

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
February 17, 2000**

CASE NO: SA-2000-295

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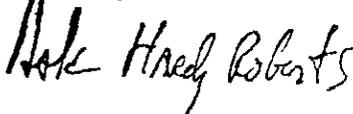
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John W. Ellinger
Southwood Shores Condo Owners, Assn
708 East McCarty Street
Jefferson City, MO 65101.

Enclosed find certified copy of an ORDER in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Lake Region)
Water & Sewer Company for a Certificate of)
Public Convenience and Necessity Authorizing It)
to Construct, Install, Own, Operate, Control,)
Manage, and Maintain a Centralized Sewage Col-) Case No. SA-2000-295
lection and Treatment System in an Area in an)
Unincorporated Area in Camden County, Missouri,)
as an Expansion of Its Existing Certificated)
Area.)

ORDER REGARDING APPLICATIONS TO INTERVENE OUT OF TIME

On October 22, 1999, Lake Region Water & Sewer Company (LRWS) filed an application requesting a certificate of convenience and necessity authorizing it to construct, install, own, operate, control, manage, and maintain a centralized sewage collection and treatment system in an area in an unincorporated area of Camden County, Missouri, as an expansion of its existing certificated area.

The Commission issued an Order and Notice on October 26, 1999, directing interested parties who wished to intervene to do so by November 27, 1999. Although no timely applications to intervene were filed, the Commission has received two late-filed applications to intervene, one from Bristol Bay Condominium Owners Association, Inc., The Falls Condominium Owners' Association, Inc., and Regatta Bay Owner's Condominium Association, Inc. (the "Association Intervenors"), and one from Southwood Shores Condo Owners Association, Inc. (Southwood).

The Association Intervenors filed their Application to Intervene and Request for Leave to File Same Out of Time on February 4, 2000, and noted that LRWS's proposal "will allow for the elimination of a number of on site treatment facilities and a number of state approved treatment plants that discharge into the Lake of the Ozarks." Association Intervenors state that the proposal does not clearly state how existing treatment facilities, including those presently owned and operated by the Association Intervenors, would be treated in respect to mandatory participation or assessments irrespective of participation. Because of this ambiguity, Association Intervenors cannot state whether they support or oppose the proposed service.

The Association Intervenors further indicate that their interest in this case is different from that of the general public and cannot be adequately represented by the present parties to the case. The Association Intervenors state that they first learned of the filing of the application on or about February 1, 2000, and that they promptly retained counsel and are now seeking intervention. The Association Intervenors note that no evidence has been heard in this case, no procedural schedule has been set, and, they believe, no discovery has commenced. Therefore, the Association Intervenors argue that allowing the intervention out of time will not prejudice LRWS, the Commission, or any other party.

On February 7, 2000, Southwood filed a Motion for Leave of Commission to Intervene Out of Time. Southwood opposes the application of Lake Region & Sewer Company. Southwood contends that it was

not aware of the pendency of this matter until an article in the January 13, 2000, edition of the *Lake Sun Leader* was brought to its attention. The article mentioned the sewer proposal but not that a case was pending before the Public Service Commission. Only after further inquiry did Southwood become aware of the case before the Commission.

Southwood states that it maintains its own sewer system in the area sought to be franchised by the Lake Region Water & Sewer Company, and that it does so at considerable savings to its members and condominium owners. Southwood notes that it is an approved and tested sewer system, and that it has been the policy of the Department of Natural Resources (DNR) to require private sewer systems to connect to regional systems where available. Southwood states that this would be a considerable expense to its members and condominium owners, without any additional benefit.

On February 14, 2000, LRWS filed a Response to Motions for Leave to Intervene Out of Time. LRWS argues that the motions are untimely and do not establish a good cause for such delay. LRWS notes that there was public notice of the original application and that the motions for intervention are both more than 60 days past the intervention deadline. LRWS contends that the motions of the condo associations do not establish that there is any real prospect of them being required to abandon their facilities and therefore they have not established that there is any real basis to expect that they would be adversely affected if they were not granted status as intervenors.

The Commission has reviewed the motions for intervention and LRWS's response. 4 CSR 240-2.075(4) provides that a late application to intervene may be granted by the Commission upon a showing of good cause. The Application to Intervene Out of Time filed by the Association Intervenors indicates that they did not learn of LRWS's proposal until February 1, 2000, and that they promptly retained counsel and are now seeking intervention. Southwood also states that it only recently learned of LRWS's proposal and the pending case before the Commission, although it does not clearly indicate the exact date of when it became aware of the case before the Commission. The Commission notes that this case has not yet progressed to a stage at which any party would be prejudiced by the addition of the Association Intervenors and Southwood as parties. The Commission concludes that good cause exists for acceptance of both the Association Intervenors' application to intervene and Southwood's motion to intervene.

IT IS THEREFORE ORDERED:

1. That the Application to Intervene and Request for Leave to File Same Out of Time, filed on February 4, 2000, by Bristol Bay Condominium Owners Association, Inc., The Falls Condominium Owners' Association, Inc., and Regatta Bay Owner's Condominium Association, Inc. (the Association Intervenors), is granted.

2. That the Motion for Leave of Commission to Intervene Out of Time, filed on February 7, 2000, by Southwood Shores Condo Owners Association, Inc. (Southwood), is granted.

3. That the Records Department of the Public Service Commission shall add to the service list for this case the names of

the attorney for Bristol Bay Condominium Owners Association, Inc.,
The Falls Condominium Owners' Association, Inc., and Regatta Bay
Owner's Condominium Association, Inc. (the Association Intervenors)
and the attorney for Southwood Shores Condo Owners Association, Inc.

4. That this order shall become effective on February 29,
2000.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Vicky Ruth, Regulatory Law Judge,
by delegation of authority pursuant
to 4 CSR 240-2.120(1) (November 30,
1995) and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 17th day of February, 2000.

FYI: To Be Issued By Delegation

AJJ/Secy: Ruth/Pope

2-16 Date Circulated

2-22 Return by 3pm

10am

SA-2000-295
CASE NO.

[Signature]
Lumpe, Chair

[Signature]
Crispian, Commissioner

[Signature]
Murray, Commissioner

[Signature]
Schemenauer, Commissioner

[Signature]
Drainer, Vice-Chair

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

I have compared the preceding copy with the original on file in this office and

I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson City, Missouri, this 17th day of FEBRUARY 2000.

Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

