George M. Hall

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DECEMBER 12, 2015

Michael E. Gans, Clerk

United States Court of Appeals, 8th Circuit

Thomas F. Eagleton Courthouse

111 South 10th Street, Room 24.329

St. Louis, Missouri 63102

Fax: (314) 244-2780

Re: *United States of America and State of Missouri, Plaintiffs-Appellees v.*

*Robert Geranis, et al, Proposed Intervenor Defendants-Appellants, v.*

*Benton County Sewer District No. 1, et al, Defendants-Appellees*

Appeal Nos. 13-3394 and 14-3195

Letter Dated and filed December 3, 2015 from Charles M. Thomas

**JUDICIAL NOTICE REQUEST**

Mr. Gans;

In reference to the above-mentioned appeals and the letter of Charles M. Thomas dated and filed December 3, 2015, I am expressing my concerns with his purported “**status report**” to your office and his one sided opinion and omission of

facts, in my view, which should be given Judicial Notice.

It is correct that the Missouri Public Service Commission did issue an Order granting a certificate of convenience and necessity on November 12, 2015 and effective December 12, 2015. However, Charles M. Thomas failed to mention on November 24, 2015, a Petition For Declaratory Judgment in Case No. 15 BE-CC00047 was filed with the 30th Judicial District Court of Benton County, Missouri. This Petition presents ten (10) counts and claims of unconstitutionality

against the Benton County Sewer District #1, and several statutes of the State of Missouri. The claims of unconstitutionality encompass the creation, formation, **funding**, operation and mere existence of the Benton County Sewer District #1 with the claim that the Benton County Sewer District #1 is and was ***void ab initio.***

Mr. Thomas was provided a copy of this petition on November 24, 2015 yet he failed to mention or disclose this fact in his letter to your office. (I have attached a portion of the petition which portrays the unconstitutional claims being made.)

Mr. Thomas’s statement “Missouri-American Water and the receiver have indicated they expect to be ready to close the sale as early as December 18, 2015” is wholly unfounded. On December 11, 2015, a Motion requesting the withdraw of the Certificate of Convenience and Necessity and a Motion for Rehearing was filed with the Missouri Public Service Commission concerning their Order issued November 9, 2015. It is expected that if these two Motions are denied an appeal will be filed to the Missouri Court of Appeals for the Western District. (These two Motions are attached.)

The statement by Mr. Thomas, “It is expected that upon closing, Missouri-American will immediately take over and operate the sewer system” is highly misplaced. It is not only expected, but already drafted, that if closing takes place, legal action will be filed against the USDA, Missouri-American, Missouri DNR, and Missouri Public Service Commission for conspiring to cover-up a fraud and perpetuating a fraud, and illegal conversion of public property and funds. Damages will be sought in the amount of 5 Billion ($5,000,000,000.00) dollars.

Lastly, Mr. Thomas stated “The receiver wishes to proceed expeditiously because of the precarious financial condition of the District” is an understatement. The Receiver, Scott Totten was **Ordered** to Comply with the laws of the United States and the State of Missouri upon his appointment. While the Missouri State Auditor’s Audit of the Benton County Sewer District #1 clearly established the District was in a precarious financial problem from its very inception, the Receiver, Scott Totten compounded and worsened the financial woes of the District. Scott Totten has operated the district unconstitutionally by not doing the mandatory budget for the years 2103, 2014, 2014. Totten has operated the District unconstitutionally, by assessing a rate charge not founded upon any rate analysis or budget. Totten has operated the District unconstitutionally by allowing his expenses to exceed his revenues contrary to the Missouri Constitution. Totten has failed to comply with the mandatory Audit provisions of Missouri law and the District assets have not been audited yearly for the years of 2010, 2011, 2012, 2013, 2014, and 2015. Lastly, Totten by improperly converting Debt Service Reserves monies and using them for operation and maintenance, is the individual responsible for the default of the purported loan payments to be made to the USDA with the approval of the USDA. Also, Scott Totten, has not let out for bid any plant operations or maintenance work and has awarded another ex Mo. DNR employee payments of over $180,000 for the year of 2014. So if there is a precarious financial problem in the District it was Mr. Totten and the parties, that wanted and allowed it to occur.

Currently, on October 1, 2015 A Notice of Claim of Interest was filed with the Recorder of Deeds against the Benton County Sewer District #1 property in Benton County, Missouri. (See Attached). Also, a Notice of Lis Pendens was filed with the Recorder of Deeds on November 24, 2015 in Benton County Missouri. (See Attached).

**COMPLAINT**

The letter of Charles M. Thomas was an underhanded attempt to influence the Court in reference to the two aforementioned appeals by submitting an inaccurate status update. The letter is not a proper legal pleading, for if it were responsive pleadings by all parties could be submitted. However, if the Court elects to give Judicial Notice to Mr. Thomas’s Letter, it is my position this letter should also be give Judicial Notice and Consideration. Consideration of all the facts updating the status should take place, not just the ones Charles M. Thomas selectively provided and others surgically omitted by him.

Sincerely,

**/s/ George M. Hall**

George M. Hall

Attachments as referenced

cc: Charles M. Thomas

Daniel Reiss

Missouri Attorney General

Missouri Public Service Commission

Missouri-American Water

Mark Bredemeier

Scott Totten

**IN THE 30TH JUDICIAL CIRCUIT COURT OF BENTON COUNTY**

**STATE OF MISSOURI**

George M. Hall, §

**Petitioner,**  §

**-vs-** § **CASE NO. 15 BE-CC00047**

Benton County Sewer District #1 and §

Scott Totten, Receiver; BCSD #1 §

**Respondents,** §

Chris Koster, Attorney General for §

The State Of Missouri, §

**Party of Interest.** §

**PETITION FOR DECLARATORY JUDGMENT**

TO THE HONORABLE JUDGE OF SAID COURT:

Come Now George M. Hall, (Petitioner) and makes and files this, his Petition for Declaratory Judgment pursuant to Revised Statutes of Missouri, §§ 478.070, 527.010, 527.020, 527.030 and Missouri Rules of Civil Procedure, Rules 87.01, 87.02, 87.04; and as grounds therefor submit the following:

**INTRODUCTION**

**1**. Since 1994, the Benton County Sewer District #1 has existed in a deluge

of deceit, misleading information, and outright falsehoods. This quagmire of malfeasance, has run roughshod over the approximate 358 account users, leaving many in a state of confusion, disgust, anger, depression and agitation. In a normal world, the Benton County Sewer District #1 operations would have a system which would have been viable, feasible, created, funded, operated and maintained in accordance with all legal standards and

requirements. In reality, the Benton County Sewer District #1, for nearly 21

years, has eviscerated the constitutional rights of those it enslaved as users, account holders, and further encompassed all common taxpayers under its ruse of corruption for a select few to achieve a financial benefit and gain. The conception of the Benton County Sewer District # 1was founded upon pure greed by a select few, corroborated with the assistance and aid of government agencies from the State of Missouri and the United States. As Julian Casablancas stated; “Greed is the inventor of injustice as well as the current enforcer.” Petitioners will show actual facts establishing that greed was one of the reasons the Benton County Sewer District #1 came to exist and the current atrocities and injustice is being enforced and maintained by the greed of those with apparent power and authority.

**2**. The Petitioner seeks declaratory and injunctive relief, which will declare the Benton County Sewer District #1 and its ordinances, policies, practices and operations to be invalid, illegal, unconstitutional, and further be ***null and void ab initio,*** and will declare that the Benton County Sewer District #1 and the State and Federal government agencies are still subject to accountability and liability for the deprivation of constitutional rights of the residents who were and are still being forced to endure the violations bestowed upon them by the Respondents and others who have conspired with and are still conspiring to strip away any constitutional safeguards and rights guaranteed under the provisions of the United States Constitution, the Missouri Constitution, and the statutes and laws of the State of Missouri. The Petitioner seeks an injunction to prevent the agencies from dissipating the assets by extraordinary transactions during the pendency of this case, and relief for violating the constitutional rights and depriving Plaintiffs due process and infringement of the equal application of law. Plaintiffs allege

Ten (10) counts against the Benton County Sewer District #1, to-wit:

**COUNT I;** DECLARATORY JUDGMENT AGAINST RESPONDENT,BENTON COUNTY SEWER DISTRICT #1 THAT ITS MANDATORY CONNECTION ORDINANCE IS INVALID, ILLEGAL, AND UNCONSTITUTIONAL.

**COUNT II**; DECLARATORY JUDGMENT AGAINST RESPONDENT, BENTON COUNTY SEWER DISTRICT #1, THAT REQUIRING PETITIONER TO MANDATORILY CONNECT TO ITS SEWER LINES RESULTED IN AN UNEQUAL APPLICATION OF LAW AND A DENIAL OF DUE PROCESS.

**COUNT III**; DECLARATORY JUDGMENT AGAINST RESPONDENT, BENTON COUNTY SEWER DISTRICT #1, THAT REQUIRING PEITIONER TO MANDATORILY CONNECT TO ITS SEWER LINES RESULTED IN AN UNCONSTITUTIONAL TAKING OF PETITIONER’S PERSONAL PROPERTY WITHOUT JUST COMPENSATION.

**COUNT IV;** DECLARATORY JUDGMENT THAT THERE WAS NO EVIDENCE TO SUPPORT THE PETITION FOR FORMATION OF A COMMON SEWER DISTRICT OR THE COURT’S FINDING OF NECESSITY FOR A COMMON SEWER DISTRICT IN CASE NO. CV-194-55CC AND THAT THE PROVISIONS OF THE REVISED STATUTES OF MISSOURI CHAPTER 204 § 204.250 ARE UNCONSTITUTIONAL.

**COUNT V**; DECLARATORY JUDGMENT THE RESPONDENT, BENTON COUNTY SEWER DISTRICT #1 WAS COURT ORDERED TO FUND THE CONSTRUCTION OF THE COMMON SEWER DISTRICT BY REVENUE BONDS, APPROVED BY THE VOTERS, AND THE FUNDING OBTAINED (USDA LOAN) BY THE RESPONDENT, BENTON COUNTY SEWER DISTRICT #1 WAS UNAUTHORIZED, UNLAWFUL, ILLEGAL AND UNCONSTITUTIONAL.

**COUNT VI;** DECLARATORY JUDGMENT AGAINST RESPONDENT, BENTON COUNTY SEWERE DITRICT #1 FINDING THAT RESPONDENT CREATED, ORGANIZED AND FUNDED A SEWER SUB-DISTRICT CONTRARY TO MISSOURI STATE LAW, RSMO CHAPTER 204 §§ 204.250(3), 204.250(4), 204.250(5), 204.250(6) and 204.250(7).

**COUNT VII;** DECLARATORY JUDGMENT AGAINST RESPONDENT, BENTON COUNTY SEWER DISTRICT #1, THAT THE DISTRICT FORMATION AND FUNDING WAS THE PROMOTION FOR AN UNCONSTITUTIONAL REVENUE GENERATING SCHEME.

**COUNT VIII**; DECLARATORY JUDGMENT AGAINST RESPONDENT, BENTON COUNTY SEWER DISTRICT #1 THAT ITS OPERATION PROCEDURES CONFLICTED WITH THE PROVISIONS OF THE MISSOURI STATE CONSTITUTION, THE MISSOURI REVISED STATUTES AND WERE THERFORE UNCONSTITUTIONAL

**COUNT IX;** DECLATORY JUDGMENT AGAINST RESPONDENT, BENTON COUNTY SEWER DISTRICT #1 THAT ITS PROCEDURE OF THREATENING TO FILE LIENS, FILING LIENS WITHOUT GIVING DUE NOTICE AND A HEARING TO DETERMINE DELINQUENCY OR APPEAL FROM ANY FINDING OF DELINQUENCY, CONSTITUTES A DENIAL OF DUE PROCESS AND EQUAL PROTECTION OF LAW AND IS THERFORE ILLEGAL, INVALID AND UNCONSTITUTIONAL

**COUNT X;** DECLARATORY JUDGMENT AGAINST RESPONDENT, BENTON COUNTY SEWER DISTRICT #1 FOR THE UNEQUAL APPLICATION OF LAW, DENIAL OF DUE PROCESS, AND UNCONSTITUTIONAL TAKING OF PETITIONERS’ PROPERTY.

**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF MISSOURI**

In the Matter of Missouri-American Water Company §

For a Certificate of Convenience and Necessity §

Authorizing it to Install, Own, Acquire, Construct, § **File No. SA-2015-0065**

Operate, Control, Manage and Maintain a Sewer §

System in Benton County, Missouri §

**MOTION FOR WITHDRAWL OF ORDER**

**GRANTING CERTIFICATE OF CONVENIENCE AND NECESSITY**

Comes Now, George M. Hall, Amicus Curiae/and person of interest, and makes and files this his Motion for Withdrawl of the Order Granting Certificate of Convenience and Necessity issued November 12, 2015 and effective December 12m 2015, in this case and respectfully submits the following:

* In its order dated November 12, 2015, the Commission failed to mention, recognize, or even consider the two appeals currently pending before the United States Court of Appeals for the 8th Circuit in Appeal Nos. 13-3394/14-3195 which involve matters concerning the Benton County Sewer District #1and the purported Asset Purchase Agreement. Oral argument has taken place on these two appeals and the parties are awaiting the decision from the Court.
* Item #57 of this Commission’s Docket entries in this case reflects that a Petition For Declaratory Judgment alleging ten (10) counts of unconstitutionality in reference to the Benton County Sewer District #1 was filed with the 30th Judicial Circuit Court of Benton County, Missouri in Case No. 15BE-CC00047 on November 24, 2015and further a Notice of Lis Pendens was filed with the Recorder of Deeds Office of Benton County, Missouri on November 30, 2015.
* On October 1, 2015 a Notice of Claim of Interest In Property and Intent To Preserve Interest was filed Recorder of Deeds for Benton County Missouri against the real property of the Benton County Sewer District #1.
* This Commission lacks jurisdiction for issuing a Certificate of Convenience and Necessity to Missouri American Water in this case. The Benton County Sewer District was dissolved by vote on April 2, 2013. The ballot language was for dissolution of the district, termination and ending. There was never a vote of the residents to privatize the public sewer district. Absent the vote to privatize, Missouri American Water has no standing to file an application for a certificate of convenience and necessity. If a vote to privatize is not necessary to invoke standing, then why doesn’t this Commission just give Missouri American water a blanket Certificate of Convenience and Necessity encompassing the entire State of Missouri and allow Missouri American Water to acquire all sewer and water utilities in the State including those that serve these very Commissioners and then let’s not forget to not allow intervention or representation of any interested or affected party? If this Commission is going to condone one unconstitutional act, it might as well do it on a grand scale and do it State wide.
* The interests of the majority of the residents, who successfully voted for dissolution of the Benton County Sewer District #1, has had no representation and has been denied all representation before this Commission. By issuing the Certification of Convenience and Necessity in this case, this Commission has breached its fiduciary duties and has become an active participant and coconspirator to necessitate the covering up of a fraud and the commission of a fraud upon the majority voters of the Benton County Sewer District #1.
* Because of the legal matters pending before the United States Court of Appeals for the 8th Circuit, the constitutional issues pending before the 3oth Judicial District Court of Benton County, Missouri, the lack of standing of Missouri American Water and the lack of jurisdiction of this Commission clearly outweigh the conspiring to cover up a fraud and the commission of a fraud upon the voters of the Benton County Sewer District #1 and the authorizing and approval of the selling of assets to Missouri American Water.

Wherefore, George M. Hall, Amicus Curiae and person of interest requests the Certificate of Convenience and Necessity be withdrawn in this case until the disposition of the aforementioned pending legal matters involving the Benton County Sewer District #1.

Respectfully submitted,

**/s/ George M. Hall**

George M. Hall, Amicus Curaie/person of interest

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**CERTIFICATE OF SERVICE**

I hereby certify that on this the 11th day of December 2015, a true and correct copy of the forgoing Motion was e-mailed to the following individuals:

Missouri Public Service Commission Kevin Thompson

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By: **/s/ George M. Hall**

**BEFORE THE PUBLIC SERVICE COMMISSION**

**OF THE STATE OF MISSOURI**

In the Matter of Missouri-American Water Company §

For a Certificate of Convenience and Necessity §

Authorizing it to Install, Own, Acquire, Construct, § **File No. SA-2015-0065**

Operate, Control, Manage and Maintain a Sewer §

System in Benton County, Missouri §

**MOTION FOR REHEARING**

Comes Now, George M. Hall, Amicus Curaie/person of interest, and makes and files this his Motion for Rehearing pursuant to 4 CSR 240-2.160(1) and submits the following:

* On November 11, 2015 this Commission issued a Certificate of Convenience and Necessity to Missouri American Water in this case. The effective date of the Certificate is December 12, 2015.
* This Commission granted the CCN without holding any hearing and has severely erred in its decision.
* George M. Hall, submits all of previous argument and points which are part of the record in this case.
* George M. Hall submits rehearing is warranted in this matter because the Commission did not have jurisdiction to issue the CCN in this case since Missouri American Water lacked standing to apply for any such certificate in reference to the purchasing and acquiring the public sewer district known as the Benton County Sewer District #1.
* The Benton County Sewer District was a public sewer district created by the vote of the residents in its boundary area. On April 2, 2013 by overwhelming majority vote, the residents of the Benton County Sewer District #1 dissolved the Benton County Sewer District #1 pursuant to the provisions of state law, RSMo 67.950.
* The residents voted to dissolve (terminate and end) the public sewer district. There was no vote of the residents to privatize the district nor is the privatization of the district warranted under the provisions of RSMo 67.950. Absent a vote to privatize the public sewer district known as the dissolved Benton County Sewer District #1, Missouri American Water had no standing to apply for the CCN in this case. No standing to apply, leaves this Commission without jurisdiction to award any such CCN.
* The sale of the Benton County Sewer District #1 assets for the purchase price is illegal, unreasonable, and unconstitutional pursuant to the Missouri Constitution.
* The Benton County Sewer District construction was funded with public taxpayer funds in an amount of approximately $4,000,000.00. The purchase price of $750,000 is $3,250,000 less than the public funds used to construct the district. If the sale proceeds under its current terms, Missouri American Water increases its bottom line assets by a minimum of $4,000,000.00 by illegal conversion of public property and public funds.
* The Missouri Constitution, Article VI, Section 25 provides in part:

“**No…….political subdivision of the state shall be authorized to lend its credit or grant public money or property to any private individual, association or corporation……”**

* The attempted sale of the Benton County Sewer District #1 to American Water for $750,000.00 would be granting public money and property to a private corporation all in contravention of Article 6, Section 25 of the Missouri Constitution.
* There have been no waivers of collection of public funds by the United States Legislature or the Missouri Legislature in reference to the public funds expended in the construction of the Benton County Sewer District #1. Thus any sale of the public assets for any lesser amount would be unconstitutional, illegal and unreasonable. (The grant monies (public taxpayer dollars) used to construct the Benton County Sewer District #1 was approximately $2,500,000.00). George M. Hall maintains that Missouri American Water under the Missouri Constitution cannot benefit from these public funds without submitting this amount in the purchase price. The records in this case establish that the Benton County Sewer District #1 owes approximately $1,100,000.00 on a purported loan. This combined with the public taxpayer funds (grant money) of $2,500,000.00 would require a purchase price of the public sewer district for a minimal amount of $3,600,000.00 to be legal and constitutional.
* The CCN issued in this case is preempted by pending litigation. There are two appeals pending before the United States District Court for the 8th Circuit wherein oral argument has been conducted and parties are awaiting the decision of the Court. There is currently filed with the 30th Judicial District Court of Benton County, Missouri a petition for declaratory judgment raising 10 constitutional issues arguing that the Benton County Sewer District is and was unconstitutional in its formation, funding, operations and existence and raising the claim that the District was ***void ab initio.*** These pending constitutional legal matters clearly outweigh the selling of any assets of the Benton County Sewer District #1 to Missouri American Water.
* The Commission has systematically and arbitrarily denied George M. Hall and the majority of the voters in the Benton County Sewer District #1 the right to be heard, the right to representation and denied them due process. There has been no representation before the Commission of the majority voters who dissolved the Benton County Sewer District #1 or those individuals like George M. Hall who refuse to concede to the whims of Missouri American Water or those who refuse to give up their claim of interest in property since there is no outstanding bonded indebtedness owed by the Benton County Sewer District #1, see RSMo 67.950.

WHEREFORE, George M. Hall, requests that this Commission grant a rehearing on the matters concerning the issuance of a CCN in this case, that George M. Hall be allowed to present his claims at a rehearing, and that after such rehearing, this Commission deny the application of Missouri American Water for a CCN to purchase and operate the dissolved Benton County Sewer District #1 and for such other relief the Commission deems proper and just.

Respectfully submitted,

**/s/ George M. Hall**

George M. Hall, Amicus Curaie/person of interest

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[bonzimagnum@yahoo.com](mailto:bonzimagnum@yahoo.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 11th day of December 2015, a true and correct copy of the forgoing Motion was e-mailed to the following individuals:

Missouri Public Service Commission Kevin Thompson

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By: **/s/ George M. Hall**











