



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

November 12, 2004

FILED³

NOV 12 2004

Public Service Commission
Governor State Office Building
Jefferson City, MO 65102

Missouri Public
Service Commission

RE: In the Matter of The joint application of Missouri-American Water Company
and both Osage Water Company and Environmental Utilities, L.L.C.
Case No. WO-2005-0086

Dear Sir/Madam:

Enclosed for filing please find an original and nine copies of Filing of Exhibits in Support of Claim in the above-styled matter. Please stamp "filed" on the copy for my records. Thank you.

Sincerely,

JEREMIAH W. (JAY) NIXON
Attorney General

Timothy P. Duggan
TIMOTHY P. DUGGAN
Assistant Attorney General
(573) 751-9802

TPD:pah
Enclosure

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

FILED³

NOV 12 2004

Missouri Public
Service Commission

In the matter of:


The joint application of)
Missouri-American Water Company)
and both Osage Water Company and) Case No. WO-2005-0086
Environmental Utilities, L.L.C.)

FILING OF EXHIBITS IN SUPPORT OF CLAIM

Come now intervenors, the Missouri Clean Water Commission and the Department of Natural Resources, to file and share with the other parties the following exhibits in support of their claims:

1. Exhibit 1 is a copy of a default judgment (copy attached) in the amount of \$47,076.00, in case number CV104-39CC, Circuit Court of Camden County. The judgment also requires Osage Water to pay the court costs.
2. Exhibit 2 is an invoice for \$2,800.00 for fees and penalties of \$300.00 for nonpayment owed for the Cedar Glen Condominiums Waste Water Treatment Facility.
3. Exhibit 3 is an invoice for \$222.25 in fees still due for the Osage Water Company's Route KK Waste Water Treatment Plant.

Respectfully submitted,
JEREMIAH W. (JAY) NIXON
Attorney General



TIMOTHY R. DUGGAN, MBE #27827
Assistant Attorney General
8th Floor, Broadway Building
P. O. Box 899
Jefferson City, Missouri 65102
Phone: (573) 751-9802
TELEFAX No. (573) 751-8464

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of foregoing to be delivered by the method indicated below:

United States mail, postage prepaid,

this 12th day of November, 2004, to

The Office of the Public Counsel
P.O. Box 2230
Jefferson City, MO 65102

Dean L. Cooper, c/o Missouri American Water Co.
Richard C. Ciottone
Brydon, Swearengen & England P.C.
312 East Capitol Avenue
P.O. Box 456
Jefferson City, MO 65102

Gregory D. Williams, c/o Osage Water Co.
P.O. Box 431
Sunrise Beach, MO 65079

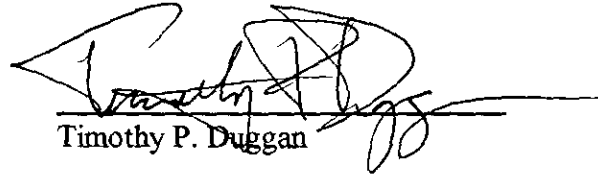
Mark Comley, c/o Cedar Glen Condominium Owners Ass'n, Inc.
601 Monroe Street, Suite 301
P.O. Box 537
Jefferson City, MO 65102

Terry Allen c/o Hancock Construction
314 Monroe St.
P.O. Box 1702
Jefferson City, MO 65102

Secretary of the Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Dana K. Joyce
Cliff Snodgrass
P.O. Box 360
200 Madison St., Suite 800
Jefferson City, MO 65102

John B. Coffman P.O. Box 7800
200 Madison St., Suite 640
Jefferson City, MO 65102



Timothy P. Duggan

IN THE CIRCUIT COURT OF CAMDEN COUNTY, MISSOURI

STATE OF MISSOURI ex rel.)
JEREMIAH W. (JAY) NIXON, Attorney)
General, and the MISSOURI CLEAN)
WATER COMMISSION,)
)
Plaintiff,)
)
v.)
)
OSAGE WATER COMPANY,)
)
Defendant.)

RECEIVED

OCT 28 2004

JC - MISSOURI
ATTORNEY GENERAL

Case No. CV104-39CC

Filed 10-15-2004

INTERLOCUTORY DEFAULT ORDER AND
FINAL DEFAULT DECISION, JUDGMENT AND ORDER

Now on this 15th Day of October, 2004, the Court takes up plaintiff's motion for default judgment. The Court finds and concludes:

1. Plaintiff's petition in the above captioned case was filed on January 15, 2004. Service of summons was made on defendant on January 21, 2004, and a return has been filed.
2. The defendant has failed to file and serve an answer within 30 days of receipt of summons as required by Supreme Court Rule 55.25.
3. Supreme Court Rule 74.05 authorizes this Court to issue an Interlocutory Order of Default because the defendant has failed to plead or otherwise defend.
4. Supreme Court rule 74.05 authorizes this Court, upon issuing an interlocutory order of default, to immediately hold a hearing to assess unliquidated damages and other relief requested by the petition. The hearing may be held without further notice to the

EXHIBIT

1

defendant because once a defendant is served with summons and petition he is put on notice of every stage of the proceeding. *Barney v. Suggs*, 688 S.W.2d 356, 359-360 (Mo. banc 1985); *Citizens Nat. Bank v. Boatmen's Nat. Bank*, 934 S.W.2d 6, 9 (Mo. App. E.D. 1996).

WHEREFORE, the Court hereby issues its interlocutory order that defendant is in default and plaintiff is entitled to an immediate hearing to assess relief, without further notice.

FINAL DECISION, JUDGMENT AND ORDER

The Court, having determined that the defendant, after being duly served the petition, is in default for having failed to answer the same, deems the allegations in the petition to be admitted. The allegations of the petition are fully incorporated as though fully set forth herein. The Court, having heard plaintiff's evidence establishing appropriate relief, issues a final decision, judgment and order as follows:

1. Defendant is the owner or operating authority for the State Operating Permit MO-0111104 for the Chelsea Rose Subdivision and is required by § 644.052, RSMo, to pay an annual operating permit fee for discharges from water contaminant sources. The fee is due on the anniversary date of the permit, or May 10 of each year. According to the Department of Natural Resources, the annual fee for this facility is \$800.00, based upon the facility's design flow. The 2003 fee of \$800.00 has not been paid. The 2004 fee of \$800.00 has not been paid. Penalties owed for nonpayment of

these fees is \$416.00, calculated at 2% for each month that the fee is delinquent, pursuant to § 644.055, RSMo. The defendant, as of the day of the hearing, owes \$2,016.00 for said unpaid fees and penalties for the Chelsea Rose facility. The Court orders defendant to pay this amount, by separate check, to the State of Missouri within thirty days of this judgment.

2. Defendant is the owner or operating authority for the State Operating Permit MO-0116921 for the Cimarron Bay Subdivision and is required by § 644.052, RSMo, to pay an annual operating permit fee for discharges from water contaminant sources. The fee is due on the anniversary date of the permit, or September 10 of each year. According to the Department of Natural Resources, the annual fee for this facility is \$150.00, based upon the facility's design flow. The 2002 fee of \$150.00 has not been paid. The 2003 fee of \$150.00 has not been paid. The 2004 fee of \$150.00 has not been paid. Penalties owed for nonpayment of these fees is \$110.00, calculated at 2% for each month that the fee is delinquent, pursuant to § 644.055, RSMo. The defendant, as of the day of the hearing, owes \$560.00 for said unpaid fees and penalties for the Cimarron Bay facility. The Court orders defendant to pay this amount, by separate check, to the State of Missouri within thirty days of this judgment.

3. For violations of Chapter 644, RSMo, and the regulations promulgated pursuant thereto, at the Chelsea Rose facility, the Court hereby assesses against the defendant a penalty of \$ 22,250 to the benefit of the Camden County School

Fund. The Court orders the defendant to pay this amount, by separate check, to the State of Missouri (Camden County) within thirty days of this judgment.

4. For violations of Chapter 644, RSMo, and the regulations promulgated pursuant thereto, at the Cimarron Bay subdivision facility, the Court hereby assesses a penalty of \$ 22,250 against the defendant to the benefit of the Camden County School Fund. The Court orders the defendant to pay this amount, by separate check, to the State of Missouri (Camden County) within thirty days of this judgment.

5. The checks in the amounts ordered to be paid shall be sent to the Office of the Attorney General, to the attention of Jo Ann Horvath, Collections Specialist, P.O. Box 899, Jefferson City, MO 65102.

6. The defendant is ordered to pay all court costs.

7. The defendant is permanently enjoined from committing any further violations of Chapter 644, RSMo, and the regulations promulgated pursuant thereto, subject to the contempt powers of this Court.


Judge, Camden County Circuit Court

The clerk shall serve a certified copy of this judgment upon:

William P. Mitchell
Registered Agent
Osage Water Company
328 South Frontage Road
Osage Beach, Missouri 65065

CERTIFIED TO BE A TRUE AND
CORRECT COPY OF THE ORIGINAL

DATE 10.27.04

CLERK OF CIRCUIT COURT
CAMDEN COUNTY, MO.

BY _____ CLERK

BY  DEPUTY

MISSOURI DEPARTMENT OF NATURAL RESOURCES
WATER PROTECTION AND SOIL CONSERVATION DIVISION
WATER PROTECTION BRANCH

October 21, 2004

ANNUAL OPERATING PERMIT INVOICE

TO: OSAGE WATER COMPANY
328 SOUTH FRONTAGE
OSAGE BEACH, MO 65065

RECEIVED
OCT 25 2004
JC - MISSOURI
ATTORNEY GENERAL

Dear Permittee:

Our records show that you are the owner or operating authority for the State Operating Permit MO-0120936 for CEDAR GLEN CONDO WWTF. The Missouri Clean Water Law, Section 644.052, effective October 1, 1990, requires paying an annual operating permit fee for discharges from water contaminant sources. This fee is due on the anniversary date of your permit. The fees cannot be prorated and are due in full on the due date.

The fee history for permit MO-0120936 is as follows:

Date of Fee = April 7, 2004 Fee Amount Due = \$2,500.00

Total Fees Due with Adjustments = \$2,500.00

Total Outstanding Penalties = \$ 300.00

Less Payments Received - \$ 0.00

Total Amount Now Due = \$2,800.00

Please make your check or money order payable to the "State of Missouri". To ensure proper credit to your account, return the enclosed remittance form with your payment. Payment must be made within thirty (30) days to avoid paying penalty charges. If the fees are not paid within the required thirty (30) days, they shall be subject to a penalty of the amount of interest accrued on the unpaid fees. That rate is two percent for each month that the fee is delinquent.

Thank you for protecting the environment. If you have any questions about this fee, please contact Catherine Engelmeyer at 573-751-6723 or call 1-800-361-4827 and ask for Water Protection Branch.

Sincerely,

WATER PROTECTION BRANCH

Catherine Engelmeyer

Catherine Engelmeyer
Executive I

Enclosures



WATER PROTECTION BRANCH
ANNUAL OPERATING PERMIT FEE
(This Page Must Be Returned With Your Payment)

Date: October 21, 2004

Fee Date: 4/07

Permit No.: MO-0120936

Facility Name: CEDAR GLEN CONDO WWTF

2004 Total Fees Due (4461-1130-01) = \$2,500.00

Penalty Charge (4461-1621-04) = \$ 300.00

Total Fees Due = \$2,800.00

Billing Name: OSAGE WATER COMPANY

Address: 328 SOUTH FRONTAGE

City, State, Zip: OSAGE BEACH, MO 65065

(If address shown is incorrect, please correct and return.)

-----FOR AGENCY USE ONLY-----

Permit #: MO-0120936

Name: CEDAR GLEN CONDO WWTF

Fee Date: 4/07

2004 Total Fees Due (4461-1130-01) = \$2,500.00

Penalty Charge (4461-1621-04) = \$ 300.00

Total Fees Due = \$2,800.00

Date Received _____

Received By _____

Please make your payment payable to the "State of Missouri" and mail to :

MISSOURI DEPARTMENT OF NATURAL RESOURCES
DAS, RECEIPTS AND REPORTING
P. O. BOX 477
JEFFERSON CITY, MO 65102

MISSOURI DEPARTMENT OF NATURAL RESOURCES
WATER PROTECTION AND SOIL CONSERVATION DIVISION
WATER PROTECTION BRANCH

October 21, 2004

ANNUAL OPERATING PERMIT INVOICE

TO: OSAGE WATER COMPANY
PO BOX 650
SUNRISE BEACH, MO 65079

Dear Permittee:

Our records show that you are the owner or operating authority for the State Operating Permit MO-0123170 for OSAGE WATER COMPANY, KK WWTP. The Missouri Clean Water Law, Section 644.052, effective October 1, 1990, requires paying an annual operating permit fee for discharges from water contaminant sources. This fee is due on the anniversary date of your permit. The fees cannot be prorated and are due in full on the due date.

The fee history for permit MO-0123170 is as follows:

Date of Fee = Oct 13, 2004 Fee Amount Due = \$500.00

Total Fees Due with Adjustments = \$222.25

Total Outstanding Penalties = \$ 0.00

Less Payments Received - \$ 0.00

Total Amount Now Due = \$222.25

Please make your check or money order payable to the "State of Missouri". To ensure proper credit to your account, return the enclosed remittance form with your payment. Payment must be made within thirty (30) days to avoid paying penalty charges. If the fees are not paid within the required thirty (30) days, they shall be subject to a penalty of the amount of interest accrued on the unpaid fees. That rate is two percent for each month that the fee is delinquent.

Thank you for protecting the environment. If you have any questions about this fee, please contact Catherine Engelmeyer at 573-751-6723 or call 1-800-361-4827 and ask for Water Protection Branch.

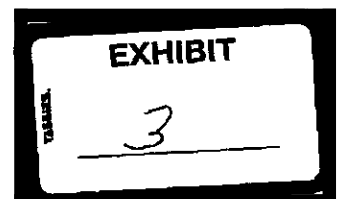
Sincerely,

WATER PROTECTION BRANCH

Catherine Engelmeyer

Catherine Engelmeyer
Executive I

Enclosures



WATER PROTECTION BRANCH
ANNUAL OPERATING PERMIT FEE
(This Page Must Be Returned With Your Payment)

Date: October 21, 2004

Fee Date: 10/13

Permit No.: MO-0123170

Facility Name: OSAGE WATER COMPANY, KK WWTP

2004 Total Fees Due (4461-1130-01) = \$222.25
Penalty Charge (4461-1621-04) = \$ 0.00
Total Fees Due = \$222.25

Billing Name: OSAGE WATER COMPANY
Address: PO BOX 650
City, State, Zip: SUNRISE BEACH, MO 65079

(If address shown is incorrect, please correct and return.)

-----FOR AGENCY USE ONLY-----

Permit #: MO-0123170

Name: OSAGE WATER COMPANY, KK WWTP

Fee Date: 10/13

2004 Total Fees Due (4461-1130-01) = \$222.25
Penalty Charge (4461-1621-04) = \$ 0.00
Total Fees Due = \$222.25

Date Received _____

Received By _____

Please make your payment payable to the "State of Missouri" and mail to :

MISSOURI DEPARTMENT OF NATURAL RESOURCES
DAS, RECEIPTS AND REPORTING
P. O. BOX 477
JEFFERSON CITY, MO 65102