

1 BEFORE THE ARIZONA CORPORATION COMMISSION
2
3 IN THE MATTER OF THE APPLICATION)
4 OF ICR WATER USERS ASSOCIATION,)
5 INC., FOR A PERMANENT RATE) DOCKET NO.
6 INCREASE.) W-02824A-07-0388
7)
8)
9)
10) EVIDENTIARY HEARING
11)
12)
13)

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1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before the
3 Arizona Corporation Commission, in Hearing Room 1 of
4 said Commission, 1200 West Washington Street, Phoenix,
5 Arizona, on December 3, 2008, at 9:37 a.m., before
6 TERESE HEISIG, Certified Reporter No. 50378 for the
7 State of Arizona.

8

9

10 BEFORE: MARC E. STERN, Administrative Law Judge
KRISTIN K. MAYES, Commissioner

11

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7 TERESE M. HEISIG
8 Certified Reporter
9 Certificate No. 50378

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1 ALJ STERN: All right. Let's go back on the
2 record in the matter of the Application of ICR Water
3 Users Association for permanent rate increase in Docket
4 Number W-082A-07-0388.

5 My name is Marc Stern, and I am presiding again
6 today. And at this time, we will take appearances.

7 All right, on behalf of the Applicant.

8 MR. METLI: Robert Metli, with the law firm of
9 Snell and Wilmer, on behalf of the Applicant, Your
10 Honor.

11 ALJ STERN: And on behalf of the intervenor,
12 Talking Rock Golf Club?

13 MR. SHAPIRO: Good morning. Jay Shapiro on
14 behalf of the intervenor, Talking Rock Golf Club.

15 ALJ STERN: And on behalf of himself as an
16 intervenor?

17 MR. TAYLOR: Dayne Taylor, Your Honor.

18 ALJ STERN: And on behalf of Commission Staff?

19 MR. TORREY: Kevin Torrey on behalf of
20 Commission Staff.

21 ALJ STERN: All right. We left off yesterday
22 afternoon, to the best of my recollection, with some
23 talk of we were talking about we want more time to talk,
24 and then we never really had any more of the hearing.

25 And, Mr. Metli, what is the status of the

1 proceeding, because you are the Applicant?

2 MR. METLI: Yes, Your Honor, I'm happy to
3 announce that the parties have reached a consensus on
4 the Water Service Agreement.

5 Your Honor, what we've done is we melded the
6 original two agreements, the agreement and the
7 amendment, and then we modified the document into one
8 document that has the support of the intervenors in this
9 case, and we intend to present that amended and restated
10 Water Service Agreement as a joint filing.

11 ALJ STERN: All right. Have the parties
12 actually signed this agreement that I find a copy of on
13 my table here?

14 MR. METLI: Your Honor, the actual agreement is
15 between ICR Water Users Association and the Harvard
16 Simon Talking Rock Golf Group that was on the original
17 agreement, and the agreement was not signed by
18 intervenor Mr. Taylor, because it is a contract between
19 two entities, but it is my understanding, Mr. Taylor can
20 speak for himself, but he supports the terms and
21 conditions in the new agreement.

22 ALJ STERN: All right. And I assume our Staff
23 is sort of on board in that respect, too? I don't know.

24 Are you on board, Mr. Torrey?

25 MR. TORREY: Your Honor, as we stated yesterday

1 in the openings, Staff is not going to take a position
2 of recommending the Commission approve of this
3 agreement, but the terms within the agreement, Staff has
4 reviewed that. There is nothing in the agreement that
5 Staff finds contrary to the benefit to the public or
6 contrary to the benefits of the -- or, actually, to the
7 Commission and its jurisdiction over public utilities,
8 and, frankly, the Commission Staff has looked at it and
9 thinks the agreement has --

10 ALJ STERN: Sorry for the interruption.

11 MR. TORREY: And Staff believes the agreement is
12 really in the interest of the -- in the interest of the
13 parties in settling their dispute. It has a lot of
14 benefits in there that work for the water company, and
15 Staff is supportive of the terms.

16 ALJ STERN: All right. Well, we will have
17 testimony from both Mr. Shapiro's client -- who I assume
18 your client supports the agreement?

19 MR. SHAPIRO: Yes, Judge Stern, my client has
20 signed on behalf of all three Talking Rock clients. On
21 behalf of my client, we want to thank Mr. Taylor, Mr.
22 Prior, and, hopefully, Mr. Meyer, who made some public
23 comment, will speak today, because we participated in
24 these efforts.

25 We are all on the same page at this point, and

1 we want to take some time today, as well, and answer
2 some questions that were raised by Commissioner Mayes.

3 ALJ STERN: With respect to Mr. Taylor, are you
4 on board with this?

5 MR. TAYLOR: We spent a lot of time working
6 through that. There are -- it is a consensus that this
7 seems to be a working document.

8 ALJ STERN: Okay. And you support it?

9 MR. TAYLOR: Yes, I do.

10 ALJ STERN: Because I will ask you under oath if
11 you support it, too.

12 Okay, let's do this. Before we go any further,
13 Mr. Metli, are you going to recall your witness? He was
14 under cross-examination.

15 Do you have more questions for this witness,
16 Mr. Taylor.

17 MR. TAYLOR: I just have one question, Your
18 Honor, that I would like to ask.

19 ALJ STERN: All right. Is your witness here?

20 MR. METLI: He is.

21 ALJ STERN: Come on over here, please, sir, and
22 have a seat.

23 Okay. We will -- we have -- when we left off
24 yesterday morning -- afternoon, Mr. Busch was the last
25 witness. He was being cross-examined by Mr. Taylor.

1 So, Mr. Taylor, do you have some more
2 cross-examination? The witness has been previously
3 sworn. What do you want to ask him?

4 MR. TAYLOR: Yes, Your Honor.

5

6 CROSS-EXAMINATION

7

8 BY MR. TAYLOR:

9 Q. I brought to your attention the annual report
10 filed as T-6, as I recall.

11 ALJ STERN: These are the documents that I
12 didn't get copies of.

13 Okay, I'm looking at the -- this is from the --
14 Page 10?

15 MR. TAYLOR: That's correct.

16 ALJ STERN: All right. This is from, I guess,
17 the annual report of ICR Water Users Association. I
18 don't know what annual report this is.

19 MR. TAYLOR: Sorry. I have the -- they didn't
20 copy the cover sheet. 12-31-2006.

21 ALJ STERN: Okay. So it is the annual --
22 Utilities Division annual report for -- ending December
23 31st, 2006. Go ahead.

24 MR. TAYLOR: And, Your Honor, my -- this is a
25 document that I just found by -- through the site.

1 BY MR. TAYLOR:

2 Q. My question to Mr. Busch is regarding the
3 booster pumps.

4 Mr. Busch, the way I tally the count here, there
5 are 13 booster pumps in this document on Page 10?

6 A. Yes.

7 Q. Do all of those booster pumps serve the Talking
8 Rock facility?

9 A. No, they do not.

10 Q. Can you identify which pumps serve the Talking
11 Rock facility?

12 A. I cannot really -- by looking at this document,
13 I cannot tell.

14 Q. All right. Are these pumps tallied in the
15 document that supports what assets have been transferred
16 or -- that have been transferred to the Company for
17 these pumps included in the assets transferred to the
18 Company?

19 A. All of these?

20 Q. Yes.

21 A. I'm not sure I can answer that question. Some
22 of them have been, I believe, but I wouldn't -- could
23 not say with certainty that all of them have been. I
24 cannot say with certainty that all have been.

25 Q. All right. Well, if this is the 2006 report --

1 A. It is.

2 Q. Has there been any additional assets transferred
3 to the Company since -- that are on file to this rate
4 case for 2006?

5 A. I'm sorry, would you restate the question?

6 Q. Have there been any assets transferred to the
7 Company since 2006?

8 A. Yes, there have been assets transferred to the
9 Company since 2006.

10 Q. Okay. Are you familiar with the report from
11 Mr. Bourassa, ICR-1?

12 A. The application?

13 Q. Yes, the application.

14 MR. METLI: Hold on a second. Can we have the
15 ICR-1?

16 BY MR. TAYLOR:

17 Q. Would you go to Schedule B2, Page 2?

18 ALJ STERN: Wait a minute. You are in ICR-1?

19 MR. TAYLOR: That's correct.

20 ALJ STERN: And you are referring to --

21 THE WITNESS: Page which?

22 ALJ STERN: B2. Which page?

23 BY MR. TAYLOR:

24 Q. Well, I gave you the wrong page. I'm sorry.

25 A. Schedule 2, Page B2.

1 Q. Yes. I'm giving you the wrong reference page.
2 I'm sorry. Let's go to Schedule C2, Charlie 2.

3 ALJ STERN: What page?

4 MR. TAYLOR: C2, Line 15.

5 ALJ STERN: Page number?

6 MR. TAYLOR: Sorry, it is Exhibit C2, Page 2.

7 THE WITNESS: Oh, Page 2.

8 BY MR. TAYLOR:

9 Q. It says -- would you read Line 14 from left to
10 right? Line Number 3 -- well, Line 15.

11 A. Okay.

12 Q. 311.

13 A. It is account 311, electric pumping equipment?

14 Q. Right.

15 A. It says, original cost, \$1,808; depreciation
16 expense, \$226.

17 Q. Is it your understanding that these pumps, the
18 value of these pumps, is \$1,808?

19 MR. METLI: Your Honor, I'm going to object.

20 This is an exhibit that was prepared by Mr. Bourassa.

21 Mr. Bourassa will be on the stand to answer these
22 questions.

23 ALJ STERN: Yeah, Mr. Taylor. His position with
24 the Company, he is not the proper witness to speak with
25 respect to the exhibits. I guess you can ask him

1 questions about the filing possibly of the document, but
2 as far as the background or the determination of the
3 valuation, how that is arrived at, he is not the proper
4 witness.

5 BY MR. TAYLOR:

6 Q. Did you provide this information to
7 Mr. Bourassa?

8 A. The information on this page?

9 Q. M'hum.

10 A. No, I did not.

11 MR. TAYLOR: Thank you. I'm finished.

12 ALJ STERN: Okay. Any questions for this
13 witness, Mr. Torrey?

14 MR. TORREY: Just a couple, Your Honor.

15

16 CROSS-EXAMINATION

17

18 BY MR. TORREY:

19 Q. Mr. Busch, you were asked a few questions
20 yesterday regarding Mr. Myhlhousen's testimony of
21 November 14th, 2008. Do you recall those?

22 A. I recall answering some questions regarding
23 that, yes.

24 Q. And are you familiar with the recommendations
25 that Staff made in this case for the rates and charges?

1 A. Yes.

2 Q. Do you recall Mr. Myhlhousen's recommendations
3 for his rates and charges?

4 A. If you are asking me, do I remember the specific
5 rates and charges, no, but I recall the recommendation.

6 Q. You are familiar with those; correct?

7 A. Yes.

8 Q. Under this agreement that I believe is going to
9 be discussed in a little while, is it your impression
10 that the -- that ICR has incorporated Mr. Myhlhousen's
11 rates and charges into that agreement?

12 A. Yes.

13 Q. And are those rates and charges acceptable to
14 the Company?

15 A. Yes.

16 Q. Staff had made a recommendation in
17 Mr. Myhlhousen's November 14th testimony that the land
18 belonging to the -- on which the three wells servicing
19 ICR Water Users Association was located, I believe there
20 has previously been some disagreement regarding that.
21 Has that been resolved?

22 A. That has. Parties agreed that a portion of that
23 property, approximately one acre, would be transferred
24 under the terms of this agreement.

25 Q. Is that acceptable to the water company, as

1 well?

2 A. Yes.

3 ALJ STERN: Is that where the three wells are
4 located?

5 THE WITNESS: It is.

6 BY MR. TORREY:

7 Q. And Staff had previously made recommendations
8 that in the Company's tariff, there would be an
9 allowance for the flow through of all the appropriate
10 state and local taxes.

11 Did the Company disagree with that?

12 A. No, it did not.

13 MR. TORREY: And, Your Honor, I have no further
14 questions for Mr. Busch.

15 ALJ STERN: Okay. Commissioner Mayes' aid is
16 here today, and I had a brief discussion with him off
17 the record. They, apparently, had some questions with
18 respect to water usage and best management practices.

19 Can your witness speak to those, Mr. Metli?

20 MR. METLI: I don't believe so, Your Honor.

21 Mr. Krumwiede can address the usage from the golf
22 course, but we don't have a witness here that would be
23 able to address best practices on behalf of the Company.

24 ALJ STERN: Who would be that witness if they
25 wanted some information?

1 MR. METLI: I don't know if we have a witness
2 that could --

3 ALJ STERN: Okay. You all can't talk at once,
4 gentleman.

5 So, Mr. Metli, your answer?

6 MR. METLI: Maybe he can present some of the
7 questions to Mr. Busch, because sitting here today, he
8 would be the most qualified as the operator.

9 THE WITNESS: I can address water usage
10 questions, but not best management practices. I can
11 talk about how much water that is maybe being used by
12 the golf course, or at least being pumped to the golf
13 course, but that is probably it.

14 ALJ STERN: So I don't know specifically what
15 she wants to know.

16 Identify yourself. This is Commissioner Mayes'
17 aid.

18 MR. ESTRADA: Giancarlo Estrada. I believe the
19 interest was just in seeing how those issues were going
20 to be addressed in your final agreement. I know that
21 with a number of other companies, we would like to see
22 some of these best management practices incorporated
23 into the operation of the Company itself, and I didn't
24 know in the final result that you guys have come to how
25 that is being addressed. And I think the issue with

1 respect to water usage is related to the water usage for
2 the golf course itself.

3 MR. SHAPIRO: Judge Stern, I think
4 Mr. Krumwiede can address those. I have a couple
5 questions for Mr. Busch that might help a little bit.

6 ALJ STERN: Go ahead. You mean, towards -- in
7 the interest of possibly water usage and best
8 management?

9 MR. SHAPIRO: Yeah. I think some of the
10 follow-up questions I have will touch on that. I think
11 Mr. Krumwiede is the one to talk about it, as well.

12

13 CROSS-EXAMINATION

14

15 BY MR. SHAPIRO:

16 Q. Mr. Busch, good morning.

17 A. Morning.

18 Q. You were asked a question yesterday by
19 Commissioner Mayes about what would happen at full
20 build-out if the well field didn't have enough capacity
21 to serve both the golf course and the residential
22 customers in the Talking Rock subdivision. Do you
23 remember that question?

24 A. Yes, I do.

25 Q. You said you would have to procure an additional

1 water source if the three wells lacked capacity?

2 A. Yes.

3 Q. Were you -- in answering that question, were you
4 considering the fact that at full build-out, it is
5 expected there will be a larger amount of effluent
6 available from the sanitary district serving that area?

7 A. I was not. I was really purely thinking in
8 terms of the water company. If there was not enough
9 water at the time for the water company, an additional
10 source would have to be --

11 Q. When we look forward down the road and consider
12 the availability of water from the three Talking Rock
13 wells, won't the availability of effluent, as the
14 community grows, have an impact on the demand for water
15 from the golf course on those wells?

16 A. Yes, most certainly.

17 Q. And, in fact, it is expected that as the
18 community grows, more effluent will be available,
19 lowering the demand on groundwater for the golf course?

20 A. Yes, that is correct.

21 Q. There was also some discussion yesterday about a
22 well report that Mr. Meyer had prepared. Do you recall
23 that?

24 A. I do.

25 Q. Let me hand you what has been marked as TRGC-3.

1 TRGC-3, if I can identify it, is a copy of a
2 well field evaluation prepared by Southwest Groundwater
3 Consultants, Mr. Busch?

4 A. Yes.

5 Q. And Southwest Groundwater Consultants are the
6 hydrologists that the Talking Rock parties have used
7 with respect to the Talking Rock development, as far as
8 you know; correct?

9 A. As far as I know.

10 Q. And they also wrote a report with respect to the
11 well field testing that went on in 2007?

12 A. That's correct.

13 Q. Okay. Let me have you turn to Page 12 of that
14 exhibit. Do you see the summary there?

15 A. Yes.

16 Q. I want to summarize, and please correct me if I
17 ask anything that is not reflected. This conclusion by
18 Southwest Groundwater was that the well field -- and
19 that is all three wells; correct?

20 A. Yes.

21 Q. -- is capable of pumping 940 gallons per minute
22 for extended periods of time?

23 A. Yes.

24 Q. That would be during a nonpeak, and 854 during
25 peak pumping?

1 A. That's correct.

2 Q. And that is with all three wells pumping at the
3 same time; correct?

4 A. That is my understanding.

5 Q. And that, again, just to be clear for the
6 record, if all three wells are pumping at the same time,
7 that has an impact in the overall capacity of each well;
8 is that correct?

9 A. That's correct.

10 Q. Okay. It also indicates in the second bullet --
11 second bullet point below the top, that once pumping
12 stops, the water levels rapidly recover?

13 A. Yes, that is right.

14 Q. So this study, too, would be something that ICR
15 would be using in connection with this long-term
16 groundwater management, resource management?

17 A. I would presume so, yes.

18 MR. SHAPIRO: Okay. Just before I forget, I
19 will move TRGC-3.

20 ALJ STERN: Any objections?

21 MR. METLI: No objections.

22 ALJ STERN: Any objections, Mr. Taylor?

23 MR. TAYLOR: No.

24 ALJ STERN: No, no.

25 Mr. Torrey?

1 MR. TORREY: No objections, Your Honor.

2 ALJ STERN: Okay. No objections, Exhibit TRGC-3
3 is admitted.

4 (Exhibit TRGC-3 was admitted into evidence.)

5 ALJ STERN: Does the court reporter have a copy?

6 MR. SHAPIRO: Yes.

7 BY MR. SHAPIRO:

8 Q. Just one other follow-up question, just a couple
9 other follow-up questions.

10 Commissioner Mayes asked you yesterday,
11 Mr. Busch, whether Well Number 1 was in the hands of
12 ICR, and you answered, no. Do you recall that?

13 A. Yes.

14 Q. You were referring to whether it was owned by
15 ICR; correct?

16 A. That's correct.

17 Q. Okay. ICR operates Well 1 today; correct?

18 A. Yes, they do.

19 Q. And it has for some time, a few years now;
20 correct?

21 A. Yes, for several years.

22 Q. So ICR has operational control and decides what
23 well is pumped when, which wells to pump, to meet the
24 demand?

25 A. That's correct.

1 Q. And that has been the situation for a few years
2 now?

3 A. Yes.

4 MR. SHAPIRO: Okay. Thank you, Mr. Busch.

5 ALJ STERN: Any other questions?

6 MR. SHAPIRO: Not of Mr. Busch. We will follow
7 up on some of the groundwater issues with Mr. Krumwiede,
8 as well.

9 ALJ STERN: Okay. Do you have any other
10 questions for the witness?

11 MR. ESTRADA: Just to follow up on the effluent
12 offset.

13

14 EXAMINATION

15

16 BY MR. ESTRADA:

17 Q. Is what you said, is that the effluent at full
18 build-out would offset some of the groundwater? Would
19 that fully offset it, or how would that -- what would be
20 the picture? What would be the picture at full
21 build-out?

22 A. Again, I'm probably not the best person to ask
23 that question to. Probably Mr. Krumwiede would be
24 better able to answer that.

25 MR. ESTRADA: Thank you.

1 ALJ STERN: Anything else?

2 MR. ESTRADA: No.

3 ALJ STERN: Mr. Busch, I have a couple
4 questions.

5

6

EXAMINATION

7

8 BY ALJ STERN:

9 Q. You're hired by the Board, or your company was
10 hired by the Board, to provide an employee to manage the
11 Association water utility; is that correct?

12 A. That's correct.

13 Q. So this company that you -- you actually work
14 for this other company. Who do you get a check from?

15 A. From the other company. The water company
16 doesn't have employees.

17 Q. So everybody is contracted to the water utility?

18 A. That's correct.

19 Q. And the company you work for, what is it called,
20 again?

21 A. MDI Financial Services.

22 Q. And what exactly is the business of MDI
23 Financial Services?

24 A. They are an accounting/bookkeeping firm. They
25 have a number of, you know, clients that they do -- they

1 keep accounting records for. They file tax returns. I
2 think the principal is also an investment counselor,
3 so...

4 Q. Is the company home-based in Prescott or
5 somewhere else?

6 A. Chino Valley, Your Honor.

7 Q. And you're actually an employee of theirs, and
8 you have been delegated to be a manager of the water
9 utility?

10 A. Yes.

11 Q. Do you have any other job with MDI?

12 A. That is my solo -- I also manage another water
13 company in the area under the same arrangement.

14 Q. Which company is that?

15 A. It is called Granite Oaks Water Users.

16 Q. Okay. I've heard of that.

17 And how long have you been in the water business
18 through the efforts of MDI, let's say?

19 A. I guess probably eight years now. I started as
20 a board member of Granite Oaks, became president, got
21 off the board. They asked me to stay on doing some
22 things that I was doing as a board member, and they
23 agreed to pay me for it, so that is kind of -- from
24 there, I got into the water management business.

25 Q. Okay. Now, you've been running this company,

1 now, since, what year was it, 200- --

2 A. Mid-2005.

3 Q. Mid-2005.

4 So you came on board with the Company after they
5 extended the CC & N --

6 A. Yes.

7 Q. -- to Talking Rock?

8 A. Correct.

9 Q. All right. Are the systems operated totally
10 independently of each other? I think I heard yesterday
11 or the day before, they are not interconnected, are
12 they?

13 A. No, they are not.

14 Q. Is there any plan to interconnect them, that you
15 know of?

16 A. There have been some thoughts periodically about
17 that, but I don't know that that is practical myself,
18 but...

19 Q. Are --

20 A. Nothing serious, Your Honor.

21 Q. Inscription Canyon Ranch and -- what is the
22 other subdivision? Whispering Canyon, is it?

23 A. Yes. There are actually three subdivisions that
24 are served by one system. It is --

25 Q. Just a minute until he gets his phone shut off.

1 Oh, it is your phone?

2 A. Sorry.

3 There are three subdivisions on one system that
4 is called Inscription Canyon System, subdivisions of
5 Inscription Canyon Ranch.

6 Q. Okay.

7 A. Whispering Canyons.

8 Q. Canyons or Canyon, if you know?

9 A. I think it is Canyons.

10 Q. Okay.

11 A. And The Preserve at the Ranch.

12 Q. So those three are on one side of Williamson
13 Valley Road; right?

14 A. That's correct.

15 Q. The Preserve at the Ranch is the third one?

16 A. Yes.

17 Q. And how many customers are on that side of the
18 road, roughly?

19 A. Approximately 280, I believe.

20 Q. And they are mixed use. It is not all
21 residential. There is semi-commercial?

22 A. It is principally residential.

23 Q. Primarily residential?

24 A. Yes.

25 Q. And how many wells are on that side of the road

1 that the Company has?

2 A. Two.

3 Q. Two wells.

4 And how many gallons per minute do those two
5 pumps pump, if you know?

6 A. I don't know, Your Honor, exactly.

7 Q. Do those two wells provide all the water for
8 that side of the system?

9 A. Yes.

10 Q. Is it operated financially as a separate system
11 from Talking -- the Talking Rock side?

12 A. It is not.

13 Q. It is not.

14 So the two systems financially are intertwined?

15 A. That's correct.

16 Q. And you have how many storage tanks, let's say,
17 for that side?

18 A. Two.

19 Q. I don't know whether you know the answer to this
20 question. Why did ICR ever want to extend service
21 across the road to an area where they didn't -- at least
22 it wasn't planned, that I know of?

23 A. Sorry, Your Honor, I don't know the answer to
24 that question.

25 Q. Has there ever been any thought to operate the

1 systems financially separately or --

2 A. Not to my knowledge.

3 Q. Okay. Now, these two wells that serve the
4 Inscription Canyon Ranch area, let's say, and the
5 Whispering Canyons and The Preserve, it is called The
6 Preserve at --

7 A. Preserve at the Ranch.

8 Q. At the Ranch, okay.

9 You have some storage over there on that side of
10 the road, a couple tanks or something, or one tank?

11 A. Well, let me clarify right now that there are
12 two storage tanks on, what we call, the Inscription
13 Canyon system, and there is one storage tank with a
14 second being completed now on the Talking Rock side.

15 Q. Okay. Now, with respect to Talking Rock, there
16 are three wells; right?

17 A. Correct.

18 Q. So Talking Rock has residential customers. How
19 many are over there, approximately?

20 A. Approximately, 170.

21 Q. And at total build-out, what is it estimated to
22 be, about 1,500, roughly? It is over 1,000?

23 MR. SHAPIRO: That is a question Mr. Krumwiede
24 can answer when he takes the stand.

25 BY ALJ STERN:

1 Q. But now you have about 170 customers?

2 A. That's correct.

3 Q. We know it is over 1,000, and Mr. Krumwiede will
4 be up here in a while.

5 Now, on that side, there are three wells. We
6 talked to them and beat them up a few times.

7 With respect to if there was a water shortage on
8 that side of the road, you haven't had any yet, have
9 you?

10 A. No. No, Your Honor, we haven't.

11 Q. And you do have a sanitation district that is
12 presently treating the effluent from that whole service
13 area?

14 A. From the whole service area, correct.

15 Q. And that sanitation district includes Talking
16 Rock Ranch and the three ranches, or whatever they are,
17 on the other side?

18 A. That's correct.

19 Q. Okay. And is there anything more in the
20 sanitation district area, or is it strictly these areas?

21 A. My understanding is that they are contiguous,
22 but I'm not positive of that.

23 Q. Offhand, do you know the name of the sanitation
24 district?

25 A. ICR Sanitary District.

1 Q. Okay.

2 A. That causes more confusion.

3 Q. That is all right.

4 And the usage, we had a little testimony from
5 you the other day, is that -- disregarding the golf
6 course, okay, when you compare residential usage between
7 the two separate systems, there is a little more usage,
8 I think you stated, on the Talking Rock side -- no, the
9 Inscription Canyon Ranch side?

10 A. That's correct. There is higher use by
11 residences on the Inscription Canyon system than on the
12 Talking Rock system.

13 Q. But you have about 100 more residences, too?

14 A. Well, I meant per customer.

15 Q. Oh, per customer, okay. So there is a little
16 bit more water usage there. Now, there was some
17 discussion, too, of this hydrant situation. It is
18 around 250 water hydrants between the whole service
19 area?

20 A. Yes.

21 Q. Isn't there a way to lock those things?

22 A. Not to my understanding. The fire department
23 needs access to those things, and they are pretty much
24 under their control.

25 Q. And, I mean, you can't put a lock on that that

1 they would have a key to, or are you prohibited, as far
2 as you are aware?

3 A. There might be a way. I don't know of one, but
4 it is possible that putting a fire department key on
5 each one would do the trick, but I suspect that would be
6 pretty expensive.

7 Q. It might. I don't know.

8 But you say you have a meter on each side of the
9 highway for construction use and rely on people to be
10 honest?

11 A. Yes.

12 Q. Sometimes they aren't?

13 A. Sometimes they are not.

14 Q. Can a construction truck pull up to any of those
15 hydrants and tap into it for water?

16 A. Yes. If they have the right device to open the
17 hydrant, yes.

18 Q. Right. And your subdivisions there are in a
19 fire district. Is that what you use for?

20 A. Central Yavapai Fire District.

21 Q. Okay. I've heard some talk now, finally, that
22 your company, Talking Rock Golf Club, Mr. Taylor, and
23 Staff have reached an agreement in this proceeding; is
24 that correct?

25 A. That's correct.

1 Q. And is it your testimony, then, that the
2 Company -- at least from what I've heard from
3 representations made today, the Company is accepting of
4 Staff's recommendations entirely and their proposed
5 rates and charges?

6 A. Yes, Your Honor.

7 Q. And does the Company maintain its books and
8 records, I assume, in the neighborhood standard?

9 A. Yes.

10 Q. I guess Mr. Bourassa would answer that?

11 A. Yes, he would.

12 Q. And with respect to charges in the future to the
13 golf course on the other side of the road, will they be
14 a customer instead of --

15 A. Yes.

16 Q. -- whatever --

17 A. It is my understanding, yes.

18 Q. What are they classified now as, do you know?
19 If you know.

20 A. Yeah, I don't know if there is a term for it.
21 They are just not considered as a customer.

22 Q. But as far as you are concerned, you are
23 satisfied with the terms of what is captioned, "The
24 Amended and Restated Water Service Agreement Between ICR
25 Water Users Association, Inc., Harvard Simon, and

1 Talking Rock Golf Club and Talking Rock Land" --

2 A. Yes.

3 Q. -- is that correct?

4 A. M'hum.

5 MR. SHAPIRO: Judge Stern, can we mark this?

6 ALJ STERN: Sure. What would you like to mark
7 it?

8 MR. SHAPIRO: I don't know if you want to make
9 it a joint exhibit, so maybe ICR/ --

10 ALJ STERN: Let's mark it as ICR/ --

11 MR. SHAPIRO: TRGC.

12 ALJ STERN: TRGC-1. Okay. Now, I haven't had a
13 chance to read this, since somebody must have been
14 working until midnight last night to do this.

15 MR. SHAPIRO: Mr. Crockett. That is why he is
16 not here.

17 ALJ STERN: Okay. It is signed by Mr. Prior,
18 who I assume is one of the gentlemen in the room?

19 MR. SHAPIRO: Yes, he is.

20 ALJ STERN: As the president of ICR. It is
21 signed by Harvard Simon, L.L.C., which I assume that is
22 Mr. Shapiro's client. Talking Rock Land, its manager
23 signed it. And Talking Rock Golf Club has signed,
24 again, the manager, Mr. Shapiro's client.

25 MR. SHAPIRO: That is Mr. Krumwiede's signature,

1 yes.

2 BY ALJ STERN:

3 Q. So you were entirely satisfied with the terms of
4 the settlement agreement and Staff's proposed rates and
5 charges?

6 A. Yes, Your Honor.

7 Q. And the Company will abide by the terms of the
8 agreement and the recommended rates and charges and
9 follow tariff accordingly, assuming the Commission
10 approves it?

11 A. Yes.

12 ALJ STERN: I don't have any other questions.
13 Any redirect?

14 MR. METLI: Yes, I do.

15 I would like to move the exhibit ICR/TRGC-1, and
16 that is the Amended and Restated Water Service
17 Agreement.

18 ALJ STERN: Okay. Any objections, Mr. Shapiro?

19 MR. SHAPIRO: No. We join in moving that
20 exhibit.

21 ALJ STERN: Mr. Taylor?

22 MR. TAYLOR: No objections.

23 ALJ STERN: Mr. Torrey?

24 MR. TORREY: No objections, Your Honor.

25 ALJ STERN: Okay. No objections, the Joint

1 Exhibit ICR/TRGC-1 is hereby admitted.

2 (Exhibit ICR/TRGC-1 was admitted into evidence.)

3 ALJ STERN: Okay. Go ahead with your redirect
4 of your witness.

5

6 RE-DIRECT EXAMINATION

7

8 BY MR. METLI:

9 Q. Mr. Busch, can you identify the company called
10 A Quality?

11 A. Yes.

12 Q. Can you tell me, what is the function of
13 A Quality?

14 A. A Quality Water is currently the qualified
15 certified water operator that operates our water system.
16 They are under contract to the Company like -- similar
17 to MDI Financial Service is under contract.

18 Q. At the beginning of the hearing --

19 ALJ STERN: That is a certified operator?

20 THE WITNESS: Yes, he is a certified operator.

21 ALJ STERN: Go ahead.

22 BY MR. METLI:

23 Q. At the beginning of the hearing, were you
24 present when Commissioner Mayes had requested that the
25 Company provide data associated with water use?

1 A. Yes.

2 MR. METLI: Your Honor, may I approach the
3 witness?

4 ALJ STERN: Sure.

5 BY MR. METLI:

6 Q. Mr. Busch, I'm going to ask you to review what
7 I've marked as ICR-13. Do you have that in front of
8 you?

9 A. Yes.

10 Q. Can you identify that document, sir?

11 A. It is a document showing water use. First page
12 is water use November 3rd -- or November 2003 through
13 May of 2005, and the second page is -- looks like water
14 use summary from May of 2005 through 2006, and the third
15 page is water use information for year 2007.

16 Q. When you say "water use summary," are you
17 talking about gallons pumped? Are you talking about
18 gallons sold?

19 A. There are several columns on the report that
20 show -- one shows "water pumped." Another shows "total
21 water sold." Another is headed "golf course." Another
22 "residential use," and the last is "unaccounted for
23 water."

24 Q. Mr. Busch, was that document prepared under your
25 direction and control?

1 A. Yes.

2 MR. METLI: Your Honor, at this time, I would
3 move ICR-13.

4 ALJ STERN: Okay. Any objection?

5 MR. SHAPIRO: Yeah, I could probably clear it up
6 if I can just ask the witness a question about the
7 exhibit.

8 ALJ STERN: I don't have a problem.

9

10 RE CROSS-EXAMINATION

11

12 BY MR. SHAPIRO:

13 Q. Mr. Busch, would you look at Page 1, the line,
14 January 5, that shows -- there is an '05 that shows
15 May -- shows 14,190,000 gallons.

16 A. Yes.

17 Q. Will you turn to the next page? That number is
18 repeated, is it not?

19 ALJ STERN: Where are you looking?

20 MR. SHAPIRO: Now I'm on the second page under
21 "total water" -- under "water to TR Golf Course."

22 A. May of 2005 is shown on both pages.

23 Q. So the 118 at the bottom for 2005, that is
24 actually 14 million gallons higher than it should be?

25 A. Yes.

1 Q. Can we correct that number? Can you just mark
2 that -- the exhibit up there and make that correction?
3 Is that possible?

4 ALJ STERN: You mean, where it says -- on
5 Page 2, where it --

6 MR. SHAPIRO: It says 118,450,000 gallons was
7 the water pumped to the golf course in 2005.

8 BY MR. SHAPIRO:

9 Q. That is what it currently reflects; correct,
10 Mr. Busch?

11 A. Yes.

12 Q. We should be deducting 14,190,000 from that
13 118,000,000 number.

14 Will you do that real quick and let us know what
15 the actual number is? I will know if you are an
16 accountant if you need a calculator to do it.

17 MR. METLI: Subject to check. We have a
18 calculator here. The number should be 104,267.

19 MR. SHAPIRO: 104,267,000.

20 ALJ STERN: He is an attorney, come on.

21 MR. METLI: Well, he didn't put the zeros in.
22 Need the zeros.

23 BY MR. SHAPIRO:

24 Q. Mr. Busch, you would agree that column that
25 shows the water to TR Golf Course on Page 2 of ICR-13

1 should read 104,267,000 to correct the typo?

2 A. Yes.

3 MR. SHAPIRO: With that amendment, we have no
4 objection to this exhibit, and thank you very much.

5 ALJ STERN: One thing I just want to ask you,
6 Mr. Shapiro. You referred to a number on the first page
7 of this?

8 MR. SHAPIRO: Yes, Judge Stern. The second to
9 last column on the page that shows, May Golf Course.

10 ALJ STERN: Right.

11 MR. SHAPIRO: That is the number that is
12 repeated on the next page.

13 ALJ STERN: Oh, I see.

14 MR. SHAPIRO: It is actually repeated in
15 multiple columns, and I guess all of those columns could
16 technically be corrected, but since the concern was over
17 the water being delivered to the golf course, that is
18 the one I focused on, but there is a double May line.

19 ALJ STERN: All right. Two May lines..

20 All right. We've got that.

21 MR. METLI: Your Honor, for the record, the
22 number should be ICR-14 instead of ICR-13.

23 ALJ STERN: Okay.

24 MR. SHAPIRO: So that entire discussion needs to
25 be noted as to ICR-14, Mr. Metli.

1 MR. METLI: Thirteen was the e-mail you snuck
2 in.

3 ALJ STERN: This is now ICR-14, the exhibit of
4 the Talking Rock system use for water pump --

5 I guess this is for the whole system, Mr. Busch?

6 THE WITNESS: This is just for the Talking Rock
7 system.

8 ALJ STERN: This is just for the Talking Rock?

9 THE WITNESS: Yes.

10 ALJ STERN: It doesn't have anything to do with
11 ICR?

12 THE WITNESS: Right, it is not the total
13 company.

14 ALJ STERN: Anything else --

15 MR. METLI: No, Your Honor.

16 ALJ STERN: -- Mr. Metli?

17 Mr. Metli's redirect examination brought to mind
18 a couple questions we usually ask and I forgot.

19

20 EXAMINATION

21

22 BY ALJ STERN:

23 Q. The Company has a certified operator; right?

24 A. Yes.

25 Q. Is the Company in compliance with ADEQ

1 regulations with respect to meeting the requirements of
2 the Safe Drinking Water Act?

3 A. Yes, Your Honor.

4 Q. Are there any arsenic problems with your water?

5 A. No.

6 Q. So with respect to the Arizona Corporation
7 Commission, is the Company operating in compliance, to
8 your knowledge?

9 A. To my knowledge, yes.

10 Q. And are the property and sales taxes current?

11 A. Yes.

12 ALJ STERN: I don't have any other questions.

13 THE WITNESS: Your Honor, I would like to make
14 maybe one clarification to a response I made earlier in
15 the testimony.

16 ALJ STERN: Okay.

17 THE WITNESS: It had to do with whether we
18 operate the two systems separately financially.

19 ALJ STERN: Right.

20 THE WITNESS: And to some extent, we do that.
21 We have done that primarily for the purposes of
22 administering the well agreement. We split some costs
23 to the two systems in order to administer the current
24 well agreement.

25 ALJ STERN: Right.

1 THE WITNESS: And that is the extent of the
2 split that we've done financially.

3 ALJ STERN: Okay. But under the terms of this
4 new agreement, the joint agreement that is sponsored
5 here, does that do away with the way that system is
6 working, then?

7 THE WITNESS: I believe it should, yes.

8 ALJ STERN: Okay. I don't have anything else.
9 Are you calling any other witnesses?

10 MR. METLI: I am, Your Honor. Unfortunately, I
11 would like to move ICR-14.

12 ALJ STERN: Okay. ICR-14.

13 MR. SHAPIRO: As corrected.

14 MR. METLI: As corrected.

15 ALJ STERN: ICR-13 is now ICR-14. Any
16 objection?

17 MR. SHAPIRO: No objection.

18 MR. TAYLOR: No objection.

19 ALJ STERN: ICR, as corrected by Mr. Busch on
20 the stand here, is -- Mr. Taylor, objections?

21 MR. TAYLOR: No objection.

22 ALJ STERN: Mr. Torrey?

23 MR. TORREY: No objection, Your Honor.

24 ALJ STERN: No objections noted, ICR-14 is
25 admitted.

1 (Exhibit ICR-14 was admitted into evidence.)

2 ALJ STERN: Mr. Busch, you can go home now.

3 THE WITNESS: Thank you.

4 ALJ STERN: Mr. Metli.

5 MR. METLI: Yes, Your Honor, thank you.

6 ALJ STERN: Are you going to torment

7 Mr. Bourassa for a while?

8 MR. METLI: I will not. Others may.

9 ALJ STERN: Come forward, Mr. Bourassa.

10 Mr. Torrey, we have a problem here. If your --
11 I don't know if you are calling Mr. Liu. If you need to
12 talk to him, we will take a recess. It makes it hard
13 for the court reporter.

14 MR. TORREY: At the next break, I will discuss
15 it with Mr. Liu.

16

17 THOMAS J. BOURASSA,
18 called as a witness herein, having been first duly sworn
19 by the Certified Court Reporter to speak the truth and
20 nothing but the truth, was examined and testified as
21 follows:

22

23 ALJ STERN: Go ahead.

24

25

1 DIRECT EXAMINATION

2

3 BY MR. METLI:

4 Q. Sir, would you please state your name for the
5 record?

6 A. My name is Thomas J. Bourassa.

7 Q. And your business address, sir?

8 A. 139 Westwood Drive, Phoenix, Arizona. 85029.

9 Q. And, sir, by whom are you employed in this case,
10 and in what capacity?

11 A. I am a self-employed certified public accountant
12 primarily engaged in consulting to utility companies,
13 preparation of rate filings, testifying on behalf of the
14 utilities in rate proceedings, financing -- helping
15 prepare financing applications, preparing schedules for
16 certificates of convenience and necessity, and any other
17 matters that might come up with respect to regulation in
18 a financial perspective.

19 Q. Sir, you provided a resume of your educational
20 background and experience in this docket, in the
21 application?

22 A. Yes.

23 Q. And that was attached as Exhibit Number 1 to the
24 exhibit previously marked as ICR-1?

25 A. Yes.

1 Q. Sir, I'm going to direct your attention to what
2 has previously been marked as ICR-1. Can you identify
3 that document for me?

4 A. Exhibit ICR-1 is the application of ICR Water
5 Users Association in this docket, and it includes my
6 testimony and the associated standard filing schedules.

7 Q. And, sir, was that testimony prepared under your
8 direction and control?

9 A. Yes.

10 Q. Do you have any changes or modifications at this
11 point to that testimony?

12 A. No.

13 Q. Do you adopt that testimony today under oath?

14 A. Yes.

15 Q. Next I'm going to direct you to what I've marked
16 as ICR-2. Do you have that in front of you?

17 A. Yes, I do.

18 Q. Can you identify that document, sir?

19 A. IC -- exhibit ICR-2 is my rebuttal testimony on
20 behalf of ICR Water Users Association in this docket.

21 Q. And, sir, was that testimony prepared under your
22 direction and control?

23 A. Yes.

24 Q. Do you have any changes or modifications at this
25 time?

1 A. No.

2 Q. And do you adopt that testimony as your sworn
3 testimony today?

4 A. Yes.

5 Q. Sir, next I'm going to direct you to what I've
6 marked as ICR Exhibit Number 3. Can you identify --
7 actually disregard that. ICR-5.

8 A. I see that.

9 Q. Can you identify that document?

10 A. Exhibit ICR-5 is my supplemental rebuttal
11 testimony to the direct testimony of Mr. Dayne Taylor on
12 behalf of ICR Water Users Association.

13 Q. And, sir, was that testimony prepared under your
14 direction and control?

15 A. Yes.

16 Q. Do you have any modifications or changes to that
17 testimony today?

18 A. No.

19 Q. You adopt that testimony under oath?

20 A. Yes.

21 Q. Mr. Bourassa, I next direct you to what we've
22 marked as exhibit ICR-6. Will you identify that
23 document for me, sir?

24 A. Exhibit ICR-6 is my additional supplemental
25 testimony in support of the Water Service Agreement on

1 behalf of the Company in this docket.

2 Q. And, sir, was that testimony prepared under your
3 direction and control?

4 A. Yes.

5 Q. Do you have any changes or modifications to that
6 testimony today?

7 A. No.

8 ALJ STERN: That -- when you say "the Water
9 Service Agreement," that is ICR-9; right? It is in
10 support of the original Water Service Agreement, I would
11 assume?

12 MR. METLI: Yes, Your Honor, and I -- subject to
13 check, that is ICR or not.

14 BY MR. METLI:

15 Q. Do you adopt the testimony contained in ICR-6 as
16 your sworn testimony today?

17 A. Yes.

18 Q. Finally, Mr. Bourassa, I'm going to direct your
19 attention to what we've previously admitted as ICR-8.

20 A. I see that.

21 Q. Can you identify that document, sir?

22 A. This document is additional supplemental
23 rebuttal testimony that I prepared on behalf of ICR
24 Water User's Association in this docket.

25 Q. And, sir, was that testimony prepared under your

1 direction and control?

2 A. Yes.

3 Q. Do you have any changes or modifications today
4 to that testimony?

5 A. I have two minor changes --

6 Q. Okay.

7 A. -- to this document.

8 On Page 4, Line 28, the figure of \$8.85 million.

9 ALJ STERN: Wait a minute. Page 4, Line 28?

10 THE WITNESS: Yes, Your Honor.

11 ALJ STERN: Go ahead.

12 THE WITNESS: The figure of \$8.85 million should
13 be corrected to \$7.85 million. And on Page 5, Line 18,
14 the same correction should be made, \$8.85 million should
15 be changed to \$7.85 million.

16 BY MR. METLI:

17 Q. Mr. Bourassa, do you have any additional
18 changes?

19 A. No, I do not.

20 Q. As amended, sir, do you adopt that portion of
21 ICR-8 that constitutes your additional supplemental
22 rebuttal testimony as your sworn testimony today?

23 A. Yes.

24 MR. METLI: Your Honor, at this time, I would
25 like to move for admission of ICR-1, 2, 5, 6, and 8.

1 ALJ STERN: Any objections, Mr. Shapiro?

2 MR. SHAPIRO: No.

3 ALJ STERN: Any objections, Mr. Taylor?

4 MR. TAYLOR: No.

5 ALJ STERN: Any objections, Mr. Torrey?

6 MR. TORREY: No, Your Honor.

7 ALJ STERN: Exhibits ICR-1, 2, 5, 6, and 8 are
8 hereby admitted.

9 (Exhibits ICR-1, 2, 5, 6, and 8 were admitted
10 into evidence.)

11 MR. METLI: Thank you, Your Honor, and I will
12 offer and tender Mr. Bourassa for cross-examination.

13 ALJ STERN: Okay. Did we identify any of these
14 other exhibits, or no? I don't remember. I guess it
15 really doesn't matter. The only ones that are going to
16 be admitted are Exhibit Numbers 1 through 5, 6, and 8;
17 right?

18 MR. METLI: Yes, Your Honor. The other exhibits
19 I think you are referencing are the testimonies of
20 Robert Busch.

21 ALJ STERN: Oh, right, okay. Did we admit those
22 previously? I don't recall. Somebody's assistant is
23 keeping score.

24 Any questions for this witness, Mr. Shapiro?

25 MR. SHAPIRO: I have been waiting for 10 years

1 to cross-examine this witness.

2 ALJ STERN: You will be waiting 10 more years
3 until I get an answer.

4

5

CROSS-EXAMINATION

6

7 BY MR. SHAPIRO:

8 Q. Good morning, Mr. Bourassa.

9 A. Good morning.

10 Q. Your testimony that was prefiled was in support
11 of ICR-9, which is the Water Service Agreement; is that
12 correct?

13 A. That's correct.

14 Q. Does your testimony also support ICR/TRGC-1,
15 which is the amended and restated Water Service
16 Agreement?

17 A. Yes. Particularly with respect to the cost of
18 service study that I prepared, which contemplated the
19 golf course providing \$175,000 during the test year.
20 The original Water Service Agreement contemplated a
21 system reservation charge and a commodity rate of \$1,
22 which totaled \$175,000. The commodity rate of \$1.40
23 that Staff has recommended, that is in the amended Water
24 Service Agreement, will generate the \$175,000 of
25 revenue. So my cost of service study remains valid that

1 the \$1.40 is more than adequate to cover the cost of
2 service to the golf course plus a very reasonable
3 operating margin.

4 Q. When you conducted your cost of service study,
5 you first looked at whether or not the payments being
6 made by the Talking Rock parties under the well -- or
7 the wheeling arrangement covered the Company's cost of
8 service; is that correct?

9 A. Correct.

10 Q. And you concluded that the -- in the past, well,
11 and in the present, up until the new arrangement was
12 approved, that the Talking Rock parties are paying at
13 least, if not more, than their cost of service; correct?

14 A. My cost of service study, based on the original
15 well sharing agreement that was in existence since 2003
16 for the test year, the cost of service study, my
17 conclusions on the cost of service study that, yes, the
18 golf course was providing -- was providing enough
19 revenues to cover the cost of service plus, I believe,
20 about a 38, 40 percent operating margin.

21 Q. Just to make sure, to summarize and make clear
22 for the record, if the ratemaking arrangement proposed
23 now by all the parties, through Staff's testimony and
24 ICR/TRGC-1, is approved, then the Talking Rock parties
25 will continue to cover their cost of service plus

1 provide a reserve margin?

2 A. Yes.

3 MR. SHAPIRO: Okay. Thank you, Mr. Bourassa.

4 You have been an excellent witness.

5 THE WITNESS: Thank you, Mr. Shapiro.

6 ALJ STERN: His answers were really fast.

7 Mr. Taylor, any questions?

8 MR. TAYLOR: Yes, Your Honor.

9

10 CROSS-EXAMINATION

11

12 BY MR. TAYLOR:

13 Q. I would like to go back to the subject of
14 previously --

15 ALJ STERN: You are referring to an exhibit?

16 MR. TAYLOR: Yes, I'm referring to exhibit T-6.

17 BY MR. TAYLOR:

18 Q. Mr. Bourassa, referencing exhibit T-6 and ICR-1,
19 the exhibit, Schedule C2, Page 2?

20 MR. SHAPIRO: Are you looking at ICR-6?

21 MR. TAYLOR: I'm sorry, ICR-1. Did I say 6?

22 ALJ STERN: And you are talking, again, Exhibit
23 Number 6 or --

24 MR. TAYLOR: Schedule C, Page 2.

25 ALJ STERN: Go ahead.

1 THE WITNESS: Schedule C2, Page?

2 BY MR. TAYLOR:

3 Q. Charlie 2, Page 2.

4 A. Okay. I have that in front of me.

5 Q. Line 15. Electrical pumping equipment?

6 A. Yes.

7 Q. Do you have a source for that \$1,808, the source
8 of information that you --

9 A. I relied on the Company's books and records for
10 the amount shown on this schedule.

11 MR. TAYLOR: I have no further comments.

12 ALJ STERN: No further questions.

13 THE WITNESS: I might add that oftentimes -- I
14 know the electrical pumping equipment seems low, but
15 oftentimes, when wells are recorded -- wells and springs
16 are recorded in the account, which is account 307, which
17 is shown on Line 11, sometimes electrical pumping
18 equipment is included in that cost, is not segregated
19 properly, sometimes due to the bids that the contractors
20 provide. They may not break out the pumps, so it is
21 possible there is some electrical pumping equipment cost
22 in the wells and springs, but I can't identify it.

23 BY MR. TAYLOR:

24 Q. So what you are saying, then, this information
25 is -- is this valid information that we have entered

1 here for the depreciation schedule?

2 A. Based on the books and records for the Company
3 for 2006, it is.

4 Q. Do you -- can you provide -- do you have
5 available those records that you obtained this
6 information from, from the Company?

7 A. I have provided my working papers to the parties
8 in this case, and within those working papers are
9 schedules provided to me from the Company, yes.

10 Q. Do they itemize these items?

11 A. I do not recall receiving a fixed asset schedule
12 supplementing the financial statement records that I
13 received. I don't recall receiving it with the level of
14 detail perhaps you are seeking.

15 Q. Can we refer to exhibit T-6, Tom 6?

16 A. Sure.

17 MR. SHAPIRO: Mr. Taylor, I don't think we have
18 a copy of this exhibit.

19 MR. TAYLOR: I handed this out yesterday.

20 MR. SHAPIRO: I think we are short copies, and
21 we never got one.

22 Okay. Thank you.

23 BY MR. TAYLOR:

24 Q. Would you tally the amount of pumps that are in
25 the quantity column there under "booster pumps"? Would

1 you, please?

2 A. Looks like there are 13 booster pumps.

3 Q. Of those 13 booster pumps, is \$1,808 a
4 reasonable number to have in this category?

5 A. Based on my experience, the \$1,800 would
6 probably be a low figure for 13 booster pumps. But as I
7 say, while there is \$1,800 in this schedule, it is very
8 possible, and I've seen this in many other cases, that
9 pumps may exist in another account by virtue of the fact
10 of the way the contractor's bid came in and they
11 wouldn't be able to be segregated by the Company into
12 the -- into, say, electrical pumping equipment account.

13 Q. Would you say, then, the information provided to
14 you could have been better explained regarding the
15 pumping equipment?

16 A. Based upon my experience, the type of
17 information that I received is no different than merely
18 or most utilities I deal with and prepare rate cases
19 for. I will say the depreciation expense shown in the
20 application is a reasonable amount given the mix of
21 plant and equipment that I see, based upon my
22 experience.

23 Q. I would like to go to --

24 ALJ STERN: I thought you were done with this
25 witness a while ago.

1 MR. TAYLOR: Well, thank you, Your Honor.

2 BY MR. TAYLOR:

3 Q. Line 14, Account Number 310. Do I understand
4 that you were not provided any information regarding
5 power generating equipment?

6 A. If I am showing a zero cost there, then I was
7 provided no information regarding a cost for power
8 generation equipment, that's correct.

9 MR. TAYLOR: Thank you, Your Honor, I am
10 finished.

11 ALJ STERN: Okay. Thank you.

12 Commissioner Mayes just got here.

13 I don't know whether there is any questions you
14 want to ask this witness. This is the accounting
15 witness.

16 The man who knows the pumping questions for the
17 golf course is going to be Mr. Shapiro's witness.

18 COMM. MAYES: Okay.

19 ALJ STERN: He will come on next. We will take
20 a quick recess.

21 COMM. MAYES: So, Your Honor, we are continuing
22 the case, or are we addressing a settlement agreement?

23 ALJ STERN: We have had the Company management
24 on to agree that they agree with the settlement. We've
25 had some questions and we are finishing up the question

1 of Mr. Bourassa in a minute. I assume.

2 I don't know how much questioning Mr. Torrey has
3 of him, or if you have any questions for the financial
4 witness of the Company, and then we will go to the next
5 witness from Talking Rock Golf Club.

6 COMM. MAYES: Mr. Krumwiede?

7 ALJ STERN: Yes. You may have some questions
8 for him.

9 COMM. MAYES: If I'm not here, and I apologize
10 for the interruption, I will provide some written
11 questions and provide them to you. We are pretty busy
12 downstairs.

13 ALJ STERN: I imagine.

14 You are done with this witness; right?

15 MR. TAYLOR: I am.

16 ALJ STERN: This time.

17 Mr. Torrey, cross-examination for Mr. Bourassa.

18 MR. TORREY: Thank you, Your Honor.

19

20 CROSS-EXAMINATION

21

22 BY MR. TORREY:

23 Q. Mr. Bourassa, you've already testified that the
24 Company is willing to accept Staff's rates and charges
25 in order to be able to enter into this settlement

1 agreement that has been discussed this morning; correct?

2 A. Correct.

3 Q. You've testified that you believe Staff's rates
4 and charges will allow enough revenue for ICR to
5 maintain its equipment and still have enough revenue as
6 an adequate reserve; correct?

7 A. Correct.

8 Q. Just as an aside, there has been some concern
9 that there are assets that are either being used now to
10 serve ICR customers or that could be added in the very
11 near future that have not been accounted for in the 2006
12 rate base figures. Are you familiar with that
13 situation?

14 A. Yes.

15 Q. There was some concern that the current level of
16 revenues that Staff was proposing might not be enough to
17 allow ICR to prepare for the eventual circumstance that
18 those assets will come on-line.

19 Do you believe that there is enough revenue that
20 ICR could begin preparing for that after the conclusion
21 of this rate case?

22 A. Well, that depends on a lot of circumstances.
23 It depends on whether the Board -- depends on the
24 Board's decision as to how it will fund that plant
25 coming in, whether it would be a contribution of aid of

1 construction or whether it would be an advance of aid of
2 construction. That is true for all utilities in this
3 state, a plant that is transferred in from the developer
4 and that has future effect on revenues and expenses. I
5 would be speculating at this point to -- unless you --
6 we make some broad assumptions about how that plant is
7 going to be funded as to whether or not the rates are
8 sufficient to provide a positive operating margin in the
9 future.

10 Q. So with all the variables, it is just too soon
11 to answer that question?

12 A. With all the variables, it is too soon to answer
13 the question.

14 Q. But you would agree that the revenue figures
15 that Staff has proposed, they are sufficient for ICR at
16 this time?

17 A. Based on the test here, yes.

18 MR. TORREY: I have no further questions, Your
19 Honor.

20

21

EXAMINATION

22

23 BY ALJ STERN:

24

Q. All right, Mr. Bourassa. You mentioned

25

operating margin previously. Now, this is not for

1 property organization. It is user-owned. What type of
2 an operating margin, in your opinion, would the
3 recommended rates and charges of Staff leave you with;
4 do you recall?

5 A. The operating margin employed in the Company's
6 last filing, which was, I believe, the -- that
7 determined the revenue requirement, the latest revenue
8 requirement proposed by the Company, contemplated, I
9 believe, an 11 percent operating margin. My initial --
10 the initial proposal by the Company was for 15 percent,
11 but based on the issues in the case, the additional
12 revenues coming from the golf course through the well
13 service agreement as amended, and based on Staff's
14 recommendation, I chose to adopt Staff's 11 percent.

15 Q. Okay. And you agree that the amended and
16 restated Water Service Agreement is in the best interest
17 of the utility at this time?

18 A. Yes, it is.

19 Q. And the commodity charge for the golf course is,
20 what, \$1.40 per 1,000 under Staff's proposal?

21 A. That's correct.

22 ALJ STERN: Any redirect?

23 MR. METLI: No, Your Honor.

24 ALJ STERN: Thank you, Mr. Bourassa, you are
25 finished.

1 THE WITNESS: And it didn't take forever, did
2 it, judge?

3 ALJ STERN: No.

4 Are there any more exhibits under this witness?
5 I don't think so.

6 MR. METLI: No, Your Honor.

7 ALJ STERN: Okay. Do you have any more
8 witnesses?

9 MR. METLI: I do not, Your Honor.

10 ALJ STERN: All right. Let's take about a
11 10-minute break. I don't know how much examination
12 there is going to be for your witness, Mr. Shapiro.
13 Like I said yesterday, I do have to leave. If we don't
14 finish, we will see what we can do to line up another
15 date.

16 MR. SHAPIRO: I only have a few minutes of
17 direct. I will move quickly. I guess we will wait and
18 see how much cross the other parties have.

19 ALJ STERN: Let's take about 10 minutes and come
20 back around a quarter of.

21 (Recess from 11:33 a.m. until 11:48 a.m.)

22 ALJ STERN: Did you have a chance to talk to
23 Mr. Liu, Mr. Torrey? He is not back here.

24 MR. TORREY: It has been resolved, Your Honor.

25 ALJ STERN: Okay. Returning to the record, we

1 are ready for Mr. Shapiro's witness.

2 MR. SHAPIRO: We will call Mr. Craig Krumwiede.

3 ALJ STERN: Come on forward and be sworn in,
4 please.

5

6 CRAIG L. KRUMWIEDE,
7 called as a witness herein, having been first duly sworn
8 by the Certified Court Reporter to speak the truth and
9 nothing but the truth, was examined and testified as
10 follows:

11

12 DIRECT EXAMINATION

13

14 BY MR. SHAPIRO:

15 Q. Good morning, Mr. Krumwiede. Would you please
16 state your full name and your business address for the
17 record?

18 A. Craig Krumwiede, 17700 North Pace Setter Way,
19 Scottsdale.

20 Q. And by whom are you employed, and in what
21 capacity?

22 A. Harvard Investments. I'm a head wrangler for
23 the president.

24 Q. And Harvard Investments is also an affiliate of
25 Harvard Simon One, L.L.C.?

1 A. We are the manager of that, yes.

2 Q. And affiliate of Talking Rock Land, L.L.C.?

3 A. Yes.

4 Q. And Talking Rock Golf Club, L.L.C.?

5 A. Yes.

6 Q. And those are the three companies affectionately
7 known as "the Talking Rock entities" in this case?

8 A. Very affectionately.

9 Q. Talking Rock Golf Club is the actual owner and
10 the operator of the golf course?

11 A. That's correct.

12 Q. Do you have in front of you exhibit ICR/TRGC-1?

13 A. It is not marked, but I do, yes.

14 Q. Is that, in fact, a copy of the amended and
15 restated Water Service Agreement?

16 A. It is.

17 Q. And is that your signature on behalf of three of
18 the four parties to this agreement?

19 A. It is.

20 Q. And do you at this time support the request by
21 TRGC and ICR that this agreement be approved by the
22 Commission?

23 A. To my very core.

24 Q. Or at least in the alternative, the Commission
25 approve those provisions of the agreement they feel that

1 they can within their authority and should within their
2 authority approve?

3 A. Absolutely.

4 Q. Let me also hand you a couple other exhibits, if
5 I may. TRGC-1 and TRGC-2.

6 MR. SHAPIRO: Your Honor, these are the prefiled
7 testimonies. I don't know if you need additional
8 copies.

9 ALJ STERN: No, I think I have them somewhere.
10 I think. Let me -- you know what? I don't -- they are
11 somewhere, but do you have one for me, by chance?

12 BY MR. SHAPIRO:

13 Q. TRGC-1, can you identify that document for me,
14 Mr. Krumwiede?

15 A. Entitled, "The Testimony of Craig L. Krumwiede."

16 Q. And was that prepared by you or under your
17 direct supervision?

18 A. It was.

19 Q. And if I were to ask you the questions that you
20 were asked in your prefiled testimony marked as TRGC-1
21 today, would your answers be the same?

22 A. Yes.

23 Q. Do you have any other corrections or comments to
24 make on that first prefiled testimony?

25 A. No.

1 Q. Okay. The second document is marked TRGC-2.
2 Can you identify that document?

3 A. It is entitled, "Supplemental Testimony of
4 Craig L. Krumwiede, Support Request for Approval of the
5 Water Service Agreement."

6 Q. And was this also prepared by you and for -- or
7 under your direct supervision?

8 A. Yes.

9 Q. And do you have any corrections or modifications
10 to make to this testimony at this time?

11 A. No.

12 Q. And does this testimony also support the amended
13 and restated Water Service Agreement, which is marked as
14 ICR/TRGC-1?

15 A. Yes, it does.

16 MR. SHAPIRO: With that, Your Honor, I will move
17 TRGC-1 and TRGC-2.

18 ALJ STERN: Any objection?

19 MR. METLI: No objection.

20 MR. TAYLOR: No objection.

21 MR. TORREY: No objection.

22 ALJ STERN: No objections, TRGC-1 and 2 are
23 admitted.

24 (Exhibits TRGC-1 and TRGC-2 admitted into
25 evidence.)

1 BY MR. SHAPIRO:

2 Q. Mr. Krumwiede, just real quickly, you were a
3 participant yesterday in the efforts that led to
4 reaching what is now the amended and restated Water
5 Service Agreement?

6 A. I was, yes.

7 Q. And the changes in this agreement, as compared
8 to the earlier version, which also had a first
9 amendment, those changes were changes that were made in
10 discussions with ICR and Mr. Taylor and a representative
11 from Staff yesterday?

12 A. That's correct.

13 Q. Okay. And the modifications were made in an
14 effort to address additional concerns and issues that
15 had been raised by Mr. Taylor in this case?

16 A. That's correct.

17 Q. In relation to your existing relationship with
18 ICR, as compared to your current relationship under the
19 well agreement, you are transferring ownership of the
20 third well under this new agreement?

21 A. That's correct.

22 Q. And that is Well Number 1?

23 A. Correct.

24 Q. You are also transferring the land where the
25 well is located?

1 A. Yes.

2 Q. Wells, where all three wells are located?

3 A. Correct.

4 Q. You've also agreed to make some additional
5 system repairs to some of the wells, including
6 addressing aeration through a pump replacement?

7 A. That's correct.

8 Q. You've also agreed now to be a customer of ICR
9 Water Company?

10 A. Yes.

11 Q. You don't believe you are a customer today?

12 A. I'm not.

13 Q. Are you obtaining water utility service today
14 from ICR?

15 A. No.

16 Q. Just obtaining wheeling of water through wells
17 that you own or have an interest in?

18 A. That's correct.

19 Q. And as a customer, you agree you will be subject
20 to the Commission approved rate applicable to your class
21 of customer?

22 A. Yes.

23 Q. And at this point, you agreed that a \$1.40
24 commercial commodity rate for a period of five years
25 subject to this agreement, ICR/TRGC-1, is appropriate?

1 A. Yes.

2 Q. Mr. Krumwiede, you would agree that the Talking
3 Rock parties have made a number of concessions to reach
4 this agreement?

5 A. Yes.

6 Q. Could you just summarize why you believe it was
7 in the interest of Talking Rock parties to make those
8 concessions and reach this agreement?

9 A. Talking Rock has always thought it was important
10 and it is important for the water company to be
11 successful in order to support our development, and our
12 future development. We want to be supportive of their
13 efforts to be a viable utility company.

14 Q. So do you see the relationship between you and
15 the water utility, you as developer, you as golf course
16 owner/operator and the water utility as a partnership to
17 be in everybody's best interest?

18 A. That is the spirit to which we entered this
19 agreement.

20 Q. Is that the same way you tried to undertake your
21 relationship with the sanitary district that provides
22 sewer service?

23 A. It is.

24 Q. What -- just to follow up on a question that
25 Judge Stern had, what do you estimate to be the number

1 of homeowners when Talking Rock community is fully built
2 out?

3 A. The property is zoned for approximately 1,600
4 residents, 1,598 or something like that.

5 Q. And what is the number of lots that have been
6 developed today?

7 A. We've sold over 500 lots and homes, and we've
8 developed probably another 100 some unsold lots in
9 addition to that.

10 Q. In light of the current --

11 ALJ STERN: How many is that again? You sold
12 how many?

13 THE WITNESS: Sold over 500.

14 ALJ STERN: Lots.

15 THE WITNESS: Lots and homes, yes.

16 ALJ STERN: But how many -- there is only
17 about --

18 THE WITNESS: There is about one -- as of April,
19 when I filed my testimony, there was about 113 occupied
20 residences.

21 ALJ STERN: Okay. Thank you. Go ahead.

22 BY MR. SHAPIRO:

23 Q. And do you have an estimate, given kind of
24 current circumstances, as to when you would reach full
25 build-out?

1 A. I'm not sure. It is a 10 to 20-year project.

2 Q. Was it always planned as a 10 to 20-year
3 project?

4 A. Yes. With the current slow down, it is -- I'm
5 sure it will be.

6 I made a mistake. There have been 130 homes
7 built, I believe.

8 Q. There have been some questions from Commissioner
9 Mayes, in particular, regarding the use of groundwater
10 on the golf course. Is that still the primary source of
11 water for the golf course?

12 A. It is.

13 Q. You use effluent as available?

14 A. We use -- all the effluent that is available, we
15 use, yes.

16 Q. What efforts has Harvard and the residents of
17 the Talking Rock community taken to promote conservation
18 of groundwater, of the environment, in general? Can you
19 identify some of those efforts that you have taken in
20 your community?

21 A. With respect to the community itself, every
22 owner, every property in the property is subject to a
23 set of design guidelines that require that each home is
24 built within an individual building envelope. All of
25 the areas outside of that envelope are required to

1 remain in natural unirrigated and in an unirrigated
2 state. Within that area, homeowners are required to
3 submit plans for their landscaping and are only allowed
4 to use certain low water native plants within the --
5 within their building envelope itself.

6 Q. And that applies to the individual lots?

7 A. Yes, it does.

8 Q. And that -- is that designed to reduce the
9 requirement for irrigation water within the community?

10 A. It does, and it seems to have had that effect,
11 yes.

12 Q. And what about throughout the community at
13 large? Have you taken efforts there, as well?

14 A. We have. In addition to the design guidelines
15 with the clubhouse, we use all low flow motion detector
16 faucets. We use low flow toilets, that sort of thing.
17 We've adopted programs instead of just -- we only use --
18 wet wash our golf course maintenance equipment once a
19 week. The rest of the time, it is air cleaned. We --
20 in all of our wash down areas, we use high pressure
21 sprayers instead of broad -- you know, broadcast hoses
22 to minimize our use. In addition to that, we do lots of
23 recycling throughout the development. Very focused on
24 minimizing our impact on the environment.

25 Q. What about the design of the golf course itself?

1 How is that designed to promote environmental
2 conservation of the environment or water?

3 A. The -- the golf course, it was designed -- it
4 was the first in Arizona to be designed under the
5 environmental principals of golf. Under the Talking
6 Rock integrated golf course plan, the plan embraces
7 concepts from a book called Sustainable Strategies for
8 Golf in the Environment, Environmental Principles for
9 Golf Courses in the U.S.

10 Q. And I know you testified that you will be using
11 effluent. You are also in the process of designing and
12 building a new wastewater treatment plant for the ICR
13 Sanitary District?

14 A. We are.

15 ALJ STERN: When you say "we," is that Harvard
16 or Harvard Simon or...

17 THE WITNESS: The Talking Rock entities, but
18 Talking Rock Land, actually --

19 ALJ STERN: Okay.

20 THE WITNESS: -- is the entity. We are -- the
21 sewer plant currently serves, and the new plant will
22 also serve, Talking Rock, Whispering Canyon, Inscription
23 Canyon Ranch, and The Preserve at the Ranch. The
24 existing plant will be replaced with a new plant. The
25 first phase of which will be 250,000 gallons a day

1 expandable to -- site plan allows expansion all the way
2 to 1 million gallons a day. It will generate A Quality
3 effluent and that effluent will be used on the golf
4 course. In the current -- the current plant's effluent
5 is used on the golf course, as well.

6 BY MR. SHAPIRO:

7 Q. Is that plant being designed in a manner that
8 provides for additional environmental protection?

9 A. It treats the effluent to a higher standard,
10 yes, than the current plan.

11 Q. Will you turn to Page 9 of the amended and
12 restated Water Service Agreement? I will direct your
13 attention to paragraph -- section 10.

14 A. Yes.

15 Q. This deals with your commitment, the Talking
16 Rock commitment, to continue to use reasonable efforts
17 to promote conservation?

18 A. Yes, it does.

19 Q. And these are -- will be the continuation of the
20 kind of efforts you just discussed?

21 A. Yes.

22 Q. Would you consider those efforts to be what
23 might be called "best management practices" for
24 preserving the environment and groundwater within the
25 Talking Rock community?

1 A. Yes.

2 Q. This provision also -- this section 10 also
3 contains a change to recognize that you will continue to
4 use reasonable efforts to maximize the use of effluent?

5 A. Yes, it does.

6 Q. That was a change that was made yesterday in
7 response to concerns Mr. Taylor had that the agreement
8 did not recognize adequately enough that effluent would
9 be utilized?

10 A. That's correct.

11 Q. It also indicates that you will build a
12 25 million gallon storage pond on the golf course?

13 A. Yes.

14 Q. And what will that be used for?

15 A. To store effluent is the primary purpose. The
16 effluent is generated at a fairly constant rate
17 year-round. The golf course uses very little water in
18 the winter and has its maximum use of the water in the
19 summer. So this will help us collect water, more
20 effluent, over a longer period of time, which we will
21 then later reuse during the summer months.

22 Q. So when Mr. Taylor testified that the storage
23 pond will help to accomplish the use of effluent, you
24 would agree with that?

25 A. Absolutely.

1 Q. And that would be another type of management
2 practice that you are engaging in to try to promote
3 reducing the use of groundwater?

4 A. Correct.

5 Q. We will hand you what has been marked as TRGC-4.
6 This is a document prepared by the Talking Rock parties?

7 A. Yes.

8 Q. And this document was intended to reflect water
9 use, groundwater use by the golf course; correct?

10 A. It does.

11 Q. So not everything that is pumped necessarily
12 gets used by the golf course?

13 A. That's correct.

14 Q. Okay. Just to look at 2007 real quickly, there
15 is a line there that shows water testing. What does
16 that refer to? Why is that in there?

17 A. That is when we conducted -- we jointly
18 conducted with the water company a test. We hired --
19 jointly conducted it in association of Mr. Meyers, who
20 is in the back of the room, to pump test the well
21 capability of the well field. And we did that in
22 October of 2007.

23 We pump tested it for three days. At the point
24 that the lake became or storage lake became too full, we
25 started using a lot of extra water on the golf course

1 and driving range, so we calculated that was about
2 28 acre feet that we used that we wouldn't have
3 otherwise used. So we subtracted that from your water
4 usage, since it didn't really help anything. It was
5 just extra water.

6 Can I ask Mr. Meyers, do you agree?

7 MR. MEYERS: I agree.

8 THE WITNESS: Thank you.

9 BY MR. SHAPIRO:

10 Q. The record can reflect that Mr. Meyers agreed, I
11 guess. We will leave that to Judge Stern. You also
12 indicated in your prefiled testimony that you were
13 undertaking an effort to reduce the amount of turf on
14 the golf course. Has that been completed?

15 A. We have, and it has had great results.

16 Q. And which -- the great results are shown on
17 TRGC-4?

18 A. It is. And in the 2008 year, we can see that we
19 are using much less water than we've used in previous
20 years. We have eliminated -- we have 90 acres of turf,
21 and we eliminated ten acres of turf.

22 Q. Is that because now that you've operated for a
23 while, you figured out where turf could be eliminated?

24 A. Yes. We had watched where people were playing
25 and where they were spraying their balls and where we

1 could eliminate and still have A Quality experience.

2 Q. So minimizing the amount turf would be another
3 effort at best management practices of groundwater
4 conservation?

5 A. Yes.

6 ALJ STERN: This is water usage strictly for the
7 golf course or for the Talking Rock Ranch subdivision?

8 MR. SHAPIRO: This is just for the golf course.

9 ALJ STERN: Okay.

10 BY MR. SHAPIRO:

11 Q. And just to clarify that, this wouldn't include
12 the ranch compound, which is actually a direct customer
13 already of the water company; right?

14 A. It does not.

15 MR. SHAPIRO: Okay. Okay, Your Honor, before I
16 forget, let me move TRGC-1, 2, and 4.

17 ALJ STERN: Okay. Any objections, Mr. Metli?

18 MR. METLI: No objection.

19 ALJ STERN: Any objection, Mr. Taylor?

20 MR. TAYLOR: No, Your Honor.

21 ALJ STERN: Mr. Torrey?

22 MR. TORREY: No, Your Honor.

23 ALJ STERN: Exhibits TRGC-1, 2, and 4?

24 MR. SHAPIRO: Yeah. I think I moved 3 already.

25 ALJ STERN: I think you may have even moved 1

1 and 2.

2 MR. SHAPIRO: I did.

3 ALJ STERN: Did you move TRGC-3? I'm not sure
4 what it is.

5 MR. SHAPIRO: TRGC-3 is the other groundwater
6 study, and I believe I moved that. I believe it was
7 admitted.

8 ALJ STERN: All right. TRGC-3 was previously
9 admitted. If not, we will admit it again. TRGC-1, 2,
10 and 4 are hereby admitted.

11 (Exhibits TRGC1, 2 and 4 were admitted into
12 evidence.)

13 BY MR. SHAPIRO:

14 Q. Mr. Krumwiede, before I tender you for
15 cross-examination, anything else you would like to add
16 to your testimony in support of the Talking Rock
17 parties' request for approval of the amended and
18 restated Water Service Agreement?

19 A. I would like to note that as far as best
20 management practices, the golf course irrigation system
21 is a computerized system, that it is tied to an on-site
22 weather station. That weather station we can either
23 look at precipitation, transpiration, which is the
24 amount of moisture that a plant gives off, evaporation
25 and other factors. That program is then monitored by

1 our golf course superintendent. He currently uses
2 80 percent of the water that that program recommends, so
3 we are using less water than the program would normally
4 recommend. Each sprinkler head on the golf course is
5 actually individually adjustable from his computer in
6 his office, so he can constantly monitor where water is
7 spraying. You will see him go around the course and
8 look at where water is hitting and not hitting, and he
9 will make adjustments.

10 The -- this year, in addition to eliminating
11 turf, we are also switching to a more efficient
12 sprinkler head design, which as of two days ago, he had
13 installed six holes, and that has the effect of having
14 less misting and spraying as the sprinklers are on. It
15 is a new design.

16 So we are working on all of those kinds of ideas
17 and implementing them as they become available.

18 Q. And as -- so as additional opportunities to
19 implement conservation measures or best management
20 practices become available, you will continue to
21 consider those?

22 A. Yes.

23 Q. And just quickly, Mr. Krumwiede, do you believe
24 the amended and restated Water Service Agreement strikes
25 a fair and reasonable balance between the interest of

1 the Company, its ratepayers, and the Talking Rock
2 parties?

3 A. I'm pleased to enter into it.

4 MR. SHAPIRO: Thank you very much.

5 I will tender Mr. Krumwiede for
6 cross-examination, Your Honor.

7 ALJ STERN: All right. Mr. Metli, any
8 questions?

9 MR. METLI: No questions.

10 ALJ STERN: Mr. Taylor?

11 MR. TAYLOR: Thank you, Your Honor.

12

13 CROSS-EXAMINATION

14

15 BY MR. TAYLOR:

16 Q. Mr. Krumwiede, did you -- did I hear you say
17 something to the effect that you were not in compliance
18 as far as utility service?

19 A. I don't recall saying that, no.

20 MR. TAYLOR: All right. That is all I have.
21 Thank you.

22 ALJ STERN: Okay. Mr. Torrey?

23

24

25

1 CROSS-EXAMINATION

2

3 BY MR. TORREY:

4 Q. Mr. Krumwiede, you made reference to the
5 agreement that was entered into by the parties, and you
6 said that you were glad to enter into that agreement?

7 A. Yes.

8 Q. And I just want to reiterate that Staff's
9 recommended rates and charges in this matter were
10 incorporated into that agreement; is that correct?

11 A. That's correct.

12 Q. And to the -- and to the extent that those are
13 represented in the agreement, you agree with Staff's
14 rates and charges; is that correct?

15 A. We do.

16 MR. TORREY: Thank you.

17 No further questions, Your Honor.

18 ALJ STERN: All right. Do you have any
19 questions for the witness?

20 MR. ESTRADA: A few.

21 ALJ STERN: Go ahead.

22

23 EXAMINATION

24

25 BY MR. ESTRADA:

1 Q. My first question is, I have TRGC-4, and if I
2 could refer to ICR-14, and it looks like there are
3 different numbers for some of the years, and I was
4 curious as to which is the best reflection of how much
5 groundwater in total is being used. I'm specifically
6 looking at, I believe, the 2003 number for the golf
7 course matches, as does the '04 total, but the '05
8 numbers are different.

9 A. We actually talked about that when this --
10 when -- the numbers do match except for '05, and there
11 is a duplicate. There is a double entry. I'm sorry, I
12 can't see you, so I'm trying to --

13 Q. Sure. I know that we took out May, so -- which
14 ended with a total of 104, but I believe on TRGC, it is
15 substantially higher than 104 million?

16 A. You have to add -- I'm visual. You have --

17 ALJ STERN: Wait. Mr. Torrey, please, if he is
18 going to bother you for a while, you guys will have to
19 go outside.

20 THE WITNESS: Sir, from Page 1 of ICR-14, there
21 is a -- it starts with January '05 at the bottom of the
22 page. It has a total of 24,551,000.

23 BY MR. ESTRADA:

24 Q. Assuming 24 with a 104 from the second page?

25 A. That is the number -- we tried to pick up the

1 exact same numbers from these sheets after we caught the
2 mistake.

3 Q. Okay. I just wanted to make sure. So that is
4 the reflection of the total groundwater use is TRGC-4?

5 A. That is correct.

6 Q. Okay. My next question would be, at full
7 build-out, which I believe you stated would be 10 to
8 20 years?

9 A. We hope, yes.

10 Q. What is your projection for how much effluent
11 would exist to offset the groundwater use at that time?

12 A. We can't know with certainty, but the sewer
13 plant we are building the first phase of is 250,000
14 gallons a day. It is readily expandable to 500,000
15 gallons a day.

16 Q. Okay.

17 A. And if it hits that number, it will generate
18 effluent far in excess of what the course currently
19 uses.

20 Q. So at full build-out, there should be sufficient
21 effluent to essentially eliminate all groundwater usage?

22 A. We hope. In that calculation, Mr. Taylor and I
23 have, since he is wearing several hats in this process,
24 I used the number of 200 gallons per day as our
25 estimates that our engineers recommended we use,

1 200 gallons of effluent a day per customer. It is
2 currently less than that, but we've all agreed to build
3 a sewer plant that uses numbers like that or higher, I
4 think.

5 Q. Can we use TRGC-4 to project your future
6 numbers? I know that you are already seeing some
7 increase in effluent use based on that exhibit on an
8 annual basis, but do you expect that to be a fairly
9 constant number in terms of your usage --

10 A. In -- we can certainly estimate.

11 Q. -- for purposes of projecting forward?

12 A. We can certainly guess. I will tell you, in
13 these uncertain economic times, there is less
14 construction going on than there had been in the past.
15 I dearly hope those construction rates pick back up.

16 Q. Just by my simple math, is it somewhere between
17 11 and 12 million per month roughly? If we are looking
18 at a total of about 138, is that about the monthly
19 usage?

20 A. Yeah, I think this year we will be substantially
21 less than that, but our average is probably about -- has
22 probably been -- year-round it has probably averaged
23 about 10 million a month.

24 Q. 10 million a month, okay.

25 Now, is there a point at which the three wells

1 will be insufficient to serve both the homeowners and
2 the golf course?

3 A. We don't believe so, because we believe we will
4 be storing -- receiving and storing enough effluent to
5 take us through the -- what all of us have referred to
6 as the premonsoon season. We believe with that
7 additional storage, we will be able to use less well
8 water in the hot summer months than we currently have
9 with that additional storage.

10 Q. So even at full build-out, it should be
11 sufficient to serve both?

12 A. We believe so, yes.

13 Q. And, finally, back to the issue of BMPs. I
14 believe you said Page 9 of the joint exhibit reflects
15 continued efforts to promote conservation. Are these
16 new efforts or existing efforts?

17 A. They are ongoing efforts.

18 Q. Now, are there any additional practices that
19 could be instituted to further offset some of the
20 groundwater usage that are reflected in there? I mean,
21 I guess my question would be, in the conversation, is
22 there anything additional that was --

23 A. For right now, we are planning to finish the
24 sprinkler head replacement program, which will help.
25 Seems to be having a good impact. We will constantly

1 relook at our turf areas and how we water them. We are
2 giving some consideration to using a different kind of
3 turf on the driving range, since golfers don't play off
4 of it. They just hit to it. And we are looking at the
5 benefits of those ideas and moving forward.

6 Q. The commitment, that is a constant assessment, a
7 constant effort?

8 A. Yeah. We are paying a lot of money for water,
9 and it is in our best interest.

10 MR. ESTRADA: Okay. I think that covers
11 everything I have.

12

13 EXAMINATION

14

15 BY ALJ STERN:

16 Q. Okay. Mr. Krumwiede, the agreement that is
17 captioned Joint Exhibit ICR/TRGC-1 has been admitted
18 into evidence, and I just want to reiterate, I guess,
19 several questions that have been asked. You do
20 wholeheartedly support the agreement and its provisions;
21 is that correct?

22 A. I do, sir.

23 Q. And the Company will abide by them and is
24 agreeing to Staff's proposed rates and charges, which I
25 understand are set forth somewhere in this agreement,

1 but --

2 MR. SHAPIRO: Section 7, Your Honor.

3 BY ALJ STERN:

4 Q. Section 7, okay. Let me make sure we have that
5 in black and white somewhere.

6 A. Subsection 7(A).

7 Q. Even sets forth Mr. Myhlhousen's name, and he
8 will be paying \$1.40 per a thousand. Now is it my
9 understanding that in terms of the rates established by
10 the Commission in this proceeding there will be a
11 moratorium in the rates and charges, as far as the
12 Company goes, for five years it will stay frozen?

13 A. There is, but there is -- as in all legal
14 documents, there is exceptions to that, I guess.

15 Q. And during the time that this agreement is going
16 to be in effect, assuming that development continues to
17 take place in Talking Rock Ranch, the amount of effluent
18 will go up; is that correct?

19 A. That's correct.

20 Q. So it is expected, even under the terms of this
21 agreement, that your usage of groundwater may decrease
22 as the use of treated effluent increases; is that
23 correct?

24 A. That's correct, sir.

25 Q. And it is my understanding that you are also now

1 going to transfer Well Number 1, which I thought was
2 going to get transferred five years ago or thereabouts;
3 is that correct?

4 A. As to the first part of your question, yes.

5 Q. Okay. Just took a little longer than we
6 thought?

7 A. Yeah.

8 Q. And with respect to the land underneath the well
9 sites, that is also being transferred, pursuant to the
10 terms of this agreement, to ICR Water Users Association;
11 is that correct?

12 A. That's correct.

13 Q. Will that be done by some form of quit claim
14 deed, I imagine?

15 A. I think a warranty deed actually.

16 Q. Warranty deed, okay.

17 I'm not sure. I don't know what your agreement
18 says. I haven't had a chance to read it. Somebody
19 worked late last night, I guess Mr. Crockett, hand
20 typing this document.

21 A. They were delivering documents late in the night
22 to the lodging places.

23 ALJ STERN: That is good. All right. I don't
24 think I have any other questions for you.

25 Mr. Shapiro?

1 MR. SHAPIROp no redirect.

2 ALJ STERN: Thank you, Mr. Krumwiede. You are
3 excused.

4 Okay. We are now to Mr. Taylor. Do you want to
5 come on up here, Mr. Taylor, and be a witness, or you
6 can pass if you don't want to testify. Well, I want you
7 to testify as to at least one or two things.

8

9 DAYNE TAYLOR,

10 called as a witness herein, having been first duly sworn
11 by the Certified Court Reporter to speak the truth and
12 nothing but the truth, was examined and testified as
13 follows:

14

15 EXAMINATION

16

17 BY ALJ STERN:

18 Q. Okay. Mr. Taylor, would you state your name and
19 address for the record?

20 A. Dayne Taylor. My address is 13868 North Grey
21 Bears Trail, Prescott Arizona, 86305.

22 Q. And you are a resident of which of the
23 subdivisions involved in this proceeding?

24 A. Inscription Canyon Ranch.

25 Q. And you filed and received the right to

1 intervene in this proceeding; is that correct?

2 A. That's correct.

3 Q. Have you been satisfied with the nature of the
4 proceeding up to today?

5 A. I have.

6 Q. Okay. There has been a proposed amended and
7 restated Water Service Agreement apparently entered into
8 between your water utility and Talking Rock Golf Club
9 and several other Talking Rock parties. Do you support
10 this agreement and the terms of this agreement?

11 A. I do.

12 Q. Do you believe it has the interest that you
13 intervened in included within this agreement?

14 A. We've made good progress for the most part, yes.

15 Q. So you are satisfied with its terms?

16 A. With the terms.

17 Q. And support the agreement as stated --

18 A. Yes.

19 Q. -- and signed off on?

20 And you understand that now the system is going
21 to receive Well Number -- what was originally Well
22 Number 1 and also the land underneath all three of the
23 wells?

24 A. Yes, Your Honor.

25 Q. And that is satisfactory to you?

1 A. Yes.

2 Q. And you heard testimony here regarding how the
3 golf course is taking steps to lower its water usage.
4 Are you in support of what it is doing to save the use
5 of groundwater?

6 A. Yes.

7 Q. Is that one of the things you intervened for, to
8 preserve the use of the water?

9 A. Yes, the better use of the water, correct.

10 Q. Okay. Are you satisfied that they are taking
11 steps to do this?

12 A. I am.

13 Q. And it is in their interest to do it, because
14 they will save money; right?

15 A. Yes.

16 Q. And you are on the sanitation district board;
17 right?

18 A. That's correct, Your Honor.

19 Q. So you see both ends of this deal?

20 A. Yes, Your Honor.

21 Q. I talked to Jay Leno about that.

22 A. We will sell that one.

23 Q. I don't know what else to ask you. Do you have
24 anything else you want to add? And then these gentlemen
25 out in the audience can torment you.

1 A. I really have nothing else to say other than I
2 would like to submit to my -- resubmit my original
3 testimony dated November 14th for the record.

4 Q. All right. I don't know whether that has been
5 marked as an exhibit. You have a few exhibits here.
6 T-7 you never used?

7 A. That's correct.

8 Q. You didn't use T-7, all right. Not used.

9 You -- what is your November 14th testimony that
10 you filed? You want to have that marked as an exhibit?

11 A. Yes, Your Honor.

12 Q. We will mark that as T-8?

13 A. Okay.

14 Q. And you want to move that into evidence?

15 A. Yes, I would like to.

16 Q. All right. Well, you've got a few other
17 exhibits over here. Let me see. You want to move T-1
18 through 6?

19 A. T-1 through 8.

20 Q. 1 through 6 and skipping over 7?

21 A. Yes.

22 ALJ STERN: Mr. Taylor is moving exhibits T-1
23 through 7 and T-8. Any objections, Mr. Metli?

24 MR. METLI: No, Your Honor.

25 MR. SHAPIRO: I think it was T-1 through 6.

1 ALJ STERN: Yes, 1 through 6 and 8.
2 MR. SHAPIRO: And we have no objection.
3 ALJ STERN: Any objection, Mr. Torrey?
4 MR. TORREY: No, Your Honor.
5 ALJ STERN: No objection, to T-1 through 6 and
6 T-8 are here by admitted.

7 (Exhibits T1 through T6 and T8 were admitted
8 into evidence.)

9 ALJ STERN: All right. Any questions for this
10 witness?

11 MR. METLI: No, Your Honor.

12 ALJ STERN: Mr. Shapiro, any questions?

13

14 CROSS-EXAMINATION

15

16 BY MR. SHAPIRO:

17 Q. Mr. Taylor, are you now asking this Commission
18 to enter any relief different than what Talking Rock
19 party and ICR are asking for at this stage?

20 A. At this stage, no, I'm not.

21 MR. SHAPIRO: Then I will be happy to give you
22 my lengthy outline as a gift and leave it at that.

23 ALJ STERN: That is it? Is that it?

24 MR. SHAPIRO: That is it.

25 ALJ STERN: Thank you. I don't know where T-8

1 is, but -- I have a copy somewhere. And let's see, do
2 you have any questions?

3 MR. TORREY: Just a couple, Your Honor.

4 ALJ STERN: Okay.

5

6 CROSS-EXAMINATION

7

8 BY MR. TORREY:

9 Q. Mr. Taylor, there has been some testimony that
10 Staff's recommended rates and tariffs have been
11 incorporated into the agreement between the parties in
12 this case. Would you agree with that?

13 A. I agree, yes.

14 Q. And do you agree that Staff's rates and charges
15 will be appropriate for the Commission to approve in
16 this matter?

17 A. At this time, yes.

18 MR. TORREY: I have no further questions, Your
19 Honor.

20 ALJ STERN: Okay. I pretty much exhausted
21 mine, and I think Commissioner Mayes' aid left, so you
22 are excused. Thank you very much.

23 MR. SHAPIRO: Judge Stern, if I might ask, I
24 think Mr. Mayor, who made some public comment, also
25 wanted to follow up yesterday and make some additional

1 public comment.

2 ALJ STERN: Mr. Mayor? Who is Mr. Mayor?

3 MR. SHAPIRO: Sorry, Meyer. He is the
4 hydrologist/board member/customer/public commentmaker.

5 ALJ STERN: Mr. Meyer, if you can be brief,
6 please, because we are trying to get through this today,
7 if we can.

8 MR. MEYER: Yes, I can be brief. Again, my name
9 is Bill Meyer, and I live in Inscription Canyon Ranch,
10 13709 Fork in the Trail. On Monday, December 1st, 2008,
11 I addressed this hearing, and at that time, I asked that
12 the Commission deny the Water Service Agreement docketed
13 September 12th, 2008, and the first amendment to that
14 agreement docketed on December 1st, 2008.

15 At that meeting, I also indicated that I was a
16 member of the IC board of directors and that I was not
17 speaking for the board, that I was speaking only as a
18 member of the association. The following changes made
19 in the above documents now included in the amended and
20 restated Water Service Agreement, and given my
21 understanding that all the parties to this case agreed
22 to these changes, I now ask that the Commission approve
23 the amended and restated Water Service Agreement. Thank
24 you.

25 ALJ STERN: All right. Thank you, sir. I think

1 with that, we are with Mr. Torrey and his witnesses.

2 Mr. Torrey, do you have a witness you would like
3 to call?

4 MR. TORREY: I do, but I need about five minutes
5 to grab a copy of that, and we will be ready to go.

6 ALJ STERN: Let's take five minutes and get
7 started. I have to leave at 1 o'clock.

8 (Recess from 12:32 p.m. until 12:38 p.m.)

9 ALJ STERN: With that, we are back on the
10 record. Mr. Torrey, does Staff want to call any
11 witnesses?

12 MR. TORREY: Your Honor, Staff calls Mr. Jian
13 Liu.

14 ALJ STERN: Okay. Mr. Liu, come forward and be
15 sworn.

16

17

JIAN LIU,

18 called as a witness herein, having been first duly sworn
19 by the Certified Court Reporter to speak the truth and
20 nothing but the truth, was examined and testified as
21 follows:

22

23

DIRECT EXAMINATION

24

25 BY MR. TORREY:

1 Q. Mr. Liu, can you state your full name, your
2 business address for the record, please?

3 A. Jian Liu. My business address is 1200 West
4 Washington Street, Phoenix, Arizona.

5 Q. And by whom are you employed?

6 A. I'm a water, wastewater engineer for Arizona
7 Corporation Commission.

8 Q. Do you have on the stand a copy of an exhibit
9 that has been marked S-1 for identification purposes?

10 A. S-1 is a correct testimony prepared by me.

11 Q. And S-1 was prepared either directly by you or
12 under your direct supervision; is that correct?

13 A. Yes.

14 Q. And do you also have on the stand in front of
15 you an exhibit that last been marked S-4 for
16 identification purposes?

17 A. That is surrebuttal testimony.

18 Q. And was that testimony prepared either by you or
19 under your direct supervision?

20 A. Yes.

21 Q. And what date was that docketed?

22 A. December 21, '07.

23 Q. And you also have on the stand an exhibit that
24 has been marked S-7 for identification purposes?

25 A. That is an amended direct testimony prepared by

1 Charles and myself.

2 Q. And at the back of that is a section of
3 testimony prepared either by you or directly under your
4 supervision; is that correct?

5 A. That is right.

6 Q. Do exhibits S-1, S-4 and S-7 indicate all of
7 your testimony that has been filed in this matter?

8 A. Yes.

9 Q. And are there any additions or corrections that
10 need to be made to Exhibits S-1, S-4 or S-7 to make your
11 testimony complete and accurate today?

12 A. Yeah. In order, there are some updates and
13 corrections for the S-1. That is direct testimony dated
14 November 30th, 2007.

15 Q. And you had made a recommendation in that
16 testimony; is that correct?

17 A. That's right.

18 Q. And which recommended or which recommendation
19 number are you correcting?

20 A. On that executive summary recommendations number
21 one, Staff recommends that any increase in rates and
22 charges approved in this proceeding should not become
23 effective until Staff receives notice that the ICR water
24 systems are in total compliance with ADEQ regulations.
25 Since the Staff filed this direct testimony, Staff

1 received from the Company the ADEQ report ICR water
2 systems are in total compliance with ADEQ regulations.
3 The report date April 25th, 2008 declares ICR Water
4 system is in total compliance with ADEQ, so Staff would
5 delete this recommendation number one from this
6 testimony.

7 Q. All right. And Staff, you yourself on behalf of
8 Staff have also made a recommendation regarding
9 compliance with Decision 64360; is that correct?

10 A. Let me make one more correction before we go
11 there. On the exhibit, Page 2.

12 Q. Okay.

13 A. There is a Table 3, well data. Staff received
14 the updated information from the Company basically for
15 the well name or number. The Well Number 1 in this
16 table should be Well Number 2. Well Number 2 in this
17 table should be Well Number 3. Well Number 3 in this
18 table should change to Well Number 1. And also in the
19 pumping yield, gallons per minute, the 425 should be
20 changed to 317, 317. The second one, 375 should change
21 to 132, and the last one, 250 should change to 379.
22 That is the only correction I would like to make for the
23 direct testimony S-1.

24 Q. Are there any additional corrections to exhibit
25 S-4?

1 A. S-4 is a surrebuttal testimony.

2 Q. Do you need to amend or correct S-4 in any way?

3 A. Because of the deleted recommendation one, S-4
4 relate to that recommendation, so that should take care
5 of that already.

6 Q. So the same deletion made in exhibit S-1 can be
7 made in exhibit S-4?

8 A. That's right.

9 Q. And how about S-7? Is there any amendment to
10 be made to your recommendations in that exhibit?

11 A. Yes. Basically, after Staff filed the direct
12 testimony, the compliance section manager Brian Bozzo
13 filed a memo dated January 2008. Basically, in this
14 memo, the compliance section indicated Company not in
15 compliance with the Decision 64360. So because of that,
16 Staff recommends that any increase in rates in the
17 charges approved in this proceeding should not become
18 effective until the month after ICR submits
19 documentation to Docket Control verifying that the
20 Company has achieved a total compliance with decision
21 number.

22 ALJ STERN: We know that decision number. Do you
23 want to delete that provision?

24 THE WITNESS: Yeah, since the compliance section
25 send me an e-mail ICR already in total compliance with

1 this decision, so this recommendation should be deleted.

2 ALJ STERN: That is number which one, S-7?

3 THE WITNESS: That is in S-7 amended direct
4 testimony.

5 ALJ STERN: What number recommendation is it?
6 Do you have a number?

7 THE WITNESS: That is the only recommendation.

8 ALJ STERN: All right. Thank you.

9 BY MR. TORREY:

10 Q. So Mr. Liu, does that summarize all the
11 necessary amendments to your three sets of testimony?

12 A. That's right.

13 MR. TORREY: Your Honor, Staff moves to admit
14 Exhibits S-1, S-4 and S-7.

15 ALJ STERN: Any objections?

16 MR. METLI: No objection.

17 MR. SHAPIRO: No objection.

18 MR. TAYLOR: No objection.

19 ALJ STERN: No objection, S1, S-4, and S-7 are
20 admitted.

21 (Exhibits S-1, S-4, and S-7 were admitted into
22 evidence.)

23 MR. TORREY: Staff presents Mr. Liu for
24 cross-examination.

25 ALJ STERN: Mr. Metli?

1 MR. METLI: No questions.

2 MR. SHAPIRO: No questions.

3 MR. TAYLOR: No question.

4 ALJ STERN: Don't you want to ask him more
5 questions?

6 MR. TORREY: I don't.

7 ALJ STERN: Thank you very much for your
8 testimony. Thank you for your corrections to your
9 testimony.

10 Want to call your next witness?

11 MR. TORREY: Staff calls Mr. Charles Myhlhousen.

12 ALJ STERN: Please come forward and be sworn in.

13

14 CHARLES ROBERT MYHLHOUSEN,
15 called as a witness herein, having been first duly sworn
16 by the Certified Court Reporter to speak the truth and
17 nothing but the truth, was examined and testified as
18 follows:

19

20 DIRECT EXAMINATION

21

22 BY MR. TORREY:

23 Q. Mr. Myhlhousen, can you state your full name and
24 business address for the record, please?

25 A. Charles Robert Myhlhousen. My business address

1 is 1200 West Washington Street, Phoenix, Arizona 85007.

2 Q. And you are a utilities analyst for the Arizona
3 Corporation Commission's Utilities Division; is that
4 correct?

5 A. Yes, that is right.

6 Q. And did you file testimony in the matter that
7 we've been hearing evidence on today?

8 A. Yes, I have.

9 Q. Do you have on the stand in front of you an
10 exhibit that has been marked S-2 for identification
11 purposes?

12 A. Yes.

13 Q. And can you identify that document for the
14 record, please?

15 A. That is my direct testimony that I filed on
16 November 30th, 2007.

17 Q. Do you have any additions or changes that you
18 feel need to be made to that document to make it true
19 and accurate today?

20 A. No, I do not.

21 Q. And do you adopt that as your testimony on the
22 stand today?

23 A. Yes, I do.

24 Q. And was that document prepared either by you or
25 under your direct supervision?

1 A. Yes it was.

2 Q. Do you have on stand and in front of you an
3 exhibit that has been marked as S-3 for identification
4 purposes?

5 A. Yes.

6 Q. And can you identify that document for the
7 record?

8 A. This is testimony filed by me on -- these are
9 schedules that were filed by me on November 30th, 2007.

10 Q. Those were updates to the schedules in Exhibit
11 Number 2?

12 A. Yes.

13 Q. And were those prepared directly by you?

14 A. Yes.

15 Q. And do you adopt those in your testimony today?

16 A. Yes, I do.

17 Q. Do you have on the stand in front of you an
18 exhibit that is marked S-5 for identification purposes?

19 A. Yes.

20 Q. Can you identify that?

21 A. That is surrebuttal testimony that I prepared
22 myself December 21st, 2007.

23 Q. Was it prepared directly by you?

24 A. Yes.

25 Q. And do you adopt that testimony on the stand

1 today?

2 A. Yes, I do.

3 Q. Is there any additions or corrections that you
4 believe need to be made to that document --

5 A. No.

6 Q. -- to make it true and accurate?

7 A. No.

8 Q. Do you have a document on the stand in front of
9 you that has been marked S-6 for identification
10 purposes?

11 A. Yes, I do.

12 Q. Can you identify that document for the record?

13 A. This is an amended testimony filed by me on
14 November 14th, 2008 --

15 Q. And do you adopt --

16 A. -- with some schedules attached to it.

17 Q. And was that document prepared directly by you;
18 correct?

19 A. Yes.

20 Q. And do you adopt that testimony as your true and
21 accurate testimony today on the stand?

22 A. There is one change to be made in that schedule.

23 Q. And what is that?

24 A. In the schedule CRM-13, Page 1 -- CRM-13, Page 1
25 of 2, where it has the commodity rates and the tier

1 rates on the meter sizes, down to 2-inch meters, it says
2 Tier 1, 22,000 gallons and over 22,000 gallons. It
3 should be Tier 1 up to 72,000 gallons and over 72,000
4 gallons. There was a typo there.

5 Q. Okay. Are there any other changes that you
6 believe need to be made to that exhibit to make it true
7 and accurate?

8 A. No.

9 Q. Do exhibits S-2, 3, 5, and 6 illustrate your
10 testimony in this matter completely?

11 A. Yes.

12 Q. Do you -- what are your recommendations for the
13 Commission regarding rates and charges to be applied to
14 ICR in this matter?

15 A. My recommendation, Staff recommendation is that
16 the rate charges be adopted by the Commission.

17 ALJ STERN: What did you recommend?

18 THE WITNESS: The one I recommend in my
19 testimony.

20 BY MR. TORREY:

21 Q. Do you have anything else to add or clarify
22 about your testimony on the stand today?

23 A. No, I do not.

24 MR. TORREY: Your Honor, Staff moves to admit
25 Exhibits S-2, S-3, S-5, and S-6.

1 ALJ STERN: Any objections?

2 MR. METLI: No objection.

3 MR. SHAPIRO: No.

4 MR. TAYLOR: No.

5 ALJ STERN: No objections, S-2, S-3, S-5 and S-6
6 are admitted.

7 (Exhibits S2, S-3, S-5, and S-6 were admitted
8 into evidence.)

9 MR. TORREY: Your Honor, Mr. Myhlhousen is
10 available for cross-examination.

11 ALJ STERN: Okay. Mr. Metli any cross?

12 MR. METLI: No questions.

13 ALJ STERN: Mr. Shapiro.

14 MR. SHAPIRO: Yeah, Mr. Myhlhousen just a couple
15 quick questions.

16

17 CROSS-EXAMINATION

18

19 BY MR. SHAPIRO:

20 Q. First, the special commodity rate of
21 \$1.40 gallon that you are recommending, that is correct?

22 A. Yes.

23 Q. You would -- Staff would agree that that rate
24 would apply to both purchases of water for golf course
25 irrigation and lake fill and for purposes of

1 construction water?

2 A. Construction water, it has to do with Harvard
3 Developments, yes.

4 Q. Okay. And but you would agree to have your rate
5 be applicable for sale by ICR of both those kinds of
6 water uses at that rate?

7 A. Yes.

8 Q. And just to confirm, Mr. Torrey said in some
9 statements he made to the judge that while Staff does
10 not recommend that the amended and restated Water
11 Service Agreement actually be approved, Staff doesn't
12 have any opposition to any of its specific terms and
13 conditions; is that correct?

14 A. Basically, that is correct. Some of the terms
15 are definitely in the public interest. Staff only did
16 not recommend it be approved by Commission because we
17 don't believe private parties' contracts should be
18 approved by the Commission.

19 Q. So it is a question of the approval process, not
20 a question of the substance of the terms?

21 A. Basically, that is correct.

22 MR. SHAPIRO: Okay. Thank you very much.

23 ALJ STERN: Okay. Mr. Taylor, any questions?

24 MR. TAYLOR: No questions, Your Honor.

25 ALJ STERN: All right.

1 EXAMINATION

2

3 BY ALJ STERN:

4 Q. Mr. Myhlhousen, exactly, which schedule from
5 which of your exhibits is the one that the correct rates
6 and --

7 A. It is the testimony that was filed on
8 November 14th, 2008.

9 Q. November 14th, 2008, in Exhibit S-6; right?

10 A. Yes, it would be Exhibit S-6.

11 Q. And those rates and charges set forth therein
12 are the rates that Staff is recommending to the
13 Commission that they adopt in this proceeding; isn't
14 that correct?

15 A. That's correct, Your Honor.

16 Q. And that is set forth in the exhibit -- joint
17 exhibit ICR/TRGC-1, the amended and restated Water
18 Service Agreement that, in fact, at paragraph -- I
19 believe it is 7, 7(A) restates that commodity rate,
20 which you designed, isn't that correct, \$1.40 per
21 thousand?

22 A. Yes, that is correct.

23 Q. All right. And so it is my understanding that
24 Staff -- your recommendations are Staff's -- not
25 necessarily -- excuse me.

1 Staff is recommending that the agreement itself
2 not be approved as such by the Commission because it is
3 an agreement between private parties, but the provisions
4 of the agreement themselves you say are in the public's
5 interest; is that correct?

6 A. That is right, Your Honor.

7 Q. And do you believe it resolves, in your opinion,
8 the disputed issues that were earlier disputes but now,
9 apparently, the parties are satisfied with?

10 A. I believe it does.

11 ALJ STERN: Any redirect?

12 MR. TORREY: None, Your Honor.

13 ALJ STERN: Thank you, Mr. Myhlhousen.

14 ALJ STERN: Mr. Torrey, any other witnesses?

15 MR. TORREY: Your Honor, Staff's final witness
16 is Mr. Bozzo, literally a two-minute witness.

17 ALJ STERN: It better be fast.

18 MR. SHAPIRO: We will stipulate it is Mr. Bozzo.

19

20 BRIAN K. BOZZO,
21 called as a witness herein, having been first duly sworn
22 by the Certified Court Reporter to speak the truth and
23 nothing but the truth, was examined and testified as
24 follows:

25

1 DIRECT EXAMINATION

2

3 BY MR. TORREY:

4 Q. Mr. Bozzo, can you state your full name and
5 business address for the record, please?

6 A. Brian K. Bozzo. 1200 West Washington, Phoenix,
7 Arizona.

8 Q. Can you state what your employment is with the
9 Arizona Corporation Commission?

10 A. I'm employed as the compliance and enforcement
11 officer.

12 Q. And in conjunction with the application of ICR
13 Water Users Association that we are hearing testimony on
14 today, has the Compliance Section sent out a letter that
15 was dated January 15th at 2008?

16 A. Yes.

17 Q. Do you have on the stand in front of you an
18 exhibit that has been marked as S-8 for identification
19 purposes?

20 A. I do.

21 Q. Is that the letter that was sent out on
22 January 15th, 2008?

23 A. Yes.

24 Q. And what was the substance of that letter?

25 A. The substance of that letter was to communicate

1 for the Staff and for the parties that Staff had renewed
2 in compliance filing in '03 and determined that the
3 second well had not been transferred in a timely manner,
4 that it was done based on construction of the 800 homes,
5 and that technically did not meet the compliance in the
6 decision, and the letter was to clarify any previous
7 comments about the compliance status of the transfer of
8 the well was updated and the Company was not in
9 compliance at that time.

10 Q. Subsequent to that letter, did the ICR Water
11 Users Association send you a document indicating that
12 another well had been transferred?

13 A. Yes.

14 Q. And subsequent to receiving that documentation,
15 did you send a second letter to the Company?

16 A. I docketed a second letter.

17 Q. And on the stand in front of you do have an
18 exhibit that has been marked S-9 for identification
19 purposes?

20 A. I do.

21 Q. And can you identify that document for the
22 record, please?

23 A. That is a second memorandum that was sent out in
24 response to the Company's providing evidence of
25 transferring the second well.

1 Q. And that was dated November 21st, 2008; is that
2 correct?

3 A. Yes.

4 Q. And that is stating the Company is now in
5 compliance?

6 A. Yes. It comments that the Company had
7 transferred the second well, that we received the
8 document, and that the Company was in compliance in
9 regard to the transfer of the second well.

10 Q. As of today, does Staff believe that the ICR
11 Water Users Association is in compliance with Commission
12 Decision 64360?

13 A. Well, yes, based on the language in the
14 decision, the Company did transfer the second well, and
15 in my review, that the key element of the decision was
16 that the Commissioner wanted a second well as a backup
17 well.

18 MR. TORREY: Your Honor, Staff moves to admit
19 Exhibits S-8 and S-9.

20 ALJ STERN: All right. Any objections,
21 Mr. Metli?

22 MR. METLI: No objection.

23 ALJ STERN: Any objection, Mr. Shapiro?

24 MR. SHAPIRO: No.

25 ALJ STERN: Mr. Taylor?

1 MR. TAYLOR: No objection.

2 ALJ STERN: And no objections, Exhibits S-8 and
3 S-9 are admitted.

4 (Exhibits S-8 and S-9 were admitted into
5 evidence.)

6 MR. TORREY: Your Honor, Mr. Bozzo is available
7 for cross-examination.

8 ALJ STERN: My Metli, any cross?

9 MR. METLI: No.

10 ALJ STERN: Mr. Shapiro?

11 THE WITNESS: No.

12 ALJ STERN: Mr. Taylor?

13 THE WITNESS: No.

14

15 EXAMINATION

16

17 BY ALJ STERN:

18 Q. Mr. Bozzo, you are satisfied that the Company is
19 now in compliance, and you heard the testimony, I
20 assume, that in fact the third well will be transferred
21 to the Company along with the well sites where the three
22 wells are located. Are you aware of that?

23 A. I just became aware of that, yes, sir.

24 Q. You think that would equally move to satisfy the
25 prior requirements of the decision in 2002?

1 A. I do.

2 ALJ STERN: Okay. All right. With that, I
3 don't have anything else.

4 Any redirect?

5 MR. TORREY: No, Your Honor.

6 ALJ STERN: Thank you, Mr. Bozzo.

7 MR. TORREY: Your Honor, Staff has no further
8 witnesses.

9 ALJ STERN: Do you have a copy of Exhibit S-8
10 and S-9 for --

11 MR. TORREY: Mr. Bozzo has those, and I will
12 provide those to you as soon as he sits down.

13 ALJ STERN: Okay. With that, I think we've
14 concluded testimony. I don't think it is necessary for
15 closing statements.

16 Do you want to file any briefs or anything,
17 Mr. Metli?

18 MR. METLI: No, Your Honor. I just want to say,
19 for the record, if Your Honor could, I mean, we filed
20 this application 16 months ago, and this company is in
21 dire financial need of these rates. If there is
22 anything that Your Honor can do to expedite the
23 decision, I know you are very busy, but we would
24 appreciate it.

25 ALJ STERN: It is -- it will be there with the

1 rest of them. We will try to get it out. That is all I
2 can say.

3 I thank you for entering into an agreement.
4 That helps things. Mr. Shapiro?

5 MR. SHAPIRO: No. Just on behalf of my client,
6 we thank all the parties for their efforts in reaching
7 this point, and we support approval.

8 ALJ STERN: Okay. Mr. Torrey, anything to add?

9 MR. TORREY: Your Honor, Staff just recommends
10 approval of the rates and tariffs as recommended in
11 Mr. Myhlhousen's testimony.

12 ALJ STERN: Thank you. That concludes today's
13 proceeding.

14 Mr. Taylor?

15 MR. TAYLOR: I have nothing.

16 ALJ STERN: Okay.

17 (The hearing concluded at 1:00 p.m.)

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1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)

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I, TERESE HEISIG, Certified Reporter No. 50378
for the State of Arizona, do hereby certify that the
foregoing printed pages constitute a full, true and
accurate transcript of the proceedings had in the
foregoing matter, all done to the best of my skill and
ability.

WITNESS my hand this 19th day of December, 2008.


TERESE HEISIG
Certified Reporter
Certificate No. 50378