to help me do it.

Veranes Fish Mill Lodge harassment 12/13/08

Veranes phone harassment ~~3/12/10~~ → 3/18/10

3/18/10 POC complaint

Veranes cabin #6 harassment 3/6/10 UCR 122

Veranes assault 3/26/10

POC complaint UCR 123 Entering Residence OAR 860-036

085

Exhibit  
13

**Maintenance and Repair of Plant and Equipment**

(1) A water utility shall have and maintain its entire plant and system in such condition that it will furnish safe, adequate, and reasonably continuous service.

(2) A water utility shall inspect its plant, distribution system, and facilities in such manner and with such frequency as necessary to ensure a reasonably complete knowledge about the condition and adequacy of the entire system at all times.

(3) A water utility will keep maintenance and repair records consistent with the Commission's Guide for the Preservation of Records for Public Water Utilities, except when the Commission specifies a more complete record.

(4) A water utility shall flush dead end mains or other low flow portions of the distribution system as needed or at reasonable intervals to eliminate or minimize complaints from customers or applicants arising from an objectionable condition of water. A water utility must:

(a) Provide prior notification to the customers of all routine (nonemergency) flushings. The notice must include:

(A) The date, time, and approximate duration of the flushings; and

(B) A statement cautioning customers to avoid using water during flushing to prevent debris in the customers' service lines.

(b) Keep a record of the date, place, time, and duration of all routine and emergency flushings.

(5) A water utility shall inspect, exercise, and maintain valves and hydrants as necessary to ensure they are operable. A water utility shall keep records of all inspections, maintenance, repairs, and exercise of each valve and hydrant.





**WILLIAM J. OHLE**

Admitted in Oregon, Washington and the Northern Mariana Islands

Direct Line: 503-796-2414

E-Mail: wohle@schwabe.com

March 23, 2010

**VIA EMAIL AND U.S. MAIL**

Phil Boyle  
Public Utility Commission of Oregon  
550 Capitol Street, NE #215  
Salem, OR 97301

Re: Varenas v. Fish Mill Lodges Water System  
Our File No.: 119572/162729

Dear Mr. Boyle:

This letter is being submitted in response to the Complaint filed by Dennis and Barbara Varenas on March 2, 2010. From the Complaint, the only subject appears to be the utility's invoicing practice and whether the Varenases can refuse to pay the applicable residential tariff because they have not receive monthly reminders.

The approved rate for Fish Mill Lodges Water System is a flat rate of \$53.87 per month for residential service. See Order No. 08-257, Schedule 1 (May 19, 2008). At the rate hearing in 2008, Fish Mill was instructed by the PUC staff that because the tariff was a flat monthly charge, monthly invoices were not required. In fact, one customer expressly requested that Fish Mill not send her monthly bills.

On June 13, 2008, Fish Mill sent to its customers a notice informing them of the new tariff approved by the PUC in its May 19, 2008, Order. This notice expressly stated:

"Rate increase to \$53.87 will be due the first of each month starting June 1, 2008.

Invoices will not be sent out, this is a flat rate."

(Example enclosed.)

As a result of the PUC advice, Fish Mill has not sent its customers monthly reminders. Since June 2008, all Fish Mill's customers have complied with the payment schedule and until the recent complaint by the Varenases, no one has expressed a concern about the practice.

*Epiphany*  
*13*  
*106*

Regardless, the failure to send or receive a monthly utility bill reminder does not relieve the Varenases of their obligation to pay for service. In fact, the Filed Rate Doctrine mandates that Fish Mill collect the tariff rate from its customers. Since the Varenases have paid the service charge in the past, Fish Mill assumes that the Varenases know how much to pay and when it is due.

Finally, on the day after the filing of the Complaint, March 3, 2010, Fish Mill sent the Varenases an invoice for their February and March bills. (Copy enclosed.) The February amount is past due and the Varenases have so far refused to bring their account up-to-date.

Given the utility's deficient cash flow, it is Fish Mill's request that this matter be expedited and either the outstanding tariff paid or Fish Mill be allowed to disconnect the service. In addition, Fish Mill has reason to believe that the Varenases are preparing to provide water to adjacent lots, outside Fish Mill's service territory, with lateral lines connected to their Customer Service Line. There has been recent excavation in the vicinity of Fish Mill's distribution facilities (without contacting the utility for permission) and someone had suspiciously tampered with the system, shutting it down for a number of hours last week. Even if the Varenases pay their back charges, Fish Mill reserves the right to disconnect the service under the applicable procedures and provisions for Unauthorized Service.

If you require further information, please do not hesitate to contact me.

Very truly yours,

  
William J. Onle

Enclosures

cc: Dennis and Barbara Varenas (by U.S. Mail)  
Jason Jones (by email)  
Shawn & Judy Bedsole (by email)



EXHIBIT # UCK 121-2

Mar 15 10 07:23p

P.1

Page 1 of

To: "Fish Mill Lodges & RV Park" <fishmill@oregonfast.net>  
Subject: FW: need printed

Post-IP Fax Note 7671		Date: 3/21/08	# of pages: 1
To: 503-796-2900	From: Shauna Brisk		
Co/Dept: B. A. O. I. T.	Co: FINLWS		
Phone #	Phone #		
Fax #	Fax #		

Fish Mill Lodges Water System  
Po Box 95  
Westlake, OR 9749  
Phone 541-207-2511

Mr. & Mrs. Don Durland  
621 City View Blvd  
Springfield, OR 97477-3857

June 13, 2008

RE: BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON JULY 123.  
In the Matter of Fish Mill Lodges Water System Request for a general rate increase.

CONCLUSION

DISPOSITION: NEW TARIFFS ADOPTED ORDER NO. 08-235

Residential rates will increase from \$24.00 to \$53.87 a flat monthly rate due.

Revised tariff schedules made, entered, and effective April 24, 2008 and shall become effective May 15, 2008.

Rate increase to \$53.87 will be due the first of each month, starting June 1, 2008.

Invoices will not be sent out, this is a flat rate.

Late-Payment Charge (Rule No. 22) Charged on amounts more than 10 days past due. For more on OAR 860-036-0130 (as of 1/1/07 - 1/1/08)

Payment received 2008			Past Due 2008	
January	ck # 3006	\$48.00	April	\$48.00 + late charge .82 = \$ 48.82
February	ck # 3029	\$48.00	May	\$48.00 + late charge .82 = \$ 48.82
March	ck # 3048	\$48.00	June	\$48.00
			145.65	

Received - June 13, 2008 ck# 3087 \$149.87 for April, May, June 2008  
\$4.22 credit

4  
53.87  
- 48.00  
-----  
increase 5.87

April 48  
May 48  
June 53.87  
-----  
149.87 OK June 48.



file://C:\DOCUME~1\JUDYBE~1\LOCALS~1\Temp\ud2...

6/15/2008  
Ephraim  
13  
300

55



FISH MILL LODGES WATER SYSTEM  
P.O. BOX 95  
WESTLAKE, OR 97493

# Invoice

DATE	INVOICE #
3/3/2010	101

BILL TO
Dennis L. & Barbara J. Varenas 721 Old Garden Valley Rd.- Roseburg, OR 97471-9546

DUE DATE
4/1/2010

ITEM	DESCRIPTION	QTY	RATE	AMOUNT
FMLWS	February 1-28-2010	1	53.87	53.87
FMLWS	Past Due	1	0.81	0.81
FMLWS	March 1-31-2010	1	53.87	53.87
Payments are due at a Flat Rate \$53.87 per month. Late-Payment charge charged on amounts more than 30 days past due (as of 1/1/10) > 1.5%				<b>Total</b> 108.55

*Ernie  
13  
4/2/4*