

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of Middlefork)
Water Company and Nodaway County Public)
Water Supply District Number One for an Order)
Authorizing the Sale, Transfer and Assignment) **File No. WM-2021-0003**
of Certain Water Production Assets to Nodaway)
County Public Water Supply District Number)
One and in Connection therewith Certain Other)
Related Transactions)

NOTICE OF DEFICIENCY

Issue Date: July 6, 2020

On July 2, 2020, Middlefork Water Company (Middlefork) and Nodaway County Public Water Supply District Number One filed a Joint Application for Approval of Transfer of Assets (application). Attorney Benjamin J. Pick, whose office is identified as in Omaha, Nebraska, signed the application as attorney for Middlefork. It does not appear, however, from the face of the application, whether Mr. Pick is licensed to practice law in the state of Missouri,¹ and the application contains no motion for leave to practice before the Commission pro hac vice.

The application states that Middlefork is a corporation. Commission Rule 20 CSR 4240-2.040(5), addressing practice before the Commission, states:

A natural person may represent himself or herself. Such practice is strictly limited to the appearance of a natural person on his or her own behalf and shall not be made for any other person or entity.

The basis for this Commission rule is found in Sections 484.010 and 484.020, RSMo.² Section 484.010 defines the practice of law as “the appearance as an advocate in a representative capacity or the drawing of papers, pleadings or documents or the

¹ A review of the Missouri Bar's on line publication of attorneys currently licensed to practice in Missouri, <https://mobar.org/> does not contain Mr. Pick's name.

² All statutory citations refer to RSMo 2016 unless otherwise noted.

performance of any act in such capacity in connection with proceedings pending or prospective before any court of record, commissioner, referee or any body, board, committee or commission constituted by law or having authority to settle controversies.” Section 484.020 restricts the practice of law and engagement in law business to licensed attorneys.³

As it does not appear from the face of the application whether Mr. Pick is licensed to practice law in Missouri, the application is defective in that the applicant is a corporation whose application must be signed and presented by an attorney licensed in Missouri or otherwise authorized per a duly granted motion pro hac vice. Because the application is deficient, the Commission will take no further action in this matter until such time as the deficiency is corrected. Per Rule 20 CSR 4240-2.116, the Commission may dismiss this cause for lack of prosecution if no action has occurred within 90 days.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Paul T. Graham, Regulatory
Law Judge, by delegation of authority
under Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 6th day of July, 2020.

³ “The law does not treat individuals and corporations equally. The law allows an individual to bear the risk that representation without an attorney may entail. Natural persons may represent themselves in situations which, if done for someone else, would constitute the practice of law. Unlike individuals, corporations are not natural persons, but are creatures of statute. Businesses operating in corporate form are entitled to certain benefits that are denied to others. In addition to benefits, however, corporations also have certain restrictions placed upon them. One such restriction in Missouri is that a corporation may not represent itself in legal matters, but must act solely through licensed attorneys.” (Internal citations omitted). *Reed v. Labor and Indus. Relations Com'n*, 789 S.W.2d 19, 21 (Mo. banc 1990).