October 14, 1997

Ernest H. White, Vice-President

M&M Mountain View Sub­division Water Corporation

6521 Angela Avenue

Nampa, ID 83686

Re:  Case No. UWI-W-96-2

Dear Mr. White:

In your October 3, 1997 letter, you asked for notes of a telephone conversation between one of your customers and a Consumer Assistance investigator with the Commission Staff.  As I indicated in my September 22, 1997 letter to you, we concluded at that time that the notes of the phone conversation were exempt from public disclosure because they constitute an investigative record of the Commission Staff.  Given your renewed request for these notes and our further consideration of this matter, we have concluded that these records should now be disclosed to you.  Consequently, enclosed with this letter are the notes you requested.

You also alleged in your letter that the Commission was “biased” against M&M because it did not hold a hearing to allow M&M to present its views regarding United Water’s acquisition of your water system.  You also state that the Commission has treated M&M unfairly.  Let me take a moment to address these points.

First, there is a difference between the Commission and the Staff.  In proceedings such as this matter, the Staff operates as a separate entity from the Commission itself.  In other words, Staff presents evidence and comments to the Commission just like any other utility, company, or member of the public.  It is the Commission’s responsibility to review evidence presented to it and decide disputed issues.

On April 29, 1996, United Water filed an application with the Commission to purchase the M&M Mountain View Acre Subdivision Water Company.  Prior to the Commission filing, United Water and M&M executed a purchase agreement whereby M&M agreed to sell its facilities to United Water for $10.  On May 14, 1996, the Commission issued a Notice of United Water’s application and solicited comments from interested persons concerning the application.  The Notice stated that the deadline for filing written comments was June 7, 1996 and further states that “[p]ersons desiring a hearing must specifically request a hearing in their written protests or comments.”  Notice of Application at 3.  A review of the Commission’s service list indicates that 29 customers, including yourself, received a copy of the Notice.

The Staff filed written comments expressing concerns about the transaction.  In its comments, Staff calculated that United’s proposed rates for the M&M customers would not recover the cost of the necessary improvements.  The Staff also suggested (based on conversation with IDWR Staff), that M&M customers may qualify for IDWR funds to make the necessary system improvements to replace the contaminated well.

In this particular case, M&M did not submit any written comments pursuant to the Commission’s notice and it did not ask for a hearing in this matter.  In fact, the record reveals that United Water asked that its application be withdrawn and the docket closed because “an alternative approach to operation of the [M&M] water system within the subdivision has been devised and the agreement to purchase the system has been rescinded by mutual consent of both parties.”  Consequently, the Commission had no opportunity to rule upon the application.

I hope this matter can be put to rest.

Sincerely,

Myrna J. Walters

Commission Secretary

bls/white.dh

Enclosure