

1 **BEFORE THE PUBLIC UTILITY COMMISSION**  
2 **OF OREGON**

3 UW 120

4 In the Matter of

5 CROOKED RIVER RANCH WATER  
6 COMPANY

7 Request for Rate increase resulting in total  
8 annual revenues of \$868,453.

STAFF MOTION TO STRIKE

9 **INTRODUCTION**

10 On October 5, 2007 the Administrative Law Judge (ALJ) issued a memorandum in this  
11 proceeding establishing October 19, 2007, as the date for filing cross-examination estimates and  
12 motions to strike. On August 21, 2007, the ALJ stated that: "The Company's rebuttal case will  
13 be limited to information that has been provided to parties through discovery." The ruling  
14 further states that: "The schedule allows for discovery on the Company's rebuttal testimony. In  
15 the event the Company does not respond fully to discovery by staff and intervenors, the  
16 Company's rebuttal testimony will be stricken."

17 As a result of the above ruling, Staff respectfully requests that the following testimony  
18 and statements be stricken from the record. Copies of CRRWC's proffered statements and  
19 testimony, with Staff's proposed strikethroughs, have been provided as Attachment A.

20 I. Statement of James Rooks

21 In addition to its rebuttal testimony, CRRWC filed a document entitled "Statement of  
22 James Rooks." This Statement of James Rooks does not purport to be rebuttal testimony. In  
23 fact, James Rooks did file a separate document entitled "Rebuttal To PUC Testimony."

24 Because September 21, 2007, was the filing deadline for rebuttal testimony, the  
25 Statement of James Rooks should be stricken in its entirety. If the Public Utility Commission of  
26 Oregon (Commission) is inclined to consider the Statement of James Rooks as rebuttal

1 testimony, Commission Staff moves that the following portions of the statement be stricken  
2 because they refer to issues not included in CRRWC's testimony or properly responded to in  
3 Staff's data requests.<sup>1</sup>

- 4 • Throughout this entire process, Michael Dougherty has totally ignored one big aspect  
5 of this company's operation, and that is to provide fire protection to the entire  
6 community of Crooked River Ranch. This water company owns the water rights, the  
7 piping, and all the fire hydrants. The Fire Department owns no water or hydrants. I  
8 have tried to work hand in hand with the Fire Board of Directors and the Fire Chief  
9 over the years to get adequate water to high risk areas. I have installed numerous  
10 hydrants and fire stand pipes over the years, and extended the water lines in high risk  
11 areas. I've been trying to close loops in areas identified in our 20-year plan, and  
12 others that I have identified. If this company cannot continue with its plan to drill a  
13 new well and the associated piping, this whole ranch will be at risk. *See* Statement of  
14 James Rooks at 3; Data request nos. 94(a), 129(i), 130(a), 130(b), 130(c), 130(e),  
15 138(b), 139(a), 139(b), 139(c), 139(d), and 139(e).<sup>2</sup>
- 16 • The CRRWC Board of Directors adopted a resolution in 2004 to assess each member  
17 \$8 per month for 15 years in order to cover the costs of a new well, piping, cistern  
18 replacement, etc. The intent was to pay as we go - not cause debt for the members to  
19 repay. Michael Dougherty has totally removed our assessment, telling us to go  
20 borrow \$1 million plus, pay back interest, and let the customers pay it back. That is  
21 totally outside our way of thinking, and we believe, not good business practices. *See*  
22 Statement of James Rooks at 3; Data requests nos. 3, 110, 121, 122, 124(b), 126, 127,  
23 and 139(f); *see also* data request no. 140, which is not due until October 23, 2007.<sup>3</sup>
- 24 • Michael Dougherty has not allowed for unpaid accounts in any manner. We track  
25 these accounts monthly, and we have a large number of people that do not pay timely.  
26 Since this company runs off the customer payments, not having \$10,000 paid each  
month can cause some problems for the company. *See* Statement of James Rooks at  
4; (No amount was included in the Company's application (page 13 of 30)); Data  
request no. 137.
- In addition, he made no allowance for the cross connection program. This company  
has been actively enforcing the cross connection policies set out by the Board of  
Directors over the years. This is a state and federal requirement, that has not been  
strongly enforced in the past, but is becoming more prevalent today. 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. *See* Statement of James Rooks at 4; (No

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23 <sup>1</sup> In this motion, Staff moves that certain statements and rebuttal testimony be stricken from the record based upon  
24 CRRWC's testimony and failure to provide answers to data requests. Staff explicitly reserves the right to object to  
25 the admission of evidence at the evidentiary hearing.

26 <sup>2</sup> In this motion, Staff has not provided a copy of each data request sent nor the insufficient data response in the  
circumstances where a data response was provided. Staff will be prepared and intends to offer the data requests and  
responses, where any, at the evidentiary hearing. Staff, however, will provide copies of these documents earlier at  
the request of the ALJ.

<sup>3</sup> Because the motions to strike are due before a few recent data requests are due, Staff has noted the data request and  
due date herein.

1 amount was included in the Company's application (page 13 of 30)); *see also* Data  
request, no. 141(a), which is not due until October 23, 2007.)

- 2
- 3 • An example of how this effects us is in his comments about the radio read meters that  
4 the company added to the tariffs. His comment was since the company didn't show  
5 any reduction in personnel, it didn't warrant the cost. This company has 5 full time  
6 employees. Currently, it takes 2 of them a minimum of 3 days each to physically read  
7 each meter each month. Our roads have no shoulders, curbs or sidewalks, and often  
8 the meter-reader has to go over embankments to the meter. In winter months, snow  
9 and ice turn many of our roads into basically one lane. It causes a true safety hazard  
10 for the employee. Radio read meters would allow one person to drive by,  
11 electronically gather the information, and complete the reading in probably 1 day or  
12 less. We wouldn't be laying off any employees as they have other duties. But it  
13 would make the whole process 100% safer for staff, and would eliminate constant  
14 complaints by the Watch Dog group of misread readings. But, Mr. Dougherty  
refused to add this to the rate case. *See* Statement of James Rooks at 4; Data request  
no. 134(a) and 134(c); *see also* Data request, no. 141(b) is not due until October 23,  
2007.
  - 10 • As it stands now, Mr. Dougherty has allowed no money for repairs, which means this  
11 system will not operate very long. We are dealing with 30 year old pipes with  
12 millions of juniper tree roots invading them. When they leak and break, they have to  
13 be replaced in order to continue providing potable water to our customers, and to  
14 proved fire protection to our community. This isn't going to happen on this budget.  
*See* Statement of James Rooks at 5; (Did not provide 2005 and 2006 invoices as  
requested in data requests nos. 26, 27, and 131(b); Data request 131(b) also requests  
invoices for 2003 through 2005; Motions to Compel issued on June 26, 2007, August  
27, 2007, and October 3, 2007.

15 II. Rebuttal to PUC Testimony

16 Staff moves that the following rebuttal testimony be stricken from the record as they refer  
17 to issues not properly responded to in Staff's data requests.

- 18
- 19 • Michael Dougherty has never asked what the company does with the money brought  
20 into the company. .... Since he doesn't know how the company operates, it is not  
credible for him to determine what the company needs to continue to exist or the  
needs of providing fire protection to this community. *See* Rebuttal to PUC Testimony  
(Rebuttal) at 5-6; Data requests nos. 3, 110, 121, 122, 124(b), 126, 127, and 128.
  - 21 • Michael Dougherty has asked for incredible amounts of information, most of which  
22 was provided by the company. However, the company has refused to provide  
information that has nothing to do with the 2007 rate case. *See* Rebuttal at 6; Motions  
to Compel issued on June 26, 2007, August 27, 2007, and October 3, 2007.
  - 23 • Michael Dougherty has failed to make any allowance for unpaid accounts. Since this  
24 company has no income other than customer accounts, it is vital that an allowance be  
25 made for unpaid accounts and the cost of staff time to attempt collection. *See*  
26 Rebuttal at 6; (No amount was included in the Company's application (page 13 of  
30)); *see also* Data request no. 137.

- 1           • #6: Special Contracts = Assessment. This is being removed by the PUC for various  
2 reasons, however, the company believes it should continue to be included. This  
3 company doesn't stand still, it has continued to repair and upgrade in its planning for  
4 the future. This company has stayed debt free, and has shown a proven method of  
5 operating for the past 9 years. The PUC wants the company to borrow money and  
6 repay millions of dollars of interest. How is this benefitting the members of this  
7 company? *See* Rebuttal Pages 7 and 8; Data requests nos. 3, 110, 121, 122, 124(b),  
8 126, 127; *see also* Data request No. 140, which is not due until October 23, 2007.
- 9           • #14: Copies of all phone bills were submitted to PUC for 2004 - 2007. All lines are  
10 accounted for. PUC has reduced the budget from \$16,000 to \$9,078 with basically no  
11 explanation other than removing Webformix. The company has 4 main office lines  
12 that are used daily, including long distance calls, and one fax line. In addition, there  
13 are 4 lines dedicated to SCADA. The office and fax lines would show long distance  
14 use, however, the SCADA lines are local. One line also is connected to the managers  
15 home for SCADA, but is used once in a while when a call is being returned due to  
16 pager activity. The pager is through Clackamas Cellular and Paging, and is paid  
17 every 3 months. The PUC requires an emergency number for nights, weekends and  
18 holidays, and this is our number. In addition, the manager has a satellite phone  
19 service in his work vehicle. Due to his hearing disability, and the fact that cell service  
20 is lacking in many parts of the ranch and general tri-county area, this service is  
21 absolutely necessary in order for the manager to maintain contact with the office and  
22 the water system. Failure of the PUC to provide adequate funding to maintain this  
23 vital service is negligent on their part. *See* Rebuttal at 8; Data requests nos. 50 and  
24 138(a).
- 25           • #19: The reduction from \$34,000 to \$3,666 is complete irresponsibility. Mr.  
26 Dougherty notes that he moved some costs to plant (Staff/102, Dougherty/2), and  
claims to have not received sufficient information. He was provided a year end  
financial statement for 2006, however, he chose to not use that report, and preferred  
to cut the company budget, making it impossible to cover even one repair to the  
system. *See* Rebuttal at 8; 2006 invoices not submitted per data request 26; *see also*  
Data request 131(b) that also requests invoices for 2003 through 2005.
- #20: CRRWC is over 30 years old. In 2006, \$82,000 was spent on repairs to the  
system. The PUC has reduced this to \$30,633. Again, Mr. Dougherty moved costs to  
plant, which he decreased, and "unilaterally removed repair costs to fix vehicles from  
transportation costs". As covered in #19, the 2006 year end statement was provided  
to Mr. Dougherty, he chose not to use it, and therefore, cut the funding for "repairs to  
water plant" by 38%. With a system as old as this one, with PVC pipe and thousands  
of juniper tree roots invading the pipe, there is no way that the company can do all the  
repairs, emergency and preventative, on \$30,633. Again, this is pure negligence on  
the part of the PUC. The primary function of the water company is not domestic  
water. It is and always has been fire protection, which was not addressed in Mr.  
Dougherty's rates. *See* Rebuttal at 8-9; 2006 invoices not submitted per data requests  
nos. 27, 131(b), and 138(b); 131(b) also requests invoices for 2003 through 2005.)
- #29: Contract Services - Other: The SCADA Maintenance agreement was mistakenly  
overlooked at the time of the original tariff filing. Comm-link Communications  
provides the repair and servicing of the SCADA system for the CRRWC. There is a  
monthly charge of \$360 for servicing the 6 sites in which SCADA is active. This  
would total \$4,320 per year for monthly maintenance. In addition, the company

1 spends approximately \$2400 per year in repair costs when the computer system  
2 scrambles in lightening storms, repairing damage from vandalism at the SCADA  
3 sites, etc. This would be a total expense of \$6,720. Michael Dougherty had a copy of  
4 the contract in his possession, but never made any data requests for further  
5 information. A further example of his selective ways to conduct this process. *See*  
6 Rebuttal at 9-10; Data request No. 50.

- 7 • #32: Small tools was reduced from \$5,000 to \$175. This is ridiculous for a company  
8 that does most repairs in house - one set of good wrenches costs more than \$175. *See*  
9 Rebuttal at 10; 2006 invoices not submitted with data request no. 33.
- 10 • This recommended budget will not only destroy the company's efforts, it will also  
11 place 5000 peoples lives and homes in extreme danger for lack of adequate fire  
12 protection. CRR RFD does not own one drop of water and doesn't own or maintain  
13 any fire hydrants. The Crooked River Ranch Rural Fire Protection District is  
14 dependent on CRRWC for fire protection resources. CRRWC Exhibit #1. This  
15 budget is completely unreasonable. In fact, CRR is listed in the Federal Register  
16 dated 8/17/01, of the Department of Agriculture, Department of Interior, as a  
17 community at risk from wildfire. CRRWC Exhibit #2. This year alone, there have  
18 been 3 fires at the Ranch ranging in size from a couple of acres to over 300. A net  
19 income of \$25,000 will not sustain fire protection in our area. *See* Rebuttal at 11;  
20 Data requests nos. 94(a), 129(i), 130(a)(b)(c)(e); *see also* Data requests nos. 140(a)  
21 and 143, which are not due until October 23, 2007.
- 22 • Without adequate fire protection persons and property on CRR are at risk. Michael  
23 Dougherty's proposed budget does not allow CRRWC to provide adequate fire  
24 protection. Counsel for the Water Co. has advised us that awareness of a risk to  
25 either persons an property and a conscious disregard for that risk opens us up to both  
26 civil and criminal liability. CRRWC has an obligation to it's customers and the  
persons who live on CRR. *See* Rebuttal at 11-12; Data requests nos. 94(a), 129(i),  
130(a)(b)(c)(e); *see also* Data requests nos. 140(a) and 143, which are not due until  
October 23, 2007.
- 6/15-16: The permit that the CRRWC has from WRD for 5.0 cfs is adequate for our  
needs. However, the company cannot prove up on this permit without the new well.  
If Mr. Dougherty had taken the time to come to the office this would have been  
explained in detail. 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. Again, Mr. Dougherty has misinterpreted what  
the Company is doing, and has used inaccurate information from intervenor's. *See*  
Rebuttal at 12-13; Data request no. 94(a), 130(b)
- 7/12: The company has not declared that the 5.0 cfs in water rights is not enough.  
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. Mr. Dougherty is spouting a lot of numbers  
without knowing what any of it means. The primary fire protection for any  
community is provided through one of 2 resources: 1) adequate storage facilities, and  
2) adequate source (i.e. number of wells). As it stands today, this water co-op has  
neither. This is yet another subject not broached in this rate case. *See* Rebuttal at 13;  
Data request no. 130(b).

- 1 • Water storage (i.e. 1.5 million gallon standpipe) is completely out of the question  
2 financially for this small community. Our \$8 assessment was levied by the Board of  
3 Directors primarily to address source water for fire protection, and that is the  
4 proposed Well #3, and secondly, to prove up on our water rights. Both issues were  
5 purposely undermined by Michael Dougherty's irresponsible proposal in this rate  
6 case. *See* Rebuttal at 13; Data requests nos. 94(a), 130(b) and 139(b).
- 7 • 9/12: CRRWC refused to answer DR questions that were outside the realm of this  
8 budget process. PUC asked for a test year - CRRWC clearly stated 2007 as the test  
9 year. The application makes no mention of previous years or insistence of receipts  
10 like Michael Dougherty has requested. Mr. Dougherty states in his testimony that he  
11 was provided copies of the Company's financial reports, but "...was not inclined to  
12 use unaudited financial reports as a basis for costs." (Staff/100, Dougherty/12, line 4).  
13 Instead, he used "guess work and assumption" (stated in a settlement conference) to  
14 complete his budget. **That's a good basis to use that effects the lives of 5000  
15 people!** Not to mention an insult to the professional services rendered by company  
16 accountants.  
17 CRRWC made a deliberate invitation to Michael Dougherty to  
18 come to the company office and discuss this revenue case, which was flatly refused.  
19 As far as intervenors are concerned, water company policy is that we will answer  
20 policy questions from non-biased intervenors. Soule and Nichols do not fall into this  
21 category. The manager of CRRWC extended a full invitation to intervenor Cook to  
22 come in and we would show him everything. He's never come in. **This company  
23 has, nor never will, use guesses and assumptions that co-op members will have to  
24 support. And we have no intention of using Michael Dougherty's budget in this  
25 co-op!** *See* Rebuttal at 14; Motions to Compel issued on June 26, 2007, August 27,  
26 2007, and October 10, 2007.
- 12/7: Mr. Dougherty specifically refers to a "macro" review. What better evidence  
than a year end financial statement which he refused to use? He also refers to a  
"micro" review in the same line, but absolutely refused repeated invitations to  
examine the system and on-site records. A review of a utility cannot be done strictly  
by numbers as there are too many variances and factors that come into play. Another  
vivid account of Michael Dougherty's inability to do his job properly. *See* Rebuttal at  
14; Motions to Compel issued on June 26, 2007, August 27, 2007, and October 10,  
2007; Data requests 131(b).
- 14/2: The recommended rate base of \$517,194, allows for almost no repairs to the  
system or infrastructure upgrades, radio read meters, etc. How is this good for the  
community or company? How does this budget allow the company to earn an  
adequate return on its investment? *See* Rebuttal at 14; Data request no. 129(a)(b).
- 15/17: The PUC has continued to challenge our status as a co-op (5/12), referring to  
the CRRWC as a homeowners association. In his testimony, Mr. Dougherty states in  
17/11 that "the Company can not make a special assessment for future costs that may  
or may not come to fruition". 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.

1 Therefore, Mr. Dougherty, by not allowing the company to continue the assessment  
2 and establish the reserve fund, is violating a state law which mandates that the reserve  
3 accounts be maintained. CRRWC Exhibit #3. *See* Rebuttal at 15; Data request no.  
4 129(c)(d)(e)(f)(g)(h).

- 5 • Michael Dougherty cannot disregard the provisions of ORS 94.595. ORS 94.595 is a  
6 mandatory requirement for all “association” as that term is defined under Chapter 94  
7 of the Oregon Revised Statutes. It is well established that any OAR promulgated by  
8 the PUC regarding rate setting does not trump a provision of the ORS that speaks to  
9 the financial planning for a recognized association. Regardless of established legal  
10 principles we are compelled to point out that the PUC has already conceded to our  
11 argument. *See* Rebuttal at 15; Data request no. 129(c)(d)(e)(f)(g)(h).
- 12 • 17/13: Mr. Dougherty has completely overlooked the fact that a balloon payment is  
13 due on the building in 2008, or we have to refinance again. This company has  
14 worked hard to reduce the debt so that it can be paid in full on time. This may not be  
15 the best way according to PUC, but unlike PUC, this company prefers to operate on a  
16 cash basis and avoid finance charges that have to be passed on to the customers. *See*  
17 Rebuttal at 15; Data request 139(f).
- 18 • 24/8: Copies of all phone bills were submitted to PUC for 2004 - 2007. All lines are  
19 accounted for. PUC has reduced the budget from \$16,000 to \$9,078 with basically no  
20 explanation other than removing Webformix. The company has 4 main office lines  
21 that are used daily, including long distance calls, and one fax line. In addition, there  
22 are 4 lines dedicated to SCADA. The office and fax lines would show long distance  
23 use, however, the SCADA lines are local. One line also is connected to the managers  
24 home for SCADA, but is used once in a while when a call is being returned due to  
25 pager activity. The pager is through Clackamas Cellular and Paging, and is paid  
26 every 3 months. The PUC requires an emergency number for nights, weekends and  
holidays, and this is our number. In addition, the manager has a satellite phone  
service in his work vehicle. Due to his hearing disability, and the fact that cell service  
is lacking in many parts of the ranch and general tri-county area, this service is  
absolutely necessary in order for the manager to maintain contact with the office and  
the water system. Failure of the PUC to provide adequate funding to maintain this  
vital service is negligent on their part. *See* Rebuttal at 18; Data requests nos. 50 and  
138(a).
- 25/19: Mr. Dougherty reduced O & M Materials & Supplies by \$30,334, claiming  
that the CRRWC did not provide proof of expenses. The Company gave Mr.  
Dougherty the year end financial statements showing all expenses for 2006, Mr.  
Dougherty chose to not use it, and therefore, disallowed the costs. Where in the  
OAR’s or ORS’s does it state that receipts need to be provided for every item, or at  
those requested at the whim of the PUC?  
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. *See* Rebuttal at 18); 2006 invoices not submitted per data  
requests nos. 26, , 27, and 131(b); 131(b) also requests invoices for 2003 through  
2005; Motions to Compel issued on June 26, 2007, August 27, 2007, and October 10,  
2007.

- 1
- 2 • 27/6: Again, CRRWC provided the year end financial statement to Mr. Dougherty  
3 which he chose not to use in his calculations. This more than meets “the burden of  
4 showing that the rate or schedule of rates proposed to be established or increased or  
5 changed is just and reasonable.” Look at what was spent, and how much money the  
6 company had left at the end of the year. I think that more than covers it. *See* Rebuttal  
7 at 18-19; 2006 invoices not submitted per data requests nos. 26, 27, and 131(b);  
8 131(b) also requests invoices for 2003 through 2006; Motions to Compel issued on  
9 June 26, 2007, August 27, 2007, and October 10, 2007.
  - 10 • 30/7: In Staff 100, Dougherty/30 line 4, the \$13,266 in repair costs that Michael  
11 Dougherty removed, were for parts that were above and beyond Mr. Rooks agreement  
12 for repairs. Prime example for Michael Dougherty’s shell game with numbers. No  
13 where in his budget does he allow for parts on equipment. Thus, another erroneous  
14 attempt to cut our budget and his inability to properly design a budget for this  
15 company. Look at the numbers in this paragraph. He increases fuel cost by a very  
16 low percentage and reduces repair cost completely. Where does Mr. Dougherty  
17 obtain his authority to completely eliminate repair parts on our equipment? Mr.  
18 Dougherty completely ignored the crane, except to continue to allege that the  
19 company paid for it twice. The crane is an important asset to the company as it is  
20 needed for maintenance due to the 1000' foot depth of the wells. *See* Rebuttal at 19-  
21 20; Data request nos. 49 and 122.
  - 22 • 35/6: The crane was not paid for twice as Mr. Dougherty has continued to claim. As  
23 we have stated repeatedly, the original purchase dollars came out of the general  
24 account. When the assessment was instituted, the cost was deducted from the  
25 assessment fund and reimbursed to the general fund. Mr. Dougherty’s continued  
26 insinuation and statements that this piece of equipment was paid for twice only goes  
to show his involvement with the Water Watch Dogs and his absolute attempt to  
assist the Dogs. *See* Rebuttal at 20; Data request No. 122.
  - 36/1: Moved operating expenses to plant. Then decreased the value of plant. Shell  
game. *See* Rebuttal at 21; Data request no. 137(b).
  - 36/3: **Wes Price, Company Accountant** says the depreciation on the building is 35  
years, Mr. Dougherty decides 25. We believe Wes is more aptly qualified to make  
this determination. *See* Rebuttal at 21; Data request no. 139(g).
  - One subject that has been ignored by Mr. Dougherty is fire protection. He tried to  
charge the fire department for water they use when fighting fires, but ignores the need  
for fire protection. 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. Not  
only would the firefighters have been without water, so would the customers of the  
company. Well #4 is our primary well. If it should go down for any reason, Well #2  
could not provide adequate water for members, and certainly not for firefighting. Our  
new well location is at adequate height to be able to pump to the tower and gravity  
feed the system. The entire system...One of the biggest expenses this company has is  
electricity during the summer. It takes both wells to supply the members. Well #2 is  
pumping to the cistern, which then pumps to the system. This is where our biggest  
electrical charge occurs. By having another well on top, we can maintain the gravity  
feed which will reduce electrical costs considerably. *See* Rebuttal at 22-23; Data  
requests nos. 94(a), 129(1), 130(b)(e), 138(b), and 139(a)(b)(c)(d)(e).



- 1           • 48/3: By what authority can Michael Dougherty reprimand the General Manager by  
2 cutting his wages? Mr. Rooks has responded to all customer complaints in a very  
3 timely manner, and it needs to be noted, the company has not been found at fault on  
4 any of them. Where does Mr. Dougherty get off establishing a job title and salary for  
5 Mr. Rooks, based on his “assumption” of his position and scope of duties and  
6 responsibility? The Board of Directors of the CRRWC established his duties when  
7 they developed his employment contract. They are the only ones to “reprimand” Mr.  
8 Rooks, and they would only do so after a complete investigation of the situation.  
9 Investigation is the key word here - one that the PUC and Mr. Dougherty failed to  
include in this proceeding. The answers to the Data requests have been provided that  
were deemed relevant to the company regarding the rate case. Those requested by  
Mr. Soule were not, and this has already been explained several times. This company  
will not assist Mr. Soule in promulgating gossip and innuendo against the CRRWC,  
Employees, or Board of Directors, which is all he is doing on behalf of the Dogs. *See*  
Rebuttal at 23; Motions to Compel issued on June 26, 2007, August 27, 2007, and  
October 10, 2007.

10 III. Testimony of Wes Price

11           The following comments should be stricken from the record as they refer to issues not  
12 properly responded to in Staff’s data requests.

- 13           • If the PUC believes that the members or not owners, then CRRWC must be an  
14 association. As such, the company would fall under the provisions of ORS 94.595  
15 which requires an association with more than 100 members to have in place a reserve  
16 account for replacing common property and have cash reserves adequate to fund a 30-  
17 year maintenance plan. Mr. Dougherty’s analysis of and recommendations for  
18 operating costs do not address the requirements of this law and are therefore not  
adequate to meet the requirements of operating this entity. ORS 94.595(1)(2)(a)  
states that a reserve account must be funded by assessments against individual lots.  
The rate model does not adequately address this requirement of law. *See* Testimony  
of Wes Price at 1; Data request No. 129(c)(d)(e)(f)(g)(h).
- 19           • The homeowners/ratepayers would feel a substantial increase in fire insurance rates if  
20 CRRWC was not able to provide adequate fire flows on demand. Fire flow  
21 capabilities are a critical and substantial part of anticipated system improvements and  
22 enhancements. Fire flows are also a significant reason for CRRWC attempting to true  
23 up its water rights at the 5 cfs level rather than settling for the existing level. The  
24 staff referenced 20 Year master Plan and Water Management and Conservation Plan  
documents discuss the needed system improvements to accomplish meeting the  
system and customer needs. Mr. Dougherty ignores these documents when CRRWC  
included in its rate request anticipated capital improvements to accomplish the  
objectives outlined in these plans. *See* Testimony of Wes Price at 2; Data request  
nos. 94(a), 130(a)(b)(c)(e), and 139(a)(b)(c)(d)(e).
- 25           • Mr. Dougherty also fails to calculate properly the to peak demand for the system at  
26 full build out. As he states the total potential lots for the Ranch is 2600. Current lots  
covered by the water utility stands at 1554. 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. Add one wildfire and the total

1 potential peak demand rises to 2,551,270 gallons per day, much closer to the  
2 3,230,000 gallons per day that the water right permit application requests. It would  
3 appear that the requested permit is in line with the 20 year plan and fire flow needs of  
4 the Ranch owners. *See* Testimony of Wes Price at 2; Data request 130(b).

- 5 • Rebuttal to Staff 100/12 – Mr. Dougherty states that he normally uses a macro and  
6 micro review of utility operations to determine if operating expenses serve the  
7 “usefulness in utility operations” criteria. Mr. Dougherty was provided with  
8 compiled financial statements for the preceding four years of CRRWC operations.  
9 These financials included a GAAP basis balance sheet and statement of operations  
10 and were prepared on an accounting basis that was consistent for all years. These  
11 financial statements provide a very reasonable basis for the “macro” view of CRRWC  
12 operations. Excluding depreciation expense, cash paid operating expenses for each  
13 year are as follows: 2003 - \$596,131, 2004 - \$456,046, 2005 - \$583,963, 2006 -  
14 \$597,441. The average of these four years is \$558,395 cash paid operating expenses.  
15 Using a “macro” view to analyze costs of operations a prudent analysis would say  
16 that the average operations cost, plus depreciation and an appropriate rate of return,  
17 should be covered in rates. Mr. Dougherty ignores the “macro” and apparently  
18 focuses on the “micro” analysis. He proposes total rate revenues of \$525,295 (less  
19 than average costs), and expects that the utility operate with an anticipated cash paid  
20 operating cost level of \$457,408 (\$499,901 minus \$42,463 in depreciation). Any  
21 prudent analysis at the “macro” level clearly shows that CRRWC will expend any  
22 cash reserves on operations and all future system improvements would be required to  
23 be funded with outside debt borrowings. *See* Staff 100/44. This is not the intended  
24 result contemplated in normal application of owner-operated rate calculations. Mr.  
25 Dougherty has changed the application of the model in this circumstance. *See*  
26 Testimony of Wes Price at 2-3; 2006 invoices not submitted per data requests nos. 26,  
27, 33, 41, 101(a), and 131(b); 131(b) also requests invoices for 2003 through 2006.  
Motions to Compel issued on June 26, 2007, August 27, 2007, and October 10, 2007.
- Rebuttal to Staff 100/34 – Mr. Dougherty states that he does not believe his  
calculations reduce operating expenses to a point where the utility will not be able to  
operate. His conclusion is based, reluctantly, on comparing operations costs with two  
other Central Oregon utilities (both owner-operated with rates of return). He states  
that he has recommended \$436,153 in cash operating costs, his model actually  
calculates to \$457,408, but in either case, the actual prior four year average is  
\$558,395. He gets to his “recommended” level by slashing costs in labor and costs of  
system maintenance. Both costs are significantly understated in his analysis and can  
be easily averaged over the last four years to obtain a normalization that meets rate  
setting analysis criteria and produces a more realistic costing model. *See* Testimony  
of Wes Price at 3; 2006 invoices not submitted per data requests nos. 26, 27, 33, 41,  
101(a), and 131(b); 131(b) also requests invoices for 2003 through 2006; Motions to  
Compel issued on June 26, 2007, August 27, 2007, and October 10, 2007.
- Rebuttal to Staff 100/34 to 36 – The calculation of utility plant apparently contains  
errors from both CRRWC and PUC staff. Included with this testimony is a complete  
utility plant listing. Mr. Dougherty adds and removes assets based on criteria that  
shows he has never seen a depreciation schedule outside the utility rate setting arena.  
As is the case with most small companies, assets that are self-constructed or are  
financed with construction debt often span more than one accounting period. Costs  
are captured as they are incurred and placed in assets, then when the asset is  
completed all elements are then triggered for depreciation. Very rarely are the  
components “embedded” into a single asset as there are sometimes reasons to be able

1 to track how costs were accumulated into the completed project. As a result CRRWC  
2 has a number of “components” on the depreciation schedule that are still very real  
3 assets and a part of the utility operations. I asked for the opportunity to meet with  
4 Mr. Dougherty one-on-one to sort out the clerical inaccuracies in his schedule and  
5 was not allowed to do so. He missed a number of items and I now once again request  
6 the opportunity to set the proper utility plant schedule for CRRWC. *See* Testimony  
7 of Wes Price at 3; Data requests nos. 51, 52, 53, 60, 94(a), 133, and 135.

- 8 • Rebuttal to Staff 100/37 – Mr. Dougherty’s NPV of the proposed radio read meters  
9 does not include a number of other factors worth considering. First is a safety and  
10 workers compensation insurance issue. A number of meter sets are in steep and  
11 difficult to access locations exposing the company to loss of time injuries. Second, a  
12 number of complaints with the PUC relate to inaccurate meter reads. The Company  
13 desires to reduce complaints and promote accurate billings to customers. Third, the  
14 estimated payroll savings could be substantially higher than the original estimates  
15 give by Company staff. The Board of Directors believes that the project has merit  
16 and will be pursuing additional data for a future rate case to seek approval. *See*  
17 Testimony of Wes Price at 3; Data requests nos. 55, 134(a)(c).
- 18 • Rebuttal to Staff 100/38 – CRRWC agrees with the removal of original costs of the  
19 utility under the CIAC provisions. However, a number of system line extensions that  
20 were only partially paid by users were excluded at 100%. In addition, all meter sets  
21 were excluded as CIAC assets, this is only partially true. When CIAC removal from  
22 rate base was discussed with the constituent water utilities, there was an  
23 understanding that an appropriate and adequate rate of return on remaining utility  
24 plant was necessary to sustain healthy utility operations. I was a party to those  
25 discussions and agreed with staff conclusions to remove CIAC plant. I have seen the  
26 model work when there is an appropriate rate of return. If staff is unwilling to allow a  
reason rate of return then staff must allow depreciation on the CIAC plant to create  
plant replacement cash flows. To take both sides of the equation down puts an  
unhealthy squeeze on utility operations. As requested above, I believe this issue can  
be resolved with a PUC staff meeting on the whole utility plant matter. *See*  
Testimony of Wes Price at 3; Data requests nos. 51, 52, 53, 54, 129(a), 129(b), and  
135.
- Rebuttal to Staff 100/39 to 41 – A rate of return at 4.13% is too low. It does not  
reflect the utility cost of capital. Mr. Dougherty does not even state the interest rates  
on the two notes. His model allows for the recovery of payments only and zero return  
on the member capital. The only cash recovery anticipated is the annual depreciation  
amount. This is simply not adequate to meet ongoing utility replacement needs nor is  
it in compliance with ORS 94.595 as noted earlier. Mr. Dougherty’s analysis of cash  
flows for future investments of \$69,385 is really \$23,301 less due to existing loan  
payments or \$46,084, which approximates annual depreciation. *See* Testimony of  
Wes Price at 3-4; Data requests nos. 129(a), 129(b), and 136.

## 23 CONCLUSION

24 For the foregoing reasons, Staff respectfully requests that the Statement of James Rooks  
25 be stricken in its entirety or, alternatively, that the portions discussed herein be stricken. Staff  
26

1 further requests that the portions discussed herein of the Rebuttal and Testimony of Wes Price be  
2 stricken.

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DATED this 19<sup>th</sup> day of October 2007.

Respectfully submitted,

HARDY MYERS  
Attorney General

s/ Jason W. Jones  
Jason W. Jones, #00059  
Assistant Attorney General  
Of Attorneys for Public Utility Commission of  
Oregon Staff

## STATEMENT OF JAMES ROOKS

The PUC, due to the continuous complaints made by a few residents of Crooked River Ranch, has been trying to assert jurisdiction over this company since 1999. CRRWC has always provided sufficient information to prove that the PUC had no cause to assume jurisdiction.

In 2003, the legislature passed ORS 757.063, at the urging of the PUC, which allowed 20% of an associations members to sign a petition requesting PUC regulation, and the PUC would do so. I felt that law was wrong then, and requested a hearing through the PUC to address my concerns, and followed that up with a meeting before the Commissioners to express my views. It didn't matter, the PUC adopted the new rules, and in 2005, the Water Watch Dogs, an "activist" group here at the Ranch, began a petition signing campaign.

In April, 2006, the PUC declared that a sufficient number of petitions had been received, and issued a notice of **Intent to assert jurisdiction.** CRRWC requested a hearing, and when we began investigating the petition issue, found that the PUC had not followed their own OAR's. They accepted petitions with no phone numbers, which we were told at the evidentiary hearing, was their prerogative. Again, this wasn't according to their own rules. In fact, we found several areas in which the PUC violated their own rules, and also where they inserted their own interpretation of the state law. As a result of the hearing findings, the CRRWC has filed an appeal to the Oregon Appellate court, as we firmly believe that the PUC has not followed state or administrative law.

As the rate setting process began, there were three customers that petitioned to be intervenors - Craig Soule, Charles Nichols, and Steven Cook. The company wrote a letter to ALJ Patrick Power, requesting that the petitions for Soule and Nichols be denied as they had ulterior motives and would only delay proceedings. The ALJ instantly denied our request and approved all 3 petitions.

We have continued on to the tariff filing. The company filed the initial tariff request with the assistance of the CPA who has worked with us for 9 years. Who better to help than an experienced professional with 9 years of history with this company? We developed what we truly believed to be a fair rate case. The PUC came back with a ridiculous budget, cutting it by over 1/3.

There were no explanations provided until we appeared at the first settlement conference. At that time, Michael Dougherty shared his "work sheets", then proceeded on to discuss his rationale for decreasing or totally removing expenses, and the value of our plant. This was the first time we had seen these, and he expected that there would be a "conversation". The company attorney advised him that it was not rational to think that we could carry on a true negotiation with information that was just provided. That didn't deter Mr. Dougherty, he continued putting on his show for the Watch Dogs. Eventually, the company left because it was going nowhere. At this conference, Intervenor Soule interjected several comments, most of which had nothing to do with the rate case. He even began challenging the company attorney as to who his clients "truly" were. After the meeting, 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.

Mr. Soule has submitted many data requests, asking for information that the company doesn't have, or may not even be aware of. Mr. Soule used to date the previous manager of this company. When she was dismissed by the Board of Directors, there was a drawer full of documents that disappeared. We have reason to believe that the former manager took these, and Mr. Soule has obtained stolen documents. He has continued to harass the company with his data requests, which, by the way, the ALJ fully supports, and has gone so far as to follow up with subpoenas. The company has refused to comply to his requests as they do not have anything to do with this rate case, and are only being used to gather information for the Water Watch Dogs and potentially be used for further harassment or legal issues. The company has not done anything wrong, which can be proven by the Department of Justice and the local District Attorney's office. However, this Watch Dog group has continued to file false allegations and charges which causes both agencies to keep their investigations open. This does nothing but cause more work for this company in responding to fictitious complaints. And the sad part is, the state and county agencies are being drawn into this sick game, costing the tax payers money too.

A second settlement conference was held, and it was no more successful than the first. I tried to review the budget with Mr. Dougherty and ask him questions, but he stone walled me and we got nowhere. Mr. Soule started out harassing the attorney again, which was extremely inappropriate, but was allowed to continue by the PUC and AAG Jason Jones. Again, the company left as this was going nowhere.

It needs to be pointed out here that once again the PUC violated their own rules in these settlement conferences. ALJ Power stated in the Open House held in May, 2007, that the public could attend the settlement conferences, but would not be allowed to participate. At both sessions, the public made comments and asked questions, which the PUC and Jones addressed. Several of the audience members were not members of the CRRWC. And questions posed had to do with my dismissal, not anything to do with the rate case. Again, this was prime proof of the motives, which have obviously been ignored by the PUC.

Another important note: Charles Nichols, who is the leader of the Water Watch Dogs and an Intervenor in this proceeding, has not presented one question, at least under his name. He claims to be such an activist, but he sits there like a lump on a log. Mr. Cook hasn't made many comments, but he at least provided testimony in his own name. Not even Craig Soule did that. Both Soule and Nichols have obviously been using Dougherty to meet their own needs. The only testimony provided here has come from Dougherty, however, his statements in his document reflect the Watch Dogs - absolutely no doubt.

~~Throughout this entire process, Michael Dougherty has totally ignored one big aspect of this company's operation, and that is to provide fire protection to the entire community of Crooked River Ranch. This water company owns the water rights, the piping, and all the fire hydrants. The Fire Department owns no water or hydrants. I have tried to work hand in hand with the Fire Board of Directors and the Fire Chief over the years to get adequate water to high risk areas. I have installed numerous hydrants and fire stand pipes over the years, and extended the water lines in high risk areas. I've been trying to close loops in areas identified in our 20-year plan, and others that I have identified. If this company cannot continue with its plan to drill a new well and the associated piping, this whole ranch will be at risk. I'm attaching a letter from Larry Langley, Fire Chief of CRR RFPD, stating that our current flows are not adequate.~~

~~The CRRWC Board of Directors adopted a resolution in 2004 to assess each member \$8 per month for 15 years in order to cover the costs of a new well, piping, cistern replacement, etc. The intent was to pay as we go - not cause debt for the members to repay. Michael Dougherty has totally removed our assessment, telling us to go borrow \$1 million plus, pay back interest, and let the customers pay it back. That is totally outside our way of thinking, and we believe, not good business practices.~~

~~Michael Dougherty has not allowed for unpaid accounts in any manner. We track these accounts monthly, and we have a large number of people that do not pay timely. Since this company runs off the customer payments, not having \$10,000 paid each month can cause some problems for the company.~~

~~In addition, he made no allowance for the cross connection program. This company has been actively enforcing the cross connection policies set out by the Board of Directors over the years. This is a state and federal requirement, that has not been strongly enforced in the past, but is becoming more prevalent today. 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.~~

All the employees of this company live in this community. All these actions effect all of us. We are all members of this company, as well as employees, and we care about the company and our community. We have all been called thieves and liars by this idiotic activist group, but we still come to work and do our best job and remain professional to our customers.

~~Michael Dougherty has referred to the "burden of proof" being on the company. Well, we believe **he has the burden of reasonable responsibility** to know his job, and we don't feel that it has happened here. He has been invited to come to the ranch to see where we work, the type of terrain we deal with, and to see that we do keep records. He has refused. An example of how this effects us is in his comments about the radio read meters that the company added to the tariffs. His comment was since the company didn't show any reduction in personnel, it didn't warrant the cost. This company has 5 full time employees. Currently, it takes 2 of them a minimum of 3 days each to physically read each meter each month. Our roads have no shoulders, curbs or sidewalks, and often the meter reader has to go over embankments to the meter. In winter months, snow and ice turn many of our roads into basically one lane. It causes a true safety hazard for the employee. Radio read meters would allow one person to drive by, electronically gather the information, and complete the reading in probably 1 day or less. We wouldn't be laying off any employees as they have other duties. But it would make the whole process 100% safer for staff, and would eliminate constant complaints by the Watch Dog group of misread readings. But, Mr. Dougherty refused to add this to the rate case.~~

Michael Dougherty has not only gone outside his own personal ability to destroy this company, he has went outside PUC's jurisdiction on many occasions, again flagrantly exhibiting his inability to do this job. His



deliberate and belligerent attacks on me, 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, is evidence of this.

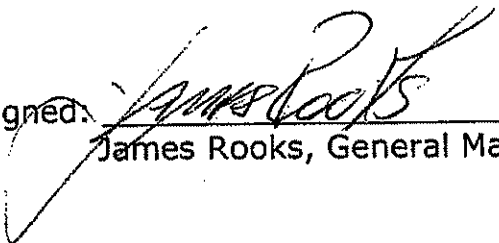
~~Mr. Dougherty has so bought in with the Water Watch Dogs that he has lost perspective as to what this whole process is all about. The Water Watch Dogs have deluded Mr. Dougherty into believing that he is serving the customers of CRRWC by lowering rates when in fact he is putting these people in danger by not allowing the Water Co. to function properly. It is not supposed to be about getting JR. It's supposed to be setting fair and reasonable rates for the customers that will still allow the company to operate at a modest gain. As it stands now, Mr. Dougherty has allowed no money for repairs, which means this system will not operate very long. We are dealing with 30 year old pipes with millions of juniper tree roots invading them. When they leak and break, they have to be replaced in order to continue providing potable water to our customers, and to provide fire protection to our community. This isn't going to happen on this budget.~~

As it stands now, CRRWC will continue to fight this entire action using all available legal recourse. The CRRWC has a duty to it's customers the vast majority of which are satisfied with the product and service they receive. It is unfortunate that a small but vocal group has gained an audience with the PUC and that the PUC is incapable of recognizing the reality of the situation.

This group has been trying for years to have me removed and assume control of the Water Co. The primary strategy employed has been to register complaints with any government or quasi-governmental agency that will listen. These complaints lack any basis in either law or fact. This was discovered by the Department of Justice when they began an investigation into the Water Co. and my personal finances that lasted over two years. All records were provided to the DOJ investigator including my personal check book. Although the final report has not been produced I have been informed by counsel for the Water Co. that the local District Attorney will not be bringing any action as nothing was discovered in the investigation that was illegal. The Water Watch Dog group that is behind the PUC's assertion of jurisdiction has not been successful and never will be because everything they have done and tried is based on lies.

It is our sincere hope that the Commissioner's for the PUC will view this not just as an opportunity to expand their bureaucracy but will consider what is really in the best interests of the approximately 1500 customers served by

the Water Co. and approve a budget which will allow the Water Co. to properly serve it's customers.

Signed:   
James Rooks, General Manager

Date: 9/19/07

## REBUTTAL TO PUC TESTIMONY

## 1. HISTORY

- 2/13/02, Order #03-116, Final Order: No jurisdiction asserted. CRRWC was not serving the public, has a defined service territory, is customer controlled and self-regulated, and has an elected board of directors. No evidence that CRRWC has acted unreasonably or in a discriminatory matter in selecting candidates for board. **PUC cannot assert jurisdiction just to provide complaining parties with a forum.** "Should the nature of CRRWC's operation change, either through its organization or its actions, the Commission will not hesitate to reinvestigate the water company to ensure that CRRWC's members continue to have the ability to provide their own regulation in their own interest." **Where was the investigation?**
- 3/16/04: PUC adopts new rules, order 04-154, that allows 20% of association members to sign a petition requesting PUC to assert jurisdiction. Doesn't have to have a reason stated on petition.

## 2. CURRENT PUC ACTION

- 4/28/06: PUC issues letter "Notice of Intent to Assert Financial and Service Regulatory Authority" to CRRWC. Claim to have over 20% petition signatures.
- Evidentiary hearing held 8/8/06. CRRWC challenged acceptance of petitions that did not contain all the info **required** in 860-036-0412.
- PUC claimed jurisdiction began 4/28/06 when they received the petitions. Rule 860-036-0412 states "...the Commission must issue an order notifying the association of its change in regulatory status to a regulated water utility." No order was received.
- 7/5/06 CRRWC files documents with Sec. Of States office officially changing CRRWC to a co-op.
- 11/20/06 Final Order #06-642 issued by PUC asserting jurisdiction.

- 5/12/06 CRRWC files for Judicial Review with Oregon Court of Appeals. Issues: PUC accepted petitions that did not contain telephone numbers; Violation of contracts clause; due process; effective date of PUC jurisdiction. The PUC didn't verify signatures on the petitions and only called 100 signers, per Kathy Miller's testimony in the Evidentiary hearing held 8/8/06. In one instance, she stated that she accepted a signature from a person who did not remember signing the petition! Fact: Only 7% of the petitions accepted by the PUC were actually compliant with OAR requirements.
- ORS 757.063 does not establish when PUC authority is assumed. The PUC continues to claim it was when they received 20% of member petitions. Their own OAR 860-036-0412 (5), states the Commission must issue an order notifying the company of its change in regulatory status. This didn't happen until 11/20/06.
- ORS 757.063 #2, states this rule does not apply to cooperatives. CRRWC is a co-op.
- What formula is being used by the PUC to determine our rate base? They have admitted that they have no existing formula for non-profit company's. So, what is Mr. Dougherty using? It appears he is making this up as he goes along, but he is exhibiting extreme bias in that he ignores the company's CPA's figures.

### 3. TARIFFS PROCESS

- CRRWC filed the initial tariff papers on 4/18/07, asking for annual revenues of \$868,453.
- On 8/3/07, CRRWC received Staff's Analysis, with no explanations as to how they determined their amounts, and with the first settlement conference scheduled for August 13, 2007. PUC proposed Total Annual Revenue in the amount of \$503,621.
- On 8/13/07, at the Settlement Conference, Michael Dougherty finally provided the company with his "work sheets" showing how he came up with his \$ amounts. Attempts made by JR to discuss items were blocked by Dougherty and by intervenor Craig Soule. Mr. Dougherty appeared openly hostile towards the Water Co.

raising his voice on more than one occasion.

Throughout this meeting, Mr. Dougherty stated that he couldn't reach decisions or had to "guess" as the company would not provide information. The 2006 year end financial report was provided to Mr. Dougherty, but he **chose** not to use it.

- 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. It is doubtful that the ALJ even read our challenge, which was filed in plenty of time, as he almost instantly approved their applications.
- 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 Attorney, Tim Gassner, stated at the beginning of the settlement conference, that it was difficult for the WC to discuss line items when they just received the "notes" on how the figures has been arrived upon. This had no impact on Dougherty. He proceeded to discuss the spread sheets he provided.
- A second settlement conference was held 8/28. Intervenor Soule opened with a 15 minute tirade about how the company has not responded to his data requests; that the CRRWC Board of Directors don't represent the populous, and JR's election to the Board was illegal, to name a few. This is a prime example of why the company didn't want him as an intervenor.
- NOTE: The other intervenors, Charles Nichols and Steve Cook did not appear.
- JR tried to review the proposed budget with Michael Dougherty, and was asking why he had cut items. Dougherty's prime response was "you didn't provide the information". This company has sent box loads of information to the PUC. The only

information not provided has been that which was not pertinent to the rate case. Dougherty stated that all the requests were pertinent to the case. This is one person's subjective opinion who has allowed himself to be influenced by those with their own agenda's. We certainly hope that the PUC does not base it's entire case on this one person's opinion. Several times during the process the CRRWC requested additional time to produce information citing employee turnover and the company's first priority of adequate service to it's customers. (two office staff persons left the company and the remaining personnel struggled to handle day to day operations as well as compile the tremendous volume of information requested by the PUC) All requests for additional time were denied. JR stated that Dougherty was asking questions put to him by others (Watch Dogs), which Dougherty denied. JR asked him how he knew about the crane and his boat, since he has never been to the ranch. **No response.**

- JR went through about 50% of the budget, but Dougherty's refused to listen, JR folded up his book to leave.
- 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 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 few people in the audience asked the PUC when they were going to get rid of JR. They responded that it is not their role. At which time, Soule stated that other actions are being prepared.
- 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!

#### 4. TARIFF/BUDGET

- CRRWC proposed \$868,453 in total revenue - PUC countered with \$525,295.
- Wes Price, CRRWC CPA, advised the company needs \$620,000 minimum to run. 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. In comparison, Michael Dougherty, has no accounting/bookkeeping education, shows no real estate experience in determining value of properties, no plumbing or business background. When CRRWC established a budget, it was done during a meeting with the accountant, company attorney, insurance agent, and the company Board of Directors. Where did Michael Dougherty obtain his experience?
- ~~Michael Dougherty is obviously not qualified to conduct this rate case. Where is the formula he is using to build our rates? He doesn't ask the right questions, and is actually using questions coming from the public. An example, he has sent a data request asking for information on JR's vacation and the boat in his yard. This has nothing to do with the rate case and is an obvious example of Michael Dougherty pursuing the agenda of the Watch Dogs. In addition, he proposed charging the CRR Rural Fire Protection District for the water they use when fighting fires. The President of the Fire Board sought legal advice, then called him to challenge his authority to do this. He withdrew the charge.~~
- Michael Dougherty was invited to come to CRR to see the water system, see our record keeping, and to discuss the eventual budget. He declined to come. To our knowledge, he has never been on CRR so has no idea how this community is formed, etc.
- ~~Michael Dougherty has never asked what the company does with the money brought into the company. And he has never asked why there is overtime paid to employees. Since he doesn't know~~

~~how the company operates, it is not credible for him to determine what the company needs to continue to exist or the needs of providing fire protection to this community.~~

- ~~Michael Dougherty has asked for incredible amounts of information, most of which was provided by the company. However, the company has refused to provide information that has nothing to do with the 2007 rate case.~~ When the company filed the initial tariff paperwork in 4/07, it stated that it wanted to use test year 2007. No challenges were put up by the PUC, but they have continuously asked for information from as far back as 1999.
- ~~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.~~ Another example of complete inability of Mr. Dougherty to establish a rate case for this company.
- Craig Soule, a Watch Dog member, has continually asked for information that has nothing to do with this rate case. This has been nothing but a ploy by the Watch Dog group to gain information to continue their campaign of baseless allegations and lies. They have openly stated that they plan further legal action against the company and Mr. Rooks, so to provide them any information would be contrary to good business practices.
- Michael Dougherty's approach to this rate case was geared to an audit, of which he is unqualified to perform. His own qualifications statement shows no background or education in accounting. He has maneuvered money into accounts that he could delete or move into "plant", then he reduces the value of the plant. This not only shows his inability to perform the duties of his position, but his biased attempt to interfere with a 30-year old, successful company. His total lack of investigation into this budget is obvious. He has exhibited a complete disregard for the state laws regarding the PUC, as well as the PUC's own administrative rules. 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). Mr. Dougherty is neither qualified or required by



~~the PUC to do a complete audit on this company. He has no skill or investigative experience that we know of to perform this task. He is not a CPA, accountant, or qualified bookkeeper.~~

- In fact, the PUC in general has failed to follow their own rules. Including the ALJ. He allowed 2 intervenors to become part of the process and they didn't complete the question re organizations on their "applications".
- Michael Dougherty has stated in his testimony and at the settlement conferences, that he has found withdrawals from the assessment fund that were not related to the well and building. (Dougherty/18, line 17) However, in his testimony, he advises using the assessment dollars for rate making purposes (Dougherty/43 line 4). The Assessment program was enacted for multiple purposes. Legal advice and services are appropriate for the easements and projects to be conducted with these dollars. ~~Mr. Dougherty has stated that the PUC doesn't set the~~ budget for the company, but in this case, he is telling the ~~company how to spend it's money. This is another example of his inability to understand the way this company functions.~~
- In Dougherty/44, line 3, Michael Dougherty refers to staff having not performed a "prudency review of the well". No where in the OAR's or ORS's pertaining to the PUC does it discuss the requirement of a company to have the PUC do a "prudency review". Once again, Mr. Dougherty is intentionally disregarding the role of the PUC is: "The PUC ensures consumers receive utility service at fair and reasonable rates, while allowing regulated companies the opportunity to earn an adequate return on their investment." (PUC Website, "About Us")
- Mr. Dougherty has never presented a "rate model case". Per his own statement, this is the first company that is a non-profit, to come under PUC jurisdiction. They have no established rate formula, so are making it up as they go. However, we still have not seen a formula come from Mr. Dougherty that explains how he is establishing this budget. His references in his testimony are from retail, for profit companies.

#### 5. THE BUDGET - LINE ITEMS

- ~~#6: Special Contracts - Assessment. This is being removed by the PUC for various reasons, however, the company~~

~~believes it should continue to be included. This company doesn't stand still, it has continued to repair and upgrade in its planning for the future. This company has stayed debt free, and has shown a proven method of operating for the past 9 years. The PUC wants the company to borrow money and repay millions of dollars of interest. How is this benefitting the members of this company?~~

- #10: CRRWC, like all utilities, are labor intensive. CRRWC is more so than any other rate case the PUC has seen as we do 98% of all repairs and improvements in house.
- #14: ~~Copies of all phone bills were submitted to PUC for 2004 - 2007. All lines are accounted for. PUC has reduced the budget from \$16,000 to \$9,078 with basically no explanation other than removing Webformix. The company has 4 main office lines that are used daily, including long distance calls, and one fax line. In addition, there are 4 lines dedicated to SCADA. The office and fax lines would show long distance use, however, the SCADA lines are local. One line also is connected to the managers home for SCADA, but is used once in a while when a call is being returned due to pager activity. The pager is through Clackamas Cellular and Paging, and is paid every 3 months. The PUC requires an emergency number for nights, weekends and holidays, and this is our number. In addition, the manager has a satellite phone service in his work vehicle. Due to his hearing disability, and the fact that cell service is lacking in many parts of the ranch and general tri-county area, this service is absolutely necessary in order for the manager to maintain contact with the office and the water system. Failure of the PUC to provide adequate funding to maintain this vital service is negligent on their part.~~
- #19: ~~The reduction from \$34,000 to \$3,666 is complete irresponsibility. Mr. Dougherty notes that he moved some costs to plant (Staff/102, Dougherty/2), and claims to have not received sufficient information. He was provided a year end financial statement for 2006, however, he chose to not use that report, and preferred to cut the company budget, making it impossible to cover even one repair to the system.~~
- #20: ~~CRRWC is over 30 years old. In 2006, \$82,000 was spent on repairs to the system. The PUC has reduced this to~~

~~\$30,633. Again, Mr. Dougherty moved costs to plant, which he decreased, and "unilaterally removed repair costs to fix vehicles from transportation costs". As covered in #19, the 2006 year end statement was provided to Mr. Dougherty, he chose not to use it, and therefore, cut the funding for "repairs to water plant" by 38%. With a system as old as this one, with PVC pipe and thousands of juniper tree roots invading the pipe, there is no way that the company can do all the repairs, emergency and preventative, on \$30,633. Again, this is pure negligence on the part of the PUC. The primary function of the water company is not domestic water. It is and always has been, fire protection, which was not addressed in Mr. Dougherty's rates. Another example of his inability and inexperience to do the job. Michael Dougherty was invited to come to the Ranch, but failed to do so. He has never been here, has never run a water company, his education and background listed on his qualification statement do not show any expertise in accounting, maintenance or business. Thus, we will not accept his recommendation in this field.~~

- #23: Michael Dougherty asked CRRWC for an estimate of the legal costs for the balance of 2007. The estimate was \$10,000. Michael Dougherty cut that estimate in half without explanation or justification. This is another example of the arbitrary and subjective proposal by Michael Dougherty. In total, the company listed \$41,000, Mr. Dougherty cut that to \$6,109, removing expenses that he deemed not appropriate. He states he allowed "Watch Dog Expenses", which primarily the majority of the expenses have been caused by members of the Dogs. He is using his position to determine what is or is not appropriate without having full information. He is using the Dogs as his source of information, which is both jaded and biased. The hypocrisy of the Water Watch Dogs is apparent to everybody but Michael Dougherty. The Water Watch Dogs file frivolous legal claims against the company and then complain that the rates are too high.
- ~~#29: Contract Services - Other: The SCADA Maintenance agreement was mistakenly overlooked at the time of the original tariff filing. Comm link Communications provides the repair and servicing of the SCADA system for the~~

~~CRRWC. There is a monthly charge of \$360 for servicing the 6 sites in which SCADA is active. This would total \$4,320 per year for monthly maintenance. In addition, 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. This would be a total expense of \$6,720. Michael Dougherty had a copy of the contract in his possession, but never made any data requests for further information. A further example of his selective ways to conduct this process.~~

- ~~#32: Small tools was reduced from \$5,000 to \$175. This is ridiculous for a company that does most repairs in house - one set of good wrenches costs more than \$175.~~
- #36: General Liability Insurance was reduced from \$10,463 to \$6,312. Mr. Dougherty notes that he removed Mr. Rooks excavator costs of \$1,144. Two issues: where did he come up with the additional \$3007 that he removed? The company does not set the insurance rates - these are dictated by the insurance companies and are non-negotiable. In addition, the excavator cost is valid in that no equipment is used on the job without insurance. 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.
- #45: System Development Capacity Program??
- #46: Mr. Dougherty notes that the \$1,000 Training and Certification allowance was due to personnel turnover. Ongoing staff also require recertification and ongoing training, which all have costs attached.
- #50: Depreciation Expense: Michael Dougherty doesn't have the experience or expertise to dictate what this plant is worth. Wes Price, the company's CPA for 9 years, has established the net worth of the company and has had no problems with the federal reports filed. He also has extensive experience with other water utilities and associations, as well as the PUC. What gives Michael Dougherty the authority to challenge Mr. Price's evaluation of the value or depreciation of plant?
- #52: Property Taxes: 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.

- #59: Please have Michael Dougherty explain his expertise in utility plant values, including his background. He has none, according to his qualification statement. Mr. Dougherty only allowed 1/3 the cost of the Lot in phase 16 that the company purchased for expansion. This type of action has never been seen before. Mr. Dougherty hasn't cited any other cases as examples of this type of action, and we have been unable to locate any. ~~This is another example of Mr. Dougherty's attempt to undermine the operations of this company.~~

## 6. DOUGHERTY'S TESTIMONY

- 2/11: What experience does Michael Dougherty have?
- 3/6: CRR Co-op consisting of over 1500 members, has spent approximately 30 years building this company to a point where we can afford to do repairs and upgrades at reasonable costs. Our rates are not excessive and include a 15 year plan of improvements. ~~Michael Dougherty's recommendation, if implemented, will completely destroy the company and the work of the management, staff, and Board of Directors. 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. CRR RED does not own one drop of water and doesn't own or maintain any fire hydrants. The Crooked River Ranch Rural Fire Protection District is dependent on CRRWC for fire protection resources. CRRWC Exhibit #1. This budget is completely unreasonable. In fact, CRR is listed in the Federal Register dated 8/17/01, of the Department of Agriculture, Department of Interior, as a community at risk from wildfire. CRRWC Exhibit #2. This year alone, there have been 3 fires at the Ranch ranging in size from a couple of acres to over 300. A net income of \$25,000 will not sustain fire protection in our area.~~
- ~~Without adequate fire protection persons and property on CRR are at risk. Michael Dougherty's proposed budget does not allow CRRWC to provide adequate fire protection. Counsel for the Water Co. has advised us that awareness of a risk to either persons an property and a conscious disregard for that risk opens us up to both civil and criminal liability. CRRWC has an~~

- ~~obligation to its customers and the persons who live on CRR.~~
- 4/17: CRRWC is a co-operative, filed with the Secretary of States office in Salem. This is in contention with the PUC, and is being challenged in the appellate court.
- 4/22: Mr. Dougherty states the commission asserted jurisdiction pursuant to order #06-642, entered on 11/20/06. That is correct however Mr. Dougherty also contends that jurisdiction was established upon receipt of 20% of petition signatures. Which is it? CRRWC has maintained consistently that jurisdiction did not exist until 11/20/06 and even then jurisdiction was attained through the PUC's disregard of the OAR's they produced and established principles of constitutional law, which means that when the co-op papers were filed 7/5/06, the company was not under jurisdiction of the PUC, and therefore, is not under their jurisdiction at this time. Per ORS 757.063, the PUC does not cover co-ops, and this is also stated in their OAR 860-036-0412 (1).
- 5/7: Mr. Dougherty contradicts himself - see 4/22.
- 5/14: Mr. Dougherty nor the PUC have authority to dictate to the company that we are not a cooperative. All appropriate documents were filed with the Secretary of States office changing the official status to a co-op.
- 5/17: Again, this ruling is being contested.
- 6/9: The assumption that the water rights cover all 2600 lots is in error. CRRWC does provide water for fire protection for the entire ranch, but the actual POD does not include the south end of the ranch. Even though projected to provide service in the 20 year plan, it is not feasible due to the number of private wells in that area. The General Manager of CRRWC provided the CRR RFPD with storage tanks of approximately 35,000 gallons which were placed on the south end of the ranch, and has been willing to maintain a water supply, thus fulfilling our obligation to provide fire protection for all 2600 lots. Michael Dougherty does not include this on his assessment due to inexperience in investigation of a realistic rate case. Another prime example of not knowing or caring and not knowing what questions to ask.
- 6/15-16: The permit that the CRRWC has from WRD for 5.0 cfs is adequate for our needs. However, the company cannot prove up on this permit without the new well. If Mr. Dougherty had taken the time to come to the office this would have been explained in detail. 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. Again, Mr. Dougherty has misinterpreted what the Company is doing, and has used inaccurate information from intervenor's.~~

- ~~7/12: The company has not declared that the 5.0 cfs in water rights is not enough. 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. Mr. Dougherty is spouting a lot of numbers without knowing what any of it means. The primary fire protection for any community is provided through one of 2 resources: 1) adequate storage facilities, and 2) adequate source (i.e. number of wells). As it stands today, this water co op has neither. This is yet another subject not broached in this rate case.~~

~~Water storage (i.e. 1.5 million gallon standpipe) is completely out of the question financially for this small community. 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. Both issues were purposely undermined by Michael Dougherty's irresponsible proposal in this rate case.~~

7/17: Michael Dougherty claims there have been 42 calls accounting for 53 separate issues logged as complaints since the PUC illegally took jurisdiction of CRRWC. According to the PUC's Consumer Services Customer Contact Data, as of July there have been 21 complaint and 15 information contacts. None of these have found the company to be at fault. This is primarily due to the extremely professional attitude and competence of Mr. Phil Boyle. This man's attention to detail and his ability to investigate issues should be a benchmark for other PUC staff employees. The final numbers for 2006 included the "petitions" that were filed, and interesting enough, none found the company at fault. And there certainly have not been that many complaints forwarded to the company for response. **So if the PUC is not sharing the information, then it should not be held against the company or used in this rate process.**

- ~~9/12: CRRWC refused to answer DR questions that were outside the realm of this budget process. PUC asked for a test year CRRWC clearly stated 2007 as the test year. The application makes no mention of previous years or insistence of receipts like Michael Dougherty has requested. Mr. Dougherty states in his testimony that he was provided copies of the Company's~~

~~financial reports, but "...was not inclined to use unaudited financial reports as a basis for costs." (Staff/100, Dougherty/12, line 4). Instead, he used "guess work and assumption" (stated in a settlement conference) to complete his budget. **That's a good basis to use that effects the lives of 5000 people!** Not to mention an insult to the professional services rendered by company accountants.~~

~~CRRWC made a deliberate invitation to Michael Dougherty to come to the company office and discuss this revenue case, which was flatly refused. 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. The manager of CRRWC extended a full invitation to intervenor Cook to come in and we would show him everything. He's never come in. **This company has, nor never will, use guesses and assumptions that co-op members will have to support. And we have no intention of using Michael Dougherty's budget in this co-op!**~~

~~**NOTE:** Mr. Dougherty uses the term "lack of transparency" in line 12/18 and 12/19 of his testimony. This has been the prime slogan of the CRR Water Watch Dogs. Want to try to tell us again how Dougherty is independent of the Dogs and that he is doing this by himself?!~~

- ~~12/7: Mr. Dougherty specifically refers to a "macro" review. What better evidence than a year end financial statement which he refused to use? He also refers to a "micro" review in the same line, but absolutely refused repeated invitations to examine the system and on-site records. A review of a utility cannot be done strictly by numbers as there are too many variances and factors that come into play. Another vivid account of Michael Dougherty's inability to do his job properly.~~
- ~~14/2: The recommended rate base of \$517,194, allows for almost no repairs to the system or infrastructure upgrades, radio read meters, etc. How is this good for the community or company? How does this budget allow the company to earn an adequate return on its investment?~~
- ~~14/11: Here's a prime example of Mr. Dougherty's "shell game". He removes the hook up fees, etc., noting they should be booked as contributions in aid of construction, but they are not included in rates.~~
- ~~15/17: The PUC has continued to challenge our status as a co-op (5/12), referring to the CRRWC as a homeowners association. In~~



~~his testimony, Mr. Dougherty states in 17/11 that "the Company can not make a special assessment for future costs that may or may not come to fruition". 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. Therefore, Mr. Dougherty, by not allowing the company to continue the assessment and establish the reserve fund, is violating a state law which mandates that the reserve accounts be maintained. CRRWC Exhibit #3.~~

- ~~Michael Dougherty cannot disregard the provisions of ORS 94.595. ORS 94.595 is a mandatory requirement for all "association" as that term is defined under Chapter 94 of the Oregon Revised Statutes. It is well established that any OAR promulgated by the PUC regarding rate setting does not trump a provision of the ORS that speaks to the financial planning for a recognized association. Regardless of established legal principles we are compelled to point out that the PUC has already conceded to our argument. In the contested case for jurisdiction the PUC continually pointed to ORS 757.063 as the controlling authority to justify their non-compliance with OAR's.~~

In the last 10 years under the existing management, the company has strived to bring this company in line with all county, state and federal requirements. This is a very expensive transformation. These efforts will be completely discontinued if Michael Dougherty's budget recommendations are followed.
- ~~17/13: Mr. Dougherty has completely overlooked the fact that a balloon payment is due on the building in 2008, or we have to refinance again. This company has worked hard to reduce the debt so that it can be paid in full on time. This may not be the best way according to PUC, but unlike PUC, this company prefers to operate on a cash basis and avoid finance charges that have to be passed on to the customers.~~
- ~~20/17: Michael Dougherty's concept of the contract that Mr. Rooks has with the company to perform the repair and maintenance of the equipment is flawed. The contract did not~~

just include labor, but also the use of Mr. Rooks personal land, shop, equipment, tools, and utilities. The average electrical bill for Mr. Rooks was \$3 - 400 per month, whereas, without using the shop, it would be approximately \$50 per month. In addition, Mr. Rooks did not claim labor time with the company when he was performing maintenance work under this contract. Any investigation would reveal that by performing repair and maintenance Mr. Rooks saved the company thousands of dollars that would otherwise be passed on to CRRWC customers.

- 21/1: The comparison table that Mr. Dougherty included in his exhibits (Staff 100/Miller-Dougherty/19) is not an appropriate document to use. Comparing CRRWC with Agate and Roats, of which both those companies are privately owned and operated, isn't even close to the operation or status of CRRWC, a non-profit company. As is noted on this exhibit page - line 3: "...a simple comparison of wages among utilities is not a sufficient analysis from which to base revenue requirement recommendations." Another contradiction of terms by Mr. Dougherty.
- 21/1: Why would anyone compare staffing with the staffing that was in effect 10 years earlier?! In 1997, there were no repairs being done in house. Necessary fixes were farmed out. In addition, the cross connection program was not being enforced, collections of past due accounts was not happening, there was no application for service, no upgrades to the system were being performed, and payroll and accounts payable were being done by an outside bookkeeper. Today, all these things are being done in house at a considerable savings to the member of our co-op. 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. Where in Mr. Dougherty's budget is any of this accounted for? Plain fact, he didn't know it existed.

- 21/12: 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. He has no authority to set Mr. Rooks job title or salary range based upon his biased conclusions, none of which are factual. In addition to being the General and Operations Manager, Mr. Rooks is also a legally elected Director on the CRRWC Board of Directors. He is also a member of this company, which is member owned, so in essence, he is an owner, just like the other 1500+ members.
- 22/2: The by-laws that Mr. Dougherty cites were not amended September 24, 2004 as he states. They were amended June 30, 2006.
- 22/11: See 21/12
- 23/7: Mr. Dougherty does not believe that the manager should be paid overtime, and has not only reduced his salary (21/12), but has reduced the entire wages budget so that minimal overtime could be paid. ORS 653.020 (3) c, states "An individual engaged in administrative, executive or professional work who: Earns a salary and is paid on a salary basis." is excluded from overtime. Mr. Rooks works under a contract issued by the CRRWC Board of Directors. His contract calls for an hourly wage, which, under this law, qualifies him for overtime. Mr. Dougherty's refusal to allow adequate funds for wages puts the Board of Directors in a position to be in violation of state and federal BOLI laws, as well as setting them up for a potential lawsuit for violating an employment contract. With the amount of money Mr. Dougherty has allowed for legal expenses, the Board of Directors would be hard pressed to defend themselves and the company.

In the 30 year history of CRRWC, no one has been salaried - wages have always been hourly, and we intend to continue in that manner. The elected Board of Directors finds this the most equitable means of establishing a budget as far as wages are concerned. It has been the policy of the manager of this company for the last 9 years and will continue to be the policy. During the winter months when revenues are lowest, expenses can be reduced by holding overtime to a minimum. This is one

of the only means of flexibility available to a fixed base income utility. We cannot adjust insurance costs, power, transportation, etc., and will not sacrifice fire protection to our community due to budget constraints.

- ~~24/8: Copies of all phone bills were submitted to PUC for 2004 - 2007. All lines are accounted for. PUC has reduced the budget from \$16,000 to \$9,078 with basically no explanation other than removing Webformix. The company has 4 main office lines that are used daily, including long distance calls, and one fax line. In addition, there are 4 lines dedicated to SCADA. The office and fax lines would show long distance use, however, the SCADA lines are local. One line also is connected to the managers home for SCADA, but is used once in a while when a call is being returned due to pager activity. The pager is through Clackamas Cellular and Paging, and is paid every 3 months. The PUC requires an emergency number for nights, weekends and holidays, and this is our number. In addition, the manager has a satellite phone service in his work vehicle. Due to his hearing disability, and the fact that cell service is lacking in many parts of the ranch and general tri-county area, this service is absolutely necessary in order for the manager to maintain contact with the office and the water system. Failure of the PUC to provide adequate funding to maintain this vital service is negligent on their part.~~
- ~~25/19: Mr. Dougherty reduced O & M Materials & Supplies by \$30,334, claiming that the CRRWC did not provide proof of expenses. The Company gave Mr. Dougherty the year end financial statements showing all expenses for 2006, Mr. Dougherty chose to not use it, and therefore, disallowed the costs. Where in the OAR's or ORS's does it state that receipts need to be provided for every item, or at those requested at the whim of the PUC?~~  
~~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.~~
- ~~27/6: Again, CRRWC provided the year end financial statement to Mr. Dougherty which he chose not to use in his calculations. This more than meets "the burden of showing that the rate or schedule of rates proposed to be established or increased or~~

~~changed is just and reasonable." Look at what was spent, and how much money the company had left at the end of the year. I think that more than covers it.~~

- 28/5: Legal Expenses: Mr. Dougherty has arbitrarily determined what is company related and what is not. In fact, every legal expense listed on his chart was the result of Mr. Rooks employment and happened while on the job. Mr. Dougherty is not in a position to determine what is "prudent operation" of utility expenses. This is his personal opinion. It's obvious no skill or knowledge exists when it comes to the operation of the CRRWC. He is purely using gossip and innuendo from intervenors with an agenda and the Watch Dog group.
- 28/5: Mr. Dougherty has the Berrey case mixed in with the criminal mischief/trespassing case. These are separate cases.
- 28/5: Easement legal costs transferred to plant???
- 29/3: Mr. Dougherty refers to a "prudency review" having not been done on Well #3. What is this? In searching ORS 757 & 756, and the PUC's OAR' 860, no reference could be found to a prudency review requirement. Is this another rule that the PUC just develops on their own?
- 29/19: Computer/Electronic Expense: OAR 860-036-0335 requires water utilities to keep on file current maps and records of the system. At this time, the only maps available are the original as-builts that have occasionally been updated when work has been done on the system. Mr. Dougherty has continued to chastise the company for not providing information on the number of meters in various size ranges. This information just is not available. However, in the past year, the CRRWC had the entire system GPS'd in order to have this information. But, the company has not had the money to buy the computer program to run the information. In it's rush to meet the PUC deadline for filing the initial tariff's, the company failed to include the cost of the GPS program, which is approximately \$12,000. We are asking that it be included at this time.
- ~~30/7: In Staff 100, Dougherty/30 line 4, the \$13,266 in repair costs that Michael Dougherty removed, were for parts that were above and beyond Mr. Rooks agreement for repairs. Prime example for Michael Dougherty's shell game with numbers. No where in his budget does he allow for parts on equipment. Thus, another erroneous attempt to cut our budget and his inability to properly design a budget for this company. Look at the numbers in this paragraph. He increases fuel cost by a very low~~

- ~~percentage and reduces repair cost completely. Where does Mr. Dougherty obtain his authority to completely eliminate repair parts on our equipment? Mr. Dougherty completely ignored the crane, except to continue to allege that the company paid for it twice. The crane is an important asset to the company as it is needed for maintenance due to the 1000' foot depth of the wells.~~
- 31/7-13: Mr. Dougherty is not an insurance agent. The numbers supplied were from the insurance company. Mr. Dougherty cannot dictate the costs - only the insurance company. As explained before, all equipment used in water company business is legally required to be covered by insurance, even rented or leased equipment. The Track Hoe, owned by Mr. Rooks, has primarily been used on water company projects. How can Mr. Dougherty determine the amount or percentage of time this occurred in order to decrease the insurance?
  - 31/16: In Mr. Dougherty's testimony, 23/15, he states that the PUC does not establish a budget for a utility, and may pay salary's higher than what is used to recommend rates. In 31/16 Mr. Dougherty has reduced the Worker's Comp expense based on his determined wages. If the company decides to pay at the same level, then Workers comp must also be paid. Where does Mr. Dougherty determine that the extra expense should come from?
  - 32/20: In addition to new employee training, there is on-going training needs for recertification for current employees.
  - 33/12: See 31/16. Same situation
  - ~~35/6: The crane was not paid for twice as Mr. Dougherty has continued to claim. As we have stated repeatedly, the original purchase dollars came out of the general account. When the assessment was instituted, the cost was deducted from the assessment fund and reimbursed to the general fund. Mr. Dougherty's continued insinuation and statements that this piece of equipment was paid for twice only goes to show his involvement with the Water Watch Dogs and his absolute attempt to assist the Dogs.~~
  - 35/11: CRRWC owns the hammer that was purchased around the same time as the track hoe. Yes, Mr. Rooks owns the track hoe. The hammer was purchased because the track hoe was scheduled to be used for many water company jobs, including installing the new well and pipeline to the tower. Knowing the terrain of the ranch, Mr. Rooks did not want to purchase a piece of equipment that he knows will be used extensively, and

probably require considerable repair during the projects. This is a good business practice on Mr. Rooks part. In addition, the hammer can be used on any excavator.

- ~~36/1: Moved operating expenses to plant. Then decreased the value of plant. Shell game...~~
- ~~36/3: **Wes Price, Company Accountant** says the depreciation on the building is 35 years, Mr. Dougherty decides 25. We believe Wes is more aptly qualified to make this determination.~~
- 36/11: Radio read meters. Interesting to note here that no data requests were received regarding radio read meters. Mr. Dougherty used a formula (NPV) that does not apply to this company and disallowed the meters. His primary excuse was that the company did not show a decrease in personnel. In addition, he compared this company to Cascade Natural Gas!! How fair is that? This company has used current staff to read meters for the past several years. In most cases, one person has read, but in several situations, 2 people have spent approximately 3 days each reading. This does not include re-reads for customers who feel the amounts are in error, and those that the company identifies after running an exception report. These don't all happen on one day, but over the first couple of weeks of the month, there are probably 2 extra days of meter reading. So, bottom line, there are no staff to lay off. Meter reading time would be reduced from a week to potentially one day. In addition, safety factors need to be considered. The roads on CRR do not have shoulders, curbs or sidewalks. The meter readers park in the road, and often have to go over embankments to reach a meter. Meters are not all located at the edge of the road. Some are in rock piles, behind brush, etc. Reading meters on Crooked River Ranch is not like Cascade Natural Gas driving around city blocks. Again, had Mr. Dougherty come to the Ranch when invited by Mr. Rooks, he could have seen the terrain that we work in. Radio Read meters would be a win/win situation for the company and the members. The Dogs have convinced many people that the meters are read wrong. Using radio read would remove the human error factor. This is another example of Mr. Dougherty's bias and tie in with the Dogs. He sent data requests regarding Mr. Rooks vacation and a boat, but failed to do any follow up on the radio read meters. The likelihood of a severe accident or injury to employees due to road conditions outweigh the cost of radio read meters many times over. Mr. Dougherty refers to

"prudence" in his statements many times. What happened to prudence in radio read meters? Other company's have been allowed to purchase them and put them in their rate cases - why not CRRWC?

- 38/3: CIAC: CRRWC completely disagrees with Mr. Dougherty's assessment of the CIAC in his proposed budget. 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. Therefore, it is logical to say the people on the system paid for the system. The owners of this water utility (i.e. members) can legally recoup the cost of this system. The continuous upgrades, repairs and additions to this system should also be calculated in the plant value.
- 42/12: "...alleged payroll for the PUC and the ...Association." Alleged???
- 44/3: Prudence review. As stated earlier, there is nothing in law that refers to this. What is Mr. Dougherty's expertise in this field? What does the prudence review consist of?
- 44/11: 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. These all cost money, which Mr. Dougherty has not included in his budget. And his statement that members can review lower cost options, based on an out of date 20 year plan, is just plain negligence on his part. He doesn't believe other options were considered before deciding on a new well? Again, had he come to the ranch and seen what we are dealing with, he would have had a much better idea. Listening to the Dogs and reading an antiquated "plan" for the company, are just incomprehensible to those of us that are familiar with the situations here. CRRWC Exhibit #4.
- ~~One subject that has been ignored by Mr. Dougherty is fire protection. He tried to charge the fire department for water they use when fighting fires, but ignores the need for fire protection. 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. Not only would the firefighters have been without water, so would the customers of the company. Well #4~~

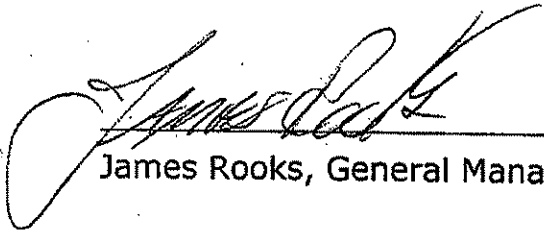


~~is our primary well. If it should go down for any reason, Well #2 could not provide adequate water for members, and certainly not for firefighting. Our new well location is at adequate height to be able to pump to the tower and gravity feed the system. The entire system... One of the biggest expenses this company has is electricity during the summer. It takes both wells to supply the members. Well #2 is pumping to the cistern, which then pumps to the system. This is where our biggest electrical charge occurs. By having another well on top, we can maintain the gravity feed which will reduce electrical costs considerably.~~


- ~~48/3: By what authority can Michael Dougherty reprimand the General Manager by cutting his wages? Mr. Rooks has responded to all customer complaints in a very timely manner, and it needs to be noted, the company has not been found at fault on any of them. Where does Mr. Dougherty get off establishing a job title and salary for Mr. Rooks, based on his "assumption" of his position and scope of duties and responsibility? The Board of Directors of the CRRWC established his duties when they developed his employment contract. They are the only ones to "reprimand" Mr. Rooks, and they would only do so after a complete investigation of the situation. Investigation is the key word here - one that the PUC and Mr. Dougherty failed to include in this proceeding. The answers to the Data requests have been provided that were deemed relevant to the company regarding the rate case. Those requested by Mr. Soule were not, and this has already been explained several times. This company will not assist Mr. Soule in promulgating gossip and innuendo against the CRRWC, Employees, or Board of Directors, which is all he is doing on behalf of the Dogs.~~

- ~~48/20: Mr. Dougherty has certainly shown his involvement with the Dogs here. He writes his big explanation of cutting the managers pay for being a "bad boy", but then does not include it in the tariff's (Exhibit 105). This is all show for the Dogs and is completely unnecessary or appropriate for this document. Perhaps we should reprimand Mr. Dougherty for his bias and prejudice, which would normally involve dismissal, but in this case, we'll just decrease his salary by 50% a year.~~

Signed:



James Rooks, General Manager



Date

Responses for rebuttal testimony PUC rate case UW 120 Exhibit 100 Staff direct testimony

Name: Wes Price  
Title: CPA partner, Harrigan Price Fronk & Co.LLP  
Address: 975 SW Colorado Avenue, Suite 200  
Bend, OR 97702  
541-382-4791

Education: Bachelor of Science, Oregon State University, Business Administration – Major,  
Accounting – Minor, Computer science (1979)  
Earned Certified Public Accountant status – September, 1981

Experience: 28 years in public accounting working with all nature of small and medium sized businesses. Extensive experience in all matters of business and non-profit taxation and financial statement preparation and attestation levels. Began working with local owner operated water utilities in 1983 and have been involved in various capacities with more than 15 rate cases involving 5 different utilities. In addition, there has been involvement in numerous affiliated interest and financing filings with the PUC. Worked closely with the PUC and assisted in revisions to the automated format for rate case submission. Assisted the PUC in revisions to the annual reporting format for all water companies and have advised PUC staff with regard to accounting treatments for various utility plant calculations and rates of return analysis.

Involvement with CRRWC: Our firm was engaged in 1999 to assist in the preparation of annual financial statements and tax returns for CRRWC. Our engagement was later expanded to include assisting the Board in capital budgeting to determine future cash flow needs for deferred maintenance and system expansion matters. Our five year forward budgets were utilized to aid in determining water rates and the level of additional capital improvement assessments necessary to fund, without incurring debt, proposed system upgrades and expansions. We have been engaged continuously since our initial introduction in 1999.

Organization of responses: Rebuttal answers will be presented as referenced to Dougherty staff direct testimony by page numbers in that document.

Rebuttal to Staff 100/5 – 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. 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. CRRWC believes that gives the members the status of owners and therefore gives rise to an appropriate rate of return on utility plant and rate base. ~~If the PUC believes that the members or not owners, then CRRWC must be an association. As such, the company would fall under the provisions of ORS 94.595 which requires an association with more than 100 members to have in place a reserve account for replacing common property and have cash reserves adequate to fund a 30-year maintenance plan. Mr. Dougherty's analysis of and recommendations for operating costs do not address the requirements of this law and are therefore not adequate to meet the requirements of operating this entity. ORS 94.595(1)(2)(a) states that a reserve account must be funded by assessments against individual lots. The rate model does not adequately address this requirement of law.~~

Rebuttal to Staff 100/6 and 7 – CRRWC agrees with the analysis of average customer usage as all of the data quoted by Mr. Dougherty come from documents created and assembled by CRRWC (20 Year Master Plan, 1997 and Water Management and Conservation Plan, 2003). A very significant water usage issue is missing from Mr. Dougherty's analysis. He fails to recognize the standby needs for fire flows. A single wildfire incident in May, 2007 used over 600,000 gallons of water to extinguish, thus dramatically increasing the potential peak demand from simple household consumption peak demand. ~~The homeowners/rate payers would feel a substantial increase in fire insurance rates if CRRWC was not able to provide adequate fire flows on demand. Fire flow capabilities are a critical and substantial part of anticipated system improvements and enhancements. 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. The staff referenced 20 Year master Plan and Water Management and Conservation Plan documents discuss the needed system improvements to accomplish meeting the system and customer needs. Mr. Dougherty ignores these documents when CRRWC included in its rate request anticipated capital improvements to accomplish the objectives outlined in these plans.~~

~~Mr. Dougherty also fails to calculate properly the total peak demand for the system at full build-out. As he states the total potential lots for the Ranch is 2600. Current lots covered by the water utility stands at 1554. 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. Add one wildfire and the total potential peak demand rises to 2,551,270 gallons per day, much closer to the 3,230,000 gallons per day that the water right permit application requests. It would appear that the requested permit is in line with the 20 year plan and fire flow needs of the Ranch owners.~~

~~Rebuttal to Staff 100/12 – Mr. Dougherty states that he normally uses a macro and micro review of utility operations to determine if operating expenses serve the "usefulness in utility operations" criteria. Mr. Dougherty was provided with compiled financial statements for the preceding four years of CRRWC operations. These financials included a GAAP basis balance sheet and statement of operations and were prepared on an accounting basis that was consistent for all years. These financial statements provide a very reasonable basis for the "macro" view of CRRWC operations. Excluding depreciation expense, cash paid operating expenses for each year are as follows: 2003 - \$596,431, 2004 - \$456,046, 2005 - \$583,963, 2006 - \$597,441. The average of these four years is \$558,395 cash paid operating expenses. Using a "macro" view to analyze costs of operations a prudent analysis would say that the average operations cost, plus depreciation and an appropriate rate of return, should be covered in rates. Mr. Dougherty ignores the "macro" and apparently focuses on the "micro" analysis. He proposes total rate revenues of~~

~~\$525,295 (less than average costs); and expects that the utility operate with an anticipated cash paid operating cost level of \$457,408 (\$499,901 minus \$42,493 in depreciation). Any prudent analysis at the "macro" level clearly shows that CRRWC will expend any cash reserves on operations and all future system improvements would be required to be funded with outside debt borrowings. See Staff 100/44. This is not the intended result contemplated in normal application of owner operated rate calculations. Mr. Dougherty has changed the application of the model in this circumstance.~~

~~Rebuttal to Staff 100/34 — Mr. Dougherty states that he does not believe his calculations reduce operating expenses to a point where the utility will not be able to operate. His conclusion is based, reluctantly, on comparing operations costs with two other Central Oregon utilities (both owner operated with rates of return). He states that he has recommended \$436,153 in cash operating costs, his model actually calculates to \$457,408, but in either case, the actual prior four year average is \$658,305. He gets to his "recommended" level by slashing costs in labor and costs of system maintenance. Both costs are significantly understated in his analysis and can be easily averaged over the last four years to obtain a normalization that meets rate setting analysis criteria and produces a more realistic costing model.~~

~~Rebuttal to Staff 100/34 to 36 — The calculation of utility plant apparently contains errors from both CRRWC and PUC staff. Included with this testimony is a complete utility plant listing. Mr. Dougherty adds and removes assets based on criteria that shows he has never seen a depreciation schedule outside the utility rate setting arena. As is the case with most small companies, assets that are self-constructed or are financed with construction debt often span more than one accounting period. Costs are captured as they are incurred and placed in assets, then when the asset is completed all elements are then triggered for depreciation. Very rarely are the components "embedded" into a single asset as there are sometimes reasons to be able to track how costs were accumulated into the completed project. As a result CRRWC has a number of "components" on the depreciation schedule that are still very real assets and a part of the utility operations. I asked for the opportunity to meet with Mr. Dougherty one-on-one to sort out the clerical inaccuracies in his schedule and was not allowed to do so. He missed a number of items and I now once again request the opportunity to set the proper utility plant schedule for CRRWC.~~

~~Rebuttal to Staff 100/37 — Mr. Dougherty's NPV of the proposed radio read meters does not include a number of other factors worth considering. First is a safety and workers compensation insurance issue. A number of meter sets are in steep and difficult to access locations exposing the company to loss of time injuries. Second, a number of complaints with the PUC relate to inaccurate meter reads. The Company desires to reduce complaints and promote accurate billings to customers. Third, the estimated payroll savings could be substantially higher than the original estimates give by Company staff. The Board of Directors believes that the project has merit and will be pursuing additional data for a future rate case to seek approval.~~

~~Rebuttal to Staff 100/38 — CRRWC agrees with the removal of original costs of the utility under the CIAC provisions. However, a number of system line extensions that were only partially paid by users were excluded at 100%. In addition, all meter sets were excluded as CIAC assets, this is only partially true. When CIAC removal from rate base was discussed with the constituent water utilities, there was an understanding that an appropriate and adequate rate of return on remaining utility plant was necessary to sustain healthy utility operations. I was a party to these discussions and agreed with staff conclusions to remove CIAC plant. I have seen the model work when there is an appropriate rate of return. If staff is unwilling to allow a reason rate of return then staff must allow depreciation on the CIAC plant to create plant replacement cash flows. To take both sides of the equation down puts an unhealthy squeeze on utility operations. As requested above, I believe this issue can be resolved with a PUC staff meeting on the whole utility plant matter.~~

~~Rebuttal to Staff 100/39 to 41 — A rate of return at 4.13% is too low. It does not reflect the utility cost of capital. Mr. Dougherty does not even state the interest rates on the two notes. His model~~

~~allows for the recovery of payments only and zero return on the member capital. The only cash recovery anticipated is the annual depreciation amount. This is simply not adequate to meet ongoing utility replacement needs nor is it in compliance with ORS 94.595 as noted earlier. Mr. Dougherty's analysis of cash flows for future investments of \$60,385 is really \$23,301 less due to existing loan payments of \$46,084, which approximates annual depreciation.~~

1 **CERTIFICATE OF SERVICE**

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3 I certify that on October 19, 2007, I served the foregoing upon all parties of record in this  
4 proceeding by delivering a copy by electronic mail and by mailing a true and exact copy by  
5 postage prepaid first class mail or by hand delivery/shuttle mail to the parties accepting paper  
6 service.

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