

THOMAS E. LORAIN, P.
Attorneys at Law
4075 Highway 54, Suite 300
Osage Beach, Missouri 65065

Thomas E. Loraine
Roger M. Gibbons*
Clara M. Weppner, Paralegal

Tel: (573) 348-8909
Fax: (573) 348-8920
*Also admitted in
Kansas.

January 9, 1998

FILED

JAN 13 1998

MISSOURI
PUBLIC SERVICE COMMISSION

SENT VIA FEDERAL EXPRESS

Public Service Commission
Attn: Cecil Wright
P.O. Box 360
Jefferson City, MO 65102

RE: Case Nos. WC-98-211, ~~WA-97-110~~, WA-98-36 & WA-98-236

Dear Mr. Wright:

Enclosed please find the original and fourteen copies of a Motion to Consolidate in the above-referenced matters to be filed with the Commission. Please file-stamp one copy and return it in the self-addressed, stamped envelope that is enclosed for your convenience.

Your attention to this matter is greatly appreciated.

Very truly yours,

THOMAS E. LORAIN, P.C.



Thomas E. Loraine

TEL/maa

Enclosures

obfpd\psc\filing.004

FILED

JAN 13 1998

MISSOURI
PUBLIC SERVICE COMMISSION

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

OSAGE BEACH FIRE DISTRICT)
Complainant)
)
v.)
)
OSAGE WATER COMPANY)
Respondent)

Case No. WC-98-211

In the Matter of the Application of)
Osage Water Company for a Certificate of)
Convenience and Necessity Authorizing it)
to Construct, Install, Own, Operate,)
Control, Manage and Maintain a Water)
System for the Public Located in Unincor-)
porated Portions of Camden County,)
Missouri.)

Case No. WA-97-110

Case No. WA-98-36

In the Matter of the Application of)
Osage Water Company for Permission,)
Approval, and a Certificate of)
Convenience and Necessity Authorizing)
it to Construct, Install, Own,)
Operate, Control, Manage and Maintain)
a Water System for the Public Located)
in Parkview Bay Subdivision, Osage Beach,)
Missouri.)

Case No. WA-98-236

MOTION TO CONSOLIDATE

Comes the OSAGE BEACH FIRE PROTECTION DISTRICT (DISTRICT) pursuant to 4 CSR 240-2.080 and in support of its Motion to Consolidate Cases WC-98-211, WA-97-110 and WA-98-36, and WA-98-236, all concerning the Osage Water Company (OWC), respectfully states the following:

1. The DISTRICT is a person within the meaning of 4 CSR 240-2.010.
2. The DISTRICT is a political subdivision of the State of Missouri duly organized and existing under the laws of the State of Missouri with its principle office and place of business located at 1170 Bluff Drive, Osage Beach, Missouri 65065, Telephone number (573) 348-1221.
3. The OWC is a corporation duly organized and existing under laws of the State of Missouri with its principle office and place of business located on Highway 54 West, Osage Beach, Missouri 65065.
4. OWC filed an Application (Case No. WA-97-110) on September 16, 1996 and subsequently amended said Application on May 22,

1997, requesting the issuance of a Certificate of Convenience and Necessity to construct, own, operate, manage and maintain a water service system in the unincorporated area of Camden County known as Cimarron Bay and a sewer system in the unincorporated area of Camden County known as Chelsea Rose.

5. OWC filed an Application (Case No. WA-98-36) on July 28, 1997 requesting the issuance of a Certificate of Convenience and necessity to construct, own, operate, manage and maintain water service and sewer systems for the Cedar Glen Condominiums in Camden County.

6. On October 1, 1997, OWC filed applications for submitting the matters of both cases, WA-97-110 and WA-98-36, for Commission determination on the facts as set out in the verified applications and attachments.

7. On October 2, 1997, the Commission dismissed OWC's application WA-97-332 for inadequacies.

8. On October 29, 1997, the Commission issued an Order Denying Motion and Ordering Staff Recommendation in Dockets WA-97-110 and WA-98-36 because of questions about OWC's financial ability to provide requested service. The Commission directed Staff to provide recommendations based on a completed audit and/or develop a procedural schedule by December 12, 1997.

9. On November 5, 1997, the Commission denied OWC a rehearing on WA-97-332.

10. On November 6, 1997, the District filed a formal complaint since OWC continued to operate and supply water for a fee within the city limits of the City of Osage Beach, Missouri, known as passover Road Expansion. This fact verified by DNR (see attached "Exhibit A").

11. On December 12, 1997, in an attempt to satisfy Commission's concerns from its Order Denying Motion and Ordering Staff Recommendation, the Staff produced a recommendation based on a partial audit of OWC (emphasis added). While Staff's audit was incomplete, its recommendation did demonstrate that OWC's: (1) indebtedness of more than \$560,000 to "principles of the Company"; (2) that this greater than \$560,000 indebtedness raises serious questions about "the Company's long term financial solvency" and immediate operations capabilities to serve the customers as well as short-term solvencies; (3) that as of December 12, 1997, OWC hadn't complied with annual reports required under 4 CSR 240-50.030(5) & 4 CSR 240-61.020(5) after 1991; (4) that attachment 1 contained in its "Memorandum" is insupportable based on OWC's non-compliance.

12. The District's preliminary audit indicates that OWC's indebtedness to "outsiders" could be considerably more, after

resolution of pending civil cases, than the "above \$560,000" figure owed to "principles". The District's audit results, when added to Staff's estimate raises OWC's potential liabilities and outstanding debt exposure substantially in excess of \$560,000. This figure should raise serious questions not only of the Company's long term financial solvency but its short term financial solvency as well as OWC's immediate ability to provide requested service to any potential customers in the service areas OWC asks for in Cases WA-97-110, WA-98-36 and WA-98-236.

13. The Commission expressed concerns about OWC's ability to construct, install, own, operate, control, manage and maintain any water and sewer systems in its Order Denying Motion and Ordering Staff Recommendation. Staff's inability to complete its audit by December 12, 1997 and respond fully, the Commission orders in its Order Denying Motion and Ordering Staff Recommendation should not diminish these concerns. The District believes that consolidating WC-98-211 with WA-97-110, WA-98-36 and WA-98-236 will allow full exploration and ventilation of OWC's unresolved financial matters.

WHEREFORE, the DISTRICT respectfully requests that Dockets WC-98-211, WA-97-110, WA-98-36 and WA-98-236 be consolidated to allow for the most expansive resolution of operations and financial capabilities to serve the citizens of Missouri.

OSAGE BEACH FIRE PROTECTION DISTRICT

Russell C. Clark Pres
Russell C. Clark, President

George Major, Treas.
George Major, Treasurer

John Kahrs sec
John Kahrs, Secretary

Respectfully submitted,

THOMAS E. LORAIN, P.C.

By:

Thomas E. Loraine
Thomas E. Loraine #22206
4075 Highway 54, Suite 300
Osage Beach, MO 65065
(573) 348-8909

ATTORNEYS FOR OSAGE BEACH FIRE
PROTECTION DISTRICT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing was on this 9th day of January, 1998, mailed, postage prepaid, to the following:


Carol Keith
Office of General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

John Coffman
Senior Public Counsel
Office of Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Gregory D. Williams
P.O. Box 431
Sunrise Beach, MO 65079

Norman E. Gaar
605 W. 47th Street, Ste 350
Kansas City, MO 64112-1905

Charles E. McElyea
190 Court Circle
Camdenton, MO 65020



Thomas E. Loraine

obfpd\psc\consolid.002

STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES

DIVISION OF ENVIRONMENTAL QUALITY

Jefferson City Regional Office

1511 Christy Drive P.O. Box 176 Jefferson City, MO 65102-0176

(573)751-2729

FAX (573)751-6014

January 5, 1998

CERTIFIED MAIL # 331 166 097
RETURN RECEIPT REQUESTED

Mr. Gregory D. Williams, President
Osage Water Company
Hwy 54 West, P.O. Box 777
Osage Beach, MO 65065

Dear Mr. Williams:

The Osage Water Company owns and operates a public system serving Parkview Bay Condominiums in Camden County. It has come to our attention that the system has been placed into operation in violation of Missouri's Safe Drinking Water Law and Public Drinking Water Regulations; as well as, terms and conditions of the department's construction permit for the water system. The specific sections of the law and regulations of which the Osage Water Company is in violation are listed on the enclosed Notice of Violation 1033 JC.

A supplier of water wishing to construct, modify, or operate a community water must obtain authorization from this department. Plans and specifications are required before construction approval will be given to construct a new or modify an existing water system. After the construction approval has been granted and the project is completed, the supplier must obtain final approval before that project is placed into service. If the completed project is a new community water system, the supplier must apply for a permit to dispense water to the public prior to putting the new supply into service. According to our files, construction approval was given to the Osage Water Company to construct the water system serving phase one of Parkview Bay Condominium complex on April 9, 1997. Since that date, no request for a final inspection has been made, nor has an application been submitted for a permit to dispense water to the public. On December 18, 1997, it was verified that Osage Water Company had illegally placed this water system into operation.

In order to resolve the existing violations, the Osage Water Company will need to complete the following:

1. Submit a written request for a final construction approval.
2. Apply for a permit to dispense water to the public (application form enclosed).
3. Submit any bacteriological or chemical drinking water sample analysis for the water system.
4. Starting January 1998, the system shall begin monthly bacteriological monitoring in accordance with 10 CSR 60-4.020.
5. Complete an emergency operating plan as described in 10 CSR 60-12.010.

Parkview Bay Condos
January 5, 1998
Page Two

Items 1, 2, 3, and 5, shall be submitted to the Department of Natural Resources, Jefferson City Regional Office by January 19, 1998. Failure to comply with the provision of this letter will result in the referral of this matter to the Public Drinking Water Program for appropriate enforcement action.

If you have any questions or need assistance, please contact Stephen P. Jones, P.E. of my staff at (573) 751-2729.

Sincerely,

JEFFERSON CITY REGIONAL OFFICE



Robert H. Hentges
Regional Director

RHH:grg

Enclosure

c: Camden County Health Department
Mr. William Price, Public Drinking Program
Mr. Breck Summerford, Public Drinking Water Program
Mr. Bob VanStavern
Mr. Val Valent, City of Osage Beach