

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

ORIGINAL¹⁹⁸

C-00992270 Susan Balla; C-00992130 Julie Ostetrico;
C-00992139 Yvonne Dickinson; C-00992285 John T. Stone, Jr.;
C-00992512 Terri McIntyre; C-00992513 Edna Clements;
C-00992514 Valinda Tyler; C-00992515 Maryann Molish;
C-00992516 Lois & David Lytle; C-00992517 Shelly Terry;
C-00992518 Robert Hill; C-00992519 Patricia Caeti;
C-00992520 James Rohaley; C-00992521 John & Gloria
Wadsworth; C-00992522 Rabara Blackburn; C-00992523
Elizabeth Wise; and C-00992937 Theodore J. Kotula, Jr. v.
Redstone Water Company, Inc. Complainants dispute water
quality and service.

Further Hearing.

Z-00662295 Daniel J. Krilosky v. Redstone Water Company,
Inc. Billing dispute and service complaint.

Further Hearing.

Pages 198 through 472 11th Floor Hearing Room
Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, Pennsylvania 15222

Wednesday, April 5, 2000

Met, pursuant to notice, at 9:00 A.M.

BEFORE:

Michael A. Nemeo, Administrative Law Judge

APPEARANCES:

DIANNE E. DUSMAN, ESQ. and ERIN L. HORTING, ESQ.
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(For the Complainants)

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(For Redstone Water Company, Inc.)

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1 P R O C E E D I N G S

2 (Whereupon, at 10:00 A.M., the
3 proceedings were commenced.)

4 ADMINISTRATIVE LAW JUDGE MICHAEL A. NEMEC: This
5 morning, we have a further hearing in the case captioned
6 Balla versus Redstone Water Company at numerous docket
7 numbers. The lead docket number is C-00992270. Does
8 counsel have any preliminary matters?

9 ATTORNEY DUSMAN: No, I don't, Your Honor.

10 JUDGE NEMEC: O.C.A. may proceed.

11 ATTORNEY DUSMAN: O.C.A. calls Terry Fought.

12 (Whereupon, the documents were marked as
13 O.C.A. Statement No. 1 and O.C.A. Exhibit
14 No. 1 for identification.)

15 (Witness sworn.)

16 TERRY L. FOUGHT, a witness herein, called
17 on behalf of the Complainants, having first been duly
18 sworn, was examined and testified as follows:

19 D I R E C T E X A M I N A T I O N

20 BY ATTORNEY DUSMAN:

21 Q. Mr. Fought, state your address, please.

22 A. 780 Cardinal Drive, Harrisburg, Pennsylvania,
23 17111.

24 Q. And do you have before you, Mr. Fought, a copy
25 what has been premarked O.C.A. Statement No. 1, Direct

1 Testimony of Terry L. Fought on behalf of the Pennsylvania
2 Office of Consumer Advocate?

3 A. Yes, I do.

4 Q. And attached thereto is Appendix A, which
5 includes a detail of your background and qualifications,
6 does it not?

7 A. Yes.

8 Q. And following Appendix A, we have O.C.A.
9 Exhibit 1 which consists of Schedule TLF-1 through TLF-2 to
10 your Direct Testimony, is that correct?

11 A. Yes.

12 Q. Was this Direct Testimony prepared by you?

13 A. Yes, it was.

14 Q. Do you have any corrections to this Direct
15 Testimony this morning?

16 A. Yes, I do. On Page 12, the last line on Page 12
17 now reads, was emptied due to water main breaks. I would
18 like to change that to read, was low or empty, period.

19 Q. And do you have a minor correction to your
20 Schedule TLF-1 in O.C.A. Exhibit 1?

21 A. Yes, I do. At the top of the tabulation is a
22 title called Laboratory Testing with a single asterisk. I
23 would like to make that a double asterisk. And at the
24 bottom where it says Summary of Laboratory Tests,
25 et cetera, I would like to make that to be the double

1 asterisk. I used a single asterisk in the third column to
2 distinguish between primary and secondary maximum
3 contaminant levels.

4 Q. Are there any other additions or corrections--or
5 corrections to your written Direct Testimony?

6 A. Yes. There were four pages left out in the
7 Schedule TLF.

8 Q. It's O.C.A. Exhibit 1.

9 A. O.C.A. Exhibit 1, which are the first four pages
10 which document the first two tests shown on the tabulation
11 that we just corrected with the asterisks.

12 ATTORNEY DUSMAN: Your Honor, if I could have a
13 moment, I believe I have the copies of those additional
14 exhibits handy.

15 (Brief pause.)

16 ATTORNEY DUSMAN: Your Honor, I apologize. I must
17 have left the copies of those additional pages behind.
18 However--

19 THE WITNESS: I have originals here, if you want to
20 pass them around for now.

21 ATTORNEY DUSMAN: Can I show them to opposing
22 counsel?

23 JUDGE NEMEC: Has he seen them before?

24 ATTORNEY NIESEN: Not to my knowledge.

25 ATTORNEY DUSMAN: No. They were obtained from the

1 Department of Environmental Protection.

2 JUDGE NEMEC: So, we can make copies of them very
3 quickly. Do you want to do that?

4 ATTORNEY DUSMAN: Well, they are not really critical
5 to the testimony. They are backup materials to
6 Schedule TLF-1.

7 JUDGE NEMEC: Well--

8 ATTORNEY DUSMAN: I'm sorry. Here they are.

9 JUDGE NEMEC: You have them?

10 ATTORNEY DUSMAN: Yes. I apologize. May this be
11 marked O.C.A. Exhibit 1-S as a supplemental exhibit?

12 JUDGE NEMEC: It may be so identified.

13 (Whereupon, the document was marked as
14 O.C.A. Exhibit No. 1-S for
15 identification.)

16 ATTORNEY DUSMAN: Your Honor, two copies of the
17 Direct Testimony and O.C.A. Exhibit 1 have previously been
18 circulated and have been provided to the court reporter.

19 BY ATTORNEY DUSMAN:

20 Q. Now, Mr. Fought, if I were to ask you the
21 questions contained in your testimony this morning as you
22 sit here under oath, would your answers be the same?

23 A. Yes.

24 Q. And would those answers be as corrected true and
25 correct, to the best of your knowledge and belief?

1 A. Yes.

2 ATTORNEY DUSMAN: Now, Your Honor, I have some brief
3 supplement Direct Testimony that I would like to go through
4 at this time with your permission.

5 JUDGE NEMEC: Sure. Go ahead.

6 ATTORNEY NIESEN: If Your Honor pleases, I'm not
7 sure what the attempt of supplemental testimony from the
8 expert is at this point.

9 JUDGE NEMEC: Well, we will find out.

10 ATTORNEY NIESEN: But it's a little more critical
11 than that. I have had a discovery request outstanding
12 since January 26th for the expert testimony. It was always
13 understood that the expert's testimony was to be submitted
14 in writing. And, in fact, at our scheduling conference
15 with you, there was a date set for the distribution of
16 testimony. In fact, Your Honor, the reason that I went
17 through the discovery was just so this would not occur, we
18 would come in today at the hearing and there would be
19 something presented in addition to what had been presented
20 in writing earlier. It is truly wrong to do this and it
21 is, in effect, a denial of my ability to prepare for the
22 hearing. This is something that has been discussed,
23 submission of testimony, for many weeks and it should not
24 be done.

25 ATTORNEY DUSMAN: Your Honor--

1 JUDGE NEMEC: What's the testimony dealing with?

2 ATTORNEY DUSMAN: Well, first of all, I would like
3 to say that we routinely reserve the right to supplement
4 our testimony in a rate case or any other sort of case in
5 the event that we receive new information. And it's been
6 my experience that companies and the O.C.A. have
7 supplemented Direct Testimony where the evidence is
8 relevant and will add to the record in the case. The
9 purpose of the Direct Testimony--supplemental Direct
10 Testimony is to mark for identification so that Your Honor
11 can see what the company's system maps are. These were not
12 easily attachable to Direct Testimony. Mr. Fought has also
13 prepared a map himself that is based upon these documents.
14 So, I would like to make that clear. Because I do believe
15 that a topographical map of the system will assist
16 Your Honor in deciding this case and will facilitate
17 further testimony and streamline Cross-examination at a
18 later time. In addition, although we made an effort to
19 talk to many of the customers in the service territory
20 informally, we only yesterday had the benefit of their
21 sworn testimony about their complaints and supporting their
22 complaints against Redstone Water. There are just I guess
23 three items that I wanted to request that Mr. Fought
24 address to eliminate any confusion on the record and to
25 further elucidate the facts. I expect it to take all of

1 10 minutes.

2 ATTORNEY NIESEN: Your Honor, they have had--if I
3 might address this, the Consumer Advocate has had up to
4 almost a year to talk to Complainants, to get their views,
5 and then to present their expert testimony in writing. I
6 believe that Mr. Fought, in fact, he says in his testimony,
7 he has talked to Complainants. To now suggest that they
8 learned something yesterday which requires the presentation
9 of supplemental testimony is really a ridiculous
10 statement. If that's occurred, it's their own fault. It's
11 not to my detriment that they are now in a position they
12 believe they have to present something in addition to where
13 was presented in writing and which I am prepared to proceed
14 to Cross-examine Mr. Fought about.

15 ATTORNEY DUSMAN: Your Honor, I would just like to
16 make a comment.

17 ATTORNEY NIESEN: There are some rules here, and the
18 Commission's regulations clearly clearly provide for the
19 discovery of expert testimony. There is a procedure for
20 it. I followed it. I asked them to give it to me. They
21 provided the written testimony on the date which you
22 designated. And that's what we should deal with here this
23 morning.

24 JUDGE NEMEC: I appreciate your position, okay, but
25 based on the offer by counsel of what the supplemental

1 testimony is going to deal with, I'm going to permit it.
2 Your objection is overruled. Please proceed.

3 ATTORNEY DUSMAN: Thank you. Your Honor, may I have
4 these three maps marked for identification? It's O.C.A.
5 Exhibit 1-A, 1-B, and 1-C.

6 JUDGE NEMEC: They may be so identified.

7 (Whereupon, the documents were marked as
8 O.C.A. Exhibit Nos. 1-A, 1-B, and 1-C for
9 identification.)

10 JUDGE NEMEC: Do you have duplicates?

11 ATTORNEY DUSMAN: I'm marking these for
12 identification really as demonstrative exhibits, because
13 they are kind of unwieldy. So, I don't plan to move them
14 into the record. However, I would like Mr. Fought to
15 describe them.

16 JUDGE NEMEC: Would you state the source of the
17 maps?

18 ATTORNEY DUSMAN: Yes. Yes. We will lay a
19 foundation for the use of them.

20 JUDGE NEMEC: Go ahead.

21 BY ATTORNEY DUSMAN:

22 Q. Mr. Fought, would you please identify what's now
23 been marked for identification as O.C.A. Exhibits 1-A, 1-B,
24 and 1-C, taking them one at a time?

25 A. Can I say where they came from altogether?

1 Q. Sure.

2 A. These were the maps that were furnished us--
3 these are the maps or drawings or plans that were furnished
4 to us in response to our discovery request requesting a
5 distribution system map of Redstone's system. Okay? And I
6 would like to talk about the back one, sir, if I could, a
7 little bit. Exhibit 1-B is a drawing with the title
8 Pittsburgh Coal Company on it dated October 11th, 1939, and
9 there is a note of a revision of 3/17/45 on it. And
10 basically, this Exhibit 1-B shows the Crescent Heights
11 area.

12 JUDGE NEMEC: Let Mr. Yablonski and counsel see it.

13 (Document handed to counsel.)

14 A. If I may note, I did some scribbling in blue ink
15 up in the middle to the left of that drawing, which was not
16 part of what the company gave us. I didn't realize I had
17 the only copy that was furnished.

18 MR. TERRY YABLONSKI: And what's this blue here?

19 THE WITNESS: That's what I just mentioned. That
20 was my scribbling that I put on while I was thinking.

21 BY ATTORNEY DUSMAN:

22 Q. Would you describe the O.C.A. 1-C?

23 A. That is a drawing titled Daisytown Plan of Lots
24 laid out by the Jones & Laughlin Steel Corporation dated
25 June 7th, 1949 and revised July 15th, 1949. And basically,

1 this shows a portion of the water supply system that
2 accompanies the Daisytown area which would be the lower
3 part of the system.

4 Q. And finally, O.C.A. 1-A, would you describe that
5 exhibit?

6 A. This looks like it is a xeroxed copy of a
7 sanitary sewer drawing plan in which somebody has also
8 drawn on the location of water lines, and it shows water
9 lines serving the Walkertown Hill area. There is no date
10 on this.

11 Q. When you say somebody drew on that, do you know
12 who the somebody was?

13 A. No, I don't. It was furnished to us this way.

14 Q. Okay. Now, are these maps the same as the maps
15 that the company showed to you when you first went to their
16 offices?

17 A. No. When I first went to their office and
18 visited them, I asked them if they had copies of the
19 distribution system map, and I recall them saying that they
20 had some old maps but I do not recall whether or not they
21 showed anything to me as far as the distribution system
22 maps.

23 Q. So, when we first got these in discovery, it was
24 the first time you had seen anything on paper that showed--

25 A. They may have shown me something at that

1 meeting. I know we discussed it and they had mentioned
2 that there were some old maps. If they showed me any, it
3 would have been maybe one. I would have remembered three.

4 ATTORNEY DUSMAN: Your Honor, may I have marked for
5 identification a document that was prepared by Mr. Fought
6 as O.C.A. Exhibit 2?

7 JUDGE NEMEC: It may be so identified.

8 (Whereupon, the document was marked as
9 O.C.A. Exhibit No. 2 for identification.)

10 BY ATTORNEY DUSMAN:

11 Q. Mr. Fought, would you please identify that
12 document and tell us what it is?

13 A. This basically is an enlargement of a U.S.G.S.
14 topographic map covering the Daisytown area where I have,
15 to the best of my ability, transferred the information on
16 the previous three maps that were provided us showing the
17 water lines. The water lines are shown in red encompassing
18 the Crescent Heights area. That was the first drawing that
19 I had talked about, and I think that was number B or letter
20 B. The next one was the Daisytown area, which is a lower
21 area down along the extreme, and I think that was C,
22 Exhibit C. And the third is the sewer map that the
23 waterline was drawn on, and that encompasses the Walkertown
24 Hill area. Also shown on this, just so that people get a
25 general indication of where things are, the source of the

1 water supply system is shown in the upper part of the
2 drawing. The location of the 180,000 gallon tank on
3 Crescent Heights Hill is shown. And the pump station is
4 shown. When I met with the company the first time,
5 Mr. Yablonski's son, I believe his first name is Greg, I'm
6 not positive on that, showed me what the service area of
7 the company was at the time on the real scale U.S.G.S. topo
8 map, and I had to the best of my abilities shown it on
9 here. It's in black. It's kind of hard to follow. I wish
10 I would have made it bigger or wider going around the top
11 there, or going around the service area.

12 Q. Okay.

13 ATTORNEY DUSMAN: Your Honor, I would like to move
14 O.C.A. Exhibit 2 into evidence.

15 JUDGE NEMEC: We will do that following
16 Cross-examination.

17 ATTORNEY DUSMAN: Okay.

18 JUDGE NEMEC: Reserve your motion to admit until
19 counsel has had a chance to Cross.

20 ATTORNEY DUSMAN: Okay.

21 BY ATTORNEY DUSMAN:

22 Q. Mr. Fought, I have a few questions for you
23 related to the customer testimony that we heard yesterday.
24 First of all, I think there were quite a number of customer
25 witnesses who described the water as being corrosive.

1 Would you please address the use of that word in describing
2 the Redstone water? Could you explain it?

3 A. The customer's use of the word corrosive is not
4 a correct technical term. Technically, this water is not
5 corrosive. It is scale forming water. In other words,
6 minerals precipitate out of the water. The water does not
7 dissolve metals or heating elements that are in the water.
8 So, the customers using the word corrosive is not
9 technically correct. It's understandable because what they
10 are looking at is rough and it looks like it's pitted and
11 so on, but that's actually the minerals precipitating onto
12 the objects that they had.

13 Q. Okay. Now, we also heard several witnesses
14 describe the water as it comes out of the tap, and
15 particularly when you put ice cubes in it, that it has this
16 white floating matter in it. Did you personally observe
17 water coming from the tap and that characteristic?

18 A. Yes, I did. I had personally observed people
19 drawing water from the cool water taps. I made sure that
20 the water was not filtered, that they did not have a filter
21 system from the cold water taps, and there were some little
22 white floating things in it. After ice cubes were dropped
23 into it, it became much more pronounced, that there were
24 many more of these little white floating things in it.

25 Q. And as the glass of water sat there, what

1 changed over time?

2 A. Some of these floating things settled to the
3 bottom. One particular glass I had had a fairly large
4 piece in it. I'm looking for something to describe it.

5 Q. Did it look almost like a salt crystal?

6 A. Yes. Yes.

7 Q. On how many occasions did you observe water
8 being drawn from the tap with this characteristic?

9 A. Two other times after ice had been put in. The
10 first two times I observed it, I did not attempt to observe
11 the floating objects before the ice was put in.

12 Q. Okay. Now, from your testimony, you have
13 observed that there are secondary maximum contaminant level
14 exceedances, both recently and in the D.E.P. records that
15 we looked at from past years, have you not?

16 A. Yes.

17 Q. And those maximum contaminant level exceedances
18 relate to the total dissolved solids and the sulfates, do
19 they not?

20 ATTORNEY NIESEN: Your Honor, I renew my objection.
21 I don't think this has anything to do with the customer
22 testimony yesterday.

23 ATTORNEY DUSMAN: These are just leading questions.
24 I will tie it up, Your Honor.

25 ATTORNEY NIESEN: Your Honor, he has in his prepared

1 testimony what he chose to present concerning TDS and
2 sulfates and so forth.

3 JUDGE NEMEC: I agree. But the question really, it
4 sounds like it's summarizing what's already in the Direct
5 Testimony.

6 ATTORNEY DUSMAN: That's correct, Your Honor.

7 ATTORNEY NIESEN: Why do we need to go through
8 this?

9 JUDGE NEMEC: I don't know, but we will see. It's
10 overruled. Go ahead.

11 ATTORNEY DUSMAN: Thank you.

12 BY ATTORNEY DUSMAN:

13 Q. Did you hear a number of customers yesterday
14 testify that the water does not taste good to them?

15 A. Yes.

16 Q. Is that complaint consistent with MCL
17 exceedances for total dissolved solids and sulfates?

18 A. Yes. Both exceedances affect the taste.

19 Q. Likewise, you heard a number of customers
20 testify about the bad odor, and they described it in
21 various ways, did they not?

22 A. Yes.

23 Q. And is that complaint consistent with--

24 ATTORNEY DUSMAN: Your Honor, I will use MCL for
25 maximum contaminant level.

1 JUDGE NEMEC: That's fine.

2 BY ATTORNEY DUSMAN:

3 Q. Is that complaint consistent with secondary MCL
4 exceedances?

5 A. The complaints about the Clorox or the chlorine
6 smell, no, that's not consistent with the MCLs. There was
7 some testimony about a sulfur smell, and that is consistent
8 with exceeding the sulfur maximum contaminant level, MCL.

9 Q. Thank you for clarifying that. There was also
10 some testimony on Cross-examination concerning the age of
11 the homes, the sizes of the service lines, the age of the
12 service lines. As those factors may relate to pressure
13 complaints, did you hear that testimony yesterday?

14 A. Yes, I did.

15 Q. In the course of your investigation, have you
16 become familiar enough with the system and the operation of
17 the system and the design of the system to draw a
18 conclusion whether those factors contribute or cause the
19 pressure complaints?

20 A. Would you please reword the question, or can I
21 answer what I think you want to here?

22 Q. You are not allowed to ask me to reword the
23 questions because you are my witness.

24 JUDGE NEMEC: Actually, it sounds like a
25 Cross-examination question. Why don't you leave just leave

1 that? Go ahead, try again.

2 BY ATTORNEY DUSMAN:

3 Q. Would you discuss any relationship between the
4 age and size of the service line and the pressure
5 complaints?

6 A. Yes.

7 ATTORNEY NIESEN: Your Honor, I object to that, any
8 relationship about the size of the line and pressure.

9 JUDGE NEMEC: The objection is overruled because,
10 really, they are asking you--never mind. It's overruled.
11 Go ahead.

12 A. Yes. Those customers that came in and
13 complained and said that their pressure was so low that
14 they could not run two appliances at the same time and it
15 was consistent that they couldn't run two appliances at the
16 same time, that problem could be related to the age and the
17 size of their house plumbing and the service line, or it
18 could be related to the condition of the company's main
19 serving them. Those customers that came in and said they
20 had good pressure one day, bad pressure the next day, good
21 pressure the next day, that's a very clear indication that
22 any pressure problem that they have is not related to the
23 age, the length, the size of their domestic plumbing or
24 their service line because the characteristics of their
25 service line and their house plumbing does not fluctuate on

1 a day-by-day basis. Only the water company's system
2 fluctuates on a day-by-day basis.

3 Q. There was also testimony about the fire hydrants
4 not working or being removed. Would you address that issue
5 as it relates to the service?

6 (Whereupon, a fire drill recess was taken
7 from 9:25 A.M. to 9:29 A.M.)

8 BY ATTORNEY DUSMAN:

9 Q. Do you remember the last question?

10 THE WITNESS: Would you read that back?

11 (Whereupon, the court reporter read from
12 the record as requested.)

13 A. The D.E.P. has regulations that indicate that
14 state fire hydrants shall not be conducted to any mains
15 smaller than six-inch. There are a number of fire hydrants
16 in the Redstone system that are connected to four-inch
17 mains.

18 Q. Anything further on that issue?

19 A. One of the reasons that a six-inch main is
20 required instead of a four-inch main is that it takes
21 slightly over seven four-inch lines to pass the same amount
22 of flow as one six-inch line, all other conditions being
23 the same.

24 ATTORNEY DUSMAN: With that, Your Honor, we have no
25 further testimony. And I would move O.C.A. Statement

1 No. 1, O.C.A. Exhibit No. 1, O.C.A. Exhibit No. 2, and
2 O.C.A. Exhibit 1-S into the record subject to any timely
3 motions and Cross-examination.

4 JUDGE NEMEC: O.C.A. Statement 1, Exhibit 1,
5 Exhibit 1-S, and O.C.A. Exhibit 2 are admitted subject to
6 later objection and/or motion by counsel for Redstone.

7 (Whereupon, the documents marked as
8 O.C.A. Statement No. 1, O.C.A. Exhibit
9 No. 1, O.C.A. Exhibit 1-S, and O.C.A.
10 Exhibit No. 2 were admitted into
11 evidence.)

12 ATTORNEY NIESEN: Dianne, what is Exhibit 1?

13 ATTORNEY DUSMAN: Exhibit 1 is the set of schedules
14 that's attached to the Direct Testimony.

15 ATTORNEY NIESEN: That is a separate exhibit?

16 ATTORNEY DUSMAN: We marked it that way for
17 reference.

18 ATTORNEY NIESEN: And 2 is the drawing?

19 ATTORNEY DUSMAN: Exhibit 2 is the topographical
20 map.

21 C R O S S - E X A M I N A T I O N

22 BY ATTORNEY NIESEN:

23 Q. Good morning, Mr. Fought. My name is Tom
24 Niesen. I'm the attorney for Redstone Water Company. I
25 have a few questions for you. First, let's deal with these

1 maps, Exhibits 1-A, 1-B, 1-C. But before I ask you about
2 those, you indicated in your questioning in response to
3 Ms. Dusman's questioning that you had a couple meetings
4 with the water company in which maps were discussed?

5 A. One meeting.

6 Q. When was that?

7 A. It was sometime in May '99. I could give you
8 the exact date if I had a chance, but I don't have it on
9 hand.

10 Q. May 1999?

11 A. Yes.

12 Q. And during that meeting, as I understand it,
13 maps were discussed and you were told that there were old
14 maps available?

15 A. Yes.

16 Q. And you seem to recollect that perhaps one or
17 more of Exhibits 1-A, 1-B, and 1-C were shown to you at
18 that time?

19 A. Maybe one of them. I'm not even sure about one
20 of them. I know that it was discussed about old maps, and
21 I don't know if we took the time to dig them out of the
22 files and look at them at that time or not. But if we did,
23 it was only one map that was shown to me.

24 Q. Okay. But you were told that maps existed? You
25 do remember that?

1 A. Yes.

2 Q. Did you ask to see the maps?

3 A. Yes. That's what brought the--no, not after
4 they told me that they were old and they didn't know
5 whether they could produce them easily at that time.

6 Q. So, you weren't denied access to maps?

7 A. No.

8 Q. Now, you also indicated during one of your
9 answers to a topographical map?

10 A. Yes.

11 Q. And you received that from the water company?

12 A. No. I brought this as part of my inspection
13 because it shows the area, and I would use this so that I
14 could see the topography and difference in elevation so I
15 could determine the highest part of the system and the
16 lowest part, and also have the service area put on it, have
17 somebody mark the service area on it, which they did at
18 that meeting.

19 Q. Is the May 1999 meeting?

20 A. Yes.

21 Q. Thank you. And you remember, then, when you
22 first saw the maps, Exhibits 1-A, 1-B, and 1-C?

23 A. That was given to us as a response to a
24 discovery question, and I do not know the date of that.

25 Q. You don't recall--do you recall when you saw

1 them, when you were provided them?

2 A. Oh, they came to me, not to the O.C.A. As part
3 of the discovery, I think the company's response was that
4 the maps were furnished to me. So, they came directly to
5 me in response to Interrogatory I and it was Question 1.

6 Q. Interrogatory I, Question 1?

7 A. Yes.

8 Q. Sometime earlier this year?

9 A. Maybe last year.

10 Q. Maybe last year?

11 ATTORNEY DUSMAN: No. It was this year.

12 A. It was this year.

13 Q. Is that your recollection or Ms. Dusman's
14 recollection?

15 A. It's Ms. Dusman's recollection.

16 Q. Is your recollection this year or late last
17 year?

18 A. I have no recollection.

19 Q. Let me just ask you this. You then used
20 Exhibits 1-A, 1-B, and 1-C as well as your topographical
21 map to create O.C.A. Exhibit 2?

22 A. Yes.

23 Q. Just let me ask you this. Is there any reason
24 why this O.C.A. Exhibit No. 2 could not have been produced
25 prior to today?

1 A. No. It could have been prepared prior to
2 today.

3 Q. Thank you. Now, you spoke, also, about taking
4 water from customer taps when you visited the service
5 territory. Do you recall that?

6 A. I did not take water from customer's taps. I
7 went into a couple of houses where the customers drew water
8 from the tap into a glass.

9 Q. Okay. And when was that?

10 A. That occurred on the May '99 trip in. It
11 occurred maybe two months ago or so when Dianne and I
12 visited the area, Ms. Dusman and I visited the area. And
13 it occurred the day before yesterday when we came to the
14 area.

15 Q. How many times did you visit the Redstone
16 service area?

17 A. Maybe five or six. Many of these were I came
18 out--I'm from Harrisburg. I came out to the Pittsburgh
19 area on different matters. And every time I came out, I
20 would swing by and I would drive the service area just to
21 see if I could see any roads broken up that might relate to
22 a water main break, checked the elevation of the water in
23 the tank. There is a gauge on the tank that I could check
24 that. And I would just drive the service area to see if I
25 could spot something that might be of interest.

1 Q. On how many times, on how many of your visits
2 did you go into a customer's home and have customers draw
3 water from a tap?

4 A. Three. On three different dates.

5 Q. Three different dates?

6 A. I thought that's what I said prior.

7 Q. How many customers did that for you?

8 A. Either three or four. I think it was three, but
9 I'm not sure.

10 Q. Do you remember which customers it was?

11 A. Balla. Susan Balla was one. I have trouble
12 pronouncing this lady's name. She was the lady with the
13 white hair. Caeti.

14 Q. Caeti?

15 A. Caeti. And it's 491 Pike Run Drive. I don't
16 know her name right offhand. We took a sample there. The
17 name isn't on there. It's just the address. In fact, the
18 one at 491 Pike Run Drive, she did it twice. So, it was
19 four times. She did it twice, and then the other two.

20 Q. In each of those occurrences, you saw white
21 material floating in the water?

22 A. After the ice was added. And the first three
23 times, I did not pay attention prior to the ice being
24 added. Because once the ice was put in, apparently it
25 becomes much more pronounced, and that was the point they

1 were trying to make. But the one time we did look at the
2 water prior to the ice being put in, and we saw the
3 floating particles, yes.

4 Q. Do you remember in whose house that was?

5 A. Mrs. Caeti. I might be mispronouncing her
6 name. That was the lady's house that that occurred.

7 Q. You talked about a D.E.P. regulation that
8 requires--maybe that's not your word, requires fire
9 hydrants to be hooked to a six-inch line?

10 A. Yes.

11 Q. Could you cite that regulation, please?

12 A. Yes, I can. It's part of the Public Water
13 Supply Manual, Part II. Public Water Supply Manual,
14 Part II. That's a Roman numeral II, Community Design
15 Standards. It's Section 8.1.2.

16 Q. I'm sorry. One more time.

17 A. Section 8.1.2.

18 Q. Of what?

19 A. Of Chapter 8, Distribution Systems of the Public
20 Water Supply Manual, Part II, Community System Design
21 Standards.

22 Q. Are you saying that's a D.E.P. enforced
23 requirement?

24 A. I do not know if it's an enforced requirement,
25 but it does say shall. And in acceptable engineering

1 practice, when a D.E.P. Manual or the Public Water Supply
2 Manual says shall, that kind of specifies good engineering
3 practice, good design practice.

4 Q. Do you know other situations in the
5 Commonwealth, in your experience, where fire hydrants are
6 connected to a line of less than six inches?

7 A. Yes.

8 Q. To your knowledge, is D.E.P. going around and
9 requiring that those pipes be removed and replaced with
10 six-inch pipes?

11 A. I am familiar in one case that we were involved
12 with in perhaps the past year and a half or so where D.E.P.
13 made the water company remove the fire hydrants because--I
14 don't know if it was because of the line size or because
15 they didn't have sufficient storage for fighting a fire.

16 Q. So, in that situation, the result was there were
17 no fire hydrants?

18 A. That's correct.

19 Q. Now, back to the drawing of the water from the
20 tap and your review of that, you said that the one sample I
21 guess that's in the Caeti house, you saw a particle that
22 resembled you believed a salt crystal? Is that your words?

23 A. Yes.

24 Q. Could that have been scale from the pipe?

25 A. It could have been.

1 ATTORNEY NIESEN: If Your Honor pleases, I'm turning
2 to Mr. Fought's Direct Testimony. It's O.C.A. Statement
3 No. 1. And the bottom of Pages 7--the bottom of Page 7 and
4 the top of Page 8, we move to strike the sentence that
5 begins on the bottom of Page 7 which begins with, I also
6 contacted PA D.E.P. and was advised, through the remainder
7 of that sentence over to 680 milligrams per liter. That's
8 hearsay testimony which is not proper in Mr. Fought's
9 Direct Testimony.

10 ATTORNEY DUSMAN: May I respond, Your Honor?

11 JUDGE NEMEC: You may.

12 ATTORNEY DUSMAN: Under the rules of evidence in
13 Pennsylvania, expert witnesses are entitled to draw on all
14 sorts of information to draw their conclusions and express
15 their opinions on matters that are committed to expert
16 testimony. Mr. Fought did contact the PA D.E.P., and his
17 testimony does say that he was advised orally what the
18 hardness levels were. However, following the submission of
19 this testimony, we did--

20 ATTORNEY NIESEN: No, Your Honor. I object to
21 that. Now, we are dealing with his testimony and what he
22 has said in it. It is clearly hearsay and he is not
23 entitled to rely on hearsay. You may not make any findings
24 based on hearsay.

25 ATTORNEY DUSMAN: That's just not correct,

1 Your Honor.

2 ATTORNEY NIESEN: It should be eliminated right at
3 the get go.

4 JUDGE NEMEC: Go ahead. Respond.

5 ATTORNEY DUSMAN: What I was going to say was that
6 following submission of the Direct Testimony, I cautioned
7 Mr. Fought that we shouldn't rely solely on hearsay and
8 that we should request documentation from the D.E.P.
9 concerning those hardness levels in the Appalachian case,
10 which Mr. Fought did. He subsequently obtained a document
11 which corroborates the oral statement that was made. If
12 Your Honor would like us to, we can submit that to
13 supplement the testimony. It's backup--

14 JUDGE NEMEC: Can that document be authenticated
15 today?

16 ATTORNEY DUSMAN: May I take a moment to review it?
17 Because I'm not sure what it looks like.

18 JUDGE NEMEC: Go ahead.

19 THE WITNESS: May I say something, Judge?

20 JUDGE NEMEC: Hold on a second.

21 THE WITNESS: In regard to--

22 JUDGE NEMEC: Is this something that you might bring
23 up with the witness from D.E.P.?

24 ATTORNEY DUSMAN: I could bring it up with him,
25 Your Honor. I don't know that he would be able to

1 recognize it. I can authenticate it to an extent through
2 Redirect of Mr. Fought, if that would be permissible.

3 THE WITNESS: May I have a moment with Ms. Dusman,
4 counsel?

5 JUDGE NEMEC: Sure.

6 ATTORNEY NIESEN: Your Honor, we are in the middle
7 of Cross-examination.

8 JUDGE NEMEC: That's right. That's fine. Let's
9 finish Cross and then--at this point, I'm going to reserve
10 ruling on the motion to strike. I understand the
11 objection. In general, it's proper. On the other hand,
12 the sentence is somewhat ambiguous in terms of how the
13 witness obtained the information from D.E.P. We don't know
14 the extent of the consultations. Oftentimes, experts
15 engage in extensive consultation and oftentimes that type
16 of information obtained from the consultation is
17 permitted. So, it's not a clear area. I will point that
18 out to counsel. In any event, I will take that under
19 advisement. Let's continue with Cross-examination.

20 ATTORNEY NIESEN: Your Honor--if Your Honor pleases,
21 we would also move to strike a portion of Mr. Fought's
22 testimony on Page 9. It's in the third full question and
23 answer on Page 9. The question is, are there any financial
24 assistance programs available for funding such a main. We
25 object to the--

1 JUDGE NEMEC: According to Tri-County
2 representatives?

3 ATTORNEY NIESEN: From there, Your Honor, to the end
4 of the paragraph, the end of the answer.

5 JUDGE NEMEC: Again, I note that that is hearsay,
6 and the objection appears to be proper. I will take that
7 motion under advisement, also. Obviously, objected to
8 hearsay cannot form a basis for a finding. I agree with
9 counsel's statement on that point. Yes, ma'am?

10 ATTORNEY DUSMAN: I just wanted to add, Your Honor,
11 that although it's not stated in the testimony, I believe
12 that statement was backed up by--I'm marking the map that a
13 Tri-County representative had available as well, which we
14 did not have to include in the testimony.

15 ATTORNEY NIESEN: I don't see how that cures the
16 problem, Your Honor.

17 JUDGE NEMEC: All right.

18 ATTORNEY NIESEN: In any event, I will proceed.

19 JUDGE NEMEC: Go ahead.

20 BY ATTORNEY NIESEN:

21 Q. Continuing along these lines, Mr. Fought, if you
22 could look at the bottom of Page 8 of your testimony, at
23 the very bottom of the page of the sentence that reads, it
24 is my understanding that Tri-County is in a position to
25 sell the company sufficient was on long-term basis. Can

1 you tell me the source of your understanding?

2 A. Mr. Jeff Kovach, who is I believe the Director
3 of the Tri-County Joint Municipal Authority.

4 ATTORNEY NIESEN: If Your Honor pleases, we would
5 also move to strike that portion of Mr. Fought's testimony
6 at the bottom of Page 8, which begins with the sentence, it
7 is my understanding, it's just that sentence, Your Honor,
8 for the same reason, that it is based on hearsay.

9 JUDGE NEMEC: All right.

10 ATTORNEY DUSMAN: And, Your Honor, I would just
11 respond again that--in fact, there is even a rule that
12 states that hearsay is permissible and admissible in
13 administrative proceedings. We are not working under the
14 Rules of Civil Procedure with strict adherence to hearsay.
15 And again, once witnesses are qualified to provide expert
16 opinion testimony, it seems routine to me that in P.U.C.
17 practice, witnesses are permitted to rely upon hearsay
18 where it is reliable and subject to corroboration in other
19 ways.

20 JUDGE NEMEC: Yeah. In many respects, you are both
21 right. Okay? The point, though, that I believe counsel
22 for Redstone is making is that the Commission could not in
23 reliance on that particular sentence direct the water
24 company to purchase water from Tri-County. Let's go on.

25 BY ATTORNEY NIESEN:

1 Q. Mr. Fought, I want to just address one more of
2 these matters with you before I have additional questions.
3 On the bottom of Page 9 of your testimony and also on--this
4 is a thought that also appears on Page 14, at the very
5 bottom of Page 9, you state, the pressure gradient of
6 Tri-County's system and so forth. Can you explain for me
7 the basis for your understanding about the pressure
8 gradients?

9 A. Mr. Kovach of the Tri-County Joint Municipal
10 Authority faxed me a--

11 ATTORNEY NIESEN: Thank you. With that, Your Honor,
12 I move to strike.

13 JUDGE NEMEC: Excuse me. I want to hear the end of
14 your answer.

15 A. Faxed me a tabulation of their tanks and the
16 hydraulic gradients of the tanks from which I could
17 determine that information.

18 JUDGE NEMEC: What do you mean by hydraulic
19 gradients?

20 THE WITNESS: The elevation of the water level.

21 JUDGE NEMEC: Above sea level.

22 THE WITNESS: Yes.

23 JUDGE NEMEC: And your opinion, it was based on the
24 information you obtained from that?

25 THE WITNESS: Yes.

1 JUDGE NEMEC: Okay. Objection is overruled.

2 ATTORNEY NIESEN: I just want to make sure my
3 objection is on the record.

4 JUDGE NEMEC: It is.

5 ATTORNEY NIESEN: It relates to the bottom of
6 Page 9, the sentence that appears there, and it also
7 relates, Your Honor, over to Page 14. We would move to
8 strike the second full answer on Page 14, the third
9 sentence beginning with Tri-County's system, that sentence,
10 and also the next sentence which begins with the word
11 therefore.

12 JUDGE NEMEC: Yes, sir. That motion is denied.

13 BY ATTORNEY NIESEN:

14 Q. All right. Mr. Fought, at the beginning of your
15 testimony on Page 2, you give a history of the Redstone
16 system?

17 A. Yes.

18 Q. Now, that description is taken from files that--
19 well, from PA D.E.P. files, is that right?

20 A. That's correct.

21 Q. That's not based on your personal knowledge?

22 A. No. That's based on my personal knowledge.

23 Q. What you did was you reviewed files and
24 paraphrased--you created a paraphrase that was in the files
25 and you presented it here?

1 A. Yes. This information came from applications to
2 use the Crescent Mine water, a permit from D.E.P. for the
3 use of that for a public water supply source.

4 Q. And that's what you did on page in the first
5 question and answer on Page 2 and continuing over to the
6 top of Page 3, is that right? You paraphrased material
7 from the PA D.E.P. files?

8 A. Yes.

9 Q. What I would like to ask you about is, on
10 Page 3, you describe the Redstone present water source as a
11 stream of mine drainage from the old working of the
12 Crescent Mine. Does that language appear, to your
13 recollection, in any of the PA D.E.P. files that you
14 reviewed?

15 A. Yes, it does. I have a copy right here if you
16 would like to see it.

17 Q. I would like to see it. How old is that, by the
18 way?

19 A. Again, it was the application for the source. I
20 believe it's 1930, 1929, somewhere in that area. It's at
21 the bottom of the paper clipped sheet.

22 (Document handed to counsel.)

23 BY ATTORNEY NIESEN:

24 Q. All right. You have been to the Hoods Hollow
25 water source, have you?

1 A. No, I have not.

2 Q. You have never been there?

3 A. No, I have not.

4 Q. Why haven't you ever gone to the Hoods Hollow
5 water source? It would seem to me that would be something
6 you would be interested to see.

7 A. Well, when I visited the company's facilities,
8 we went to the pumping station, which is a couple thousand
9 feet maybe downstream of there. And while I was there, I
10 asked the company people to describe it to me, and at that
11 time, I did not think--after hearing their description, I
12 did not think there was anything remarkable to see about
13 the source itself that would tell me anything about its
14 quality.

15 Q. Did they describe it as a stream of mine
16 drainage to you?

17 A. No, they did not. But in the company office
18 when we had a meeting there, the D.E.P. fellows were there,
19 and basically I asked what the source of the water was, and
20 they said it came from a mine. They didn't say mine
21 drainage.

22 Q. Okay. Let's continue on Page 3. I will give
23 you back your pages. I'm interested in your use of the
24 phrase potable water in the third line of the second answer
25 on the page. What do you mean by potable water? What is

1 potable water?

2 A. Drinkable.

3 Q. So, the water from the individual wells in
4 Daisytown was potable? That's what you are saying there,
5 is it not?

6 A. What I'm saying there is that the people that
7 lived in Daisytown at that time had individual wells, and
8 that was water that was used to drink.

9 Q. Would you expect the chemical composition of
10 those wells to be any different than the water from the
11 Hoods Hollow water source?

12 A. I really don't know. A review of the D.E.P.
13 files doesn't indicate any water quality on those wells,
14 except to say that during the 1935 flood, that they were
15 all contaminated and that's why a public water supply
16 system went in.

17 Q. Now, continuing to Page 4 of your testimony, you
18 are discussing primary and secondary maximum contaminant
19 levels. You say that--I think you say that the Redstone
20 water meets all the primary maximum contaminant
21 requirements, is that right?

22 A. I saw no evidence that the water did not. I
23 can't say it with 100 percent surety that the water does
24 meet them, but I saw no evidence in any lab reports that
25 indicate that the water does not meet the primary MCLs.

1 Q. So, the water is, therefore, safe to drink? We
2 can all agree on that?

3 A. I can't say for 100 percent sure, but I have no
4 evidence indicating to the contrary. I have seen nothing
5 to indicate to the contrary.

6 Q. Also on Page 4 on the third line of your first
7 answer on the page, you use the word some. Backing up, the
8 company's water consistently exceeds some of the secondary
9 MCLs. Some is two, is that right?

10 A. Yes.

11 Q. And you also in that answer reference data that
12 you obtained and reviewed. Now, that data is what you have
13 in your--I guess it's what has been marked as O.C.A.
14 Exhibit No. 1. Is that the data you are referring to?

15 A. Yes.

16 Q. And O.C.A. Exhibit No. 1 is actually documents
17 that's marked or identified in writing as Schedule TLF-1,
18 is that right? Just so we are sure we are talking about
19 the same thing.

20 A. Yes. Schedule TLF-1. Schedule TLF-1, Pages
21 blank of 31.

22 Q. Would you turn to Page 1 of 31, please?

23 A. Yes.

24 Q. And the footnote, the double asterisk footnote--

25 A. Yes.

1 Q. --you indicate or you say that the laboratory
2 testing is a summary of laboratory test results procured by
3 O.C.A. from PA D.E.P. files, not comprehensive, and
4 company's responses to O.C.A. Set 1, Question 7. What do
5 you mean by referring to it as a summary? In what sense is
6 it a summary?

7 A. Well, it puts all the information in the
8 following 31 pages, the following 30 pages, on this page.

9 Q. Okay.

10 A. That makes it a summary.

11 Q. It's a tabulation of what appears in the
12 following 30 or so pages?

13 A. Yes.

14 Q. And what is meant by the phrase not
15 comprehensive?

16 A. That it's my understanding that when O.C.A.
17 visited DEP's files and obtained this data, that they did
18 not believe--they had no assurance that they obtained all
19 the data for the tests that are shown on this sheet.

20 Q. I don't understand that.

21 A. There may have been some other tests having
22 different dates or maybe even the same dates that they did
23 not make copies of and give to me.

24 Q. So, they saw other test results--

25 A. No. They didn't know if they saw any others.

1 They did not know if there were other tests available to
2 them that they didn't copy. I had asked them to just get a
3 sampling of the water tests from D.E.P. so that we could
4 form a tabulation just to see the consistency of the
5 Redstone water over a period of time. I asked them to go
6 back as early as they could, and they got back to '28 and
7 '29. And I asked them to get as recent as they could and
8 fill in some of the spaces in between. But I didn't ask
9 them to make sure that they got a copy of every laboratory
10 test available.

11 Q. So, you didn't actually go to the Department of
12 Environmental Protection and pull these records?

13 A. No, I did not.

14 Q. Do you know whether there are D.E.P. test
15 results that show test results within the secondary MCL
16 thresholds that you said the company is in violation with
17 in your testimony?

18 A. Would you repeat that?

19 Q. Yeah. Are there other test results that were
20 ignored or not copied and brought to your attention that
21 show that the company is in compliance with sulfates or
22 TDS?

23 A. There could be those that weren't copied. I
24 would not say ignored, because the person who got these did
25 not really know what I was looking for.

1 Q. You didn't instruct them to bring a certain type
2 of--

3 A. I instructed them to get hardness tests.

4 Q. Hardness?

5 A. Only hardness at the time.

6 Q. And when did you present these--let me ask you
7 who you presented the instructions to?

8 A. Dianne. Ms. Dusman.

9 Q. And what were the instructions, to the best of
10 your recollection?

11 A. My instructions, to the best of my recollection,
12 was that she should visit D.E.P. files and get as many
13 laboratory test results that she could on Redstone water
14 showing hardness and that she should try to go back as
15 early as she could and get some very early ones, get some
16 very late ones, and try to fill in some of the areas in
17 between.

18 Q. Did you suggest that she also bring you test
19 results that showed that the company's water is not hard?
20 Did you suggest to Ms. Dusman that she bring you test
21 results that showed that the company's water is not hard?

22 A. Maybe I misspoke. I didn't say just bring me
23 tests to show the water was hard. I told her to get me
24 tests of water hardness, that indicated water hardness, the
25 water hardness test. I didn't care if it passed or

1 failed. I just wanted--there is no pass or fail for water
2 hardness. I didn't care if the results were high or they
3 were low. I was interested in what was the value of the
4 hardness on the test.

5 Q. Do you think she cared whether the results were
6 high or low?

7 A. I don't know.

8 Q. Now, are all of these tabulations on Exhibit 1
9 D.E.P. test results?

10 A. No.

11 Q. Which ones are, first of all?

12 A. The first two which were just presented today as
13 those extra sheets, they were reports submitted as part of
14 an application for the use of the source back in '29 and
15 '31, and I don't know if D.E.P. took those tests or not.
16 The permitting process back then was much different than it
17 is today. So, I don't know if D.E.P. took the tests or if
18 local engineers took the tests. Up through 9/30/91, those
19 tests were taken--except for the first two which I just
20 mentioned, those others I believe were sampled and tested
21 by D.E.P.

22 Q. Just let me make sure that I understand. When
23 you say sampled and tested, you mean a D.E.P.
24 representative took the sample and D.E.P. did the testing?

25 A. The paperwork indicates that to be the case.

1 Q. Okay.

2 A. The next two tests, which are 2/21/95 and
3 3/14/95, the paperwork indicates that the Redstone Water
4 Company took the samples and had them tested by a D.E.P.
5 certified laboratory.

6 Q. By a D.E.P. certified laboratory?

7 A. Yes.

8 Q. Okay. Not D.E.P.? You are drawing a
9 distinction there between D.E.P. and a D.E.P. certified
10 laboratory?

11 A. Yes. I believe the D.E.P. tests were conducted
12 in their own laboratory, but I'm not 100 percent sure of
13 that. The paperwork kind of indicates that to me. The
14 next two tests appear to be sampled and tested by D.E.P.

15 Q. The next two meaning the March 11th?

16 A. Yes. March 11th. The two tests taken on
17 March 11th.

18 Q. Okay.

19 A. The next three tests were sampled and tested by
20 a D.E.P. laboratory retained by me.

21 Q. You hired a D.E.P. certified laboratory to take
22 the samples and do the tests?

23 A. And I also told them to make sure that they kept
24 a chain of custody of their documents just in case
25 something like today would happen.

1 Q. Did you pay them? Just tell me that.

2 A. Yes, I paid them.

3 Q. You paid them?

4 A. Yes.

5 Q. You wrote a check from your personal account,
6 from your consultant's account--

7 A. Yes.

8 Q. --to pay the bill for that testing?

9 A. Yes, I did. And I was present when the water
10 was sampled.

11 Q. You saw them take the water?

12 A. Yes, I did. And I made sure that the water that
13 was sampled came out of cold water taps and that there were
14 no filters on the house system that would affect the
15 sampling.

16 Q. Did you see the testing procedure?

17 A. No, I did not.

18 Q. I just want to ask you something about Page 4 of
19 your testimony along these lines. If you look at the last
20 answer on the page, it reads, the company's water exceeds
21 the MCLs for total dissolved solids and sulfate according
22 to the laboratory test data that I received from the PA
23 D.E.P.'s files, the company, and an independent PA D.E.P.
24 certified laboratory?

25 A. Yes.

1 Q. Now, the independent PA D.E.P. certified
2 laboratory is the lab that you hired to conduct the test?

3 A. Yes.

4 Q. Conduct the tests of the samples which were
5 taken on October 21, is that right?

6 A. That's correct.

7 Q. What's the name of that lab, by the way?

8 A. Microbac Laboratories, Inc.

9 Q. I'm just curious about your use of the word
10 independent in that answer. You are attempting to draw a
11 distinction between your lab which you hired and paid and
12 the PA D.E.P. lab and the company's lab?

13 A. No. No, I'm not.

14 Q. Can you explain that to me?

15 A. By independent, I could have left that word out.

16 Q. I would say so, yes.

17 A. I just rolled out while I was doing the
18 wording. I could have left that word out.

19 Q. Do you think that word should come out?

20 A. If you want to bring that word out, it's
21 all right with me, just as long as it says PA D.E.P.
22 certified laboratory. Independent could mean that it's not
23 part of my business. I'm a one-man outfit. Maybe
24 independent means that. I don't know. You can leave it in
25 for that respect.

1 Q. Sir--

2 A. But if you have some sinister meaning to the
3 word independent, we can take it out.

4 Q. It's your word, and I was wondering what
5 sinister meaning you have.

6 A. I have no sinister. It's just for some reason,
7 it just came out.

8 Q. Okay. Do you want to strike the word?

9 A. No. Independent--maybe independent to me means
10 I don't own them, I don't do business with them.

11 Q. But you don't mean to suggest that they are any
12 more independent, certainly, than the Pennsylvania
13 Department of Environmental Protection, do you?

14 A. No. Nor Mr. Yablonski's or the Redstone's
15 independent lab. To me, that's an independent D.E.P.
16 certified lab, too, unless he owns it. Then it wouldn't be
17 independent.

18 Q. Let's go back to Exhibit 1. I'm going to focus
19 for the moment on the line for sulfate, SO4.

20 A. Yes.

21 Q. I think in the record copies, it appears as a
22 blue line. Is it blue in yours? It starts out as blue.

23 A. There are some of these tabulations that have
24 blue and red coloring, and there are some that are black
25 and white. Mine has coloring.

1 Q. Yours has the coloring?

2 A. Yes.

3 Q. Mine does, to. To the extent someone is looking
4 at a colored version, as I understand it, the blue
5 indicates a test result within the secondary maximum TLF
6 level for sulfate, is that right?

7 A. Yes. If we are looking at the line for sulfate,
8 except for the first blue number, which is 250 with an
9 asterisk, and that is the MCL for sulfate--

10 Q. Right.

11 A. --the other blues represent those tests that are
12 less than that MCL.

13 Q. What I will call the Fought test results are all
14 in the range of about 360 milligrams per liter, right?

15 A. Yes.

16 Q. And those tests were taken on October 21, 1999,
17 right?

18 A. That's correct.

19 Q. If you look to the left of that, the two D.E.P.
20 tests for March 11th, you get reading results of 206 and
21 208, which are within the sulfate MCL, true?

22 A. Yes. And looking at others that were taken by
23 D.E.P., you can see that they were above that. So, it's
24 kind of an indication to me, anyway, that the sulfate level
25 fluctuates above and below the MCL for reasons that I can't

1 really say with any great surety why.

2 Q. But, in fact, with the exception of the
3 September 30, 1991 reading, there are no D.E.P. sulfate
4 test results that are more than--around 280? Well, let's
5 say 300. There are none higher than 300, and there are
6 several 25 milligrams and so forth less than 300?

7 A. That's true. The sulfate consistency of this
8 water appears to fluctuate above and below the MCL for
9 reasons that I can't accurately state why.

10 Q. Okay. Now, let's look at the other Fought test
11 results. In fact, the Fought test results for not only
12 sulfate but for calcium carbonate and TDS are all higher
13 than the--with maybe one or two exceptions, I will agree to
14 that, are all higher than the D.E.P. test results?

15 A. Yes. And again, it indicates that, for reasons
16 that I cannot 100 percent state, that the constituents in
17 this water fluctuate.

18 Q. There is no MCL threshold level for hardness?

19 A. That is correct.

20 Q. Either primary or secondary?

21 A. That is correct.

22 Q. So, hardness, then, you would agree, is not
23 recognized as either a health hazard or an aesthetic
24 problem?

25 A. Well, as some people--as the people who have

1 defined the secondary standards define aesthetic, that is
2 correct. There are people that might disagree with that
3 definition.

4 Q. Let's go back to Page 4 of your testimony. I'm
5 looking at the second full answer on Page 4 where you are
6 talking about--you are defining MCLs and you are talking
7 about enforceable standards and such?

8 A. Yes.

9 Q. Your first sentence reads, MCL is the maximum
10 permissible level of a contaminant in water. Is that a
11 word for word restatement of the definition of MCL?

12 A. I don't know.

13 Q. Is the word permissible in the definition, to
14 your recollection? Is that the way it's defined?

15 A. I don't know.

16 Q. Now, the last sentence of that answer, your
17 testimony is, both primary and secondary are enforceable
18 standards in Pennsylvania. Now, just tell me what you mean
19 by enforceable in that sentence.

20 A. The O.C.A. has advised me that both of those are
21 enforceable, and that if D.E.P. would elect to enforce the
22 sulfate or the total dissolved solids standards, that a
23 company would have to comply.

24 Q. Okay.

25 A. That's my understanding. It may not be the

1 legal understanding, but that's my engineering
2 understanding.

3 Q. So, enforceable is not the same as enforced?

4 A. I don't understand the technical terms. But if
5 I'm driving down the road and I go 65 miles an hour in an
6 45 mile an hour zone and I go past a cop and he doesn't
7 stop me, I guess that's not enforced, but he could have
8 enforced it. Is that the distinction you are trying to
9 make?

10 Q. To your knowledge, D.E.P. does not in every
11 circumstance enforce standards, secondary standards, for
12 TDS and/or sulfate?

13 A. The D.E.P. fellows probably answer that better
14 than me, but it's my understanding that they have elected
15 not to enforce certain of these standards, and those might
16 be them.

17 Q. Let's move on, and on Page 8 of your testimony,
18 you present two suggested alternatives for treating
19 secondary MCLs for TDS and sulfate. One of them is to
20 soften the water. Can you explain how that process would
21 work?

22 A. Well, the company can construct a water
23 treatment plant which softens water.

24 Q. And is it--

25 A. There is various processes. One is adding lime

1 and so on. I really didn't investigate it that much,
2 because I did not think it was a practical solution.

3 Q. The softening--

4 A. The company building a treatment plant. The
5 last time I looked into a softening plant was about 1985,
6 and it was very expensive. Now, it is possible things have
7 become cheaper since then, but I doubt it very much. Plus,
8 there is a problem with a water treatment plant providing
9 softening.

10 Q. What's the problem?

11 A. Of getting rid of its backwash water. They have
12 that as an added expense. So, I really do not think that
13 is a valid--I shouldn't say valid. It's certainly
14 something to consider, but I don't think it is something
15 that would pan out to be a reasonable alternative.

16 Q. Because there are practical problems with it,
17 and also you feel that the cost is too high?

18 A. Yes. Yes.

19 Q. Okay. Is there a cost associated with your
20 other alternative, which is a proposed interconnection with
21 Tri-County? There would be a cost with that, too?

22 A. Yes. It would be a cost of at least--the cost
23 of a main interconnecting with them is about a half mile
24 main. And, you know, if the company elected to use all
25 Tri-County water, that's all the main that they would have

1 to build, and that would solve the MCL problems and it
2 would solve the soft water problems. There wouldn't be
3 people here complaining about hard water if that was the
4 case. If the company decided they wanted to mix this water
5 with their own water, then it would be another mile and a
6 half maybe, by Mr. Yablonski's testimony, but maybe there
7 are other pipes out there that I'm not aware of that could
8 be used.

9 Q. Well, let me ask you about the cost of
10 purchasing water. How is that--have you figured that into
11 this at all?

12 A. No. That's why I have asked for the study. The
13 present source of this water was selected as the most
14 reasonable alternative to provide water in this area in
15 1929, '30, in that area, and at that time, they looked into
16 three alternatives. One was going to this river that I
17 can't pronounce, the Monongahela, the Monongahela River,
18 and they said it was several miles of pipe to get there.
19 The other alternative was to go to Pike Run, which is the
20 creek that goes down through Daisytown, and they said that
21 dried up many times and did not have sufficient water. So,
22 they elected not to take that. The third alternative was
23 this Crescent Mine water, and it was approved and permitted
24 in '29 and '30, 1929 and '30, as being the most reasonable
25 source of safe drinking water, according to the 1929 and

1 '30 standards. What I am trying to get at in recommending
2 that these other alternatives be considered is this is 70
3 years later and maybe it's time to reevaluate that. So
4 that a better source of water is now a half a mile away,
5 maybe even a little less than half a mile away, and maybe
6 that should be reevaluated.

7 Q. Would that reevaluation have to address
8 potential flow problems associated with an interconnection
9 and purchasing of additional volumes of water?

10 A. Certainly. I would think that--the study that I
11 recommended by my testimony, I would think that the company
12 would hire a competent engineer--I guess all engineers are
13 competent--but have all alternatives evaluated with, you
14 know, feasibility study accurate cost estimates put on them
15 so that somebody could look at those and determine if--for
16 one thing, the company can look at it and make a reasonable
17 decision, and so that somebody like O.C.A. could look at it
18 and see if the company is making a reasonable decision.

19 Q. Would you expect to find pipe problems if such
20 an interconnection were established?

21 A. No.

22 Q. Breakage, that kind of thing with the water
23 flowing in different directions and so forth?

24 A. Well, it is possible that if the interconnection
25 is made where I'm recommending it at the end of West Malden

1 Drive, that much water will be flowing in a different
2 direction in the pipe and it would create some dirty water
3 which would be flushed out. As far as pressure, there are
4 pressure reducing valves. There are all sorts of valves
5 and equipment that can be installed to prevent breakage due
6 to high pressure, for example.

7 Q. And those have yet to be determined but would be
8 part of the--

9 A. Of the study, certainly.

10 Q. Let's go on to the water pressure section of
11 your testimony. Now, I'm on page--it starts on Page 10.
12 And then over on Page 12, you state that, pressure is 23.8
13 psi to 34.2 psi at the main, depending on the water level
14 in the tank?

15 A. Yeah. This is my best guess.

16 Q. And it's based on mathematical calculation?

17 A. Well--

18 Q. I'm a lawyer. I'm not very good at math, but I
19 think that I--

20 A. These maps that we passed out, these blown up
21 topographical maps that we passed out, have lines drawn on
22 them which are 20 feet apart in elevation. So, you can
23 roughly determine what the elevation is by looking at these
24 drawings. They are known to be accurate to within
25 10 feet. So, you might look at a line that says 1,000 and

1 it could be 1,010 or it could be 990, but at least it puts
2 you in the ball park. And 10 feet is 4.3 psi. So, I went
3 through an analysis of trying to determine what the
4 pressure would be by looking at this map, and I came up
5 with some. Then I compared that to the pressure reading
6 that I took when I visited the system in May of '99 and
7 tried to determine if an adjustment should be made to what
8 I had determined by looking at this map. And I made an
9 adjustment, and I forget what it was. It may have been 3
10 psi. 3 psi, all right, but the proper way to do this is
11 for the company to have taken pressure surveys annually, as
12 they are supposed to do according to the P.U.C. regs, so
13 that I wouldn't have had to go through this and I would
14 have known what the pressure was and the low pressure--the
15 area that has--that the customers are complaining about
16 having low pressure.

17 Q. Let me ask you this. You are able to state in
18 your testimony what I read to you, that the pressure is
19 approximately 23.8 psi to 34.2 psi at the main in the high
20 point of the distribution system, right?

21 A. Yes.

22 Q. And that's depending on the water level in the
23 tank?

24 A. Yes.

25 Q. The 34.2 psi is when the tank is full?

1 A. Yes.

2 Q. And the 23.8 is at what tank level?

3 A. Empty.

4 Q. Empty?

5 A. Or at bottom. There might be--I don't know if
6 the tank can be emptied. Most of these tanks have a little
7 pipe that comes out six inches or a foot to collect
8 sediment. So, the tank may not even be able to be emptied.

9 Q. And how high is the tank?

10 A. 32 feet.

11 Q. Now, down on the bottom part of that page, you
12 testified that, sufficient information is not available to
13 determine if the normal operating pressure in the higher
14 areas falls below 25 psi?

15 A. That's correct.

16 Q. But you know that at the high point, the static
17 pressure, anyway, is between 23.8 and 34.2?

18 A. Yes.

19 Q. How many pressure tests did you take in your
20 various times?

21 A. I took pressure three places, and that was on
22 the first trip.

23 Q. And where did you take the pressure tests?

24 A. I took it at the highest house on Main Street,
25 the next to the highest house on Walkertown Hill, and I

1 also took it at a fairly high house on Main Street. I
2 think it's the Jones residence. It's one of the houses
3 that sits up high on the right-hand side and there is a
4 number of steps that go up.

5 Q. And what were those readings?

6 A. I don't have them available.

7 Q. Were they less than 25 psi?

8 A. No. But they were not taken at a time of high
9 usage.

10 Q. When is the time of high usage?

11 A. Well, the time of high usage probably fluctuates
12 from system to system, depending on if this is a
13 residential system. I would say high usage might occur on
14 Monday if there is a lot of stay at home mom's, or it might
15 occur on a weekend in the summer where people are watering
16 the lawns and washing the car or the dog or whatever.

17 Q. Okay.

18 A. And these certainly weren't taken at that time.

19 Q. You were provided with a reading from a
20 continuous recording pressure gauge, were you not?

21 A. Yes, I was.

22 Q. And is it your testimony that that gauge was
23 not--that that gauge did not read during a time of peak
24 usage?

25 A. Daily peak, yes. But seasonal peak, no. I

1 don't think a gauge installed in January, for example,
2 would hit the seasonal peak where people are washing their
3 cars or watering their lawns and so on. It would be very
4 untypical of a system to have a seasonal peak in January.

5 Q. But it does read the daily fluctuations?

6 A. Daily fluctuations, yes.

7 Q. And did that gauge indicate that pressure was
8 greater than 25 pounds per square inch during the peak
9 daily usage period?

10 A. At the place where the gauge was installed, it
11 did.

12 Q. Where was the gauge installed?

13 A. 95 Main Street.

14 Q. Is that at a high point in the system?

15 A. Not at the highest point in the system.

16 Q. Is it at a high point in the system?

17 A. It is in one of the higher areas of the system.

18 Q. How many points of usage are higher than 95 Main
19 Street?

20 A. Well, we didn't count the houses, but I suspect
21 there was--I suspect there may be 20.

22 Q. Twenty houses higher than 95 Main Street?

23 A. I'm guessing, but yes. Some of those houses are
24 double houses. The 20 I'm guessing at would include two
25 for every duplex.

1 ATTORNEY NIESEN: If Your Honor please, I would like
2 to have this marked as Redstone Exhibit No. 1. This is our
3 Interrogatory response which bears the continuous pressure
4 gauge reading for the period of January 13th through
5 January 19th, 2000. Could that be so identified?

6 JUDGE NEMEC: It may be so identified.

7 (Whereupon, the document was marked as
8 Redstone Exhibit No. 1 for
9 identification.)

10 ATTORNEY NIESEN: I have two copies for the
11 reporter.

12 BY ATTORNEY NIESEN:

13 Q. I will show you that, Mr. Fought. That's the
14 company's response to an O.C.A. Interrogatory III-2. Have
15 you seen that response prior to today?

16 A. Yes, I have.

17 Q. And is that not the reading from the continuous
18 recording pressure gauge?

19 A. Yes, it is.

20 Q. Can you read the gauge results?

21 A. Let me look at my copy, which is a little bit
22 better copy.

23 Q. Sure. We have the original.

24 A. I found my copy. It looks like it's generally
25 between 40 and 43 psi, with downward spikes of perhaps 35

1 psi.

2 Q. Down to 35 psi?

3 A. Yes. Yes.

4 Q. Okay.

5 A. I would like to note that was an incomplete
6 response to our Interrogatory, because we wanted
7 information to adjust these pressures to the highest point
8 in the distribution system, and that information was not
9 furnished to us by the company.

10 Q. Well, you don't dispute that you were given a
11 continuous recording pressure gauge reading at a high point
12 in the distribution system for a six-day period in January
13 of 2000, do you?

14 A. I do not dispute that.

15 Q. Now, on Page 16 of your testimony, you have a
16 statement in the second complete answer in response to the
17 question, what are your comments regarding the company's
18 pressure surveys. The second sentence reads, at O.C.A.'s
19 request, the company did record pressures near the high
20 point of its distribution system, but these readings were
21 not taken during the period of maximum usage. Now, we just
22 discussed this, but it was taken during a period of maximum
23 daily usage, was it not?

24 A. Max ma'am daily usage, but not maximum peak
25 seasonal usage.

1 Q. And that's a distinction that you intended to
2 draw with this wording in your testimony?

3 A. Yes.

4 Q. How would I reading your testimony understand
5 that?

6 ATTORNEY DUSMAN: Objection, Your Honor.

7 JUDGE NEMEC: Overruled.

8 ATTORNEY DUSMAN: A witness can't know how
9 Mr. Niesen would interpret something.

10 JUDGE NEMEC: The witness may answer the question.

11 A. You know, I don't know how you would interpret
12 this. If I was a lawyer and not an engineer, I would
13 probably get out the P.U.C. reg that covers this and look
14 at it and then determine that instead of what an engineer--
15 how an engineer has phrased it.

16 Q. So, an engineer reading the phrase but these
17 pressure readings were not taken during the period of
18 maximum usage would understand that you intended to say in
19 that phrase that you were referring to a period of maximum
20 seasonal usage?

21 A. To me, maximum seasonal usage is higher than a
22 maximum daily usage. So, yes, that would seem to make
23 sense to me.

24 Q. Okay. Now, a little bit on fire flows,
25 Mr. Fought. On Page 13 of your testimony, there is a

1 question that reads, do the pressures in the company's
2 distribution system comply with the applicable Pennsylvania
3 Department of Environmental Protection regulations. The
4 answer is, as you stated, no. PA D.E.P. requires that the
5 company maintain a minimum pressure of 20 psi at ground
6 levels at all points in the system under all conditions of
7 flow. Let me ask you--I think I have asked you this
8 before, but do you have any pressure test results that
9 shows a reading of less than 20 psi?

10 A. No.

11 Q. And the second sentence of your answer reads,
12 the lowest acceptable fire flow, 500 gallons per minute,
13 cannot be pumped out of the highest fire hydrant on Main
14 Street without creating negative pressure. 500 gallons per
15 minute is the lowest acceptable fire flow by whom?

16 A. Insurance Services Office. The Insurance
17 Services Office gives no credit for a reduction of service
18 rates for any fire flow less than 500 gallons a minute.
19 And as I had mentioned in that previous case or that
20 previous situation that we were involved with, the D.E.P.
21 was enforcing in that particular case that all hydrants had
22 to produce 500 gallons per minute for a two-hour fire,
23 which is 60,000 gallons total, or the hydrants had to be
24 removed and they required the water company to remove those
25 hydrants. So, this is, again, one of these standards that

1 probably is enforceable but not necessarily enforced.

2 Q. D.E.P. doesn't have an acceptable fire flow
3 requirement of 500 gallons per minute?

4 ATTORNEY DUSMAN: Your Honor, is there a question?

5 JUDGE NEMEC: I don't know. Is that a question?

6 ATTORNEY NIESEN: I will rephrase it.

7 BY ATTORNEY NIESEN:

8 Q. Does D.E.P. have a regulation which states that
9 the lowest acceptable fire flow is 500 gallons per minute?

10 A. I have not seen that in the D.E.P. regulations,
11 but they did enforce it in that one particular instance,
12 and it's probably because everybody seems to accept this
13 Insurance Services Office.

14 Q. They enforce the 500 gallons per minute flow or
15 the six-inch underneath the hydrant situation?

16 A. I think it was the--I can't say for sure. It
17 either violated one or the other. And they required the
18 company to perform an analysis of all the hydrants in their
19 system to prove that all the hydrants either did or did not
20 have the ability of producing 500 gallons a minute and for
21 a duration of two hours, and apparently those that did not
22 pass had to be removed.

23 Q. Removed?

24 A. There were some that--this company was also
25 building a proposed storage tank at the time, and those

1 that would pass once that proposed storage tank went up
2 were covered with black plastic bags until the storage tank
3 was completed and put in operation.

4 Q. Once removed, how was fire protection provided
5 to the community where this situation occurred?

6 A. I would assume it was provided by tanker
7 trucks.

8 Q. Tanker trucks owned by whom?

9 A. Well--

10 Q. Not the water company?

11 A. Either the municipality or volunteer fire
12 company.

13 Q. Now, the situation about negative pressure that
14 you present on Page 13, that's a hypothetical, isn't it?

15 A. Yeah, it is. But I think that is the reason why
16 they at least want new systems to comply with the six-inch
17 pipe and the fire flow. Because, you know, a fire chief or
18 assistant fire chief, or maybe not the normal company that
19 serves that area, they might be fighting fires somewhere
20 else or on vacation, but some other fire company may come
21 out, and if it looks like a fire hydrant, they might expect
22 to get 500 gallons a minute out of it.

23 Q. My question is, to your knowledge, has this ever
24 happened in the Crescent Heights--

25 A. No.

1 Q. --area of the Redstone system?

2 A. To my knowledge, I don't have any idea whether
3 it happened or not. I think it is one of these things that
4 you make sure it doesn't happen.

5 Q. In your testimony, you discuss a Public Utility
6 Commission proceeding involving Jean Moodler v. Appalachian
7 Utilities. It's on Page 7 of your testimony.

8 A. Yes.

9 Q. You note that the complaints about hardness were
10 dismissed in that case?

11 A. Yes.

12 Q. Did you read that decision, by the way?

13 A. Yes.

14 Q. When is the last time you read it?

15 A. Oh, when I was preparing my Direct Testimony.

16 Q. And how long ago was that?

17 A. I forget the date that this was submitted, but
18 it was a couple months ago. But much of it, I didn't
19 understand because I'm not a lawyer. But I understood
20 those parts that I thought were important to my testimony.

21 Q. Did you understand Judge Cocheres' conclusion on
22 page--Judge Cocheres' conclusion that the issue is not
23 customer dissatisfaction but rather whether providing hard
24 water is a violation of the statute, I find that providing
25 hard water is not a violation of the statute. The statute

1 provides that the product shall be adequate or reasonable,
2 not a perfect match to the customer's expectations. In
3 essence, the customers failed to carrying their burden of
4 proving that the company had violated the statute. Do you
5 remember reading that?

6 A. Yes, I do.

7 Q. And did you understand that when you read it?

8 A. I understood it. That's why I said that--what I
9 did as a response to that question, that the hardness
10 problem was enforceable or--what page was that again? I
11 lost my page.

12 Q. The page of your testimony?

13 A. Yes.

14 Q. Your discussion of Moodler is on Page 7.

15 A. Yeah. The points about hardness were
16 dismissed.

17 Q. All right.

18 ATTORNEY NIESEN: Your Honor, if I could have five
19 minutes, I may be done.

20 JUDGE NEMEC: Sure. It's a good time to take a
21 five-minute break.

22 ATTORNEY NIESEN: Thank you.

23 (Whereupon, a recess was taken from
24 10:45 A.M. to 10:57 A.M.)

25 BY ATTORNEY NIESEN:

1 Q. I have another question or two for you. We were
2 talking about fire flows, and I thought that you said that
3 the insurance people provide no premium rating for--

4 A. No credit for reduction in insurance rates for
5 fire hydrants that put out less than 500 gallons a minute.

6 Q. You are familiar with an organization called
7 Insurance Services Office, Inc.?

8 A. Yes.

9 Q. What do they do?

10 A. They take fire flowage tests in water systems
11 and they use this information for the insurance rates.
12 They evaluate the fire companies, the water systems, and so
13 on, and they come up with how fire insurance rates should
14 be.

15 ATTORNEY NIESEN: If Your Honor please, I would like
16 to have this marked as Redstone Exhibit No. 2. It's a
17 letter from the Insurance Services Office dated
18 September 25, 1997, and attached to it is a gradient sheet
19 for West Pike Run Township, Washington County.

20 JUDGE NEMEC: It may be so identified.

21 (Whereupon, the document was marked as
22 Redstone Exhibit No. 2 for
23 identification.)

24 ATTORNEY NIESEN: I only have one copy of this at
25 the moment.

1 JUDGE NEMEC: We can make copies. Show it to
2 counsel.

3 (Document handed to counsel.)

4 BY ATTORNEY NIESEN:

5 Q. I know you haven't seen this before, Mr. Fought,
6 but let me show you Redstone Exhibit No. 2 and ask you to
7 take a look at it. After you become familiar with it, let
8 me know and I will have a question for you.

9 ATTORNEY DUSMAN: Your Honor, I have to object to
10 any further questioning on this because this document has
11 just appeared. There is no one here to authenticate this
12 document at all. And to expect Mr. Fought to answer any
13 questions about it is just unreasonable.

14 JUDGE NEMEC: Let's see what Mr. Fought has to say
15 about it. Let's see what the questions are first.

16 A. Okay.

17 Q. Does the gradient sheet indicate that credit was
18 given for water supply--

19 JUDGE NEMEC: First of all, let's see if the witness
20 recognizes anything about the document. Have you seen
21 anything like this before, Mr. Fought?

22 THE WITNESS: Yes, I have.

23 BY ATTORNEY NIESEN:

24 Q. And what do you recognize it to be, in your
25 experience?

1 A. It appears to be a gradient sheet results of
2 hydrant flow tests. It appears that I misspoke. They did
3 give some credit--

4 ATTORNEY DUSMAN: Objection. Your Honor, the
5 company is now attempting to make Mr. Fought their own
6 witness. If they want this document into evidence, they
7 can have one of their witnesses--

8 JUDGE NEMEC: I disagree. It's Cross-examination.
9 It's appropriate to present a document such as this at this
10 time.

11 A. It looks to be--you know, it's not really clear
12 to me because I don't know how it affects insurance rates,
13 but it does appear from this document that there is some
14 credit given for water supply. Now, if that credit is
15 given because of hydrant flow tests, I don't know, but
16 there is a credit given for water supply here.

17 Q. Thank you.

18 ATTORNEY NIESEN: If Your Honor pleases, that
19 completes our Cross-examination. We move into the record
20 Redstone Exhibit No. 1 as well as Redstone Exhibit No. 2.

21 JUDGE NEMEC: Redstone Exhibit No. 1 is admitted.

22 (Whereupon, the document marked as
23 Redstone Exhibit No. 1 was admitted into
24 evidence.)

25 JUDGE NEMEC: 2, I will hold off on ruling on that.

1 I know there is going to be objections, and I want you to
2 provide some authenticating testimony with regard to
3 Mr. Yablonski when he is the witness and then we will deal
4 with it at that time.

5 ATTORNEY NIESEN: I don't want to waive--I don't
6 think Ms. Dusman--we are getting to the point where the
7 Fought exhibits are being moved into the record. I do have
8 a position with respect to some of those.

9 JUDGE NEMEC: Okay.

10 ATTORNEY NIESEN: My Cross-examination is complete.

11 ATTORNEY DUSMAN: May I have just a moment,
12 Your Honor?

13 JUDGE NEMEC: Sure.

14 (Brief pause.)

15 ATTORNEY DUSMAN: Thank you for your indulgence,
16 Your Honor. I have some questions on Redirect.

17 JUDGE NEMEC: Go ahead.

18 R E D I R E C T E X A M I N A T I O N

19 BY ATTORNEY DUSMAN:

20 Q. First of all, Mr. Fought, Mr. Niesen made a
21 motion with respect to several statements in your
22 testimony, one of them being that you were advised by a
23 D.E.P. employee concerning the hardness levels of the
24 Appalachian water that was the subject of the Moodler
25 complaint. Do you recall those questions and their

1 answers?

2 A. Yes.

3 Q. Okay. Was I correct when I said that you first
4 orally received that information over the phone from the
5 D.E.P. employee?

6 A. No. You were incorrect.

7 Q. Would you please state how you originally got
8 that information?

9 A. I received a tabulation by e-mail from a D.E.P.
10 employee of various hardness levels in the region,
11 including the two Appalachian wells, and I used that
12 information for my testimony. We later went back to get
13 further information from D.E.P. to determine the other
14 characteristics of the water--to get the other
15 characteristics of the water, such as total dissolved
16 solids and so on to see if they had also exceeded to verify
17 that those secondary requirements were not exceeded for the
18 Appalachian water.

19 Q. And did the subsequent documents that you
20 received corroborate the initial document that you received
21 with the numbers that appear on Page 8 of your testimony?

22 A. Yes.

23 Q. And during the break, did you look at the
24 document that was received from the D.E.P. concerning those
25 hardness levels and other information on water for the

1 regions?

2 A. Yes.

3 Q. Do you now have any reason to doubt the truth of
4 those statements?

5 ATTORNEY NIESEN: I object to that. How does he
6 know that? It doesn't cure the hearsay problem to say that
7 it's in writing. The objection is still there and it is
8 still hearsay.

9 ATTORNEY DUSMAN: Experts have the ability to judge
10 the credibility of statements given to them, particularly
11 by government employees that come from public records.

12 ATTORNEY NIESEN: I certainly--

13 JUDGE NEMEC: Well, I believe I took under
14 advisement the prior objection. I don't remember at this
15 point.

16 ATTORNEY DUSMAN: That's my recollection,
17 Your Honor.

18 JUDGE NEMEC: I think that if you want, you may
19 revise your question. Could you read back the question?

20 (Whereupon, the court reporter read from
21 the record as requested.)

22 JUDGE NEMEC: I think probably counsel is troubled
23 by your use of truth of these statements.

24 ATTORNEY DUSMAN: I will rephrase, Your Honor.

25 JUDGE NEMEC: Go ahead.

1 BY ATTORNEY DUSMAN:

2 Q. In your experience as an expert witness, are
3 these statements the type that are reliable?

4 A. Yes.

5 ATTORNEY NIESEN: What statements?

6 ATTORNEY DUSMAN: The statements made by the D.E.P.
7 employee concerning the hardness levels of water in the
8 region.

9 ATTORNEY NIESEN: I won't belabor it. I just want
10 my objection noted on the record. That he says he has
11 talked to people, I think that's objectionable. I think if
12 he is not trying to buttress that by saying he looked at
13 documents to support that, I want my objection noted to
14 that as well.

15 JUDGE NEMEC: The objection is noted. And I'm
16 taking it all under advisement until such time that I
17 review the entire transcript.

18 ATTORNEY DUSMAN: Thank you, Your Honor.

19 BY ATTORNEY DUSMAN:

20 Q. According to Tri-County representatives, you say
21 on Page 9, Tri-County now owns the abandoned pipeline that
22 was used to provide Daisytown with Richeyville water
23 through the mine. Now, that statement, Mr. Fought, you
24 said, was based on a statement made to you by Tri-County?

25 ATTORNEY NIESEN: And I want my objection noted to

1 anything along this line where counsel is trying to support
2 the admission of these two sentences from Page 9. I think
3 it's clearly hearsay.

4 ATTORNEY DUSMAN: I'm trying to elucidate,
5 Your Honor, why Mr. Fought feels they are reliable
6 statements. And in making a ruling, I'm sure Your Honor
7 would like to know what the indicia of reliability are
8 surrounding these statements.

9 JUDGE NEMEC: I believe he addressed that, but I
10 will permit the question. Go ahead and answer, sir.

11 BY ATTORNEY DUSMAN:

12 Q. Thank you. When you wrote that sentence,
13 Mr. Fought, did you have in mind the meeting that you had
14 with Tri-County representative Jeff Kovach on March 9th?

15 A. Yes.

16 ATTORNEY NIESEN: It's leading. I object to that.
17 It's a leading question, did you have in mind a meeting.

18 JUDGE NEMEC: He testified to a previous meeting
19 with Mr. Kovach. Yes, it's leading. On that basis, it's
20 objectionable, but I'm going to overrule the question.
21 Answer the question, sir.

22 A. Yes.

23 Q. In addition to statements made, was there any
24 other--was there a document offered for you to review to
25 determine the location of the abandoned pipeline that you

1 are referring?

2 ATTORNEY NIESEN: Your Honor, please note my
3 objection to all of it.

4 JUDGE NEMEC: Yeah. If there was a document, that's
5 something that could have been offered previously or
6 mentioned. But go ahead.

7 A. Yes. He showed me a very old map showing the
8 location of this line from Richeyville to Daisytown.

9 JUDGE NEMEC: Is this the one that was put in--

10 THE WITNESS: 17,000 feet in the mine.

11 JUDGE NEMEC: And now the mine has been closed off?

12 THE WITNESS: Yes.

13 JUDGE NEMEC: That's something that in your
14 testimony?

15 THE WITNESS: Yes, it is.

16 JUDGE NEMEC: And this was a long time ago?

17 THE WITNESS: Yes.

18 JUDGE NEMEC: My understanding of your testimony on
19 that subject was that because that line existed at some
20 point and now is no longer usable or serviceable, that that
21 might serve as a basis for seeking funding to replace it.

22 THE WITNESS: For Tri-County.

23 JUDGE NEMEC: For Tri-County to.

24 THE WITNESS: Tri-County seeking funding to replace
25 it.

1 JUDGE NEMEC: All right. Just to make sure I
2 understand your testimony correctly.

3 THE WITNESS: Yes.

4 BY ATTORNEY DUSMAN:

5 Q. Do you recall Mr. Niesen's questions to you
6 about observing the white particles in the customer's
7 water?

8 A. Yes.

9 Q. And in answer to his question, could the white
10 particles have been the scale from a pipe, I believe you
11 said it could have been?

12 A. Yes.

13 Q. If it was a scale from the pipe, would that not
14 also have resulted from the water itself? In other words,
15 the scale from the pipe would have been--

16 A. Yes.

17 Q. --resulted from the water?

18 A. Yes.

19 Q. Could you explain that?

20 A. As was shown by the Complainants yesterday, some
21 of these particles settle out in the hot water tank and
22 they form on faucets and so on. And they also form inside
23 the pipe a little bit in different places, and every once
24 in a while, one of these can break free. And if it breaks
25 free, it can end up in a glass of water. If it happens to

1 break free and go into a washing machine and it has iron
2 and manganese in it, it might stain the water, if it's hot
3 water and Clorox. But, yes, to answer your question, most
4 particles can be related to hardness.

5 Q. All right. Speaking of hardness of the water,
6 do you recall Mr. Niesen's questions to you about the fact
7 that there is no standard per se for hardness levels in
8 drinking water?

9 A. That's correct.

10 Q. And I believe that your response was that's
11 correct, there is no standard for hardness per se?

12 A. That's correct.

13 Q. Would you please explain how hardness levels in
14 water relate to the standard for total dissolved solids,
15 which is a secondary maximum contaminant level?

16 A. The minerals that comprise hardness and are
17 expressed at CaCO_3 , calcium carbonate, those minerals are
18 also counted in the determination of how much the total
19 dissolved solids are.

20 Q. Okay. And it's not just the CaCO_3 , is it?

21 A. No. No. It doesn't have anything--the calcium,
22 maybe. The CaCO_3 , it's the minerals that comprise the
23 carbon constituents that form the total dissolved solids.

24 Q. If you could just refer for a moment to your
25 Exhibit No. 1, TLF-1. Looking down the list of the various

1 factors for which we test, can you identify any other
2 elements that contribute to total dissolved solids in
3 drinking water?

4 A. You know, there may be some, but I don't know.
5 You know, total dissolved solids is everything--you take a
6 sampling of water, you weigh it, you evaporate everything
7 out, and you weigh what's left. First of all, you get the
8 sediment solid. So, any solids that settle, you take out.
9 Then you evaporate everything that's left. Everything is
10 weighed, and that's total dissolved solids. So, there may
11 be other things other than this list that comprise total
12 dissolved solids.

13 Q. Is sodium one of the things that might
14 contribute to that?

15 A. Sodium would be, yes. Any mineral.

16 Q. Any mineral on this list--

17 A. Or--

18 Q. --may wind up in total dissolved solids?

19 A. Any mineral in the water that is or is not on
20 this list.

21 Q. So, do you recall Mr. Niesen's question to you
22 about hardness not having a bearing on the aesthetic
23 quality of water?

24 A. I don't remember his question, but--

25 Q. Do you remember your answer?

1 A. If he asked that question, I would have probably
2 said that--what was the question again? You know, you
3 confused me.

4 Q. Mr. Niesen suggested that the fact that there
5 isn't a standard for hardness per se indicates that it's
6 not contributed to the aesthetic quality of water?

7 ATTORNEY NIESEN: I object. I didn't suggest
8 anything. I asked the question which he answered. However
9 he answered it, it's on the record.

10 JUDGE NEMEC: I don't think that that's a fair
11 characterization of the question. I remember the question
12 and answer.

13 ATTORNEY DUSMAN: I will go on.

14 JUDGE NEMEC: You can ask him--well, go ahead.

15 ATTORNEY DUSMAN: I will go on.

16 BY ATTORNEY DUSMAN:

17 Q. To the extent that very, very high levels of
18 hardness contribute to high levels of total dissolved
19 solids, that affects the aesthetic quality of water,
20 doesn't it?

21 A. Yes.

22 Q. Now, in answer to Mr. Niesen's questions about
23 the enforceability of secondary MCLs, do you recall that
24 you stated, I was advised by the O.C.A. that secondary MCLs
25 are enforceable in Pennsylvania?

1 A. Yes.

2 Q. Do you also recall actually looking at the
3 Department of Environmental Protection regulations
4 concerning secondary MCLs?

5 A. Yes.

6 Q. And do you now recall that you have an
7 independent knowledge that those regs are enforceable?

8 A. Yes.

9 Q. Okay.

10 ATTORNEY DUSMAN: That's not to say you shouldn't
11 rely on the O.C.A. solely, but I wanted to point out that
12 he had another basis for that understanding.

13 BY ATTORNEY DUSMAN:

14 Q. Turning to Redstone Water Exhibit No. 1, which
15 has been admitted--

16 A. Yes.

17 Q. --during the break, did you review some
18 correspondence to refresh your recollection about our
19 request to the company to provide a complete response to
20 O.C.A. Interrogatory III-2?

21 A. Yes.

22 Q. Would you please tell the judge what we did to
23 try to get the information concerning the elevations at
24 which the pressure tests were taken?

25 A. Well--

1 Q. To the best of your recollection.

2 A. First, we requested that they put a pressure
3 gauge on the highest fire hydrant on Main Street and give
4 us the difference in elevation from where the gauge is to
5 the highest point in the distribution system. And the
6 company came back and said--at first, they said they didn't
7 have a recording gauge and that we shouldn't have asked
8 them to do it. But then after they were reminded that they
9 were supposed to provide pressure surveys, they came back
10 and they put a gauge at the house at 95 Main Street, which
11 is not too far from the highest fire hydrant, and gave us
12 the pressure gauge reading, the exhibit.

13 Q. And then--

14 A. Then we went back and we asked them for the
15 difference in elevation from that pressure gauge to the
16 highest point in the main on Main Street, and they came
17 back and gave us the difference in elevation--first, they
18 gave us an elevation and they said that that answered our
19 question. And then they came back and said, well, they
20 misspoke or miswrote, and really that elevation was a
21 difference in elevation between the gauge and the highest
22 fire hydrant that we had initially asked for. And then we
23 had requested that they give us the information from the
24 gauge or the fire hydrant to the highest point on Main
25 Street so that we could convert the pressures on their

1 gauge to the highest point in the distribution system, and
2 they never gave us that data.

3 ATTORNEY DUSMAN: Just a moment.

4 (Brief pause.)

5 ATTORNEY DUSMAN: Nothing further, Your Honor.

6 JUDGE NEMEC: Recross?

7 ATTORNEY NIESEN: Yes.

8 R E C R O S S - E X A M I N A T I O N

9 BY ATTORNEY NIESEN:

10 Q. The point of the pressure gauge, the location of
11 it is, in your words, not too far from the highest point in
12 the system, right?

13 A. Right.

14 Q. You looked at Redstone Exhibit No. 1 earlier and
15 you told me what the continuous pressure readings were?

16 A. Yes.

17 Q. And what were they? Generally between 42 and--

18 A. I think generally between 40 and 43 psi with
19 downward spikes to 35.

20 Q. Mathematically, you can do a calculation, can't
21 you, which would tell you what difference in elevation that
22 those readings would be necessary to bring the pressure
23 below 20 psi? Can't you tell me how high--

24 A. Between 25 psi or 20 psi, yes, I could do that.

25 Q. You could do that. And what difference in

1 elevation would there have to be between that point and the
2 highest point in the system to bring that pressure gauge
3 reading down to 25?

4 JUDGE NEMEC: Do you need a calculator?

5 THE WITNESS: Yes, please.

6 A. What pressure would you like me to work with?

7 Q. Let's do the 20, the D.E.P.--

8 A. And the other pressure?

9 Q. The 25 from the Public Utility Commission. Do
10 you understand what I'm asking you to do?

11 A. Well, can you lead me through this. What gauge
12 pressure are we going to work with?

13 Q. Well, you said it was between 40 and 43.

14 A. Which one do you want me to work with?

15 Q. Well, use the 43.

16 A. 43 psi down to 25 psi?

17 Q. Yeah. Let's do that.

18 A. Down to 25 psi is 18 psi.

19 Q. The difference?

20 A. The difference is 18 psi, which relates to 41
21 and a half feet.

22 Q. 41 and a half?

23 A. In elevation.

24 Q. All right. Do you think there is a 41-foot
25 difference between the location of the continuous pressure

1 gauge and the highest point in the system?

2 A. I don't know, because the company didn't give me
3 that information.

4 Q. You have been to the system how many times?

5 A. I have driven it a number of times. This road
6 does go up. I do not know where the gauge was set at the
7 house. I don't know if it was set at the basement. I
8 don't know if it was set on the second story. I do not
9 know the difference in elevation, so I don't know. It
10 could be 41.5.

11 Q. It could be less than 41?

12 A. It could be less. And it also depends on what
13 the water elevation in the tank was.

14 Q. Okay.

15 A. The elevation that these gauge readings were
16 taken when the tank was full, I would suspect--

17 Q. The gauge readings were for a six-day period,
18 right?

19 A. Well, I would suspect that the company went out
20 of its way to make sure that tank was full during this
21 period. If they were smart, they did that.

22 Q. You have no indication?

23 A. I have no indication, but I assume Mr. Yablonski
24 is a very smart fellow. I know I would have.

25 ATTORNEY NIESEN: I will make copies of the

1 correspondence that went back and forth concerning this
2 matter and be glad to put it into the record, and that will
3 clear it up.

4 BY ATTORNEY NIESEN:

5 Q. It wasn't put outside--and I thought we all
6 understood this. The reason it was put in the house to--

7 A. Keep it from freezing.

8 Q. Keep it from freezing. Everybody understood.
9 And that was reasonable to you?

10 A. It was reasonable, yes. What wasn't reasonable
11 was we didn't get the difference in elevation from the
12 gauge, or we have no idea where that gauge was. These
13 houses, there is high houses and low houses right in that
14 area and the road is in between, and that gauge could have
15 been put anywhere in the house from a tap in the basement
16 to a tap on the highest story. That's a difference of,
17 what, maybe 10 or 12 feet right there, low basement to high
18 second story.

19 Q. Where should it have been put? Where would you
20 have wanted it to be put?

21 A. I would have put it at the most convenient place
22 and I would have taken a picture of it at the most
23 convenient place so somebody else could have come back and
24 got differences in elevations. A surveyor, for example,
25 could have come back and got differences in elevations from

1 the gauge where it was located.

2 Q. Okay. Let me ask you about the TDS answers that
3 you gave Ms. Dusman. As I understood it, you are saying
4 that hardness is part of the total dissolved solids?

5 A. What I'm saying is the minerals that comprise
6 the hardness are also counted in the total dissolved
7 solids.

8 Q. Okay. Let's look at that. Let's take one, for
9 an example. Do you have your Exhibit 1 there with you?

10 A. Yes, I do.

11 Q. And I will just use--let's look at September 30,
12 '91, as an example, that column, that tabulated column.

13 A. Okay.

14 Q. It shows total dissolved solids, 852 milligrams
15 per liter; and if you read down, total hardness calcium
16 carbonate, 448 milligrams per liter?

17 A. Yes.

18 Q. The calcium carbonate is one of the solids
19 measured in the total dissolved solids?

20 A. No. You can't subtract--

21 Q. You can't do that?

22 A. No, you cannot do that. Because the carbonate
23 part doesn't totally end up to be part of the total
24 dissolved solids. Hardness is expressed in terms of
25 carbonate, and part of that carbonate is oxygen and it

1 disappears. So, you can't take one and subtract--

2 Q. You can't relate one to the other?

3 A. No.

4 Q. All right. Thanks, Mr. Fought.

5 ATTORNEY DUSMAN: Just one point, Your Honor.

6 FURTHER REDIRECT EXAMINATION

7 BY ATTORNEY DUSMAN:

8 Q. Mr. Fought, do you recall Mr. Niesen's questions
9 to you concerning the pressure testing, the six-day
10 pressure testing?

11 A. Yes.

12 Q. And I believe you answered that you thought it
13 would have been smart to keep the tank full the whole time
14 that the test was being taken?

15 A. That's correct.

16 Q. But do we have a record of that period of time,
17 the tank levels during that period of time?

18 A. No.

19 Q. In response to discovery, however, you did have
20 a chance to review the company's records of the tank levels
21 during another period, did you not?

22 A. Yes.

23 Q. And what did that review show concerning how
24 much of the time the tank was full and how much of the time
25 it was less than half full?

1 A. This period of time was from January 1, '99
2 through, except the last two days of July in '99, and I
3 took out the period between January 9th and 17th when there
4 was this water crisis due to the line break on Malden
5 Road. And I just counted the number of days that it was
6 noted that the tank was half full or less, and it was
7 approximately nine percent of the days that the tank was
8 half full or less.

9 ATTORNEY DUSMAN: I don't have anything further,
10 Your Honor.

11 FURTHER RECROSS - EXAMINATION

12 BY ATTORNEY NIESEN:

13 Q. What is the elevation of the tank? Not the
14 elevation, but how high is the tank from top to bottom?

15 A. 32 feet.

16 Q. Thank you.

17 ATTORNEY NIESEN: That's all I have.

18 JUDGE NEMEC: Thank you, sir. You are excused.

19 (Witness excused.)

20 ATTORNEY DUSMAN: Your Honor, with that, I again
21 would move in O.C.A. Statement 1. Oh, you have already
22 admitted O.C.A. Statement 1.

23 JUDGE NEMEC: Statement 1, Exhibit 1, Exhibit 1-S,
24 and Exhibit 2.

25 ATTORNEY NIESEN: With regard to that point, I have

1 an objection to that portion of Exhibit No. 1 which
2 concerns the water quality test results for October 21,
3 1999, it's the last three columns of the Exhibit 1, Page 1,
4 and the supporting schedules for it, which I believe are
5 Pages 25 through 31, inclusive. Mr. Fought did not conduct
6 those tests himself. Therefore, it's objectionable
7 hearsay. In addition, I object to the admission of O.C.A.
8 Exhibit No. 2, which Mr. Fought clearly testified could
9 have been produced prior to today but was not produced.

10 JUDGE NEMEC: Okay. With regard to objection to the
11 portions of Schedule TLF-1 for the date of 10/21/99, that
12 objection is overruled. With regard to O.C.A. 2, I agree
13 with you, it could have been produced sooner. I think that
14 failure to produce it in this circumstances is harmless in
15 that it's drawn from--the witness was very clear that the
16 information on there was drawn from materials provided by
17 the company. What I'm inclined to do is grant you 30 days
18 to review the accurateness of 2 and compare it to your own
19 records, and should you come up with some material that's
20 significant variations in accuracy that you feel should
21 cause serious problems with O.C.A. 2, then you may so
22 advise me and counsel for O.C.A. in writing and we will
23 deal with it at that time. But if he has done what he has
24 said he has done and done it accurately, then it is no more
25 than a compilation, and a very helpful compilation I might

1 note, of materials provided by the company to him.

2 Anything else?

3 ATTORNEY NIESEN: Not from me, no.

4 JUDGE NEMEC: Okay. You may call your next
5 witness.

6 ATTORNEY DUSMAN: The O.C.A. calls Marilyn Kraus,
7 and Ms. Horting will be doing her Direct.

8 (Witness sworn.)

9 ATTORNEY NIESEN: Your Honor, we have previously
10 distributed to the parties and we have provided to the
11 court reporter two copies of the statement related to the
12 Direct Testimony of Marilyn J. Kraus on behalf of the
13 Office of Consumer Advocate. This document has been
14 premarked as O.C.A. Statement No. 2.

15 JUDGE NEMEC: Yes.

16 ATTORNEY HORTING: And we would ask that the
17 statement be identified for the record as marked.

18 JUDGE NEMEC: It may be so identified.

19 (Whereupon, the document was marked as
20 O.C.A. Statement Exhibit No. 2 for
21 identification.)

22 MARILYN J. KRAUS, a witness herein,
23 called on behalf of the Complainants, having first been
24 duly sworn, was examined and testified as follows:

25

D I R E C T E X A M I N A T I O N

1
2 BY ATTORNEY HORTING:

3 Q. Ms. Kraus, do you have a copy of O.C.A.
4 Statement 2 which has been marked for the record?

5 A. Yes.

6 Q. And does this document contain your Direct
7 Testimony in question and answer form?

8 A. Yes, it does.

9 Q. And attached to this document is Appendix 1
10 containing your background and qualifications?

11 A. That's correct.

12 Q. If I were to ask you the questions contained in
13 this document today, would your answers be the same as
14 those contained in O.C.A. Statement No. 2?

15 A. Yes, they would.

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

18 A. Yes, it was.

19 Q. And are the answers contained in Statement No. 2
20 true and correct, to the best of your knowledge,
21 information, and belief?

22 A. Yes.

23 ATTORNEY HORTING: Your Honor, I would like to move
24 for admission of O.C.A. Statement No. 2 into the record.

25 JUDGE NEMEC: O.C.A. Statement No. 2 with attached

1 Appendix 1 is admitted subject to later motion and/or
2 objection by counsel for the Respondent.

3 (Whereupon, the document marked as O.C.A.
4 Statement No. 2 was admitted into
5 evidence.)

6 ATTORNEY HORTING: The witness is available for
7 Cross-examination.

8 JUDGE NEMEC: You may proceed.

9 C R O S S - E X A M I N A T I O N

10 BY ATTORNEY NIESEN:

11 Q. Good morning, Ms. Kraus.

12 A. Good morning.

13 Q. You are a senior regulatory analyst--

14 A. That's correct.

15 Q. --with the Pennsylvania Office of Consumer
16 Advocate?

17 A. Yes.

18 Q. Could you describe what your duties are as a
19 senior regulatory analyst? I will make it easy for you.
20 Do you review utility rate filings as part of that
21 position?

22 A. Yes, I do.

23 Q. Water company filings in particular, or for all
24 filings?

25 A. All filings.

1 Q. Now, on Page 3 of your testimony, actually it
2 starts on the bottom of 2 and continues over to 3, you
3 state that the Redstone rates, current rates, are
4 relatively high. Now, relatively, I assume that by
5 phrasing it in that fashion, you mean to say that you
6 reviewed certain other utility rates and compared them with
7 the Redstone rates?

8 A. Yes.

9 Q. Which companies did you review as part of that
10 comparison?

11 A. Basically, the companies who have most recently
12 filed, cases that I have reviewed. One in particular is
13 Venango Water Company. And the characteristics are
14 somewhat similar to Redstone in that it's a fairly small
15 water company, not a lot of customers.

16 Q. How many customers does Venango Water Company
17 have?

18 A. I can't recall offhand. Less than 2,000.
19 That's the best ball park number I can give you.

20 Q. Where is its service territory?

21 A. In Venango County.

22 Q. Is it a surface water company or a well water
23 company?

24 A. They have got several systems in that area, and
25 Venango in particular, I couldn't--I can't recall offhand.

1 Q. Venango has several systems, or there are
2 several systems in Venango County?

3 A. Well, there are several systems owned in common
4 with the owners of Venango. And now, I can't recall which
5 ones--

6 Q. The owner of Venango has ownership of other
7 water companies?

8 A. Yes. In the same general vicinity.

9 Q. Is that the only company that you reviewed in
10 making your statement on the bottom of 2 and the top of
11 Page 3?

12 A. No. I also looked at the some of the larger
13 water companies as well, Pennsylvania American,
14 Philadelphia Suburban Water Company. In my opinion,
15 comparing those are not as relevant because of the size and
16 the number of customers over which they have to spread
17 costs.

18 Q. Any other company?

19 A. Now, I can't recall offhand the others that I
20 looked at. Probably a half a dozen that I had on my desk.

21 Q. Half a dozen more?

22 A. Half a dozen more, yes.

23 Q. And these are rate filings or tariffs? What
24 were they that you had on your desk?

25 A. Most of them were rate filings.

1 Q. Current pending filings?

2 A. Correct.

3 Q. And did you compare the existing rates or the
4 proposed rates?

5 A. The proposed.

6 Q. The proposed rates?

7 A. Yes.

8 Q. Now, on Page 3 in the last answer on the page,
9 you say that, although the O.C.A. agrees that the rates are
10 high. Now, did you review the Redstone rate filing back in
11 1997?

12 A. Yes, I did.

13 Q. You remember doing that?

14 A. I remember reviewing it, yes.

15 Q. And the O.C.A. was not an Intervener or a
16 Complainer in that case, as I recall?

17 A. No, we were not.

18 Q. So, you thought the rates were high and you
19 decided not to intervene or complain in that case?

20 A. Our decision whether to intervene in a case or
21 not intervene in a case is not solely based on whether we
22 think the proposed rates are too high or whether there are
23 issues in the case. Very often, it's simply a matter of
24 volume. I am the only financial analyst that handles cases
25 of this size in the office.

1 Q. So, these rates in that case weren't high enough
2 to draw your attention to the case?

3 A. No. That's not true at all. We look at the
4 issues very often. I am in contact with people over at the
5 Commission. And, like I said, it's generally a matter of
6 volume.

7 Q. Well, just tell me this. Back in that time
8 frame, in the 1997 time frame, you reviewed the case and at
9 that time, you were also of the view that the company's
10 proposed rates were high?

11 A. Yes.

12 Q. You recall having that opinion?

13 A. Yes, I do.

14 Q. And did you recommend, then, that the O.C.A.
15 become involved in the case because you felt that the rates
16 were high?

17 ATTORNEY HORTING: Objection, Your Honor.

18 ATTORNEY NIESEN: On what basis?

19 ATTORNEY HORTING: This has already been asked and
20 answered.

21 ATTORNEY NIESEN: I don't remember asking what her
22 recommendation was.

23 JUDGE NEMEC: The objection is overruled. Please
24 answer.

25 A. My recommendation was that the proposed rates

1 were too high, that there were several adjustments just
2 based on an accounting review that I believed could have
3 been proposed or recommended. In many cases, when
4 determining whether we should get into a case or not is
5 based on the time that we have available to us. If you
6 recall, '97 was the period of the electric restructuring
7 cases. Our office was extremely busy, both myself as well
8 as the attorneys. We believe that the issues I have
9 identified are not extremely controversial and we see
10 generally handled in settlements, in action orders. We
11 have no choice but to rely on the Commission staff to
12 address those issues and to, you know, refrain from
13 intervening based on the available resources we have in our
14 office.

15 Q. Were you a witness in any electric restructuring
16 case?

17 A. Yes, I was.

18 Q. Which one?

19 A. Actually, I don't think any of them ever went to
20 hearing. I did the Pike County case, I did the
21 Wellsborough, and I did the Citizens Electric. All of
22 those, as I recall, resulted in settlements. However, I
23 was actively involved in reviewing the testimony of our
24 consultants in all of the electric cases to try to assure
25 continuity.

1 Q. So, I guess we know the end result is that the
2 O.C.A. did not become involved in the Redstone case, rate
3 case, back in 1997?

4 A. That's correct. And, like I said, it's not for
5 wanting to address the issues that I identified. It was
6 for not having the available resources.

7 Q. Now, on Page 4 of your testimony, you are
8 recommending that the Commission order Redstone to perform
9 a feasibility study. Do you have any opinion or--do you
10 have any opinion of the cost of that feasibility study?

11 A. Do I know what the cost of the feasibility is?

12 Q. I'm just asking. Do you have a figure in mind
13 of what such a study would cost? You are a rates person?

14 A. Yes.

15 Q. Have you seen costs for a feasibility study
16 presented in rate filings?

17 A. Well, I have seen many different costs for
18 different types of feasibility studies. But in this
19 particular case, if I recall, I consulted with Mr. Fought
20 as to what a study of that magnitude may cost.

21 Q. Based on your experience, what do you think such
22 a study would cost?

23 A. I really couldn't speak to it like this. I am
24 not an engineer. And I have seen company's request, you
25 know, recovery of costs of studies, and they have been

1 anywhere from \$10,000.00 to into the hundreds of thousands,
2 depending on what they were looking for and what the
3 magnitude of the study--the magnitude of the project is,
4 doing the study itself would involve. That's why I
5 consulted with Mr. Fought. I felt he would be far better
6 capable of estimating a cost of such a study than would I.

7 Q. In the 1997 Redstone rate filing, was there any
8 line item claimed for a feasibility study of this nature?

9 A. Not that I can recall, no.

10 Q. How would Redstone have the funds to pay for
11 this kind of feasibility study if there was no claim for it
12 in its past rate filing?

13 A. I suspect Redstone incurs costs daily that may
14 not have been included on a specific line item in their
15 last rate case. Rates are not set from day to day or month
16 to month.

17 Q. So, what you are saying is a line item allowance
18 in the last rate case would have to be used for a
19 feasibility study here?

20 A. There is a lot of general line items in a rate
21 case study. I mean, costs are up and down from month to
22 month and year to year, and there may be a line item that
23 was included in the last rate case that is not as high as
24 it was listed in the last rate case. I mean, you don't
25 flag every dollar in a rate case. You set rates at a

1 reasonable level, and if costs are up, revenues are up and
2 they are down. And when a company sees a need to come in
3 for another rate increase, if their return goes down to the
4 point where rates are not sufficient.

5 Q. Have you--

6 JUDGE NEMEC: Let her finish, please. You may
7 finish.

8 A. If the company announces that rates are no
9 longer sufficient to cover the cost they are incurring,
10 they will file another case.

11 Q. Have you made any analysis of line items
12 presently which are not being incurred which would free up
13 dollars and pay for a feasibility study?

14 A. No, I have not.

15 Q. Your testimony concerning the format for the
16 bill, you read some testimony where the neighboring
17 authority, Tri-County, is mentioned, have you not?

18 A. I'm sorry?

19 Q. Have you looked at the Tri-County bill to see if
20 it's in the same format as the existing Redstone bill?

21 A. I have not seen a Tri-County bill. But as I
22 understand it, Tri-County is a Municipal Authority. They
23 wouldn't be under the Commission's regulations. I would
24 have no control over what they put on their bill or what
25 they do not.

1 Q. As far as the bill being similar or not, you
2 haven't made any review of that?

3 A. No. I do not know what the Tri-County bill
4 looks like.

5 Q. Thank you, Ms. Kraus.

6 ATTORNEY NIESEN: That's all I have, Your Honor.

7 ATTORNEY HORTING: May I have a moment, Your Honor?

8 JUDGE NEMEC: Yes.

9 (Brief pause.)

10 R E D I R E C T E X A M I N A T I O N

11 BY ATTORNEY HORTING:

12 Q. I have one question, Ms. Kraus. Mr. Niesen
13 asked you whether you had compared Redstone's water bill to
14 Tri-County's water bill or if you had seen Tri-County's
15 water bill?

16 A. Yes.

17 Q. And I believe your response was no?

18 A. No.

19 Q. Did you compare or do you have the personal
20 experience of reviewing other regulated water utility bills
21 and compared those to Redstone's bill?

22 A. Yes, I have. In fact, I used to be served by a
23 public utility regulated water company. And generally
24 speaking, at the very least, the customer charge and the
25 consumption charge are separated. Basically, the reason

1 for this recommendation is I received calls, copies of
2 bills from several customers, and they are quite confusing,
3 particularly in light of the fact that in the last rate
4 case, the rate design was changed. And almost immediately
5 when the rates went into effect, we received at least three
6 calls that I know of, people saying, I'm being billed too
7 high, I'm being billed too much, because they got X
8 percentage rate increase and my bill increased by a much
9 higher percentage than that. And looking at the bills,
10 these people were not being billed incorrectly. Their bill
11 was correct, but had they been able to see what the
12 difference in the customer charge and consumption charges
13 were, they would at least have had the ability to compare
14 their new bill to one of their old bills and to see that
15 they were being billed appropriately based on what the
16 company's rates were. It's a very practical matter and I
17 think has--you know, what Tri-County did does not enter
18 into my recommendation whatsoever.

19 Q. Okay. Thank you.

20 R E C R O S S - E X A M I N A T I O N

21 BY ATTORNEY NIESEN:

22 Q. Do you think you would have gotten phone calls,
23 anyway, even if the consumption charge and the volume
24 charge were broken out?

25 A. One of them, I think I would have gotten based

1 on what the customer's problem was. But the other two, I
2 have no doubt I would not have received.

3 Q. Thank you.

4 JUDGE NEMEC: Okay. Anything else?

5 ATTORNEY HORTING: No, Your Honor.

6 JUDGE NEMEC: Thank you very much. You are
7 excused.

8 (Witness excused.)

9 ATTORNEY DUSMAN: Your Honor, that concludes the
10 witnesses that we have in our Direct case.

11 JUDGE NEMEC: Okay. Off the record.

12 (Discussion off the record.)

13 (Whereupon, at 11:50 A.M., the hearing
14 was adjourned to be reconvened at
15 1:15 P.M. the same day.)

16 JUDGE NEMEC: Let's go on the record. Counsel for
17 O.C.A. has offered photographs of various objects that were
18 brought in by the witnesses yesterday.

19 ATTORNEY DUSMAN: Shall I go through them one by one
20 and state what they are? Your Honor, pursuant to an
21 off-the-record discussion, the O.C.A. shared with opposing
22 counsel the photographs of the physical exhibits that were
23 identified during yesterday's hearings, and we would now
24 like to move into evidence the photographs that portray the
25 physical exhibits. Balla 2-P is a photograph of glass jar

1 of water taken from the Balla hot water heater.

2 ATTORNEY NIESEN: Should I state my objection? I had
3 an objection to Balla 2.

4 JUDGE NEMEC: Go ahead.

5 ATTORNEY NIESEN: That's on the record. As I
6 recollect, Mrs. Balla did not see that water drain from
7 wherever it was supposed to have been drained.

8 JUDGE NEMEC: Okay. Let's do it this way. Let's
9 have them identified, and then if you have any specific
10 objections that you want to state, fine. But what I intend
11 to do is reserve the ruling for the Initial Decision so I
12 can go back and review the whole transcript. Go ahead.

13 ATTORNEY DUSMAN: Balla 3-P is a photograph of a
14 ceramic bowl with white encrustation inside it. Balla 4-P
15 is a zip lock bag containing particulate sediment from the
16 bottom of the Ballas' hot water heater. Balla 4-P-A is a
17 photograph of the bag itself containing the particulate.
18 Balla 5-P is a photograph of the element that was removed
19 from the hot water heater at the Balla residence. Kotula
20 1-P is a photograph of water with sediment drawn from the
21 Kotula hot water heater. I will say Kotula 1-P-A is a
22 photograph of the same object at a different angle.
23 Blackburn 1-P is a photograph of the heating element from
24 the Blackburn residence hot water heater. Blackburn 2-P is
25 a photograph of a container of sediment from the Blackburn

1 hot water heater. 2-P-A the same object at a different
2 angle. Blackburn 3-P is a baggy containing sediment from
3 the dishwasher at the Blackburn residence. Blackburn 4-P
4 is a photograph of a faucet removed from the Blackburn
5 residence. Blackburn 4-P-A is the same object at a
6 different angle showing the interior of that object.
7 Blackburn 5-P is a photograph of the shower head removed
8 from the Blackburn residence.

9 JUDGE NEMEC: Okay.

10 ATTORNEY DUSMAN: We will retain custody of these
11 and offer copies as a late filed exhibit.

12 (Whereupon, the documents were marked as
13 Balla Exhibit Nos. 2-P, 3-P, 4-P, 4-P-A,
14 5-P, Kotula Exhibit Nos. 1-P and 1-P-A,
15 and Blackburn Exhibit Nos. 1-P, 2-P,
16 2-P-A, 3-P, 4-P, 4-P-A and 5-P for
17 identification.)

18 JUDGE NEMEC: Off the record.

19 (Discussion off the record.)

20 JUDGE NEMEC: Back on the record. Off the record,
21 we discussed the mechanics of filing this. Counsel for
22 O.C.A. has agreed to duplicate the photographs and provide
23 the reporter with two copies, myself with one copy, and
24 counsel for the company one copy. Some of the objects have
25 been objected to previously. Any additional objections you

1 wish to place on the record at this point?

2 ATTORNEY NIESEN: Your Honor, my recollection is I
3 had objections to Balla 2 and 3. I may have had objections
4 to other photographs--or other items as well. I don't
5 waive those. I will rely on the record to preserve my
6 objections.

7 JUDGE NEMEC: Also off the record, I indicated I was
8 going to reserve ruling on the objections that are on the
9 record until I have had a chance to review the entire
10 record, and I will make those rulings in the Initial
11 Decision in this case. Thank you. Now, sir--

12 ATTORNEY DUSMAN: One additional item, Your Honor.
13 I would renew our request that notice be taken of at least
14 the segment of the last rate case that consists of the
15 transcripts from the public input testimony. And on
16 request, we will provide copies of those transcripts to
17 Your Honor and opposing counsel, the purpose being that I
18 think it must be obvious at this point that we feel part of
19 the problem here is the repetitive complaints and
20 recurrence of the same complaints over a period of time.
21 There is similar testimony in the rate case concerning the
22 quality and pressure problems. The company was present at
23 those hearings. They had counsel there to represent them.
24 There was an opportunity to Cross-examine. And we would be
25 using them not necessarily for the truth of the matter

1 asserted, but to show that many customers have expressed
2 the same complaints and that the company should be well
3 aware of them.

4 ATTORNEY NIESEN: If Your Honor pleases, we oppose
5 the incorporation of that part of the record of the rate
6 case into this record. We think that this case deals with
7 specific Complainants and those Complainants, if they
8 wished to prosecute their case, had a duty to come here.
9 Some of them did. Some of them didn't. But the case
10 cannot be supported or buttressed in any way by the
11 testimony from another proceeding. The testimony at the
12 public input session is a somewhat different kind of
13 setting than it is here. It is testimony from a couple of
14 years ago. And again, everyone had an opportunity to come
15 here, and if they wished to prosecute their case, they
16 should have done so.

17 JUDGE NEMEC: I don't at this point want to burden
18 this record with additional materials drawn from the
19 transcript of that public input hearing. So, I'm going to
20 deny your request.

21 ATTORNEY DUSMAN: Okay.

22 JUDGE NEMEC: That doesn't mean that you can't refer
23 to either the recommended decision or Commission's order in
24 that case.

25 ATTORNEY DUSMAN: Okay. Your Honor, there is one

1 other matter that I wanted to raise, and that is that
2 during the lunch break, Mr. Fought realized that he had
3 made an error in one of his statements and he has requested
4 to take the stand again, very briefly, to explain what the
5 error was and why he made it.

6 ATTORNEY NIESEN: What's the error?

7 JUDGE NEMEC: Yeah. Basically, he is asking for an
8 offer of proof.

9 ATTORNEY DUSMAN: The offer is that Mr. Fought, when
10 he referred to the number of days that the tank was half
11 full, had really--

12 MR. TERRY FOUGHT: Or less.

13 ATTORNEY DUSMAN: Half full or less had really
14 looked at the days during which the tank was at 18 feet or
15 less, and recognizing that the tank is 32 feet high, he
16 wasn't exactly looking at when it was half full. He was
17 looking at when it was 18 feet or less and he, in error,
18 believed that 18 feet was half full. So, he wanted to
19 correct that.

20 JUDGE NEMEC: So, in essence, these were days where
21 the tank was below the 18-foot level and not the 16 foot
22 level.

23 MR. TERRY FOUGHT: Yes. 18 feet or less instead of
24 16 feet or less.

25 ATTORNEY DUSMAN: If the company wants to stipulate

1 that that is the case--

2 ATTORNEY NIESEN: I don't have any trouble with him
3 correcting his numbers. He can do it right there if he
4 wants to.

5 ATTORNEY DUSMAN: Okay.

6 JUDGE NEMEC: Sir, you are still under oath.

7 TERRY L. FOUGHT, a witness herein,
8 recalled on behalf of the Complainants, having previously
9 been duly sworn, was examined and testified as follows:

10 FURTHER REDIRECT EXAMINATION

11 BY ATTORNEY DUSMAN:

12 Q. Mr. Fought, during I believe it was your
13 Redirect testimony, you made statements concerning the
14 number of days that the tank was either half full or less.
15 Can you state for the record what your error was when you
16 made that statement?

17 A. My calculation was based on the number of days
18 that the tank was 18 foot full or less, and the percentage
19 was nine percent of the days tank was 18 feet full or less
20 instead of nine percent of the days that the tank was half
21 full or less.

22 Q. Okay.

23 FURTHER RECROSS - EXAMINATION

24 BY ATTORNEY NIESEN:

25 Q. I didn't follow that.

1 A. I didn't say it very well. My testimony should
2 be that on nine percent of the days, approximately nine
3 percent of the days between January 1st and July 29th,
4 including January 1st and July 29th, excluding the days of
5 January 9th through 17th when there was many problems with
6 the system, the company records that they provided us under
7 discovery showed the tank to be at 18 foot or less in
8 depth, that the water level in the tank was at 18 feet or
9 less.

10 Q. So, nine percent of the days--

11 A. Yes.

12 Q. --the tank was at 18 feet or less?

13 A. Yes, for that purpose.

14 Q. So, you eliminated the percentage part of your
15 calculation? It's just nine percent of the--it's no longer
16 50 percent or less?

17 A. No. It's no longer the tank being 50 percent
18 full. I had for some reason jumped to the conclusion that
19 18 feet was half of 32, and I should not have done that.

20 Q. The tank--you said the tank is 32 feet high?

21 A. Yes.

22 Q. Now, I want you to check that. Is it 32 feet or
23 24 feet?

24 A. As far as I know, it is 32 feet. Here is a
25 permit that says it's 24 foot.

1 Q. I think you have 24 feet in your testimony,
2 too.

3 A. Do I have 24 feet in my testimony?

4 Q. Page 11.

5 A. Well, then, I'm really messed up.

6 JUDGE NEMEC: Could it be that the tank is 32 feet
7 above the ground?

8 THE WITNESS: No. It might be that the tank is 32
9 feet in diameter. But my testimony is still correct, 18
10 foot or less, whether the tank is 24 foot high or 32 foot
11 high.

12 JUDGE NEMEC: Do you have a reference?

13 ATTORNEY NIESEN: Page 11, about halfway down the
14 page, in the fifth line of the second answer on the page.

15 MR. TERRY FOUGHT: Thank you for pointing that out.

16 JUDGE NEMEC: Okay. Is that it?

17 ATTORNEY DUSMAN: That's it, yes, Your Honor. Thank
18 you.

19 (Witness excused.)

20 ATTORNEY NIESEN: I would respectfully move to
21 dismiss the complaints of those Complainants who did not
22 appear and prosecute their complaint, as well as
23 Mr. Krilosky's complaint, as it is a separate docket
24 number.

25 JUDGE NEMEC: I will take that motion under

1 advisement and deal with that in the Initial Decision which
2 I have to, in any event.

3 ATTORNEY NIESEN: Very well.

4 JUDGE NEMEC: Any Complainant proceedings that is
5 dismissed has to be dealt with in the Initial Decision.

6 (Witness sworn.)

7 EUGENE B. WOLBERT, a witness herein,
8 called on behalf of the Respondent, having first been duly
9 sworn, was examined and testified as follows:

10 D I R E C T E X A M I N A T I O N

11 BY ATTORNEY NIESEN:

12 Q. Please state your name and your business
13 address.

14 A. Eugene B. Wolbert. My business address is
15 Pennsylvania Department of Environmental Protection,
16 Uniontown District Office, 100 New Salem Road, Uniontown,
17 Pennsylvania.

18 Q. Mr. Wolbert, did you receive a subpoena
19 requiring your appearance and testimony in this proceeding?

20 A. Yes, I did.

21 Q. And you are here today in response to that
22 subpoena, are you not?

23 A. That is correct.

24 Q. Could you briefly state your understanding of
25 what is involved in this case?

1 A. I was just aware that customers at the Redstone
2 Water Crescent Heights system were complaining against the
3 owner, had filed complaints against the ownership.

4 Q. And you have been here both yesterday and today
5 during the entire proceeding, have you not?

6 A. That is correct.

7 Q. And how are you employed?

8 A. I'm a sanitarian supervisor with the
9 Pennsylvania Department of Environmental Protection.

10 Q. Could you briefly state your educational
11 background and your employment experience?

12 A. I have a Bachelor of Science Degree from Clarion
13 University in biology and comprehensive science. I have
14 worked for PA D.E.R. and D.E.P. for approximately 17
15 years. Prior to that, I was a health officer with the
16 State Department of Health.

17 Q. Could you describe your duties as a sanitarian
18 supervisor for D.E.P.

19 A. I oversee a four-county area, Fayette, Greene,
20 Washington, and Beaver counties. My office is responsible
21 for monitoring compliance of water systems with the
22 Pennsylvania 109 regulations.

23 Q. And does that include compliance with the water
24 quality standard?

25 A. Yes. Both primary and secondary, yes.

1 Q. Is Redstone Water Company one of the companies
2 within your four-county area of responsibility?

3 A. Yes, it is.

4 Q. Now, you testified that your office is
5 responsible for monitoring compliance with drinking water
6 standards. Would you describe how you go about the
7 monitoring process?

8 A. There are three principal ways that D.E.P.
9 monitors Redstone's compliance. The first would be
10 reviewing information which the company is responsible for
11 submitting to us under 109.25 PA Code, these reports that
12 are prepared by certified laboratories and submitted to us
13 as required. The second way would be the staff inspects
14 the water collection, treatment, and distribution system.
15 And the staff that report to me have inspected Redstone
16 Crescent Heights for many years. And the third way is
17 through complaint investigation. We receive complaints
18 from customers of Redstone Water. During the years of 1996
19 and '97, we haven't received any complaints from this
20 system. In 1998, we had two complaints on file, both of
21 which we investigated. One could not be substantiated.
22 The condition didn't exist when we investigated it. The
23 second one had been because of low water customer usage at
24 the site. It happened to be a church, I believe, in the
25 system. During 1999, the only complaints we received were

1 in relation to the major waterline break and outage that
2 occurred in January of 1999.

3 Q. The two complaints in 1998 that you referenced,
4 were they customers in the Crescent Heights division?

5 A. Yes.

6 Q. Now, concerning drinking water standards, is
7 Redstone presently in compliance with applicable drinking
8 water standards? And I'm talking about the Crescent
9 Heights system.

10 A. Crescent Heights meets all of the primary
11 requirements. The primaries, I don't know if we discussed
12 this earlier or not, but those are the sampling
13 requirements that have health effects related to them.
14 There are known health defects to all the primaries.
15 Crescent Heights is in compliance with all those. In the
16 secondaries, we collected three samples during 1999, and we
17 found an MCL on TDS, total dissolved solids. Secondaries
18 do not have health effects, but they do have aesthetic
19 effects.

20 Q. Is the water at the Crescent Heights division
21 hard?

22 A. Yes, it is.

23 Q. What is hard? What does that mean?

24 A. Generally hardness is measured in terms of
25 calcium carbonate hardness and magnesium. There is a lot

1 of calcium carbonate in the Crescent Heights system and it
2 was testified earlier this is part of the TDS, total
3 dissolved solids, that we talked about earlier.

4 Q. Is there an MCL, either primary or secondary,
5 for calcium carbonate?

6 A. No, there is not.

7 Q. Now, in respect to the water source at Crescent
8 Heights, what is the source of the water?

9 A. D.E.P. has the source listed as groundwater from
10 Hoods Hollow.

11 Q. Is it correct to describe that source as--would
12 you describe it as mine drainage?

13 A. I would not describe it as mine drainage. The
14 chemical profile of the water, it does not fit the classic
15 mine drainage classification that we see in the
16 department.

17 Q. What do you mean by that?

18 A. Generally, with mine drainage, we see high
19 aluminums or iron, manganese, different metals like that.
20 And this water does not portray any of those. We generally
21 see staining in the streams, and we don't see that from
22 this system. So, it doesn't fit the typical profile of
23 mine drainage.

24 Q. How would you describe the quality of the water
25 from Hoods Hollow?

1 A. The water quality is similar to a lot of
2 groundwater in this area. As we said earlier, it's very
3 hard. It's clear. It has a pretty neutral pH.

4 Q. Is hardness common in Western Pennsylvania, in
5 this part of Western Pennsylvania?

6 A. It's very common in many, many wells out here,
7 yes.

8 Q. Now, you talked about the MCLs for TDS, total
9 dissolved solids. Based on your testing, the water at
10 Redstone exceeds the MCL for total dissolved solids?

11 A. Total dissolved solids were high, yes.

12 Q. Is there a D.E.P. required treatment protocol
13 for total dissolved solids?

14 A. No, there is not.

15 Q. And why is there none?

16 A. The E.P.A. does not require the states to
17 monitor and enforce secondaries. Pennsylvania does
18 regulate secondaries at new sources. But on existing
19 systems, because of a lot of factors, it's case by case.

20 Q. I take it D.E.P. has not required Redstone to
21 initiate any treatment for TDS?

22 A. That is correct.

23 Q. Why not?

24 A. Well, as we said earlier, a lot of the TDS is
25 the result of hardness in the water, and there are a lot of

1 secondary issues that can get hardness.

2 Q. Secondaries issues, what do you mean by that?

3 A. If salt softener is used, we have a tendency to
4 increase--I have seen cases of salt increase in the water,
5 sodium increase in the water, 10 to 20 times the
6 recommended level. There is a health advisory on sodium in
7 water of 20 milligrams per liter. And oftentimes, in the
8 softening process, this is increased many, many times and
9 it can be detrimental to older citizens or folks who have
10 circulatory problems. An even more important issue, in
11 1993, the Lead and Copper Rule was put into effect. And by
12 softening the water, you can increase the corrosivity and
13 possibly cause metals to be dissolved or the iron to be
14 dissolved from the distribution system itself and we may
15 end up with red water or lead and copper violations, which
16 do have health effects.

17 Q. Did you hear Mr. Fought's testimony this morning
18 concerning corrosivity?

19 A. Yes, I did.

20 Q. And did you agree with that testimony?

21 A. Yes, I did. This water that we are talking
22 about at Redstone is not a corrosive water. It's a
23 positive water. And calcium carbonate is being deposited,
24 as we saw here the last couple of days. Now, to turn that
25 picture around and make the water corrosive by softening

1 may even cause greater problems than what we are seeing
2 now.

3 Q. And just again, what might the greater problems
4 be?

5 A. Violation of lead and copper, which are federal
6 mandates, primary.

7 Q. Are they primary contaminants?

8 A. Yes, they are, both of them.

9 Q. There is no lead or copper violations at
10 Redstone currently, are there?

11 A. No, there aren't.

12 Q. Is there a D.E.P. required treatment protocol
13 for sulfates?

14 A. No, there is not.

15 Q. And why is there not?

16 A. Again, it's a secondary. It is not mandated.

17 Q. Has D.E.P. required Redstone to initiate a
18 treatment facility?

19 A. No, we have not.

20 Q. Why is that?

21 A. I think the entire picture, we don't want to
22 treat for one specific thing in a water system. We need to
23 look at the big picture, as I said earlier, with the TDS.
24 We don't treat for one thing, and sulfates would not be
25 selected to be treated for.

1 Q. Is there a D.E.P. required treatment protocol
2 for hardness?

3 A. No, there is not.

4 Q. And again, I think you mentioned this earlier,
5 but why is there not?

6 A. It's not an MCL, either primary or secondary.

7 Q. Is the water supply at Crescent Heights safe to
8 drink?

9 A. Based on the sampling, it shows that it's in
10 compliance with all the primary regulations, yes.

11 Q. Can the water supply be used for household
12 purposes?

13 A. I believe it can, yes.

14 Q. Cooking?

15 A. Yes.

16 Q. Clothes washing?

17 A. Yes.

18 Q. Bathing?

19 A. Yes.

20 Q. Has the Department of Environmental Protection
21 done any water pressure testing in the Crescent Heights
22 system?

23 A. Yes, we have. We have done testing in 1998. We
24 tested about eight houses. We saw pressures ranging from
25 about 40 pounds minimum to about 90 pounds maximum. In

1 1999, we tested at one high point on Walkertown Hill and
2 found about 70 pounds pressure and the low points in the
3 system and found about 100. So. The lowest we saw was 40
4 and highest pressure we have seen is 130.

5 Q. Are those pressures consistent with D.E.P.
6 regulations?

7 A. Yes. They are inside the boundary, yes.

8 Q. And what are the boundaries?

9 A. The boundaries are a low pressure of 20 and a
10 high of 150.

11 Q. You were in the hearing room yesterday and you
12 heard the testimony of several customer Complainants, did
13 you not?

14 A. Yes.

15 Q. Can you comment upon what you heard and what you
16 saw yesterday?

17 A. Well, I think it was typical of very hard
18 water. What we heard and saw was the deposition of calcium
19 carbonate on the cooking utensils and water heaters, which
20 would typify a lot of the wells, a lot of the hard water
21 that we see in this part of the state.

22 Q. Yesterday, there was testimony concerning the
23 Citizens Council of West Pike Run Township I believe is the
24 name that they have taken. Did you ever meet with the
25 Citizens Council?

1 A. Yes, I did.

2 Q. When was that?

3 A. January 23rd of 1999, on a Saturday morning.

4 Q. How did that meeting come about?

5 A. I was called by one of the Complainants and
6 asked if I would attend the meeting, there was going to be
7 a meeting to address some of the concerns of Redstone Water
8 customers, and I was asked if I would be there.

9 Q. Who called you?

10 A. Stephanie Kotula.

11 Q. And did you attend the meeting?

12 A. Yes, I did.

13 Q. And what transpired at the meeting?

14 A. Pretty much the complaints we heard in the
15 courtroom yesterday, pretty much the same type of
16 complaints, people talking about hard water, talking about
17 pressure issues, the very same kind of things.

18 Q. Was the rate increase mentioned?

19 A. Yes, it was.

20 Q. To what extent was the rate increase mentioned?

21 A. I think it was mentioned very frequently in the
22 meeting, yes.

23 Q. What did you suggest, if anything, to the people
24 you had the meeting with in--was it January of last year?

25 A. January 23rd of last year, yes.

1 Q. That was right after the service outage?

2 A. That's correct. Right. One of my reasons in
3 going was I wanted to get a better picture of the water
4 system from the customer perspective. And I took my
5 business cards and I introduced myself and recommended that
6 if they call and complain with specific complaints, that we
7 could come out and investigate. That was one of my
8 purposes of going.

9 Q. Did you receive any calls?

10 A. No, I haven't.

11 Q. None at all?

12 A. None.

13 Q. Did you hear testimony earlier today about the
14 fire flow, required fire flow, a standard for fire flow?

15 A. Yes, I did.

16 Q. Is there a D.E.P. standard for fire flow?

17 A. No. D.E.P. doesn't regulate fire flow.

18 Q. Have you reviewed Mr. Fought's testimony?

19 A. Yes, I have.

20 Q. He recommends consideration of two alternatives,
21 one being a treatment plant to soften water. You addressed
22 that somewhat. Can you comment upon what your opinion is
23 concerning the possible construction of a treatment plant
24 to soften water?

25 A. It's something that could be looked at in light

1 of new technology. My own opinion is it may be a very,
2 very costly thing for a system this size based on my past
3 experience. For a system of 260 customers, it may be very
4 costly.

5 Q. Would it create the salt problems that you
6 mentioned earlier?

7 A. If ion exchange softening were used, it
8 definitely would. And incidentally, we do have a slight
9 elevated sodium level in the system now, I failed to
10 mention that, and it would only aggravate that much more.

11 Q. Let me ask you about hardness. If hardness were
12 reduced by let's say half, would you still see the
13 depositing of calcium or carbonate, whatever that is that
14 was discussed here yesterday?

15 A. My guess is that you would still see some, if it
16 were reduced by half, because the hardness is very high in
17 this particular system. And the calcium stains are common
18 in a lot of water systems, even with much lower hardness
19 levels.

20 Q. Mr. Wolbert, is there anything else you want to
21 explain or address to Judge Nemeč concerning this matter?

22 A. Not unless there is specific questions.

23 Q. Mr. Wolbert, I'm done questioning.

24 JUDGE NEMEC: Okay. You may Cross.

25

C R O S S - E X A M I N A T I O N

1
2 BY ATTORNEY DUSMAN:

3 Q. Good afternoon, Mr. Wolbert. As you know, I'm
4 Dianne Dusman and I'm here for the Office of Consumer
5 Advocate which has intervened in support of the
6 Complainants in this case. Mr. Wolbert, did you review any
7 documents in preparation for your appearance here today for
8 the company?

9 A. Just the documents that were submitted from
10 Mr. Fought.

11 Q. Did you review any files of your department?

12 A. Yes. I looked through some of the files, yes.
13 The pressure tests that I had just discussed and some of
14 the files, yes.

15 Q. Did you review any quality tests of D.E.P.?

16 A. Yes.

17 Q. Do you have a copy of Mr. Fought's testimony
18 with you?

19 A. Yes, I do.

20 Q. Would you please turn to the first page of his
21 Exhibit 1?

22 A. Okay.

23 Q. When you reviewed the Redstone Water quality
24 files at the D.E.P., did you see any test results for the
25 period between September 30, '91 and March of '99, except

1 for those two sulfate tests that Mr. Fought has noted?

2 A. No. I don't believe I did, and I can explain
3 why. The D.E.P. used to sample the water. Every time we
4 did an inspection, we would collect samples. So, going
5 back in the files, you will find a lot of D.E.P. sampling
6 in there. That was discontinued in the period of the early
7 90's. So, there is going to be a gap in there where there
8 was no sampling done by D.E.P. Reliance during that period
9 is strictly on the independent certified laboratories which
10 is submitted by the water company.

11 Q. So, are you saying, then, that Redstone Water
12 should have test results for that period?

13 A. Well, we review certified lab reports all the
14 time submitted on behalf of Redstone Water Company. That's
15 one of our functions, on a monthly basis, on a yearly
16 basis. So, we have complete files of independent
17 laboratory tests of Redstone water.

18 Q. Okay. But should the company have those results
19 in their possession, in their files?

20 A. Oh, yes, I'm sure they do. The lab keeps a
21 copy, a copy is sent to Harrisburg, one to us, and one to
22 the water company.

23 Q. So, the fact that D.E.P. didn't have them
24 doesn't mean that they weren't done?

25 A. No. They are done by a certified lab. Now, not

1 the secondary. Secondaries are not required to be
2 monitored, so you won't find a lot of secondary sampling
3 done. But the primaries are all a matter of record.

4 Q. Okay. Do you recall your written testimony in
5 the rate case, Docket No. 00974227?

6 A. Is this for the previous--

7 Q. Do you recall your written testimony in the rate
8 case, Redstone Statement No. 3, by Eugene B. Wolbert?

9 A. Okay. Yes.

10 Q. You do remember that?

11 A. Yes.

12 Q. Was it part of what you reviewed in preparation
13 for your appearance here for the company?

14 A. Yes.

15 Q. Do you recall making the statement in the rate
16 case that, quote, I believe that Redstone is in compliance
17 in each of its systems in Crescent Heights, Royal, and
18 Allison. Redstone recently was commended by the D.E.P. for
19 meeting all MCL, monitoring and treatment technique
20 performance requirements under the Safe Drinking Water
21 Program during 1997?

22 A. Yes. That was a certification from Harrisburg
23 that was given to me.

24 Q. Yes. And is that one of the attachments to
25 Mr. Yablonski's testimony?

1 A. Yes.

2 Q. Okay.

3 ATTORNEY DUSMAN: Your Honor, may I approach the
4 witness?

5 JUDGE NEMEC: You may. Show counsel first.

6 (Document handed to counsel.)

7 BY ATTORNEY DUSMAN:

8 Q. Are you familiar with this document?

9 A. Uh-huh (affirmative).

10 Q. Do you see that this document also says that
11 your department commends Redstone Water Crescent Heights
12 for meeting MCL, monitoring and treatment technique
13 performance requirements under the Safe Drinking Water
14 Program during 1998?

15 A. Yes. That's primarily issued when all
16 monitoring compliance is in place, when they have not
17 missed any sample requirements in the system. These are
18 issued from Harrisburg to the systems.

19 Q. Okay. Did you not just testify that for the
20 period between '91 and '95, there would not have been any
21 secondary MCL tests performed?

22 A. Yes. They are not required.

23 Q. They are not required?

24 A. They are not required.

25 Q. Yet, your department certificate commends

1 systems for meeting all MCL monitoring and treatment
2 technique performance requirements?

3 A. That's based on the primaries, yes.

4 Q. Okay. And yet, even though there were no
5 secondary tests done, you testified in the last rate case
6 that, I'm quoting here again from Page 3 of your testimony,
7 and please listen carefully, quote, Redstone's water supply
8 in each of its three systems meets all applicable drinking
9 water standards and is safe to drink, end quote. Do you
10 recall making that statement?

11 A. Yes. That was based on the primary--on the
12 independent laboratory reports that we had got.

13 Q. But your statement in the rate case did not
14 limit that statement to primaries, did it? It wasn't
15 limited to primary MCLs was it?

16 A. I'm not certain about that.

17 Q. Well, maybe you would like to read it again.

18 A. Yes.

19 ATTORNEY DUSMAN: Your Honor, may I approach the
20 witness?

21 JUDGE NEMEC: You may.

22 BY ATTORNEY DUSMAN:

23 Q. Page 3, I believe the lines are misnumbered, but
24 it's Line 8 and 9.

25 A. Okay. Again, it says, Redstone's water supply

1 in each of its three systems meets all applicable drinking
2 water standards and is safe to drink. That's based on the
3 primaries. They are required to sample for the primaries.

4 Q. Were you aware at the time that you made that
5 statement that there were secondary violations?

6 A. No, I was not. I had not seen the files from
7 the early 80's. The department had taken samples in the
8 early 80's, and I had not seen that. And also, I did not
9 see the results of our samples we took this past year in
10 the secondaries. That's when I became aware of the
11 violations on secondaries. I didn't work in the Crescent
12 Heights system in the early 80's, not until the latter part
13 of the 90's. So, I hadn't seen that data to know it was in
14 existence.

15 Q. Again, turning to Mr. Fought's attachments to
16 his testimony, would you turn to the very last page of
17 Schedule TLF-2, Page 1 of 1? Had you ever seen that letter
18 before you reviewed Mr. Fought's testimony?

19 A. No, I had not.

20 Q. Have you reviewed that letter in preparing for
21 these hearings?

22 A. Yes, I have.

23 Q. Are you aware of any response that was received
24 by your agency subsequent to this recommendation being
25 made?

1 A. No. I've never heard of any response, and both
2 parties that would have been responsible at that time. The
3 person who wrote the letter and the supervisor in the area
4 at that time are both no longer with the department. So, I
5 hadn't had a chance to discuss it with anyone.

6 Q. You are aware, are you not, that the
7 recommendation of the O.C.A. witness is simply for the
8 company to make a feasibility study, much as was suggested
9 by your agency back in 1985?

10 A. Yes. I did hear that testimony.

11 Q. Now, you made a number of statements concerning
12 what the results of the water softening plant might be, did
13 you not?

14 A. Yes.

15 Q. Would you contemplate that in the course of
16 doing a feasibility study, an engineering firm would take
17 those things into account?

18 A. Yes, I would. I think that would be a part of
19 the feasibility, yes.

20 Q. You, yourself, did not really do a precise
21 analysis of what effect softening might have on the water
22 otherwise, did you?

23 A. No. I only speak from experience and what we
24 saw with the Lead and Copper Rule where we had a lot of
25 problems with getting systems to pass lead and copper when

1 there was softening involved. And sometimes we have to add
2 what they call an inhibitor to counteract the softening to
3 keep it from failing lead and copper. So, it's a very
4 delicate chemical balance, and it needs to have a complete
5 feasibility done and look at all the aspects of it.

6 Q. So, to that extent, you would support our
7 recommendation that a study be done, would you not?

8 A. Oh, yes. I wouldn't oppose that at all.

9 Q. Okay. The same thing about the effect on the
10 sodium levels? Wouldn't a feasibility study take that kind
11 of thing into account?

12 A. Yes. I certainly hope it would, because the
13 sodium levels are going to be very, very high if you use
14 salt softener.

15 Q. Would you turn again to Schedule TLF-1, Page 1?
16 Now, you mentioned the sodium guidelines. Do you actually
17 have a copy of the sodium guidelines or know where they may
18 be found?

19 A. They are just an old health advisory. There is
20 nothing enforceable about them. But knowing that
21 information that they are a health advisory, we certainly
22 don't want to put more sodium into the water than what's
23 necessary.

24 Q. What did you say that guideline was?

25 A. It's a health advisory.

1 Q. What was the health advisory level of sodium?

2 A. 20 milligrams per liter.

3 Q. Okay. Looking at Mr. Fought's chart on the
4 sodium level, do you see what the sodium levels are showing
5 to be in the Redstone water?

6 A. Yes.

7 Q. In the past years?

8 A. Yes.

9 Q. And do you see that the sodium levels in the
10 tests done by the lab that Mr. Fought was under contract
11 with are 103, 104, and 105 in October of 1999?

12 A. Yes. Our sodium levels are shown at about 36
13 and 39, but that may go up and down. I wouldn't dispute
14 that.

15 Q. Your sodium levels?

16 A. Yes. Taking the samples that were sent to the
17 state laboratory.

18 Q. Oh, I see.

19 A. The ones listed at 3/11/99 show I think 36 and
20 39. And just to be clear, the sodium level in water is not
21 very much our dietary sodium. It's almost nothing compared
22 to what you get in food. But still, we don't want to put
23 more sodium in there since we have a health advisory.

24 Q. Have your responsibilities in your current role
25 as a sanitarian supervisor changed at all from the time you

1 submitted testimony in the rate case to now?

2 A. In what way? I don't--

3 Q. Do you have the same job and the same
4 responsibilities now as you did then?

5 A. I think so, yes.

6 Q. And for the record, that was back in June of
7 '98--

8 A. Yes.

9 Q. --that we submitted testimony?

10 A. Yes.

11 Q. Were you under subpoena in that case?

12 A. Yes. Yes, although I was never called. If the
13 case went forward, I was never called.

14 Q. Who is it under your supervision that is
15 responsible specifically for inspecting Redstone Water
16 Company's system?

17 A. Clark Harris in our McMurray District Office.

18 Q. And I believe I met Mr. Harris when he was there
19 for the record review. How long have you known
20 Mr. Yablonski?

21 A. Approximately I'm going to say eight years,
22 maybe nine years. When I first became a supervisor, I had
23 some dealings with him on another one of his systems.

24 Q. Now, you mentioned--you testified that you had
25 only received two complaints in 1998?

1 A. That's correct.

2 Q. Is that correct?

3 A. Uh-huh (affirmative).

4 Q. And I believe--do you have your records from the
5 D.E.P. of your investigation of those complaints?

6 A. Yes, I do. I have Clark Harris' report here in
7 front of me.

8 Q. So, it was Mr. Harris that investigated those
9 complaints?

10 A. Yes.

11 ATTORNEY DUSMAN: May I approach the witness,
12 Your Honor?

13 JUDGE NEMEC: You may.

14 BY ATTORNEY DUSMAN:

15 Q. Mr. Wolbert, this is what was labeled
16 Attachment 2 to your testimony in the rate case.

17 JUDGE NEMEC: Will you show that to counsel?

18 (Document handed to counsel.)

19 BY ATTORNEY DUSMAN:

20 Q. Now, are you familiar with this document?

21 A. Yes.

22 Q. So, you had reviewed it before you came to the
23 hearing?

24 A. Uh-huh (affirmative).

25 Q. This shows the results of Mr. Harris'

1 investigation in the complaints, does it not?

2 A. Actually, these are complaints in another
3 system. These are not Crescent Heights. The two
4 complaints in Crescent Heights in 1998 are on this form
5 (indicating). This is from the Allison and Royal.

6 Q. Does the first page pertain to the Crescent
7 Heights system?

8 A. Yeah. This page on the pressures pertains to
9 the Crescent Heights system, and there were pressures taken
10 in 1998 by Clark Harris.

11 Q. Can you tell from that document when the
12 pressure tests were taken?

13 A. Yes. I think you will see the date on the top
14 of the document.

15 Q. It doesn't say the time of day, does it?

16 A. No. I don't think that the time of day is on
17 there, no.

18 Q. The inspection date was May 22nd, 1998?

19 A. Right. It would be during normal D.E.P. working
20 hours, and my assumption would be since the office is away
21 from this location, it was probably between the hours of
22 10:00 and 2:00.

23 Q. Okay. So, based on the pressure tests that
24 Mr. Harris did between 10:00 and 2:00 during the day
25 sometime between Monday and Friday, you concluded that the

1 complaints were not substantial?

2 A. No. We didn't conclude that on pressure. We
3 got no readings on pressure showing anything less than what
4 is required. So, that's not related to these other
5 complaints. These complaints that we got--these two
6 complaints are not related to pressure. One was a quality
7 issue with taste and odor and colored water, and that's one
8 where the customer didn't have enough usage to keep the
9 dead end line flushed out. And the other complaint was an
10 odor problem as well, but that's unrelated to the pressure
11 complaints that we had and the pressures that we did.

12 Q. My notes reflect that you said there were two
13 complaints during that year from the Crescent Heights
14 customers?

15 A. Right.

16 Q. And that one could not be substantiated?

17 A. Right.

18 Q. And one was not--the odor complaint was related
19 to low use?

20 A. Yes. That was at the Mount Zion Baptist Church,
21 right.

22 Q. Now, when you said one could not be
23 substantiated, weren't you referring to the pressure
24 complaints that Mr. Harris investigated?

25 A. No. No. That was one of these two complaints

1 here.

2 Q. Okay. So, both of those two complaints were
3 from the Mount Zion Church?

4 A. No. One was from the Mount Zion Church, and one
5 was from Linda Hill at 85 Main Street. They are unrelated,
6 these two documents.

7 Q. I'm going to show you, Mr. Wolbert, what we
8 marked earlier today for identification purposes as O.C.A.
9 Exhibits 1-A, 1-B, and 1-C. Have you ever seen these
10 documents before?

11 A. No.

12 Q. You have not?

13 A. No.

14 Q. And can you determine by looking at them now
15 what they represent?

16 A. I would say they are a distribution map of the
17 system.

18 Q. Okay. Now, whose responsibility would it be in
19 your office to determine whether the company is in
20 compliance with regulations that require the keeping of
21 current system maps?

22 A. Distribution maps are generally kept at the
23 water supply, and that would be the responsibility of the
24 field staff. When they do the inspections, a lot of these
25 maps are very, very large, so they are kept at the water

1 supply. And as part of the inspection activity, they can
2 be reviewed by the field staff.

3 Q. When you say field staff, are you referring to
4 Mr. Harris?

5 A. Clark Harris, yes.

6 Q. Do you know whether Mr. Harris has ever reviewed
7 Restone's system maps?

8 A. I'm sure he has.

9 Q. But you don't know for certain?

10 A. I don't know for certain.

11 Q. Would Mr. Harris also be the one responsible for
12 the taking of pressure tests in the system?

13 A. Yes.

14 Q. Did you review any of Mr. Harris' records
15 concerning the pressure tests to the Redstone system?

16 A. We discussed it, and there is the monitoring I
17 have in front of me. We discussed that, yes.

18 Q. When you say the monitoring I have here, may I
19 see the document you are referring to?

20 A. Sure.

21 (Document handed to counsel.)

22 BY ATTORNEY DUSMAN:

23 Q. Now, I understood this to be a report that was
24 done--this was not done in response to complaints?

25 A. No.

1 Q. This was your routine pressure monitoring?

2 A. Yeah. It's just to spot check the system to see
3 if there is any low pressure areas.

4 Q. Do you know how Mr. Harris chooses the homes at
5 which he is going to take a pressure test?

6 A. It's random. Random selection.

7 Q. Mr. Wolbert, are you familiar with D.E.P. regs
8 concerning the size of mains?

9 A. Yes, to an extent.

10 Q. What is the minimum main size per D.E.P. regs?

11 A. We generally on new systems don't put anything
12 in under six inches. If there is going to be any fire
13 protection in the system, nothing under six inches.

14 Q. Do you know whether the regulations specifically
15 say that the six-inch main minimum size applies only to new
16 systems?

17 A. To my knowledge, we have never gone back and
18 required size mains. It's part of the engineering manual
19 that was referred to earlier this morning that I think it's
20 new design specifications.

21 Q. Well, are you and Mr. Harris aware that Redstone
22 Water Company has been replacing mains sized less than six
23 inches?

24 A. I'm not aware that there is any mains less than
25 that with fire hydrants on them, no.

1 Q. I'm not talking about just fire hydrant mains.

2 A. You are allowed to have or you are permitted to
3 put in lines less than six inches in size as long as you
4 don't put a six-inch fire hydrant on that line.

5 Q. Is that your understanding of what the
6 regulations require?

7 A. Yes. Because a six-inch flow out of a four-inch
8 line is going to cause problems. There are a lot of
9 existing systems, as Redstone Crescent Heights we heard
10 earlier, that may have line size less than that, but they
11 are existing systems. New systems would not be done that
12 way.

13 Q. The pressure test that you just showed me,
14 Mr. Wolbert, was that pressure testing sufficient to enable
15 you to conclude that all customers, including those on very
16 small mains in the system, would have sufficient pressure
17 during summer peak demand?

18 A. I think the pressure is regulated in a system by
19 the tank height. So, the pressure--unless the lines are
20 blocked or something, the pressure is going to be there.

21 Q. So, I would like to restate the question and I
22 would really like you to answer my question. Was the
23 pressure testing that D.E.P. did in this system sufficient
24 to enable you to conclude that all customers, including
25 those on very small mains, will have sufficient pressure

1 during summer peak seasonal demand?

2 ATTORNEY NIESEN: Your Honor, I would ask that
3 Ms. Dusman identify what she means by very small mains.

4 ATTORNEY DUSMAN: Mains four inches in size or
5 less.

6 JUDGE NEMEC: All right. Go ahead.

7 A. I would just like to say that I don't think the
8 size of the line has an influence on pressure, unless there
9 are a lot of customers on a line and it's too small, then
10 it would be a volume problem. I believe the pressure is
11 going to be consistent through the system.

12 ATTORNEY DUSMAN: Your Honor, I don't feel, still,
13 that I've gotten an answer to my question. I'm going to
14 ask you to instruct the witness to answer, whether the
15 D.E.P. pressure testing that was done by Mr. Harris at
16 random houses between 10:00 and 2:00 on a single day is
17 sufficient to enable D.E.P. to conclude that all customers,
18 including those on mains four inches in diameter and less,
19 will have sufficient pressure during summer peak seasonal
20 demand.

21 JUDGE NEMEC: Okay. If you can answer that.

22 A. I cannot say that under all conditions every
23 customer is going to have pressure, because line breaks and
24 other things come into effect in which pressures are going
25 to go up and down.

1 Q. Let's say there are no line breaks. Forget line
2 breaks.

3 A. Okay.

4 Q. Let's say we don't have any for a period between
5 June and September. Do the tests that you have in front of
6 you enable you to conclude that everyone is going to have
7 adequate pressure if they are on small or four-inch or less
8 mains?

9 A. I don't think I can say that conclusively. No,
10 I don't believe it.

11 Q. And are you aware that Redstone Water Company
12 has over 8,000 feet of four-inch pipe in its system?

13 A. I didn't know that exactly.

14 Q. Are you aware that they have 1,100 feet of
15 three-inch pipe?

16 A. Most every water system that we regulate has
17 small lines like that.

18 Q. I'm asking you if you are aware that Redstone
19 has this?

20 A. No, I'm not.

21 Q. Are you aware that they have over 3,000 feet of
22 two-inch pipe?

23 A. I knew they had the small pipe, but I didn't
24 know the exact footage, yes.

25 Q. Now, you said on Direct by Mr. Niesen that

1 D.E.P. does not regulate fire flow, did you not?

2 A. Right.

3 Q. However, D.E.P. does regulate the size of mains
4 that may be connected to hydrants, does it not?

5 A. On new systems, yes.

6 Q. And what is that requirement?

7 A. Six-inch.

8 Q. And are you aware that Redstone has many
9 hydrants connected to four-inch mains?

10 A. Yes.

11 Q. Do you believe that all Redstone customers will
12 have pressure at 20 psi or more when a hydrant is opened?

13 A. I wouldn't believe that if it was on a four-inch
14 main that that would be maintained, no, because that's a
15 six-inch flow on a four-inch main.

16 Q. Since you have just said that they have a number
17 of hydrants connected to four-inch mains, to that extent,
18 they are not in compliance with your agency's regulations,
19 are they?

20 A. Not by today's standards, no.

21 Q. Now, you testified today under Direct by
22 Mr. Niesen and in your testimony in the prior rate case
23 that we referred to earlier, and I'm going to quote from
24 the written testimony in the rate case, but I think you
25 said something similar today, quote, Redstone's water can

1 be used for household purposes such as cooking, clothes
2 washing, and bathing, end quote. Do you recall that
3 testimony?

4 A. Yes.

5 Q. Now, does the phrase suitable for household
6 purposes appear in any Department of Environmental
7 Protection regulations?

8 A. It may. I'm not aware of that, but it may.

9 Q. So, you are not sure?

10 A. I'm not sure.

11 ATTORNEY DUSMAN: Your Honor, I would like to ask
12 the witness to review the regulations and advise us, and I
13 guess I can make it an on the record data request whether
14 the phrase suitable for all household purposes appears
15 anywhere in his agency's regulations.

16 THE COURT: Can you do that, sir? Not right now.

17 ATTORNEY DUSMAN: Not at this moment.

18 THE WITNESS: Okay. Sure.

19 BY ATTORNEY DUSMAN:

20 Q. Were you aware when you submitted that testimony
21 in June of 1998 that the phrase, quote, suitable for all
22 household purposes, end quote, is a phrase that is used by
23 the Public Utility Commission as a way of describing
24 adequate water service under the Public Utility Code?

25 A. No, I'm not aware of that.

1 Q. Have you ever discussed what the P.U.C.
2 standards are for adequate service with any Public Utility
3 Commission employees?

4 A. No.

5 Q. So, you are not aware of the fact that rate
6 increases may be denied where that standard is not met?

7 A. No, I was not aware of that.

8 Q. You never heard of a company being denied a rate
9 increase because they were providing inadequate service?

10 A. I can't say I do directly, no.

11 Q. Okay.

12 ATTORNEY DUSMAN: May I have a moment, Your Honor?

13 JUDGE NEMEC: You may.

14 (Brief pause.)

15 BY ATTORNEY DUSMAN:

16 Q. Mr. Wolbert, you said earlier that you reviewed
17 Mr. Fought's written testimony?

18 A. Uh-huh (affirmative).

19 Q. And so, you are aware, are you not, that he
20 testified that Redstone should explore at least two
21 alternatives to improving the water quality to the Redstone
22 customers?

23 A. Yes.

24 Q. And are you aware that the second alternative is
25 exploring the possibility of purchasing Tri-County water?

1 A. Yes.

2 Q. And do you support that recommendation?

3 A. I would like to see a feasibility of looking at
4 all--at the complete system, taking into account all
5 aspects of the system and that being one of the options
6 looked at.

7 Q. Okay. And do you agree with the O.C.A. that
8 having complete current system maps would be a first step
9 in the process of evaluating all these various problems?

10 A. I think we have to know not only from a map
11 standpoint, but what piping is actually in the ground, what
12 the condition of the 60-year-old system is. To be fair, we
13 need to look at what the capability of the system is. With
14 an interconnect changing the pressure gradients and things,
15 we could blow this system apart, and I think that the study
16 needs to be all inclusive.

17 ATTORNEY DUSMAN: Your Honor, I don't have anything
18 further for Mr. Wolbert.

19 JUDGE NEMEC: Okay. Redirect?

20 R E D I R E C T E X A M I N A T I O N

21 BY ATTORNEY NIESEN:

22 Q. Could I ask a couple of follow-up questions?
23 Mr. Wolbert, Redstone is not a new system, is it?

24 A. No. Far from it. I guess it's in excess of 60
25 years old, from the testimony we have heard.

1 Q. In several of your answers, you drew a
2 distinction between a new system and an existing system?

3 A. Yes.

4 Q. Can you explain that?

5 A. I think Chapter 109 in state regulations are
6 relatively new, and to go back and make those retroactive
7 would wipe out probably financially as well as every other
8 way a lot of the small systems that we see in
9 Pennsylvania.

10 Q. So, are you saying that your department doesn't
11 apply some of the regulations to existing systems?

12 A. There are times they can't be applied.

13 Q. They cannot be applied?

14 A. Right.

15 Q. Okay.

16 A. I think I mentioned the secondaries. D.E.P.
17 monitors secondaries on new sources. We are catching up
18 from the new source standpoint. Financially, some of these
19 fixes are going to be very, very costly. And some of the
20 things that we are doing is looking at regionalization of
21 systems. We also have some new studies out in D.E.P. to
22 look at the stand alone capabilities. I think I mentioned
23 to you an engineering program that the department has to do
24 a complete analysis of the small systems to see if they can
25 stand alone and meet future compliance.

1 Q. Can you tell us a little more about that
2 program?

3 A. Yes. It's a brand new program. It's called the
4 Small Drinking Water Systems Engineering Services, Small
5 Drinking Water Systems Engineering Services Program. And
6 the state, this came about as the result of the 1996
7 authorization of the Federal Drinking Water Act. E.P.A.
8 has a lot of money now that's coming down to the states,
9 and along with the money comes a lot of new regulations and
10 a lot of new extremes, one of them being that systems under
11 3,300 people, which would typify Redstone Crescent Heights,
12 you need to look at the financial, managerial, and
13 technical capability of these systems to see if they have
14 the wherewithal to survive in the future when these new
15 regulations come into place. This is not a mandatory
16 program, but it's a program that's just getting up and
17 running. I talked with Mr. Yablonski about it, and
18 Harrisburg has agreed to come out and meet with us and
19 maybe look at this program. That's what I think in my
20 opinion needs to be done. Water business is such a
21 chemical balance that I'm afraid to do something with the
22 secondary and cause a violation of a health issue. So,
23 these old systems need to be looked at in totality and
24 addressed I think in totality. What we heard in the
25 courtroom here the last couple of days I think--

1 Q. Is there money for a feasibility study in the
2 program?

3 A. Yes. From what I understand in speaking with
4 Harrisburg, and Walt Harner is the person that administers
5 this. He tells me that there is money to come in and do
6 this study, look at the options, not to try to drive
7 somebody out of business but to try to see what can be done
8 to make the system compliant. And there may even be some
9 money to put in some lines, for some line replacement.

10 Q. Could all that be done in 60 days?

11 A. No, I don't think so, given the staff time.
12 D.E.P. right now I think has put 13 systems in here, high
13 priority systems in the state. We have systems around the
14 state that boil water. There are all different kinds of
15 serious conditions. I think 13 systems were put into this
16 program that we have an agreement with. If Mr. Yablonski
17 is interested in talking with him to see if he can get this
18 system--but, no, 60 days would be unrealistic.

19 Q. Do you have any feeling for what would be
20 realistic?

21 A. I don't know that because of a lot of facts. I
22 don't know what the engineering services are going to be.

23 Q. It's a new program?

24 A. Exactly. And it would only be a guess on my
25 part, and I don't like to be misleading.

1 Q. I just want to ask you about the testing for
2 secondary contaminants. Is there a periodic schedule for
3 that? Does that have to be done every year or two years?

4 A. For secondaries?

5 Q. Yes.

6 A. Actually, the D.E.P. does not require the states
7 to monitor for secondaries at all. What D.E.P. has done to
8 my awareness, in some areas where there have been a lot of
9 complaints come in on a given to the system to the
10 department and it is validated, then we can put the system
11 on a monitoring schedule for secondaries.

12 Q. So, if you have complaints, then you do more
13 testing?

14 A. Right. And that was one of my--earlier on in my
15 testimony, one of the reasons I went to the meeting, this
16 was to get information so we knew where we were going.

17 Q. Prior to that, people hadn't complained?

18 A. No. None.

19 Q. So, there was no testing for secondaries?

20 A. Exactly. I come into this system relatively
21 recently, so I did not have the history that we found back
22 in the 1980's that had been done with the system.

23 Q. Ms. Dusman asked you and referred you to a list
24 of pressure tests that were back in May of 1998. Just so
25 the record is clear, are these all--are these the only

1 pressure tests that you have taken at Redstone?

2 A. In this time frame, there were two additional
3 pressure tests taken in '99. The day I went to the
4 meeting, I heard a complaint about a pressure at Walkertown
5 Hill. We did a pressure at the highest point on Walkertown
6 Hill and we did a pressure down at the post office, which
7 is one of the low areas, just to get that difference, and
8 the one on Walkertown Hill was 70 pounds and the one down
9 at the post office was 130 pounds.

10 Q. What's your procedure for conducting a pressure
11 test?

12 A. We have a pressure gauge similar to the ones
13 that the water companies use, and we take the pressure
14 right in the house. The law requires actually pressure be
15 maintained in the water company's main but, you know, it
16 doesn't do the customer any good if they can't get water.
17 So, we take the test in the customer's house to see if
18 there is pressure there. We screw it on and turn the water
19 on full.

20 Q. These test results are in-home?

21 A. Yes.

22 Q. They are not at the main?

23 A. No.

24 Q. And that's actually--that benefits the customer
25 in respect that by doing it that way, you actually know the

1 pressure inside the house?

2 A. Right. But I believe the pressure is going to
3 be somewhat similar in the house, unless there is a high
4 flow or something.

5 ATTORNEY NIESEN: That's all I have. Thank you.
6 I'm sorry. One moment, Your Honor.

7 (Brief pause.)

8 ATTORNEY NIESEN: If I might ask one more question.

9 JUDGE NEMEC: Go ahead.

10 BY ATTORNEY NIESEN:

11 Q. You mentioned that you went to a meeting with
12 the Citizens Council in January of 1999, and it was right
13 after the outage?

14 A. Uh-huh (affirmative).

15 Q. Have you participated in the plan of action in
16 respect to the outage?

17 A. Yes. We were in touch with the water company.
18 Mr. Yablonski had called as soon as that occurred, put a
19 voice mail, and I called him back the next day. We were in
20 contact to make sure that the public was notified properly
21 and we had radio coverage and newspaper coverage and public
22 announcements and those kinds of things.

23 Q. And did he follow your recommendations
24 concerning the remedy?

25 A. Yes. To be fair, that was a horrible time

1 temperature-wise, ice and snow-wise. I think I even heard
2 to one of the residents refer to how bad the conditions
3 were at that time, and I think we did the best we could
4 with the situation.

5 Q. Thank you.

6 ATTORNEY NIESEN: That's all, Your Honor.

7 ATTORNEY DUSMAN: Just a couple of things,
8 Your Honor.

9 R E C R O S S - E X A M I N A T I O N

10 BY ATTORNEY DUSMAN:

11 Q. Do you know, Mr. Wolbert, whether a pressure
12 test has ever been done at the house which is the highest
13 point in the system?

14 A. The very highest house, I couldn't say. I don't
15 know, because I don't know which house might be the very
16 highest.

17 Q. You don't know that?

18 A. No.

19 Q. And I believe you said that the houses that were
20 reflected on the pressure tests that you were looking at
21 were chosen arbitrarily?

22 A. I think they were random. Or if there was a
23 complaint to the water company, if it was mentioned to us
24 or something, maybe we had gone out to look at that.

25 Q. I don't want the record to be confused on this

1 particular issue. You have said I believe twice now that
2 the E.P.A. does not require the states to monitor their
3 secondary MCLs, is that correct?

4 A. Right.

5 Q. However--

6 ATTORNEY DUSMAN: Your Honor, may I approach the
7 witness?

8 JUDGE NEMEC: Yes.

9 BY ATTORNEY DUSMAN:

10 Q. Are you familiar with this regulation,
11 Mr. Wolbert, in Chapter 109, State MCLs and Treatment
12 Technique Requirements?

13 A. Yes.

14 Q. Okay. Would you just please read into the
15 record Subsection B-1?

16 A. Okay. A public water system shall supply
17 drinking water that complies with the secondary MCLs
18 adopted by the Environmental Quality Board under the Act,
19 except for the MCL for P L which represents a reasonable
20 goal for drinking water quality.

21 Q. Okay. So, do you interpret that, that the
22 Commonwealth of Pennsylvania, even though not required by
23 the E.P.A., has chosen to adopt the secondary MCLs as part
24 of its Safe Drinking Water Act requirements?

25 A. Yes. That is being applied to new sources. And

1 on specific cases where there are high complaints because
2 of the availability of staff and stuff, it can't be applied
3 in other areas.

4 Q. But it does apply to all systems today, does it
5 not?

6 A. Yes. Yes.

7 ATTORNEY DUSMAN: I don't have anything further,
8 Your Honor.

9 JUDGE NEMEC: Okay.

10 JUDGE NEMEC: Anything else?

11 ATTORNEY NIESEN: Nothing further.

12 JUDGE NEMEC: Thank, sir. You are excused.

13 (Witness excused.)

14 (Witness sworn.)

15 W. DAVID SHRADER, a witness herein,
16 called on behalf of the Respondent, having first been duly
17 sworn, was examined and testified as follows:

18 D I R E C T E X A M I N A T I O N

19 BY ATTORNEY NIESEN:

20 Q. Would you please state your full name and your
21 business address?

22 A. My name is William David Shrader, S-h-r-a-d-e-r,
23 and I work at P.O. Box 3265, Harrisburg, PA, 17105-3265.

24 Q. Mr. Shrader, how are you employed?

25 A. I work for the Pennsylvania Public Utility

1 Commission in it's Bureau of Fixed Utility Services.

2 Q. You are here in response to a subpoena for your
3 testimony?

4 A. Yes.

5 Q. You have provided me with a statement
6 description of your educational and employment history?

7 ATTORNEY NIESEN: If Your Honor pleases, I would
8 like to have this marked as Shrader Exhibit No. 1.

9 JUDGE NEMEC: It may be so identified.

10 (Whereupon, the document was marked as
11 Shrader Exhibit No. 1 marked
12 identification.)

13 BY ATTORNEY NIESEN:

14 Q. I'm going to show you what's been marked for
15 identification as Shrader No. 1. Is that a statement of
16 your educational and professional background?

17 A. Yes, it is.

18 Q. Would you briefly explain--

19 ATTORNEY HORTING: Excuse me. Could I see a copy?

20 ATTORNEY NIESEN: I'm sorry.

21 BY ATTORNEY NIESEN:

22 Q. Would you summarize your educational and
23 professional background?

24 A. I have three degrees in engineering, two
25 associates, one in surveying and one in highway

1 engineering, and I have a Bachelor of Science in water
2 resources engineering. I'm a licensed surveyor and I have
3 an engineer-in-training certificate. I have been employed
4 as an engineer since 1975 and earlier during school
5 breaks. I have worked as a private consultant. I have had
6 my own company. And I have been working with the P.U.C.
7 now a little bit over five years.

8 Q. I would like to address your attention to the
9 Public Utility Commission's Answer to the Application for
10 Subpoena concerning your appearance here today.

11 ATTORNEY NIESEN: If Your Honor pleases, I would
12 like to have that marked for identification as Shrader
13 Exhibit No. 2.

14 JUDGE NEMEC: It may be so identified.

15 (Whereupon, the document was marked as
16 Shrader Exhibit No. 2 marked
17 identification.)

18 BY ATTORNEY NIESEN:

19 Q. What I would like to do with you is confirm the
20 averments made in the Answer to the Application for
21 Subpoena, and you can follow along with my questions by
22 going paragraph to paragraph. In Paragraph 1 of the
23 Answer, Mr. Shrader, the averment is made that in January
24 of 1999, Redstone experienced a water service
25 interruption. Is that statement true and correct, to the

1 best of your knowledge, information, and belief?

2 A. Yes, it is.

3 Q. In Paragraph No. 2 of the Answer, the averment
4 is made, also as a result of the service interruption, the
5 Commission received a letter dated February 26, 1999 from
6 an otherwise unidentified coalition of Redstone customers
7 calling themselves the Citizens Advisory Council of West
8 Pike Run Township which raised various issues and requested
9 Commission investigation. Is that averment true and
10 correct, to the best of your knowledge, information, and
11 belief?

12 A. Yes, it is.

13 Q. And is the February 26th, 1999 letter included
14 as Attachment A to Shrader Exhibit No. 2?

15 A. Yes, it is.

16 Q. And who was that letter from and to?

17 A. The letter was signed by Stephanie Kotula,
18 K-o-t-u-l-a, and Yvonne, Dickinson, D-i-c-k-i-n-s-o-n, and
19 it was addressed to Chairman John M. Quain, Q-u-a-i-n,
20 Chairman of the Public Utility Commission.

21 Q. Continuing in Paragraph 3 of the Answer,
22 W. David Shrader of the Commission's Bureau of Fixed
23 Utility Services was given the assignment regarding the
24 letter. Is that statement true and correct?

25 A. Yes.

1 Q. Could you describe the assignment that you were
2 given regarding the letter of February 26th, 1999?

3 A. I was assigned to aid Jack T. Polk, P-o-l-k,
4 manager of the Water/Wastewater Section, Industrial
5 Division of my unit, and to assist and aid in responding to
6 that letter for the Commission.

7 Q. What was the employment relationship between you
8 and Mr. Polk?

9 A. Mr. Polk was my unit manager, which would be a
10 step above my supervisor, Ms. Judy Carlson, C-a-r-l-s-o-n.

11 Q. Is Mr. Polk still employed with the Public
12 Utility Commission?

13 A. He has since retired as of last July.

14 Q. Now, continuing with Paragraph 3, the averment
15 continues to state, Mr. Shrader's handwritten notes on the
16 last three pages of Attachment A as well as Attachment B
17 resulted from his preliminary survey of the matter. Is
18 that a true and correct statement?

19 A. Yes, it is.

20 Q. And the handwritten notes that are on
21 Attachment A that is included with Shrader Exhibit No. 2,
22 that is your handwriting, is it not?

23 A. Yes.

24 Q. What was the purpose of making those notes?

25 A. Mr. Polk was very concerned about--we are in an

1 advisory position here. We had no legal support and we did
2 not want to be involved with anyone that had or be in
3 contact with anyone that has a current formal, non-formal,
4 any type of a rate case formal complaint or anybody that
5 testified at the public input hearing from a proprietary
6 matter, I guess.

7 Q. So, the handwriting was the designation status
8 of certain people on the list?

9 A. That is correct.

10 Q. Attachment B, would you turn to that. That
11 would be Shrader Attachment No. 2?

12 A. Yes.

13 Q. That is, again, your handwriting. And what is
14 the significance of these notes?

15 A. Mr. Polk, after I did the preliminary going
16 through the list that was submitted in conjunction with the
17 letter that we eliminated, I then tried to attempt to
18 contact people that were on this list. And these were four
19 people I was able to speak with and ask questions with
20 concerning what their concerns are.

21 Q. These are notes of your conversations with these
22 individuals?

23 A. On the telephone, yes.

24 Q. Continuing with Averment 4 in the Answer, it's
25 stated that, the Commission responded to the February 26,

1 1999 letter from the Citizens Advisory Council by letter
2 dated March 18, 1999 indicating that staff would conduct an
3 on-site investigation of Redstone's service operations and
4 business practices. Is that statement true and correct?

5 A. Yes, it is.

6 Q. And, in fact, was there an on-site investigation
7 conducted?

8 A. Yes.

9 Q. And the Commission's letter of March 18, 1999 is
10 included as Attachment C to Shrader Exhibit No. 2, is that
11 right?

12 A. The March 18th letter is a letter by Mr. Jack T.
13 Polk addressed to the Advisory Council, what he believed to
14 be their issues that they took up in their initial letter,
15 what we were going to do, and he just addressed various
16 points and that we were going to do an on-site inspection.

17 Q. And is that letter as included as Attachment C
18 to Shrader Exhibit No. 2?

19 A. Yes.

20 Q. Paragraph 5 of the Answer states, on April 21,
21 1999, Mr. Shrader conducted an on-site investigation of
22 Redstone. Did you, in fact, conduct an on-site
23 investigation on April 29, 1999?

24 A. April 21st.

25 Q. I'm sorry. April 21, 1999?

1 A. Yes, I did.

2 Q. So, that statement is true and correct, also?

3 A. Yes.

4 Q. And during the on-site investigation,
5 Mr. Shrader took 19 Polaroid photographs, copies of which
6 are appended to the Shrader Exhibit No. 2 as Attachment D,
7 is that right?

8 A. Yes.

9 Q. Continuing then, Paragraph 6 states, subsequent
10 to his investigation, Mr. Shrader prepared an interoffice
11 memorandum dated April 27, 1999 to his manager delineating
12 his findings. Is that statement true and correct?

13 A. Yes.

14 Q. Is your April 27, 1999 memorandum attached as
15 Attachment E to Shrader Exhibit No. 2?

16 A. Yes.

17 Q. Paragraph 7 of the Answer states that, the
18 Commission's Bureau of Fixed Utility Services prepared a
19 written letter dated May 4, 1999 to Stephanie Kotula,
20 Chairperson of Citizens Advisory Council regarding the
21 findings of Mr. Shrader during his on-site investigation of
22 April 21, 1999. Is that statement true and correct?

23 A. Yes.

24 Q. And is the May 4, 1999 letter included as
25 Attachment F to Shrader Exhibit No. 2?

1 A. Yes.

2 ATTORNEY NIESEN: Let me for the record, Your Honor,
3 make clear that the last two pages of Shrader Exhibit No. 2
4 as Attachment F, I would ask that the parties and the court
5 reporter handwrite on the bottom of the first of two pages
6 Attachment F.

7 JUDGE NEMEC: All right.

8 BY ATTORNEY NIESEN:

9 Q. Now, I would like to go back to your on-site
10 investigation of April 21, 1999. And if you look at
11 Attachment E to Shrader Exhibit No. 2, is Attachment E a
12 complete description of what occurred during that
13 investigation?

14 A. Yes.

15 Q. In your own words, and you can use your memo and
16 Shrader Exhibit No. 2 to refresh your recollection as you
17 need to, can you explain what occurred that day when you
18 went to Redstone on April 21, 1999 and conducted your
19 investigation?

20 A. I arrived on site early. It was a chilly rainy
21 day, April 21st. And I went immediately up to the storage
22 tank to check on its capacity, if it was at full capacity,
23 and the level gauge indicated that it was so. I had
24 noticed that the tank had been repainted in recent years,
25 but the bottom part had been covered with graffiti, and I

1 did take a picture of that. The tank sits at the highest
2 point of the service territory. Then I arrived at the
3 company's office. Mrs. Denise Stish, S-t-i-s-h, the office
4 manager, was present.

5 Q. Mr. Shrader, let's just stop a moment.

6 ATTORNEY NIESEN: If Your Honor please, I have the
7 photographs of Mr. Shrader's that he took during this
8 visit.

9 BY ATTORNEY NIESEN:

10 Q. Do you have them with you, also, Mr. Shrader?

11 A. Yes.

12 Q. And what I have are copies, is that right?

13 A. Right.

14 Q. Let's back up a moment. You mentioned the
15 picture of the tank. Let's use these if you would, please,
16 and identify and pull out the picture of the tank that you
17 referred to.

18 ATTORNEY NIESEN: Let's mark that as Shrader Exhibit
19 No. 3.

20 (Whereupon, the document was marked as
21 Shrader Exhibit No. 3 for
22 identification.)

23 BY ATTORNEY NIESEN:

24 Q. Is Shrader Exhibit 3 the picture of the tank
25 that you referenced in your testimony?

1 A. Yes, it is.

2 Q. Please continue. What did you do after you
3 visited the tank?

4 A. I went down to the company office, and there I
5 met with Denise Stish, who was the office manager. We were
6 waiting for Mr. Yablonski, Greg Yablonski, and Paul Long,
7 L-o-n-g, that they were on their way, and they were
8 communicating via two-way radio.

9 Q. And then what happened?

10 A. She inquired about a letter request concerning
11 records, and I briefed her on what was necessary. She
12 began making appropriate copies.

13 Q. Did you then go to customer locations? Well,
14 you tell me, what did you do next?

15 A. The trio got there and I went over what we were
16 going to do, what rules of conduct we were expecting, and
17 also wait for the Council to show up. They had requested
18 several times to be along with this inspection. And we
19 waited until about 9:20 for them, and they didn't arrive.
20 So, we decided to leave, and if members of the Council
21 showed up or telephoned, Mrs. Stish was instructed to
22 contact us.

23 Q. Was there a particular person from the Council
24 that you were waiting for that day?

25 A. Not necessarily. We requested that anybody that

1 had a formal complaint, an informal complaint, that
2 testified at the input, or had a formal complaint on the
3 rate case not be along.

4 Q. Not be along?

5 A. Right. Mr. Polk, again, was very concerned that
6 it just might not be appropriate or whatever.

7 Q. All right. Then what did you do?

8 A. Well, prior to leaving the office, Mr. Yablonski
9 took me into the lab part of the office, where I guess at a
10 utility sink, he has a pressure gauge that's permanently--
11 well, not permanently mounted, but they leave it there so
12 they can check pressures. At that time and day, it was
13 reading approximately 60 pounds, and with his explanation
14 and his calculations would be about right for the position
15 of the tank with the water level which was in it.

16 Q. And did you take pictures of the gauge reading?

17 A. Yes, I did.

18 Q. You took two pictures of that gauge reading?

19 A. Yes, I did.

20 ATTORNEY NIESEN: If Your Honor please, I would
21 like to have these pictures marked as Shrader Exhibit No. 4
22 and Exhibit No. 5. May they be so identified?

23 JUDGE NEMEC: They may.

24 (Whereupon, the documents were marked as
25 Shrader Exhibit Nos. 4 and 5 for

1 identification.)

2 BY ATTORNEY NIESEN:

3 Q. So the record is clear, Mr. Shrader, I will show
4 you what we marked as Shrader Exhibit No. 4 and Shrader
5 Exhibit No. 5. Are those the pictures you took of the
6 company's office and the picture of the pressure gauge that
7 the company has at its office?

8 A. Yes.

9 Q. And that gauge reads what?

10 A. 60 pounds psi.

11 Q. They are pictures of the same gauge, is that
12 right?

13 A. Yes.

14 Q. Just from different angles or one is farther
15 away than the other?

16 A. Right.

17 Q. And then what did you do?

18 A. Off my list, we went to Mr. John Collins, Jr.'s
19 residence.

20 Q. Off your list. How did he come to be on your
21 list?

22 A. Again, these were--this was during my survey,
23 telephone survey, how I located this gentleman. And he had
24 replied that he had had several outages since September, he
25 has dirty water, he has to let it run, he has low pressure

1 at any time. And he was in the Crescent Heights division,
2 so that meant he was on the top of the hill. And he has
3 never seen any hydrant flushing. And I gave him Jim
4 Farley's number at the Bureau of Consumer Services if he
5 wanted to file any kind of a formal complaint or he had any
6 kind of questions.

7 Q. All right. So, you went to Mr. Collins' house?

8 A. Yes.

9 Q. And what happened there?

10 A. His wife answered the door. She said her
11 husband was at work and she didn't understand why I chose--
12 I have a typo. Why I decided to choose to have an
13 inspection at their residence. I remarked about her
14 husband's ties to Council, and she replied she was unaware
15 of the Council or her husband's involvement. And she was
16 at the time preparing to do a load of white clothes and she
17 was filling her washing machine. I asked her to stop for
18 the time being. I asked for a clear glass and got water
19 from the kitchen faucet. The pressure appeared adequate.
20 The water was clear with no visible sediment, no odor, and
21 the taste was okay. I then went outside and took pressure
22 tests on the outside bib, the outside hose bib, and read 51
23 pounds. I'm going to note here that this house was a
24 little bit higher in elevation than the company's office,
25 so I would expect not to have a higher pressure reading

1 than the office because this is a gravity system.
2 Mrs. Collins, I asked her several questions about the
3 water, and she has no problems with the water, she use them
4 both potably and domestically.

5 Q. Did you take any pictures of the testing that
6 you did at the Collins household?

7 A. Yes, I did.

8 Q. Take your time.

9 A. This is a picture that I took of the glass of
10 water I had taken at the time, and I put it on her stove
11 because it had a white background so you could see that
12 there was--just to show it was clear.

13 ATTORNEY NIESEN: We will mark that as Shrader
14 Exhibit No. 6. May that be so identified, Your Honor?

15 JUDGE NEMEC: It may.

16 (Whereupon, the document was marked as
17 Shrader Exhibit No. 6 for
18 identification.)

19 BY ATTORNEY NIESEN:

20 Q. Did you take any other pictures at the Collins
21 household?

22 A. Yes. This is a picture, and it didn't come out
23 very well because of where the location of their outside
24 hose bib is underneath their mobile home, and I couldn't
25 get very close to it. It flared. But anyhow, I was able

1 to read it at 51 pounds.

2 ATTORNEY NIESEN: May we have that marked as Shrader
3 Exhibit No. 7?

4 JUDGE NEMEC: You may.

5 (Whereupon, the document was marked as
6 Shrader Exhibit No. 7 for
7 identification.)

8 BY ATTORNEY NIESEN:

9 Q. You left the Collins household, then?

10 A. Right.

11 Q. And where did you go after that?

12 A. Now, I just want to state here now that just
13 about what happened there happened at the next three
14 houses. Now, I also--

15 Q. By there, you mean what?

16 A. That they were satisfied with their pressure,
17 they didn't have problems, they were aware of the January
18 problem, they don't have problems with sediment or odor or
19 taste.

20 Q. All right.

21 A. Then I also want to state that one of the things
22 we were going to try to do also was to randomly go to
23 different houses, first checking to make sure they were not
24 any of the no-no list and see if we can do some
25 randomization. And we tried to pick a place that had a

1 vehicle or, you know, just maybe somebody is home and we
2 just struck out. So, we continued on down. I went around
3 Crescent Heights. I went to Mr. Cornell Ellis. Now, he
4 was at work. Now, the lady of the house, I didn't catch
5 her name, she had no complaints. The water was clear, no
6 odor, good taste. But they didn't have an outside bib, so
7 I couldn't take a reading there, but pressure at the tap
8 seemed adequate. They would be a little above the
9 elevation from the office of the water company and probably
10 the same elevation roughly as the Collins house.

11 Q. Did you take any pictures of your testing at the
12 Ellis house?

13 A. Yes, I did. I believe I took one. Because they
14 didn't have an outside bib, I wasn't able to take a
15 pressure sample. Again, I put it on a light background so
16 you could see that it didn't appear to have sediment or
17 cloudiness, and I did smell it and taste it and everything
18 seemed fine.

19 ATTORNEY NIESEN: Your Honor, may we have that
20 picture marked as Shrader Exhibit No. 8?

21 JUDGE NEMEC: You may.

22 (Whereupon, the document was marked as
23 Shrader Exhibit No. 8 for
24 identification.)

25 BY ATTORNEY NIESEN:

1 Q. You then left the Ellis house?

2 A. Yes.

3 Q. And where did you go from there?

4 A. Now, we went down to what we call Daisytown. I
5 guess that's down on the bottom. And we went to a
6 William R. Ridge's house. Whenever I talked with him on
7 the phone, he had several outages in September, he had no
8 pressure, and he had a hydrant in his yard. He said he
9 opened it and there is no water coming out of it. Again, I
10 gave him Jim Farley's number. Well, whenever we got there,
11 he appeared not to be home. So, with the company, we went
12 around back and opened the hydrant and it flowed. There
13 was water coming out of it. We didn't fully open it
14 because we discussed that we might stir up too much in the
15 line and cause some problems, so we shut it back off rather
16 quickly.

17 Q. That would be a typical occurrence in opening a
18 hydrant?

19 A. Oh, yeah.

20 Q. Did you take any pictures of this part of your
21 investigation?

22 A. Yes, I did. I took two.

23 ATTORNEY NIESEN: Your Honor, may these photographs
24 be marked as Shrader Exhibit 9 and Shrader Exhibit 10?

25 JUDGE NEMEC: They may.

1 (Whereupon, the documents were marked as
2 Shrader Exhibit Nos. 9 and 10 for
3 identification.)

4 BY ATTORNEY NIESEN:

5 Q. Where did you go from the Ellis household?

6 A. Then we went on downstream, I believe, in
7 Daisytown to a Ms. Lori Ventura. Now, whenever I spoke
8 with her, she said she didn't have any problems since
9 January. She uses a Brita filter. She is concerned about
10 hardness. Then she just mentioned that everybody up in the
11 heights has pressure and outage problems. Well, when we
12 got there, she wasn't there. She wasn't home. But her
13 mother-in-law, who is Susan, was a couple doors over and
14 she came out to find out what I was doing there. And we
15 got talking and she said she had no complaints other than
16 during the January problem period. The water is clear and
17 there is no taste--no odor, tastes good. I took a pressure
18 at the hose bib, and that was 138 pounds. The house is on
19 a pressure reducer and it's at one of the lower elevations
20 on the system. She related that she and her
21 daughter-in-law only attended the first Council meeting at
22 which matters of the township were to be discussed but
23 nothing about the water company.

24 Q. Did you take photographs of your investigation
25 at the Ventura house?

1 A. Yes, I did. There is a glass of water I drew.
2 I have it against a light background. You can see that the
3 water is clear.

4 Q. Just a minute.

5 ATTORNEY NIESEN: Your Honor, may we have that
6 marked as Shrader Exhibit No. 11?

7 JUDGE NEMEC: You may.

8 (Whereupon, the document was marked as
9 Shrader Exhibit No. 11 for
10 identification.)

11 BY ATTORNEY NIESEN:

12 Q. Any other pictures of the Ventura household?

13 A. This is a picture of the pressure gauge reading
14 of 138 pounds.

15 ATTORNEY NIESEN: Your Honor, may we have that
16 marked as Shrader Exhibit No. 12?

17 JUDGE NEMEC: You may.

18 (Whereupon, the document was marked as
19 Shrader Exhibit No. 12 for
20 identification.)

21 BY ATTORNEY NIESEN:

22 Q. All right. You then left the Ventura household?

23 A. Yes.

24 Q. And where did you go from there?

25 A. We went up to Malden Road to Bruno and Sally

1 Shemansky. At the time I spoke to them, they were one of
2 the five houses that are on the two-inch slip line and they
3 haven't had any problems since January. They just wished
4 the company would come back and fix their driveway.

5 Q. January was what?

6 A. January of '99, that was whenever the outage
7 was, occurred.

8 Q. Okay.

9 A. Again, I gave them Jim Farley's number. I drew
10 water there, it was clear, no odor, good taste. The
11 pressure was 90 degrees psig and they mentioned they wished
12 they had never gotten mixed up with the Council. And they
13 are about approximately halfway up Malden Road, M-a-d-l-e-n
14 (sic), across from Crescent Heights area. So, 90 pounds
15 would seem--would be indicative of that.

16 Q. Did you take pictures of your testing and
17 investigation at the Shemansky household?

18 A. Yes, I did. Here is a picture of the glass of
19 water that I had drawn against a light background.

20 Q. And what does that show?

21 A. It indicates that the water is clear, and I did
22 smell and taste it.

23 Q. And did it have any smell or unusual taste to
24 it?

25 A. No. No, it did not.

1 ATTORNEY NIESEN: If Your Honor pleases, we would
2 like to have this photograph marked as Shrader Exhibit
3 No. 13.

4 JUDGE NEMEC: It may be so identified.

5 (Whereupon, the document was marked as
6 Shrader Exhibit No. 13 for
7 identification.)

8 BY ATTORNEY NIESEN:

9 Q. Any other photographs of the Shemansky house?

10 A. Yes. This is a picture of the pressure gauge on
11 the outside hose bib. I read 90 pounds, but as you can
12 see, the flash blocked that out.

13 Q. And on this copy of the photograph, you wrote
14 Shemansky, 90 pounds?

15 A. On each one of those photographs that have the
16 gauge, I wrote down the pressure that I read.

17 ATTORNEY NIESEN: If Your Honor pleases, may we have
18 this photo marked as Shrader Exhibit No. 14?

19 JUDGE NEMEC: You may.

20 (Whereupon, the document was marked as
21 Shrader Exhibit No. 14 for
22 identification.)

23 BY ATTORNEY NIESEN:

24 Q. All right. Was the Shemansky household the last
25 one that you took tests?

1 A. Yes.

2 Q. Was that the end of your investigation?

3 A. No.

4 Q. What else did you do?

5 A. We went along a tour of Malden Road with the
6 three people from the company.

7 Q. Why did you go to Malden Road?

8 A. This was the area in which they apparently had
9 their outages during the January period.

10 Q. That's where the line break was?

11 A. Line breaks, apparently.

12 Q. So, you went to Malden Road and what did you
13 learn there?

14 A. Well, as we walked along, I found several areas
15 where I could tell that there was some type of recent
16 excavation. The backfill apparently looked like number 2-B
17 stone, which is indicative of PennDOT shoulder
18 restoration. I have several pictures of that showing those
19 areas. There was like seven or eight or nine areas, if I
20 recall right. And the other thing, as Mr. Yablonski had
21 pointed out to me, PennDOT recently widened this road and
22 resurfaced it and they put up new guide rails. Apparently
23 here you can see in several pictures where the guide rails
24 are just kind of askew. Another thing I noticed and I had
25 taken pictures of, there would be these long, longitudinal

1 cracks in the one lane nearest the guide rail. Now, this
2 was in several areas, and just about everywhere there was
3 one, it looked like an indication of excavation. So, now,
4 whether the road shifted or whatever, I cannot say
5 without--I would have to say PennDOT would have to do their
6 own investigation. But it is indicative--I mean, this is a
7 relatively new wearing surface.

8 Q. And what did you conclude from that as far as
9 Malden Road is concerned?

10 A. I would say--you mean in terms of the company?

11 Q. Yeah.

12 A. I don't know. I would maybe go to PennDOT and
13 say, what's the deal?

14 Q. Well, is what you saw at Malden Road consistent
15 with the company's explanation that there was an earth
16 movement along the road which broke the pipe in several
17 places?

18 A. Without me doing subsurface investigation, I
19 can't testify to that.

20 Q. All right. Do you have a particular order that
21 you would like to have these--

22 JUDGE NEMEC: Excuse me a second. Do we need to
23 make those part of the record? I'm just concerned about
24 having too much here. I don't know that there is any issue
25 regarding that line break.

1 ATTORNEY NIESEN: All right.

2 JUDGE NEMEC: I mean, it happened and it resulted in
3 an outage. We know that. But in terms of the conditions
4 there and so forth, I don't know that there is any
5 particular issue in that portion of the testimony that the
6 photos would address.

7 ATTORNEY NIESEN: Fair enough.

8 BY ATTORNEY NIESEN:

9 Q. Did that complete your investigation on
10 April 21?

11 A. Yes.

12 Q. Now, based on your investigation and what you
13 saw, who you talked to, the tests you took, what
14 conclusion, if any, did you reach about the quality of
15 service issues raised in the Council's letter?

16 A. I found them unfounded. I mean, nobody
17 indicated to me that they had any problems. All they
18 talked about was there was a problem there in January.
19 They acknowledged that fact.

20 Q. And your conclusion is as expressed in your
21 April 27th, 1999 memorandum to Mr. Polk, isn't that true?

22 A. Yes.

23 Q. Were your conclusions then relayed or presented
24 to the Citizens Council?

25 A. Yes.

1 Q. And how was that done?

2 A. It would be Attachment F, a letter that I aided
3 Mr. Polk in drafting.

4 Q. And are your conclusions essentially those
5 expressed in Paragraph 2, the second paragraph of that
6 letter?

7 A. Of the letter to the Council?

8 Q. Yes. You, in fact, interviewed and took samples
9 at homes from the list of customers that had been included
10 in the letter to Chairman Quain? Did you do that?

11 A. Yes.

12 Q. Yes. You found that the quality of service was
13 in compliance with Commission regulations?

14 A. Yes.

15 Q. You found that customers expressed satisfaction
16 with the water company's overall service?

17 A. Yes.

18 Q. And you found that fire hydrants were
19 operational?

20 A. Yes.

21 Q. You indicated that findings from your inspection
22 is that the Redstone Water Company appears to be in
23 compliance with Commission regulations?

24 A. Yes.

25 Q. As well as in compliance with Pennsylvania

1 Department of Environmental Protection regulations?

2 A. Yes.

3 ATTORNEY NIESEN: If Your Honor pleases, that
4 completes our questioning of Mr. Shrader.

5 ATTORNEY HORTING: Your Honor, could I have a
6 moment?

7 JUDGE NEMEC: Do you want to take a break at this
8 point?

9 ATTORNEY HORTING: That would be fine.

10 JUDGE NEMEC: We will take a five-minute break.

11 (Whereupon, a recess was taken from
12 3:13 P.M. to 3:20 P.M.)

13 JUDGE NEMEC: You may proceed.

14 C R O S S - E X A M I N A T I O N

15 BY ATTORNEY HORTING:

16 Q. Good afternoon, Mr. Shrader. I'm Erin Horting
17 from the Office of the Advocate Consumer, and we are
18 intervening in this case. I just want to go back through
19 your Shrader Exhibit No. 2. There are a few questions.

20 A. Which exhibit?

21 Q. This is the entire Answer that you submitted to
22 the Application for Subpoena.

23 A. Okay.

24 Q. Now, Mr. Shrader, can you tell me, how many
25 times have you been to the Redstone service territory prior

1 to your visit on April 21st?

2 A. Once.

3 Q. Was that April 21st visit the only time--

4 A. No.

5 Q. --or you have been there previously?

6 A. I was there previously.

7 Q. Can you tell me when you were there previously?

8 A. I would have to look at my records.

9 Q. Can you estimate what year that was? Was it
10 in--

11 A. '97.

12 Q. And why were you there in 1997?

13 A. I was there on a rate case investigation.

14 Q. And how much time did you spend there?

15 A. Two days. Not just at Crescent Heights and
16 Daisytown. Also, I went to Royal and Allison.

17 Q. And can you estimate about how much time you
18 spent at the Crescent Heights?

19 A. Probably six to eight hours.

20 Q. And when you arrived at Redstone on April 21st,
21 1999, did you bring any materials with you?

22 A. Yes.

23 Q. What did you bring?

24 A. Two pressure gauges, a Polaroid camera,
25 clipboards, maps. I think I even had my portable voice

1 recorder, tape player.

2 Q. And were these recording pressure gauges?

3 A. No.

4 Q. And what maps did you bring with you?

5 A. U.S.G.S., highway map, Pennsylvania atlas, and
6 gazetteer.

7 Q. And were these maps supplied to you by the
8 company?

9 A. No. Those were supplied by me.

10 Q. And the U.S.G.S. map, is that a topographical
11 map?

12 A. Yes.

13 Q. So, you didn't have a map of Redstone's
14 distribution system, is that correct?

15 A. No, I did not.

16 Q. And you said you went first to the water tank?

17 A. Yes.

18 Q. And had you been to that water tank before?

19 A. Yes.

20 Q. During your previous visit?

21 A. Yes.

22 Q. Is that how you knew where it was?

23 A. Yes.

24 Q. And when you went to the Redstone office, you
25 asked--I believe that you said you asked Mrs. Stish to

1 provide you with--let's see what word you used. You tell
2 me. What did you ask Mrs. Stish to provide you with?

3 A. (The witness indicates.)

4 Q. What is this you put in front of me?

5 A. That is a letter request for them to provide me
6 with copies of 65.3, that would be all complaints, we
7 requested from the effective date of the new tariff; and
8 65.5, which is interruption of service--65.3, which is a
9 list of all their complaints; 65.5, which is interruption
10 of service and those records; and 65.6, which is records of
11 all their pressure surveys, which they did. She then knew
12 what we wanted and she started making copies for me.

13 Q. When you say she made copies of pressure
14 surveys--

15 A. Yes.

16 Q. --can you tell me what years or dates those
17 pressure surveys were taken?

18 A. I will need to get to my file. I will put these
19 in chronological order.

20 Q. Could you perhaps tell me what dates these
21 surveys were taken? Can you tell me?

22 A. Here is one 2/18/99.

23 Q. Okay. What are the other dates?

24 A. 2/18/99, 2/18/99, 2/18/99, 2/18/99, 3/26/99.

25 Q. I'm sorry. Was that four on 2/18/99 and one

1 on--

2 A. Five.

3 Q. Five. Could I just see those?

4 (Documents handed to counsel.)

5 ATTORNEY HORTING: If I could just have a moment.

6 (Brief pause.)

7 BY ATTORNEY HORTING:

8 Q. Thank you. Can you tell me, are those a survey
9 in accordance with the Commission regulation requirements?

10 A. This is the records upon which they had sent me.

11 Q. This is what they provided to you?

12 A. That's right.

13 Q. And had they provided this to you ahead of time,
14 or was this the copies that Mrs. Stish made for you at the
15 office?

16 A. That was at the office.

17 Q. And this was in response to your request--

18 A. It couldn't be. Not by the date of that letter
19 request. The date of that letter request was April 2nd.
20 So, this was conducted prior to our April 2nd data
21 request.

22 Q. But this was what was--these six documents were
23 what was provided to you in response to the April 2nd
24 request?

25 A. That is correct.

1 Q. For annual pressure survey records?

2 A. That's correct.

3 Q. Okay. And was that Section 65.5?

4 A. 65.6.

5 Q. 65.6?

6 A. D.

7 Q. And could you read section 65.6 D? Do you have
8 that in front of you?

9 A. D?

10 Q. Yes.

11 A. D, pressure surveys. At regular intervals but
12 not less than once each year, each utility shall make a
13 survey of pressures in its distribution system of
14 sufficient magnitude to indicate the pressures maintained
15 at representative points on its system. The survey shall
16 be made at or near periods of maximum and minimum usage.
17 Records of these surveys shall show the date, the time of
18 the beginning and the end of the test, and the location at
19 which the test was made. Records of these pressure surveys
20 shall be maintained by the utility for a period of at least
21 three years and shall be made available to representatives,
22 agents, or employees of the Commission upon request.

23 Q. Okay. And may I see, again, that letter to
24 which you referred earlier?

25 (Document handed to counsel.)

1 BY ATTORNEY HORTING:

2 Q. And do you feel that the results furnished to
3 you on April 21st comply with requirements of Section 65.6
4 D?

5 A. I am not in compliance.

6 Q. I'm sorry?

7 A. I'm not in compliance. There was another
8 gentleman at that time who was head of compliance.

9 Q. You mean you are not responsible for monitoring
10 compliance with this section?

11 A. Right.

12 Q. Thank you. But you were picking up the
13 documents that were provided by the company in response to
14 this April 2nd, 1999 letter?

15 A. I wasn't picking them up. They were going to
16 submit them.

17 Q. So, you didn't take them with you?

18 A. No.

19 Q. And while you were at the company office, did
20 you ask to see any maps of the distribution system?

21 A. Yes, I did.

22 Q. And I guess I should ask, to whom did you make
23 this request?

24 A. To Mrs. Stish. Actually, I believe
25 Mr. Yablonski. Greg and Paul were there, also.

1 Q. And did they provide you with maps of the
2 system?

3 A. No. I wasn't there--wait a minute. I got my
4 visits confused. I'm sorry. It was my first visit that I
5 saw the maps.

6 Q. Your visit in 1997?

7 A. Right.

8 Q. But on April 21st, 1999, did you request to see
9 any maps of the system?

10 A. No. Because I knew they were there because I
11 could see them.

12 Q. You could see the maps?

13 A. Uh-huh (affirmative).

14 Q. Where?

15 A. It was in the copy room. It was up in the
16 right-hand corner. They were all up there in boxes.

17 Q. There were maps in boxes in the copy room, is
18 that correct?

19 A. Yes.

20 Q. But you didn't look at any maps of the
21 distribution system on April 21st, 1999?

22 A. No.

23 Q. And, Mr. Shrader, your Exhibit No. 2 indicates
24 that you contacted four Redstone customers prior to
25 visiting the service territory, is that correct, by

1 telephone? I believe this is reflected on your
2 Attachment B.

3 A. Yes. Actually, I contacted five. For some
4 reason, I don't have Ellis down. It might have been on
5 another piece of scrap paper. I will look for it.

6 Q. Mr. Shrader, you believe that you contacted five
7 customers?

8 A. Yes. Yes.

9 Q. Mr. Shrader, if you can't locate that document
10 now, I could make an on the record data request to have
11 that provided and you can submit it to the parties at a
12 later time.

13 A. I know what I need. I made a mark on this
14 (indicating). So, I need to find my original.

15 Q. By that, you mean you made the mark on--

16 A. Here (indicating). I have it marked. It just
17 didn't come out. It says called. So, that's how I got a
18 hold of Collins.

19 Q. Saying that you called Mr. Collins?

20 A. Right.

21 Q. And Mr. Collins is on your notes here on
22 Attachment B?

23 A. I know I talked to Mr. Ellis. That's how--I
24 went to that house.

25 Q. I'm sorry. Mr. Ellis?

1 A. Yes. I must not have marked it.

2 Q. So, you spoke to Mr. Ellis on the telephone as
3 well?

4 A. Right. Uh-huh (affirmative).

5 Q. But you don't have that note attached?

6 A. No, I don't.

7 Q. So, you spoke to five customers prior to
8 visiting Redstone?

9 A. Yes.

10 Q. So, there may be other customers listed that are
11 not reflected in your notes?

12 A. No. There was like 11 numbers that didn't have
13 telephone numbers. There are two people that have formal
14 complaints. There is six that testified at public input.
15 And there are also four informal complaints.

16 Q. My question is, how many people did you talk to
17 on the telephone about their service?

18 A. Five.

19 Q. You spoke to five people. Okay. Mr. Shrader,
20 would you agree that the lowest water pressures on a
21 distribution system are likely to be found at the highest
22 points on the system? Would that be an accurate statement?

23 A. Are you talking about a pressurized system or a
24 gravity system?

25 Q. I believe you said that Redstone Water Company

1 is a gravity system?

2 A. Yeah. But you didn't.

3 Q. You said that previously in testimony?

4 A. Yes. Yes, I did.

5 Q. And then with the understanding that Redstone
6 Water Company is a gravity distribution system, would you
7 agree that the lowest water pressures are likely to be
8 found at the highest points of distribution?

9 A. Unless there are pressure reducing valves.

10 Q. On the system?

11 A. Or even on the mains.

12 Q. Are you aware of any pressure reducing valves on
13 the mains?

14 A. That, I'm not aware of.

15 Q. And, Mr. Shrader, am I correct that you left the
16 company's office at 9:20 A.M. to visit--to begin your visit
17 of the customers' homes?

18 A. Yes.

19 Q. And during your direct, you referred to V. Can
20 you explain who V was?

21 A. That would be, again, in my internal memo,
22 Mr. Yablonski, Greg Yablonski, and Paul Long accompanied
23 me, because I didn't know where these people lived, these
24 house numbers, this sort of thing. They did, so they
25 accompanied me to each one of these five places.

1 Q. And Mr. Yablonski and I believe you said it was
2 Greg Yablonski and--

3 A. Mr. Paul Long.

4 Q. Are they employees of the water company?

5 A. I believe so.

6 ATTORNEY NIESEN: Your Honor, the record should
7 reflect that Paul Long's name is Paul Lancaster.

8 THE WITNESS: Sorry about that.

9 BY ATTORNEY HORTING:

10 Q. And you mentioned that you did not know the
11 addresses or the locations of certain people's homes that
12 you were going to visit that day?

13 A. That's correct.

14 Q. And is that because you had already determined
15 which homes you wanted to visit that day?

16 A. I was going to visit at least the ones that were
17 on that handwritten list, and then I was going to attempt
18 to visit some random houses, provided they weren't on any
19 of the no contact list.

20 Q. And you first visited Mr. Collins' home, I
21 believe you stated that earlier, is that correct?

22 A. Yes.

23 Q. And what is Mr. Collins' address?

24 A. 34 Circle Road, Daisytown, but it is up in the
25 Crescent Heights section.

1 Q. Mr. Shrader, are you aware that there are at
2 least five homes at a higher elevation than Mr. Collins'
3 house on Circle Road?

4 A. Quite possibly.

5 Q. And did you attempt to visit any of those homes?

6 A. I went across the street to one and nobody was
7 home.

8 Q. You went across the street and no one was there?

9 A. So, it was up on the hill higher yet.

10 Q. Did you visit any of the homes higher than the
11 house across the street?

12 A. I don't believe so.

13 Q. And again, Mr. Collins was one of the customers
14 you had previously spoken to on the phone, is that correct?

15 A. Yes.

16 Q. And can you tell me the elevation of
17 Mr. Collins' house?

18 A. Not without consulting a map.

19 Q. Did you know the elevation of Mr. Collins' house
20 that day?

21 A. No, I did not.

22 Q. And your notes indicate that Mr. Collins was at
23 work the day you visited his home, is that correct?

24 A. No. My notes is, he said he had dirty water, he
25 had to let it run, he had low pressure at any time, he was

1 in Crescent Heights, and he has never seen hydrant
2 flushing, and he has had several outages since September.

3 Q. On the day that you visited, you made notes, and
4 these notes are included in your memorandum in Attachment
5 E, Page 2 of your memorandum?

6 A. Okay. If that's what you are referring.
7 Whenever you said notes, I was going to these (indicating).

8 Q. Understandable. But I am referring to your
9 memorandum. There it says that Mrs. Collins greeted you
10 and said that her husband was at work, is that correct?

11 A. That is correct.

12 Q. And, Mr. Shrader, are you aware that Mr. Collins
13 is on dialysis and has not been employed for 13 years?

14 A. That is what she said to me. I just wrote it
15 down. I just made a note.

16 Q. And after leaving 34 Circle Drive, you visited
17 36 Main Street, is that correct?

18 A. Yeah. That would be the Ellis house.

19 Q. Thank you. And can you tell me the elevation of
20 36 Main Street approximately?

21 A. No, I cannot.

22 Q. Are you aware that there are roughly 35 or more
23 homes served by Redstone at a higher elevation on Main
24 Street than the Ellis home?

25 A. That, I'm not aware of.

1 Q. Were you aware that day?

2 A. Did I go to another house random? Yes, I did.
3 No one was home.

4 Q. And you went to one other house randomly, and no
5 one was there?

6 A. That is correct.

7 Q. Thank you. And next, you inspected a fire
8 hydrant near the home of Mr. William Ridge at 429 Pike Run
9 Drive, is that correct?

10 A. I'm assuming that you have the proper address.
11 I don't have to look there up, do I?

12 Q. Just to double-check myself, I believe that most
13 of these addresses are included after--

14 A. 429 Pike Run Drive.

15 Q. Okay. Thank you. You had asked a company
16 employee to open the fire hydrants, is that correct?

17 A. First, I stopped at the house to see if
18 Mr. Ridge was home because I wanted to do a survey there,
19 also, because he was saying he had no pressure, he had no
20 or low pressure. Unfortunately, he was not there
21 apparently. So, we went around back to that particular
22 hydrant, and I had a company employee open that hydrant.

23 Q. Did you put a gauge on the hydrant when the
24 water was, as you said, flowing?

25 A. I do not have--the Commission does not have a

1 hydrant gauge.

2 Q. And--

3 A. Not that I'm aware of, anyway.

4 Q. Your notes indicate that you later reflected
5 that the company employee did not fully open the valve?

6 A. That is correct.

7 Q. At the time, did you ask the company employee to
8 fully open the valve?

9 A. No, I did not. We were just looking at--well,
10 Mr. Ridge said he has opened that hydrant and there is no
11 water. Well, water came out of it. So, I'm just
12 answering, well, there is water in it. So, then we started
13 saying, okay, if we start a flushing action, we could be
14 really stirring up a lot of sediment. So, we shut it back
15 down real quick.

16 Q. And then later, you reflected that you--

17 A. That was just--

18 Q. --may not have fully opened the valve?

19 A. Right.

20 Q. Thanks. And, Mr. Shrader, is it correct that
21 you attempted to go to the home of Lori Ventura?

22 A. Yes.

23 Q. She was not home and you, instead, spoke with
24 her mother-in-law?

25 A. Yes.

1 Q. And I believe you said that her mother-in-law
2 lived a few houses away on Daisytown Road?

3 A. That's correct.

4 Q. Do you know the address of her mother-in-law?

5 A. No. She has a post office box.

6 Q. And can you tell me or did you know on the date
7 on April 21st the elevation of either Lori or Susan
8 Ventura's homes?

9 A. No, I do not.

10 Q. You then visited Mr. and Mrs. Bruno Shemansky's
11 home at 101 Daisytown Road, is that also correct.

12 A. Who?

13 Q. I believe it's Mr. and Mrs. Bruno Shemansky.

14 A. I thought that was Malden Road. They have it
15 listed as Daisytown Road.

16 Q. And again, did you know the elevation at the
17 Shemansky home?

18 A. No, I do not.

19 Q. And you had also spoken to Mr. and
20 Mrs. Shemansky before the April 21st inspection, is that
21 correct?

22 A. Yes.

23 Q. Can you tell me approximately what time you left
24 the Shemanskys for Malden Road?

25 A. At the time I would say around 11:00 or 11:30.

1 I don't wear a watch.

2 Q. Mr. Shrader, were you able to review O.C.A.
3 Exhibit 2 that was referred to earlier today?

4 A. That's the first time I've seen that document.

5 Q. Does looking--

6 ATTORNEY HORTING: If I may hand the witness this
7 exhibit, No. 2.

8 JUDGE NEMEC: You may.

9 BY ATTORNEY HORTING:

10 Q. Looking at this map now, do you believe that
11 this is or does this map resemble the topographical map
12 that you brought with you to the Redstone service territory
13 on April 21st?

14 A. The markings are indicative of the U.S.G.S.
15 topographical map, but I see that it's a DeLorme.

16 Q. And based on that map, are you able to point out
17 to me the locations at which you took a pressure test on
18 April 21st, 1999?

19 A. I would say that this map was probably--has not
20 been updated in 20 or 30 years. Many of these structures
21 may or may not be there.

22 Q. Mr. Shrader--

23 ATTORNEY HORTING: One moment.

24 (Brief pause.)

25 BY ATTORNEY HORTING:

1 Q. Mr. Shrader, do you know the year of the
2 topographical map that you took with you to the Redstone
3 service territory?

4 A. If I recall, early 70's.

5 Q. And did you mark in any way the locations of the
6 homes at which you took--

7 A. No.

8 Q. --the pressure tests on that map?

9 A. No.

10 Q. Mr. Shrader, would you agree or are you aware
11 that the size of a main may affect water pressure?

12 A. Flow. Not so much pressure.

13 Q. Are you aware that the Commission has
14 regulations on the sizes of mains?

15 A. Yes, I do.

16 Q. Are you also aware that the company's
17 distribution system consists of 3,325 feet of six-inch
18 main, 8,875 feet of four-inch main, 1,100 feet of
19 three-inch main, and 3,150 feet of two-inch main, and 600
20 feet of one-inch main?

21 A. And you are asking me if I'm aware of that?

22 Q. Yes.

23 A. Of those numbers?

24 Q. Yes.

25 A. I heard those earlier in testimony, and I

1 assumed somebody looked them up and there is a record
2 somewhere.

3 Q. You heard that for the first time earlier today
4 during the course of the hearing?

5 A. Yes.

6 Q. Mr. Shrader, is it your opinion that all of
7 Redstone's customers, including those served by smaller
8 mains, have adequate pressure during the peak seasonal
9 demand period of the summer?

10 A. I have never been there in the summer.

11 Q. Mr. Shrader, during your investigation of
12 Redstone, did you ask the Pennsylvania D.E.P. if the water
13 complied with primary and secondary MCLs?

14 A. I spoke with Clark Harris of D.E.P. prior to my
15 visit, and I asked him if they were in compliance with
16 their regulations, and he replied they were.

17 Q. And was the question you asked as you said, were
18 they in compliance with regulations?

19 A. That is correct.

20 Q. Mr. Shrader, you said you saw company maps on
21 your earlier visit in 1997 at the company's office, is that
22 correct?

23 A. Yes.

24 Q. And do you recall what those maps look like?
25 And by that, I mean, do you recall, were they older maps,

1 like the maps that we have been looking at today, or were
2 they new maps?

3 A. They were older maps.

4 Q. Mr. Shrader, you indicated you thought you left
5 the Shemansky's home at about 11:30 and that you left to
6 tour the Malden Road area?

7 A. Right.

8 Q. Do you recall what time you left Redstone
9 service territory altogether?

10 A. Sometime after noon.

11 Q. Sometime after noon?

12 A. 12:30 maybe, maybe a little bit after. Between
13 12:00 and 12:30, I think. I don't really recall.

14 Q. Mr. Shrader, can you tell me, of the homes where
15 you took--well, the homes that you visited on April 21st,
16 those four homes that you visited, do you know if all of
17 those people or can you tell me, did any of those people
18 have water filters on their lines?

19 A. I did note one.

20 Q. Which customer?

21 A. That was Lori Ventura. But I didn't--

22 Q. The homes you visited?

23 A. No. No.

24 Q. And did you check? Did you ask them when you
25 were there?

1 A. Yes.

2 Q. And when you state in your memo that--I should
3 say actually this is Attachment F. This letter says that
4 you indicated that the company appears to be in compliance
5 with Pennsylvania D.E.P. regulations, is that correct?

6 A. That is correct.

7 Q. And by compliance with D.E.P. regulations, did
8 you base that statement on your conversation with Clark
9 Harris?

10 A. The sanitarian, yes.

11 Q. Did you actually view any D.E.P. tests or look
12 into any D.E.P. regulations when you made that statement?

13 A. I'm aware of the 109, but no.

14 Q. Do you know, Mr. Shrader, whether or not the
15 Shemanskys receive any Tri-County water?

16 A. I know they are hooked up to that line. It's
17 right above their home.

18 Q. So, can you say for certain whether or not they
19 were receiving any Tri-County water?

20 A. I would not be able to tell that without going
21 to the meter pit.

22 Q. Thank you. And you were here for the testimony
23 from several of the formal Complainants and other customers
24 yesterday, is that correct?

25 A. That is correct.

1 Q. And did anything that you heard yesterday or
2 today change the opinions that are contained in your memo?

3 A. No.

4 Q. Or in your memo or in the conclusions that were
5 included in the May 4th, 1999 letter?

6 A. Everything that is in my memo is a result of a
7 letter sent to the Chairman of the Commission. I did not
8 review any complaints, formal or informal, I did not review
9 any input testimony, and I did not review any of the
10 complaints to the rate case.

11 Q. So, your inspection was limited to the one
12 letter from Stephanie Kotula that your office received?

13 A. That was my assignment under the direction of
14 Mr. Polk.

15 Q. Okay.

16 ATTORNEY HORTING: That's all.

17 JUDGE NEMEC: Redirect?

18 ATTORNEY NIESEN: I have no questions, Your Honor.
19 We would move into the record Shrader Exhibits 1, 2, 3, 4,
20 5, 6, 7, 8, 9, 10, 11--

21 JUDGE NEMEC: That would be 1 through 14. Okay.
22 You haven't given the court reporter Exhibit 1.

23 ATTORNEY NIESEN: 1 is the Shrader--

24 JUDGE NEMEC: His Curriculum Vitae. We will need
25 two more. Okay. With regard to 3 through 14, you need to

1 provide the reporter and myself with copies.

2 ATTORNEY NIESEN: Yes.

3 JUDGE NEMEC: Objections?

4 ATTORNEY HORTING: No, Your Honor.

5 JUDGE NEMEC: Shrader Exhibits 1 and 2 are
6 admitted. 3 through 14 are admitted subject to provision
7 of sufficient copies to the reporter and myself.

8 (Whereupon, the documents marked as
9 Shrader Exhibit Nos. 1 through 14 were
10 admitted into evidence.)

11 JUDGE NEMEC: Let's take another five-minute break.

12 Mr. Shrader, you are excused. Sorry.

13 (Witness excused.)

14 (Whereupon, a recess was taken from
15 4:01 P.M. to 4:12 P.M.)

16 ATTORNEY NIESEN: We call Mr. Terry Yablonski to the
17 stand.

18 (Witness sworn.)

19 TERRY YABLONSKI, a witness herein, called
20 on behalf of the Respondent, having first been duly sworn,
21 was examined and testified as follows:

22 D I R E C T E X A M I N A T I O N

23 BY ATTORNEY NIESEN:

24 Q. Please state your name and business address for
25 the record.

1 A. My name is Terry Yablonski. My business address
2 is 3 Main Street, Daisytown, PA.

3 Q. How are you employed?

4 A. I'm president of Redstone Water Company.

5 Q. Mr. Yablonski, have you prepared a statement of
6 Direct Testimony for use in this case?

7 A. Yes, I have.

8 ATTORNEY NIESEN: If Your Honor please, I would
9 like to have marked as Redstone Statement No. 1 a document
10 titled Redstone Water Company, Direct Testimony of J. Terry
11 Yablonski. May that be so identified?

12 JUDGE NEMEC: It may.

13 (Whereupon, the document was marked as
14 Redstone Statement No. 1 for
15 identification.)

16 BY ATTORNEY NIESEN:

17 Q. Mr. Yablonski, showing you what has marked as
18 Redstone Statement No. 1, is this the Direct Testimony
19 which you have prepared?

20 A. Yes, it is.

21 Q. Are there any additions or corrections which you
22 would like to make to Redstone Statement No. 1?

23 A. Yes.

24 Q. All right. Go ahead and do that, please.

25 A. On Page 2, Line 7, the sentence which begins, at

1 Hoods Hollow, water flows by gravity through 1,100 feet of
2 eight-inch pipe, and I believe it's 4,100 feet of four-inch
3 pipe. It's certainly not 100, but it's 4,100 feet of
4 four-inch pipe.

5 JUDGE NEMEC: So, the 100 should be 4,100?

6 THE WITNESS: I'm sorry. 2,100 feet of four-inch
7 pipe.

8 JUDGE NEMEC: So the 100 should be 2,100?

9 THE WITNESS: Yes.

10 BY ATTORNEY NIESEN:

11 Q. Do you have any other additions or changes to
12 Redstone Statement No. 1?

13 A. No. No, I don't.

14 Q. If I were to ask you questions set forth in
15 Redstone Statement No. 1, would you give the answers as
16 stated therein as corrected?

17 A. Yes.

18 Q. Are those answers true and correct, to the best
19 of your knowledge, information, and belief?

20 A. Yes, they are.

21 Q. Mr. Yablonski, you were present during the two
22 days of hearing, both today and yesterday, were you not?

23 A. Yes.

24 Q. I want to direct your attention to a document
25 that's been identified for the record as Redstone Exhibit

1 No. 2, which is headed in the center at the top of the
2 front page, I.S.O., Insurance Services Office, Inc. Can
3 you identify that document?

4 A. Yes. This is a copy of a letter sent to the
5 Township Secretary of West Pike Run Township, and it has to
6 do with a classification of the township based on their
7 grading system of fire protection.

8 Q. Did the I.S.O. conduct a grading of the Redstone
9 system?

10 A. Yes, it did.

11 Q. When did that occur?

12 A. It doesn't have the exact date. It says June of
13 1997.

14 Q. Could you explain how the grading was done?

15 A. No, I can't. I wasn't present at this one. I
16 have been at other ones in other parts of our territory,
17 but I wasn't involved in this one.

18 Q. How did the company come to have a copy of this
19 letter?

20 A. I asked one of our Township Supervisors if he
21 had ever heard any more from the insurance--I thought they
22 were underwriters, but the company that came in and did
23 this. He said he had, and I asked him if we could have a
24 copy of the results.

25 Q. And what is your understanding of what is

1 presented in the letter and the attachment to it?

2 A. That based on the system of applying credits in
3 a Class 6 township, which West Pike Run would be, the water
4 supply gets a 15.78 percent credit against the maximum of
5 40 percent.

6 Q. Now, during yesterday's testimony, there are a
7 couple of items that I want to ask you about concerning
8 testimony that occurred yesterday by customer
9 Complainants. There was a discussion concerning the
10 removal of a fire hydrant near Mrs. Caeti's house?

11 A. Yes.

12 Q. Do you recall that testimony?

13 A. Yes.

14 Q. Could you relate the circumstances about the
15 removal of that hydrant?

16 A. After we installed a two-inch line, as
17 Mrs. Caeti said, through the four-inch line, this two-inch
18 line extended approximately 20 yards past--or 20 feet past
19 where this fire hydrant was. The hydrant had been located
20 on this section of line that we had the repeated fractures
21 on in last January. I didn't feel as though the line was
22 structurally sound, and we removed that hydrant.

23 Q. Is there another hydrant located--

24 A. Yes, there is.

25 Q. Where would that be?

1 A. Approximately 250 feet away. It would be north
2 of her house.

3 Q. And what size line is that hydrant located on?

4 A. The hydrant is on a six-inch line. May I look
5 at this for a second?

6 Q. Sure.

7 A. Yes, that hydrant is on a six-inch.

8 Q. All right. Do you recall--turning to another
9 topic.

10 A. Pardon me?

11 Q. Turning to a different topic, yesterday,
12 Mrs. Balla talked about her exploding hot water tank. Do
13 you recall that?

14 A. Yes, I do.

15 Q. Were you aware of her problems with her water
16 tank?

17 A. Yes.

18 Q. And what were the circumstances concerning the
19 water tank?

20 A. The water tank?

21 Q. Yes.

22 A. One day on one of Mr. Fought's visits, I asked
23 my employees to go with Mr. Fought, that I would like to
24 know where he went and what his purpose for visiting was.
25 He got very offensive about it and said that he didn't want

1 any of us around. They saw him go to Mrs. Balla's house.
2 He later came up to our office and said that he didn't feel
3 that he really could do his job with us there, but that her
4 complaints had been about a defective hot water tank. It
5 really had nothing to do with our pressure or our company,
6 that she had been reimbursed for this defective tank.

7 Q. She felt, as I understood her testimony, that
8 the difficulty with her tank was somehow related to the
9 water company. Is that plausible?

10 A. No, it isn't. She testified that men were in
11 her backyard--our men were in her backyard on July 3rd
12 digging, and later that night at one o'clock in the
13 morning, her water tank exploded. We looked at our
14 records. July 3rd was a Saturday. Our men don't work on
15 Saturdays. The line she was talking about had been
16 installed over a period of time. It's new four-inch line
17 that goes past her house. It was installed over a period
18 of time in May and was hooked up to her system on
19 June 9th. I can refer to that. There would be no reason
20 for any of our employees to be in her backyard on July the
21 3rd. It was a new line. It had been in service for more
22 than a month. Hypothetically, let's suppose with her
23 service off the new line, she thinks something that we did
24 to the pressure would have blown up her water tank.
25 Mr. Fought, Mr. Wolbert, and Mr. Shrader will testify that

1 we have a gravity system. Our pressure is regulated by the
2 height of water in our tank, and there isn't anything we
3 can do to increase what at her house is approximately 70
4 pounds of pressure.

5 Q. There was also testimony yesterday concerning
6 your water tank and when it was covered. When was the tank
7 covered?

8 A. The water tank was covered in 1972. This was a
9 result of an order that we got from the D.E.P. Did I say
10 1972?

11 Q. Yes.

12 A. I meant 1992. In the late 1980's, I believe it
13 was a result of the Safe Drinking Water Act, the storage
14 facilities were required to be covered. They gave us I
15 believe a five-year period in which to set aside funds,
16 make plans, get designs, and have the tanks covered. We
17 were to have our tank covered by 1993. We completed it a
18 year early at a cost of almost \$40,000.00.

19 Q. There was--

20 A. There was no order of any kind that I ever heard
21 of that Mr. Rohaley said about the judge ordering us
22 20 years earlier to cover the tank. The tank is 24 feet
23 tall. He also testified about people throwing dogs in it
24 and kids would go into the tank and swim. There is a
25 ladder that doesn't start until after the first 15 feet.

1 The only way you can get to that tank would be if you
2 brought a flat bed truck, put a ladder on it to that
3 ladder, and then climbed the remaining tank. Never has any
4 problem like that been brought to my attention of any kind
5 of dead animals or children or kids or anybody in that
6 tank.

7 Q. There was also some testimony yesterday about a
8 coffee can that's used or has been seen to cover a curb
9 box?

10 A. I'm not aware of that, but that wouldn't be an
11 uncommon occurrence. A curb box is merely a conduit, a
12 piece of pipe that goes from the ground down to a curb
13 stop, which is a valve. If you are turning off the service
14 to a house, you stick what we refer to as a street key down
15 through the opening to the valve and turn the service on or
16 off. Occasionally, a snowplow or if it's in someone's
17 yard, they might hit it with a lawn mower, kids might break
18 it with a stone, there are many ways that the very top of
19 that curb stop, which is a piece of iron about a quarter of
20 an inch thick, could end up missing. They could unscrew
21 the screw and throw it in. Probably, and I'm only
22 speculating what happened was somebody broke off the lid,
23 and maybe a neighbor that broke it off or the homeowner
24 that broke it stuck a tin can over it so dirt wouldn't go
25 down and fill up the hole. Again, it's a common

1 occurrence. It has nothing to do with water quality. If
2 we had been called or told about it, we would have replaced
3 the lid on the curb box.

4 Q. The coffee can isn't something that the water
5 company placed on the curb box?

6 A. No. No.

7 Q. There was also testimony yesterday about service
8 outages in 1999. Does the company keep a record of service
9 interruptions, outages?

10 A. Yes.

11 Q. How many outages were there in 1999?

12 A. I reviewed our record there, and we can go over
13 it in more detail. I believe there was one scheduled
14 interruption in service--I'm sorry, '99?

15 Q. Yes. '99.

16 A. Well, we had a period of quite a few days in
17 January with that problem. There was a lot of outages.
18 But since that time, since we took care of that problem,
19 the rest of the year, I think there was one that occurred
20 on December--I think it was December 13th. I got a call at
21 my house from a man who was going to work and he said he
22 saw water in the road. We responded and we did have a
23 leak, and it was on a six-inch main line down by the post
24 office where Mrs. Balla works. And a car was parked
25 directly over the leak with the water shooting right up

1 underneath the car. The owner of the car had also gone to
2 work with someone. We had no way of getting in the car,
3 tow the car or anything. It took about an hour before we
4 could manually move that car far enough away to fix that
5 leak. And during that period of time, from sometime after
6 six o'clock to almost eight o'clock, some of those families
7 in that area would have had low pressure, and a couple on
8 the very highest elevations might have been out of water,
9 although we didn't have anybody call. And it wasn't until
10 I think Mrs. Caeti mentioned that yesterday that I looked
11 and it was December 13th we had a problem. We had two or
12 three other outages, but they were scheduled. They were
13 advertised.

14 Q. What do you mean by scheduled?

15 A. We went to the postal authorities, Mrs. Stish
16 called the newspaper, made many calls from our office to
17 people she knew at key locations in the community. This
18 would have been done over maybe a two-day or three-day
19 period, let's say Thursday and Friday, informing the people
20 that on Tuesday, the water would be off for several hours.
21 One occasion was in June when we put the new line past
22 Mrs. Balla's and we had to tie that line into our old
23 line. We had shut water off and make those tie-ins.
24 Another occasion was a man one night knocked out a fire
25 hydrant on Main Street, and we were able to shut that off.

1 But when we had to go replace the hydrant, we couldn't
2 replace it under pressure. So, we had the hydrant, the new
3 hydrant, and we had to shut the system down in order to
4 make that replacement. But we had time to notify the
5 public that we were going to do this, and it was scheduled
6 and we did it. That's what I meant by noticed
7 interruptions.

8 Q. There was also testimony yesterday concerning
9 customers attempting to telephone the company. What
10 procedure do you have in place for handling customer calls?

11 A. Our normal business hours are 9:00 to 4:00. At
12 four o'clock, Mrs. Stish will set a call forwarding on the
13 telephone that will forward all calls from that time until
14 8:30--8:30 to four o'clock is our normal operating office
15 hours. From four o'clock until 8:30 the next morning,
16 those calls would come to my house. On weekends, depending
17 on which employee is on call and visits the various
18 locations on Saturdays and Sundays, making meter readings,
19 checking water levels, depending on that employee, on
20 Friday night, the phone is forwarded to his residence. And
21 he also has--our employees have beepers and we can get in
22 touch with them that way.

23 Q. Now, the continuous recording pressure gauge
24 that was discussed earlier today, where was that located on
25 the system?

1 A. That was located, in accordance with the
2 instructions from the Consumer Advocate, at the highest
3 hydrant in the system. I believe these numbers have been
4 changed because of the new 911 dialing system. Is it
5 95 Main Street?

6 MRS. DENISE STISH: I believe so.

7 A. 95 Main Street. That's the house immediately
8 adjacent to the highest hydrant on the system, which I
9 think originally they wanted it installed on a hydrant. It
10 was winter. We got the order I think in January. There
11 wouldn't be any way of protecting it there. But this house
12 was unoccupied and its owner was on vacation, and we were
13 able to put the gauge in his home.

14 Q. Where was it located in the home?

15 A. In his basement.

16 Q. And what was the address of the person's home?

17 A. 95 Main Street.

18 Q. And what was the difference in the--you then
19 took a measurement of the difference in the elevation--

20 A. Yes.

21 Q. --between where the continuous recording
22 pressure gauge was and the highest hydrant?

23 A. That was a little less than 10 feet, because our
24 lines bury 10 feet.

25 Q. You took that measurement yourself?

1 A. Yes, I did.

2 Q. And how did you take that measurement?

3 A. A transit.

4 Q. A surveyor's transit?

5 A. No. The initial arrangement, I took it with a
6 lock level, which is a level which you can view through.
7 The man's sidewalk is only about 20 feet long. The line
8 was close to that and I thought that would be sufficient.
9 Their next inquiry wanted it to be done by a surveying
10 method. We used a transit and took the elevation at the
11 end of our main.

12 Q. How many homes are located above the hydrant?

13 A. I think three.

14 Q. Three.

15 A. I believe the home the pressure gauge was in
16 would be the fourth home.

17 Q. And what's the difference in elevation from the
18 hydrant to the end of the main?

19 A. About 13 feet.

20 Q. I see you brought some water samples with you.

21 A. This was an afterthought, Your Honor. After
22 watching the testimony and listening to it yesterday, it
23 occurred to us last night that everyone brought samples of
24 water out of their hot water tank, but no one had any out
25 of their spigot. And I didn't think it was fair that we

1 should have to rely on the quality of water that comes from
2 draining a hot water tank. And I called Tom and he said,
3 well, go get some samples. So, at seven o'clock last
4 night, 7:30, we went to three homes, two of them on
5 Crescent Heights and one at the end of the system on
6 Walkertown Hill. I went along with another man, and we
7 labeled and collected the water. Denise provided the jars
8 and I handed them to the owner of the house, who we called
9 prior to coming there, and asked them if they would go and
10 personally take the water from their cold water faucet. I
11 accompanied them and watched them do that. We labeled them
12 and I brought them in today. We would really appreciate it
13 if Your Honor could look at this water. I also brought a
14 clean glass, and you are welcome to smell it the way we
15 smelled the samples yesterday.

16 JUDGE NEMEC: Show them to counsel first.

17 (Item handed to counsel.)

18 ATTORNEY NIESEN: Should we mark these? I know we
19 have taken pictures. We do not have a camera with us
20 today.

21 JUDGE NEMEC: Identify them by the labels that you
22 have.

23 ATTORNEY NIESEN: All right. We will mark as
24 Redstone Exhibit 3 the jar that's marked Michael Stish, and
25 it's dated April 4, 2000. And we will mark as Redstone

1 Exhibit 4 the jar marked William Kelly, 43 Main Street,
2 Daisytown, Pennsylvania, April 4, 2000. And we will mark
3 as Redstone Exhibit 5 the jar marked Frank Shemansky, 47
4 Walkertown Hill Road, Daisytown, Pennsylvania, April 4,
5 2000.

6 (Whereupon, the items were marked as
7 Redstone Exhibit Nos. 3, 4, and 5 for
8 identification.)

9 JUDGE NEMEC: Now, who is Michael Stish?

10 THE WITNESS: Michael Stish is Denise Stish's
11 husband. Mr. Kelly is on Main Street. He is not related
12 to anybody in the water company, but he was someone that
13 was home. And Mr. Shemansky is a Township Supervisor who
14 lives in the end of our system in Walkertown.

15 JUDGE NEMEC: Okay. The Michael Stish sample
16 appears to be clear. I don't detect any odor. Of course,
17 again, I have allergies, so my sniffer is highly suspect.
18 Michael Kelly, is that the second one?

19 THE WITNESS: Your Honor, would you like to put any
20 in the glass?

21 JUDGE NEMEC: No. This is quite clear enough.
22 Again, it seems to be similar. No detectable odor to me.
23 And Frank Shemansky, it seems similar, also clear and
24 undetectable odor.

25 THE WITNESS: Your Honor, each of those individuals

1 said if anybody wanted to call them to verify that I was at
2 their home last night, they would be more than happy to
3 accept the call.

4 JUDGE NEMEC: Okay.

5 BY ATTORNEY NIESEN:

6 Q. Do you have anything else that you want to add
7 before I turn you over for Cross-examination?

8 A. Can I quickly look through here?

9 (Brief pause.)

10 A. Yes. Mr. Rohaley yesterday testified that he
11 knew for a fact that before our last increase, we were
12 getting \$185.00 per hydrant from the township and that that
13 price went up. The fact is, we get \$100.00 per year--I'm
14 sorry, \$185.00 per year, and he said that price went up.
15 We get \$100.00 per year for 16 fire hydrants, and there are
16 33 in the system. I wanted to correct that.

17 JUDGE NEMEC: You get \$100.00 per year per hydrant?

18 THE WITNESS: Yes.

19 THE COURT: For 16 hydrants?

20 THE WITNESS: Yes.

21 JUDGE NEMEC: From?

22 THE WITNESS: West Pike Run Township.

23 BY ATTORNEY NIESEN:

24 Q. 18.

25 A. I'm sorry. That's 18 hydrants.

1 JUDGE NEMEC: Your testimony is that you maintain
2 more than 18?

3 THE WITNESS: We maintain--

4 AUDIENCE MEMBER: Can I give him this?

5 JUDGE NEMEC: What is it you are referring to, sir?

6 THE WITNESS: We maintain 33.

7 JUDGE NEMEC: But what is that was just handed to
8 you?

9 THE WITNESS: Our hydrant test sheet. When the
10 hydrants are worked on or painted or flushed.

11 JUDGE NEMEC: So, you are paid \$100.00 a year by
12 West Pike Run Township for 18 hydrants, and you actually
13 have, service, and maintain 33?

14 THE WITNESS: That's correct.

15 JUDGE NEMEC: I vaguely recall something from the
16 rate case to the effect that there was some sort of dispute
17 between the company and the municipality regarding payments
18 of fire protection service fee and that the--

19 ATTORNEY NIESEN: That would be in the other
20 township.

21 JUDGE NEMEC: That was not with West Pike Run
22 Township, then?

23 ATTORNEY NIESEN: I believe so.

24 JUDGE NEMEC: Okay. Anything else?

25 THE WITNESS: No.

1 JUDGE NEMEC: Okay.

2 C R O S S - E X A M I N A T I O N

3 BY ATTORNEY DUSMAN:

4 Q. Good afternoon, Mr. Yablonski.

5 A. Good afternoon.

6 Q. As you know, I'm Dianne Dusman here for the
7 Office of Consumer Advocate, an intervener in support of
8 the Complainants. On the subject of fire service, would
9 you turn to your Redstone Exhibit No. 2? I notice that the
10 second to last sentence in the letter says, we are
11 attaching copies of our grading sheet and the results of
12 the hydrant flow test witnessed during our survey. Now,
13 when you asked for something from I.S.O. for Mr. Hajdu, did
14 he just give you these two pages?

15 A. Yes.

16 ATTORNEY DUSMAN: Your Honor, I would make an on the
17 record data request for the results of the hydrant flow
18 test that are referenced in this letter. Because on our
19 review of this letter and the attachment, we cannot
20 ascertain that any of the numbers on the attachment
21 actually pertain to the Redstone Water Company hydrants.

22 JUDGE NEMEC: Okay.

23 ATTORNEY DUSMAN: My feeling is if we have the other
24 attachments that show the flow tests--

25 JUDGE NEMEC: Okay.

1 ATTORNEY DUSMAN: --that we may be able to determine
2 that. Until such time as we have that to review, I would
3 object to moving into evidence of this exhibit.

4 JUDGE NEMEC: Were there any other attachments to
5 this?

6 THE WITNESS: Not that I know of, Your Honor.

7 JUDGE NEMEC: Mrs. Denise Stish is an employee of
8 the company?

9 THE WITNESS: She is our secretary.

10 JUDGE NEMEC: Yeah. Now, your testimony, I know,
11 was that you obtained this from West Pike Run Township, but
12 I guess my question is, what happened to the copy that they
13 purportedly sent to Mrs. Stish which is referenced on the
14 front page of Exhibit 2?

15 THE WITNESS: I see. We may have it, then.

16 JUDGE NEMEC: Would you be willing to check your
17 files to see if there might be some additional
18 documentation that goes along with this?

19 THE WITNESS: Yes. In addition, I will check with
20 West Pike Run, because I probably asked--we probably
21 couldn't find the letter, and I'm sure I must have recalled
22 one coming to our office, but that's why I went to him and
23 they had a copy.

24 JUDGE NEMEC: Well, there is a lot of things that
25 are going to happen in the next 30 days, so let's check for

1 that and see if there is some additional documentation that
2 you could provide to the O.C.A. If there is and you wish
3 to make an exhibit of it, you can do so as a late filed
4 exhibit.

5 ATTORNEY DUSMAN: Thank you, Your Honor. And I
6 would also ask that Mr. Yablonski search his files for any
7 other reports that may have come to I.S.O., because in past
8 cases where fire service has been an issue, the companies
9 are usually provided directly with I.S.O. reports from
10 I.S.O.

11 JUDGE NEMEC: This indicates that that was the case
12 here.

13 ATTORNEY DUSMAN: Right.

14 JUDGE NEMEC: Otherwise, it wouldn't have
15 Mrs. Stish's name on the cover letter. I assume that's why
16 they did it.

17 ATTORNEY DUSMAN: Okay. If this is dated '97, if
18 there is a more recent similar letter with other pressure
19 tests, we would like to have them as well.

20 BY ATTORNEY DUSMAN:

21 Q. Again, on the subject of fire service, I would
22 like to present you with--

23 ATTORNEY DUSMAN: Your Honor, may I have this marked
24 as O.C.A. Cross-examination Exhibit No. 1?

25 JUDGE NEMEC: It may be so identified.

1 (Whereupon, the document was marked as
2 O.C.A. Cross-examination Exhibit No. 1
3 for identification.)

4 BY ATTORNEY DUSMAN:

5 Q. Can you identify this document, the copy of this
6 document, Mr. Yablonski?

7 A. This would be a check from West Pike Run
8 Township Fire Hydrant Fund for \$1,300.00 on June 11th,
9 1999.

10 Q. And does the memo reflect that this is payment
11 for fire hydrants for the year 1999?

12 A. 1999.

13 Q. And I think you testified previously that you
14 pay \$100.00 per year for 18 hydrants?

15 A. Yes.

16 Q. Or you are paid that, rather. So, can you
17 explain the discrepancy--

18 A. No, I can't.

19 Q. --between those two numbers?

20 A. No.

21 Q. Now, if you would turn your attention for a
22 moment to the--I believe you pulled out a map earlier.
23 These copies that we had marked for identification earlier
24 in the case today O.C.A. Exhibits 1-A, B, and C, are they
25 photocopies of the maps that you were referring to that you

1 took out of your files?

2 A. Yes.

3 Q. In your testimony, you go through a list of the
4 various lengths of the various diameters of pipe that exist
5 in your system. Taking these three exhibits together, do
6 these three maps show all of the lines that exist in your
7 system?

8 A. I believe they do. I'm not sure about the
9 Walkertown map. I wouldn't--I wouldn't know that. The
10 other two should.

11 Q. Okay. Now, did you have a chance to take a look
12 at O.C.A. Exhibit 2?

13 A. No.

14 Q. Would you take a moment to look at it now? Do
15 you recall Mr. Fought's testimony that he took the
16 information from your maps and placed it upon this
17 topographical map?

18 A. Yes.

19 Q. And do you see the lines that are black and
20 reflect the boundaries of Redstone Water Company's service
21 territory? Can you pick them out of the mass of color?

22 A. I see black lines.

23 Q. Do those lines, to the best of your knowledge,
24 accurately represent the balance of Redstone Water
25 Company's service territory?

1 A. I really don't know if it represents the area--
2 it represents the area we serve, it looks like, but I don't
3 know how far our territory--

4 Q. Well, perhaps when you and Mr. Niesen review the
5 map for accuracy further in the next 30 days, you can point
6 that out. Do you see the area that's just above the big
7 word Daisytown? Is that the West Malden Drive area?

8 A. No.

9 Q. What area is that known as? West Pike Run? Do
10 you serve the West Pike Run area?

11 A. I don't see West Pike Run marked on here.

12 Q. It's not marked there, but you said that above
13 the word Daisytown was the West Pike Run Road area.
14 Between the big word Daisytown and underneath the word
15 Mine, in that little sort of peninsula shaped area, is that
16 your service territory?

17 A. West Malden Drive? What about it?

18 Q. I said that and you said I was incorrect. I'm
19 asking, do you serve in that area that's shown on this
20 topographical map?

21 A. In this entire area?

22 Q. Let me point it out. Between the word Daisytown
23 and the word Mine, do you serve customers in that area?

24 A. Yes.

25 Q. Do you know the location of lines that

1 interconnect the Crescent Heights system with the Daisytown
2 Walkertown system?

3 A. Yes.

4 Q. Okay. On this topographical map, if you notice,
5 Walkertown and Daisytown do not appear to be
6 interconnected?

7 A. On this map?

8 Q. Yes. Do you notice that the red lines do not
9 join between Walkertown and Daisytown?

10 A. Okay.

11 Q. To the best of your knowledge, how do those two
12 areas of the system interconnect?

13 A. New four-inch line.

14 (Whereupon, the document was marked as
15 O.C.A. Cross-examination Exhibit 2-Y for
16 identification.)

17 ATTORNEY DUSMAN: Your Honor, I remarked this
18 exhibit Cross-examination Exhibit 2-Y.

19 BY ATTORNEY DUSMAN:

20 Q. So, Mr. Yablonski, if you would like to draw on
21 there and make a little initial by where you show the
22 interconnection, you may do so.

23 A. Providing, you know, that it's not going to be
24 measured for exact accuracy, I can give you a rough idea
25 looking at this map, which I'm not familiar with.

1 Q. That would be fine.

2 A. With just a blue pencil or red pencil?

3 Q. Blue would be fine. Just put your initials by
4 where you mark it.

5 A. And you are asking how the line from Daisytown
6 goes to Walkertown?

7 Q. Yes. How do those two areas of your system
8 interconnect?

9 A. Right there with a four-inch PVC line and a
10 brand new fire hydrant (indicating).

11 Q. Do you know, do any of these maps marked for
12 identification as O.C.A. 1-A, B, and C, do they show the
13 location of valves and service lines?

14 A. Yes. These two do (indicating). I don't know
15 about the Walkertown map.

16 Q. When you say these two, you are talking about
17 1-B and 1-C, 1-B being the Pittsburgh Coal Company map and
18 this one being the Daisytown Plan of Lots map?

19 A. Yes. Yes.

20 Q. What is it on this map that indicates a valve?

21 A. I will look at mine since I'm more familiar with
22 it.

23 Q. They are identical, sir.

24 ATTORNEY NIESEN: They are not identical.

25 ATTORNEY DUSMAN: They should be identical, except

1 for his has colored lines.

2 A. These have red lines. And this is not the map
3 that has valves marked.

4 Q. Do you mean there is another map that has valves
5 marked that we haven't been provided?

6 A. No. I see there is a four-inch valve here. If
7 I could have five minutes, I can start from where we go
8 over the hill and just look at this.

9 JUDGE NEMEC: I have a suggestion. Let's take five
10 minutes, and maybe you can informally show them. See if
11 you can work it out informally.

12 THE WITNESS: I'm sorry. I don't understand,
13 Your Honor.

14 JUDGE NEMEC: So that you can get together, look at
15 it and see if you can locate the items that you want to
16 locate on this map.

17 ATTORNEY DUSMAN: We don't need to take the time to
18 do that, Your Honor. I'm just testing his level of
19 knowledge about his own system and what these maps actually
20 represent.

21 JUDGE NEMEC: All right. Go ahead.

22 BY ATTORNEY DUSMAN:

23 Q. Is there anything on the map that indicates
24 where service lines are?

25 A. Yes.

1 Q. And what indicates a service line?

2 A. These would be--do you want to come over?

3 Q. Well, you need to describe for the record. It's
4 not just to show me. Describing for the record, what is it
5 on this map, what symbol represents the existence of a
6 service line?

7 A. A red line goes going from a six-inch cast iron
8 line into House 589, which at one time was a row house
9 which now would be a single house. A red line going into
10 595, 638, 643, 649, 656, and on and on.

11 Q. However, if you don't have the locations of all
12 of the mains on these maps, you can't possibly have the
13 locations of all the service lines, either, can you?

14 A. Well--

15 Q. Did you not just point out to us that there is a
16 missing main on the topographical map that interconnects
17 Daisytown and Walkertown?

18 A. That's your map. That's not our map.

19 Q. Okay. Can you show me on your map where there
20 is an interconnection between Daisytown and Walkertown?

21 A. Let's see. No.

22 Q. So, again, if not all of the mains are
23 represented, we don't know if all the service lines are
24 represented, either, do we?

25 A. That was a main that was put in three years ago,

1 and we haven't updated the map.

2 Q. Okay. Do you know where the location of the
3 main that interconnects with the Tri-County Municipal
4 Authority system is?

5 A. Yes.

6 Q. Can you point that out on this O.C.A. exhibit?
7 And again, initial where that interconnection exists.

8 A. This map doesn't go up to where the
9 interconnection is, but if this road were to continue--

10 Q. When you say this road, which road are you
11 referring to?

12 A. Right here (indicating), if this road would
13 continue.

14 Q. Do you know the name of the road?

15 A. That's the one we refer to as Malden Road, but I
16 think it's more accurately State Route 1066. We can find
17 it. In the service area, everybody just calls it Malden
18 Road.

19 Q. Okay. Now, I notice that in your testimony, you
20 have stated at Page 3, Lines 21 and 22, that Redstone has
21 not received any notice from the Department of
22 Environmental Protection that treatment is necessary for
23 either TDS or sulfates. Is that accurate?

24 A. Where is that?

25 Q. Page 3, Lines 21 to 23. Do you remember that

1 testimony?

2 A. Yes. I don't recall receiving any notice from
3 them that we had to do anything about treating total
4 dissolved solids or sulfates.

5 Q. Did you review Mr. Fought's testimony and
6 exhibits in preparing for the hearing today?

7 A. Probably.

8 Q. Do you remember seeing this letter, which is the
9 last page of O.C.A. Exhibit 1, which is a letter from the
10 D.E.P., then the D.E.R., to the Public Utility Commission?
11 Have you seen that document before?

12 A. Yes, I did.

13 Q. And you have stated you have been employed by
14 Redstone Water Company since 1957, is that correct?

15 A. Yes.

16 Q. And you have been vice president from 1979 to
17 '81?

18 A. That's right.

19 Q. And the president since '81?

20 A. That's right.

21 Q. Okay. Do you recall seeing that letter--

22 A. No.

23 Q. --during the time period in which it was
24 written?

25 A. No.

1 Q. Do you remember ever conversing with Ms. Sweda
2 when she was sanitarian in charge of monitoring Redstone
3 Water Company?

4 A. Oh, no. You mean when she would stop by?

5 Q. Do you remember conversing with her at all?

6 A. I vaguely remember her.

7 Q. You don't recall conversing with her about the
8 recommendation that she made concerning the feasibility
9 study?

10 A. No. Absolutely not. May I comment? This
11 letter is not to Redstone Water Company. This letter is to
12 the Public Utility, the person on the Public Utility
13 Commission, and I don't believe we ever received the
14 letter. I think if she had written us a letter, you would
15 probably have a copy out of her files. I certainly don't
16 recall ever seeing a letter, and all I can say is maybe she
17 didn't write it or forgot to write it. But this letter
18 isn't to me and I shouldn't have any knowledge of this
19 letter.

20 Q. Okay. Did anyone from the Public Utility
21 Commission ever call you about the feasibility study
22 recommendation?

23 A. Not that I can recall.

24 Q. Okay. Now, on Page 7 of your testimony, you
25 have a statement concerning pressure at the pumping

1 station, and what I would like to know, sir, is what the
2 significance is of the pressure at the pumping station in
3 your system.

4 A. I don't follow. What's the significance of
5 taking pressure--

6 Q. Is there some particular significance to
7 pressure at the pumping station?

8 A. Well, for us, on a day-to-day basis, every day
9 we take pressures at places that we know what those daily
10 pressures should be within a certain psi. And they are
11 taken daily at the pump house. It's just another way of
12 checking our system. You look at the tank, and let's
13 suppose instead of having 18 feet in the tank that morning,
14 you have 16. Where did that water go? All of a sudden,
15 you say, oh, well, my pressure down at the pump house is
16 only 120 pounds and it should be 130 or 135.

17 Q. So, there is no particular significance to that
18 placement? It's simply something you use as a check?

19 A. Yes.

20 JUDGE NEMEC: I want to ask a clarifying question.
21 The pressure that you are recording here, is this--I assume
22 at the pumping station, that's where the water is pumped up
23 the hill to the--

24 THE WITNESS: Tank.

25 JUDGE NEMEC: --tank?

1 THE WITNESS: Yes.

2 JUDGE NEMEC: And the pressure is taken prior to the
3 water going into the pump?

4 THE WITNESS: No. Generally, when they get there at
5 8:30 in the morning, the pump hasn't been running for
6 several hours. We pump through the evening hours. So, it
7 would just be a static pressure in the line from the
8 pumping station to the tank. Now, there is a T prior to
9 the tank that it could go up. Am I answering your
10 question, Your Honor?

11 JUDGE NEMEC: No.

12 THE WITNESS: I'm sorry.

13 JUDGE NEMEC: It sounds like the gauge is between
14 the pump and the tank, though?

15 THE WITNESS: That's right.

16 JUDGE NEMEC: All right. Thank you. That was my
17 question.

18 THE WITNESS: It's at the pump house.

19 JUDGE NEMEC: But it's between the pump--

20 THE WITNESS: Right after the pump.

21 JUDGE NEMEC: All right.

22 BY ATTORNEY DUSMAN:

23 Q. Are there any customers that are served with
24 water that doesn't first go to the tank?

25 A. Yes.

1 Q. And where do they reside?

2 A. There is a T on the way to the tank in
3 Daisytown.

4 Q. Do you have a street name?

5 A. Pardon?

6 Q. Do you know the street name?

7 A. Circle Drive, I believe.

8 ATTORNEY DUSMAN: Your Honor, I would just like to
9 point out that the witness is looking at a map that really
10 hasn't been provided to us in discovery.

11 THE WITNESS: May I use yours?

12 ATTORNEY DUSMAN: I would like to ask that we be
13 provided a copy of that map, because it was our
14 understanding that we had all of the maps that existed.

15 A. I don't think that was any understanding. I
16 think you asked us for maps of the system and we gave you
17 the best maps we had. But we didn't give you all--I mean,
18 as the one man said, there is a box of maps. I don't know
19 what you mean of all the maps. You mean maps that show
20 coal and show everything from the coal company?

21 Q. Well, what part of the system is represented by
22 the map that you were just looking at?

23 A. Let me look. This would be Crescent Heights,
24 and this would be Crescent Heights. And I believe if you
25 set this right like that, it would be identical

1 (indicating).

2 Q. Okay. I understand. You thought it would have
3 been duplicative to provide that one in addition?

4 A. Pardon me?

5 Q. You felt it would have been duplicative to
6 provide that in addition to the other?

7 A. Yes.

8 Q. All right. I'm just trying to understand.

9 A. It's exactly what this is (indicating).
10 Everything is exact.

11 Q. Have you located the area where there are
12 customers that are served with water that doesn't come from
13 the tank?

14 A. Yes. That would be these customers in this area
15 (indicating).

16 Q. When you say this area, can you give it a name
17 or name a street that is associated with what you are
18 pointing to?

19 A. No.

20 Q. You don't know what the name of the street is?

21 A. No. I'm not familiar with the name of the
22 street. I believe it's Circle Drive, and it comes down
23 past our office and then eventually into Daisytown.

24 JUDGE NEMEC: Let me interrupt again. If I
25 understand your testimony, that portion, then, of the

1 service territory would be pressure fed?

2 THE WITNESS: Pardon me?

3 JUDGE NEMEC: That would be pressure fed from the
4 pump?

5 THE WITNESS: No. It's still from the tank, because
6 it eventually goes to the tank. It's not an uncommon
7 practice, at least I don't think so. We had it at
8 Redstone, that old system. You have a tank here and you
9 have a pumping station here, and you are pumping into the
10 tank (indicating). It would be nice to ideally put
11 everything in that tank and have your residual held there
12 for a while, but if there are homes on the way, so that you
13 don't have duplicate piping and two main lines where the
14 run is long, homes on the way to that may be fed.

15 JUDGE NEMEC: All right.

16 THE WITNESS: But the pressure of the pump would be
17 released at the elevation of the tank. It's not a pressure
18 system.

19 JUDGE NEMEC: So, the water can--when the pump is
20 turned off, it feeds back down.

21 THE WITNESS: When the water is turned off, it feeds
22 through the tank and goes through the system.

23 BY ATTORNEY DUSMAN:

24 Q. Do you know what the normal fluctuation of the
25 water level in your tank is daily?

1 A. Normally?

2 Q. Yes.

3 A. I mean, like right now? Toward the end of the
4 day, it may be down around 18 feet. At five o'clock in the
5 morning, it would be 24 feet. Recently, it's been 22 in
6 the day, 20 in the day to 24. Somewhere between 18 and
7 24.

8 Q. How about eleven o'clock at night?

9 A. What night? I mean--

10 Q. Just generally.

11 A. The pump would kick on at 4:00 in the
12 afternoon. At 11:00, if there had been 18 feet in the tank
13 when the pump kicked in, maybe 21 feet. I don't know how
14 you can say that every night. During our outage in
15 January, we were trying to hold our own for those few days
16 with two and three feet in the tank.

17 Q. Okay. On another--I'm sorry.

18 A. Go ahead.

19 Q. Was your answer finished?

20 A. Yes.

21 Q. On another topic, in response to discovery, you
22 told us that you have six customers that use water only
23 from--from Tri-County on a daily basis?

24 A. Yes.

25 Q. Do you know who those six customers are?

1 A. Their names?

2 Q. Yes.

3 A. We can provide them to you.

4 Q. Okay. Can you give us a list of names and
5 addresses--

6 ATTORNEY DUSMAN: We will make that an on the record
7 data request, Your Honor.

8 JUDGE NEMEC: Okay.

9 BY ATTORNEY DUSMAN:

10 Q. Now, again, on the subject of pressure--

11 ATTORNEY DUSMAN: Your Honor, I would ask this
12 Interrogatory Response be marked O.C.A. Cross-examination
13 Exhibit No. 2.

14 JUDGE NEMEC: We have a 2-Y.

15 ATTORNEY DUSMAN: Yes. That's Cross-examination
16 Exhibit 2-Y. This is Cross-examination Exhibit 2.

17 (Whereupon, the document was marked as
18 O.C.A. Cross-examination Exhibit No. 2
19 for identification.)

20 BY ATTORNEY DUSMAN:

21 Q. Are you familiar with this discovery response,
22 Mr. Yablonski? Are you familiar with that response?

23 A. I haven't read it yet. Yes.

24 Q. I notice it was signed by Mr. Niesen, your
25 counsel?

1 A. Yes.

2 Q. Do you agree with the information that's
3 contained in that response?

4 A. Yes.

5 Q. Is it still correct today that Redstone does not
6 have a continuous pressure recording gauge?

7 A. Yes.

8 Q. Are you now aware, Mr. Yablonski, that P.U.C.
9 regulations require pressure surveys at periods of maximum
10 and minimum usage and at representative points in the
11 system?

12 A. I am now.

13 Q. When did you first become aware of that?

14 A. After you began asking us about how our records
15 are as far as pressures. Even though we take pressures
16 every day, our records apparently weren't in the form that
17 was required. And we still don't have a continuous
18 recording gauge. I think you are insinuating that we are
19 supposed to. Am I--I mean, do I understand you to be
20 saying--

21 Q. I was just clarifying that you don't have one,
22 but that you are now aware that you have to do the pressure
23 surveys?

24 A. Those are two different questions.

25 Q. Yeah, they are two different questions.

1 A. We do not have a recording pressure gauge, but I
2 am aware that we have to keep surveys, but they don't go
3 together.

4 Q. I didn't mean to insinuate a section of it
5 sounded that way.

6 A. Okay.

7 Q. So, consequently, you don't have pressure
8 surveys for three years or any period of time?

9 A. No. Other than pressures that we take daily and
10 record them in a log book, we do not, and we will from now
11 on keep a separate file according to the regulation and we
12 will follow it. But I wasn't aware of that regulation.
13 Even though we had been doing it, I didn't know we were
14 supposed to.

15 Q. Just going back to the maps for a moment, I
16 guess that I just want to confirm that you continue to
17 believe that the maps that you have that represent your
18 water system, you believe these maps to be adequate?

19 A. I believe they could be updated and gone over
20 with a fine tooth comb. I don't believe you would have to
21 have a topographer come in and do the whole system, but I
22 believe I should sit down with my people and update them.

23 Q. So, at least to that extent, you agree with
24 O.C.A.'s recommendation?

25 A. To that extent, yes.

1 Q. Okay. What is the highest point served by
2 Redstone Water Company's system elevation-wise?

3 A. I don't know.

4 Q. I would like to ask you just a couple of
5 questions about your testimony concerning fire service, and
6 that appears at Page 8, where you state that, as you
7 understand the matter, fire protection service is the
8 statutory responsibility of the township and the borough,
9 not Redstone. Is that an accurate recitation of your
10 statement?

11 A. Yes.

12 Q. What is the basis for your understanding that
13 there is a statutory responsibility on the part of the
14 township and the borough to take care of fire protection?

15 ATTORNEY NIESEN: It's done on the advice of
16 counsel.

17 A. From my attorney.

18 Q. So, there is nothing else that you base that
19 understanding on other than what your counsel told you?

20 A. That's right.

21 Q. Okay. But we have established that Redstone
22 does get paid for fire hydrants, have we not?

23 A. Yes.

24 Q. You also state a little bit later on in that
25 answer, on Page 8, that the standard firefighting procedure

1 which I have seen includes use of a tanker truck.
2 Firefighters use the tanker's water then put up a portable
3 swimming pool type facility which they fill from the
4 hydrant and use as a supplement to the tanker. Is that
5 accurate?

6 A. No. I shouldn't--

7 Q. You are saying it's not accurate?

8 A. Well, let me read this. What I've seen includes
9 the use of a pumper truck, the initial use of the tanker
10 truck. Firefighters use the tanker's water to fight the
11 fire, that's right, and then put up a portable swimming
12 pool facility. They fill that from hydrants, and then
13 pumper trucks pump out of that swimming pool canvas. It's
14 like a canvas portable swimming pool and they hook their
15 hoses and fight fires from that pool.

16 Q. Okay. If the hydrant on Main Street is fully
17 opened, what is the pressure in the main at the highest
18 point on Main Street?

19 A. I don't know.

20 Q. Do you know how many houses are between that
21 fire hydrant and the highest point on Main Street?

22 A. Between the hydrant where we took the pressure
23 test and the end of the main?

24 Q. Yes.

25 A. I believe three.

1 Q. Okay. On Page--

2 A. I'm sorry. Four. There would be the place
3 where you borrowed our--you borrowed our pressure gauge to
4 take the test, the house at the very end of Main Street.

5 MR. TERRY FOUGHT: There is the house at the very
6 end.

7 A. There would be four, including that house.

8 Q. Okay. Now, I think that on the next page of
9 your testimony, you talk about your recent system
10 improvements?

11 A. Yes.

12 Q. And I think by now, it must be clear to you that
13 a regulation exists that requires no less than a six-inch
14 main where a replacement is longer than 250 feet and not on
15 a cul-de-sac?

16 ATTORNEY NIESEN: I will object to that. Are you
17 presenting that as a requirement?

18 ATTORNEY DUSMAN: I'm asking him--

19 JUDGE NEMEC: Where does that come from? I don't
20 remember that being--

21 ATTORNEY NIESEN: You said by now you are aware
22 that.

23 ATTORNEY DUSMAN: I believe that it was in
24 Mr. Fought's testimony and that it had come up in the
25 context of questions to Mr. Wolbert earlier.

1 JUDGE NEMEC: I recall some questions to Mr. Wolbert
2 about six-inch mains being required.

3 ATTORNEY DUSMAN: I will rephrase the question,
4 Your Honor.

5 JUDGE NEMEC: My understanding was his response was
6 that that--I thought I was paying attention at the time. I
7 believe his response was to the effect that six-inch mains
8 are a minimum for new construction. That's the same as the
9 P.U.C. requirements. But I believe he also testified that
10 where there is an existing line being replaced, that they
11 permit the smaller diameter line to be used if a smaller
12 diameter line was the one that's being replaced.

13 ATTORNEY DUSMAN: Yes. I believe he stated that,
14 that D.E.P. permits that. However, we will reserve that
15 for argument, Your Honor.

16 BY ATTORNEY DUSMAN:

17 Q. Suffice it to say that many of your replacement
18 mains have been less than six-inch, isn't that correct?

19 A. Yes.

20 Q. Okay. At Page 10 in your testimony, you state
21 that, the company also plans to loop its only two dead end
22 mains at Mount Zion Church and at 393 Pike Run Drive. Is
23 that accurate?

24 A. No.

25 Q. Okay. Are you changing--

1 A. 393 Pike Run Drive, we did loop. So, that
2 should have been up above, new improvements. We are still
3 planning to loop the dead end main at Mount Zion Church,
4 which is the church that Mr. Wolbert referred to at the end
5 of a line and they only use their water on Sunday
6 mornings. They use about 30 or 40 gallons of water. But
7 since they only use it is once a week, it gets a stagnant
8 odor, and we want to try to loop that.

9 Q. Okay. Taking a look at this system map, again,
10 the one that was drawn by Mr. Fought on the topographical
11 map, can you point to where the two dead end mains are that
12 you refer to in your testimony?

13 A. Yes. One would be in this area (indicating).

14 Q. Can you say where that is on the map? It's
15 underneath the word Zion?

16 A. Underneath the word Zion. And the other one
17 which has since been completed would be underneath the word
18 N on Walkertown, approximately an inch and a quarter below
19 the letter N.

20 Q. Okay. Isn't there also a dead end main at the
21 highest point on Walkertown Road?

22 A. At the highest point on Walkertown Road? Oh,
23 yes. On that hill, yes.

24 Q. Okay. So, there is at least one other dead end?

25 A. Walkertown is a unique system. I'm not sure

1 what we are supposed to do there. Those were lines that
2 people in Walkertown wanted to put in, and they bought the
3 pipe and they put most of those in, to my knowledge, before
4 I really became the president of this company. So, I'm not
5 sure what we should do in Walkertown.

6 Q. Is there also a dead end main at the highest
7 point on Main Street?

8 A. Yes.

9 Q. So, you currently have at least four dead end
10 mains in the system?

11 A. Yes. Three. We looped this system in. Are you
12 saying they have to be--they are supposed to be looped?

13 Q. I'm just asking you whether there are other dead
14 end mains in the system.

15 A. Well, one at the end of Main Street. One at
16 Mount Zion, which is not a main. It's a service line. The
17 end of Walkertown. And way down here at the end of
18 Daisytown Road (indicating).

19 Q. Okay.

20 ATTORNEY DUSMAN: May I approach the witness,
21 Your Honor?

22 JUDGE NEMEC: You may.

23 BY ATTORNEY DUSMAN:

24 Q. Mr. Yablonski, turning your attention to an area
25 that we talked about earlier which is on O.C.A. Cross

1 Exhibit 2-Y, a map that you have now marked, above the word
2 Daisytown and to the right a little bit, you stated earlier
3 that you serve customers in this area, did you not?

4 A. Yes.

5 Q. Okay. Now, am I also correct that the nearest
6 main that's shown on this map stops about maybe half an
7 inch above the I in Daisytown? So, my question to you is,
8 how do you serve people in this area, Tipple Mine? That's
9 right around the word Tipple on the topographical map?

10 A. I'm not familiar with the exact footage involved
11 going through Daisytown, but that would be--there would be
12 a four-inch line that would go. This is a vacant field
13 (indicating). It would go through this field and down
14 along--

15 Q. Can you relate that to--

16 A. (The witness indicates.)

17 Q. Can you also point out on that exhibit where the
18 hydrant is on which you took the continuous pressure
19 reading?

20 A. (The witness indicates.)

21 Q. May I see where you have marked?

22 A. Approximately there (indicating).

23 Q. Okay. Did you testify earlier that you thought
24 there were three or four houses higher than that fire
25 hydrant?

1 A. Did you ask me?

2 Q. I asked you how many houses you thought were
3 higher than that.

4 A. Yeah. There would be four, and this would be
5 the hydrant here (indicating).

6 JUDGE NEMEC: How much more do you think you have?

7 ATTORNEY DUSMAN: None.

8 JUDGE NEMEC: Let's take--you are not asking a
9 question at this point?

10 THE WITNESS: That would be the fourth house where
11 the hydrant is.

12 JUDGE NEMEC: Four houses above the hydrant?

13 THE WITNESS: Yes.

14 JUDGE NEMEC: I need to take a five-minute break
15 right now to make sure we don't get locked in.

16 (Whereupon, a recess was taken from
17 5:29 P.M. to 5:31 P.M.)

18 BY ATTORNEY DUSMAN:

19 Q. Can you be sure how many houses are at a higher
20 elevation than the main at 95 Main Street?

21 A. Yes. Four houses. And they were saying what
22 the confusion was, and I wasn't thinking this way, the
23 houses on the opposite side of the street from where that
24 hydrant is have been torn out. There are no houses on the
25 opposite. Do you follow what I'm saying?

1 JUDGE NEMEC: Where?

2 BY ATTORNEY DUSMAN:

3 Q. Yes, I do follow what you are saying.

4 A. And there would be four houses.

5 Q. Are they single houses or double houses?

6 ATTORNEY NIESEN: The torn down ones?

7 ATTORNEY DUSMAN: No. The ones that exist.

8 A. I think most of them at one time were double
9 houses and are now single.

10 Q. Okay.

11 ATTORNEY DUSMAN: Your Honor, just to clear it up so
12 there is no confusion, I will JUST make an on the record
13 data request that we be provided with the names and
14 addresses of folks that live at a higher elevation than
15 that hydrant at 95 Main Street.

16 JUDGE NEMEC: That sounds easy.

17 ATTORNEY NIESEN: You want the names and addresses?

18 ATTORNEY DUSMAN: Names and addresses of customers
19 that currently reside up the street from that main.

20 ATTORNEY DUSMAN: Your Honor, we don't have any
21 further. I would like to move in my O.C.A. Cross exhibits.

22 JUDGE NEMEC: 1, 2-Y, and 2?

23 ATTORNEY DUSMAN: Yes.

24 ATTORNEY NIESEN: What is 1?

25 ATTORNEY DUSMAN: 1 is the copy of the cancelled

1 checks to Redstone Water Company for fire service.

2 ATTORNEY NIESEN: I have no objection to that. 2 is
3 this one (indicating)?

4 ATTORNEY DUSMAN: 2 is the one concerning the
5 continuous recording pressure gauge.

6 ATTORNEY NIESEN: I have no objection to that. And
7 this one that he was writing on is 2-Y?

8 JUDGE NEMEC: Yes.

9 ATTORNEY NIESEN: I will have the same objection to
10 that that I have to the original.

11 JUDGE NEMEC: Okay. 1 and 2 are admitted. 2-Y is
12 going to be admitted, also, subject to opportunities to
13 counsel and Mr. Yablonski and staff to review the accuracy
14 of it and reply with any problems they have with it.

15 (Whereupon, the documents marked as
16 O.C.A. Cross-examination Exhibit Nos. 1,
17 2-Y, and 2 were admitted into evidence.)

18 R E D I R E C T E X A M I N A T I O N

19 BY ATTORNEY NIESEN:

20 Q. Mr. Yablonski, there was one question about
21 whether you knew the elevation of the highest point in the
22 system, and I think you said you didn't know what that
23 elevation was?

24 A. That's correct.

25 Q. But you know where the highest point in the

1 system is, don't you?

2 A. Yes.

3 Q. And where would that be on the map, just
4 generally?

5 JUDGE NEMEC: It better be where the water tank is,
6 because that's his Direct Testimony.

7 ATTORNEY NIESEN: Very good. That's all the
8 questions I have. There was a request for information
9 concerning the names of the six customers. Did you want
10 addresses, too, or just names? I have the names. I don't
11 have the addresses.

12 ATTORNEY DUSMAN: Of the Tri-County customers or the
13 ones that are served with Tri-County.

14 ATTORNEY NIESEN: These are the Tri-County.

15 JUDGE NEMEC: You better do names and addresses and
16 do that in writing. Respond in writing and send me a
17 copy.

18 ATTORNEY NIESEN: And the other thing is concerning
19 your O.C.A. Cross-examination Exhibit No. 1, which is the
20 \$1,300.00 check, Mrs. Stish has advised me, and I can put
21 her on the stand to ask her one question, which would be
22 that in addition to that check, there is also a check from
23 the General Fund for \$500.00. So, it comes not in one
24 check of \$1,800.00, but it comes in two checks, one for
25 \$1,300.00 and one for \$500.00.

1 ATTORNEY DUSMAN: That explains it. I'm not going
2 to require her to take the stand for that.

3 JUDGE NEMEC: The point of the exhibit was to show
4 that there was payment, is that correct?

5 ATTORNEY DUSMAN: Right. Asking about the
6 discrepancy was more a matter of curiosity.

7 JUDGE NEMEC: Okay?

8 ATTORNEY NIESEN: Yes. We have nothing further.

9 JUDGE NEMEC: Okay. Thank you, sir.

10 (Witness excused.)

11 JUDGE NEMEC: Do you have another witness?

12 ATTORNEY DUSMAN: We have a rebuttal witness,
13 Your Honor?

14 JUDGE NEMEC: And this witness is?

15 ATTORNEY DUSMAN: Mr. David Danis.

16 ATTORNEY NIESEN: What is he going to say?

17 ATTORNEY DUSMAN: Mr. Danis is being called to
18 respond to the statements made by Mr. Yablonski concerning
19 the water tests, the results of which were offered by the
20 O.C.A. in connection with Mr. Fought's testimony.

21 (Witness sworn.)

22 JUDGE NEMEC: State your full name for the record.

23 THE WITNESS: David Joseph Danis.

24 JUDGE NEMEC: Spell your last name, please. I'm
25 sorry.

1 THE WITNESS: D-a-n-i-s.

2 DAVID DANIS, a witness herein, called in
3 Rebuttal on behalf of the Complainants, having first been
4 duly sworn, was examined and testified as follows:

5 D I R E C T E X A M I N A T I O N

6 BY ATTORNEY DUSMAN:

7 Q. Mr. Danis, state your business address, please?

8 A. It's Microbac Labs, Incorporated, at
9 100 Marshall Drive, Warrendale, PA, 15086.

10 Q. And can you say what your educational background
11 is?

12 A. I have a B.S. in chemistry from the University
13 of Pittsburgh, and 23 years in the water testing, and 22
14 years in the analytical testing business.

15 Q. And how long have you been employed by Microbac
16 Labs?

17 A. 22 years.

18 Q. Now, have you reviewed the testimony offered in
19 this matter by Mr. Yablonski?

20 A. I seen nothing prior to this.

21 Q. Okay. It was my understanding that his
22 statement was faxed to you, but be that as it may. Do you
23 recall the O.C.A. advising you that Mr. Yablonski had
24 questioned the accuracy of the tests provided by your lab
25 to Mr. Fought in connection with this case?

1 A. Yes, I do.

2 Q. And following that conversation, did I ask you
3 for documentation concerning the accreditation of your
4 laboratory by--accreditation is not the right word.

5 A. Certification.

6 Q. Certification by Department of Environmental
7 Protection?

8 A. Yes.

9 Q. And did you subsequently provide me with certain
10 documentation in connection with the tests that were done
11 with this?

12 A. Yes, as well as our certification and
13 performance studies that we recently completed.

14 ATTORNEY DUSMAN: Your Honor, may I approach the
15 witness?

16 JUDGE NEMEC: You may.

17 ATTORNEY DUSMAN: I would ask that these two sets of
18 documents be able to be marked O.C.A. Exhibit No. 1-R and
19 2-R.

20 (Whereupon, the documents were marked as
21 O.C.A. Exhibit Nos. 1-R and 2-R for
22 identification.)

23 BY ATTORNEY DUSMAN:

24 Q. Mr. Danis, do you recognize those documents?

25 A. Yes, I do.

1 Q. Now, the first document which the judge has
2 permitted us to mark O.C.A. Exhibit No. 1-R, would you turn
3 your attention to that first?

4 ATTORNEY DUSMAN: Your Honor, I would just note I
5 numbered the pages so we can refer to them more easily.
6 BY ATTORNEY DUSMAN:

7 Q. Can you just take a glance at the first eight
8 pages of Exhibit No. 1-R and tell the judge what they are?

9 A. That's a photocopy of an invoice for testing
10 that was performed for Mr. Fought.

11 Q. Okay. Each of those pages represents an
12 invoice?

13 A. It's an itemized invoice.

14 Q. And then following those invoice pages, there
15 are four pages that are entitled Certificate of Analysis?

16 A. That's correct. That's a copy of the finished
17 report that was provided for analysis of samples we
18 collected at 9 Church Street, 49 Main Street, and 149 Pike
19 Run Road.

20 Q. Okay. And then following those Certificates of
21 Analysis, there are three pages marked Chain of Custody
22 Record. Can you explain the significance of those
23 documents in connection with your tests?

24 A. Well, we had been contacted by Mr. Fought back
25 in October of '99 to conduct some water analyses, and

1 arrangements were made for one of our field technicians to
2 travel to these locations, collect the water samples, and
3 this is documenting essentially that he took those and
4 delivered them to the laboratory on a particular date and
5 time.

6 Q. Okay. And then the following pages, the last
7 several papers of 1-R?

8 A. 16 and 17 are copies of a Work Order Report
9 which is generated when a sample is signed in the at the
10 laboratory. The page directly following that is a verbal
11 quote sheet that's kept by our sales and service
12 representative who spoke with Mr. Fought. And the last in
13 the packet is a record of what sample bottles were
14 received, the temperature they were received at, and
15 whether there were preservatives added to it.

16 Q. Now, would you turn your attention to O.C.A.
17 Exhibit 2-R? Would you tell us the significance of the
18 first two pages of that document?

19 A. Page 1 and Page 2 are our current certificate
20 from PA D.E.P. indicating that we were certified for
21 organic analyses and inorganic analyses, and they are
22 listed on the front. The second is the one that was in
23 effect at the time the sampling and analyses were done.

24 Q. Okay. Now, the pages--the pages are marked in
25 this exhibit starting from 20 and going to Page 30. And

1 can you tell us what the significance of the pages
2 following the certificates are?

3 A. The first two are a copy of what's referred to
4 as a performance evaluation study. Part of the
5 certification process requires us to receive a blind sample
6 and analyze that. It's known only to the provider of the
7 sample, and there are acceptable ranges that the lab must
8 fall within in order to maintain certification. I just
9 included this to demonstrate this was our most recent
10 test. And for purposes of completing the packet, I
11 included the reference method that was used or followed to
12 do the sulfate analysis, the laboratory's standard
13 operating procedure, which is more specific as to how we
14 actually do the test. And also a copy of the technician's
15 broad data sheets as they pertain.

16 Q. Okay. Thank you. Now, would you just take a
17 moment--I'm going to give you a copy of a couple of pages
18 of Mr. Yablonski's testimony, and I believe I summarized it
19 for you, but I would like you to just specifically read the
20 question and answer that appears on Page 4 and then
21 continue with the remainder of the answer on Page 5 and let
22 me know when you have read that.

23 A. Through here (indicating)?

24 Q. Yes.

25 A. Okay. I finished.

1 Q. Okay. Now, I'm sure that you are already aware
2 that the test results that are being referred to here are
3 the ones that Microbac Lab is responsible for?

4 A. Uh-huh (affirmative).

5 Q. Mr. Yablonski makes the statements that
6 Mr. Fought's test results which are inconsistent with other
7 test results should not be relied upon. Do you recall that
8 statement?

9 A. Yes.

10 Q. Can you explain why inconsistency is not a
11 reason in and of itself to doubt the reliability of a test
12 such as you have done?

13 A. Well, I would like to say first off that as part
14 of our certification, we are required to maintain a quality
15 assurance program to help minimize errors that could occur
16 in a laboratory situation. I am not surprised to see that
17 water quality, both surface water and groundwater, can vary
18 over time and under conditions. I think that these were
19 done after a particularly dry summer in October when the
20 water table may have been lower than at other times. There
21 were many communities that were in difficult situations
22 throughout the tri-state area with regard to that. That
23 may account for some of the differences with it. In either
24 case, I have gone back and reviewed, in particular, the
25 sulfate which we discussed. I looked at the raw data, I

1 looked at the quality control that was with the batch, and
2 I have no doubt to believe that those are not correct.
3 Additionally, though I have not seen the table that
4 Mr. Fought put together, there is a relationship between
5 the total dissolved solids and the other minerals that we
6 tested for individually here, and I think we had some of
7 the highest total dissolved solids numbers. And
8 consequently, we are showing some of the highest sulfate
9 numbers and hardness numbers and sodium numbers, too. And
10 that would tend to follow suit. Exactly why they are
11 higher, I can't speculate.

12 Q. Well, can you think of any other reasons why
13 water tests results from the same source might vary over a
14 time period?

15 A. The exact reason for why they vary, I can't be
16 certain.

17 Q. Okay.

18 A. I will say there is good agreement between the
19 three. If you looked at the three reports and if these
20 were all from the same system, they look like they are in
21 agreement.

22 Q. I would like you to take a look at the summary
23 page that Mr. Fought prepared, and I would note that the
24 final three columns are the ones that include the results
25 from Microbac Lab.

1 A. Yes.

2 Q. Can you tell us, you mentioned that the hardness
3 becomes part of total dissolved solids. Can you look at
4 the column on the left and tell us what other elements that
5 are tested for contribute to high TDS?

6 A. Well, as mentioned before, the total dissolved
7 solids are the amount of minerals that are in a solution.
8 If you were to take a pot of water and boil it away until
9 all the water is gone, the TDS is essentially all that
10 residue and salts that are left over in the bottom of the
11 tank. The test that is performed in the lab is not much
12 different than that. So, if we were to add up the salts or
13 those portion of salts, it would give a close estimate to
14 what the total dissolved solids would be. So, if we took
15 the hardness--if I run down here, it's a little bit
16 different. I can go from my report a little bit better.
17 Can I do that?

18 Q. That's fine.

19 A. If I were to take the hardness, the chloride,
20 the fluoride, the nitrate, nitrite, the sulfate, all of the
21 trace metals, taking the calcium out because that's part of
22 the hardness, the iron result, and the sodium result, that
23 should give an estimate of what the total dissolved solids
24 would be in the sample. And I went ahead and totaled those
25 up an hour or so ago. On the first sample, the total was

1 somewhere around 1,000, and we are showing--1,000
2 milligrams per liter, and we are showing test results at
3 822. On the next sample, which was from 49 Main Street,
4 also around 1,000, and we are showing a total dissolved
5 solids at 850. So, I don't think it's--the correlation is
6 there to indicate the higher sulfate, higher hardness
7 results and so on.

8 Q. Okay. And again, turning your attention to
9 TLF-1, did you state earlier that you felt that the test
10 results overall were within a range that would be expected?

11 A. Well, on 9/30/91, somebody provided results
12 where TDS was 852 and the sulfate content was 351. And
13 when we are coming up with total dissolved solids results
14 in that 820 to 850 range, we are also showing sulfates
15 somewhere around 350 to 360. And, once again, we have seen
16 with not only surface water but groundwater that there can
17 be variations with the amount of rainfall and different
18 conditions within the system. Last year was a terrible
19 drought, and these samples were right around the end of the
20 dry period. Samples taken perhaps in March or earlier may
21 not.

22 Q. Do you stand by the accuracy of the tests that
23 your lab did for us?

24 A. Yes, I do.

25 Q. Okay.

1 ATTORNEY DUSMAN: I have nothing further,
2 Your Honor. And I would move in O.C.A. Exhibits 1-R and
3 2-R.

4 ATTORNEY NIESEN: I have a couple questions.

5 C R O S S - E X A M I N A T I O N

6 BY ATTORNEY NIESEN:

7 Q. Look at O.C.A. Exhibit 1, the summary page. Do
8 you have that? As I understand what you just did, did you
9 look at the total--use your number that's over here on the
10 right-hand side. You took the total dissolved solids and
11 suggested that if you looked farther down, you can add up
12 certain of the line items and come close to the total
13 dissolved solids?

14 A. As an estimate.

15 Q. I tried to do that this morning and people said
16 I was wrong to do it.

17 A. No. I think it's prudent, but I think what you
18 need to bear in mind is that one of the missing--

19 Q. I think it was this morning. Maybe it was
20 yesterday.

21 A. There are a couple tests that are missing that
22 would be included in there, and one would be potassium
23 which was not tested for and magnesium. The hardness is
24 expressed as calcium carbonate it's a little deceiving, so
25 I don't think you can add in all of that.

1 Q. But there is some relationship between the line
2 items underneath and the--

3 A. Certainly. There is also another test of
4 conductivity that there is also a relationship with. If we
5 were to take on the spreadsheet here, if we were to take
6 starting at the top the nitrate and nitrite nitrogen--

7 Q. I'm sorry. The nitrate--

8 A. Yeah. The NO₂.

9 Q. Nitrate?

10 A. Right. The total hardness, that's calcium
11 carbonate, you can't add in the calcium, then.

12 Q. You can't. Okay.

13 A. No. Because that's already taken into account
14 above. Add the sodium in, the chloride, the sulfate,
15 fluoride, and the trace metals, which are of little
16 significance, it should give you something that's close to
17 or an estimate of what the TDS would be.

18 Q. I missed your title with Microbac.

19 A. I am laboratory director and vice president of
20 our Pittsburgh operations.

21 Q. Did you perform the tests that are listed here?

22 A. My analyst did.

23 Q. Okay. But you did not?

24 A. No.

25 Q. Okay. Now, you would recognize, though, that

1 test results on 10/21 are higher than most of the other
2 test results for the three items that are being discussed,
3 TDS, hardness, and sulfate? Just look across. You got 800
4 levels. That's higher than the TDS levels for the other
5 tests. The same is true for hardness. The same is true
6 for sulfate.

7 A. I would not disagree.

8 Q. And you attributed one possibility or one reason
9 for that might be the fact that there was a major drought
10 last summer?

11 A. I think that could be true. I'm speculating
12 when I say that.

13 Q. And October is about the end of the summer, so
14 the end of the drought period I think you said?

15 A. Right. Also that there is a 10-year difference
16 between the last complete list of tests we have here, and
17 if anything has changed from a hydrogeology standpoint with
18 the aquifer and the water supply, it's a long period of
19 time.

20 Q. That's not true for the sulfate, though?

21 A. Pardon?

22 Q. The sulfate tests, there are tests for sulfate
23 from March of 1999?

24 A. Right.

25 Q. Another reason could be that your technician got

1 it wrong and the results aren't quite right?

2 A. Well, as part of the validation process, I went
3 back and looked at with the raw data, we are required to
4 run quality control checks with each batch of samples that
5 we test. And on the raw data sheets, we ran a known
6 standard of 50 milligrams per liter and recovered 99.6
7 percent of that. We also ran a duplicate on the water
8 supply, which was much, much lower in sulfate and had a
9 relative difference between the two at less than
10 10 percent.

11 Q. So, that means that at the same time you were
12 running these tests, you ran other tests and got what you
13 felt were credible results?

14 A. Yes.

15 ATTORNEY NIESEN: I don't have any more questions.
16 Thank you.

17 JUDGE NEMEC: Objections to the exhibits?

18 ATTORNEY NIESEN: No. I don't object to them.

19 JUDGE NEMEC: Okay. O.C.A. Exhibits 1-R and 2-R are
20 admitted.

21 (Whereupon, the documents marked as
22 O.C.A. Exhibit Nos. 1-R and R-2 were
23 admitted into evidence.)

24 JUDGE NEMEC: Thank you, sir. You are excused.

25 (Witness excused.)

1 JUDGE NEMEC: We are going to take another
2 five-minute break, and you can think about what else you
3 need to put in the record here.

4 (Whereupon, a recess was taken from
5 5:54 P.M. to 5:59 P.M.)

6 JUDGE NEMEC: I assume we have nothing further. I
7 hope you understand what we have undertaken to do. I do
8 have one more question. Mr. Yablonski, can I call you just
9 for a second? Consider yourself still under oath. It is
10 my understanding that Daniel J. Krilosky is no longer a
11 customer on your system, is that correct?

12 MR. TERRY YABLONSKI: Yes.

13 JUDGE NEMEC: Thank you, sir. That's all I have.
14 If something occurs to anybody in the next couple of days
15 that we have forgotten or that you feel has been overlooked
16 or neglected, let's do an informal conference call and we
17 will straighten it out that way. Okay? Good luck and safe
18 trips home. We will adjourn at this time.


19 (Whereupon, at 6:00 P.M., the hearing was
20 concluded.)

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C E R T I F I C A T E

I, Debra J. DiGioia, the undersigned, do hereby certify that the proceedings and evidence are contained fully and accurately in the notes of testimony taken by me, to the best of my ability, on the hearing of the within cause and that this is a true and correct transcript of the same.

Date: 4/22/2000


Debra J. DiGioia, Notary Public
In and for the Commonwealth of
Pennsylvania.

My Commission Expires:

NOTARIAL SEAL
DEBRA J. DIGIOIA, NOTARY PUBLIC
MONESSEN, WESTMORELAND COUNTY
MY COMMISSION EXPIRES APRIL 22, 2000

