

TOMMY A. BROOKS

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February 4, 2011

Public Utility Commission  
Attn: Filing Center  
550 Capitol Street NE #215  
PO Box 2148  
Salem, OR 97308

Re: Docket WJ 8; Crooked River Ranch Water Company

Dear Filing Center:

Enclosed please find the Crooked River Ranch Water Company's Testimony in Support of Commission Oversight in the above-captioned matter. Also included are the affidavits of Dennis Kirk, Sheridan Loster, James McCawley, Michael Drum and Charles Vawter. The testimony and affidavits are being filed electronically today, and the hard copies will be mailed once I have received the original affidavits from the Company, which are being mailed to me today.

Should you have any questions regarding this filing, please call.

Very truly yours,



Tommy A. Brooks

TAB:sk

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Crooked River Ranch Water Co. Testimony

**PUBLIC UTILITY COMMISSION  
OF  
OREGON**

**WJ 8**

**Company Testimony in Support of Commission  
Oversight**

**IN THE MATTER OF**

**CROOKED RIVER RANCH WATER COMPANY  
Investigation Pursuant to ORS 756.515 to Determine  
Jurisdiction**

**February 4, 2011**

1           **Q.     Please state your names and positions.**

2           A.     My name is Dennis Kirk. I am President of the Board of Directors (“Board”)  
3 for the Crooked River Ranch Water Company (“Company”). My Business address is 13845  
4 SW Commercial Loop, Terrebonne, Oregon 97760. I joined the Board on November 9,  
5 2010.

6           My name is Sheridan Loster. I am Secretary/Treasurer of the Company Board. My  
7 Business address is 13845 SW Commercial Loop, Terrebonne, Oregon 97760. I joined the  
8 Board on November 9, 2010.

9           My name is Archie McCawley. I am Vice President of the Company Board. My  
10 Business address is 13845 SW Commercial Loop, Terrebonne, Oregon 97760. I joined the  
11 Board on November 9, 2010.

12          My name is Michael Drum. I am Vice President – Operations and Maintenance of  
13 the Company Board. My Business address is 13845 SW Commercial Loop, Terrebonne,  
14 Oregon 97760. I joined the Board on November 9, 2010.

15          My name is Charles Vawter. I am Vice President – Policies and Procedures of the  
16 Company Board. My Business address is 13845 SW Commercial Loop, Terrebonne,  
17 Oregon 97760. I joined the Board on November 9, 2010.

18          **Q.     What is the purpose of your joint testimony?**

19          A.     The purpose of our testimony is to describe, from the Company’s position,  
20 reasons for which the Commission should oversee the Company.

21          **Q.     Has the Company’s position changed with respect to Commission**  
22 **oversight?**

23          A.     Yes. The Company’s Members, not the Company, initiated the request for  
24 Commission oversight that initiated this proceeding. At that time, the individuals on the

1 Company Board and the Company's management decided to oppose Commission oversight.  
2 Indeed, those individuals even attempted to change the Company's corporate structure at  
3 least in part to remove the Commission's ability to oversee the Company. Since that time,  
4 the entire Company Board has been replaced by the Company's members with a Board that  
5 supports the Members' request for Commission oversight.

6 **Q. When did the Company's members elect the new Board?**

7 The election took place over an extended period that concluded on or about  
8 November 2, 2010. The new Board took office on November 9, 2010.

9 **Q. How did that election come about?**

10 A. The election was the outcome of a derivative lawsuit in the Jefferson County  
11 Circuit Court. In that suit, a representative group of the Company's membership sued the  
12 former Board on behalf of the Company, seeking to confirm the Company's status as a  
13 mutual benefit non-profit corporation, and also seeking removal of the members of the  
14 Company Board. The Court did not reach the latter issue, but did determine that the  
15 corporate structure of the Company had not changed and that the Company remains a  
16 mutual benefit non-profit corporation. Instead of continuing to litigate over the removal of  
17 the individuals from the Board, the parties to the suit agreed, with the Court's approval, to  
18 hold an election for all five positions on the Company Board. The parties then agreed to a  
19 specific election process, over which the Court provided ultimate oversight.

20 **Q. What was that election process?**

21 A. The election was a multi-step process that began by engaging a "Neutral" to  
22 directly manage the election. Retired judge Gregory Foote from Lane County agreed to act  
23 as the Neutral. Judge Foote sent a letter to all Company Members announcing the election  
24 and explaining how it came about. The letter also sought candidates for each of the five

1 Board positions. More than 13 individuals sought election to the Board, the most we are  
 2 aware of in any the Company’s prior elections.

3 The 13 individuals who ultimately qualified for election to the Board each submitted  
 4 a statement to Judge Foote, who then prepared a “voter’s pamphlet” containing those  
 5 statements and which went out to all Company Members. Following that publication, each  
 6 Member then received a ballot, and the ballots were returned directly to Judge Foote for  
 7 counting. All members were provided with the opportunity to review or challenge the  
 8 election results, but no challenges were made.

9 **Q. What were the election results?**

10 A. An astounding 900-plus Members voted in the election. The results are as  
 11 follows:

Dennis Kirk - 602	Michael Drum - 579	Sheridan Loster - 565
James McCawley - 554	Charles Vawter - 543	Bill Pemberton - 313
Bert Platz - 308	Dora Johnson - 306	Brian Elliott - 304
Larry Miller - 300	Tom LeKander - 143	Merle Hinshaw - 96
Douglas Kooyman - 84		

12  
 13 Based on those results, Dennis Kirk, Michael Drum, Sheridan Loster, James “Archie”  
 14 McCawley and Charles Vawter became the members of the new Board.

15 **Q. What was “astounding” about having more than 900 Member vote?**

16 A. To our knowledge, the Company has never received that many ballots and  
 17 Board elections typically generated fewer than 100 votes.

18 ///

1           **Q.     Is there any connection between the outcome of the election and the issue**  
2 **of Commission oversight?**

3           A.     There is. All five of the individuals who won the election campaigned in part  
4 on a platform supporting Commission oversight of the Company. Moreover, at least five of  
5 the remaining eight candidates campaigned on a platform *opposing* Commission oversight.  
6 Very few issues other than Commission oversight were discussed during the campaign  
7 process. Although we cannot say for certain why each Member voted for a specific  
8 candidate, it is reasonable to believe, based on the number of ballots and the issues that were  
9 raised during the election, that the Members demonstrated a collective desire for  
10 Commission oversight through their choice of Board members.

11           **Q.     Has the Board taken an official position on Commission oversight?**

12           A.     Yes. As part of the settlement agreement that led to the election, the new  
13 Board was required to specifically determine if the Company should become a cooperative.  
14 On December 8, 2010, at its first regular meeting, the new Board determined that it did not  
15 wish to become a cooperative. The reason given by the Board members for that decision  
16 was that becoming a cooperative would remove the Commission's ability to provide  
17 oversight of the Company. Because each of the current Board members felt that he or she  
18 had been elected based on a pledge to seek Commission oversight, the Board members  
19 decided to keep the Company as a mutual benefit non-profit corporation so that the  
20 Commission can provide oversight as desired by the Members.

21           **Q.     Other than the election results, are there reasons the Commission should**  
22 **provide oversight?**

23           A.     Yes. First, when the new Board took office on November 9, 2010, all of the  
24 Company's employees had resigned and the Company was left without a single individual

1 with intimate knowledge of the Company's water system. The Board has since engaged a  
2 third-party contractor to assist with operation of the Company's system, but a new  
3 management structure has not yet been put into place. As the Company rebuilds the  
4 management structure, oversight by the Commission will help ensure the Company's  
5 Members that the Company's actions in the meantime are prudent.

6 Second, although the Company appears to be in stable financial shape, the new  
7 Board has been unable to locate sufficient, reliable financial information from the  
8 Company's prior operations. For example, it is not immediately clear how the Company's  
9 prior management set rates for water, what capital improvement projects were planned or  
10 are necessary, or even where all of the Company's financial assets are located. The new  
11 Board will have to undertake a large effort to assess the system's needs and the appropriate  
12 rate structure to support those needs. Oversight by the Commission will help ensure the  
13 Company's Members that the ultimate outcome of that effort is reasonable and prudent.

14 **Q. Are there other reasons for the Commission to provide oversight?**

15 A. Yes. This proceeding was initiated by the Company's Members through the  
16 petition process. The petition process does not require the Member signing the petition to  
17 state the specific reason each Member desired Commission oversight. Consequently, it is  
18 impossible to know if the recent changes in the make-up of the Company Board have  
19 changed the position of the nearly-400 individuals who petitioned the Commission for  
20 oversight. To the contrary, based on the election results discussed earlier, it is more likely  
21 that those individuals still feel that Commission oversight is necessary. The collective  
22 desire of the Company's 1,500 Members, which represents more than 1,500 actual  
23 individuals, is sufficient reason for the Commission to provide oversight.

1           Finally, the hallmark of a well-run utility is stability and certainty. The Company's  
2 water system will outlive any of the current Members and the new Board. As the  
3 individuals who use and operate the system change, Commission oversight will provide a  
4 consistent process and outcome-driven approach that the Company's Members can rely on  
5 for the prudent operation and continued development of the Company's water system,  
6 regardless of the particular make-up of the Company's Board at any given time.

7           **Q.     Does this conclude the Company's testimony?**

8           A.     Yes.



BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

WJ 8

In the Matter of

CROOKED RIVER RANCH WATER  
COMPANY

An Investigation Pursuant to ORS 756.515  
to Determine Jurisdiction

(WJ 8)


AFFIDAVIT OF DENNIS KIRK

STATE OF OREGON            )  
  ) ss  
County of \_\_\_\_\_ )

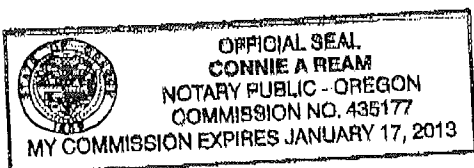
I, Dennis Kirk, being first duly sworn on oath, depose and say:


1. I am the President of the Crooked River Ranch Water Company Board ("CRRWC").
2. On behalf of CRRWC, I sponsored the testimony submitted in this docket entitled Company Testimony in Support of Commission Oversight.
3. My statements in the pre-filed testimony are true and accurate based on my information and belief and my responses would be the same if I were to answer those questions again.

SIGNED this 4<sup>th</sup> day of February, 2011.

  
Dennis Kirk

SUBSCRIBED AND SWORN to before me this 4<sup>th</sup> day of February, 2011.



  
Notary Public for State of Oregon  
My Commission Expires: Jan 17, 2013

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

WJ 8

In the Matter of

CROOKED RIVER RANCH WATER  
COMPANY

An Investigation Pursuant to ORS 756.515  
to Determine Jurisdiction

(WJ 8)

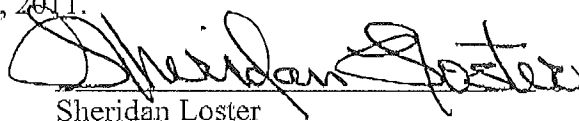
AFFIDAVIT OF SHERIDAN LOSTER

STATE OF OREGON            )  
  ) ss  
County of \_\_\_\_\_ )

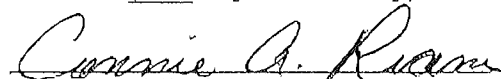
I, Sheridan Loster, being first duly sworn on oath, depose and say:

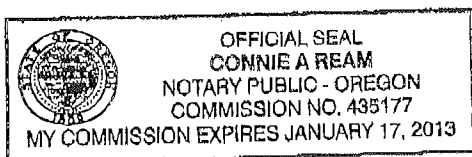
1. I am the Secretary/Treasurer of the Crooked River Ranch Water Company Board ("CRRWC").
2. On behalf of CRRWC, I sponsored the testimony submitted in this docket entitled Company Testimony in Support of Commission Oversight.
3. My statements in the pre-filed testimony are true and accurate based on my information and belief and my responses would be the same if I were to answer those questions again.

SIGNED this 4<sup>th</sup> day of February, 2011.

  
Sheridan Loster

SUBSCRIBED AND SWORN to before me this 4<sup>th</sup> day of February, 2011.

  
Notary Public for State of Oregon  
My Commission Expires: Jan 17, 2013



BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

WJ 8

In the Matter of

CROOKED RIVER RANCH WATER  
COMPANY

An Investigation Pursuant to ORS 756.515  
to Determine Jurisdiction

(WJ 8)

AFFIDAVIT OF JAMES MCCAWLEY

STATE OF OREGON            )  
  ) ss  
County of \_\_\_\_\_ )

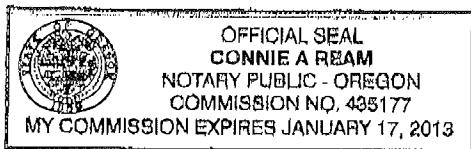
I, James McCawley, being first duly sworn on oath, depose and say:

1. I am the Vice President of the Crooked River Ranch Water Company Board ("CRRWC").
2. On behalf of CRRWC, I sponsored the testimony submitted in this docket entitled Company Testimony in Support of Commission Oversight.
3. My statements in the pre-filed testimony are true and accurate based on my information and belief and my responses would be the same if I were to answer those questions again.

SIGNED this 4<sup>th</sup> day of February, 2011.

James McCawley  
James McCawley

SUBSCRIBED AND SWORN to before me this 4<sup>th</sup> day of February, 2011.



Connie A. Ream  
Notary Public for State of Oregon  
My Commission Expires: Jan 17, 2013

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

WJ 8

In the Matter of

CROOKED RIVER RANCH WATER  
COMPANY

An Investigation Pursuant to ORS 756.515  
to Determine Jurisdiction

(WJ 8)


AFFIDAVIT OF CHARLES VAWTER

STATE OF OREGON            )  
  ) ss  
County of \_\_\_\_\_ )


I, Charles Vawter, being first duly sworn on oath, depose and say:

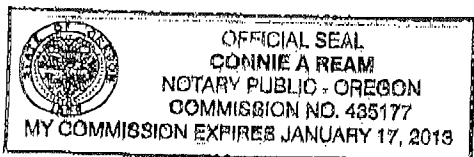
1. I am the <sup>C.V.</sup> Vice President, Policies and Procedures, of the Crooked River Ranch Water Company Board ("CRRWC").
2. On behalf of CRRWC, I sponsored the testimony submitted in this docket entitled Company Testimony in Support of Commission Oversight.
3. My statements in the pre-filed testimony are true and accurate based on my information and belief and my responses would be the same if I were to answer those questions again.

SIGNED this 5<sup>th</sup> day of February, 2011.

  
\_\_\_\_\_  
Charles Vawter

SUBSCRIBED AND SWORN to before me this 5<sup>th</sup> day of February, 2011.

  
\_\_\_\_\_  
Notary Public for State of Oregon  
My Commission Expires: Jan 17, 2013



BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

WJ 8

In the Matter of

CROOKED RIVER RANCH WATER  
COMPANY

An Investigation Pursuant to ORS 756.515  
to Determine Jurisdiction

(WJ 8)

AFFIDAVIT OF MICHAEL DRUM

STATE OF OREGON            )  
  ) ss  
County of \_\_\_\_\_ )

I, Michael Drum, being first duly sworn on oath, depose and say:

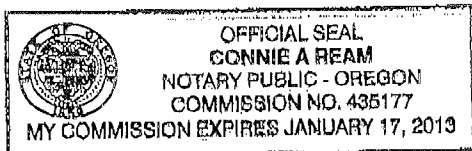
1. I am the ~~Vice President~~<sup>mcd</sup>, Operations and Maintenance, of the Crooked River Ranch Water Company Board ("CRRWC").
2. On behalf of CRRWC, I sponsored the testimony submitted in this docket entitled Company Testimony in Support of Commission Oversight.
3. My statements in the pre-filed testimony are true and accurate based on my information and belief and my responses would be the same if I were to answer those questions again.

SIGNED this 4<sup>th</sup> day of February, 2011.

*Michael Drum*  
Michael Drum

SUBSCRIBED AND SWORN to before me this 4<sup>th</sup> day of February, 2011.

*Connie A. Ream*  
Notary Public for State of Oregon  
My Commission Expires: Jan 17, 2013



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**CERTIFICATE OF SERVICE**

I hereby certify that I caused the foregoing to be served via electronic mail and, where paper service is not waived, via postage-paid first class mail upon the following parties of record:

<p><b>CROOKED RIVER RANCH HOA</b></p> <p>Frank Ferraro Crooked River Ranch HOA President 5195 SW Clubhouse Road Crooked River, OR 97760</p>	<p><b>CROOKED RIVER RANCH WATER CO</b></p> <p>Brian Elliot Crooked River Ranch Water Co. President, Board of Directors PMP 313 – 1604 S Hwy 97, #2 Redmond, OR 97756</p>
<p><b>DEPARTMENT OF JUSTICE</b></p> <p>Jason W. Jones Department of Justice Assistant Attorney General Business Activities Section 1162 Court Street, NE Salem, OR 97301-4096</p>	<p><b>HARRANG LONG GARY RUDNICK</b></p> <p>C. Robert Steringer Harrang Long Gary Rudnick 1001 SW Fifth Avenue, 16<sup>th</sup> Floor Portland, Oregon 97204</p>
<p><b>PUBLIC UTILITY COMMISSION OF OREGON</b></p> <p>Michael Dougherty Public Utility Commission of Oregon PO Box 2148 Salem, OR 97308-2148</p>	

DATED: February 4, 2010

CABLE HUSTON BENEDICT  
HAAGENSEN & LLOYD LLP

/s/ Tommy A. Brooks \_\_\_\_\_  
Tommy A. Brooks, OSB No. 076071  
Of Attorneys for  
Crooked River Ranch Water Company