

**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 OUT OF TIME INTERVENTION AND, IF NECESSARY,
ORIGINAL FORMAL COMPLAINT OR, IN THE ALTERNATIVE,
MOTION FOR LEAVE TO APPEAR AND FILE AN *AMICUS CURIAE BRIEF***

Comes Now, George M. Hall, pursuant to 4 CSR 240-2.075 (10) makes and files this his **Motion For Out Of Time Intervention**; pursuant to 4 CSR 240-2.070 makes and files if necessary, an **Original Formal Complaint**; and pursuant to 4 CSR 240-2.075 (11) an alternative **Motion For Leave To Appear and File An *Amicus Curiae* Brief**.

OUT OF TIME INTERVENTION

1. George M. Hall, proposed Intervenor, currently resides at 31971 Chesapeake Dr. in Warsaw, Benton County, Missouri 65355. Proposed Intervenor’s contact information is the resident address listed above and telephone contact number (660) 723-4283 and an e-mail address as follows: bonzimagnum@yahoo.com.

2. Pursuant to 4 CSR 240-2.075 (10), Proposed Intervenor submits, good cause exists for granting of filing intervention after the date ordered for intervention by the Commission, said date being October 1, 2014.

3. On September 10, 2014, The Commission Ordered: “The Commission’s Public Counsel Information Officer **shall make notice** of this order available to the members of the General Assembly representing Benton County, Missouri and **to the**

media serving Benton County, Missouri.

4. On Monday, November 10, 2014, Proposed Intervenor, after inquiry with the local newspaper in Warsaw, Missouri (Benton County Enterprise), and the Benton County Commissioners, discovered the following: (1) The Order Directing Notice and Setting Date For Submission of Intervention Requests **did not appear** in any publication of the Benton County Enterprise prior to the intervention deadline date of October 1, 2014; (2) Proposed Intervenor was also informed by the Benton County Enterprise staff, the order directing notice had not been received by them; and, (3) Proposed Intervenor and others appeared before the Benton County Commissioners on November 210, 2014 and were first informed by Presiding Commissioner, Tom Self, the Commissioners had not previously received or seen a copy of the Order dated September 10, 2014. However, later the same day, Proposed Intervenor received a telephone call from the Commissioners that the Order had been found. No steps were taken by the Benton County Commissioners to ensure interested persons were given notice of the intervention deadline. Their actions were to simply place the Order in a file and then temporarily misplace the file.

5. Proposed Intervenor did not obtain or receive any notice of the Order Directing Notice and Setting Date For Submission Of Intervention Requests which was issued and effective September 10, 2014. Proposed Intevenor's residence is within the former boundary of the dissolved and nonexistent Benton County Sewer District #1 and is the same and exact boundary area submitted by Missouri-American Water (hereafter, MOAW), in their Application.

6. Proposed Intervenor has a significant interest in this case. Proposed

Intervenor is the Plaintiff in a pending civil action (Case No. 12 BE-CC00035, 30th Judicial Circuit Court, Benton County, Missouri), wherein the Benton County Sewer District #1 is the Defendant. The facts present in the case establish the following grounds for consideration: unequal application of the law (denial of due process), and the Benton County Sewer District was *void ab initio*. These two legal issues alone and until decided by the proper jurisdiction, impact whether the sewer district ever legally existed. The District being a nullity and void from the outset, results in no assets available for sale! It did not exist, does not exist and has never existed under the law!

7. Proposed Intervenor opposes the relief sought by MOAW and also the Application To Intervene submitted by the Missouri Department of Natural Resources. MOAW is electing to acquire assets with the assurance and support from the Missouri Department of Natural Resources and said assets are not owned by anyone, (there does not exist any court order transfer of ownership of assets to the USDA or the Missouri Department of Natural Resources). The **only intent and purpose** of the purchase is to aid the USDA in hiding, concealing, covering up, and escaping damage liability and accountability as a result of its employees knowingly participating in awarding an **unauthorized, fraudulent loan to the Benton County Sewer District #1**, contrary to Court Order, the revised Statutes of Missouri Chapter 204, and the Missouri Constitution Article VI, Section 26 (a) and 26 (b).

8. The Missouri Public Service Commission “**Mission Statement**” provides, in part: “**We will: ensure that Missourians receive safe and reliable utility services at just, reasonable and affordable rates;**”

In this instant case, the parties purposely neglect to address the fact that safe and

reliable sewer service can be maintained without the unreasonable expense from centralized sewer systems such as the Benton County Sewer District #1 or the proposed services from MOAW. The Benton County Sewer District boundary which included the illegally formed sub-district (**actual users**) has had individual residential septic systems in place (**the fortunate few who did not suffer the terms and conditions of the invalid mandatory hook up ordinance**), since the formation of the District. These individual systems are not and have not been in violation of the clean water act and, if they were, corrections were made by the individual residents. This statement cannot be said for the Benton County Sewer District #1. The District is currently under a Consent Order, has an adequate plan for correction, yet the Missouri Department of Natural Resources has purposely failed to approve the plan and require the needed repairs be done. Still, the Department of Natural Resources relies on these very needed repairs to give their stamp of approval for a MOAW purchase.

9. The parties in this case have wholly failed to consider any alternatives to a centralized sewer treatment system and have arbitrarily and systematically dismissed the use of individual septic systems, small group cluster systems, green systems, holding tank systems, incerno toilet systems, and systems which allow effluent water to be used in irrigation, lawn watering and surface discharge. 10 CSR 20-8.0020 provides; “**New Process, Methods and Equipment.** The **policy** of the Department **is to encourage** rather than obstruct the development of new methods and equipment for the treatment of sewage wastes.” This policy is being ignored in this instant case as Missouri Department of Natural Resources has selectively elected to refuse consideration of any other sewage treatment process, system, or method which is equal to, better and more

cost efficient than a centralized system.

10. The proposed rates by MOAW in their submitted Feasibility Study (Exhibit D) are incorrect, inaccurate, lacking, irrational, blatantly false, wholly unsupported, and a concerted misrepresentation. MOAW maintains the sewer tariff (rate) will be \$65.22 per mo. However, MOAW failed to distinguish rate amounts for full-time residents, part-time residents, businesses and commercial properties. Further, MOAW failed to distinguish rates based upon the number of individuals at a given residence, it is for 1, 2, 3, 4, 8, 10? Or is each individual at a residence going to be billed \$65.22 separately?

The assumption by MOAW of 350 customers in 2014 is an unjustifiable figment of someone's imagination. As per the Missouri State Auditor's Findings (released November 2014) in the audit of the Benton County Sewer District #1, the District does not exist per the dissolution vote on April 2, 2013. Reality, therefore reasons, there is no District as of 2013, there can be no customers in 2014. MOAW has not completed or submitted any study to determine the number of customers that want their own private residential septic or similar system or the number of residents who will refuse to contract for their services.

The expenses of MOAW based on the District budget in 2012 defies comprehension. The District has never had an adequate budget. In fact, the District was unconstitutional from the outset since its expenses exceeded its revenues contrary to the Missouri Constitution. The Audit, pg. 7, provides: "The District filed inaccurate financial reports with regulatory agencies and **budgetary information** and management reports **used by the Board were inaccurate, incomplete, or failed to comply with statutory provisions. Budgets did not include a budget message or budget**

summary, actual beginning balances or estimated ending fund balances, or a schedule of indebtedness.” Lastly, upon admission by MOAW and the Missouri Department of Natural Resources, the parties know the treatment facility needs extensive repairs to the cost of nearly \$1,000,000.00 (one million dollars), but MOAW has deliberately neglected to include these repairs under maintenance or any other line item in their Feasibility Study.

Pursuant to the EPA guidelines on Sewer Rates, the rates should be determined at 2% of the median income for the area. Based on these guidelines, the reasonable rate would not exceed \$22.00 to \$27.00 per month in the current area defined in this case and not the Jefferson City area rates insisted by MOAW.

11. **Wherefore,** Proposed Intervenor respectfully requests that he be allowed to intervene in the above-styled matter.

ORIGINAL FORMAL COMPLAINT

12. Proposed Intervenor/Petitioner, incorporates by reference the foregoing items 1-11 as the basis and foundation for a Formal Complaint against MOAW, 727 Craig Road, St. Louis, Missouri 63141; (314) 996-2279; Timothy W. Luft Corporate Counsel. Proposed Intervenor/Petitioner has been in contact with MOAW.

13. Proposed Intervenor/Petitioner requests this Formal Complaint be filed, investigated, and the allegations be determined and acted upon by the Commission and after due consideration, MOAW's Application be in all things denied.

PETITION FOR LEAVE TO FILE AN

AMICUS CURIAE BRIEF

14. George M. Hall hereby incorporates by reference the foregoing items 1-13 and makes them a part of this Petition. George M. Hall is an independent paralegal and owner of Legal Research Specialties. George M. Hall states that an amicus brief is desirable in this instant case for several reasons. As stated and incorporated herein by George M. Hall, the matters asserted are highly relevant to this pending case. The matters raised delve into the nonexistence of the Benton County Sewer District #1, the attempt by the USDA to receive payment on an unauthorized and fraudulent loan from a third party MOAW and the illegal attempt by MOAW to purchase assets not owned by anyone.

Further issues arise from the submitted Feasibility Study offered by MOAW and the reasonableness of their purported rate and the necessity for a centralized sewer service in the submitted boundary area.

Wherefore, George M. Hall requests this Commission grant him leave to file an *amicus curiae* brief in this case.

Respectfully submitted.

/s/ George M. Hall

George M. Hall, Proposed Intervenor/Petitioner
31971 Chesapeake Dr.
Warsaw, Missouri 65355
(660) 723-4283
bonzimagnum@yahoo.com

DECLARATION

I, George M. Hall, Proposed Intervenor/Petitioner in the foregoing document states, under the penalty of perjury, that I am the Proposed Intervenor/Petitioner in the foregoing, I have read the foregoing and that the factual allegations contained therein are true and correct to the best of my knowledge, information and belief.

/s/ George M. Hall
George M. Hall

CERTIFICATE OF SERVICE

I, George M. Hall hereby certify that a true and correct copy of the foregoing (Corrected) Motion For Out of Time Intervention and, If Necessary, Original Formal Complaint Or, In the Alternative, Motion For Leave To Appear and file An Amicus Curiae Brief, was mailed, faxed, or e-mailed to the following:

Missouri Public Service Commission
Cydney Mayfield
200 Madison St., Suite 800
P. O. Box 360
Jefferson City, Mo. 65102
Cydney.Mayfield@psc.mo.gov

Missouri Public Service Commission
Office General Counsel
200 Madison St., Suite 800
P. O. Box 360
Jefferson City, Mo 65102
staffcounsel@psc.mo.gov

Missouri-American Water Company
Dean L. Cooper
312 East Capitol
P. O. Box 456
Jefferson City, Missouri 65102
dcooper@brydonlaw.com

Missouri -American Water Company
Timothy W. Luft
727 Craig Road
St. Louis, Missouri 63141
Timothy.Luft@amwater.com

Office of the Public Counsel
Dustin Allison
200 Madison St., Suite 650
P. O. Box 2230
Jefferson City, Missouri 65102
opcservice@ded.mo.gov

Jacob Westen
Assistant Attorney General
P. O. Box 899
Jefferson City, Missouri 65102
Jacob.Westen@ago.mo.gov

/s/ George M. Hall
George M. Hall

