

LAW OFFICES
ANDERECK, EVANS, MILNE, PEACE & JOHNSON, L.L.C.

EUGENE E. ANDERECK
TERRY M. EVANS
ERWIN L. MILNE
JACK PEACE
CRAIG S. JOHNSON
RODRIC A. WIDGER
GEORGE M. JOHNSON
BEVERLY J. FIGG
WILLIAM S. LEWIS
VICTOR S. SCOTT

1111 S. Glenstone
Post Office Box 4929
Springfield, Missouri 65808
TELEPHONE 417-864-6401
FAX 417-864-4967
rwidger@aempb.com

January 10, 2001

COREY K. HERRON
MATTHEW M. KROHN
LANETTE R. GOOCH
SHAWN P. BATTAGLER
ROB TROWBRIDGE
JOSEPH M. PAGE
LISA R. CHASE
WILLIAM W. SPRAY
MARVIN L. SHARP, Of Counsel
PATRICK A. BAUMHOER, Of Counsel
GREGORY C. STOCKARD (1904-1993)
PHIL HAUCK (1924-1991)

FILED

JAN 12 2001

**Missouri Public
Service Commission**

Mr. Dale Hardy Roberts
Executive Secretary
Missouri Public Service Commission
PO Box 360
Jefferson City, MO 65102

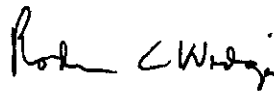
Re: Case No.: SM-2000-608, Application of Ozark Water and Wastewater
Management Co., Inc.

Dear Mr. Roberts:

Enclosed for filing in the above referenced proceedings please find an original and fourteen copies of an Application to Intervene Out of Time and Entry of Appearance.

Thank you for your consideration.

Sincerely yours,



Rodric A. Widger

RAW/hr

cc: General Counsel, PSC
Office of Public Counsel
Office of Attorney General
Bill Todd, Attorney
Don Busch, Attorney
Craig Lumsden

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

FILED

JAN 12 2001

In the Matter of Application of Ozark)
Water and Wastewater Management Co., Inc.)
to Seel and Transfer its Franchise, Treatment)
Plant and Substantially All its Assets to)
Northern Christian County Regional)
Wastewater Facility, Inc. a Non-Profit Sewer)
Corporation under § 393.825, RSMo)

**Missouri Public
Service Commission**

Case No. SM-2000-608

**APPLICATION OF FAMILIA LIMITED PARTNERSHIP, d/b/a English Village Mobile
Home Community, TO INTERVENE OUT OF TIME**

COMES NOW Familia Limited Partnership, d/b/a English Village Mobile Home Community, hereinafter referred to as "English Village", and hereby moves to intervene in this proceeding out of time pursuant to § 386.420 RSMo and 4 CSR 240-2.075. In support of this Application English Village states the following:

1. English Village operates a mobile home community located in Christian County, Missouri, and has its wastewater collection and treatment service provided by Ozark Water and Wastewater Management Co., Inc. ("OWWM")
2. It has comes to the attention of English Village that on March 29, 2000, OWWM filed an application with the Commission for approval of a sale of substantially all its assets to an organization called Northern Christian County Regional Wastewater Facility, Inc.. The Commission issued an Order and Notice allowing parties to file an application to intervene on or before April 24, 2000.
3. The standard for intervention at 4 CSR 240-2.075(4) allows intervention by private parties on a showing that (A) the intervenor has an interest in the proceedings that is

different from that of the general public; and (B) Granting the proposed intervention would serve the public interest.

4. Intervention out of time is permissible under 4 CSR 240-2.075 (5) for good cause shown.

5. English Village did not receive direct notification of the Order and Notice but has become aware of this proceeding as the result of interaction with the Missouri Department of Natural Resources ("MDNR") in its enforcement actions relating to OWWM.

6. On review of documents filed to date in this matter, English Village is not confident that its interests would or could be fully represented by the parties currently participating in this matter.

7. English Village's interest in this proceeding is different from that of the general public in the following:

a. English Village is the intermediary for sewer service to approximately two hundred and twenty (220) separate residential hook-ups for OWWM service. Each of these separate residential tenants have a direct interest in the costs, liabilities, self-government and other aspects of the contemplated transaction. To English Village's knowledge and belief, the aggregate wastewater of the English Village community accounts for the bulk of the treatment capacity operated by OWWM.

b. The OWWM system was historically created and designed to serve the wastewater treatment requirements of English Village. English Village is unique in that it is the only entity that can assent to assignment of the ground lease on which the OWWM treatment facilities are located.

8. English Village agrees to abide by the procedural schedule adopted herein by Order dated November 27, 2000, and amended by Order dated January 2, 2001. No party will be unduly prejudiced by reason that the intervention is out of time first declared. The information, perspective, and participation brought by English Village to this inquiry is not contrary to the public interest, and, in fact, would serve the public interest by aiding the decision processes of the Commission.

9. The present position of English Village is in opposition to the proposed sale transaction for the following reasons:

a. The OWWM proposal is contrary to the intent of the non-profit sewer company law enacted by the Missouri Legislature at § 393.825, et seq, RSMo.

b. The benefits of the non-profit sewer company law are available to OWWM by the conversion process set out at § 393.827 without adding layers of expenses to the underlying utility operation.

c. The statute in which OWWM seeks refuge contemplates the formation of a voluntary membership that will incur debt for a common purpose. The reverse scheme proposed by OWWM is based on approval of a massive debt undertaking, to be followed by formation of a membership liable for that debt. The Commission should not sanction the allocation of debt and other liabilities to the account of non-volunteer and captive members.

d. The OWWM application is not supported by a feasibility study. There is no apparent explanation for the proposition that a new company, with debts and obligations owing to the old company, could solve the financial tangle that OWWM has been unable to solve.

e. The contract between OWWM and the new non-profit company does not appear to be the result of arms length negotiation between equals. The allocation of benefits and liabilities are singularly in favor of OWWM.

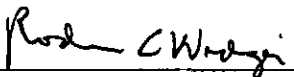
f. The transaction will foreseeably result in customer rate increases and such rate increases will not be subject to PSC review. For OWWM customers, the transaction is in effect a rate increase without limits.

g. The proposed transaction, contrary to the spirit of non-profit corporation law, would perpetuate the very same management (or mismanagement) that has brought OWWM to its present financial and regulatory troubles. The significant change is that the current principal would slip away from his obligations and MDNR would have to look to a membership organization for purposes of its enforcement authority. The rights of the future membership should not be so constrained.

WHEREFORE, English Village respectfully requests that this Application to Intervene out of time be sustained, that the procedural schedule as established be enforced, and that ultimately the proposed sale of assets and assumption of liabilities be rejected.

Respectfully Submitted,

ANDERECK, EVANS, MILNE,
PEACE & JOHNSON, L.L.C.

BY: 
Rodric A. Widger #31458
1111 S. Glenstone
P.O. Box 4929
Springfield, MO 65808-4929
(417) 864-6401
(417) 864-4967 fax

ATTORNEYS FOR FAMILIA LIMITED
PARTNERSHIP, d/b/a English Village
Mobile Home Community

CERTIFICATE OF SERVICE

I undersigned hereby certifies that a true and correct copy of the foregoing was mailed, U.S. mail postage prepaid, this 10th day of JANUARY, 2001, to:

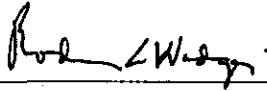
General Counsel
Missouri Public Service Commission
PO Box 360
Jefferson City, MO 65102

Bill G. Todd, Attorney
PO Box 2219
722 W. Center Circle
Nixa, MO 65714

Office of Public Counsel
PO Box 7800
Jefferson City, MO 65102

Don Busch, Attorney
Lathrop & Gage
1845 S. National
Springfield, MO 65808

Deborah Neff
Assistant A.G.
PO Box 899
Jefferson City, MO 65102



Rodric A. Widger