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April 22, 2002

Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

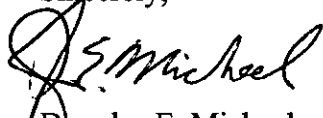
**RE: Laclede Gas Company,
Case No. GA-2002-429**

Dear Mr. Roberts:

Enclosed for filing in the above referenced case, please find the original and 8 copies of **Public Counsel's Reply to Laclede Gas Company's Reply to Public Counsel's Response in Opposition to Motion to Strike**. Please "file stamp" the extra-enclosed copy and return it to this office. I have on this date mailed, faxed, or hand-delivered the appropriate number of copies to all counsel of record.

Thank you for your attention to this matter.

Sincerely,


Douglas E. Micheel
Senior Public Counsel

DEM:kh

cc: Counsel of record

Enclosure

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the matter of the Application of Laclede)
Gas Company for an accounting authority)
order authorizing the company to defer for)
future recovery consideration its just and)
reasonable costs of providing public)
utility service that would otherwise be)
unrecovered due solely to the extraordinary)
impact of record warm weather on the)
company's operations.)

Case No. GA-2002-429

**PUBLIC COUNSEL'S REPLY TO LACLEDE GAS COMPANY'S
REPLY TO PUBLIC COUNSEL'S RESPONSE IN OPPOSITION
TO MOTION TO STRIKE**

COMES NOW the Office of the Public Counsel ("Public Counsel") and for its
Reply To Laclede Gas Company's Reply To Public Counsel's Response In Opposition
To Motion To Strike states as follows:

1. Public Counsel opposes Laclede's request to strike Public Counsel's
Motion To Dismiss. Public Counsel also opposes Laclede's proposal to effectively
amend the standard protective order to require a party to first consult with the party that
has designated any amount, percentage, or other specific figure before a party may
disclose any quantification of that specific figure or convey the nature or substance of any
specific factual matter that has been designated highly confidential or proprietary. Public
Counsel suggests that Laclede's proposed modifications are vague, unreasonable and
unfairly deprives Public Counsel of the ability to generally advise the public regarding
the general nature, scope and magnitude of utility proposals. Laclede's proposal throws a
broad blanket of secrecy over general non-specific information when it has designated

only narrow specific information as highly confidential or proprietary. Laclede's attempt to throttle the state policy for open Public Service Commission records goes far beyond the reasonable need for confidential treatment of utility financial records.

2. Public Counsel wants to remind the Commission that the issue squarely before it is whether or not Public Counsel violated Section 386.480 and the Protective Order issued **in this proceeding**. Public Counsel **did not** disclose the number designated by Laclede as proprietary. Public Counsel wants to make clear to the Commission that the protected information that Laclede alleges Public Counsel illegally made public in its March 21, 2002 press release can be found in the **public record** in Case No. GR-2002-356. In paragraph 10 of its Verified Application Laclede states in pertinent part "[p]ut another way, such an amount [the alleged proprietary amount of Laclede's request] approximates the expenditures which the Company must make on an annual basis to replace 8,000 copper services lines pursuant to its cooper service replacement program and to complete virtually all of its other mandated pipeline replacement work." Laclede identifies the magnitude or approximate amount of the specific dollar amount designated as proprietary. In the **public** testimony of Laclede witness Craig R. Hoeferlin in GR-2002-356 filed on January 25, 2002 witness Hoeferlin discloses that Laclede expends \$11.7 million per year on its copper service line replacement program and other mandated pipeline replacement work. The filed public testimony of Mr. Hoeferlin in GR-2002-356 identifies the issues he covers as "Capital Costs of Mandated Replacement Programs and Removal of Natural Gas Holders." The following question and answer appears on page 2, lines 14 through 18 of Mr. Hoeferlin's public testimony:

Q. Does Laclede Gas Company incur capital expenses to comply with replacement programs mandated by the Missouri Public Service Commission?

A. Yes, Laclede Gas Company incurs about \$11.7 million per year in capital expenses to comply with replacement programs mandated by the Missouri Public Service Commission.

(Attached as Attachment 1 is a complete certified copy of Mr. Hoeferlin's Direct Testimony in GR-2002-356). The public disclosure of information that closely approximates the specific protected figure contradicts Laclede's claim in its Motion For Protective Order filed in this proceeding that "[n]one of the information for which Laclede seeks protection can be found in **any format in any other public document.**" (§ 2 emphasis added).

3. Mr. Hoeferlin's public testimony in GR-2002-356 clearly describes that Laclede spends \$11.7 million per year to comply with Commission mandated replacement programs. Laclede affirmatively stated at paragraph 10 of its Verified Application that the amount Laclede spends on Commission mandated replacement programs "approximates" the amount Laclede seeks to defer in this proceeding. Laclede's own public filings disclose the approximate amount of the protected figure. Public Counsel has not disclosed the specific amount and certainly has not disclosed an approximate amount of the protected figure anywhere to the specificity as Laclede did.

4. Laclede now seeks to punish Public Counsel for the alleged disclosure of proprietary information, when specific information that Laclede admits "approximates" the amount it seeks to defer in this proceeding already exists in the **public record**. This public information was available to Public Counsel and was available for use as a basis for Public Counsel's press release statement that Laclede is "seeking to defer over \$10

million for recovery in Laclede's pending rate case . . ." Based upon this publicly available information, Public Counsel was well within its rights to issue a press release stating Laclede was seeking to defer over \$10 million. As one court observed ". . . there are two commonsense policy reasons for not punishing someone for divulging information identical to that contained in a public source. One, it would be inherently unfair, and two, it would be too difficult, when considering sanctions for disclosure, to determine which source – public or protected – was used." Grove Fresh Distribs. v. John Labatt Ltd., 888 F. Supp. 1427, 1442-43 (N.D. Illinois 1995). The United States Supreme Court noted in Seattle Times Co. v. Rhinehart, 467 U.S. 20, 37, 81 L.Ed2d 17, 104 S.Ct. 2199 (1984) that a protective order cannot restrict the dissemination of information gained from public sources.

5. Laclede by its own statements contained in paragraph 10 of its Verified Application affirmatively identifies a specific amount that, to use Laclede's terms, "closely approximated" the amount Laclede seeks to recover in this proceeding. Public Counsel cannot be criticized or sanctioned for disclosing protected information when Laclede itself in a **public document** had previously affirmatively identified a specific figure that closely approximated one that Laclede claims is proprietary. Public Counsel would have been well within the scope of Section 386.480 and the Protective Order to parrot the same language used by Laclede in its public document. Out of an abundance of caution Public Counsel chose to give an order of magnitude as opposed to the specific number revealed by Mr. Hoeferlin's testimony of approximately \$11.7 million. This was the amount clearly disclosed in the public testimony of Laclede witness Hoeferlin in GR-

2002-356.¹ Such public disclosure by Laclede alerts the financial community, Public Counsel, the press, and any member of the public with respect to the magnitude of Laclede's request. It would be unfair and unreasonable to rebuke Public Counsel for generally referring to the degree of magnitude that has been confirmed by Laclede's own public document.

6. Simply put, Public Counsel stated a general description of the order of magnitude, that order of magnitude was based upon a public number that Laclede admits "approximates" the amount Laclede seeks to recover in this proceeding. Public Counsel has not violated either the letter or the spirit of the Protective Order or Section 386.480 in this proceeding. Indeed, in light of the fact that a specific number as affirmatively identified by Laclede in paragraph 10 of its Verified Application is squarely within the public domain, one must wonder why Laclede represented to this Commission in its Motion For Protective Order that "[n]one of the information for which Laclede seeks protection can be found in any format in any other public document." (Motion Protective Order ¶ 2).

7. Notwithstanding the fact that Laclede has publicly identified a number that closely approximates the amount it alleges is proprietary in a public document, Public Counsel wishes to respond to the assertions Laclede has made in its Reply regarding Public Counsel's obligations pursuant to the standard protective order.

8. At paragraph 3 of its Reply, Laclede implies that the protective order does not allow Public Counsel to provide an "order of magnitude" estimate of the numbers deemed proprietary by Laclede. Apparently this interpretation of the protective order

¹ Public Counsel did not disclose the specific number contained in paragraph 10 of Laclede's Verified Application.

does not apply to Laclede. Paragraph 10 of Laclede's Verified Application contains estimates of the amount Laclede seeks to recover and suggests the magnitude of Laclede's request. Specifically, footnote 2 notes that the amount exceeds the five percent of income standard set forth in the USOA by multiple times. Five percent of Laclede's income from fiscal year 2001 ranges from approximately \$1.5 million to \$2.25 million depending upon which income amount one uses to calculate the five percent income standard.² Then Laclede relates in footnote 2 that Laclede's request is higher by some multiple than the five percent threshold amount. This indication further provides an order of magnitude to Laclede's request. Moreover, Laclede affirmatively tells the public the amount "approximates the expenditures" to comply with Commission mandated pipeline replacement work. As discussed earlier, Laclede spends \$11.7 million per year to comply with Commission mandated replacement programs according to the public testimony of Craig R. Hoeferlin in GR-2002-356. This affirmative statement by Laclede demonstrates Public Counsel's belief that it is common practice before the Commission to utilize an "order of magnitude" number when discussing specific numbers designed proprietary or highly confidential. Laclede engages in the practice in its Verified Application.

9. Laclede's example in paragraph 4 of its Reply proves nothing. First, rather than applying some hypothetical facts to this matter the Commission should focus on the specific facts of this alleged illegal disclosure of proprietary information by Public Counsel. Second, in Laclede's example the fact that the hypothetical gas supply contract was "below the prevailing market price" would be proprietary or highly confidential. This would wholly prevent Public Counsel from commenting on the matter because the

² Laclede's 2001 Annual Report indicates Laclede had \$30,472,000 net income and \$45,308,000 income before income taxes in fiscal year 2001.

fact the contract was “below market price” would be a protected term. The fact situation in Laclede’s example is in stark contrast to the facts presented in this proceeding. Laclede sought **only** to protect a specific number and its own Verified Application contains numerous public estimates regarding the order of magnitude of Laclede’s request and specifically identifies an amount that “approximates” the amount Laclede is seeking to recover in this proceeding.

10. At paragraph 5 of its Reply, Laclede asserts Public Counsel has offered a “narrow interpretation of what constitutes disclosure” of protected information. What Laclede does not say is that Public Counsel’s interpretation is based upon the clear and unambiguous language contained in paragraph G of the standard protective order that states “[i]n filing testimony all parties shall designate as Highly Confidential or Proprietary **only** those portions of their testimony which contain information so designated by the furnishing party.” (emphasis added) Public Counsel’s interpretation of the protective order is not “tortured” as alleged by Laclede. Laclede by its interpretation of the Protective Order attempts to create ambiguity where none exists. Laclede’s interpretation of the protective order flies in the face of the public policy of the State of Missouri that public records and proceedings should be open to the public.

11. Moreover, Laclede’s own Verified Application belies Laclede’s claim that the protective order should be broadly construed. If that were the case, Laclede’s Verified Application would be contrary to the Protective Order because it suggests in a “ballpark” manner, what the nature or magnitude of the information sought to be protected is. Protective orders or any order restricting information should be strictly construed. As one court noted courts must “. . . read court decrees to mean rather

precisely what they say. Decrees must ‘be specific,’ they must ‘describe in reasonable detail’ just what ‘acts’ they forbid. These specificity requirements are not ‘merely technical’ but are ‘designed to prevent uncertainty and confusion . . .’ NBA Properties, Inc. v. Gold, 895 F.2d 30, 32 (1st Cir. 1990). In this proceeding, the protective order requires a party to designate “**only** those portions of their testimony which contain information so designated by the furnishing party.” Public Counsel has not disclosed the specific information Laclede has designated as proprietary. Laclede essentially requests the Commission to interpret the word “only” appearing in paragraph G of the protective order to mean not just the specific item protected but any item Laclede deems that might be close in Laclede’s opinion. Simply put, Laclede’s interpretation of the protective order effectively reads the word “only” out of paragraph G.

12. In footnote two in its Reply Laclede asserts that “the use of an approximation can be even more damaging than the disclosure of the exact amount.” Of course, this criticism is not unique to Public Counsel’s approximation. Laclede also provided an open-ended approximation of the amount it seeks to recover in its Verified Application by noting that the amount it was seeking was some multiple higher than 5% of income. The financial community and the public were left to wonder if the multiple was five, ten, fifteen, twenty or more times than Laclede’s earnings. Laclede’s own filing gives the impression that its request is “significant but may be far worse.”

13. Contrary to Laclede’s claim in paragraph 6 of its Reply, Public Counsel is not attempting to “eviscerate the Commission’s role” in sanctioning inappropriate disclosure of information obtained from discovery. Public Counsel merely pointed out that the matter at issue is **not** an alleged violation of the discovery rules, a fact Laclede

admits in its Motion To Strike “[w]hen such a breach of a Commission order is committed in a discovery context, which is the most analogous to the instant situation . . .” (§ 5 Motion To Strike). Since the alleged violation is not a discovery violation, it would be inappropriate to use 4 CSR 240-2.090(1) to sanction Public Counsel. Section 386.480 provides Laclede a remedy. The Commission is a creature of statute and can only function in accordance with statutes. Where a procedure before the Commission is presubscribed by statute, the procedure must be followed. State ex rel. Monsanto Company v. Public Service Commission, 716, S.W.2d 791, 796 (Mo. banc 1986).

14. Laclede’s citations to State ex rel. Arkansas Power & Light Company v. Public Service Commission, 736 S.W.2d 457 (Mo. App. 1987) and Re: Southwestern Bell, 6 Mo.P.S.C.3d 493 (1997) are distinguished from this proceeding because both of those matters had to do with discovery issues. Public Counsel fully believes the Commission has authority in discovery matters to sanction parties. Public Counsel does not believe this is a discovery matter. The Legislature has already provided Laclede with a remedy for any alleged disclosure of proprietary information and that remedy does not lie with the Commission.³

15. The Commission should also reject Laclede’s attempt to engraft new and unnecessary restrictions on the use of information set-out in paragraph 11 of its Reply. First, if Laclede seeks to change the language or meaning of the standard protective order it should seek those changes in a generic case or a rulemaking docket. The Commission should not alter the language or meaning of the standard protective order without input from all stakeholders. Second, Laclede’s request is unnecessary in this proceeding.

³ Given Laclede’s public disclosure of an amount that closely approximates the alleged proprietary number, Public Counsel can understand Laclede’s hesitancy with enforcing its claim pursuant to Section 386.480.

Public Counsel did not violate either the standard protective order or Section 386.480 in this proceeding. Finally, such a radical proposal would hamper Public Counsel's ability to communicate with its clients. As the United States Seventh Circuit has noted:

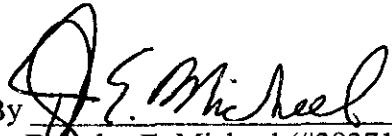
. . . , in our present society many important social issues became entangled to some degree in civil litigation. Indeed, certain civil suits may be instigated for the very purpose of gaining information for the public. Often actions are brought on behalf of the public interest on a private attorney general theory. Civil litigation in general often exposes the need for governmental action or correction. Such revelations should not be kept from the public. Yet it is normally only the attorney who will have this knowledge or realize its significance Therefore, we should be extremely skeptical about any rule that silences that voice.

Chicago Council of Lawyers v. Bauer, 522 F.2d 242, 258 (7th Cir. 1975) cert denied, 427 U.S. 912, 96 S.Ct. 3201, 49 L.Ed. 1204 (1976). Laclede has proposed vague, unreasonable, and unneeded modifications to the standard protective order in a thinly veiled attempt to muzzle Public Counsel in its ability to generally advise the public regarding the general nature, scope and magnitude of utility proposals. The Commission should flatly reject this request.

WHEREFORE, the Commission should overrule Laclede's Motion To Strike Public Counsel's Motion To Dismiss and reject Laclede's proposed modifications to the standard protective order.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

By 
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(573) 751-5562 (Fax)
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed or hand-delivered
to the following counsel of record on this 22nd day of April, 2002.

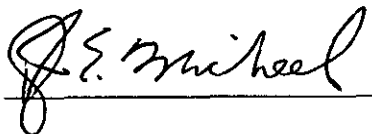
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Lisa C. Langeneckert, Esq.
720 Olive Street, Suite 2400
St. Louis, MO 63101




STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and
I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City,
Missouri, this 15th day of April 2002 .



Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Attachment 1

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED³

JAN 25 2002

Missouri Public
Service Commission

In the Matter of Laclede Gas Company's)
Tariff Sheets Designed to Increase)
Rates for Gas Service Provided to) Case No. GR-2002-356
Customers in the Missouri Service Area)
of the Company.)

AFFIDAVIT

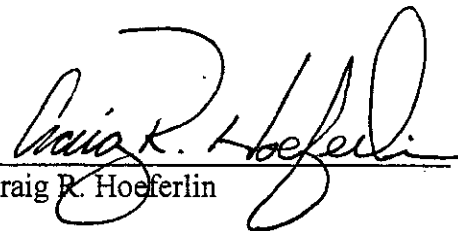
STATE OF MISSOURI)
) SS.
CITY OF ST. LOUIS)

Craig R. Hoeflerlin, of lawful age, being first duly sworn, deposes and states:

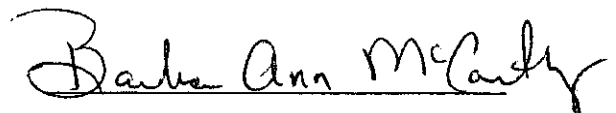
1. My name is Craig R. Hoeflerlin. My business address is 3950 Forest Park Avenue, St. Louis, Missouri 63108; and I am Vice President-Operations.

2. Attached hereto and made a part hereof for all purposes is my direct testimony, consisting of pages 1 to 12, inclusive.

3. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded and the information contained in the attached schedules is true and correct to the best of my knowledge and belief.


Craig R. Hoeflerlin

Subscribed and sworn to before me this 24th day of January 2002.



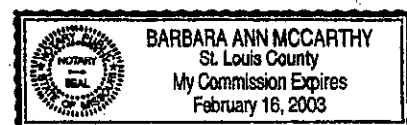


Exhibit No.:

Issue:

Capital Costs of
Mandated Replacement
Programs and Removal of Natural
Gas Holders

Witness:

Type of Exhibit:

Sponsoring Party:

Case No.:

Craig R. Hoeferlin

Direct Testimony

Laclede Gas Company

GR-2002-356

LACLEDE GAS COMPANY

GR-2002-356

DIRECT TESTIMONY

OF

CRAIG R. HOEFERLIN

Direct Testimony of Craig R. Hoeflerlin

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DIRECT TESTIMONY OF CRAIG R. HOEFERLIN

General Information/Qualifications

1 Q. Please state your name and business address.

2 A. My name is Craig R. Hoeflerlin, and my business address is 3950 Forest Park
3 Avenue, St. Louis, Missouri 63108.

4 Q. By whom are you employed and in what capacity?

5 A. I am Vice President-Operations of Laclede Gas Company ("Laclede" or
6 "Company").

7 Q. How long have you held this position, and would you briefly describe your
8 duties?

9 A. I was appointed to this position on July 1, 2001.

10 In this capacity I manage the entire range of Company operations functions,
11 including construction and maintenance, service and installation, customer
12 relations, engineering, transportation, gas supply and control, and the Missouri
13 Natural Division.

14 Q. What is your educational background?

15 A. I received a Bachelor of Science Degree in Chemical Engineering in 1984 from
16 the University of Missouri-Columbia.

17 Q. Please describe your experience with Laclede.

18 A. I have been continuously employed by Laclede since June 1984. Prior to my
19 current position, I held a variety of positions in the Engineering, Gas Supply and
20 Control, and Construction and Maintenance Departments.

21 Q. Have you previously testified before this Commission?

1 A. Yes, I have. I testified in Case Nos. GR-98-374, GR-99-315 and GR-2001-629.

2 **Mandated Replacement Programs**

3 Q. What is the purpose of this portion of your testimony in this proceeding?

4 A. This portion of my testimony will provide a general
5 explanation of the capital costs Laclede Gas Company incurs in carrying out
6 replacement programs mandated by the Missouri Public Service Commission. I
7 am furnishing this information as background for the Company's proposed
8 treatment of mandated replacement costs that have been incurred and which
9 Laclede anticipates will be incurred in the future.

10 Q. Does any other Company witness address this issue?

11 A. Yes. Company witness J. A. Fallert is sponsoring the accounting treatment
12 concerning mandated replacement costs incurred by the Company and its request
13 for future accounting treatment.

14 Q. Does Laclede Gas Company incur capital expenses to comply with replacement
15 programs mandated by the Missouri Public Service Commission?

16 A. Yes, Laclede Gas Company incurs about \$11.7 million per year in capital
17 expenses to comply with replacement programs mandated by the Missouri Public
18 Service Commission.

19 Q. Please list the mandated replacement programs.

20 A. The mandated replacement programs are listed on Schedule CRH-1. The
21 mandated capital programs include: (A) the cast iron replacement; (B) the
22 unprotected bare steel main replacement program; (C) the unprotected bare steel

1 service replacement program; (D) the direct buried copper service replacement
2 program; and (E) the annual bar hole survey of those services.

3 Q. What is the basis for the cast iron replacement program?

4 A. The cast iron replacement program was mandated by 4 CSR 240-40.030(15)(D)
5 and Case No. GO-91-275. At the time of its inception, the Cast Iron Replacement
6 Program contained six Specific Priority Replacement Categories briefly described
7 below:

Category Code	Required Replacement	Description
C1	10/1/94	6-inch Medium Pressure in areas of wall to wall pavement
C2	10/1/96	Low Pressure, 3 break areas with 1 occurring since 1983
C3	10/1/98	6-inch Medium Pressure in areas of concentrations of general public
C4	10/1/01	Low Pressure, 2 break areas with 1 occurring since 1983
C5	10/1/01	Low Pressure, 3 break areas all occurring prior to 1983
C6	10/1/03	All remaining areas of 6-inch Medium Pressure

8
9 Additionally, Ongoing Replacement Categories were defined as follows:

Category Code	Required Replacement	Description
C7	Within 3 years of discovery	Low Pressure, 2 break areas with the discovery of third break
C8	Within 5 years of discovery	Low Pressure, 1 break areas with the discovery of second break
C9	As required	Areas of extensive excavation, blasting or construction
D1	As required	Areas defined by 4 CSR 240-40.030(13)(Z)
D2	As required	Unspecified newly identified priority replacement areas

10
11 The Company has completed the Specific Priority Replacement Category C1, C2,

1 C3, C4, and C5 replacements. The Company is in compliance with the
2 replacement requirements for Specific Priority Replacement Category C6, and
3 Ongoing Replacement Categories C7 and C8. In addition, the Company
4 continues to track and schedule for replacement, where practical, cast iron main
5 replacements that were defined in the Long-Term Replacement Program. These
6 areas include low pressure areas with two existing breaks which occurred prior to
7 1983, low pressure areas with one break since 1983, six-inch and smaller low
8 pressure mains under wall to wall pavement, and sections which demonstrate
9 significant graphitization. The replacements completed in fiscal year 2001 and
10 the replacements anticipated for fiscal years 2002, 2003, 2004, and 2005 are
11 shown in Schedule CRH-1.

12 Q. What levels of capital expenditures by the Company are required to comply with
13 the mandated cast iron replacements?

14 A. The capital expenditures associated with the mandated replacements under the
15 cast iron replacement program are shown in Schedule CRH-1. The Company
16 anticipates spending \$1.3 million, \$1.3 million, \$1.3 million, and \$1.4 million
17 respectively for the fiscal years 2002, 2003, 2004, and 2005.

18 Q. What is the basis for the unprotected bare steel main replacement program?

19 A. The bare steel main replacement program was mandated in 4 CSR 240-
20 40.030(15)(E) and Case No. GO-91-239. The schedule set forth in Case No.
21 GO 91-239 required replacement of 20,000 feet per year based on leak history and
22 1,800 feet per year based on wall-to-wall pavement and areas of high
23 concentration of the general public through fiscal year 1998. The Company has

1 continued replacements at that rate. The replacements completed in fiscal year
2 2001 and the replacements planned for fiscal years 2002, 2003, and 2004, and
3 2005 are shown in Schedule CRH-1.

4 Q. What levels of capital expenditures by the Company are required to comply with
5 the mandated bare steel main replacements?

6 A. The capital expenditures associated with the mandated replacements under the
7 bare steel main replacement program are shown in Schedule CRH-1. The
8 Company anticipates having to spend \$1.0 million, \$1.1 million, \$1.1 million, and
9 \$1.1 million respectively for fiscal years 2002, 2003, 2004, and 2005.

10 Q. What is the basis for the unprotected bare steel service replacement program?

11 A. The bare steel service replacement program was mandated in 4 CSR 240-
12 40.030(15)(C) and Case No. GO-91-239 and modified by Case No. GO-99-155.
13 Case No. GO-99-155 revised the number of replacements to require the renewal
14 of bare steel service lines found leaking and those exposed during main
15 replacement programs or other routine work. The program will be completed
16 when all services are renewed by 2020. The replacements completed in fiscal
17 year 2001 and the replacements planned for fiscal years 2002, 2003, 2004, and
18 2005 are shown in Schedule CRH-1.

19 Q. What levels of capital expenditures by the Company are required to comply with
20 the mandated bare steel service replacements?

21 A. The capital expenditures associated with the mandated replacements under the
22 bare steel service replacement program are shown in Schedule CRH-1. The

1 Company anticipates having to spend \$1.4 million, \$1.5 million, \$1.5 million, and
2 \$1.5 million respectively for fiscal years 2002, 2003, 2004, and 2005.

3 Q. What is the basis for the direct buried copper service replacement program and
4 the associated requirement to bar hole survey direct buried copper services on an
5 annual basis?

6 A. The direct buried copper service replacement program and the associated bar hole
7 survey were mandated in Case No. GO-99-155. The Company is required to
8 complete 8,000 qualifying replacements per program year for the first three years
9 of the program. The required replacement rate is to be reevaluated by Staff after
10 the first three years of the program. The Company is required to bar hole survey
11 all direct buried copper services annually. The number of qualifying
12 replacements completed in fiscal year 2001 and the number of qualifying
13 replacements planned for fiscal years 2002, 2003, 2004, and 2005 are shown in
14 Schedule CRH-1. The number of bar hole surveys completed in fiscal year 2001
15 and the number of bar hole surveys anticipated to be required for fiscal years
16 2002, 2003, 2004, and 2005 are shown in Schedule CRH-1.

17 Q. What levels of capital expenditures by the Company are required to comply with
18 the mandated direct buried copper service replacements?

19 A. The capital expenditures associated with the mandated replacements under the
20 direct buried copper service replacement program are shown in Schedule CRH-1.
21 The Company anticipates having to spend \$8.3 million, \$7.8 million, \$8.0 million,
22 and \$8.2 million respectively on direct buried copper service replacements for
23 fiscal years 2002, 2003, 2004, and 2005. The capital expenditures associated with

1 the mandated bar hole survey of direct buried copper services are shown in
2 Schedule CRH-1. The Company anticipates having to spend \$510 thousand, \$456
3 thousand, \$397 thousand, and \$334 thousand, respectively on the bar hole survey
4 for fiscal years 2002, 2003, 2004, and 2005.

5 Gas Holders

6 Q. What is the purpose of this portion of your testimony?

7 A. I will explain the need to decommission and dismantle the Company's "gas
8 holders."

9 Q. What are "gas holders?"

10 A. The gas holders are large, above-ground steel tanks that store natural gas for use
11 by Laclede's customers. The unique design of these structures allows them to
12 telescope upward and downward as they are filled and emptied of gas. The oldest
13 surviving gas holder in Laclede's system dates back to 1901, and the newest one
14 went into service in 1941. Figure 1 of my testimony shows a typical gas holder.

15 Q. Why is it appropriate to deal with the gas holders at this time?

16 A. In the past, both Laclede and the Staff of the Commission recognized that the gas
17 holders were approaching the conclusion of their useful lives and that their
18 decommissioning, including any environmental aspects, needed to be
19 accomplished. The only question was at what time a commitment should be made
20 to removal.

21 Q. Is Laclede now committed to the decommissioning and removal of these holders?

22 A. Yes. Laclede has concluded that it is prudent to commence removal of the gas
23 holders in the near future.

1 Q. Why is Laclede now convinced that the holders can or should be dismantled?

2 A. Over the last several years, Laclede has gradually, yet deliberately, reduced its
3 utilization of the gas holders as a means of testing to confirm that the distribution
4 system can be operated securely without reliance on the gas holders. The winter
5 of 2000-2001 exhibited the first appreciable, extended cold period since this
6 testing began. This provided the necessary conditions for Laclede to determine,
7 with certainty, that the holders are expendable.

8 Q. Does any other Company witness address this issue?

9 A. Yes. Company witness R. L. Sherwin is sponsoring testimony concerning
10 recovery of the costs that the Company expects to incur directly as a result of
11 dismantling the gas holders.

12 Q. How many gas holders does Laclede still operate?

13 A. There are four such structures at three locations.

14 Q. Please explain the history of the gas holders.

15 A. The four remaining gas holders are remnants of the extensive manufactured gas
16 system that Laclede operated to serve its St. Louis customers prior to widespread
17 conversion to natural gas in the late 1940's. Such holders were generally filled
18 with manufactured gas taken off the distribution system during off-peak periods
19 and then emptied as the peak load came on each day. After the conversion to
20 natural gas, the gas holders were adapted to serve as peak-shaving units – similar
21 to the function for which they were originally designed, only using natural gas
22 from the pipeline instead. The gas holders continued to provide an economical

1 means to inject appreciable volumes of gas into the core of the distribution system
2 at times of peak load.

3 Q. Do they no longer serve this function?

4 A. They are still capable of serving this function, but over the years our reliance on
5 the gas holders for periodic peak shaving has been reduced, and this trend will
6 continue.

7 Q. Please explain.

8 A. The Company continually reviews the design of its distribution system. Former
9 design methodologies dictated that the distribution system was operated in such a
10 way as to minimize distribution system pressures. As older mains are replaced
11 with newer materials, the Company has shifted its focus toward installing smaller
12 mains where possible and operating the system at higher pressures. This change
13 in design philosophy has been implemented to reduce system replacement and
14 reinforcement costs. The result is a more efficient distribution system. The
15 increased distribution system pressures, however, tend to decrease the
16 effectiveness of the holders since the existing outlet compressors were designed
17 for lower distribution system pressures. This trend has substantially reduced
18 Laclede's ability to effectively use the holders at times of peak demand.

19 Q. Are there other factors involved in Laclede's decision to accelerate removal of the
20 gas holders?

21 A. Yes. There are several other considerations involved. Due to their reduced
22 frequency of usage, the expense to man and maintain the gas holders has begun to
23 exceed the value of any system benefits. Also, in most situations it would not be

1 economically feasible to replace or repair a major component of a gas holder or
2 appurtenant equipment in the event of failure. In consideration of the age of these
3 structures, Laclede believes it prudent to begin planned removal rather than risk
4 waiting until such a failure is imminent or has already occurred. Furthermore,
5 some of the gas holders are located near residential areas and there is growing
6 public sentiment to eliminate them for aesthetic reasons.

7 Q. What is Laclede's current estimate to fully decommission the gas holders?

8 A. Our current estimate is \$5.13 million. Schedule 2 of my testimony shows how
9 this estimate was derived.

10 Q. Would you please explain the basis for this estimated cost?

11 A. Yes. This cost includes the actual dismantling and removal of the structures
12 themselves and the removal of any residual wastes from the operations of the gas
13 holders over the years. These wastes could include materials such as lead based
14 paints, asbestos, tars and sludges that, to the extent they may exist, will require
15 treatment in an environmentally sound manner.

16 Q. Are the existing gas holders a hazard to current workers or the public?

17 A. No. Currently, all materials are properly contained and exposure is controlled.
18 During demolition and removal, that work will be performed in such a way as to
19 insure worker and public safety.

20 Q. Why should Laclede's current customers pay for any environmental costs
21 associated with these facilities?

22 A. It should be recognized that any environmental costs represent only one aspect of
23 the financial impact on today's customers. Without the early development and

1 operation of these gas holders, much of the distribution system infrastructure
2 required to serve our customers today would not have been built until much later,
3 if at all. Since current customers benefit from the infrastructure developed as a
4 result of these facilities, it is entirely appropriate that they pay any environmental
5 costs associated with these facilities.

6 Q. Has the estimated cost to remediate the gas holders stabilized?

7 A. The current estimate was prepared by in-house engineering staff who maintain
8 periodic contact with consultants and contractors, knowledgeable in the field.
9 Laclede does not believe that there is any more to be gained by generating more
10 estimates. The best way to verify the cost is to proceed with bid specifications
11 and to solicit firm proposals from contractors to remove the gas holders. Of
12 course, to the extent any variation from such cost does occur as the dismantling
13 proceeds, such variation can be reflected and accounted for during the
14 amortization period.

15 Q. Is recognition of removal costs consistent with Staff's previous position on this
16 issue?

17 A. Yes. In his direct testimony in Case No. GR-99-315, Staff witness Paul Adam
18 indicated that such treatment would be appropriate once a definitive commitment
19 to decommission these holders was made. That commitment has now been made.

20 Q. How soon would Laclede propose to initiate removal?

21 A. Laclede is taking steps now to begin the decommissioning process and throughout
22 the course of these proceedings will continue to apprise the Commission Staff of
23 our progress and schedule in this regard.

- 1 Q. Does this conclude your testimony?
- 2 A. Yes.

Program	Regulation or Case	Basis for Replacements, Requirements and Remarks	Fiscal 2001			Fiscal 2002(est)		
			Total Footage Replaced /Eliminated:	Total Expense:	Program footage Replaced /Eliminated:	Total Footage Replaced /Eliminated:	Total Expense:	Program Expense:
A Cast Iron	4 CSR 240-40.030 (15)(D) and Case No. GO-91-275	Number of circumferential cast iron breaks per study section (minimum of two breaks within 500 feet). Replacement footage varies from year to year depending on cast iron break frequency. Scheduled by fiscal year. Program has no ending year defined.	64,642	\$2,621,879	53,759	30,000	\$1,253,402	\$578,654
B Unprotected Bare Steel Main	4 CSR 240-40.030 (15)(E) and Case No. GO-91-239	The schedule set forth in Case No. GO-91-239 required 20,000 feet per year based on leak history and 1,800 feet per year based on wall-to-wall pavement and areas of high concentration of the general public through fiscal year 1998. Future rates were to be negotiated with Staff.	21,800	\$1,016,098		21,800	\$1,045,618	
C Unprotected Bare Steel Service Line	4 CSR 240-40.030 (15)(C), Case No. GO-91-239 and modified by Case No. GO-99-155	GO-99-155 revised the number of replacements to require the renewal of bare steel service lines found leaking and those exposed during main replacement programs or other routine work. Program to be completed when all services are renewed by 2020.	Svc Lines Replaced/ Eliminated	Total Expense		Svc Lines Replaced/ Eliminated	Total Expense	
			638	\$1,755,074		500	\$1,416,715	
D Direct Buried Copper Service Lines	Case No. GO-99-155	8,000 qualifying replacements per year in first three years of program. Reevaluate after 3 years. Replacements prioritized by addresses with reported leaks. Pressure Region 1 to be replaced within 6 months and Pressure Region 2 to be replaced within 12 months of discovery. Non leak related replacements prioritized based on open leaks in the area, leak history of area and other factors. Scheduled by program year beginning on March 1st each year. Program has no ending year defined. Note: first program year began on January 1, 2000.	6,274	\$5,739,267		8,850	\$8,338,648	
E Bar Hole Leak Survey - Direct Buried Copper	4 CSR 240-40.030 (15)(E) and Case No. GO-99-155	Consists of annual CGI bar hole survey at tee, curb, and riser of each "qualifying" service line. Also includes visual inspection of outside meter set.	58,723	\$566,965		60,000	\$510,000	
			Surveys Completed	Total Expense		Surveys Completed	Total Expense	

		Basis for Replacements, Requirements and Remarks	Fiscal 2003(est)				Fiscal 2004(est)			
			Total Footage Replaced /Eliminated:	Total Expense:	Program Footage Replaced /Eliminated:	Program Expense:	Total Footage Replaced /Eliminated:	Total Expense:	Program Footage Replaced /Eliminated:	Program Expense:
Program	Regulation or Case									
Cast Iron	4 CSR 240-40.030 (15)(D) and Case No. GO-91-275	Number of circumferential cast iron breaks per study section (minimum of two breaks within 500 feet). Replacement footage varies from year to year depending on cast iron break frequency. Scheduled by fiscal year. Program has no ending year defined.	30,000	\$1,290,900	12,730	\$547,772	30,000	\$1,329,900		17,000
A										
Unprotected Bare Steel Main	4 CSR 240-40.030 (15)(E) and Case No. GO-91-239	The schedule set forth in Case No. GO-91-239 required 20,000 feet per year based on leak history and 1,800 feet per year based on wall-to-wall pavement and areas of high concentration of the general public through fiscal year 1998. Future rates were to be negotiated with Staff.	21,800	\$1,078,010			21,800	\$1,110,492		
B										
Unprotected Bare Steel Service Line	4 CSR 240-40.030 (15)(C), Case No. GO-91-239 and modified by Case No. GO-99-155	GO-99-155 revised the number of replacements to require the renewal of bare steel service lines found leaking and those exposed during main replacement programs or other routine work. Program to be completed when all services are renewed by 2020.	Svc Lines Replaced/ Eliminated	Total Expense			Svc Lines Replaced/ Eliminated	Total Expense		
C			500	\$1,459,215			500	\$1,502,995		
Direct Buried Copper Service Lines	Case No. GO-99-155	8,000 qualifying replacements per year in first three years of program. Reevaluate after 3 years. Replacements prioritized by addresses with reported leaks. Pressure Region 1 to be replaced within 6 months and Pressure Region 2 to be replaced within 12 months of discovery. Non leak related replacements prioritized based on open leaks in the area, leak history of area and other factors. Scheduled by program year beginning on March 1st each year. Program has no ending year defined. Note: first program year began on January 1, 2000.	8,000	\$7,763,840			8,000	\$7,996,720		
D										
Bar Hole Leak Survey - Direct Buried Copper	4 CSR 240-40.030 (15)(E) and Case No. GO-99-155	Consists of annual CGI bar hole survey at tee, curb, and riser of each "qualifying" service line. Also includes visual inspection of outside meter set.	52,000	\$455,520			44,000	\$396,880		
E										

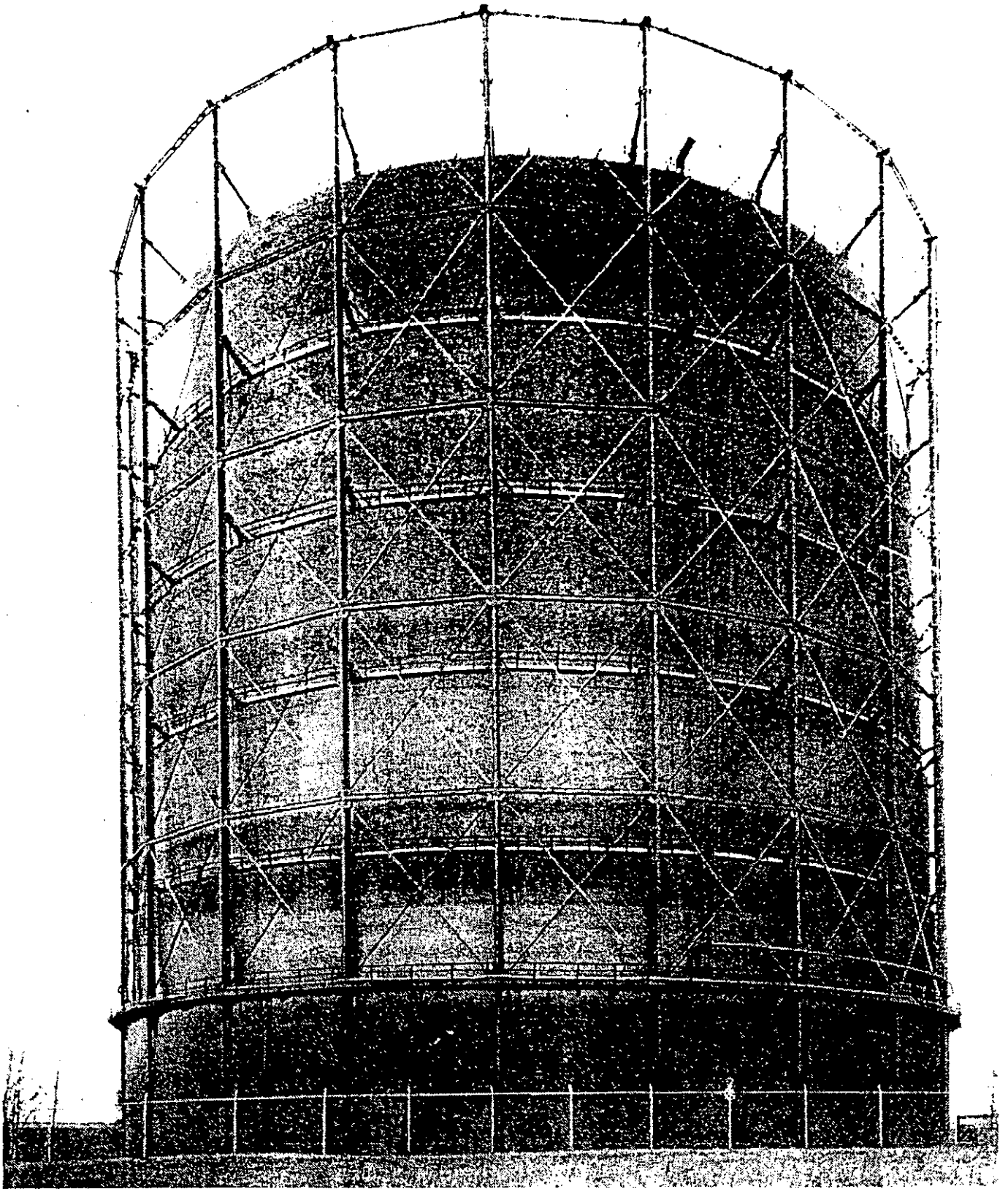
			Fiscal 2005(est)			
Program	Regulation or Case	Basis for Replacements, Requirements and Remarks	Program Expense:	Total Footage Replaced /Eliminated:	Total Expense:	Program Expense:
Cast Iron A	4 CSR 240-40.030 (15)(D) and Case No. GO-91-275	Number of circumferential cast iron breaks per study section (minimum of two breaks within 500 feet). Replacement footage varies from year to year depending on cast iron break frequency. Scheduled by fiscal year. Program has no ending year defined.	\$753,610	30,000	\$1,369,800	\$547,920
Unprotected Bare Steel Main B	4 CSR 240-40.030 (15)(E) and Case No. GO-91-239	The schedule set forth in Case No. GO-91-239 required 20,000 feet per year based on leak history and 1,800 feet per year based on wall-to-wall pavement and areas of high concentration of the general public through fiscal year 1998. Future rates were to be negotiated with Staff.		21,800	\$1,143,846	
Unprotected Bare Steel Service Line C	4 CSR 240-40.030 (15)(C), Case No. GO-91-239 and modified by Case No. GO-99-155	GO-99-155 revised the number of replacements to require the renewal of bare steel service lines found leaking and those exposed during main replacement programs or other routine work. Program to be completed when all services are renewed by 2020.		Svc Lines Replaced/ Eliminated 500	Total Expense \$1,548,085	
Direct Buried Copper Service Lines D	Case No. GO-99-155	8,000 qualifying replacements per year in first three years of program. Reevaluate after 3 years. Replacements prioritized by addresses with reported leaks. Pressure Region 1 to be replaced within 6 months and Pressure Region 2 to be replaced within 12 months of discovery. Non leak related replacements prioritized based on open leaks in the area, leak history of area and other factors. Scheduled by program year beginning on March 1st each year. Program has no ending year defined. Note: first program year began on January 1, 2000.		8,000	\$8,236,640	
Bar Hole Leak Survey - Direct Buried Copper E	4 CSR 240-40.030 (15)(E) and Case No. GO-99-155	Consists of annual CGI bar hole survey at tee, curb, and riser of each "qualifying" service line. Also includes visual inspection of outside meter set.		Surveys Completed 36,000	Total Expense \$334,440	

Laclede Gas Company Case No. GR- 2002-356
Gas Holders -- Decommissioning Cost Estimate

Item / Description	Station G	Station N	Shrew. #23	Shrew. #24	Cost
Year holder went into service	1901	1930	1925	1941	
Approximate holder capacity (mmcf)	4	10	3	5	
Contractor mobilization & demobilization	\$50,000	\$50,000	\$50,000 (1)		\$150,000
Drain & dispose of interior water	\$259,000	\$505,000	\$198,000	\$262,000	\$1,224,000
Remove & centrifuge sludge	\$98,000	\$115,000	\$50,000	\$67,000	\$330,000
Clean interior & exterior holder surfaces	\$141,000	\$294,000	\$125,000	\$167,000	\$727,000
Remove internal support timbers	\$45,000	\$74,000	\$43,000	\$43,000	\$205,000
Demolition of structures (2)	\$135,000	\$230,000	\$130,000	\$130,000	\$625,000
Transport & dispose of sludge	\$47,000	\$74,000	\$33,000	\$44,000	\$198,000
Treat & dispose of centrate water	\$150,000	\$200,000	\$87,000	\$115,000	\$552,000
Transport & dispose of support timbers	\$18,000	\$23,000	\$14,000	\$18,000	\$73,000
Perimeter air monitoring	\$108,000	\$130,000	\$132,000 (1)		\$370,000
Laclede labor, equipment, and overhead to purge holders and disconnect piping	\$60,000	\$60,000	\$90,000 (1)		\$210,000
Total cost by holder:	\$1,111,000	\$1,755,000	\$952,000	\$846,000	\$4,664,000
			Add 10% for contingencies		\$466,400
			Total Estimated Cost:		\$5,130,400

Notes:

1. Assumes both holders at this location are demolished concurrently.
2. Net of salvage value for steel.



Typical Gas Holder

Figure 1