

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

The Staff of the Missouri Public Service Commission,)		
)		
)		
Complainant,)		
v.)	Case No.	WC-2011-
)		SC-2011-
Dennis Kallash, individually and as agent)		
for Bennington, Inc. and Bennington Water, Inc.;)		
Toni Kallash, individually and as agent)		
For Bennington, Inc. and Bennington Water, Inc.;)		
Bennington, Inc., and Bennington Water, Inc.,)		
)		
Respondents.)		

COMPLAINT

COMES NOW, the Staff of the Missouri Public Service Commission (“Staff”), by and through counsel, pursuant to Section 386.390, RSMo 2000¹, and for its *Complaint* respectfully states as follows:

Introduction

1. This Complaint arises from Respondents’ unlawful provision of water and sewer services. Respondents hold themselves out as non-profit water and sewer corporations but have failed to meet the requirements to operate as non-profit water and sewer corporations. Respondents operate in a manner that makes them subject to regulation by the Missouri Public Service Commission.

Complainant

2. Complainant is the Staff of the Missouri Public Service Commission, acting through the Commission’s Staff Counsel Office as authorized by Commission Rule 4 CSR 240-2.070(1).

¹ All statutory references are to the Missouri Revised Statutes (2000) unless otherwise stated.

Section 386.390.1 provides that a “Complaint may be made . . . in writing, setting forth any act or thing done or omitted to be done by any corporation . . . in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the Commission . . .”

Respondents

3. Respondent Dennis Kallash is a natural person owning, operating, controlling and managing non-profit water and sewer systems in Troy, Missouri, County of Lincoln, with a principal place of business at 360 East Cherry Street, Troy, Missouri 63379.

4. Respondent Toni Kallash is a natural person owning, operating, controlling and managing non-profit water and sewer systems in Troy, Missouri, County of Lincoln, with a principal place of business at 360 East Cherry Street, Troy, Missouri 63379.

5. Respondent Bennington, Inc. is a non-profit corporation created in August 1998, owning, operating, controlling and managing a sewer system in Troy, Missouri, County of Lincoln, and listed as active with the Missouri Secretary of State’s Office.

6. Respondent Bennington Water, Inc. is a non-profit corporation created in October 2005, owning, operating, controlling and managing a water system in Troy, Missouri, County of Lincoln, and listed as active with the Missouri Secretary of State’s Office.

7. For the purposes of this Complaint, Respondents Dennis Kallash, Toni Kallash, Bennington, Inc., and Bennington Water, Inc., will be known together as Respondents.

COUNT I

RESPONDENT BENNINGTON, INC. FAILS TO MEET THE REQUIREMENTS OF SECTION 393 NONPROFIT SEWER CORPORATIONS

8. Complainant realleges allegations 1 through 7 as though the same were set here in full.

9. Section 393.825.1 RSMo governs nonprofit sewer companies. It provides, in pertinent part that, “Nonprofit, membership corporations may be organized under sections 393.825 to 393.861 and section 393.175 only for the purpose of supplying wastewater disposal and treatment services within the state of Missouri. Corporations which become subject to sections 393.825 to 393.861 . . . in the manner herein provided are herein referred to as ‘nonprofit sewer companies.’ Five or more persons may organize a nonprofit sewer company pursuant to sections 393.825 to 393.861”

10. Respondent Bennington, Inc. is supplying wastewater disposal and treatment services within the state of Missouri.

11. Respondent Bennington, Inc. only has three incorporators and not the required five.

12. Section 393.825.2 provides that “[t]he articles of incorporation of a nonprofit sewer company shall recite in the caption that they are executed pursuant to sections 393.825 to 393.861 and section 393.175”

13. Bennington, Inc.’s Articles of Incorporation fail to recite that they are executed pursuant to sections 393.825 to 393.861 and section 393.175.

14. Section 393.839 provides that, “[n]o person shall become a member of a nonprofit sewer company unless such person shall agree to use services furnished by the company when such shall be available through its facilities”

15. Section 393.839.7 provides that, “[e]ach member shall be entitled to one vote on each matter submitted to a vote at a meeting”

16. According to Bennington Covenants, Conditions and Restrictions (Covenants) paragraph 27(f), “In all voting, whether for the election of Trustees, or for any other purpose

whatsoever, each Lot shall represent One (1) vote.” See Attachment A, which is attached and incorporated herein by reference.

17. In order to operate as a non-profit water or sewer company with a homeowners association outside the jurisdiction of the Missouri Public Service Commission, the association must (1) have as membership all of its utility customers and operate the utility only for the benefit of its members; (2) base the voting rights regarding utility matters on whether or not a person is a customer, as opposed to allowing one vote per lot which would not be an equitable situation if one person owned a majority of lots irrespective of whether each of those lots subscribed to the utility service; and (3) own or lease the utility system so that it has complete control over it.²

18. Respondent Bennington is not owned by a property owners association that allows its members to vote.

WHEREFORE, Staff prays that the Commission will find (1) that Bennington, Inc. is not a lawful nonprofit organization that is exempt from the Commission’s jurisdiction, and (2) that Bennington, Inc. is a regulated utility, subject to the Commission’s jurisdiction; and grant such other and further relief deemed necessary and appropriate.

COUNT II

RESPONDENT BENNINGTON WATER, INC. FAILS TO MEET THE REQUIREMENTS OF SECTION 393 NONPROFIT WATER CORPORATIONS

19. Complainant hereby adopts by reference and re-alleges the allegations set out in Paragraphs 1 through 18 above.

² In the matter of the application of Rocky Ridge Ranch Property Owners Association for an order of the Public Service Commission authorizing cessation of PSC jurisdiction and regulation over its operations, *Order Denying Request for Public Hearing and Cancelling Certificate of Convenience and Necessity*, issued July 7th, 1993, in Commission Case No. WD-93-307, at page 1.

20. Section 393.900 RSMo governs nonprofit water companies. It provides, in pertinent part that “Nonprofit, membership corporations may be organized pursuant to sections 393.900 to 393.951 only for the purpose of supplying water for distribution, wholesale and treatment services within the state of Missouri. Corporations which become subject to sections 393.900 to 393.951 are referred to . . . as nonprofit water companies. Five or more persons may organize a nonprofit water company pursuant to sections 393.900 to 393.951.”

21. Respondent Bennington Water, Inc. supplies water for distribution, wholesale and treatment services within the state of Missouri.

22. Respondent Bennington Water, Inc. only has three incorporators and not the required five.

23. Section 393.900.2 provides that “[t]he articles of incorporation of a nonprofit water company shall recite in the caption that they are executed pursuant to sections 393.900 to 393.951”

24. Bennington Water, Inc.’s Articles of Incorporation fail to recite that they are executed pursuant to sections 393.825 to 393.861 and section 393.175.

25. Section 393.921 provides that, “[n]o person shall become a member of a nonprofit water company unless such person shall agree to use services furnished by the company when such shall be available through its facilities”

26. Section 393.921.7 provides that, “[e]ach member shall be entitled to one vote on each matter submitted to a vote at a meeting”

27. “In all voting, whether for the election of Trustees, or for any other purpose whatsoever, each Lot shall represent One (1) vote.” *See* Attachment A.

28. In order to operate as a non-profit water or sewer company with a homeowners association outside the jurisdiction of the Missouri Public Service Commission, the association must (1) have as membership all of its utility customers, and operate the utility only for the benefit of its members; (2) base the voting rights regarding utility matters on whether or not a person is a customer, as opposed, allowing one vote per lot which would not be an equitable situation if one person owned a majority of lots irrespective of whether each of those lots subscribed to the utility service; and (3) own or lease the utility system so that it has complete control over it.³

29. Respondent Bennington Water, Inc. is not owned by a property owners association that allows its members to vote.

WHEREFORE, Staff prays that the Commission will find (1) that Bennington Water, Inc. is not a lawful nonprofit organization that is exempt from the Commission's jurisdiction, and (2) that Bennington Water, Inc. is a regulated utility that is subject to the Commission's jurisdiction; and grant any other and further relief deemed necessary and appropriate.

COUNT III

RESPONDENT DENNIS KALLASH OPERATES BENNINGTON, INC. IN THE MANNER OF A REGULATED SEWER UTILITY

30. Complainant hereby adopts by reference and re-alleges the allegations set out in Paragraphs 1 through 29 above.

31. Section 386.020(49) (Supp. 2009) provides that a "[s]ewer corporation includes every corporation, company, association, joint stock company or association, partnership or person, their lessees, trustees or receivers appointed by any court, owning, operating, controlling or managing any sewer system, plant or property, for the collection, carriage, treatment, or

³ See *Supra* note 2.

disposal of sewage anywhere within the state for gain except that the term shall not include sewer systems with fewer than twenty-five outlets.”

32. Section 393.140(11) provides

[t]he commission shall [h]ave power to require every . . . sewer corporation . . . to file with the commission and to print and keep open to public inspection schedules showing all rates and charges made, established or enforced or to be charged or enforced, all forms of contract or agreement and all rules and regulations relating to rates, charges or service used or to be used, and all general privileges and facilities granted or allowed by such . . . water corporation; but this subdivision shall not apply to state, municipal or federal contracts.

33. Section 393.150 provides that the Commission may, with or without complaint, enter upon a hearing to determine the propriety of Respondents’ water rates.

34. Bennington, Inc. is owned and operated by Respondent Dennis Kallash. *See* Attachment A at 5.

35. Respondent Dennis Kallash, without voting approval, makes decisions regarding Bennington, Inc. *See* Attachment A at 5-8.

36. The Board of Trustees “will be the governing body of the subdivision and have the right to prepare and enforce all reasonable rules and regulations for the enforcement of [the] restrictions and covenants.” *See* Attachment A at 5.

37. Respondent Dennis Kallash is one of two named Trustees in the Covenants.

38. As Trustee, Respondent Dennis Kallash is authorized “to accept, develop, own, and operate a water supply and water distribution system” *See* Attachment A at 6.

39. As a Trustee, Respondent Dennis Kallash has the power to “prepare and enforce all reasonable rules and regulations for the enforcement of these restrictions and covenants.” *See* Attachment A at 5-6.

40. Respondent Dennis Kallash has the “exclusive right to amend restrictions . . . as long as Lots are still owned by it or a successor Owner/Developer” *See* Attachment A at 8.

41. Respondent Dennis Kallash has amended Bennington’s covenants, conditions and restrictions without voter/member approval.

42. Respondent Dennis Kallash assesses service charges to Bennington, Inc.’s customers if a monthly fee is not paid by the first of every month in violation of Section 393.130. *See* Attachment B, which is attached incorporated by reference herein.

43. Respondent Dennis Kallash imposes monthly charges upon Bennington customers for water usage in violation of Section 393.130. *See* Attachment B.

44. Respondent Dennis Kallash reserves the right to make assessments against Bennington system users for “violations of the regulations.” *See* Attachment B.

45. Respondent Dennis Kallash charges for service rendered in violation of Section 393.130 and those rates have not been deemed just and reasonable and not more than allowed by law or by order or decision of the commission.

46. Respondent Dennis Kallash is unlawfully operating as a sewer corporation for gain as defined in Section 386.020(49).

47. Respondent Dennis Kallash has not filed with the Commission appropriate schedules showing all rates and charges made, established or enforced or to be charged, or all forms of contract or agreement in violation of Section 393.140(11).

WHEREFORE, Staff prays that the Commission will (1) find that Respondent Dennis Kallash acts as a sewer corporation subject to regulation by this Commission, and (2) order Respondent Dennis Kallash to file with the Commission an Application for a Certificate of

Convenience and Necessity; and grant any other and further relief deemed necessary and appropriate.

COUNT IV

RESPONDENT TONI KALLASH OPERATES BENNINGTON, INC. IN THE MANNER OF A REGULATED SEWER UTILITY

48. Complainant hereby adopts by reference and re-alleges the allegations set out in Paragraphs 1 through 47 above.

49. Section 386.020(49) (Supp. 2009) provides that a “[s]ewer corporation includes every corporation, company, association, joint stock company or association, partnership or person, their lessees, trustees or receivers appointed by any court, owning, operating, controlling or managing any sewer system, plant or property, for the collection, carriage, treatment, or disposal of sewage anywhere within the state for gain except that the term shall not include sewer systems with fewer than twenty-five outlets.”

50. Section 393.140(11) provides

[t]he commission shall [h]ave power to require every. . . sewer corporation . . . to file with the commission and to print and keep open to public inspection schedules showing all rates and charges made, established or enforced or to be charged or enforced, all forms of contract or agreement and all rules and regulations relating to rates, charges or service used or to be used, and all general privileges and facilities granted or allowed by such . . . water corporation; but this subdivision shall not apply to state, municipal or federal contracts.

51. Section 393.150 provides that the Commission may, with or without complaint, enter upon a hearing to determine the propriety of Respondents’ water rates.

52. Bennington, Inc. is owned and operated by Respondent Toni Kallash. *See* Attachment A at 5.

53. Respondent Toni Kallash, without voting approval, makes decisions regarding Bennington, Inc. *See* Attachment A at 5-8.

54. According to Bennington's Covenants, the Board of Trustees "will be the governing body of the subdivision and have the right to prepare and enforce all reasonable rules and regulations for the enforcement of [the] restrictions and covenants." *See* Attachment A at 5.

55. Respondent Toni Kallash is one of two named Trustees in the Covenants.

56. As Trustee, Respondent Toni Kallash is authorized "to accept, develop, own, and operate a water supply and water distribution system" *See* Attachment A at 6.

57. As a Trustee, Respondent Toni Kallash has the power to "prepare and enforce all reasonable rules and regulations for the enforcement of these restrictions and covenants." *See* Attachment A at 5-6.

58. Respondent Toni Kallash has the "exclusive right to amend restrictions . . . as long as Lots are still owned by it or a successor Owner/Developer" *See* Attachment B.

59. Respondent Toni Kallash has amended Bennington's covenants, conditions and restrictions without voter/member approval.

60. Respondent Toni Kallash assesses service charges to Bennington, Inc.'s customers if a monthly fee is not paid by the first of every month in violation of Section 393.130. *See* Attachment B.

61. Respondent Toni Kallash imposes monthly charges upon Bennington customers for water usage in violation of Section 393.130. *See* Attachment B.

62. Respondent Toni Kallash reserves the right to make assessments against Bennington system users for "violations of the regulations." *See* Attachment B.

63. Respondent Toni Kallash charges for service rendered in violation of Section 393.130 and those rates have not been deemed just and reasonable and not more than allowed by law or by order or decision of the commission.

64. Respondent Toni Kallash is unlawfully operating as a sewer corporation for gain as defined in Section 386.020(49).

65. Respondent Toni Kallash has not filed with the Commission appropriate schedules showing all rates and charges made, established or enforced or to be charged, or all forms of contract or agreement in violation of Section 393.140(11).

WHEREFORE, Staff prays that the Commission will (1) find that Respondent Toni Kallash acts as a sewer corporation subject to regulation by this Commission, and (2) order Respondent Toni Kallash to file with the Commission an Application for a Certificate of Convenience and Necessity; and grant any other and further relief deemed necessary and appropriate.

COUNT V

BENNINGTON, INC. IS SUBJECT TO REGULATION BY THE COMMISSION

BECAUSE IT EFFECTIVELY OPERATES AS A REGULATED SEWER CORPORATION AND HAS NOT FOLLOWED THE REQUIREMENTS TO ORGANIZE AS A NONPROFIT SEWER CORPORATION.

66. Complainant hereby adopts by reference and re-alleges the allegations set out in Paragraphs 1 through 65 above.

67. Section 386.020(49) (Supp. 2009) provides that a “[s]ewer corporation includes every corporation, company, association, joint stock company or association, partnership or person, their lessees, trustees or receivers appointed by any court, owning, operating, controlling

or managing any sewer system, plant or property, for the collection, carriage, treatment, or disposal of sewage anywhere within the state for gain except that the term shall not include sewer systems with fewer than twenty-five outlets.”

68. Section 393.130.1 provides, in pertinent part, that “[a]ll charges made or demanded by any such . . . sewer corporation . . . for . . . sewer or any service rendered or to be rendered shall be just and reasonable and not more than allowed by law or by order or decision of the commission.”

69. Section 393.140(11) provides

[t]he commission shall [h]ave power to require every . . . sewer corporation . . . to file with the commission and to print and keep open to public inspection schedules showing all rates and charges made, established or enforced or to be charged or enforced, all forms of contract or agreement and all rules and regulations relating to rates, charges or service used or to be used, and all general privileges and facilities granted or allowed by such . . . sewer corporation; but this subdivision shall not apply to state, municipal or federal contracts.

70. Section 393.150 provides that the Commission may, with or without complaint, enter upon a hearing to determine the propriety of Respondents’ sewer rates.

71. Respondent Bennington, Inc. is unlawfully operating as a sewer corporation for gain as defined in Section 386.020(49).

72. Respondent Bennington, Inc. charges for service rendered in violation of Section 393.130 and those rates have not been deemed just and reasonable and not more than allowed by law or by order or decision of the commission.

73. Respondent Bennington, Inc. has not filed with the Commission appropriate schedules showing all rates and charges made, established or enforced or to be charged, or all forms of contract or agreement in violation of Section 393.140(11).

WHEREFORE, Staff prays that the Commission will (1) initiate a ratemaking proceeding to determine and set the just and reasonable rates that Bennington, Inc. may charge for sewer service, and (2) order Bennington, Inc. to file with the Commission and maintain open and public tariffs setting out its rates and the terms and conditions of service; and grant any other and further relief deemed necessary and appropriate.

COUNT VI

RESPONDENT DENNIS KALLASH OPERATES BENNINGTON WATER, INC. IN

THE MANNER OF A REGULATED WATER UTILITY

74. Complainant hereby adopts by reference and re-alleges the allegations set out in Paragraphs 1 through 73 above.

75. Section 386.020(59) (Supp. 2009) provides that a “[w]ater corporation includes every corporation, company, association, joint stock company or association, partnership or person, their lessees, trustees or receivers appointed by any court, owning, operating, controlling or managing any sewer system, plant or property, dam or water supply, canal, or power station, distributing or selling for distribution, or selling or supplying for gain any water.”

76. Section 393.140(11) provides

[t]he commission shall [h]ave power to require every . . . water corporation . . . to file with the commission and to print and keep open to public inspection schedules showing all rates and charges made, established or enforced or to be charged or enforced, all forms of contract or agreement and all rules and regulations relating to rates, charges or service used or to be used, and all general privileges and facilities granted or allowed by such . . . water corporation; but this subdivision shall not apply to state, municipal or federal contracts.

77. Section 393.150 provides that the Commission may, with or without complaint, enter upon a hearing to determine the propriety of Respondents’ water rates.

78. Bennington Water, Inc. is owned and operated by Respondent Dennis Kallash. *See* Attachment A at 5.

79. Respondent Dennis Kallash, without voting approval, makes decisions regarding Bennington Water, Inc. *See* Attachment A at 5-8.

80. The Board of Trustees “will be the governing body of the subdivision and have the right to prepare and enforce all reasonable rules and regulations for the enforcement of [the] restrictions and covenants.” *See* Attachment A at 5.

81. Respondent Dennis Kallash is one of two named Trustees in the Covenants.

82. As Trustee, Respondent Dennis Kallash is authorized “to accept, develop, own, and operate a water supply and water distribution system” *See* Attachment A at 6.

83. As a Trustee, Respondent Dennis Kallash has the power to “prepare and enforce all reasonable rules and regulations for the enforcement of these restrictions and covenants.” *See* Attachment A at 5.

84. Respondent Dennis Kallash has the “exclusive right to amend restrictions . . . as long as Lots are still owned by it or a successor Owner/Developer” *See* Attachment A at 8.

85. Respondent Dennis Kallash has amended Bennington’s covenants, conditions and restrictions without voter/member approval.

86. Respondent Dennis Kallash assesses service charges to Bennington Water, Inc.’s customers if a monthly fee is not paid by the first of every month in violation of Section 393.130. *See* Attachment B.

87. Respondent Dennis Kallash imposes monthly charges upon Bennington customers for water usage in violation of Section 393.130. *See* Attachment B.

88. Respondent Dennis Kallash reserves the right to make assessments against Bennington system users for “violations of the regulations.” *See* Attachment B.

89. Respondent Dennis Kallash charges for service rendered in violation of Section 393.130 and those rates have not been deemed just and reasonable and not more than allowed by law or by order or decision of the commission.

90. Respondent Dennis Kallash is unlawfully operating as a sewer corporation for gain as defined in Section 386.020(49).

91. Respondent Dennis Kallash has not filed with the Commission appropriate schedules showing all rates and charges made, established or enforced or to be charged, or all forms of contract or agreement in violation of Section 393.140(11).

92. Respondent Dennis Kallash has warned Bennington customers about amounts of water usage and threatened penalties against any Bennington property owner for each violation of the regulations.

WHEREFORE, Staff prays that the Commission will (1) find that Respondent Dennis Kallash acts as a water corporation subject to regulation by this Commission, and (2) order Respondent Dennis Kallash to file with the Commission an Application for a Certificate of Convenience and Necessity; and grant any other and further relief deemed necessary and appropriate.

COUNT VII

RESPONDENT TONI KALLASH OPERATES BENNINGTON WATER, INC. IN THE MANNER OF A REGULATED WATER UTILITY

93. Complainant hereby adopts by reference and re-alleges the allegations set out in Paragraphs 1 through 92 above.

94. Section 386.020(59) (Supp. 2009) provides that a “[w]ater corporation includes every corporation, company, association, joint stock company or association, partnership or person, their lessees, trustees or receivers appointed by any court, owning, operating, controlling or managing any sewer system, plant or property, dam or water supply, canal, or power station, distributing or selling for distribution, or selling or supplying for gain any water.”

95. Section 393.140(11) provides

[t]he commission shall [h]ave power to require every . . . water corporation . . . to file with the commission and to print and keep open to public inspection schedules showing all rates and charges made, established or enforced or to be charged or enforced, all forms of contract or agreement and all rules and regulations relating to rates, charges or service used or to be used, and all general privileges and facilities granted or allowed by such . . . water corporation; but this subdivision shall not apply to state, municipal or federal contracts.

96. Section 393.150 provides that the Commission may, with or without complaint, enter upon a hearing to determine the propriety of Respondents’ water rates.

97. Bennington Water, Inc. is owned and operated by Respondent Toni Kallash. *See* Attachment A at 5.

98. Respondent Toni Kallash, without voting approval, makes decisions regarding Bennington Water, Inc. *See* Attachment A at 5-8.

99. According to Bennington’s Covenants, the Board of Trustees “will be the governing body of the subdivision and have the right to prepare and enforce all reasonable rules and regulations for the enforcement of [the] restrictions and covenants.” *See* Attachment A at 5.

100. Respondent Toni Kallash is one of two named Trustees in the Covenants.

101. As Trustee, Respondent Toni Kallash is authorized “to accept, develop, own, and operate a water supply and water distribution system” *See* Attachment A at 6.

102. As a Trustee, Respondent Toni Kallash the power to “prepare and enforce all reasonable rules and regulations for the enforcement of these restrictions and covenants.” *See* Attachment A at 5.

103. Respondent Toni Kallash has the “exclusive right to amend restrictions . . . as long as Lots are still owned by it or a successor Owner/Developer” *See* Attachment A at 8.

104. Respondent Toni Kallash has amended Bennington’s covenants, conditions and restrictions without voter/member approval.

105. Respondent Toni Kallash assesses service charges to Bennington Water, Inc.’s customers if a monthly fee is not paid by the first of every month in violation of Section 393.130. *See* Attachment B.

106. Respondent Toni Kallash imposes monthly charges upon Bennington customers for water usage in violation of Section 393.130. *See* Attachment B.

107. Respondent Toni Kallash reserves the right to make assessments against Bennington system users for “violations of the regulations.” *See* Attachment B.

108. Respondent Toni Kallash charges for service rendered in violation of Section 393.130 and those rates have not been deemed just and reasonable and not more than allowed by law or by order or decision of the commission.

109. Respondent Toni Kallash is unlawfully operating as a water corporation for gain as defined in Section 386.020(59).

110. Respondent Toni Kallash has not filed with the Commission appropriate schedules showing all rates and charges made, established or enforced or to be charged, or all forms of contract or agreement in violation of Section 393.140(11).

111. Respondent Toni Kallash has warned Bennington customers about amounts of water usage and threatened penalties against any Bennington property owner for each violation of the regulations.

WHEREFORE, Staff prays that the Commission will (1) find that Respondent Toni Kallash acts as a water corporation subject to regulation by this Commission, and (2) order Respondent Toni Kallash to file with the Commission an Application for a Certificate of Convenience and Necessity; and grant any other and further relief deemed necessary and appropriate.

COUNT VIII

BENNINGTON WATER, INC. IS SUBJECT TO REGULATION BY THE COMMISSION BECAUSE IT EFFECTIVELY OPERATES AS A REGULATED WATER CORPORATION AND HAS NOT FOLLOWED THE REQUIREMENTS TO ORGANIZE AS A NONPROFIT WATER CORPORATION.

112. Complainant hereby adopts by reference and re-alleges the allegations set out in Paragraphs 1 through 111 above.

113. Section 386.020(59) (Supp. 2009) provides that a “[w]ater corporation includes every corporation, company, association, joint stock company or association, partnership and person, their lessees, trustees, or receivers appointed by any court whatsoever, owning, operating, controlling or managing any plant or property, dam or water supply, canal, or power station, distributing or selling for distribution, or selling or supplying for gain any water.”

114. Section 393.130.1 provides, in pertinent part, that “[a]ll charges made or demanded by any such....water corporation . . . for . . . water . . . shall be just and reasonable and not more than allowed by law or by order or decision of the commission.”

115. Section 393.140(11) provides

[t]he commission shall [h]ave power to require every. . . water corporation . . . to file with the commission and to print and keep open to public inspection schedules showing all rates and charges made, established or enforced or to be charged or enforced, all forms of contract or agreement and all rules and regulations relating to rates, charges or service used or to be used, and all general privileges and facilities granted or allowed by such . . . water corporation; but this subdivision shall not apply to state, municipal or federal contracts.

116. Section 393.150 provides that the Commission may, with or without complaint, enter upon a hearing to determine the propriety of Respondents' water rates.

117. Bennington Water, Inc. has not met the requirements of a non-profit water corporation pursuant to sections 393.900 to 393.951 for the purpose of supplying water for distribution, wholesale and treatment services within the state of Missouri.

118. Respondent Bennington Water, Inc. is unlawfully operating as a sewer corporation for gain as defined in Section 386.020(59).

119. Respondent Bennington Water, Inc. charges for service rendered in violation of Section 393.130 and those rates have not been deemed just and reasonable and not more than allowed by law or by order or decision of the commission.

120. Respondent Bennington Water, Inc. has not filed with the Commission appropriate schedules showing all rates and charges made, established or enforced or to be charged, or all forms of contract or agreement in violation of Section 393.140(11).

WHEREFORE, Staff prays that the Commission will (1) initiate a ratemaking proceeding to determine and set the just and reasonable rates that Bennington Water, Inc. may charge for water service, and (2) order Bennington Water, Inc. to file with the Commission and

maintain open and public tariffs setting out its rates and the terms and conditions of service; and grant any other and further relief deemed necessary and appropriate.

Respectfully submitted,

/s/ Samuel D. Ritchie

Samuel D. Ritchie

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DECLARATION OF COVENANTS, CONDITIONS
(Revised 1-27-00) AND RESTRICTIONS OF
"BENNINGTON"
IN THE COUNTY OF LINCOLN, STATE OF MISSOURI

WHEREAS, the undersigned, Dennis Kallash and Toni Kallash, his wife, Owner and Developer of the following described parcel of land, a subdivision in Lincoln County, Missouri:

(SEE SCHEDULE "A" ATTACHED FOR LEGAL DESCRIPTION)

WHEREAS, it is deemed in the best interest of all persons who may become and are Owners of any Lots in this subdivision to have certain restrictions, reservations, limitations, conditions, easements and covenants created, imposed and placed of record relating to this property.

NOW THEREFORE, the Owner/Developer, as maker of this Declaration, for the purpose of protecting property values and providing for quiet and peaceful enjoyment of properties, does hereby subject all Lots in said subdivision to the following covenants, conditions and restrictions which shall operate as covenants running with the land into whomever hands it or any part of it shall come and does hereby declare that all Lots in said subdivision shall be held, sold and conveyed subject to the following covenants, conditions and restrictions, and the rights and easements herein contrined are hereby made and declared to be rights and easements in fee and annexed to and forever to continue to be annexed to, passing with and inuring to each of said Lots, and said Lots and each of them to remain forever subject to the burdens and entitled to the benefits created by said easements, and shall be enforceable at the suit of any and every Owner of any Lot in said subdivision by injunction or other proceeding, whether in law or equity.

1. All streets and easements shall remain for the private roadway use of the Owners of Lots in this subdivision and for no other Tracts of adjoining land except as provided herein; provided, however, that the Trustees may, at their discretion, publicly dedicate any such street or streets and may grant all utility easement rights therein or any portion or portions thereof. The Owner/Developer reserves the right to use the streets and easements as shown on the recorded Plat to service additional development, any additional development shall be subject to the same restrictions and assessments as contained herein. This shall not be construed to mean Owner/Developer shall make additional development.

The Owner/Developer expressly excepts from this dedication the water distribution system, the "Well Lot" and reserve unto themselves the right to use the streets and easements for installation, repair, and maintenance of the water distribution system or any additions thereto. The Owner/Developer may dedicate the water distribution system and the Trustees shall accept it.

The Owner/Developer shall dedicate the Sewage Treatment Plant and Lot, as well as, the easements for the Sewage Collection System and all elements of the collection system to Bennington, Inc. the Home Owners Association.

2. All streets and easements designated by deed or by the Plat are hereby created and established for the installation and maintenance

of all utilities and drainage facilities and any other purpose shown thereon or any other purpose declared by the Trustees.

The 20 foot Easement shown adjacent to Hwy 47 and the Tract "not in subdivision" Lots 1 and three are for the exclusive use of the Owner/Developer or Successor. The hatched areas shown on the plat west of the subdivision marked "not in subdivision" is to remain the property of the Owner/Developer or Successor. Owner/Developer may use said hatched areas to access the streets and easements of the Subdivision for future development as provided herein. Owner/Developer or Successor at their option may dedicate said hatched areas to the Trustee of the Subdivision who shall accept same.

3. All Lots must be sold as originally sold, with no purchaser resubdividing or reselling any portion of any original Lot or granting easements across for any purpose. The term "Lot" as used herein shall mean the original tract as sold by the Owner/Developer listed above, whether sold by Lot number or a metes and bounds description. Owner/Developer retains the right to modify the boundary lines.
4. There shall be no commercial use of any Lot, except by the Owners, professions or business. Said profession or business is defined as: Any occupation or profession carried on by a member of the immediate family, residing on the premises, in connection with which there is used no sign other than a nameplate, or no display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a dwelling; there is no commodity sold upon the premises; no person is employed other than a member of the immediate family residing on the premises; and no mechanical equipment is used except such as is permissible for purely domestic household purposes. This excludes Lots 1, 2, and 39 which may be sold by the Owner/Developer for commercial purposes.
5. Any building erected, altered, placed or permitted to remain on any Lot shall be a One (1) single-family dwelling, which must include at least a Two-car attached garage.
6. All dwellings shall be located according to the set-back lines hereby established by the recorded Plat and all dwellings, including the attached garage, shall be located a minimum distance of Ten (10) feet from any interior Lot line. Owner/Developer reserves the right to alter the set back lines.
7. No structure of temporary character, portable storage building, trailer, manufactured home, modular home, or mobile home, basement, tent, shack, shall be placed upon or used on any Lot at any time. Outbuildings, such as barns, sheds and unattached garages, must be approved Thirty (30) days prior to construction by the Trustees, and must be constructed of new materials.
8. Any dwelling constructed upon any Lot shall be of all new materials except brick or stone.
9. (a) A dwelling of the design commonly referred to or known as a One-story dwelling shall have a first floor area, exclusive of that portion encompassed with an attached garage, of not less than Sixteen Hundred (1600) square feet.

(b) A dwelling of the design commonly referred to or known as split-foyer shall have an upper level area, exclusive of that portion encompassed within an attached garage, of not less than Sixteen Hundred (1600) square feet.

(c) A dwelling of the design commonly referred to or known as split-level shall have a floor area above grade, exclusive of that portion encompassed within an attached garage, of not less than Sixteen Hundred (1600) square feet.

(d) A dwelling of the design of more than One (1) story (except dwellings of the design commonly referred to or known as split-foyer or split-level) shall have a first floor area, exclusive of that portion encompassed within an attached garage, of not less than One Thousand (1000) square feet, and a total living area of not less than Eighteen Hundred (1800) square feet, excluding the basement area.

10. For the purposes of the covenants contained in Paragraphs Six (6) and Nine (9) herein, eaves, steps and open porches shall not be considered as part of the dwelling and attached garage.
11. Construction plans and specifications and a plan showing the location of the structure must be approved by the Trustees as to the quality of workmanship and materials, harmony of external design with existing structure, and as to the location with respect to topography and finish grade elevation before any building shall be erected, placed, or altered on any residential Lot and shall be responsible for all erosion control during construction and during improvement of property. The exterior of the house shall be completed within six (6) months of the start up date. Landscaping, seeding, and grading shall be completed within nine (9) months of the start up date.

During the period of construction, the Lot Owner is responsible for any and all damage including the accumulation of mud, rocks, or debris to any lots, easements, roadway, utilities, and any and all parts of the subdivision resulting from said construction. The Lot Owner shall also be responsible for the clean up of any debris resulting from the construction.

12. Plans contemplating approval shall be submitted to the Trustees and be rejected or accepted by the Trustees within Thirty (30) days. If the Trustees fail to reject or accept said plan during the Thirty (30) day period, acceptance shall be conclusively presumed.
13. No Lot in the subdivision shall be willed, conveyed or transferred in any manner to a civic, social, religious, charitable, fraternal organization, or any person or persons other than an individual family unit for the exclusive use of any individual family unit as a residence. Provided Owner/Developer may dedicate Lots or Real Estate as common ground to the Trustees for the use of the Subdivision.
14. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the subdivision. Fire arms shall not be discharged in the subdivision.
15. No signs, advertisements, billboards, or advertising structures of any kind may be erected or maintained on any Lot; provided, however,

that permission is hereby granted for the erection and maintenance of not more than One (1) advertising board on each Lot as sold and conveyed, which advertising board shall not be than Five (5) square feet in size and may be used for the sole and exclusive purpose of advertising for sale the Lot upon which it is erected, except Owners may erect signs for advertising at the entrances.

16. All grasses and weeds which may grow upon any Lot sold shall be cut and trimmed by the Owner at least (3) three times per year. If this is not done, the Trustees shall have the right to enter said Lot and cut the grasses and weeds and an assessment of the cutting may be made and charged against the Owner of said Lot.
17. Said premises shall not be used for any unlawful purpose or for any purpose that will injure the reputation of the subdivision or the peaceful enjoyment of others. Off-road vehicles such as: A.T.V.'s, two (2), three (3), or four (4) wheel vehicles, go carts, dirt bikes, etc., shall not be ridden in the subdivision.
18. All repairs and maintenance of any structure on said Lots must be like and strictly conform to the original design and structure. No additions of any type shall be made to the original structure unless approved in writing by the Trustees.
19. All fences constructed must be of new material such as wood, milling, or chain link with new posts set in concrete, with the exception of rail fencing. All board fences shall be of the type with openings aggregating not less than Fifty percent (50%) of the fence. No fence will be constructed beyond the front of any dwelling; provided, however, the fence is of the front-yard ornamental type.
20. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot. Household pets may be kept provided they are not kept, bred, or maintained for any commercial purpose. No dog, cat, or other household pet shall be permitted by a Lot Owner to be off the Lot of the Owner unless on a leash, controlled by some person physically able to prevent a dog, cat, or other household pet from escaping. No more than Three (3) household pets shall be kept at any time.
21. No motor vehicle requiring what is commonly called a "commercial license" under the laws of the State of Missouri, recreational vehicle, lawn maintenance equipment, farm implements, or trailer, boat trailer, boat, camping truck, or similar vehicle shall be parked or permitted to remain on any Lot in said subdivision unless such vehicles are parked behind the residence or kept garaged. There shall be a limit of one of the above ungaraged. No vehicle licensed over Thirty Thousand (30,000) lbs. may be parked or permitted to remain in the subdivision.
22. No automobile, motor cycle, lawn maintenance equipment, farm implements, or machinery of any kind may be dismantled, assembled, repaired, or worked on in any manner upon any Lot or street in this subdivision unless such repairs are conducted inside a private garage, screened from public view.
23. All motor vehicles remaining in any Lots or street longer than Five (5) days not in proper operating condition shall be hauled away at the Owner's expense.

Lot owners shall park their vehicles on the lot. Vehicle parking on the streets is not permitted, except for occasional guests and visitors.

24. There shall be no private or individual wells or septic tanks. no open sewage or drainage system shall be permitted for the disposal of the sewage or water from internal household. All Lot Owners shall connect to the sewage system and are automatically members of Bennington Home Owners Association and are bound by the "By-Laws" of same.

All Lot Owners shall connect to the water System as provided by the Owner/Developer of the Subdivision and shall pay all charges and be bound by the regulations of the Owner/Developer.

Lot Owners shall pay the Owner/Developer the sum of \$500 "Tap On" fee for the sewer and the sum of \$500 "Tap On" fee for the water.

25. No junk, garbage, trash or garbage cans shall be permitted on the premises except that garbage cans for household use may be temporarily placed at the curb during garbage pick-up days.

26. No forfeiture shall be construed for violation of these restrictions, but they may be enforced by injunction or other court action.

27. There is hereby created a Board of Trustees, hereinbefore and hereafter called "Trustees", which will consist of three (3) in number and will be the governing body of the subdivision and have the right to prepare and enforce all reasonable rules and regulations for the enforcement of these restrictions and covenants.

- (a) The first Board of Trustees shall initially consist of Dennis Kallash and Toni Kallash, and serve until all lots are sold.

- (b) Thereafter there shall be three (3) members of the Board each member of the Board of Trustees shall serve for a term of Three (3) years or until his successor shall have been elected and qualified and be elected from among the Lot Owners.

- (c) In the event any of the Trustees shall die or decline to act or become incompetent to act for any reason, then the remaining Trustees shall appoint a successor or successors.

- (d) A meeting of existing Lot Owners shall be held on the 1st Saturday in June, 2001, and on the 1st Saturday of June every year thereafter for the purpose of electing Trustees and transacting any other business properly before the Lot Owners. Said meeting shall be at a convenient place within the subdivision as designated by the existing Board of Trustees, after first giving Ten (10) days written notice by posting notices in the subdivision in Five (5) places likely to be seen by the Lot Owners; provided, however, failures to give said notices shall not affect the meeting.

- (e) A special meeting of the Lot Owners may be called by the Trustees upon their own motion or upon petition of two-thirds (2/3) of the Lot Owners in the subdivision.

- (f) In all voting, whether for the election of Trustees, or for any other purpose whatsoever, each Lot shall represent One (1) vote.

- (g) The Trustees shall have the power and authority to prevent, in their own names as Trustees, violation of any express trust, any infringement, and compel the performance of any restriction. This provision is intended to be cumulative and not to restrict the right of any Lot Owner to proceed in his own behalf, but the power and authority herein granted to the Trustees is intended to be discretionary and not mandatory.
- (h) The Trustees and their successors are hereby authorized, empowered and granted the right to make assessments upon and against the several Lots in said subdivision for the purpose and at the rate hereinafter provided, and in the manner and subject to all the conditions hereinafter provided in this Paragraph and Paragraph (i).
 - (1.) To make uniform assessments of not to exceed One Hundred Fifty Dollars (\$150) on each Lot in any One (1) year, upon and against the several Lots in said subdivision for the purpose of carrying out the general duties and powers of the Trustees to defend and enforce restrictions, and for improvements and maintenance and upkeep of the streets, the of the Well Lot maintenance and House and the Subdivision entrance. This assessment shall be due June 1st of each year and shall be prorated to the buyer at closing. This assessment shall not be levied until such Lot has been sold by the Owner/Developer.
 - (2.) If, at any time, the Trustees shall consider it necessary to make any expenditures requiring an assessment additional to the assessments above provided, they shall submit in writing to the Owners of Lots for approval an outline of the plan of the project contemplated, and the estimated amount required for completion of the same and the total assessment required. If such project and the assessment so stated shall be approved by written consent of the Owners of three-fourths (3/4) or more Lots in said subdivision, the Trustees shall, in the manner hereinafter described in Paragraph 27, (i) (2.), notify all Owners of Lots in said subdivision of the additional assessments; the limit as provided in Paragraph 27, (h) (1.), shall not apply to any assessment made under the provision of this paragraph.
- (i) The Trustees are authorized to accept, develop, own, and operate a water supply and water distribution system including the ownership of real estate and wells and pumping systems and, the easements, pipes, and wells and pumping systems and, the easements, pipes, apparatus and everything necessary to distribute water to the various Lots of the Subdivision.

The Trustees and their successors are hereby authorized, empowered and granted the right to make assessments upon and against the several Lots in the Subdivision for the purposes provided in this Paragraph.
- (j) All assessments, either general or special, made by the Trustees for the purpose hereinabove enumerated shall be made in the manner and subject to the following procedure, to-wit:

- (1.) Subject to the above consent of the Lot Owners, no assessment shall be made except upon resolution adopted by a majority of the Trustees, at a meeting of the Trustees which resolution shall be incorporated into, and made a part of, the minutes of said meeting. Minutes shall be kept of all Trustees' meetings.
- (2.) Notice of all assessments may be given by mail, addressed to the last known or usual post office address of the holder of the legal title, or may be given by posting a brief notice of the assessment upon the Lot itself. Service in any One (1) of the said methods shall be sufficient.
- (3.) Assessments shall be made on each Lot basis, as the Lots are shown on the recorded plat of said subdivision, but only after said Lot has been sold by the Owner/Developer.
- (4.) Every assessment shall become due and payable within Thirty (30) days after notice is given as hereinabove provided. From and after the date when said assessments are due, it shall bear interest at the highest rate allowed by law per annum until paid, and such assessment and interest including the expense of the Trustees in perfecting the lien, court costs, and attorney fees shall constitute a lien upon said Lot and said lien shall continue in full force and effect until said amount is fully paid. Provided, however, that such lien shall never be prior to and shall always be subordinate to any Deed of Trust of record whether before or after, in point of time.
- (5.) At any time after the passage of the resolution levying an assessment, and its entry in its minutes, the Trustees may in addition, execute and acknowledge an instrument reciting the levy of the assessment with respect to any One (1) or more Lots, and cause same to be recorded in the Recorder's Office in the County of Lincoln, State of Missouri, and the Trustees shall, upon payment, cancel or release any One (1) or more Lots from the liability for assessment, as shown by recorded instrument, by executing, acknowledging and recording, at the expense of the Owner of the property affected, a release of such assessment with respect to any Lot or Lots affected, and the Trustees shall cause to be noted from time to time in the minutes of its proceedings the payments made on account of assessments. The assessment shall constitute a lien whether recorded or not.
- (6.) All statutory laws and rights for enforcing and collecting general taxes in the State of Missouri, now existing or which may hereinafter exist, are hereby referred to and made a part of this instrument for the collection of the aforesaid assessments.
- (7.) All assessments shall be held by a professional escrow company under terms agreed to by the Trustees.
- (k) The Trustees may receive, hold, convey, dispose or administer in trust for any purpose mentioned in this indenture, any gift, grant, conveyance, or donation of money, real or personal property.

- (l) The Trustees, in exercising the rights, powers, and privileges granted to them, and in discharging the duties imposed upon them by the provisions of this indenture, may from time to time enter into contracts, employ agents, servants, and labor as they may deem necessary, and employ counsel and institute and prosecute such suits as they deem necessary and advisable and defend suits brought against them individually or collectively, in their capacity as Trustees.
 - (m) Nothing herein contained shall be construed to compel the Trustees to make any payment or to incur any liability in excess of the amount of which shall be in their hands as the result of assessments made against Lot Owners as herein provided.
 - (n) The act or acts of any two (2) of the Trustees shall, for the purpose of this indenture, have the same force and effect as if all the Trustees performed such act or acts.
 - (o) The Trustees shall not be personally liable for any debt, liability or obligation of the subdivision. All persons, associations or other entities extending credit to, contracting with, or having any claim against the subdivision may look only to the funds and property of the subdivision for the payment of any such contract or claim, or for the payment of any debt, damages, judgment or decree, or of any money that may otherwise become due or payable to them from the subdivision Trustees.
28. These restrictions may be changed, modified or amended at any time in the future by written covenant signed by the Owners of Two Thirds (2/3) of the Lots in said subdivision. The said amendment or modification is to be and become effective only upon recording in the same in the office of the Recorder of Deeds of Lincoln County, Missouri. Such amendment or modification will not require the signatures of any holder of a mortgage, Deed of Trust, or other lien against the respective Lots or the improvements thereon. The By-Laws of Bennington, Inc. may only be changed as provided therein.
29. A cancellation of any of these covenants by judgements or other order shall in no way affect any of the other provisions, which shall remain in full force and effect.
30. The Owner/Developer, Dennis Kallash and Toni Kallash, reserves the exclusive right to amend restrictions or grant variances necessary stated herein as long as any Lots are still owned by it or a successor Owner/Developer as designated on the transfer to the successor Owner/Developer. The By-Laws of Bennington, Inc. may only be changed as provided therein.
31. The Subdivision and the use of the Sewer facilities shall be governed by the By-Laws of Bennington, Inc. which are attached hereto as part of these restrictions.

IN WITNESS WHEREOF, the Owner/Developer has caused these Covenants, Conditions, and Restrictions to be signed on this 31st day of January, 2000.

Dennis Kallash
Dennis Kallash

Toni Kallash
Toni Kallash

63

STATE OF MISSOURI }
COUNTY OF LINCOLN } SS

On this 31 day of January, 2000, before me personally appeared Dennis Kallash and Toni Kallash, his wife, to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office the day and year first above written.

STEPHEN F. MEYER
NOTARY PUBLIC - STATE OF MISSOURI
LINCOLN COUNTY
My commission expires NOV 21, 2000

[Signature]
Notary Public

The undersigned being the Owners of the Real Estate described on Schedule "B" impose and subject said Real Estate to the "Declaration of Covenants, Conditions, and Restrictions of Bennington and said Real Estate to be forever burdened and benefitted by them, except the Real Estate described on Schedule "B" shall not be subject to any assessments contained in said restrictions until the Sewer and Water systems are used, at which time the applicable Assessments apply. It is mandatory to "hook up" to the sewer systems as provided in the restrictions, but any private water systems maintained by the undersigned shall comply with all local, County, and State regulations.

Executed this 28 day of Jan, 2000 by the undersigned, and on behalf of their heirs and assigns.

[Signature]
Robert Hickerson

[Signature]
Diane C. Hickerson

STATE OF MISSOURI }
COUNTY OF LINCOLN } SS

On this 28th day of January, 2000, before me, personally appeared Robert Hickerson and Diane C. Hickerson, to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Mo, Missouri, the day and year first above written.

My term expires:



ROBIN L. KUCHNER
NOTARY PUBLIC - STATE OF MISSOURI
LINCOLN COUNTY
MY COMMISSION EXPIRES OCT 11, 2003

[Signature]
Notary Public

The undersigned being the owners of the Real Estate described on Schedule "C" impose and subject said Real Estate to the Declaration of Covenants, Conditions, and Restrictions of Bannington and said Real Estate to be forever burdened and benefitted by them.

Executed this 29th day of January, 2000 by the undersigned, and on behalf of their heirs and assigns.

Larry Goetz Mary K. Goetz
Larry Goetz Mary K. Goetz

STATE OF MISSOURI }
COUNTY OF LINCOLN } SS

On this 29th day of January, 2000, before me, personally appeared Larry Goetz and Mary K. Goetz, to me known to be the persons described in and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed my official seal at my office in Tracy, Missouri, the day and year first above written.



Robin L. Kirchner
Notary Public

My term expires: NOTARY PUBLIC - STATE OF MISSOURI
UNCLIN COUNTY
MY COMMISSION EXPIRES OCT. 11, 2000

The undersigned lender being the holder of a note and Deed of Trust Recorded in Book 971 on Page 242 which affects tract B and Recorded in Book 1203 Page 81 which affects Tract C, executor of these Covenants.

JUSTIN ST. PIERRE, CASST V. PRES. PEOPLES BANK & TRUST
IN WITNESS WHEREOF the undersigned executed this instrument on behalf of Peoples Bank and Trust Company of Lincoln County Missouri.

STATE OF MISSOURI }
COUNTY OF LINCOLN } SS

On this 29th day of January, 2000, before me, appeared Justin St. Pierre, to me personally known, who, being by me duly sworn, did say that he is the President Vice President of Peoples Bank and Trust, a Corporation of the State of Missouri, and that said instrument was signed in behalf of said Bank by authority of its Board of Directors, and said he acknowledged said instrument to be the free act and deed of said Bank.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal at my office in Tracy, Missouri, the day and year first above written.



Robin L. Kirchner
Notary Public


My term expires:

NOTARY PUBLIC - STATE OF MISSOURI
UNCLIN COUNTY
MY COMMISSION EXPIRES OCT. 11, 2000

REGULATIONS OF THE OWNER/DEVELOPER
FOR BENNINGTON WATER SYSTEM
FEBRUARY, 2000

1. Tap on fees are due prior to connection.
- 2.1. Owner/Developer will not provide monthly billing.
- 2.2. The Lot Owner/Resident shall have the right to pay in advance.
- 2.3. If monthly fee is not paid by the first of every month, the Owner/Developer shall have the right to assess a service charge.
- 2.4. If the Lot Owner/Resident becomes delinquent thirty (30) days, the Owner/Developer has the right to disconnect service.
The Lot Owner/Resident shall be responsible for any and all expenses incurred by Owner/Developer for disconnection and shall pay such amount prior to and including reconnection fee.
3. The Owner/Developer shall have the right to raise water rates due to maintenance cost which apply to the water system.
4. The Owner/Developer shall have the right to hire, for the purpose of record keeping, accounting, legal assistance, accounts receivable and accounts payable.
5. The Owner/Developer shall have the right to regulate water usage, when deemed necessary.
6. Water shall be for household use only, other than specific permitted use by the Owner/Developer.
- 7.1. If any Lot Owner/Resident does not comply with the above forth stated regulations, the Owner/Developer shall have the right to assess the lot owner.
- 7.2. Every assessment shall become due and payable within thirty (30) days after notice is given as hereinabove provided. From and after the date when said assessments are due, it shall bear interest at the highest rate allowed by law per annum until paid, and such assessment and interest including the expense of the Owner/Developer in perfecting the lien, court cose, and attorney fees shall constitute a lien upon said Lot and said lien shall continue in full force and

that such lien shall never be prior to and shall always be subordinate to any Deed of Trust of record whether before or after in point of time. Such lien shall be superior to all other liens and encumbrances on such Lot. All other entities acquiring liens or encumbrance on any Lot after this Declaration has been recorded shall be deemed to consent to such liens or encumbrances being inferior to future liens for the assessments described in this Declaration, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.


DENNIS KALLASH - OWNER/DEVELOPER


TONI KALLASH - OWNER/DEVELOPER