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APPEARANCES: (C o n t i n u e d)

**Reptg. N.H. Department of
Environmental Services:**

K. Allen Brooks, Esq., Asst. Atty. Gen.
(N.H. Department of Justice)
Tracy Wood, Dept. of Environ. Services
Sharon McMillin, Dept. of Environ. Serv.

Reptg. New Hampshire Dept. of Energy:

Matthew C. Young, Esq.
(Regulatory Support Division)

ALSO NOTED AS PRESENT:

Michael Thurston, 47 Colonial Drive
Steven Hamilton, 54 Colonial Drive
Bob & Terri Landry, 61 Colonial Drive
Tom & Jerri Moreau, 51 Colonial Drive
Jason Ray, 64 Colonial Drive

Scott Lamprey, Lamprey Suburban Septic Service

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P R O C E E D I N G

1
2 CMSR. SIMPSON: On the record. Good
3 morning, everyone. My name is Commissioner
4 Carleton Simpson. I'll be presided over today's
5 hearing. I'm joined by Commissioner
6 Chattopadhyay. Also at the Bench is the Public
7 Utilities Commission's attorney, from the New
8 Hampshire Department of Justice, J.D. Lavalley,
9 and we're also joined by a PUC attorney, Lynn
10 Fabrizio.

11 We're here this morning in Docket DW
12 22-082, regarding a complaint filed by residents
13 of Colonial Drive, in Moultonborough, against the
14 Agape Community Church. The complaint requested
15 that the Commission open a receivership
16 proceeding, pursuant to New Hampshire RSA
17 374:47(a), and grant any relief possible,
18 pertaining to lots served by a sewer system
19 that's allegedly owned by the Agape Community
20 Church.

21 The complaint asserted that ACC is the
22 owner of the sewer system, and has never sought
23 an exemption from regulation as a public utility
24 under New Hampshire RSA 363:4. The complaint

1 contends that the sewer system has now failed,
2 resulting in a serious and imminent threat to the
3 residents' health and welfare.

4 Today, this is a scoping hearing. I
5 will note that there are some jurisdictional
6 questions that the Commission has, because this
7 is a unclear situation for us, given that we have
8 no record of this system, other than the
9 information that was filed into the record.

10 I will note that we -- the Commission
11 did some preliminary research, in order to
12 prepare for this hearing today, which consisted
13 of looking at town reports from the Town of
14 Moultonborough. So, we're really only looking at
15 scoping today, prior to the commencement of a
16 potential adjudicative proceeding.

17 We are going to do our best to stay
18 focused on the jurisdiction issues today. And we
19 want -- we're looking forward to hearing from the
20 parties -- excuse me -- the participants that are
21 involved today, and getting recommendations from
22 all of you with respect to proper procedural
23 steps moving forward.

24 First, I would like to go around the

1 room and have all participants introduce
2 themselves. I would start with Attorney Brown,
3 and ask her to introduce the residents of
4 Colonial Drive that she's representing.

5 MS. BROWN: Thank you, Commissioner
6 Simpson. My name is Marcia Brown, with NH Brown
7 Law. And I am representing the residents of
8 Colonial Drive. And with me, to my right, is
9 Michael Thurston, he and his wife reside at 47
10 Colonial Drive; to his right is Steven Hamilton,
11 he resides at 54 Colonial Drive; immediately
12 behind me is Bob and Terri Landry, and they
13 reside at 61 Colonial Drive; and to their right,
14 Tom and Jerri Moreau, who reside at 51 Colonial
15 Drive; and I completely forgot to introduce Jason
16 Ray, who is at 64 Colonial Drive, who is to Steve
17 Hamilton's right. My apologies.

18 Thank you.

19 CMSR. SIMPSON: Thank you. Do we have
20 anyone here today from the Agape Community
21 Church?

22 *[Indication given.]*

23 CMSR. SIMPSON: Oh. Please introduce
24 yourself, sir.

1 MR. STRAUGHAN: Yes. My name is --

2 CMSR. SIMPSON: Please turn your
3 microphone on, if you could as well. And I'll
4 ask others to do that please, too, when they
5 speak.

6 MR. STRAUGHAN: Okay. Testing?

7 CMSR. SIMPSON: We hear you.

8 MR. STRAUGHAN: Thank you. My name is
9 Kevin Straughan. And I am the pastor of Agape
10 Community Church. I'm on the Board as the
11 President, actually. I stepped down as the
12 pastor.

13 CMSR. SIMPSON: Thank you. The New
14 Hampshire Department of Environmental Services?

15 MR. BROOKS: Good morning. My name is
16 Allen Brooks. I'm with the Department of
17 Justice, representing Environmental Services.
18 And with me are Tracy Wood and Sharon McMillin.

19 CMSR. SIMPSON: Thank you. New
20 Hampshire Department of Energy?

21 MR. YOUNG: Good morning,
22 Commissioners. My name is Matt Young, appearing
23 on behalf of the Department of Energy. With me
24 today is Jayson Laflamme, who's the Director of

1 our Water Group in the Department's Regulatory
2 Support Division; as well as Anthony Leone, who
3 is the utility analyst working on this matter.

4 CMSR. SIMPSON: Okay. Thank you. Is
5 there anyone else here today that would like to
6 identify themselves?

7 MS. BROWN: If I could, I spoke to the
8 Town of Moultonborough's counsel, Matthew Serge.
9 The Town was unable to attend today. However,
10 they asked that I represent to you today that
11 they are monitoring this proceeding. And they
12 haven't filed the official appearance yet, but
13 they are actively monitoring.

14 Thank you.

15 CMSR. SIMPSON: But you are not
16 representing them, you're just letting us know
17 that information, correct?

18 MS. BROWN: Correct.

19 CMSR. SIMPSON: Okay. Thank you. So,
20 I would now like to afford participants today an
21 opportunity to be heard on this matter. I'll ask
22 each participant to limit their comments now to
23 five minutes each. Following initial comments,
24 just so you understand the process, we will then

1 go to Commissioner questions, where Commissioner
2 Chattopadhyay and myself have some questions for
3 several of the participants in this room. And
4 then, we'll move forward from there.

5 So, I'll ask Attorney Brown, if you'd
6 like to begin?

7 MS. BROWN: And I'm sorry, I need to
8 ask a question. Because I was expecting to do a
9 presentation addressing each and every question
10 teed up in the preliminary hearing notice, as
11 well as the order denying the Motion to Continue.

12 CMSR. SIMPSON: Uh-huh.

13 MS. BROWN: And, so, my whole
14 presentation is kind of integrated, going --
15 based on facts, and then addressing each legal
16 section. So, I can --

17 CMSR. SIMPSON: When you say
18 "presentation", that's just verbal comments?

19 MS. BROWN: Verbal comments addressing
20 the facts, and perspective on the legal construct
21 applicable to today. I expect to take about 15,
22 20 minutes.

23 CMSR. SIMPSON: Okay. And is that --
24 are you intending to speak on behalf of all the

1 individuals that you're representing?

2 MS. BROWN: Correct.

3 CMSR. SIMPSON: Okay. I'll allow that.
4 Attorney Brown, please begin.

5 MS. BROWN: Okay. And I think it would
6 be helpful, in talking later about the
7 applicability of the law, or laws, to go over the
8 timeline that brought us here. Because, as you
9 know from the filings, on or about August 10th,
10 there was a site visit at the Colonial Drive pump
11 station, with the Town Officer -- Town Health
12 Officer, Scott Dvorak, and a DES representative,
13 James Talvy. At that point, it was not clear who
14 ordered Lamprey Suburban Septic Services to start
15 pumping, but, as of that time period, Lamprey
16 started pumping, and you see those expenses
17 attached to the Petition.

18 Now, ownership of the utility was
19 unclear at the time. Department of Environmental
20 Services issued a Notice of Findings on
21 September 6th. That is not in the record yet,
22 but I'm happy to supply that as a record request,
23 Notice of Findings to Bay District Sewer.
24 Because, as you know, the Winnepesaukee River

1 Basin Project has a -- well, they have an MOU
2 with Bay District Sewer, to receive sewer and
3 transport it. Ultimately, it goes to the
4 Franklin Wastewater Treatment Plant, but DES can
5 speak to that more fully.

6 So, that was September 6th. DES
7 thought Bay District owned the facilities. At
8 some point, Bay District got back to DES, and DES
9 learned, and they can speak to this, that Bay
10 District did not own the assets within Colonial
11 Drive.

12 So, by October 5th, the Town's Health
13 Officer, and this fact is important to which
14 statutes apply, the Town issued a letter to the
15 Colonial Drive residents. In that letter, the
16 Town stated: "After talking to Lamprey Suburban,
17 it was determined that the pumps are no longer
18 working, which has resulted in the daily
19 monitoring and pumping of the pump station. This
20 is not a permanent solution, and the septic
21 system is in failure as defined in RSA 45-A:2,
22 IV."

23 So, at that point, October 5th, we have
24 a finding of fact by a Town officer acting within

1 the scope of their authority that there was a
2 failure, and a threat to public health.

3 I continue to quote: "The private
4 sewer system servicing your property is a state
5 of disrepair, such that it constitutes a source
6 of danger to the health of the public." The Town
7 closed with ordering the residents to "replace
8 the pumps within 60 days."

9 Within two weeks, the residents had
10 retained counsel. By November 15th, the
11 residents had prepaid the bulk of the pump
12 replacement. By Christmastime, they had also
13 paid fully. So, the residents are out about
14 \$17,325.

15 Now, on November 22nd, after concluding
16 extensive deed research, the residents sent a
17 letter request to the Town and DES asking them to
18 enforce against the church, and the letter also
19 included the supportive deeds, because the record
20 evidence of the filings at the Registry of Deeds
21 showed the ownership still being the Church, and
22 nothing different.

23 Mr. Straughan, Mr. Kevin Straughan, who
24 is here today, reached out quite -- fairly

1 promptly. I spoke to him on the 28th of
2 November, 29th of November. He was looking for
3 guidance. By December 2nd, I thought it
4 advisable for the residents to trigger a forum to
5 resolve -- to discuss whether this is a public
6 utility, because that is a finding that needs to
7 be made, and the path going forward.

8 And then, on December 9th, I got a call
9 from counsel that I guess, as I now understand,
10 was interim counsel for the Church. And I had
11 referred them to an accountant who might be able
12 to represent them, an accountant that's familiar
13 with the small sewer systems regulated by this
14 Commission.

15 As you know, from the Motion to
16 Continue that was filed on January 8th, that's
17 the first time that the residents are hearing
18 that the Church is opposing its responsibility,
19 does not -- is taking the position that it does
20 not have any obligation with respect to the sewer
21 system. If there are facts, we certainly would
22 love to hear those facts, because the evidence to
23 date shows that the Christian -- the Center
24 Harbor Christian Fellowship, renamed to "Center

1 Harbor Christian Church", renamed to "Agape
2 Community Church", and this is all through the
3 Department -- Secretary of State's Office
4 records, still has a continuity of ownership of
5 that parcel and of the subdivision residual
6 easement rights.

7 So, with that factual layout, I would
8 like to address whether Agape Community Church is
9 a public utility subject to regulation. We have
10 set forth more succinctly in the Objection to the
11 Motion to Continue, and that's at Paragraph 8(i)
12 through 8(vii).

13 And, if you would like me to read this
14 into the record, I can, or we can just take
15 notice of those?

16 CMSR. SIMPSON: It's in the record.

17 MS. BROWN: Okay. So, I will skip
18 that.

19 There is some confusion on, because the
20 Secretary of State's records show that this is a
21 charity, and a charity is supposed to be
22 registered under RSA 7 with the Charitable Trust
23 Unit. And, knowing that the Charitable Trust
24 Unit has the registry -- or, has Agape registered

1 as "Agape Ministries Servants, Inc.", it's
2 different than "Agape Community Church".

3 I don't see that as much of a problem,
4 because the ownership of the sewer system is
5 based on land records, not on the charitable name
6 or the IRS name, it's on the land records. And I
7 would say go with that. And, so, with using the
8 land records as a default, I will be referring to
9 Agape Community Church as the owner of it. And
10 we think that the records show that there is an
11 owner that is not the homeowners. There is no
12 homeowners association. And, under RSA 362:2,
13 the term of "public utility" includes "every
14 corporation...owning and operating". So, we've
15 got that established in the land records and in
16 the Secretary of State's records, that there's a
17 ownership of Agape Community Church of these
18 sewer assets/easements with it that were not
19 purchased by the residents that lie within the
20 subdivision.

21 Now, under 362:4, governing water
22 companies, again, it's "every corporation...shall
23 be deemed to be a public utility by reason of the
24 ownership or operation of the water or sewer

1 disposal system or part thereof." We don't have
2 operation, but we have ownership. And, so, in
3 that regard, we think that there's a public -- a
4 utility here.

5 Now, further on in RSA 362:4, there is
6 a carve-out, an exemption request. But you're a
7 public utility unless you exempt. And I can find
8 no record that there has been an exemption
9 request. They would otherwise fit, because the
10 threshold for being exempt is, you know, being 75
11 family units or less, and there are 10 residents.
12 So, it could otherwise qualify. But I think the
13 hang-up here is, you know, the litmus test for
14 franchises is "whether the entity has the
15 managerial, financial, technical, and legal
16 expertise to operate a utility." We have a
17 longstanding period of time with no demonstration
18 of operation, no demonstration of management, and
19 no demonstration of technical capacity to operate
20 the system.

21 And, yes, there was a short timeframe
22 between us notifying the Church on November 22nd
23 that we think it owns it, to now for the Church
24 to act, but, knowing that a utility cannot

1 survive without cash flow, that was another nudge
2 to needing a hearing, which would include a
3 adjudicative process to set rates, so that there
4 could be cash flow to pay for repairs.

5 I will move on to the next question,
6 which is "whether the complaint must be first
7 filed with the Department of Energy?" Now, RSA
8 365:1 through 4 authorizes DOE to investigate.
9 RSA 365:5 authorizes the PUC to investigate.
10 But, in reading those statutes, they're very --
11 they're general, and there is a precondition that
12 there be a finding of a "public utility", I think
13 there is a "public utility" situation here. The
14 same also -- the same finding of a "public
15 utility" also has to be made with respect to RSA
16 374:47-a, which is the receivership statute.

17 But the question posed by the
18 Commission is "What path, is one exclusive to the
19 other, can both be pursued?" And I would fall
20 back to the traditional doctrine of statutory
21 interpretation of a more specific statute applies
22 or controls over a general statute. And, in my
23 reading of 365:1 through 4 and 5, I deem those to
24 be more general. If you look at RSA 374:47-a,

1 there has to be a finding of imminent threat. We
2 already have a factual finding by the Town Health
3 Officer that there is a public health threat.
4 You don't have that litmus test for 365.

5 Also, the receivership is for a short
6 duration. And it is when there's a demonstration
7 of a failure to provide adequate and reasonable
8 services to customers, and that such failure is a
9 serious and imminent threat to the health and
10 welfare of the customers of the utility.

11 So, that is why the Petition came in
12 seeking to trigger the receivership, so that we
13 could jump-start an adjudicative proceeding,
14 because the facts support the Commission's
15 jurisdiction in using this very broad and
16 specific -- broad authorities to respond, but
17 very specific trigger of authority, then the
18 Commission could use that authority to jump-start
19 the process and get this ship righted, get rates
20 set, get the assets identified, and get a proper
21 books and records and accounting that a normal
22 utility would have.

23 And from then -- from there, the hope
24 would be, once the system is up to code, then, as

1 the record, you know, in our research showed,
2 when the Church was developing this, they had
3 approached Bay District to take over the sewer
4 system. But the Bay District had said "We need
5 to wait five years." We're hoping that Bay
6 District will accept the assets, because the
7 Church and the residents are not in the business
8 to own and operate a sewer system, they're just
9 not -- not that area of expertise. And, so, it
10 would be ultimately the goal to have Bay District
11 to take this over, similar to the situation with
12 Bodwell Waste Services and Bedford Waste
13 Services.

14 So, just to recap, we think that there
15 is -- the facts support on *prima facie* evidence
16 that there is a public utility here. We think
17 the Commission has the trigger -- the facts
18 support to trigger RSA 374:47 for receivership.
19 It doesn't mean that the DOE can't also, in
20 tandem, do its investigation, and I would
21 encourage it to do its investigation under 365:1
22 through 4. But I think, cut to the chase, I
23 don't think the 365:5 investigative powers for
24 this Commission gets us as soon as we need

1 remedy than the ability under 374:47-a. I think
2 374:47-a is the preferred route to expedite a
3 remedy to this situation.

4 There are questions teed up about the
5 Colonial Drive, and whether it is part of the
6 Winnepesaukee River Basin. I know this is a
7 question of fact, and I would hope that DES would
8 address that.

9 What role, if any, does DES and Bay
10 District have in this matter? And I would only
11 say that, consistent with how the Commission
12 defers to DES on water supply quality and
13 quantity elements, that the Commission here would
14 be secondary to the DES's primary authority to
15 determine whether there's a public health crisis,
16 and what repairs would need to happen. I see the
17 Commission as primary on rate regulation, but not
18 on the operations of the sewer system. And I
19 would hope that DES would speak to that issue.

20 And thank you for your allowance of my
21 extended time for the presentation.

22 CMSR. SIMPSON: Thank you, Attorney
23 Brown.

24 Before we move to the Agape Community

1 Church, I know we've had another member of the
2 public join. I just offer, would you like to
3 introduce yourself? Do you intend to make any
4 opening statement today?

5 MR. LAMPREY: My name is Scott Lamprey,
6 from Lamprey Septic. I have been in the middle
7 of this. I have a letter to the Commission. Can
8 I bring that up?

9 CMSR. SIMPSON: You can approach the
10 Bench, yes.

11 MR. LAMPREY: Thank you. My attorney
12 was unable to get here today. His wife's having
13 twins. So, you know, he's out of the commission
14 for a while. So, I showed up.

15 CMSR. SIMPSON: Okay. Would you, when
16 I go around, would you like me to read this into
17 the record?

18 MR. LAMPREY: Yes, please.

19 CMSR. SIMPSON: Okay. Thank you. So,
20 we'll go to the Agape Community Church for an
21 opening.

22 MR. STRAUGHAN: Yes. Excuse me. My
23 attorney could not be here as well. We are
24 seeking a different attorney. We've located one,

1 but, unfortunately, he's involved in a case, and
2 needs to be completing his "conflict of interest"
3 checks now, to make sure that he can, in fact,
4 take it on.

5 So, I really believe that I need to be
6 represented by an attorney, which is why I
7 extended that motion, and, obviously, here we are
8 today. So, I'm not going to be able to
9 address -- I have no knowledge as far as even the
10 RSAs that she's mentioning and so forth.

11 And, so, my opening statement is just
12 that the name changes I think kind of confuse
13 people. As I understand it, Center Harbor
14 Christian Church was the original formation of
15 this Church -- of the Church, and then they
16 renamed it "Fellowship" for some reason. We came
17 into the picture in 2017 as wanting to run Agape
18 Community Church out of that building.
19 Arrangements were made by which we, as a
20 corporation, took over their corporation. And,
21 therefore, we were able to get all of their
22 assets, as well as their debts.

23 And they had -- there was quite a mess
24 going on at that Church, frankly, in the past.

1 And, so, we were hoping to straighten all of that
2 out. And there was a tremendous amount --
3 tremendous amount of work that needed to be going
4 on there. So, in the past years, three or four
5 years, we have been doing all of that work.

6 And, very honestly, when the letter
7 arrived from Attorney Brown in November, late
8 November, it was a complete shock. I had
9 absolutely no idea that supposedly we still own,
10 as an entity, the sewer system, and the land that
11 that's on. I still don't fully understand it,
12 and I'm not convinced that we own that. I need
13 to see more, and study it and understand it
14 better, perhaps with my attorney.

15 But, in any case, we are -- we are not
16 a utility. I don't know the first thing about
17 it, and we have no desire to be a utility.

18 And I understand, from what Attorney
19 Brown just said, that, by definition, it appears
20 as though we are, if we are indeed the owner of
21 that system. To again, which I would say, I need
22 to speak with an attorney to represent me.

23 And other than that, I guess that's
24 what I have to say.

1 CMSR. SIMPSON: Okay. Thank you.

2 We'll now go to the New Hampshire Department of
3 Environmental Services.

4 MR. BROOKS: Thank you. We are here at
5 the request of the Commission. So, we're
6 prepared to answer any questions that you might
7 have.

8 We don't have anything prepared, other
9 than one correction to the record right now. In
10 the Complaint, Paragraph 7, the statement is made
11 that "the New Hampshire Department of
12 Environmental Services has arranged for Lamprey
13 Suburban Septic Service to pump, nearly-daily,
14 the system to keep it from overflowing." The
15 correction is merely to say that "DES did not
16 make those arrangements."

17 Other than that correction, we are here
18 to answer any questions you might have.

19 CMSR. SIMPSON: Okay. Okay, thank you.
20 New Hampshire Department of Energy.

21 MR. YOUNG: Good morning again,
22 Commissioners.

23 The Department has reviewed the filings
24 in this docket, and has had informal

1 conversations with several parties to this
2 docket. In these opening remarks, I'll try to
3 address several issues raised by the Commission
4 in their orders to date, with a focus on some of
5 the jurisdictional concerns.

6 To start, the Department's position is
7 that, while the residents' initial filing is
8 denominated as a "Customer Complaint for
9 Receivership", the Department views this filing
10 as a petition before the Commission to place a
11 utility in receivership. That is the relief
12 requested by the Petitioners on Page 5 of their
13 initial filing. And, in that filing, the
14 residents are alleging that a utility exists, the
15 ownership is failing, and they're requesting that
16 the Commission appoint a receiver to take the
17 actions necessary to ensure continued service.

18 Regarding the Department of Energy's
19 complaint process, under RSA 365: In short, the
20 Department receives a customer complaint, takes a
21 series of steps, does an investigation to
22 determine whether a claim exists, and would make
23 a determination on whether that claim should then
24 be brought before the Public Utilities

1 Commission.

2 As previously discussed here today, and
3 according to the filings, there is a question of
4 ownership. Without speaking directly to who owns
5 the system, the Department's position is that the
6 utility exists here. Someone, some entity owns
7 or operates a sewage disposal system or part
8 thereof, presumably without an exemption, and
9 therefore qualifies as a "utility" pursuant to
10 RSA 362, Section 4, Paragraph I.

11 I would maybe just note, for some
12 clarification maybe, that there is some precedent
13 for the Commission to make sort of prima facie
14 finding of determination of ownership based on
15 the information in front of them, and proceed on
16 that determination. And I would point the
17 Commission to Orders 25,882 and 26,203 [26,103?],
18 in Docket DE 15-464 for such precedent.

19 And then, finally, in concluding these
20 remarks, I guess I will just revisit the two
21 questions presented by the Commission's Order of
22 Notice for this preliminary hearing. Some of
23 this may be repetitive, but they bear repeating.

24 First, the Commission asks "whether

1 Agape Community Church is a "public utility"
2 subject to regulation under RSA 362:2 and 4?" If
3 the Church is, in fact, the owner of the system,
4 then it is the Department's position that the
5 Church qualifies as a "utility" under RSA 362:4,
6 because they would own and operate a sewage
7 disposal system as described therein.

8 Next, the Commission asks the parties
9 to address "whether the complaint must first be
10 filed with the New Hampshire Department of
11 Energy?" Based on the contents of the filing and
12 the relief requested, the Department views this
13 filing as a petition for receivership. As such,
14 RSA 374:47-a grants the Commission the authority
15 to appoint a receiver or direct its staff to take
16 such temporary action as is necessary to ensure
17 continued service. No complaint must first be
18 filed with the Department to petition the
19 Commission for receivership.

20 I will conclude my opening remarks.
21 And I'll be happy to answer any questions from
22 the Commission.

23 CMSR. SIMPSON: Thank you, Attorney
24 Young.

1 So, now, I will turn to the letter that
2 was just presented to the Bench by Mr. Scott
3 Lamprey. I'll read it into the record. It's
4 dated "January 11th, 2023", and written to our
5 Chairman, Mr. Dan Goldner:

6 Dear Committee: Scott Lamprey is the
7 owner of Suburban Septic Service located in
8 Moultonborough, New Hampshire. Agape Ministries
9 Servants, Incorporated, owns a private sewer
10 system in Moultonborough, New Hampshire, which
11 services the church and neighboring homes. Until
12 counsel was recently involved, Lamprey did not
13 know who owned the system.

14 In August of 2022, the sewer system
15 failed. Lamprey was contacted by James Talvy of
16 New Hampshire Department of Environmental
17 Services. Mr. Talvy is Lamprey's license
18 regulator. Mr. Talvy told Lamprey to make sure
19 the sewer station did not overflow. Mr. Talvy
20 told Lamprey that he would ensure that Lamprey
21 was paid. Lamprey then started pumping in
22 reliance upon this. Subsequent communications
23 with Kerry Barnsley, Esquire, of the New
24 Hampshire Department of Environmental Services,

1 have demonstrated that Mr. Talvy's promise of
2 payment will not be upheld by New Hampshire
3 Department of Environmental Services.

4 Initially, Lamprey was pumping the
5 septage into lagoons near the pump station
6 onsite. However, beginning in December of 2022,
7 Lamprey had to begin hauling it to a treatment
8 plant in Plymouth, New Hampshire. Thus, not only
9 is Lamprey pumping the septage, but it is now
10 trucking it offsite. Lamprey has incurred great
11 expense to do this.

12 Lamprey has gone above and beyond in
13 this situation, in good faith reliance that
14 payment would be forthcoming. To date, it has
15 not. Lamprey expects to be paid by the
16 homeowners and the church as users and/or owners
17 of the system. If payment is not guaranteed
18 promptly, Lamprey will have no choice but to stop
19 pumping. Very truly yours, Scott Lamprey.

20 We will submit this letter into the
21 record. It will be available in the docketbook
22 in short order.

23 MS. BROWN: Commissioner Simpson?

24 CMSR. SIMPSON: Yes.

1 MS. BROWN: May I ask a clarification?

2 Lamprey Suburban Septic has not been --
3 has not formally filed an appearance. And I was
4 just suggesting that perhaps, since he is here
5 today, rather than have his filing be deemed a
6 "public comment", which is reserved for
7 nonparties, that he become -- be recognized as a
8 party and be on the service list, and have his
9 filing be in the docketbook.

10 And I guess that would be something for
11 Mr. Lamprey to respond to.

12 *[Cmsr. Simpson, Cmsr. Chattopadhyay,*
13 *and Mr. Lavalley conferring.]*

14 CMSR. SIMPSON: So, at this point, we
15 have not begun an adjudicative proceeding. So,
16 this letter, while it's been presented as "public
17 comment", if we commence an adjudicative
18 proceeding, I think it's the Commission's
19 intention that at that time we would take
20 administrative notice of all of the evidence
21 that's in the record of this docket. And, should
22 Mr. Lamprey have counsel at that time, they would
23 be able to file an appearance as such.

24 So, at this time, I want to take a

1 ten-minute recess, so we can confer with counsel,
2 and undertake Commissioner questioning from the
3 Bench.

4 So, we will return at 9:50. Off the
5 record.

6 *(Recess taken at 9:40 a.m., and the*
7 *hearing resumed at 10:00 a.m.)*

8 CMSR. SIMPSON: On the record. So,
9 now, we're going to go through some questions
10 that the Commission has, based on the filings in
11 the docket. I'll start with Commissioner
12 Chattopadhyay, he has some questions. And then,
13 I will ask a few questions. And we'll go from
14 there.

15 I'll recognize Commissioner
16 Chattopadhyay.

17 CMSR. CHATTOPADHYAY: Thank you.

18 First thing I would say is that, not
19 being a lawyer, I would let some of maybe the
20 most important questions come from Commissioner
21 Simpson. But, because this is sort of a very
22 interesting case for me, so, I'm going to ask
23 some questions that might still be going into
24 legal land, but I'm not trying to pretend here

1 that I know everything, okay?

2 So, and by the way, I'm an economist.
3 So, I would have been more interested in seeing
4 the tariff page, but I don't see it here.

5 So, just give me a sense of, you have
6 it in your filings, but it always helps to talk
7 through it in this forum. So, I'm going to first
8 ask, you know, the complainants, have you been
9 paying anything for sewer service? The answer is
10 "yes", right?

11 *(Multiple residents orally indicating*
12 *in the affirmative.)*

13 MS. BROWN: The answer is "yes". They
14 have been paying all along to Bay District.

15 And I would just back up and say, when
16 they first purchased the properties, and the
17 realtor, acting on behalf of the Church selling
18 these properties, disclosed that there was a
19 public sewer. So, receiving a bill from Bay
20 District didn't trigger anything in their mind
21 that this spur off of Bean Road, coming into
22 Colonial Drive, would be privately -- was
23 privately owned.

24 But they have been paying, just like

1 Bodwell Waste Services, in the City of
2 Manchester, those residents get a Manchester
3 bill. I think, now that I know the facts, these
4 residents should also have been getting a bill,
5 like Bodwell to Manchester, but from the Church,
6 because Bay District had not accepted that spur
7 yet.

8 But all along they have been paying Bay
9 District. And they are up to speed -- I'm
10 sorry -- they are current with their billing and
11 payments to Bay District, just because the sewer
12 has not been flowing down to Bean Road, and has
13 been hauled off, they are still paying.

14 CMSR. CHATTOPADHYAY: And give me a
15 sense of for how many years that has been going
16 on you've been pay to Bay District?

17 MS. BROWN: So, the development was
18 approved I think it was 2005-2006, with the
19 plans. And, so, from 2006 to, I think, 2014, the
20 lots were purchased. There are fourteen lots.
21 There are ten residents that are full-time houses
22 built on them; four lots are owned by the Town
23 through foreclosure, and do not have any
24 buildings on them.

1 So, the residents have been paying Bay
2 District ever since they had the house put in.

3 CMSR. SIMPSON: So, we're just going to
4 go back and forth.

5 CMSR. CHATTOPADHYAY: Okay.

6 CMSR. SIMPSON: Did you all think you
7 were customers of Bay Sewer for those years?

8 *(Multiple residents orally indicating*
9 *in the affirmative.)*

10 CMSR. SIMPSON: So, everybody was under
11 the expectation that the Bay Sewer District was
12 the utility providing sewer service to your
13 homes?

14 *(Multiple residents orally indicating*
15 *in the affirmative.)*

16 CMSR. SIMPSON: Okay. Can anybody
17 explain to us who the Bay Sewer District is? Who
18 owns it? Who operates it? Who collects the
19 money? Who operates the system?

20 MR. BROOKS: I think that DES might be
21 able to shed some light on it, even though they
22 are not the Bay District. If I can have Sharon
23 McMillin?

24 CMSR. SIMPSON: Please.

1 MS. BROWN: If I can also respond
2 afterwards?

3 MS. McMILLIN: Is this on or off?

4 CMSR. SIMPSON: The red light will
5 indicate that it's on.

6 MS. McMILLIN: My name is Sharon
7 McMillin. I'm with Department of Environmental
8 Services, --

9 CMSR. SIMPSON: Just a little closer
10 please.

11 MS. McMILLIN: -- Winnepesaukee River
12 Basin. I manage that bureau and that program for
13 DES.

14 CMSR. SIMPSON: Thank you for coming
15 today.

16 MS. McMILLIN: You're welcome. The Bay
17 District Sewer Commission is a separate entity
18 from both the municipalities, Center Harbor and
19 Moultonborough. So, it's a separate entity,
20 designed as a Sewer Commission. They are a
21 co-permittee for our regional system, the
22 Winnepesaukee River Basin Program. So, they
23 operate the public sewers, which include the
24 lagoon that's been mentioned, and the pump

1 stations that they operate and maintain.

2 However, they do recognize that there
3 are private sewer systems within their purview,
4 their district. And that's documented as a
5 "co-permittee" on an annual report that is
6 required based upon our federal NPDES permit.
7 And that report goes to DES and EPA each year.

8 The first such report was in 2013, and
9 it documents private wastewater collection
10 systems, among them "Colonial Drive, various
11 owners, contact Albert Solomon, 26 Colonial
12 Drive, Moultonborough, New Hampshire 03254."

13 Other than that, I do not know, because
14 all the -- the WRBP, the Winnepesaukee River
15 Basin Program, relationship with any of our
16 member communities, per our statute, is we bill
17 the entity. So, we bill Bay District, just like
18 we would Franklin or Gilford, as member
19 municipalities. Then, it is within their purview
20 of their own sewer use ordinances as to how they
21 distribute those costs that are incurred for the
22 treatment of the wastewater that comes to our
23 Program to the properties within their district
24 or municipality.

1 CMSR. SIMPSON: Okay. So, the
2 Winnipiesaukee River Basin Program, is that a
3 state entity? Is it a private entity?

4 MS. McMILLIN: It is a state wastewater
5 treatment plant. It is unique in the State of
6 New Hampshire. It is owned by the state,
7 operated and maintained by the Department of
8 Environmental Service through this program.

9 CMSR. SIMPSON: And then, the Bay
10 District sewer system is a customer of the
11 Winnipiesaukee River Basin?

12 MS. McMILLIN: Correct. We have -- we
13 call them "member communities", and that's in our
14 statute. It's RSA 485:45 through 54, those are
15 our governing statutes. We call them "member
16 communities". And it's defined as "districts,
17 commission, or municipalities that enter into the
18 regional sewer system", and then the wastewater
19 is treated in our Franklin Wastewater Treatment
20 Plant.

21 CMSR. SIMPSON: So, does the
22 Winnipiesaukee River Basin own infrastructure? Do
23 they own pipes in the ground?

24 MS. McMILLIN: Yes. The regional

1 pipes, we call them "main interceptors", pump
2 stations that serve those member communities to
3 convey that flow, and then the wastewater
4 treatment plant in Franklin.

5 CMSR. SIMPSON: And then, Bay District
6 Sewer, you said that's owned by Moultonborough
7 and another community?

8 MS. McMILLIN: No, it's actually
9 separate. It serves portions of Moultonborough
10 and Center Harbor.

11 CMSR. SIMPSON: Is that privately held?

12 MS. McMILLIN: I don't know if they are
13 a corporation or a sewer commission. I am not a
14 lawyer either.

15 CMSR. SIMPSON: Okay.

16 MS. McMILLIN: So, I don't know
17 exactly. But, when we bill member communities,
18 we bill Bay District Sewer Commission for the
19 service that we provide for the wastewater
20 treatment, and conveying it. Our infrastructure
21 starts in Meredith. So, we don't own any of the
22 infrastructure north of where it conjoins to our
23 main regional interceptor, which starts, in this
24 particular case, in Meredith.

1 CMSR. SIMPSON: And do you have any
2 awareness of whether or not Bay District Sewer
3 owns infrastructure, as in pipes in the ground?

4 MS. McMILLIN: Yes, they do. And that
5 is based upon those annual reports to both DES
6 and EPA, where they document what infrastructure
7 they own.

8 CMSR. SIMPSON: Okay. And would it be
9 your understanding that Bay District Sewer owns
10 the pipe that runs to the pump station that
11 connects to the sewer system of the Colonial
12 Drive?

13 MS. McMILLIN: That is incorrect.
14 Based upon my understanding, the Bay District
15 Sewer Commission, their infrastructure starts at
16 Bean Road.

17 CMSR. SIMPSON: So, who owns the -- who
18 connects from the pump station to the larger
19 sewer system, do you have any insight into that?

20 MS. McMILLIN: Based upon my
21 understanding of their sewer use ordinance, which
22 I will say is 1995, that that conveyance, until
23 it touches their pipe, is owned by others.
24 Whether that's a private property or a private

1 sewer development, developments, obviously,
2 multi-properties, or a private ownership, whether
3 that's residential, commercial, *et cetera*, until
4 it actually hits the pipe that is public, in this
5 case, public local sewer, which would be Bay
6 District, then it is owned by others, and
7 operated and maintained. And that is what the
8 reports to EPA and DES each year document, as to
9 Bay District's responsibility for operation and
10 maintenance of their infrastructure, and then
11 documenting who is responsible for other
12 infrastructure within their district, or program,
13 yes, district.

14 CMSR. SIMPSON: Okay. So, just trying
15 to understand the layout of the infrastructure.
16 From the pump station that pumps sewer out of
17 Colonial Drive, does anybody here today know or
18 have the insight into who owns the pipe forward
19 of the pump station?

20 *(Ms. McMillin indicating in the*
21 *negative.)*

22 MS. BROWN: I'm sorry, I was being fed
23 some information that may be responsive to your
24 first question. But what was -- if you could

1 repeat your --

2 CMSR. SIMPSON: From the -- so, the
3 residents of Colonial Drive, there's pipe in the
4 ground that feeds to a pump station. Past that
5 pump station, forward of that pump station, that
6 sewer gets pumped presumably into the Bay
7 District sewer system. Who owns that pipe? Who
8 owns the pipe forward of that pump station?

9 MS. BROWN: And I can respond to that.

10 CMSR. SIMPSON: Please.

11 MS. BROWN: Because the easements that
12 are depicted on the subdivision plans, in
13 conjunction with the Declarations that the
14 developer filed, show that they installed them
15 within their easements, and that they have
16 operational control over those, that
17 infrastructure, from Bean Road into Colonial --
18 from Colonial Drive, where it intersects with
19 Bean Road, which is consistent with what DES just
20 explained, that Bay District, for its ownership,
21 would be along Bay [Bean?] Road, but then you've
22 got that interconnection. And, from that
23 interconnection, to the pump station, beyond the
24 pump station, is all separately owned, not owned

1 by Bay District. And, according to the land
2 records, show that these are assets, in the
3 Declaration and the survey plan, within easements
4 that are the responsibility of the Church.

5 CMSR. SIMPSON: Okay. And that pump
6 station, that pump must have electric service in
7 order to operate.

8 MS. BROWN: Can I respond to the
9 electric service aspect?

10 CMSR. SIMPSON: Please.

11 MS. BROWN: Because the Solomons own
12 that property that the pump station easement is
13 on.

14 CMSR. SIMPSON: And is that somebody
15 here today?

16 MS. BROWN: They are not, not here.

17 CMSR. SIMPSON: But they're a resident
18 of Colonial Drive and a client of yours?

19 MS. BROWN: They are a resident, Alan
20 [Albert?] and Susan Solomon.

21 CMSR. SIMPSON: Okay.

22 MS. BROWN: They have been battling for
23 years trying to get New Hampshire Electric
24 Cooperative to remove the bill for the pump

1 station from their home bill. They have been
2 unsuccessful.

3 But, you know, the residents do know
4 that that is another lingering problem, that the
5 pump station electricity has been billed to a
6 customer.

7 CMSR. SIMPSON: So, is there a unique
8 meter that only provides service to the pump, and
9 then the Solomons have a separate utility meter
10 that provides electric service to their
11 residence?

12 MS. BROWN: If I could caucus?

13 CMSR. SIMPSON: Yes.

14 *(Atty. Brown conferring with multiple*
15 *residents of Colonial Drive.)*

16 CMSR. SIMPSON: Okay.

17 MS. BROWN: So, --

18 *[Court reporter interruption.]*

19 MS. BROWN: Yes. So, I'm just going to
20 put it into the record for Steve that the
21 residents just confirmed to me their
22 understanding that the Solomons pay under two
23 different meters, two different accounts. And
24 they have been unsuccessful in getting, as I

1 said, the pump station account off of their
2 residence.

3 CMSR. SIMPSON: And is that pump
4 located on a parcel owned by the Solomons?

5 MS. BROWN: Yes.

6 CMSR. SIMPSON: Okay.

7 MS. BROWN: Within the easement
8 reserved by the Church.

9 CMSR. SIMPSON: Okay.

10 CMSR. CHATTOPADHYAY: So, sorry. Can
11 you give me a sense of how long did that resident
12 have this issue brewing? Like, you know, you
13 mentioned how they had to deal with the
14 Cooperative, and try to make a claim that, you
15 know, that the two accounts, one of them should
16 not be paid by them, how long has that been going
17 on?

18 MS. BROWN: I know it's been a handful
19 of years, that they have been trying to, and
20 unsuccessfully, separate that account, and give
21 it to somebody. But, then, ownership, you know,
22 was not known. And goodness of the residents'
23 hearts, they occasionally, you know, give the
24 Solomons money, because they know that, you know,

1 that pump station electricity is, you know, it's
2 just not equitable for one resident to be
3 burdened with that bill.

4 So, it hasn't reached an end point.
5 It's been a handful of years that the Solomons
6 have been trying to get this dealt with.

7 CMSR. CHATTOPADHYAY: When you say
8 "handful of years", if something like that is
9 happening when you buy the house, you should be
10 seeing it right from the beginning?

11 MS. BROWN: They found out about it
12 well after -- billing is in arrears. And after
13 they purchased it, they first contacted the
14 realtor and said "What's this extra bill that I'm
15 getting?" And, you know, so, they've pursued it
16 with, you know, objected through the realtor;
17 that got nowhere. They objected through New
18 Hampshire Electric Cooperative; they haven't
19 gotten any, you know, positive resolution there.

20 So, it's just -- it's a relatively
21 small bill. So, people just have been throwing
22 money at it. It would be great to address that
23 in this proceeding.

24 CMSR. CHATTOPADHYAY: Is it possible to

1 confirm whether that second bill that you're
2 talking about was strictly about the electricity
3 being used for the pump?

4 MS. BROWN: I'd be happy to have a
5 record request for that, and submit documentation
6 to establish that there is a separate meter and
7 separate electric bill for the pump station.

8 I realize that this isn't a
9 adjudicative proceeding. But, to the extent the
10 prehearing guidelines suggested exhibits, I'm in
11 that mindset of giving you exhibits.

12 CMSR. CHATTOPADHYAY: So, because, you
13 know, this is not going to be a record request,
14 you know, technically, but that would be useful
15 information that you should provide.

16 And it didn't occur to the residents in
17 the community that that pump station, because
18 you're getting an electricity bill, one of the
19 residents is getting it, it didn't occur to the
20 community as to, like, there's a problem with the
21 ownership with that pump itself?

22 I mean, I'm really trying to go back,
23 when did the community realize, you know, you
24 must have assumed that that pump belonged to some

1 entity. I'm just trying to understand what was
2 the knowledge that you had?

3 MS. BROWN: The knowledge was that
4 there was a bill, but it didn't raise a red flag
5 that the system, the entire system, was not owned
6 by Bay District.

7 CMSR. SIMPSON: Did anyone ever reach
8 out to Bay District about that question? Did you
9 ever inquire, you know, or did the Solomons ever
10 inquire to Bay District to say "why do I pay this
11 electric bill?"

12 *(Atty. Brown conferring with multiple*
13 *residents of Colonial Drive.)*

14 MS. BROWN: So, to respond to that, the
15 residents realized that Bay District did not own
16 it once the pumps failed. That was the red flag.
17 That was the fact that finally triggered that
18 "Hey, this is a private system within the
19 development."

20 The billing situation never raised a
21 red flag to them that the system was not owned.
22 It was -- we don't know if the Solomons, and I
23 can check when I, you know, check with the
24 Solomons for the account information, whether

1 they reached out to Bay District, as much as we
2 have.

3 CMSR. SIMPSON: Okay. And just two
4 things.

5 So, the court reporter has a tough time
6 hearing anything that's spoken into the record.
7 So, Attorney Brown, presumably you're okay
8 providing test -- or, excuse me, you're providing
9 information to us from your clients here today.
10 Anybody is welcome to speak. But, if we do so,
11 if you'd like to speak, please turn your
12 microphone on, so that the court reporter can
13 capture that, or just communicate it to Attorney
14 Brown.

15 Secondly, I just want to note for
16 everybody here, we're just trying to understand
17 the situation. Where we, as I said earlier, we
18 have no record of this entity. It sounds like
19 you all have done a lot of research on it, and
20 are doing your best to understand the situation.
21 And that's what we are trying to do, too. We're
22 just trying to understand how the system
23 operates, who has been responsible for its
24 operation and paying the bills, *et cetera*.

1 I see that --

2 MR. STRAUGHAN: Yes. It's Kevin.

3 Kevin Straughan.

4 CMSR. SIMPSON: Kevin --

5 MR. STRAUGHAN: Yes.

6 CMSR. SIMPSON: -- Straughan, from the
7 Agape Community Church, would like to make a
8 comment. Please.

9 MR. STRAUGHAN: Commissioner, thank
10 you.

11 When we first got the letter from
12 Attorney Brown, that's the first thing that I did
13 was to contact Bay District Sewer. And I was
14 under the assumption myself that they owned the
15 system. And, I mean, because we know that we
16 receive a bill for, you know, our usage and so
17 forth, and I assumed that the residents did as
18 well, and I've heard it confirmed that they do.

19 In talking with him, though, after this
20 letter, I asked him "Well, what about" -- "what
21 about the pipes and what about the pumping
22 station?" And he says "We have nothing to do
23 with that, and, furthermore, we want nothing to
24 do with that."

1 So, I had my answer.

2 CMSR. SIMPSON: Uh-huh. So, then, you
3 had mentioned earlier that, and I'll note, what's
4 confusing for us, based on the evidence, or the
5 material that's been filed into the record, are
6 the corporate entities involved. And you
7 mentioned that Agape Community Church, you were
8 the minister of?

9 MR. STRAUGHAN: I was the pastor,
10 and --

11 CMSR. SIMPSON: Pastor.

12 MR. STRAUGHAN: And I am still the
13 President of the Board.

14 CMSR. SIMPSON: And you're President of
15 the Board.

16 And perhaps you could explain the
17 corporate structure, as you understand it
18 historically? Because we have Center Harbor
19 Christian Church, we have Agape Community Church,
20 we have Agape Ministries. If you could explain
21 to us the corporate structure, how it's evolved,
22 to the best of your ability, and I recognize that
23 you are not represented by counsel today, to the
24 best of your ability, how that corporate

1 structure has changed over the years? That would
2 be very helpful.

3 MR. STRAUGHAN: Certainly. Certainly,
4 I can do that.

5 I want to, while I've got the floor,
6 note that there is a bit of confusion as well
7 noted from DES, that Agape Ministries Servants,
8 Incorporated, is a separate entire entity from
9 the Church. They actually are the ones that
10 operate the food pantry and thrift store out of
11 the Church. The Church gives them permission to
12 be there and to operate those entities. So, not
13 to confuse the issue, but Agape Ministries
14 Servants, Incorporated, has nothing to do with
15 the Church and this whole situation now.

16 So, we, in 2017, had an opportunity
17 placed in front of us from the previous pastor,
18 that he was going to be retiring, and that he
19 wanted us to be able to come on over and try to
20 save the church, to be very frank about it. They
21 have been, over the years, very messy situations
22 going on there. And the reputation of the church
23 was not good. The actions of some of those
24 involved in the church had been called into

1 question. It's public record, so, I'm not afraid
2 to say that his -- the pastor's son actually was
3 involved in investments and so forth, and he was
4 convicted of a Ponzi scheme from -- I don't know
5 if he used the church necessarily, but certainly
6 some of the church contacts and so forth. And,
7 so -- and, again, for the record, he is now
8 apparently out of prison for that.

9 But, in any case, he had nothing to do
10 with representations to me, necessarily, when
11 this 2017 offer came in, and -- although, at
12 least at first. Bob Farah, the pastor, just was
13 retiring, and he wanted us -- and he wanted to
14 have the church continue and not be shut down and
15 so forth, for the sake of whatever good would
16 come out of it.

17 So, we agreed, but we had little to no
18 money. And, so, the way to do it, according to
19 his son, Scott, was to do a corporate takeover,
20 where the existing Board members there would
21 retire, but not before our Board members came on.
22 And therefore, as we then absorbed the
23 corporation, we absorbed the assets and the
24 debts.

1 And there were debts. In fact, one of
2 the debts was about to come to fruition and was
3 being demanded to be paid. So that he couldn't
4 pay it, and we were able to help with that matter
5 by coming in with some money and paying that.
6 But I think it was \$89,000, or something like
7 that. It was substantial.

8 In any case, when we took over, we then
9 proceeded with a name change. They had already
10 been through two different name changes, at least
11 two, I believe. They were "Center Harbor
12 Christian Church", and then they became "Center
13 Harbor Christian Fellowship". And then, I
14 believe that was where we came in and became
15 "Agape Community Church". And I think that's --
16 and that's where it is today.

17 CMSR. SIMPSON: Do you have any insight
18 into the corporate entities prior to that, like
19 from the early 2000s, the '90s?

20 MR. STRAUGHAN: Sorry, I really don't.
21 I happen to know one or two of the people who
22 attended the church, but not the corporate
23 entities. And I looked over the documents that
24 were filed, and I didn't recognize any of the

1 names.

2 CMSR. SIMPSON: Okay.

3 CMSR. CHATTOPADHYAY: As far as the
4 pump is concerned, somebody had to operate it, or
5 was it like, you know, the one that I have in my
6 house, which is automated? So, that's a
7 question.

8 I mean, did people know that it's being
9 operated by somebody, or it's like "it's
10 automatic, so, we don't think about it"?

11 I'm just trying to get a sense of
12 whether the Church knew? And this question, I
13 mean, even it's -- it's for the residents as
14 well.

15 MR. STRAUGHAN: Thank you,
16 Commissioner. My answer would be that I don't
17 know what people thought. I will say that what
18 we thought was that it was part of Bay Sewer
19 District. And we soon found out, when this
20 problem occurred, it was not.

21 But that would be my logical thinking,
22 too. You know, what operates this system?

23 In speaking with Bay District, it had
24 always been this way right from the start of this

1 development. And only an event such as the pumps
2 failing, I think, would trigger questions such as
3 these.

4 CMSR. CHATTOPADHYAY: Did the -- I'll
5 first let the -- I think, Attorney Marcia Brown,
6 I want to hear from you as well.

7 MS. BROWN: Yes. I have -- Michael
8 Thurston has some history on your question of
9 "was there any evidence of maintenance?", and if
10 I could have him speak to that.

11 MR. THURSTON: Thank you. The only
12 evidence that we have on maintenance is when the
13 pumps first broke. And they were serviced by Mr.
14 Lamprey. I think there was a circuit breaker
15 that went bad, *et cetera, et cetera*. And, to his
16 credit, the bill, we never saw. And we thank him
17 for that.

18 As to further maintenance, when the
19 pumps went down, they're down. We have paid for
20 the pumps. We paid for the labor to install,
21 we've paid for everything. They're not in yet;
22 we hope that they are soon.

23 FROM THE FLOOR: That is the
24 replacement pump.

1 CMSR. SIMPSON: The replacement pumps
2 you've paid for?

3 MR. THURSTON: Yes, sir.

4 CMSR. SIMPSON: Okay. Not the pump
5 that's there today?

6 MR. THURSTON: No, no.

7 CMSR. SIMPSON: Okay.

8 MR. THURSTON: No. And it's just worth
9 noting, and then I'll back off. All of us bought
10 under the premise specifically stated that "We
11 have our own wells, but it was a public sewer."
12 It's denoted on real estate disclosure forms.
13 There's a reference to "municipal sewer" in the
14 Registry of Deeds and the covenants concerning
15 Colonial Drive. This is what we were represented
16 as. This is what we bought under the guise of.

17 CMSR. SIMPSON: So, you bought thinking
18 that Moultonborough owned the sewer system?

19 MR. THURSTON: We thought it was a
20 public sewer. So, --

21 CMSR. SIMPSON: Or some public entity?

22 MR. THURSTON: Absolutely. And I'm not
23 smart enough to know all the RSs [sic] and those
24 kinds of things, admittedly so. But that's the

1 premise that we all bought under.

2 CMSR. CHATTOPADHYAY: But I may have
3 misheard, in that document or whatever, did it
4 say that "the residents own the pump"?

5 *(Multiple residents of Colonial Drive*
6 *indicating in the negative.)*

7 CMSR. CHATTOPADHYAY: No.

8 MR. THURSTON: No.

9 CMSR. CHATTOPADHYAY: Okay.

10 MR. THURSTON: No. I mean, I guess our
11 inference, from buying under the guise that it
12 was a public sewer, was just that. You know,
13 it's a public sewer. We were paying our 500 plus
14 dollars yearly, and we thought it was all good.

15 CMSR. SIMPSON: You paid that to
16 Moultonborough?

17 MR. THURSTON: Well, it goes to Bay
18 District Sewer, however, we do pay it at the Town
19 Hall, in Moultonborough.

20 FROM THE FLOOR: They collect it.

21 MR. THURSTON: They collect it.

22 CMSR. SIMPSON: But the bill is to --
23 they just collect it, the Town of Moultonborough
24 collects it?

1 MR. THURSTON: Absolutely. And that's
2 pretty much all I know. So, absolutely. But let
3 Marcia clarify.

4 *(Atty. Brown conferring with Mr.*
5 *Thurston.)*

6 MS. BROWN: So, what I just asked for
7 clarification is, because it goes to Commissioner
8 Chattopadhyay's question of "Who operated the
9 system? Was there any evidence, prior to the
10 immediate emergency in August," --

11 CMSR. SIMPSON: Uh-huh.

12 MS. BROWN: -- "was there any evidence
13 of somebody operating, or coming in and repairing
14 it?"

15 So, that's what I just wanted to have
16 someone from the residents to speak to. So, I
17 think Mike, because he's closest.

18 MR. THURSTON: Yup. Yes. And probably
19 Mr. Lamprey can speak better to this.

20 But it's been over a year ago. In
21 fact, there is -- there's a reference in the Town
22 Meeting and the Selectmen Meeting from June or
23 July of 2022, with them acknowledging that there
24 were pump problems on Colonial Drive, and they

1 needed to be fixed, because they own them.

2 I brought this up to Mr. Dvorak, the
3 Code Enforcement Officer, in October, once we
4 received the letter.

5 CMSR. SIMPSON: Is that Department of
6 Environmental Services Code Officer, or is that
7 the Town of Moultonborough?

8 MR. THURSTON: The Town.

9 CMSR. SIMPSON: Okay.

10 MR. THURSTON: The Town. I brought
11 this up to him, and say, because we met with him
12 very much hoping to get some assurance that, if
13 we were making progress toward a resolve, that we
14 would not be evicted from our homes. He agreed.

15 When I brought this up to him, I said
16 "Are you aware that, in June or July of 2022, in
17 the minutes, this is what it said?" And in my
18 response -- or, his response to me was "Yes, they
19 really shouldn't have said that."

20 When I asked "Well, there's got to be
21 some record of hookups? You know, somebody had
22 to sign off on all these kinds of things?" The
23 response I got was "Yes, we really can't find
24 anything."

1 Again, and then I'll shut up, we're all
2 good people. We don't want anything for nothing.
3 We want a resolve to this so we can go on with
4 our lives. I'm tired of waking up at 2:00 in the
5 morning, unable to get back to bed, because it's
6 "What more can I do? How can I help?"

7 We've paid, willing so, for the pumps,
8 want Mr. Lamprey to get paid. We get that. How
9 can we resolve this? Can you please help us?

10 Thank you.

11 CMSR. CHATTOPADHYAY: Yes, I
12 understand, you know, the exigency of all of
13 that.

14 So, the one question that's still sort
15 of bothering me is this. As I understand, Bay
16 Water Sewer, and you -- Commissioner Simpson
17 ended up asking questions about it, there's a
18 pump station, and then there's a pipe that goes
19 from the pump station to the public system, that
20 is not owned by Bay Water -- sorry, Bay Water
21 Sewer, right? That's what I understood.

22 MR. BROOKS: Yes. My understanding is
23 that the Bay District owns the pipe on Bean Road,
24 the connection comes off of Bean Road. Once you

1 get off Bean Road, that that's private. So, that
2 goes down to the corner, the corner lot is the
3 Solomons, that's where the pump station is.
4 Everyone else is further down the road. And I
5 believe that, I've been told, those are all
6 gravity feed to the pump station, and then pump
7 station pumps it up to Bean Road.

8 CMSR. CHATTOPADHYAY: So, because it's
9 so clear to Bay Water Sewer that that is the
10 arrangement, I'm just -- I'm curious whether that
11 is documented somewhere? That, you know, that
12 when you are connecting to Bay Water Sewer, the
13 pipe that does it beyond the public system is
14 part of the owners of the -- you know, that
15 community's cost?

16 MR. BROOKS: Yes.

17 CMSR. CHATTOPADHYAY: So, there must be
18 some documentation. I mean, this can't happen in
19 the vacuum.

20 MR. BROOKS: DES has some information
21 about, I think information that is public, either
22 on the website or otherwise. But that doesn't
23 mean that, if you're buying a home, that you'd
24 know to look in this place and find it.

1 But I don't know if DES has anything
2 they can share that's publicly available
3 information. Again, we would have greatly
4 preferred the Bay District to be here to answer
5 these questions. We're doing the best we can.
6 But it's not definitive.

7 MS. BROWN: If I could also suggest
8 that the Church has filed a wastewater permit.
9 And I'm wondering if the plans, which show the
10 easements that are also attached to the filed
11 documents from the residents, if those plans are
12 on record at DES? Because I would submit that
13 there is evidence from the pump station, to the
14 connection on Bean Road, of who owns that. And
15 that is in the land records and the easements and
16 the Declarations of the developer had filed with
17 the Registry of Deeds.

18 CMSR. SIMPSON: I did want to ask about
19 that. We have a letter from Center Harbor
20 Christian Church, that was dated "July 5th,
21 2005", written to Mr. Brad Foster, of the New
22 Hampshire Department of Environmental Services'
23 Wastewater Engineering Bureau, regarding a
24 Wastewater Discharge Permit request into the

1 Winnipесаaukee River Basin Program, by the Center
2 Harbor Christian Church. And this requests,
3 pursuant to a phone conversation, "Pump Station
4 Maintenance": "The Center Harbor Christian
5 Church will be responsible for the proper
6 operation and maintenance of the proposed
7 sewerage pump station and at the above-referenced
8 residential subdivision until it's taken over by
9 the Bay District Sewer Commission or an interim
10 owner."

11 "We understand that the Bay District
12 Sewer Commission would like us to operate and
13 maintain the sewer pump station for five years
14 before they allow us to petition them for
15 assuming the full responsibility of the pump
16 station."

17 DES, do you have a record of that? Do
18 you have any insight for us with respect to
19 process that occurred prior to this letter, after
20 this letter, with respect to the Wastewater
21 Discharge Permit? Was the permit granted?

22 MS. WOOD: Hi. Tracy Wood,
23 Administrator of the Wastewater Engineering
24 Bureau.

1 CMSR. SIMPSON: Thank you for being
2 here.

3 MS. WOOD: Thank you for having me.

4 We have a process at DES for a
5 connection. There's certain requirements that
6 have to be met. And, so, part of that process is
7 that we have a form that you fill out, an
8 applicant fills out. And, when that form comes
9 in, which you do not have, I don't believe, in
10 front of you, but there's a "Municipal
11 Certification" section.

12 CMSR. SIMPSON: Do you know if that's
13 been filed into the record that we're able to
14 pull up?

15 MS. WOOD: It has not.

16 CMSR. SIMPSON: Okay.

17 MS. WOOD: And I'll have to check our
18 records to see if we have it. Our record
19 retention policy, we may not have records that
20 far back. But I can see if I have the actual
21 submittal.

22 CMSR. SIMPSON: Okay.

23 MS. WOOD: Okay.

24 CMSR. SIMPSON: If you find that, it

1 would be very helpful if you would provide that
2 to us.

3 MS. WOOD: Okay.

4 CMSR. SIMPSON: Thank you.

5 MS. WOOD: Will do.

6 CMSR. SIMPSON: But continue.

7 MS. WOOD: Okay. In that, there's a
8 "Municipal Certification" section. And what that
9 does is that, first, the petitioner will go to
10 the municipality and say "We want to connect."
11 And then, the municipality will review that
12 application for conformance with anything that
13 they need, that they have for rules and statutes
14 in their town. And one of the statements is is
15 that "The proposed sewer connection and/or sewage
16 design meet the approval of the local
17 jurisdictional authority." And then, the
18 municipality signs off on that.

19 And then, when we receive the
20 application, the only thing we're reviewing it
21 for is that the design is in conformance with our
22 design rules. So that the pipe is a certain
23 size, the pipe is a certain type, the pump
24 station meets certain basic design parameters.

1 So, that's what we do at DES, make sure
2 that it's in conformance with our design rules.

3 CMSR. SIMPSON: Okay. Thank you.

4 CMSR. CHATTOPADHYAY: I think, since,
5 if I heard you correctly, Agape Community Church
6 came into existence in 2017?

7 MR. STRAUGHAN: At this building,
8 that's correct.

9 CMSR. CHATTOPADHYAY: And when that
10 happened, whatever the entity was before that, to
11 be able to become the church that you are, you
12 must have gone through some documentation. And
13 I'm just, again, curious as to, is there anything
14 about this interconnection, you know, to the
15 public system?

16 And, so, I think it would be helpful to
17 have that kind of information. But I'm just
18 thinking about it here.

19 MR. STRAUGHAN: Well, thank you,
20 Commissioner. And the truth is that, until this
21 happened in November, where we received Attorney
22 Brown's letter, there was -- we had no inkling,
23 no idea that we were an owner of a system, a pump
24 station or pipes, any of that. It was not

1 disclosed to us in any way.

2 And I suppose that, if this was an
3 adjudicative -- a hearing where you're thinking
4 of, you know, damages and punishments and all
5 that type of thing, then I'm going to need to
6 find out just what extent the previous church
7 membership people, the directors were as far as
8 this whole thing.

9 I mean, it wasn't disclosed to me. And
10 what I'm hearing from the residents is that it
11 was disclosed to them that it was a public
12 system. Don't the real estate people then bear
13 some, the brunt of that as well?

14 I mean, it sounds like this is just one
15 great big mess-up, and there were a lot of
16 mistakes made along the way. But, honestly, we
17 had no idea, until we got this letter.

18 Thank you.

19 CMSR. SIMPSON: So, I'd like to ask
20 Lamprey Sewer some questions now.

21 So, we read your letter into the
22 record. Can you just explain how you became
23 involved in this situation? Because it sounds
24 like, for many, many years, this pump station was

1 working. You had -- one of the residents had an
2 electric meter, they are were paying the bill to
3 the New Hampshire Electric Co-op. The pump was
4 just working. Everything was operating as it
5 should.

6 It then fails, and it's no longer
7 pumping. Explain to us how you got involved
8 please?

9 MR. LAMPREY: My history is that two
10 years ago I was called by the residents, and this
11 is from my memory, I could check back on my
12 records, but -- and Solomon, who's not here,
13 called me and says "Can you look at this mess
14 I've got down here?"

15 So, I looked at it. And, after I
16 committed a vacuum truck, and looked at what was
17 wrong, and what was wrong, at first glance, was
18 the force main, and that's the pipe you're
19 talking about that goes from the pump station to
20 the Bean Road, and is received by the Bay
21 District Sewer Department, or whatever they call
22 themselves.

23 So, I saw it, and I said "Okay. Well,"
24 -- and we had some minor electrical problems, and

1 the breakers, because the pump had been running
2 constantly for who knows how long, and it was
3 just misaligned. So, it was pumping some of it
4 up there, but it actually probably ran weeks and
5 weeks. And it was enough so the whole station
6 had warmed up and it was steaming.

7 So, I pumped all that stuff out of
8 there. I entered the pump station. I put a
9 repair sleeve on it, and diagnosed the pumps. I
10 found that one of the pumps, not the one that --
11 there's two pumps in there. So, one pump had
12 been running. The other pump was full of rocks.
13 So, I disassembled the pump, these are
14 5-horsepower pumps, they stand about this
15 high [indicating], and I disassembled it,
16 chiseled the rocks out of the pump. And then,
17 after that, I had my electrician go and check the
18 health of the pumps by an amp draw.

19 We found that both the pumps were --
20 there was one, the one that had been running all
21 the time, believe it or not, wasn't that bad, but
22 all of them were pulling amps above their design,
23 what they were designed to do.

24 CMSR. SIMPSON: And how old do you

1 think these are, 20-30 years old?

2 MR. LAMPREY: Those date back to when
3 the pump station was installed, and I think
4 somebody said it was like 2002 or 2004. I don't
5 have the --

6 CMSR. SIMPSON: Okay.

7 MR. LAMPREY: I have the pumps
8 dated, --

9 CMSR. SIMPSON: Yes.

10 MR. LAMPREY: -- but I didn't bring
11 that with me.

12 CMSR. SIMPSON: That's fine. Continue.

13 MR. LAMPREY: Anyway, so, I told
14 Mr. Solomon, I said "Okay." I said "You're going
15 to have problems in the future, because these are
16 Berkeley pumps, and they have capacitors." And I
17 said "The capacitors showed some signs of
18 failing, because of the heat that was produced by
19 the pump running all the time", and all that
20 stuff. So, I said "Before it all flies apart,
21 you should do a repair." And at that time he
22 stated "Well, I don't own this." Well, I said
23 "well" -- and then I found out that he was paying
24 for the electricity.

1 So, then, the Town of Moultonborough
2 got involved. And it was a matter of the
3 Selectmen saying, you know, with me being a
4 long -- my family being a long resident of the
5 town, said that "Okay, just to settle this, we'll
6 pay the bill. We'll pay the bill."

7 CMSR. SIMPSON: To you, your cost, yes.

8 MR. LAMPREY: They paid to do the
9 repair, to enter the station, to transport the
10 wastewater back down to the lagoon, and my crew
11 and such forth. And then, we all moved on.

12 Now, after that, there were a few more
13 problems. And then, the Town refused to pay,
14 that they had talked to their counsel, and said
15 "Well, you know, we don't own this thing. We
16 were just nice guys, and we decided that we'd
17 paid it. But we're not paying any more bills."

18 CMSR. SIMPSON: Who represented to you,
19 from the Town, that they would pay the bill for
20 your work? Town Manager or the Selectboard?

21 MR. LAMPREY: I think it was the Town's
22 Building Inspector.

23 CMSR. SIMPSON: Okay.

24 MR. LAMPREY: And he's since moved on.

1 And he was the one I was dealing with, and he
2 thank me for doing that. He says "I'll send you"
3 -- you know, "How much is the bill? I'll have
4 the Selectmen sign the check", and he said
5 "you'll get a check."

6 And then, after two years came around,
7 or not -- like, about a year after that, through
8 the grapevine or the Selectmen's meeting up at
9 the local restaurant, I was told that "Hey, we're
10 bowing out of this. That, you know, we've talked
11 to our counsel, and that we don't own this, and
12 don't ask us for any more money."

13 So, then, Solomon came to me again,
14 down at the local store, and he says "Hey,
15 there's something wrong in the pump station
16 again." And that's where this whole thing began
17 in August.

18 So, in August, Mr. Solomon called the
19 DES. The DES representative came up, he talked
20 to me about the pump station. I talked to these
21 people, and said "Hey, you know, we've got to pay
22 this."

23 CMSR. SIMPSON: The residents of
24 Colonial Drive?

1 MR. LAMPREY: Yes.

2 CMSR. SIMPSON: Okay.

3 MR. LAMPREY: I was thinking Solomon
4 would convey to them that, and I don't know
5 whether he did or not, and I didn't talk to
6 anybody else there but him, because he's the
7 neighbor and he's right beside the thing. And I
8 said "You've got to fix these pumps. It's going
9 to cost about this", which is near to the number
10 that I said, you know, that I have a bill here
11 for the money that these people have paid. The
12 pumps are available. I can have it fixed in a
13 week. But I told him, I said, "We can't get into
14 a hauling situation." I said, "It will be seven
15 days a week, and you might not think you have a
16 big bill." But I said "In a matter of a few
17 weeks, it's going to be a big bill." And, now,
18 it's a huge bill, because this has been going on
19 since August, almost every day.

20 CMSR. SIMPSON: So, at that time,
21 Mr. Solomon told you not -- that they were not
22 going to replace the pumps at that time?

23 MR. LAMPREY: No. He said that "We
24 don't own it." And I went to the Bay District,

1 "We don't own it."

2 CMSR. SIMPSON: Okay.

3 MR. LAMPREY: So, in my way of
4 thinking, and when I -- and I didn't hear about
5 the Church until the lawyer sent me an e-mail,
6 that they were the owners.

7 So, like about a month ago, I -- well,
8 maybe it's more than a month, I sent a letter to
9 each one of the residents, a registered letter,
10 stating a plan for them to get out of this. And
11 that we extended them credit, saying "oh, you can
12 have three or four months to pay this bill. If
13 you divide it amongst each of you, it's going to
14 be so much money." And they did not choose to do
15 that, and no one signed the letter, and that's
16 when the good attorney got involved. And she did
17 her research, and now we're here at this meeting.

18 And that's basically what is happening
19 now.

20 CMSR. SIMPSON: So, that bill that
21 involved your work to repair the pumps when there
22 was an electrical issue, reset the pumps, you put
23 a sleeve in, you got them operating, --

24 MR. LAMPREY: That got paid.

1 CMSR. SIMPSON: Okay, that got paid.

2 MR. LAMPREY: That got paid by the Town
3 of Moultonborough.

4 CMSR. SIMPSON: The Town of
5 Moultonborough did pay that.

6 MR. LAMPREY: Recently, we have a bill
7 for -- when, initially, in August, when we found
8 the pump station broken, we had to figure out
9 what was wrong.

10 CMSR. SIMPSON: So, you fixed it, it
11 worked for a little while. The Town of
12 Moultonborough paid that bill. And then, you
13 advised the residents that --

14 MR. LAMPREY: I told them, I said --

15 CMSR. SIMPSON: -- these pumps were at
16 end-of-life, they needed replacement. You sent
17 them a letter explaining, in your opinion, what
18 needed to be done, in terms of replacement and
19 installation. Were you coincidentally trucking
20 sewage out of there?

21 MR. LAMPREY: When I fixed the pump
22 station two years ago, I was -- I only trucked
23 what I needed to do to fix it.

24 CMSR. SIMPSON: And the Town of

1 Moultonborough paid --

2 MR. LAMPREY: Then, I told them, I said
3 "Look, you need to form an association, if you
4 collect dues, we're going to have to fix this,
5 this is going to break, if you collect dues, that
6 I'll fix the pump station, and you can make
7 payments to my company." Just to get it out of
8 the way, you know, I wanted it to work, you know.

9 I told Solomon all this. I told him,
10 and this was no emails, this was no -- this was
11 just one man to another man.

12 CMSR. SIMPSON: Okay. And everybody
13 will have an opportunity to respond. As I said,
14 we're really just trying to understand what's
15 happened here. We want everybody to be
16 respectful. And we recognize this is a terrible
17 situation for everybody involved.

18 MR. LAMPREY: Mr. Solomon kept
19 repeating that "We don't own this, the Town owns
20 it." "We don't own this, the River Basin Project
21 owns this."

22 CMSR. SIMPSON: Okay.

23 MR. LAMPREY: You know, and I was left
24 with being told by my regulator "Don't let it

1 overflow."

2 CMSR. SIMPSON: Okay. So, in your
3 letter, you stipulated that the Department of
4 Environmental Services, somebody told you that
5 they would pay for your services, is that
6 correct?

7 MR. LAMPREY: A representative of that
8 stated that. It was -- I think it was like a
9 shoot-from-the-hip thing. But he said, you know,
10 "We'd make sure that you got paid."

11 CMSR. SIMPSON: And what are those
12 debts? So, it sounds like the initial
13 maintenance, and one truck of sewage out, Town of
14 Moultonborough paid that. What's unpaid since
15 then?

16 MR. LAMPREY: Well, I've got a bill
17 here for, let's see, how much is this?

18 Okay. So, the initial -- this was
19 dated "08/10/22", I guess it was in last August,
20 I got a bill here for \$2,000. And that includes
21 an electrician, we pumped some wastewater out of
22 there. And let's see, it says here "Electrician
23 tested panel, traced power, bad fuse, replaced
24 fuse. Pump runs -- Pump 1 runs. Pump 2" --

1 let's see, an amp draw here, the amp draw on
2 these pumps is about 17 amps. "Pump 1 runs at 21
3 amps, and Pump 2 runs at 39 amps." So, that
4 would be close to a rotor lock on that electric
5 motor.

6 CMSR. SIMPSON: So, have you
7 facilitated the purchase of these new pumps that
8 the residents have paid for?

9 MR. LAMPREY: The pumps are at my
10 distributor right now. I have the money that
11 these people paid sitting on my Secretary's desk
12 in an envelope, all the checks.

13 CMSR. SIMPSON: Once you get the new
14 pumps, which they have given you the money for,
15 you will install them?

16 MR. LAMPREY: I won't install them
17 until they settle the bill of \$200 per day since
18 August.

19 CMSR. SIMPSON: So, what's your
20 outstanding debt, roughly, today?

21 MR. LAMPREY: Well, I don't know -- I'm
22 confused by this bill. And I was reading it on
23 the way down on the highway. And I'd say it's
24 about \$30,000.

1 CMSR. SIMPSON: Okay.

2 MR. LAMPREY: I saw some mistakes on
3 here, but I'll resubmit it to you.

4 CMSR. SIMPSON: So, before I go to
5 Attorney Brown, so, at this point, you've ordered
6 new pumps?

7 MR. LAMPREY: They're here.

8 CMSR. SIMPSON: Okay. You have new
9 pumps, you have money from the residents for
10 those new pumps. But there's also some
11 outstanding debts?

12 MR. LAMPREY: The outstanding debt are
13 the hauling, which I wish to avoid.

14 CMSR. SIMPSON: And what you're
15 representing is that you need to get paid for
16 those hauling efforts prior to the installation
17 of the new pumps?

18 MR. LAMPREY: You can't blame me for
19 not --

20 CMSR. SIMPSON: I'm just trying to
21 understand.

22 MR. LAMPREY: Yes, that's right.

23 CMSR. SIMPSON: I'm just trying to
24 understand the situation.

1 MR. LAMPREY: Yes. That's exactly
2 right.

3 CMSR. SIMPSON: Okay. Thank you. I
4 appreciate that overview. That's very helpful.

5 Attorney Brown, I think you had some
6 responses that you wanted to offer?

7 MS. BROWN: Yes. I was just going to
8 note that, in Exhibit -- well, what I marked for
9 "Exhibit 1", which is the initial Petition, I
10 only had invoices up through December 1st, which
11 showed 34,800, but add to that the \$2,000 bill
12 that Mr. Lamprey just spoke of. And I believe he
13 said that it's now -- the pumping is 500 a day,
14 and we are now at January 12th.

15 CMSR. SIMPSON: I thought he just said
16 "200 per day"?

17 MR. LAMPREY: Could I interrupt you
18 here?

19 CMSR. SIMPSON: Please.

20 MR. LAMPREY: I told them that the
21 weather conditions this winter are quite a bit
22 different than they usually are. I have to back
23 my truck across this lagoon berm, with a heavy
24 load. And, if it's muddy, I can't go -- bring it

1 there. So, I had to bring it to Plymouth.

2 Currently, the past week, since it's
3 decided to become winter again there, we've been
4 able to haul it to the lagoon, and I've been
5 charging them the 200 per trip.

6 CMSR. SIMPSON: And you're still doing
7 that today? You're still hauling the sewage?

8 MR. LAMPREY: Yes, sir, --

9 CMSR. SIMPSON: Okay.

10 MR. LAMPREY: Ethically, she sent an
11 email that said that they weren't going to pay
12 after the 21st of December, because I did have
13 the pumps. And I said "Well", I said, "I don't
14 want to get in trouble with these folks here."
15 And I kept hauling.

16 CMSR. SIMPSON: Okay. So, then, let me
17 turn --

18 MR. LAMPREY: Even though they stated
19 that they were refusing, refusing to pay for the
20 hauling.

21 CMSR. SIMPSON: Okay. Let me turn to
22 the Department of Environmental Services.

23 Can you respond to the claim that was
24 made that DES provided reassurances to Lamprey

1 Septic that DES would pay for these costs of
2 removal of the sewage?

3 MR. BROOKS: Thank you. We don't have
4 James Talvy here. And, so, if we do have an
5 adjudicative proceeding, and he can testify, that
6 would be great.

7 My understanding is that, what likely
8 happened, I was not there, and I don't want to --
9 this is all subject to change from the people who
10 actually were there. But I believe that DES
11 would likely have said something, and my
12 understanding is that residents were also there
13 at the time, Mr. Solomon was there, and Mr.
14 Lamprey may have been there, to say "This needs
15 to keep being pumped. You can't just let this go
16 into failure." They seem to have all heard that.
17 They may have interpreted that in different ways
18 as to whose responsibility that was.

19 My understanding is that DES did not
20 say "And we, the State, will pay you for that."
21 They may have heard that in their minds, or they
22 may have inferred that when they said "You need
23 to keep doing this." They may have inferred
24 "Well, then, maybe you're taking responsibility

1 that it will get paid."

2 But that's my secondhand understanding.
3 It's entirely possible, we've all dealt with
4 witnesses before, where they tell you something,
5 and then you put them under oath and they say
6 something else. So, I don't want to say that's a
7 definitive answer. And I don't want to
8 disrespect anyone's firsthand recollection of
9 what occurred. But that's the inferences that I
10 draw from having spoken with DES.

11 CMSR. SIMPSON: Okay. Go ahead.

12 MR. LAMPREY: This fellow that he's
13 talking about, he's a real good guy. I like him
14 a lot. And I've had several regulators, I've
15 been in the business all of my life.

16 CMSR. SIMPSON: Uh-huh.

17 MR. LAMPREY: He was kind of talking
18 about the situation, and he said -- I'm almost
19 positive he said "We will" -- "We will make sure
20 you get paid." Now, that could mean a bunch of
21 other things. I think he was just encouraging
22 me. And I don't wish him to get blamed for that.

23 CMSR. SIMPSON: Okay.

24 MR. LAMPREY: He's a good guy.

1 CMSR. SIMPSON: Thank you. Just a
2 moment.

3 *[Cmsr. Simpson and Mr. Lavallee*
4 *conferring.]*

5 CMSR. SIMPSON: Okay. Attorney Brown,
6 your Complaint Petition has asked the Commission
7 to appoint a receiver. Who do you think that
8 receiver should be?

9 MS. BROWN: Knowing the limited staff,
10 and knowing that there are few entities that deal
11 with management of sewer systems, there seems to
12 be flexibility -- or, authority to -- well, I'd
13 say call upon the Department of Energy, because
14 precedent for that is, when Staff was on board
15 for the Rolling Ridge receivership, the Staff
16 worked in conjunction with a receiver, and that
17 was Lakes Region Water. That Lakes Region Water
18 is on the water side.

19 So, with sewer, the only one that I can
20 think that manages -- manages the system, or
21 manages sewers, is we have an accountant,
22 Stephen St. Cyr.

23 However, for operational side, I don't
24 know if the Commission has any sway with Bay

1 District, or a contractual relationship with
2 Lamprey, to -- because Lamprey has set up both
3 operation side and billing side.

4 Because the ultimate goal is we need
5 the receiver to manage the billing, come up with
6 some kind of rate design that would support the
7 billing, and manage the operation side.

8 CMSR. SIMPSON: On the accounting side,
9 have you had conversations with Mr. St. Cyr?

10 MS. BROWN: I did, because I was trying
11 to nudge the Church toward retaining him for
12 representation here, because I know his
13 expertise, and even though he's not a lawyer, in
14 his expertise in navigating the regulatory side
15 of things.

16 So, you know, whether he is retained by
17 the Church, I don't think it would, you know,
18 obviously present a conflict for the Commission
19 to reach out to him as a receiver. But,
20 certainly, it needs to be someone who is
21 operationally familiar, and is equipped with a
22 billing system, to manage on an interim basis,
23 while we're setting rates, and who should be
24 bearing what responsibility of these costs.

1 So, I don't know that Mr. Lamprey wants
2 me to, you know, nominate him, but he would be
3 part of the mix that I would recommend.

4 CMSR. SIMPSON: Okay. So, now, I'd
5 just turn to the Department of Environmental
6 Services and the Department of Energy.

7 This is a terrible situation for these
8 residents. And the facts are confusing, the
9 situation is confusing. The Commission, in its
10 new form, no longer has enforcement or
11 operational folks that would go and visit this
12 site. We're a rate regulator. We're an economic
13 regulator today, that oversees the rates of
14 utilities in the state.

15 What do you recommend we do to help
16 these people?

17 MR. YOUNG: I think, at this point, the
18 Department would recommend appointing a receiver.
19 And it's our reading of the statute that that was
20 left -- that receivership authority was left with
21 the Commission when the two were split. The
22 Legislature chose not to amend that statute to
23 include Department of Energy.

24 CMSR. SIMPSON: Uh-huh.

1 MR. YOUNG: We could certainly, you
2 know, monitor the situation and help any way we
3 can. And, as I mentioned earlier, our
4 investigative kind of complaint process may
5 ultimately lead us back here where we are today.

6 And beyond, just I'm kind of, I guess,
7 referencing what Attorney Brown mentioned, I'm
8 not sure that the Department is set up to operate
9 as a receiver. If that were chosen, there would
10 certainly need to be maybe some consultants
11 hired, things of that nature. And this is all
12 kind of -- would need to be decided. This is a
13 little bit, not conjecture, but it's kind of
14 where we are today.

15 CMSR. SIMPSON: I appreciate that.
16 Prior to today, has the Department had
17 conversations with the residents of Colonial
18 Drive, Lamprey Septic, the Department of
19 Environmental Services, around the situation?
20 Were you approached? Were you asked for
21 assistance? Have you offered any?

22 MR. YOUNG: So, prior to -- prior to
23 the filing of this Petition, no.

24 CMSR. SIMPSON: Okay.

1 MR. YOUNG: Since the filing of the
2 Petition, the Department did reach out to
3 Attorney Brown and DES, just for informational
4 purposes.

5 CMSR. SIMPSON: Yes.

6 MR. YOUNG: And that's the extent to
7 which we have.

8 CMSR. SIMPSON: Do you have any
9 thoughts who an appropriate receiver might be, if
10 the Commission convenes an adjudicative
11 proceeding and elected to appoint a receiver?

12 MR. YOUNG: I think all I can do at
13 this point is point to the statute, and recommend
14 staff. But, really, no. I'm not sure that we
15 have a position on who would be a proper receiver
16 at this point.

17 CMSR. SIMPSON: Okay. New Hampshire
18 Department of Environmental Services?

19 MR. BROOKS: Thank you. So, DES
20 definitely cannot act as the receiver. I assume
21 that the real practical problem here is that
22 whoever performs the task is going to need to get
23 paid. And, if they could get paid, then perhaps
24 the homeowners could pay someone themselves to do

1 it.

2 So, it's -- figuring out this issue of
3 receivership, though, to me, seems to be
4 secondary. Right now, many of the problems are
5 solved by getting the pumps fixed.

6 So, right now, there are some really
7 bad economics going on that are going to
8 foreclose any real solutions. So, the cost of
9 pumping out is far exceeding the cost of fixing
10 those pumps. It already has, and it's going to
11 get worse as time goes on.

12 So, I would suggest that it's in
13 everyone's interest to fix the pumps now, figure
14 out how to do that. If it can't be under the
15 existing relationship between the owners and
16 Lamprey Suburban, or anyone else, the only thing
17 that we can think of is that, if the Bay
18 District, which, again, we wish that they were
19 here to participate, --

20 CMSR. SIMPSON: Uh-huh.

21 MR. BROOKS: -- would be willing to
22 take that system. That there may be an
23 opportunity for DES to give a grant to pay for
24 the cost to fix those pumps, and at least start

1 from there to get that problem fixed. I don't
2 know how quickly they could do that, or if they
3 would be willing to do that. But they would be
4 an eligible applicant for those funds, the other
5 folks are not.

6 Other than that, --

7 CMSR. SIMPSON: Bay District would be
8 the applicant?

9 MR. BROOKS: Correct.

10 CMSR. SIMPSON: Thank you. Okay,
11 continue.

12 MR. BROOKS: Other than that, however
13 this works out, receiver or no receiver, the
14 economics are just not going to work in anyone's
15 favor. And, so, I think that's the issue that
16 really needs to be solved.

17 CMSR. SIMPSON: Can you elaborate a bit
18 more on that grant process that is possible by
19 the Department of Environmental Services? Has
20 that process begun? Have you had initial
21 conversations? What's the funding level look
22 like? The timeframe?

23 MS. WOOD: Hi. I can address that.

24 CMSR. SIMPSON: Thank you.

1 MS. WOOD: So, I oversee the Clean
2 Water SRF Program. And it is a federal program
3 that we administer, and we're able to give loans
4 with subsidy, in some cases, 100 percent subsidy,
5 to eligible entities and municipalities. Bay
6 District would be an eligible entity. And, so,
7 we could possibly pursue that, and this as an
8 emergency project.

9 CMSR. SIMPSON: Uh-huh.

10 MS. WOOD: There's an annual process,
11 which, obviously, this is an emergency situation,
12 and we can't wait for them to submit a pre-app in
13 the spring, right? We want action today. So, we
14 would have to look and see how we can utilize
15 that program for this project.

16 But that would, again, be Bay District,
17 you know, stepping in as the loan applicant.

18 MR. BROOKS: And, of course, we can't
19 guarantee any funding, there's a process for
20 that, as you know. But that's something to
21 explore.

22 My experience is that municipalities
23 move slow, because of how they're constructed,
24 and the things that need to happen. But, again,

1 we'd like them to be in the conversation. We
2 haven't had this conversation previously, partly
3 because, as you are today, we continue to get
4 information about what really is the problem,
5 what's the hold up. I had a nice conversation
6 today with a women over here that provided some
7 more information. And, so, we got together
8 again, tried to brainstorm any possible solution
9 that we could.

10 CMSR. SIMPSON: Okay.

11 MS. BROWN: Can I add one more
12 suggested receiver? Fran Lyons, for F.X. Lyons,
13 he does wastewater also. And they have
14 operational and billing capabilities. You know,
15 they're not any -- they're not very close to
16 Moultonborough, but they do cover the state.

17 So, that's just another possibility.
18 They'll kill me for saying that.

19 CMSR. SIMPSON: Just a moment please.

20 *[Cmsr. Simpson and Mr. Lavallee*
21 *conferring.]*

22 CMSR. SIMPSON: So, we oversee
23 regulated utilities. And I recognize that
24 there's a claim made that there is a public

1 utility that should be regulated by the
2 Commission. That would go through an
3 adjudicative process. And I just want to let you
4 know, that takes time. And I think everybody
5 here recognizes the immediacy of the situation
6 that you all face.

7 I want to express that to you, that, if
8 we go that route, that takes time. And I think
9 the Department of Environmental Services provided
10 some helpful comments with respect to perhaps a
11 parallel path, or possibly a helpful path.

12 We have a lot of information that we
13 need to take under advisement, and determine
14 whether there are facts that support commencing
15 an adjudicative proceeding. But I just want to
16 let you all know that that takes time.

17 And I encourage that everybody here
18 today, and some folks that aren't, continue to
19 work together to resolve this problem in a more
20 timely manner.

21 Commissioner Chattopadhyay.

22 CMSR. CHATTOPADHYAY: So, this is for
23 the DES.

24 If all of the entities here work

1 together, and the approach that you had talked
2 about is pursued, how quickly can this issue be
3 resolved? Can you give us a sense?

4 And I know that something was mentioned
5 about this is an "annual process", but you can
6 expedite it somehow.

7 So, I'm just trying to get a sense of,
8 if people were all on the -- you know, they were
9 cooperating, working together on this, how
10 quickly can that be wrapped up?

11 MR. BROOKS: I'll let Tracy talk about
12 that timeframe. Again, that's all contingent on
13 them actually being granted.

14 CMSR. CHATTOPADHYAY: Understood.

15 MR. BROOKS: But you said a key phrase
16 in your question, which is "if all the people
17 here work together". A key player in that is the
18 person who's not here and the entity that's not
19 here, which is the Bay District. And, so, I
20 believe, my understanding is, the Bay District
21 would be the key component to be the eligible
22 applicant for that.

23 I can't tell you about the timeframe,
24 but I'll let Tracy tell you about the

1 Department's procedures.

2 CMSR. CHATTOPADHYAY: Okay.

3 MS. WOOD: Hi. Generally, it takes --
4 it takes time, everything takes time, you know,
5 because we're going to be writing a loan
6 agreement. That would have to go to Bay
7 District, they would have to review it, it would
8 have to be executed, then it comes back to us.
9 We actually have to go to G&C. And, so, we would
10 have to meet that schedule. It's not immediate.

11 And it appears that this situation
12 needs an immediate resolution to the expenses
13 that these residents are incurring from the daily
14 pumping. And the only way to stop that is to
15 install the pumps that Mr. Lamprey currently has,
16 and has been paid for. That is the most
17 immediate remedy to solve this.

18 I mean, the SRF Program is an excellent
19 program, but it takes time. We're a regulatory
20 agency, things take time, and to process loans
21 takes time.

22 CMSR. SIMPSON: Do you have emergency
23 capabilities to step in and get those pumps
24 installed?

1 MS. WOOD: We do not.

2 CMSR. SIMPSON: Okay.

3 MS. WOOD: We don't have that
4 capability.

5 CMSR. CHATTOPADHYAY: And what is --
6 what I heard was that those -- that the pumps are
7 there already, they have been purchased?

8 MR. LAMPREY: As I stated before, we
9 have the pumps. We've told these people that we
10 have the pumps. But they need to settle the
11 daily hauling, which went on and on and on while
12 they were deciding who was going to pay, except
13 for themselves. And they said that they were not
14 going to pay. And it wasn't until a month ago
15 that the lawyer got involved, and then we're to
16 this point.

17 But they petitioned the Town, they
18 petitioned the Bay District, and it just dragged
19 on, which was what I wanted to avoid in the
20 beginning.

21 CMSR. CHATTOPADHYAY: So, it's really
22 that, because they haven't paid for the daily
23 hauling, and there's an amount that you haven't
24 received. That is --

1 MR. LAMPREY: That's the point.

2 CMSR. CHATTOPADHYAY: That's the reason
3 why you haven't --

4 MR. LAMPREY: That I haven't installed
5 the pump. I want to install the pump. I don't
6 want to go there on a Sunday and pump, pump it
7 out daily. I haven't charged them for fees of
8 weekends or anything like that. You know, just
9 hoping that it will all end. And it's been going
10 on, you know, since mid-August.

11 CMSR. SIMPSON: So, if they were able
12 to pay you tomorrow, what's the amount that you
13 feel you are owed in order to install those
14 pumps?

15 MR. LAMPREY: I think, I don't know if
16 I've got an accurate bill here, but it's around
17 30 or \$40,000.

18 CMSR. SIMPSON: Okay.

19 MR. LAMPREY: Somewhere in that area.
20 I looked at it on the way down, driving on 93,
21 and I said "This doesn't look exactly right."

22 I could resubmit that bill, by email,
23 to the lawyer, and then she'd have that tomorrow.

24 CMSR. CHATTOPADHYAY: And all I can say

1 is that, something like that, if we were all
2 talking together, there might be some way of
3 dealing with that, and do exactly what the DES is
4 saying. Take care of the -- the pumps being
5 installed, because that is the issue right now.
6 Yes, there's money, you know, that's also at
7 stake.

8 But, I mean, if you go through either
9 of the processes, whether it's the SRF, you know,
10 the funding, or through the adjudicated docket,
11 it's going to take a while. And this is --
12 that's what I'm kind of noticing should be
13 handled.

14 The other question I sort of have is
15 the Bay District, right, have they got involved
16 with you in this already, for this issue?

17 MR. LAMPREY: Are you talking to me?

18 CMSR. CHATTOPADHYAY: No, for all of
19 them, for anyone. Do they know that this is
20 happening?

21 MS. BROWN: I don't know that they know
22 that this proceeding is happening. However, I --

23 CMSR. CHATTOPADHYAY: I didn't mean the
24 proceeding, I just meant the issue here, we have

1 this problem?

2 MS. BROWN: Yes, they are. They're
3 actually aware, because they would have -- they
4 received the letter September 6th-ish from DES
5 demanding repair, back when DES thought that Bay
6 District owned the system. So, Bay District has
7 been aware of the failure of the pumps.

8 CMSR. CHATTOPADHYAY: Has the DES been
9 in touch with them, sort of sharing the idea that
10 you -- that was talked about?

11 MS. WOOD: The correspondence that we
12 received back from them from the Notice of
13 Findings that we issued, is that they are not the
14 owners of that system, and that they have no
15 responsibility towards it. And that was the end
16 of our correspondence with them.

17 CMSR. CHATTOPADHYAY: So, they don't
18 know that there is this other possibility of
19 using some emergency funds to deal with this, but
20 they would have to be, because it's a municipal
21 entity, they will be -- they will be involved?

22 MS. WOOD: Exactly, yes.

23 CMSR. CHATTOPADHYAY: So, you haven't
24 talked to them about that?

1 MS. WOOD: No. We had just thought of
2 this today, --

3 CMSR. CHATTOPADHYAY: Today, okay.

4 MS. WOOD: -- considering all the
5 circumstances that we've heard today.

6 CMSR. SIMPSON: So, the residents have
7 been paying a bill to Bay District for some time.
8 It sounds as if the Bay District does not want to
9 take on these costs in order to get the system up
10 and running. Is that your understanding?

11 MS. WOOD: It appears that way.

12 CMSR. SIMPSON: Would you -- do you
13 have any insight into whether or not Bay District
14 would take over operation/maintenance of the
15 system, if these pumps were installed at an
16 expense they did not pay?

17 MS. WOOD: I would think that they
18 would be more willing to do that.

19 CMSR. SIMPSON: Okay.

20 MS. WOOD: No one wants to take over a
21 system that's in disarray, and these things are
22 going to cost them money. But, if they were
23 taking over a new system, perhaps they would
24 consider that more.

1 CMSR. CHATTOPADHYAY: And just a quick
2 question for Lamprey, I think it would be.

3 This pipe that you're talking about
4 that connects the pump with the public system,
5 can you give me a sense of how good or bad it is?

6 MR. LAMPREY: The pipe is Schedule 80
7 PVC exiting the lift station. So, I can only
8 think that probably that extends all the way to
9 the road. It's a 4-inch force main. And vinyl
10 is vinyl, there isn't really any deterioration of
11 that over the years. You know, I can't speak for
12 what is in the ground past that. But, usually,
13 when that leaves the precast, that's what goes
14 beyond.

15 Those are 5-horsepower pumps. There's
16 some pressure right there, especially in the --
17 where the pump station discharges into the force
18 main, where it leaves.

19 So, I'm thinking that's what's there.
20 It's a good pipe.

21 CMSR. CHATTOPADHYAY: Okay. Thank you.

22 CMSR. SIMPSON: Okay. Does anybody
23 else have any final comments that they would like
24 to make today to the Commission?

1 MS. BROWN: Just reiterating the
2 request in the Petition that the Commission find
3 that there's a public utility that exists, and
4 commence an adjudicative process, just so that we
5 can have that as a forum to keep moving this
6 forward.

7 You know, we will certainly meet with
8 the stakeholders after this hearing to see, you
9 know, what avenues of agreement can be forged.
10 But, again, I think we still need the backstop of
11 an adjudicative proceeding, if our talks failed.

12 Thank you.

13 CMSR. SIMPSON: Okay. And I would just
14 clarify. We would commence that adjudicative
15 proceeding in order to determine whether or not a
16 public utility exists, and then make a
17 determination of whether or not to appoint a
18 receiver. I'd just clarify that.

19 MS. BROWN: That's fine. Because, in
20 the St. James and the Warner Water District case,
21 the Commission made the finding of the public
22 utility more towards the tail-end of all the
23 discovery.

24 CMSR. SIMPSON: Uh-huh.

1 MS. BROWN: But at least there were
2 some, you know, protections to customers that
3 were afforded along that journey of the
4 proceeding, if I understand --

5 CMSR. SIMPSON: Okay.

6 MS. BROWN: -- the timing of it. Thank
7 you.

8 CMSR. SIMPSON: And I guess I would
9 just ask, Attorney Brown, do you have any insight
10 into, prior to a receiver being appointed or a
11 grant being received, how these new pumps might
12 be installed in the immediate future, because of
13 the outstanding debts that seem to be present?

14 MS. BROWN: Yes, and Mr. Lamprey
15 touched upon that. He will not release those
16 paid-for pumps until he has some guarantee on
17 what I refer to as the "negligence costs". And I
18 can't, in good conscience, knowing rate
19 regulation, and what "just and reasonable", you
20 know, creates in a rate have -- recommend the
21 residents pay for or secure payment of costs that
22 are the result of negligence of operation,
23 maintenance, *et cetera*.

24 Someone needs to secure that or

1 guarantee that, and I look to, unfortunately, for
2 Agape taking all the debts, assets, that it falls
3 on their shoulders. Whether we can reach an
4 accommodation, I don't know how much, you know,
5 of a discount Lamprey, you know, mentioned, but,
6 you know, I don't think that that is much. But
7 that's the juggernaut. So, my thoughts are,
8 that's what we need to address.

9 The Commission, you know, has the
10 authority to order the utility to take corrective
11 action, and so does DOE, through the complaint
12 process, you know, RSA 362, and, you know, the
13 Commission under RSA 374:47-a with a
14 receivership.

15 Can they order the utility to
16 guarantee, in the interim, while we hash through
17 the -- you know, guarantee a payment of the
18 pumping costs, while DOE and their, you know,
19 staff sort through what the -- what the rates
20 should have been, because people have been coming
21 onto the system from 2006, I believe. Solomon
22 was the very first one who bought in. And what
23 those rates should be, whether it's based on full
24 build-out, partial build-out of the development,

1 I don't know. And, you know, we need access to
2 what the assets were that were, you know, that
3 would comprise the rate base component of the
4 revenue requirement.

5 We need that expertise while we're
6 deciding rates. But the juggernaut is, you know,
7 who's going to guarantee it? And I would hope
8 that the Church could guarantee it. There might
9 be some appetite with the residents to partially
10 backstop a guarantee. But I can't, in good
11 conscience, recommend that they guarantee all of
12 those costs, just because I consider them
13 incurred because of the negligence of the -- of
14 the utility.

15 CMSR. SIMPSON: Something that we would
16 evaluate in analyzing whether we would make that
17 determination would be the managerial/technical
18 capability of the entity to be a utility. And I
19 think you mentioned earlier that, in your view or
20 in your clients' view, that Agape likely does not
21 have that capability.

22 So, can you square that for me, with
23 respect to your determination or your
24 recommendation that Agape should be the backstop?

1 MS. BROWN: Because they own the
2 assets. They clearly own the assets. But, just
3 because a utility does not possess the
4 managerial, technical, and financial capabilities
5 to operate it, does not mean that they are
6 absolved of the costs that, you know, when you
7 look at ownership, they own the assets, they
8 dropped the ball. It's not the residents who
9 dropped the ball.

10 So, I square that the Church should be,
11 even though they are also a victim of Scott Farah
12 in all of this, that they are the next legal
13 entity to backstop guaranteeing the costs.
14 Because someone took over a system, someone
15 failed to maintain the system, and that wasn't
16 the residents; that was the owner of the assets,
17 and that's the Church.

18 So, that's how I arrive at the Church
19 needs to be the one to either finance and cover
20 these costs, because I suspect, these pumping
21 costs, because I suspect what the residents are
22 paying for the capital, the plant, will
23 eventually net out from what they should have
24 been paying to this otherwise private utility,

1 from the time they started, you know, taking
2 service, 2006 through 2014, '15, *et cetera*.

3 CMSR. SIMPSON: Thank you.

4 Commissioner Chattopadhyay.

5 CMSR. CHATTOPADHYAY: I forgot to, or
6 at least didn't occur that I should ask this
7 question.

8 How much does it cost to have the --
9 what's the price of the new pumps?

10 MS. BROWN: The estimate was 17,325.

11 CMSR. SIMPSON: And you all have
12 already paid for these? You've given Lamprey
13 Septic the money for the pumps, but there's the
14 outstanding debts for the services that the
15 company has provided that are at issue --

16 MS. BROWN: Correct.

17 CMSR. SIMPSON: -- with respect to the
18 installation? Okay.

19 CMSR. CHATTOPADHYAY: And would you
20 agree with that number?

21 MR. LAMPREY: I agree with that number.

22 CMSR. CHATTOPADHYAY: Okay.

23 CMSR. SIMPSON: Okay. Thank you,
24 everybody, for being here today.

1 We will take this matter under
2 advisement, and we will issue an order in as
3 timely a manner as we can.

4 I encourage all of you to work together
5 to develop a parallel path outside of the
6 Commission, as we will make a determination as to
7 whether or not to commence an adjudicative
8 proceeding. And I only offer that, because we
9 recognize the hazards that exist for the
10 residents of Colonial Drive under this situation.

11 We'll take the matter under advisement
12 and issue an order. Thank you. Off the record.

13 ***(Whereupon the Hearing on Preliminary***
14 ***Issues was adjourned at 11:27 a.m.)***