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PLACE: Via Videoconference  
DATE: Wednesday, February 2, 2022  
DOCKET NO.: W-1333, Sub 0 and W-1130, Sub 11  
TIME: 6:30 p.m. to 7:45 p.m.  
BEFORE: Chair Charlotte A. Mitchell, Presiding  
Commissioner Kimberly W. Duffley  
Commissioner Jeffrey A. Hughes

IN THE MATTER OF:

Application by Currituck Water and Sewer, LLC, 4700  
Homewood Court, Suite 108, Raleigh, North Carolina  
27609, and Sandler Utilities at Mill Run, LLC, 448  
Viking Drive, Suite 220, Virginia Beach, Virginia  
23452, for Authority to Transfer the Sandler Utilities  
at Mill Run Wastewater System and Public Utility  
Franchise in Currituck County, North Carolina and for  
Approval of Rates

VOLUME 2

1 A P P E A R A N C E S:

2 FOR CURRITUCK WATER AND SEWER, LLC:

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4 Attorney at Law

5 2024 White Oak Road

6 Raleigh, North Carolina 27608

7

8 FOR SANDLER UTILITIES AT MILL RUN, LLC:

9 Karen Kemerait, Esq.

10 Fox Rothschild LLP

11 434 Fayetteville Street, Suite 2800

12 Raleigh, North Carolina 27601

13

14 FOR THE USING AND CONSUMING PUBLIC:

15 Gina Holt, Esq.

16 Munashe Magarira, Esq.

17 Public Staff - North Carolina Utilities Commission

18 4326 Mail Service Center

19 Raleigh, North Carolina 27699-4300

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NORTH CAROLINA UTILITIES COMMISSION

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

2 CHAIR MITCHELL: Good evening. Let's come  
3 to order and go on the record, please. I'm Charlotte  
4 Mitchell, Chair of the Utilities Commission. Joining  
5 me this evening by way of remote connection are  
6 Commissioners Kimberly Duffley; good evening, Kim; and  
7 Commissioner Jeffrey Hughes.

8 COMMISSIONER HUGHES: Good evening.

9 CHAIR MITCHELL: Good evening, Commissioner  
10 Hughes.

11 I now call for hearing Docket Nos. W-1333,  
12 Sub 0 and W-1130, Sub 11, In the Matter of Application  
13 by Currituck Water and Sewer, LLC, and Sandler  
14 Utilities at Mill Run, LLC, for Authority to Transfer  
15 the Sandler Utilities at Mill Run Wastewater System  
16 and Public Utility Franchise in Currituck County,  
17 North Carolina, and for the approval of rates.

18 Before we proceed further and as is required  
19 by the State Government Ethics Act, I remind members  
20 of the Commission of our duty to avoid conflicts of  
21 interest, and inquire at this time as to whether any  
22 member of the Commission has a known conflict of  
23 interest with respect to the matters coming before us  
24 this morning?

NORTH CAROLINA UTILITIES COMMISSION

1 (No response)

2 The record will reflect that no conflicts  
3 have been identified, so we will proceed.

4 On May 19th, 2021, Currituck Water and  
5 Sewer, LLC and Sandler Utilities at Mill Run, LLC,  
6 filed with the Commission an Application by which  
7 Currituck and Sandler seek authority to transfer the  
8 wastewater utility system and public utility franchise  
9 serving the Eagle Creek Subdivision, the Eagle Creek  
10 Golf Club, and the Moyock Middle School from Sandler  
11 to Currituck. The Application also seeks the approval  
12 to charge certain rates.

13 The present rates charged by Sandler were  
14 approved by this Commission and have been in effect  
15 since December 9th, 2016. Upon acquisition of the  
16 system, Currituck proposes to charge the current rates  
17 that Sandler is charging.

18 The intervention and participation of the  
19 Public Staff in this proceeding is recognized pursuant  
20 to North Carolina General Statute § 62-15(d) and  
21 Commission Rule R1-19(e). The Public Staff is the  
22 consumer advocate and represents in this proceeding  
23 the Using and Consuming Public, that is, Sandler's  
24 customers.

1           The Public Staff will independently  
2 investigate the requests being made in this  
3 Application and will make recommendations to the  
4 Commission regarding the transfer.

5           On November 18th, 2021, the Commission  
6 issued an Order Scheduling Hearings, Establishing  
7 Discovery Guidelines, and Requiring Customer Notice.  
8 The Order scheduled two public witness hearings to be  
9 held remotely by way of Webex on this date, as well as  
10 an expert witness hearing to begin on April 5th.

11           Between October 12th, 2021 and January 31st,  
12 2022, various Statements of Consumer Position have  
13 been filed in this docket.

14           The purpose of this evening's hearing is to  
15 hear from Sandler's customers regarding their concerns  
16 with the pending requests. Each public witness will  
17 be given the opportunity to testify, under oath, to  
18 the Commission should he or she wish to do so.

19           Before we move on, I'd like to discuss the  
20 procedures we'll follow for this hearing.

21           First, public witnesses will be appearing by  
22 audio connection only. Commissioners and attorneys  
23 will be appearing by video and audio connection. Any  
24 public witnesses that wish to view a live video of the

1 proceeding may access it on their computers by way of  
2 YouTube, which is linked from the Commission's home  
3 page. However, be sure to mute your computer -- I  
4 mean, yes -- be sure to mute your computers when  
5 you're called to testify to avoid feedback and  
6 interference with our court reporter's ability to  
7 transcribe the proceeding.

8           Public witnesses will be called on to  
9 testify in the order that they've called in. When it  
10 is your turn to speak, you will be unmuted by the  
11 Webex Administrator, you'll hear two beeps on your  
12 phone line indicating that you've been unmuted. At  
13 that time, I ask that you state your name. Then, I  
14 will deliver the affirmation. And once you have  
15 affirmed, the attorney for the Public Staff will ask  
16 you a series of questions. At that point you will be  
17 allowed to testify.

18           To ensure that this hearing tonight runs as  
19 efficiently as possible, please pay close attention  
20 during the course of the proceeding and be ready to  
21 respond as soon as you hear those two beeps.

22           After you complete your testimony, you may  
23 be asked questions by counsel for the parties or by  
24 the Commissioners.



1 With that, we're ready to begin.

2 I now call upon counsel to announce their  
3 appearances for the record, beginning with Currituck.

4 CHAIRMAN FINLEY: May it please the  
5 Commission, my name is Edward Finley appearing on  
6 behalf of Currituck Water and Sewer, LLC.

7 CHAIR MITCHELL: Good evening, Mr. Finley.

8 MS. KEMERAIT: Good evening, Madam Chair and  
9 Members of the Commission. My name is Karen Kemerait.  
10 I'm an attorney with Fox Rothschild in Raleigh, and  
11 I'm here on behalf of Sandler Utilities at Mill Run.

12 CHAIR MITCHELL: Good evening, Ms. Kemerait.  
13 Public Staff?

14 MR. MAGARIRA: Good evening, Commission.  
15 Munashe Magarira with the Public Staff appearing on  
16 behalf of the Using and Consuming Public.

17 CHAIR MITCHELL: Good evening, Mr. Magarira.  
18 It's my understanding that counsel for  
19 Currituck would like to provide a brief opening  
20 statement. Mr. Finley, if you would.

21 MR. FINLEY: Thank you, Chair Mitchell.  
22 Currituck Water and Sewer appreciates the opportunity  
23 tonight to hear from the Eagle Creek wastewater system  
24 consumers on the issue of the Company's desire to

1 obtain the Commission approval of its acquisition of  
2 the system from Sandler Utilities.

3 CWS recognizes and acknowledges that  
4 customers are experiencing service disruptions and  
5 environmental issues, and that many are justifiably  
6 distressed and concerned.

7 The environmental regulators in the State  
8 have placed the system on a moratorium and it is under  
9 a Consent Decree imposing some strict requirements on  
10 operations, maintenance and communications. CWS is  
11 intimately familiar with the system, the moratorium  
12 and the Consent Decree.

13 The collection system has exceeded its  
14 useful life and improvements are necessary. This  
15 opinion is not only held by CWS, the environmental  
16 regulators certainly agree, the Public Staff is  
17 currently comprehensively investigating the situation  
18 and can be anticipated to weigh in later in the  
19 proceeding.

20 CWS recognizes that there is a substantial  
21 debate within the community as to whether the vacuum  
22 system currently in place, vacuum collection system,  
23 should be replaced or, instead, should be  
24 rehabilitated. CWS recognizes that whatever must be

1 done will result in some continued inconvenience and  
2 interruption. CWS has talked with the community and  
3 understands that there is a substantial difference of  
4 opinion among some as to what should be done. We  
5 heard about that earlier today. While a strong case  
6 can be made for replacing the vacuum system with a  
7 gravity system, CWS is willing to continue dialogue  
8 with consumers and regulators and to consider other  
9 options.

10 CWS understands that Sandler, the developer  
11 of Eagle Creek, desires to sell and CWS desires to  
12 acquire and undertake the necessary steps to improve  
13 the system as to its operations today and into the  
14 future.

15 Thank you, Chair Mitchell.

16 CHAIR MITCHELL: Thank you, Mr. Finley.  
17 Anyone -- Ms. Kemerait, Mr. Magarira, would you all  
18 like the opportunity to make an opening statement?

19 MS. KEMERAIT: Not on behalf of Sandler  
20 Utilities.

21 MR. MAGARIRA: No statement from the Public  
22 Staff.

23 CHAIR MITCHELL: Okay. We are ready to  
24 begin. Mr. McCoy, would you please unmute the first

1 witness?

2 MR. EWAN: Hello. My name is Greg Ewan.

3 CHAIR MITCHELL: Good evening, Mr. Ewan.

4 GREG EWAN;

5 having been duly affirmed,

6 testified as follows:

7 CHAIR MITCHELL: Mr. Magarira, take it away.

8 DIRECT EXAMINATION BY MR. MAGARIRA:

9 Q Mr. Ewan, could you state your full name for the  
10 record, please?

11 A Yes. It's Gregory Lawrence Ewan.

12 Q Thank you. And what's your address?

13 A It's 198 Green View Road, Moyock, North Carolina  
14 27958.

15 Q Thank you. And are you a sewer customer of  
16 Sandler Utilities?

17 A I am.

18 Q Great. Please proceed with your testimony.

19 A Yes. So I am an original homeowner in the Eagle  
20 Creek neighborhood. We've lived here since  
21 August of 2005. The last couple of years, no  
22 secret that there have been a lot of problems  
23 here. And prior to September of 2020, we were  
24 completely unaware of any issues with the sewer

1 system outside of some major flooding events that  
2 had affected certain parts of the neighborhood  
3 during storms and such.

4 In the last two years, it has been  
5 a challenge to live here. We've only experienced  
6 one actual backup at our home that was reported,  
7 but almost daily there's a need to go onto social  
8 media to find out whether or not we can flush a  
9 toilet, or do laundry, or use any sort of water  
10 in the house, and it's a real problem for people  
11 as you can imagine.

12 My experience as a homeowner in  
13 dealing with Envirolink and the -- for the one  
14 backup we had was not good. In terms of  
15 responsiveness, I feel like their communication  
16 with the neighborhood has been very poor until  
17 really very recently in December when we started  
18 getting daily updates. And even in talking with  
19 technicians that have come around, many of them  
20 have told me outright that they were  
21 inexperienced, they were just hired, they didn't  
22 really -- weren't able to answer a question for  
23 me about whether or not I needed to conserve  
24 water.

1                   It's been a real challenge. And  
2                   so where I'm going with all of this is leading up  
3                   to I have a lack of confidence in CWS's ability,  
4                   knowing that there's a relationship to Envirolink  
5                   to properly manage and maintain a system. I have  
6                   definite concerns about their ability to replace  
7                   the entire system. And I think the level of  
8                   disruption that it's going to cause as a  
9                   neighborhood is not something that can really be  
10                  comprehended at the moment.

11                  There was petitions that were  
12                  circulated around the neighborhood for a couple  
13                  of different options to find out what residents  
14                  preferred. Overwhelmingly, the residents erred  
15                  on the side of a repair to a system with some  
16                  stipulations that maintenance be carried out by  
17                  another party, at least for the first five years.  
18                  And so I would ask the Commission that if the  
19                  sale is going to be approved that it be done with  
20                  him some conditions attached to it, that the  
21                  maintenance contract be held by another party who  
22                  understands the system and knows how to go about  
23                  taking care of it as did, by the way, the prior  
24                  company that performed the maintenance.

1 Remember, we had no clue there was ever any  
2 issues with the sewer system prior to September  
3 of 2020.

4 So, I would like to ask the  
5 Commission to please consider that, the  
6 signatures on that petition, what we've asked  
7 for, in consideration of the impending sale to  
8 CWS.

9 CHAIR MITCHELL: Thank you, Mr. Ewan. Let  
10 me see if there are questions for you from counsel,  
11 beginning with counsel for the Applicants.  
12 Mr. Finley?

13 MR. FINLEY: No questions from CWS.

14 CHAIR MITCHELL: Ms. Kemerait?

15 MS. KEMERAIT: No questions from Sandler  
16 Utilities.

17 CHAIR MITCHELL: Public Staff?

18 MR. MAGARIRA: Just a couple of questions.

19 BY MR. MAGARIRA:

20 Q I guess I heard Mr. Ewan that you had said that  
21 sort of your issues had started I think around  
22 September 2020, and just wanted to sort of  
23 clarify or I guess to just get some context, sort  
24 of the performance of the operator beforehand,

1           which I believe was Enviro-Tech and the current  
2           operator who is Envirolink; I just wanted to get  
3           some additional context on that.

4       A    Yeah, sure. The changeover for the maintenance  
5           happened not long before that. And I'm not  
6           attributing that there's a correlation  
7           necessarily between them, but we've heard  
8           statements that the system is beyond its usable  
9           life. Those types of things do not happen in an  
10          instant; they happen over time. And, you know,  
11          between August of 2005 when we moved into our  
12          home and September of 2020 when the first really  
13          big, major disruption occurred, I couldn't have  
14          even told you who was doing the maintenance other  
15          than the fact that I saw the name Enviro-Tech on  
16          the bills when they came to the house.

17                        We never had a clue that anybody  
18                        in the neighborhood was having a problem. And,  
19                        you know, so, yeah, that's kind of been our  
20                        experience since then. You know, we had the  
21                        major disruption in October of 2020, where there  
22                        was a period of about two weeks where really  
23                        everybody was told don't use any water  
24                        whatsoever. Since that time, there's been -- I



1           couldn't even count how many times we were told  
2           the system was down, don't use water, which by  
3           the way, only it would come through either social  
4           media posts by other members of the community or  
5           emails after hours coming from Envirolink  
6           customer service, and they're not reaching every  
7           member of the community even. Because my  
8           nextdoor neighbor, when we had our backup I had  
9           to go and tell him about it. He had no idea that  
10          there were any problems in the neighborhood. And  
11          our backup occurred months after the problems  
12          really started in the neighborhood.

13        Q    Thank you, Mr. Ewan. And this is sort of  
14              implicit in your testimony and some of the  
15              statements that you've made already, but I just  
16              wanted to get a sense of when you reported these  
17              issues to the operator -- or have you reported  
18              them first off? And then, second, what was been  
19              just the general response from the operator?

20        A    So I've -- oh wait! So, we had only one backup  
21              at our home which we reported and it was fixed  
22              within two days. That's the only thing that I  
23              reported directly to the operator. I have  
24              attempted to ask him questions. We sent messages

1 back to Envirolink customer service when the  
2 notices have come out about a service disruption.  
3 I don't recall ever having received a reply to  
4 any of those. I did attend a couple of the  
5 meetings here in the neighborhood with Mr. Myers.  
6 Again, yeah, I raised my concerns there, but --  
7 you know, I don't necessarily know that they were  
8 heard.

9 Q Thank you. And I guess one potentially two  
10 questions. Are you aware or have you heard of  
11 the sort of amended Consent Judgment involving  
12 Sandler?

13 A I am not, not aware.

14 MR. MAGARIRA: No further questions.

15 CHAIR MITCHELL: Mr. Ewan, I do have a  
16 question for you. I just want to make sure I  
17 understand your testimony.

18 EXAMINATION BY CHAIR MITCHELL:

19 Q So, prior to September of 2020, did you have any  
20 experiences or bad experiences in your home with  
21 your wastewater service?

22 A No.

23 Q Okay. And do -- and you were not aware that your  
24 neighbors, of the experience your neighbors were

1           having or whether your neighbors were having bad  
2           experiences?

3    A       Correct.

4    Q       Prior to 2020? September of 2020?

5    A       Correct.

6    Q       Okay. I heard you testify that Envirolink's  
7           communication has been not good, I think you  
8           used poor, until December. I'm assuming you  
9           meant December of last year? Can you --

10   A       Yes, that's correct.

11   Q       So you did mean December of 2021? Will you  
12           confirm for me, I mean, what has changed since  
13           December? What are they doing differently?

14   A       We get an email. I don't know if it's everyday  
15           but it's more days than not. We get an email  
16           from them explaining whether or not there were  
17           any leaks detected during the day, what  
18           technicians had done on site, generally it tells  
19           you how many repairs that they made, and then  
20           there's a general status of whether or not all  
21           the lines are active, or if there were parts of  
22           the neighborhood that are being down. And to be  
23           honest, it's a bit ambiguous because I don't  
24           necessarily know which lines are where, so we

1 don't necessarily know what to do with it. But  
2 it's more than we've gotten in the past which  
3 would be many, many days of radio silence while  
4 we knew that there were substantial problems in  
5 the neighborhood.

6 Q Okay. And are you aware of whether this  
7 communication since December is reaching more or  
8 all of your neighbors at this point?

9 A I couldn't say for sure.

10 Q So, you don't know whether there is still the  
11 same issue of not everyone receiving  
12 communication, not everyone in the neighborhood  
13 receiving communication?

14 A I suspect that that is probably the case but I  
15 couldn't prove it.

16 Q Okay.

17 CHAIR MITCHELL: Thank you, Mr. Ewan. Let  
18 me check in with my colleagues to see if there are any  
19 questions for you. Commissioner Duffley? Go ahead.

20 EXAMINATION BY COMMISSIONER DUFFLEY:

21 Q Good evening. You mentioned that you asked some  
22 questions and you still have not received the  
23 answers to those questions. Do you still want  
24 the answers to those questions?

1 A No. I mean, they were related to incidents at  
2 the time. You know, if we were being told to  
3 conserve water, you know, we were asking  
4 questions about okay, you know, when will it come  
5 up? Are there certain parts of the neighborhood  
6 that are okay? It was really probably specific  
7 to those incidents and it would be too late to  
8 satisfy the need now.

9 Q Thank you.

10 COMMISSIONER DUFFLEY: I have nothing  
11 further.

12 COMMISSIONER HUGHES: I don't have any  
13 additional questions. Thanks.

14 CHAIR MITCHELL: Thank you, Commissioner  
15 Hughes.

16 Mr. Ewan, you are off the hook. No  
17 additional questions for you. So, thank you very  
18 much, sir, for your testimony tonight.

19 THE WITNESS: Okay. Thank you.

20 (The witness is excused)

21 CHAIR MITCHELL: John, would you please  
22 unmute the next witness?

23 MS. POWERS: Hi. My name is Susan Powers.

24 CHAIR MITCHELL: Good evening, Ms. Powers.

1 SUSAN POWERS;  
2 having been duly affirmed,  
3 testified as follows:

4 CHAIR MITCHELL: Mr. Magarira, you may  
5 proceed.

6 DIRECT EXAMINATION BY MR. MAGARIRA:

7 Q Good evening, Ms. Powers. Could you state your  
8 full name for the record, please?

9 A My name is Susan, S-U-S-A-N, last name Powers, P-  
10 as in puppy, O-W-E-R-S.

11 Q Thank you. And would you state your address,  
12 please?

13 A It's 251 Green View Road in Moyock, North  
14 Carolina.

15 Q Thanks. And are you a customer of Sandler  
16 Utilities?

17 A I am.

18 Q Thank you. Please proceed with your testimony.

19 A So I apologize, I just got back from work a  
20 little bit ago, so I wasn't afforded the  
21 opportunity to hear the entire 1:30 presentation,  
22 but I did listen to some of it.

23 One of the things I wanted to  
24 point out is that Currituck Water and Sewer spent

1 a lot of time trying to convince us that the  
2 gravity system is the best route to go. I don't  
3 really dispute that. I think if the neighborhood  
4 had been built originally with the gravity  
5 system, we may not have the issues we have now.  
6 I think the concern for most people is the  
7 installation of the gravity system at this point.

8 Several people that I had heard  
9 mentioned that they don't trust Mike Myers and  
10 anything he says or does. One of the things  
11 demonstrating that is they installed the force  
12 main line from the Fost development into Eagle  
13 Creek and knocked out the internet, electricity  
14 several times. They knocked it out to the  
15 restaurant which caused them lost business. They  
16 knocked it out to the middle school which then  
17 students couldn't access the internet. So these  
18 major disruptions were just from installing this  
19 little force main line from the Fost tract to our  
20 treatment plant. And if they couldn't get that  
21 right, how can we trust them to do this big, huge  
22 massive project.

23 And I think, too, like I said  
24 they're trying to really spend a lot of time to

1 convince us that the gravity system is the best  
2 route to go, but they're -- I feel they're  
3 glossing over any kind of installation issues  
4 and, depending on who you talk to, they could be  
5 major and catastrophic. Greg Ewan mentioned  
6 about when they do water at the houses the  
7 foundations could sink.

8 And one of the things I wanted to  
9 talk to you -- now, I have not personally had  
10 water in my house. I've been very lucky, but I  
11 have been impacted, because first of all, this  
12 issue has been reported all over the country.  
13 There were -- I saw newspaper articles in  
14 California about our sewer issue. Anybody I talk  
15 to in the course of the day, I work as an  
16 insurance agent, I mention I live in Eagle Creek,  
17 their eyes light up and say oh, we know what's  
18 going on there. So, if I were to ever try to  
19 sell my house, a simple Google search of Eagle  
20 Creek will pull up all of these news articles.

21 Another thing, too, I wanted to  
22 mention, too, about the communication. At one  
23 point, a neighbor in the neighborhood took it  
24 upon herself to create a flyer with contact



1 information and she'd go door to door, hang them  
2 door to door because the communication was so  
3 lacking from Envirolink to make sure that  
4 everybody had this information and knew what was  
5 going on. There are people at the front of the  
6 neighborhood, I believe, that have never had a  
7 sewer backup and had no clue that anything was  
8 going on. And I give the example all the time  
9 that they're, you know, showering, bathing, doing  
10 laundry and people in had the back of the  
11 neighborhood are having sewer back up in their  
12 house.

13 And also, too, one of the  
14 questions I heard was about the links. Now, I  
15 did create a spreadsheet, and I base this on  
16 official emails from Deborah Massey about us  
17 being down, and so the count for being out is a  
18 total of 98 days. So that's 100 days without  
19 being able to shower, laundry, go to the  
20 bathroom. The longest outage was in September of  
21 2020 for 31 days, so that's more than a month.  
22 And we actually had the Baptist Men come with  
23 showers and did laundry for us because -- and I  
24 believe there was also a trailer that people in

1 Currituck County collected donations, like  
2 cleaning supplies and stuff.

3 So -- and I can understand why  
4 Currituck Water and Sewer wants the gravity  
5 system because they're familiar with it and  
6 that's what they know, and vacuum system's kind  
7 of an oddball to them, but also, too, and I don't  
8 think that's a good reason to go with a gravity  
9 system.

10 So, I hope that if they do approve  
11 the sale that they do keep the vacuum system  
12 upgraded. And also, no matter what way they go,  
13 that they continue to maintain it. One of the  
14 things I've mentioned several times is no matter  
15 what system they go to, it needs to be  
16 maintained. And even a primitive outhouse with a  
17 hole dug in the floor, it's not to be maintained.  
18 So, if they don't maintain whatever they put in  
19 we're going to be in the same boat five or 10  
20 years from now. And a lot of people have put in  
21 a lot of time.

22 In fact, yesterday I was talking  
23 to my family, well tomorrow night I've got and my  
24 daughter finished the sentence "a sewer meeting".

1           So, I've been to so many of these she knew what I  
2           was going to say before I said it.

3                        So, thank you for taking the time  
4           to talk to me and I'll be happy to answer any  
5           questions you have.

6                        CHAIR MITCHELL: Thank you, Ms. Powers. Let  
7           me check in and see if there are questions for you.  
8           Mr. Finley?

9                        MR. FINLEY: No questions of Ms. Powers.

10                      CHAIR MITCHELL: Ms. Kemerait?

11                      MS. KEMERAIT: No questions for Ms. Powers.

12                      CHAIR MITCHELL: Public Staff?

13                      MR. MAGARIRA: Just a couple. Sorry.

14           BY MR. MAGARIRA:

15           Q     Ms. Powers, how long have you been --

16           A     Yes.

17           Q     -- in your current house?

18           A     I actually had to pull it out. I moved in here  
19           in May of 2014.

20           Q     Thanks. And you had mentioned that -- I just  
21           want to clarify this -- you have not had any  
22           specific issues with water sort of --

23           A     I did have my pit bubble up one time, but I've  
24           never had it -- sewage into my yard or backup in

1 my house. So I've not personally experienced any  
2 kind of damage to my house, definitely not being  
3 able to shower or do dishes is definitely an  
4 inconvenience -- or an inconvenience, but it's  
5 not done damage to my house.

6 Q So, no damage to your house but you've had issues  
7 with regards to the actual water service not  
8 being able to do certain sort of necessities  
9 like --

10 A Right.

11 Q -- like doing dishes, that kind of thing?

12 A Yeah. And we can use as much water as we want,  
13 it just can't go down the drain.

14 Q Right.

15 A And people have jerry-rigged draining their  
16 washing machines. I've seen people posting  
17 they're washing their dishes outside and washing  
18 their clothes outside. Because, like I said, you  
19 can use as much water as you want, you just can't  
20 let it go down the drain.

21 Q Got it. And so I think I just -- I want to  
22 remember to ask you this question. You mentioned  
23 that you put together a spreadsheet of outages  
24 in --

1 A Yes.

2 Q -- the community. Do I have that right?

3 A Yeah. So what I did is I actually have --  
4 actually had like all my sewage emails in a  
5 separate folder and I went through all my folders  
6 and found all the emails that came out from  
7 Envirolink and put the dates that it started and  
8 ended. And then I had two other people that have  
9 been involved in this kind of look it over and  
10 see if there were any that are missing. And then  
11 that's how I came up with the spreadsheet.

12 Now, I would not say that this is  
13 100 percent accurate. This is the best of my  
14 knowledge. There's probably been -- I imagine  
15 there are times that the sewage was down and we  
16 should have been conserving that we didn't get  
17 official notice, so it may have been more than 98  
18 days. But I feel pretty confident it's at least  
19 close to that 98 days or more.

20 Q I'm sorry. This is 98 days of interruptions  
21 or --

22 A Yes.

23 Q I just want to clarify.

24 A Yeah. And that's the start, the first one was

1 August of 2020, and the last one I have is from  
2 December of 2021. And like I said, they are  
3 sending out daily updates and haven't said  
4 anything about the system being down. And also,  
5 too, I think people have mentioned about checking  
6 on Facebook and people posting, so I haven't --  
7 there have been people, individuals, posting that  
8 they're having issues but not a lot. And usually  
9 in my experience when a lot of people are posting  
10 they're having issues it means that the system is  
11 down. But you can have an individual having a  
12 problem and that doesn't necessarily mean the  
13 system is down.

14 Q Gotcha. And again, obviously I know you've had  
15 some issues but not specific water damage to your  
16 house. Have you noticed any difference --

17 A No, not me.

18 Q Right. Have you noticed any difference in just  
19 the system or just issues that have been reported  
20 by other folks since Envirolink became operator  
21 in 2020?

22 A I think they have gone downhill. Now, they also  
23 inherited a used car, too, basically and -- but  
24 they also I don't feel did what it needed to to

1 keep it in tiptop shape. I think somebody else  
2 gave the example, you know, if you get a used car  
3 you're going to make sure to change the oil every  
4 so often and check all the fluids and keep it  
5 running, and they didn't do that.

6 Q Got it. Thank you. I think I have --

7 A And also, too, one of the things I wanted to  
8 mention, too, is about the communication. I do  
9 want to say that I am a board member and I do  
10 have access to the emails we have for all of the  
11 residents. And I have sent out an email, this  
12 was maybe a month or two ago, giving Deborah  
13 Massey's contact, and she's the one that sends  
14 out the emails. So, I think the email  
15 communication has gotten better. They're sending  
16 out these daily emails. Everyone in the  
17 neighborhood who the HOA has an email address for  
18 should have had an opportunity to sign up for  
19 those emails.

20 Q Thank you.

21 A But also, too, they're in hot water right now and  
22 that's why they're sending these emails.

23 Q I think I just have two more questions.

24 A Okay.

1 Q Have you heard of the amended Consent Judgment  
2 involving Sandler?

3 A Is that the one that he just did?

4 Q I guess it's somewhat recent. But yeah, there  
5 was a judgment against --

6 A Yeah, I did. I do have it. I have a whole  
7 notebook of all kinds of legal documents related  
8 to Sandler. Let's see, yes, Motion to Amend  
9 Consent Judgment. Is that what you're talking  
10 about?

11 Q The underlying Consent Judgment. So, the order  
12 that the motion is seeking to amend.

13 A Yes.

14 Q And if you haven't --

15 A Yes, I think so.

16 Q Okay.

17 A Yeah, I have.

18 Q You have heard of it. Okay. I guess my last  
19 question is would you want that amended Consent  
20 Judgment to be sort of complied with and  
21 satisfied by Sandler before the sewer system is  
22 transferred?

23 A Yes.

24 MR. MAGARIRA: No further questions.



1 CHAIR MITCHELL: Ms. Powers, I have a few  
2 questions for you. I just want to make sure I've  
3 understood your testimony. It sounds awfully  
4 similar --

5 THE WITNESS: Yes, ma'am.

6 CHAIR MITCHELL: -- to some testimony that  
7 we heard earlier today from one of your neighbors.

8 EXAMINATION BY CHAIR MITCHELL:

9 Q Do I understand you correctly that since August  
10 of 2020, there have been 98 days of outages?

11 A Yes.

12 Q So that's 98 days when you haven't been able to  
13 use your wastewater system?

14 A Right.

15 Q And during those 98 days were you -- how did you  
16 learn of the -- I mean, how did you learn that  
17 there was a problem with the system? Was it  
18 because --

19 A So, the ones from October -- there's three -- the  
20 one in October and the big one in September of  
21 2020, they were actually emailed by the HOA  
22 president and Facebook posts. And then starting  
23 in November, we would get emails from Deborah  
24 Massey that they were down.

1                   There was one here that I put on  
2 my list that we were down for four days, and  
3 Envirolink denied the system was down, but there  
4 were so many people posting on Facebook that they  
5 were having issues, I put that on the list. But  
6 like I said, I would not testify 98 days is  
7 100 percent accurate but I feel it's pretty  
8 close.

9 Q    Okay. Do you --

10 A   And not to be indelicate but, you know, you go to  
11 the bathroom and most people flush without even  
12 thinking about it.

13 Q    Right. Well, that's my question is are people --

14 A   And you do that for several days and things get  
15 pretty gross pretty quickly.

16 Q    Right. Understood.

17 A   And I'm not a neat freak but it drove me crazy  
18 having dishes piled up.

19 Q    Understood. Do you -- you testified that  
20 Envirolink has been given the list of email  
21 addresses that the HOA has and it sounded like --

22 A    What we did is --

23 Q    Hang on, Ms. Powers, let me --

24 A    We could not share the email list. What I did is

1 I sent an email and said that if you want to be  
2 added to the update emails then you need to send  
3 an email to Deborah Massey and she will add you  
4 to the list. So, we didn't provide the list to  
5 her. I emailed everyone a list and said if you  
6 wanted to get these updates this is her email and  
7 you need to email her. So, everyone on our email  
8 list had the opportunity to be added to the  
9 update list.

10 Q How many members of the community are not  
11 included in the email list. Do you have any  
12 idea?

13 A I don't have access to that. I don't know how  
14 many. You would have to ask Envirolink or -- how  
15 many people they have on the email update list.

16 Q Okay.

17 A They're in charge of that.

18 Q Let me check in, Ms. Powers, with my colleagues  
19 to see if there are any additional questions for  
20 you.

21 A Okay.

22 CHAIR MITCHELL: Commissioner Duffley?

23 EXAMINATION BY COMMISSIONER DUFFLEY:

24 Q Good evening, Ms. Powers. You mentioned a

1 spreadsheet that you prepared.

2 A Yes.

3 Q Did you want to provide that spreadsheet to the  
4 Commission?

5 A I sent it to several different people I believe.  
6 I think Mike Franklin maybe. Is that -- I'd have  
7 to go back and see who I sent it to.

8 Q Well, if you do wish to present that to the  
9 Commission, you can work with Public Staff.

10 A Okay.

11 Q Thank you.

12 COMMISSIONER DUFFLEY: Nothing further.

13 CHAIR MITCHELL: Thank you, Commissioner  
14 Duffley. Commissioner Hughes, any questions?

15 COMMISSIONER HUGHES: Just one.

16 EXAMINATION BY COMMISSIONER HUGHES:

17 Q Ms. Powers, you mentioned that there were several  
18 efforts to just, I guess, help out the community  
19 when you are -- while you're having problems.

20 A Right.

21 Q How was that done in a range. Was that -- did  
22 any of the -- is it a homeowners' association, a  
23 utility --

24 A Well, the big one where like I said the -- yeah,

1 the Baptist Men, they came and they set up  
2 portable showers at the middle school, and they  
3 also had laundry services where you could drop  
4 your laundry off and then come back, like the  
5 next day, and they would have washed your laundry  
6 for you. That was coordinated by several members  
7 of the community, not by Sandler or Envirolink.

8 Q Thank you. To your knowledge, did they take any  
9 steps to actually provide some sort of  
10 alternative service?

11 A At one point -- there was a point when we were  
12 down and they did put porta potties in several  
13 areas around the neighborhood. So they did put  
14 porta potties in for one -- at one point.

15 COMMISSIONER HUGHES: Okay. No further  
16 questions. Thanks.

17 CHAIR MITCHELL: All right. Ms. Powers, I  
18 think there are no further questions for you this  
19 evening. We appreciate your being here with us  
20 tonight and your testimony.

21 THE WITNESS: Okay. Thank you.

22 (The witness is excused)

23 CHAIR MITCHELL: Thank you. Mr. McCoy,  
24 would you please unmute the next witness?

1 MR. SHEPHEARD: Hello. My name is David  
2 Shepherd.

3 CHAIR MITCHELL: Good evening,  
4 Mr. Shepherd.

5 DAVID SHEPHEARD;  
6 having been duly affirmed,  
7 testified as follows:

8 CHAIR MITCHELL: Mr. Magarira, you can take  
9 it away.

10 DIRECT EXAMINATION BY MR. MAGARIRA:

11 Q Could you state your full name for the record,  
12 please?

13 A Yes. David Wayne Shepherd, S-H-E-P-H-E-A-R-D.

14 Q Thank you. And what is your address?

15 A 173 Saint Andrews Road. That's in Eagle Creek in  
16 Moyock, North Carolina.

17 Q Thank you. And are you a customer of Sandler  
18 Utilities?

19 A Yes, I am.

20 Q Great. And did you submit an exhibit that you  
21 would like to be part the record?

22 A I submitted my -- actually, I submitted the oral  
23 statements that I intended to give. I can do --  
24 I can either go ahead and read those -- that oral

1 statement or if you wish to just keep it in the  
2 record and let me comment on some of the things  
3 that have been mentioned previously. I'll leave  
4 that up to you.

5 My statement does cover a number  
6 of the questions that have come up to include  
7 some of the failures, some of the causes of the  
8 failures, some of the costs that we're looking at  
9 that have been tossed around concerning the  
10 gravity system versus the vacuum system. It also  
11 addresses the life of the vacuum system which is  
12 being misrepresented as 10 or 12 years where it's  
13 actually 50 to a hundred years. That's in my  
14 written statement. But if the Commission has  
15 access to that and that's satisfactory with you  
16 that's fine.

17 Q I guess just to sort of clarify, is your intent  
18 sort of to read the entirety of your written  
19 statement?

20 A If I read it that's probably I would have to do.  
21 So, I mean, that's up to you. It's -- you know,  
22 it would probably take me four or five minutes.

23 Q I think in the interest of time I think what  
24 we'll do if it's okay is just to seek to admit

1 your exhibit into the record and then sort of  
2 whatever remarks you want to make with regards to  
3 that statement I think would be okay presumably  
4 with the Commission.

5 A Sure. I'll just -- I can come through and just  
6 point out a couple of things. I have lived  
7 here --

8 Q Mr. Shepheard?

9 A I have lived here since 2002. I was a -- my wife  
10 and I had the home built for us in 2002.

11 Q Mr. Shepheard?

12 A -- I'm familiar with the neighborhood and what's  
13 going on here since that time.

14 Since about 2006, I've been the  
15 drainage committee chairman for the neighborhood.  
16 The drainage and the sewage collection obviously  
17 connects pretty considerably, because if we don't  
18 drain it pretty much doesn't matter what kind of  
19 sewage system you have it's going to have a  
20 problem.

21 My son, Matthew Shepheard, lives  
22 in the neighborhood. My daughter, Elizabeth  
23 Edwards, lives in the neighborhood. So not only  
24 am I vested with my neighbors and myself, but my



1 two children as well. My son -- I have not  
2 experienced any backups, zero, on Eagle Creek  
3 Road. My daughter, Elizabeth, has not  
4 experienced any backups. My son, Matthew, has  
5 had plenty in his house and has received money  
6 from Sandler's insurance company. He had backups  
7 a number of times. He had sewer gas in his  
8 house. It drove them out once. They had to put  
9 a sandbag on their downstairs shower drain to  
10 prevent that from happening. He's had sewage  
11 overflow out of his collection box right outside  
12 the house multiple times. And in the last year  
13 they've probably, Envirolink has probably visited  
14 his pit, and I know I'm saying probably because I  
15 haven't -- I didn't take the time to try to write  
16 every one down, and it's not my pit, but a dozen  
17 to 15 times. That indicates that's the problem I  
18 think at the heart of this.

19 There's been a lot of discussion  
20 about the fact that Envirolink inherited a system  
21 that was very used and very worn. There's truth  
22 in that. Sandler Utilities did not put the money  
23 in it they needed to put in it to do the proper  
24 maintenance based on the manufacturer's

1 recommendations. That's very clear.

2 The -- I believe, and again here's  
3 an opinion, I believe that from the beginning  
4 from talking to the man who put this system in  
5 and bid to run it initially who also lives in  
6 this neighborhood, and I'm sorry he didn't  
7 testify tonight, that Enviro-Tech when they first  
8 bid to run the system significantly under bid the  
9 operations expenses. And from that point on,  
10 once those expenses were put in place and the  
11 rates were set, I believe Sandler was running  
12 behind the power curve from the beginning. I  
13 don't think they collected enough money to truly  
14 do what they needed to do on the system. That's  
15 not an excuse for them. I think that's just a  
16 fact.

17 Enviro-Tech, when they began --  
18 when I first -- first of all, I didn't even know  
19 there was a problem in the neighborhood for a  
20 long time. The only reason I found out early in  
21 2015 was because I was involved in drainage and  
22 because I was involved in the community. I moved  
23 around the community. I tried to help in various  
24 ways with the community.

1                   The only failures, and it was  
2 mentioned previously, but one previous speaker  
3 earlier on I think best represented it, we did  
4 have issues when we would have major rainfall.  
5 You've heard that numerous times. Now, I'm  
6 talking about major storms. I'm talking about  
7 Hurricane Matthew. For instance, one of the  
8 Commissioners earlier asked about the 20 -- I  
9 think about 2015, that was Hurricane Matthew. We  
10 got 10 inches of rain in about eight hours. So,  
11 the entire community was totally under water.  
12 And that was a pretty significant rainfall. Our  
13 two canals that drained the community were both  
14 completely full. The entire county, Currituck  
15 County, other than the very high points were  
16 totally under water. So, we did have a major  
17 failure at that point.

18                   Prior to that, yes, there were  
19 some failures back earlier on but they were a  
20 part of the neighborhood. And there's another  
21 clarification there that I might mention. Susan  
22 mentioned, and she's very good at recording these  
23 type of things, that there were 98 days where at  
24 least -- well, where we were without sewage. And

1 we have a number of lines that go to the plant; I  
2 think we have five. And if one line goes down  
3 the whole neighborhood tries to conserve water.  
4 We're asked, gee, we've got a vacuum problem.  
5 We've got a line shut down. If the problem is on  
6 that particular line it serves, it's maybe 50  
7 houses. The whole neighborhood is not really  
8 down, one line is down, but the rest of the  
9 neighborhood is having to conserve water to help  
10 that particular line.

11 So, 98 days -- I'm not taking  
12 Envirolink off the hook, I think they've done a  
13 poor, poor job of handling the system. I'll get  
14 to that in a minute. But 98 days, as Susan  
15 mentioned, she's seen emails that might have  
16 meant 50 houses were down, 100 houses were down.  
17 Sometimes it was the entire neighborhood.

18 For the failure that we had in the  
19 fall of 2020, roughly three weeks, the vast  
20 majority of that time, the entire neighborhood  
21 was totally and completely shut down. Around  
22 that time and particularly just before it for a  
23 couple of weeks, they were rotating around the  
24 different lines that appeared being down; they

1 were having issues keeping the system operating.  
2 And then it catastrophically cascaded and failed.  
3 And then since that point, just -- it's just been  
4 one thing after another, particularly on  
5 weekends.

6 This system depends -- so the  
7 vacuum system depends on a technician. If they  
8 get a low vacuum alarm at the plant, it depends  
9 on a technician to be available and get here  
10 within a set period of time, it's less than an  
11 hour, and find where a leak is, a leak and a pit  
12 where a valve will be stuck open and air is being  
13 sucked into that vacuum main, reducing pressure  
14 on the whole system.

15 We went through a significant  
16 period of time where the technicians,  
17 particularly on the weekends, if they got a  
18 trouble call on Friday night, we were in trouble.  
19 The whole weekend, the system was in distress  
20 because they weren't responding or if they got a  
21 call during the night they weren't responding.  
22 And by the time they responded, we had multiple  
23 pits down. Now, they begin to shut down entire  
24 lines of the system to try to start getting it

1 back up and if they don't the entire neighborhood  
2 goes down.

3 So, I know I'm -- this is a  
4 complicated process. And I know Public Staff has  
5 an awful lot of information on how this system  
6 works. But I think that kind of explains, gee,  
7 we're -- I've never had a backup in my house but  
8 I've always -- whenever they say there's a  
9 disruption in the system I always tell my family  
10 we're conserving water. We're not sending water  
11 into our pipes, because it's not bog -- backing  
12 us up, but it's going somewhere else.

13 So, to address I think the  
14 conversation around 2020 when Envirolink took  
15 over from Enviro-Tech. Up until that time when  
16 Bill Freed owned Enviro-Tech he had, as far back  
17 as my memory serves me, he had qualified and  
18 trained people who knew how to address an issue  
19 whether it be a single pit or bigger, and they  
20 knew what to do logically as a troubleshooting  
21 operation to find that problem and fix it, and  
22 they will knew when they found the problem how to  
23 fix it.

24 They would come to a problem pit

1 and if a controller, which is the one that fires  
2 the valve to empty the pit, if the controller  
3 wasn't working they'd put a new controller in and  
4 they'd time it properly and they'd connect all of  
5 the tubes properly and they'd go away from that  
6 pit and that was it. That pit was repaired. You  
7 didn't see another problem in that pit until, if  
8 ever, maybe something else went down, maybe the  
9 valve or something reached its useful life and  
10 they hadn't been doing the proper maintenance.

11 After -- and that was consistent  
12 from the time that I was more readily aware of  
13 the system and talking to the technicians that  
14 worked for Enviro-Tech. That was pretty  
15 consistent. They had people on that knew the  
16 system. And they had Bill Freed who owned the  
17 company, if they got in a problem like in 2015,  
18 he was out there in his hip boots and he was  
19 working with the people and he knew how to fix  
20 the system.

21 The big difference in the switch  
22 over was in the first quarter, I believe it was  
23 February of 2020 when Envirolink took over  
24 operation of the system, he still had several of

1 the Enviro-Tech technicians employed by him. By  
2 August, I'm going to have to -- I'll have to put  
3 it this way, it was a hostile work environment  
4 and those people left. When they left in August  
5 of 2020, we started having the significant issues  
6 in October, September/October of 2020. There was  
7 no one currently employed by Envirolink at that  
8 time, in my opinion and from my observation and  
9 from the people I've spoken to, that had any idea  
10 what to do when the system started to cascade  
11 into a failure. They didn't know how to de-water  
12 lines. They didn't know how to handle the  
13 problem. And when it totally went down and all  
14 these lines filled with water, that was the  
15 catastrophic failure. And it took many weeks and  
16 the assistance from Envirolink -- from FloVac and  
17 AirVac, the major manufacturers of the systems,  
18 to help to bring that system back up again.

19 When the -- I'm going to call  
20 it -- when the autopsy was done on that, I was  
21 able to get possession of, and I believe Public  
22 Staff also has, the field reports that were  
23 issued by the engineers that came to the  
24 community in October of 2020 and I think early



1 November of 2020. They helped them get the  
2 system back up and determined what they could do  
3 to keep it from catastrophically failing again.

4 The field reports that I've read  
5 were while we know the system was old and we know  
6 we had old valves and old controllers, instead of  
7 being rebuilt to maintain on a regular basis,  
8 they were waiting until they failed and then they  
9 were replacing them. So that was working. It's  
10 not the way to do it but that was working.

11 All of a sudden we had a situation  
12 where we had people that didn't know how to  
13 rebuild those controllers. They didn't know how  
14 to rebuild those valves. They didn't know what  
15 to do when they went to a failed pit. They  
16 didn't know how to time the controllers or didn't  
17 seem to.

18 These field reports concentrated  
19 on what was going on at the plant, what was going  
20 on in the pumps. Earlier on, someone was also  
21 asked do they know what caused that failure in  
22 2015, and they mentioned that well they knew one  
23 of the pumps went down. Well, those field  
24 reports told what happened. It was one thing

1 after another. Oil and pumps hadn't been  
2 changed, filter screens and the vacuum pumps were  
3 totally clogged up to where it was only a  
4 pinhole.

5 There was attempts done to do  
6 electrical work in a panel without turning off  
7 the electricity. They shorted out a part. Just  
8 over and over again, there were items that were  
9 clearly caused by someone who had no idea  
10 whatsoever what to do to fix the problem.

11 If my car starts steaming under  
12 the hood, I'm going to pull off to the side of  
13 the road. They didn't seem to even know how to  
14 do that.

15 So, I'm not trying to throw anyone  
16 under the bus. I'm simply saying that when  
17 Envirolink took this system in, for a significant  
18 period of time afterwards they just didn't have  
19 the trained personnel or the ability apparently  
20 to train them, although it was offered by the  
21 FloVac and AirVac people both, they didn't have  
22 the people trained to properly analyze and  
23 logically determine what the problem was and how  
24 to fix it.

1                   So, I've carried on for quite a  
2 while on that piece. I'm not sure how much  
3 longer you want to hear me talk about these  
4 items.

5                   I will address, Susan did mention  
6 the communications issue. The communications  
7 issues: Initially, the HOA did try to help  
8 because we weren't getting in communication. We  
9 were getting zero. I am the vice president on  
10 the HOA Board. I have been on the Board since  
11 2015. And when we determined -- when the Board  
12 determined that the communications were so  
13 horrible, we tried to step in with our own email  
14 system and Facebook and tried to get information  
15 from Envirolink, which they often did give us,  
16 and we would try to disseminate that. But  
17 remember, an HOA is -- we are a five-member board  
18 who all have jobs and families.

19                   So, when a line would go down,  
20 they would finally let us know and it might be an  
21 hour after the fact. And if one of us wasn't in  
22 the station at that time to be able to send an  
23 email, we couldn't send it right away. Even if  
24 we did, often times by the time we communicated

1           that, that problem was past and another line was  
2           shut down.

3                        So Envirolink -- the HOA basically  
4           told Envirolink you need to handle this  
5           communications yourself. We are not able to do  
6           it in the proper fashion to do the best thing for  
7           our neighborhood. That's where the HOA got a  
8           little comment earlier on about us refusing to  
9           communicate with the neighborhood. We could not  
10          do it in an accurate fashion and we reverted back  
11          to telling Envirolink this is your job, not ours.  
12          We will do everything we can to help but we can't  
13          communicate the failures. You have to do that in  
14          a timely fashion.

15                       The -- what else did we have? I  
16          think -- I think -- I'm looking down my list now  
17          at the other items. The system life on the  
18          system, let me briefly touch on that. And again,  
19          cut me off if you need to at any time point in  
20          time.

21                       The -- well, let's do this, let's  
22          talk about the lifetime, very briefly about the  
23          lifetime of the system, as I said, a hundred  
24          years. We've heard, and it's been printed in

1 several bulletins and, in fact, on the last  
2 PowerPoint we got at the last town-hall that was  
3 done there was a number put in that our system  
4 only -- that the vacuum systems only last 10 to  
5 12 years. I cannot for the life of me figure out  
6 where they're coming up with this number. I  
7 believe the counsel for Envirolink mentioned that  
8 in his opening are statement that it was past its  
9 usable life. You know, it was installed around  
10 2000, and this thing is designed -- the pipes are  
11 designed to last a hundred years. The parts  
12 themselves, you know, the main moving parties and  
13 the pits we're discussing, there's two of them,  
14 there's a controller that if you buy, I think  
15 it's in the range of \$500, but these things can  
16 be rebuilt over and over again. There's \$35.00  
17 in parts to go in that controller and it takes  
18 much less than 30 minutes, in fact I was told  
19 probably 15 minutes to rebuild, and those do have  
20 to be done around 10 years.

21 So, that's the proper maintenance  
22 we're talking about. Not waiting for a  
23 controller to fail but going in after the 10-year  
24 mark and doing a general, just typical

1 maintenance on every controller.

2 The other movable part that fails  
3 in the pit, these too, is the valve that releases  
4 the sewage into the actual line itself. Same  
5 thing, the parts on that are about \$40.00 to  
6 rebuild it. They don't have to be rebuilt until  
7 about 15 years. And again, far less than 30  
8 minutes a technician climbing a bench to rebuild  
9 them.

10 So, I'm not sure I -- it is  
11 clearly misinformation, unless I am being told  
12 the wrong thing by the manufacturers over and  
13 over again, to say that this system has reached  
14 the end of its useful life. It has many years  
15 more to go if we do, however, have to do catch up  
16 on it. These parts have to be -- these pits have  
17 to be gone through, parts have to be replaced one  
18 at a time, and they all need to be looked at, and  
19 then you can move onto the next pit. Once that's  
20 done we have literally an as-new system.

21 The monitoring that's going into  
22 place now, the Consent Order has ordered a number  
23 of things and out of that Consent Order has come  
24 the pedestals which are being put behind a number

1 of the pits. Those pedestals are going to house  
2 the controller that fires the whole pit, getting  
3 it up -- number -- or gets it out of the water so  
4 it doesn't flood out when we do get rain, but it  
5 also allows -- the pedestal allows for the  
6 installation of a monitoring system on that  
7 individual pit that will allow the -- anyone who  
8 has the app on their phone to see when that pit's  
9 firing, how much it's firing, is it working  
10 properly, and if it goes down it tells them  
11 exactly what pit it is. Go to pit 108. This pit  
12 has failed.

13 So, the current vacuum system we  
14 have is -- where it is not functioning properly,  
15 because of lack of maintenance and now lack of  
16 operators who know how to fix a pit when they go  
17 there, it is not dead, it's not past its useful  
18 life, it simply needs rehabilitation.

19 CHAIR MITCHELL: Mr. Shephard, let me stop  
20 you there. You've said a lot in your testimony so I  
21 want to check in with counsel to see if there are  
22 questions for you.

23 THE WITNESS: Okay.

24 CHAIR MITCHELL: Mr. Finley?

1 MR. FINLEY: No questions so far.

2 CHAIR MITCHELL: Okay. Ms. Kemerait?

3 MS. KEMERAIT: No questions.

4 CHAIR MITCHELL: Public Staff?

5 MR. MAGARIRA: Yes, just a couple.

6 BY MR. MAGARIRA:

7 Q Mr. Shepherd, was there anything in your sort of  
8 oral testimony -- actually, let me reverse order  
9 of that question. Is there anything in the  
10 exhibit you initially were going to introduce  
11 that was not covered in your oral testimony?

12 A Yes, a fair bit.

13 CHAIR MITCHELL: Mr. Shepherd --  
14 Mr. Magarira, I'll stop you right there. Let's do  
15 this. Mr. Magarira, I'd like you to file  
16 Mr. Shepherd's exhibit in the record for this  
17 hearing, please, and let's mark that document as  
18 Public Witness Shepherd Exhibit 1, and so we'll get  
19 Mr. Shepherd's exhibit into the record.

20 MR. MAGARIRA: Thank you, Chair.

21 (WHEREUPON, Public Witness  
22 Shepherd Exhibit 1 was marked  
23 for identification and received  
24 into evidence.)



1 THE WITNESS: Thank you. And I would like  
2 to say with all that I said I just -- I obviously, I  
3 think I said I do oppose the sale right now. I  
4 supported the connection of the force main, but I  
5 oppose the sale at this point. I am familiar with the  
6 Consent Order and I would like to see the terms of  
7 that Consent Order carried out by Sandler at Mill Run  
8 before the sale is completed.

9 CHAIR MITCHELL: I believe we've lost  
10 Mr. Magarira.

11 MR. MAGARIRA: Sorry.

12 CHAIR MITCHELL: Okay.

13 MR. MAGARIRA: I think in those last two or  
14 your last couple of remarks, I think you addressed  
15 sort of the follow-up questions I was going to ask, so  
16 nothing further from me.

17 EXAMINATION BY CHAIR MITCHELL:

18 Q Mr. Shepheard, thank you very much for your  
19 testimony tonight. You obviously have covered a  
20 lot of ground and I appreciate your thoroughness.  
21 Your last comments, you oppose the sale and you  
22 want to see the terms of the Consent Order  
23 carried out by Sandler Mill. Do you have --  
24 based on your experience so far, do you have

1 confidence that Sandler Mill can carry out the  
2 terms of the Consent Order?

3 A The current -- the installation of the current  
4 pedestals and equipment that's going in is being  
5 done by FloVac Corporation. So, it's being done  
6 by the people who manufacture the parts. They  
7 know exactly how to do it. As long as Sandler  
8 continues to provide the funds to make those  
9 parts available, FloVac will have people out here  
10 and they will be putting those parts in place.  
11 So, I do have -- I have full confidence in it  
12 being done as long as it's under the  
13 administration of either FloVac or AirVac  
14 Corporations.

15 CHAIR MITCHELL: Okay. Again, thank you,  
16 sir, for your testimony. Let me check in with  
17 Commissioner Duffley to see if she has questions for  
18 you.

19 COMMISSIONER DUFFLEY: No questions.

20 CHAIR MITCHELL: Commissioner Hughes,  
21 questions for the witness?

22 COMMISSIONER HUGHES: No. I just thank him  
23 for covering so much ground.

24 CHAIR MITCHELL: Mr. Shephard, thank you

1 very much for being here with us tonight.

2 THE WITNESS: Thank you.

3 (The witness is excused)

4 CHAIR MITCHELL: Mr. McCoy, would you please  
5 unmute the next witness?

6 (Pause).

7 Mr. McCoy?

8 MR. McCOY: It looks like no answer to this  
9 one. I'm going to move to the next one.

10 CHAIR MITCHELL: Okay.

11 MR. HUTSON: Yes, James Hutson.

12 JAMES HUTSON;

13 having been duly affirmed,

14 testified as follows:

15 CHAIR MITCHELL: Mr. Magarira, take it away.

16 DIRECT EXAMINATION BY MR. HUTSON:

17 Q Mr. Hutson, could you state your full name for  
18 the record?

19 A Yes, sir. James Aaron Hutson.

20 Q Thank you. What is your address?

21 A 254 Green View Road, Moyock, North Carolina.

22 Q Thank you. And are you a customer of Sandler  
23 Utilities?

24 A Yes, sir, I am.

1 Q Please proceed with your testimony.

2 A Before I begin, I would like to thank the board  
3 and counsel for allowing me and my fellow  
4 residents to give our testimony concerning these  
5 proceedings. I can't really add a whole lot to  
6 what's already been said, especially  
7 Mr. Shepheard's testimony was very succinct and  
8 captured, in my opinion, everything that we've  
9 experienced since this whole thing started.

10 The only thing I would add is our  
11 home began experiencing problems in 2016 in the  
12 wake of Hurricane Matthew. We haven't  
13 experienced a backup per se; however, but similar  
14 to Ms. Power's, we have -- we have experienced  
15 sewage in the pit, limited water hours, et  
16 cetera, due to the outages.

17 My concern has to do with the  
18 transaction with Currituck Water and Sewer. I  
19 don't have data in front of me. I have been  
20 doing a lot of research on my own concerning  
21 this. But similar to my fellow residents as have  
22 already testified, my concern is a deep and grave  
23 worry over whether or not a gravity system is  
24 adequate to replace what we have. And I am in

1 complete agreement with Mr. Shepherd that if the  
2 existing system were properly maintained we would  
3 not be in the situation that we're in.

4 The research I've done has shown  
5 that given the strata -- I'm not a geologist.  
6 I'm an analyst, but I'm not a geologist. The  
7 strata that the neighborhood is built in, a  
8 combination of fill and solid layers with a high  
9 water table, lends itself to a vacuum system for  
10 sewage management for a number of reasons outside  
11 of the one that I just mentioned. Also, we  
12 experience seasonal flooding in the back of the  
13 neighborhood. And some homes do experience water  
14 in their garages, et cetera, that kind of thing.  
15 And this exacerbates the existing issues with the  
16 sewer.

17 Now whether or not, you know, it  
18 is gravity ideal, no; from everything I've seen  
19 absolutely not. The neighborhood is at sea  
20 level. When the water does come in, when we do  
21 experience flooding it has no where to go. So, if  
22 the system were maintained as it should have  
23 been, then I have no doubt that we would be in  
24 the situation that we're in.

1                   But outside of that, I mean, I  
2                   don't really have too much to add. I mean, the  
3                   testimony of those that went before me have  
4                   pretty much captured everything that I was going  
5                   to say and the sentiments that I have and my wife  
6                   have. I mean, not too much I can really say to  
7                   follow that it up other than, like I had  
8                   mentioned, a grave concern about a gravity system  
9                   being put in. And everything that I've read  
10                  would speak against that.

11                  And I actually have a 36-page  
12                  report that I did up on my own that I would be  
13                  more than glad to send to anyone on the board if  
14                  it was -- if it has a place, if I could do that,  
15                  if I am allowed to do that. And, but outside of  
16                  that, as I mentioned, I have nothing else really  
17                  to add. I'm available for questions.

18                  CHAIR MITCHELL: Thank you, Mr. Hutson. Let  
19                  me check in with counsel to see if there are questions  
20                  for you. Mr. Finley?

21                  MR. FINLEY: No questions.

22                  CHAIR MITCHELL: Ms. Kemerait?

23                  MS. KEMERAIT: No questions for Mr. Hutson.

24                  CHAIR MITCHELL: Public Staff?

1 MR. MAGARIRA: Just a couple.

2 BY MR. MAGARIRA:

3 Q Mr. Hutson, how long have you been in your  
4 current house?

5 A Since April 2007.

6 Q April 2007?

7 A Yes, sir.

8 Q Okay. And I think I heard you say that you have  
9 not had any issues of sewer. Let me see what I  
10 have here specifically so I'm not misquoting you.  
11 I think I have here that you don't have really  
12 too many issues with like sewer backflow I should  
13 say, per se, but I just wanted to verify/confirm  
14 that.

15 A No, sir, no backflow. However, our pit filled --  
16 every time we have a decent heavy rain or the pat  
17 (sic) will -- the pit will fill up. We've  
18 experienced those issues. Again, fortunately  
19 nothing backing up into the home. But, yeah,  
20 definitely raw sewage in the ditches between the  
21 home and in front of the home.

22 Q And when you've had some of these issues have you  
23 contacted Sandler just to sort of alert them of  
24 the issue and have it be remedied?

1 A No, sir, we haven't. And Ms. Powers mentioned  
2 earlier, you know, the social network in the  
3 neighborhood, most of the information that I and  
4 my wife receive has been word of mouth, that or  
5 via Facebook, the neighborhood web page.

6 If we have one home that will back  
7 up, it's been my experience that we will refer to  
8 that because then they'll determine water hours,  
9 et cetera. That kind of thing. You know, how  
10 bad the outage is. You know, what contingencies  
11 are in place on the part of Envirolink/Sandler to  
12 try to mitigate any kind of damage in that  
13 respect.

14 So, yes, 2020, we did experience  
15 water hours, a limited use of water, very limited  
16 use of water I might add, which impacted the  
17 ability to do laundry, wash dishes, et cetera.  
18 And it was, needless to say, an inconvenience but  
19 more-so for the homes that have children. Our  
20 three are out of the home, but for anyone that  
21 has small ones it's beyond an inconvenience at  
22 that point. That's a quality of life issue.  
23 But, yes, fortunately no backup into the home.

24 Q Thank you. And have you observed, noticed any



1 differences in the performance of the system  
2 since Envirolink became operator in 2020?

3 A Yes. I mean, as I mentioned earlier,  
4 Mr. Shephard captured everything pretty much  
5 that I was going to say in regards to that. And  
6 I believe that, again my opinion only, I believe  
7 that they are kind of hitting it harder because  
8 the sale is at stake and they want to put the  
9 best foot forward. Again, that is opinion only.  
10 And I have series of suspicions behind that but I  
11 don't feel that that has a place in these  
12 proceedings. So outside of that I have nothing  
13 else to add to that point.

14 Q Okay. And a last few questions. Have you heard  
15 of the amended Consent Judgment involving  
16 Sandler?

17 A Yes, sir, I have. And I am in agreement with the  
18 other residents as far as how they feel that this  
19 thing should go, a hundred percent in agreement.  
20 I think it should be reviewed and it should not  
21 will be able to proceed.

22 Q Okay.

23 MR. MAGARIRA: No further questions.

24 CHAIR MITCHELL: Mr. Hutson, let me see if

1 there are questions for you from the Commissioners.  
2 Commissioner Duffley?

3 COMMISSIONER DUFFLEY: Yes.

4 EXAMINATION BY COMMISSIONER DUFFLEY:

5 Q Mr. Hutson, thank you for your testimony. You  
6 mentioned that you prepared a 30-page report, and  
7 I would be interested in reviewing your report,  
8 so if you could work with Public Staff.

9 COMMISSIONER DUFFLEY: And Mr. Magarira, I  
10 didn't want to put you on the spot but if you could  
11 work with him and have that filed as a late-filed  
12 exhibit.

13 THE WITNESS: Yes, ma'am.

14 MR. MAGARIRA: Will do, Commissioner  
15 Duffley.

16 CHAIR MITCHELL: Mr. Magarira, we will mark  
17 that exhibit as Public Witness Hutson Exhibit 1.

18 (WHEREUPON, Public Witness Hutson  
19 Exhibit 1 is marked for  
20 identification.)

21 CHAIR MITCHELL: Commissioner Duffley,  
22 anything further? Thank you. Commissioner Hughes?

23 COMMISSIONER HUGHES: No. Thank you.

24 CHAIR MITCHELL: Mr. Hutson, thank you very

1 much for your -- for being here with us tonight and  
2 for your testimony. You may step down, sir.

3 THE WITNESS: Well, thank you again.

4 (The witness is excused)

5 CHAIR MITCHELL: Mr. McCoy, let's try one  
6 more time for Ms. Price. Let's see if she's on the  
7 line.

8 (Pause).

9 Did you receive any response, Mr. McCoy?

10 (Pause).

11 Is there someone on the line?

12 (Pause).

13 All right. Well, I do not hear a witness on  
14 the line, so I will conclude that Ms. Price is  
15 unavailable to testify tonight.

16 So, we've come to the end of our list.  
17 Mr. McCoy, I'll just have you confirm that there are  
18 no additional participants tonight.

19 MR. McCOY: No, there are not. That's it.

20 CHAIR MITCHELL: Thank you, sir. With that,  
21 thank you very much everybody for your participation.  
22 I'll check in with counsel to see if there are any  
23 matters we need to address before we adjourn. I'm not  
24 hearing any.

1           MR. FINLEY: Well, there are no matters that  
2 we need to discuss, but I assume the Commission's  
3 practice will be to request reports from the Companies  
4 on the positions that the witnesses have made at the  
5 public hearings?

6           CHAIR MITCHELL: We will do that. We will  
7 do that and we may do it by Order, but you might as  
8 well go ahead and get started on those reports.

9           MR. FINLEY: We'll do.

10          MS. KEMERAIT: Chair Mitchell, I believe  
11 that that's covered in the Procedural Order that had  
12 already been issued. There's a deadline for the  
13 report.

14          CHAIR MITCHELL: And it may be that we issue  
15 a follow-up Order, so just stay tuned.

16                   Anything further before we adjourn?

17                   (Pause).

18                   Thank you very much, everybody, for your  
19 participation tonight, and we will be adjourned.

20 Let's go off the record, please.

21                   (The proceedings were adjourned)

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C E R T I F I C A T E

I, KIM T. MITCHELL, DO HEREBY CERTIFY that  
the Proceedings in the above-captioned matter were  
taken before me, that I did report in stenographic  
shorthand the Proceedings set forth herein, and the  
foregoing pages are a true and correct transcription  
to the best of my ability.

Kim T. Mitchell

Kim T. Mitchell