

Exhibit No.:

Issue(s)

Condition of Plant Facilities

Witness/Type of Exhibit:

Meisenheimer/Direct

Sponsoring Party:

Public Counsel

Case No.:

WC-2002-155

DIRECT TESTIMONY

OF

BARBARA A. MEISENHEIMER

Submitted on Behalf of the Office of the Public Counsel

OFFICE OF THE PUBLIC COUNSEL

v.

**WARREN COUNTY WATER AND SEWER COMPANY
AND GARY L. SMITH**

Case No. WC-2002-155

September 26, 2001

FILED³

SEP 26 2001

**Missouri Public
Service Commission**

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

Office of the Public Counsel,)
Complainant,)
)
v.)
)
Warren County Water and Sewer)
Company and Gary L. Smith,)
Respondents.)

Case No. WC-2002-155

AFFIDAVIT OF BARBARA A. MEISENHEIMER

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

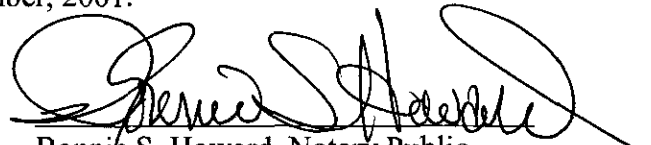
Barbara A. Meisenheimer, of lawful age and being first duly sworn, deposes and states:

1. My name is Barbara A. Meisenheimer. I am Chief Utility Economist for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my direct testimony consisting of pages 1 through 9 and Attachment BAM-1.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.


Barbara A. Meisenheimer

Subscribed and sworn to me this 26th day of September, 2001.




Bonnie S. Howard, Notary Public

My Commission expires May 3, 2005.

DIRECT TESTIMONY
OF
BARBARA A. MEISENHEIMER
OFFICE OF THE PUBLIC COUNSEL
v.
WARREN COUNTY WATER AND SEWER COMPANY
AND GARY L. SMITH
CASE NO. WC-2002-155

INTRODUCTION

Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.

A. Barbara A. Meisenheimer, Chief Utility Economist, Office of the Public Counsel, P. O. Box 7800, Jefferson City, Missouri 65102. I am also employed as an adjunct Economics Instructor for William Woods University.

Q. PLEASE SUMMARIZE YOUR EDUCATIONAL AND EMPLOYMENT BACKGROUND.

A. I hold a Bachelor of Science degree in Mathematics from the University of Missouri-Columbia (UMC) and have completed the comprehensive exams for a Ph.D. in Economics from the same institution. My two fields of study are Quantitative Economics and Industrial Organization. My outside field of study is Statistics. I have taught Economics courses for the following institutions: University of Missouri-Columbia, William Woods University, and Lincoln University. I have taught courses at both the undergraduate and graduate levels.

Q. HAVE YOU TESTIFIED PREVIOUSLY BEFORE THIS COMMISSION?

1 A. Yes, I have testified on numerous issues before the Missouri Public Service Commission. (PSC or
2 Commission) Primarily I have testified on telecommunications and natural gas issues. However, I have
3 also participated in the development of Public Counsel's positions and supervised testimony in cases
4 which concerned cost of service and rate design issues for water and electric companies.

5 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

6 A. I am sponsoring pictorial evidence in support of Public Counsel's request that the Commission
7 investigate and determine whether Warren County Water and Sewer Company (WCWS or the
8 Company) is failing its statutory duty to provide safe and adequate service to its customers as required
9 by law. Attachment BAM-1 contains copies of the photographs taken on Public Counsel's May 17,
10 2001 visit to Incline Village in Warren County Missouri.

11 **Q. WHAT REMEDY IS PUBLIC COUNSEL SEEKING IN THIS CASE IF THE**
12 **COMMISSION FINDS THAT THE COMPANY IS FAILING TO PROVIDE SAFE**
13 **AND ADEQUATE SERVICE TO ITS CUSTOMERS?**

14 A. Public Counsel is recommending that the Commission order the Company to immediately correct all
15 of its actions or omissions which violate the law. In addition, Public Counsel is asking the
16 Commission to act quickly to place the Company's water and sewer systems under the control and
17 responsibility of a receiver, pursuant to Sec. 393.145 RSMo. Public Counsel has discovered that the
18 trustees of Incline Village are willing and able to assume control over the system as receivers, and
19 that the trustees have found a qualified operator who can safely and adequately operate the system.
20 While Public Counsel would prefer that this system remain in operation, albeit under radically
21 different management, we recognize that the Commission also has the authority to revoke the

1 Company's certificate of convenience and necessity. While that drastic remedy could have adverse
2 consequences for the Company's customers, Public Counsel has proposed the possibility of
3 revocation as alternative relief if the Commission determines that revoking the certificates is the only
4 way to prevent the Company's current management, the owner, Mr. Gary Smith, from running the
5 Company in an unsafe manner.

6 **Q. IS PUBLIC COUNSEL SUBMITTING OTHER EVIDENCE IN SUPPORT OF ITS**
7 **REQUEST?**

8 A. Yes. Public Counsel witness Kim Bolin provides evidence related to Mr. Smith's ongoing failure to
9 address concerns raised regarding health, safety, water quality, and the adequacy and operation of the
10 water and sewer systems of Warren County Water and Sewer. Mrs. Bolin cites a number of ongoing
11 problems identified by the Company's customers, the Environmental Protection Agency, the Missouri
12 Department of Natural Resources and the Commission Staff and the Office of the Public Counsel.
13 Based upon our investigation, Public Counsel believes that Mr. Smith has a demonstrated record of
14 failure in meeting his obligation to provide safe and adequate service as required by Sec. 393.130
15 RSMo.

16 **Q. PLEASE PROVIDE SOME BACKGROUND REGARDING YOUR VISIT TO INCLINE**
17 **VILLAGE.**

18 A. Public Counsel had received repeated complaints against the Company regarding service quality, safety
19 concerns and other issues. Our office arranged to meet with two consumers living in Incline Village to
20 view facilities in the area in an effort to investigate their concerns. On May 17, 2001, I accompanied
21 Ruth O'Neill, an attorney with the Public Counsel's office on a visit to Incline Village. We met with

1 Paul Jeannot who is a member of the homeowners association and a resident of Incline Village and
2 John Maynard who in addition to being a resident also has significant knowledge and experience in the
3 operation of water and wastewater operations. Jim Merciel and Steve Loethen from the Missouri
4 Public Service Commission Staff and Vic Muschler from the Environmental Protection Agency (EPA)
5 were also present at that meeting.

6 **Q. WHAT FACILITIES DID PUBLIC COUNSEL PHOTOGRAPH?**

7 A. We first visited a pump or lift station near a manhole site which was the site of a previous complaint.
8 In that complaint, there were allegations that sewer run-off from the manhole was discharged into
9 Incline Village Lake. This discharge was investigated by another agency. The pictures shown on page
10 1 of Attachment BAM-1 were taken at that site. Additionally, we visited two treatment plants. The
11 first treatment plant is located near the Golf Course. I have designated it as Treatment Plant I for
12 purposes of this testimony. Copies of the pictures taken at Treatment Plant I are provided on pages 2
13 and 3 of Attachment BAM-1. The second treatment plant we visited is near the Lake. I have
14 designated it as Treatment Plant II (near Lake) for purposes of this testimony. Copies of the pictures
15 taken at Treatment Plant II are provided on pages 4 and 5 of Attachment BAM-1.

16 **Q. DO THE PICTURES OF THE PUMP OR LIFT STATION SHOWN ON PAGE 1 OF**
17 **ATTACHMENT BAM-1 ACCURATELY REPRESENT WHAT YOU OBSERVED ON YOUR**
18 **VISIT?**

19 A. Yes, they do.

1 **Q. PLEASE DESCRIBE THE CONCERNS ILLUSTRATED IN THE PICTURES ON**
2 **PAGE 1 OF ATTACHMENT BAM-1.**

3 A. Picture 1 on page 1 of Attachment BAM-1 shows Mr. Merciel from the PSC Staff attempting to
4 activate the warning indicator that signals that raw sewage may be escaping the system. The warning
5 indicator did not work when Mr. Merciel attempted to manually activate it. Potentially, failure of this
6 equipment could allow raw sewage to overflow from the lift station or manhole and discharge into the
7 lake.

8 Picture 2 on page 1 of Attachment BAM-1 shows the unlocked ply-board cover of the lift station pit
9 depicted in Pictures 3 and 4 on the same page. Public Counsel submits that the manner in which this pit
10 was secured presents several safety hazards. First, the cover should be made of reinforced metal of
11 sufficient strength rather than wood. Public Counsel is concerned that wood, especially ply-board, is
12 subject to rot, and may not be able to sufficiently support the weight of a person or animal to ensure
13 safety. Our second concern, as is clearly demonstrated by the picture, is that the cover was not locked.

14 An unlocked cover poses a significant safety hazard, especially to children. The fact that the lift station
15 is not surrounded by a fence or other barrier to prevent entry, as can be clearly seen in Picture 1,
16 magnifies this safety concern. The Commission should be aware that it appeared, at the time of our
17 visit, the cover had not been locked for some time, as seen in the lower portion of Picture 2, because of
18 the residue which had accumulated around the area of the lock. For the Commission's information,
19 after Picture 2 was taken, Commission Staff member Steve Loethen locked the cover of the lift station
20 in order to somewhat reduce the hazards at this location.

1 Picture 3 and Picture 4 on page 1 of Attachment BAM-1 show the lift station pit containing raw sewage.

2 It is my understanding based on discussions with the PSC Staff that the watermarks and residue on the
3 sides of the pit provide indicate that sewage had previously risen to those levels.

4 **Q. WHAT DO THE PICTURES AT PAGES 2 AND 3 REPRESENT?**

5 A. The pictures 5 through 8 on page 2, as well as pictures 9, 11 and 12 were taken at one of the Company's
6 sewer treatment plants in Incline Village. In my testimony I will refer to this plant, which is next to the
7 golf course, as Treatment Plant I. I believe that picture 10 was also taken at Treatment Plant I.
8 However, due to the period of time which has elapsed since my visit, I cannot say positively whether
9 picture 10 was taken at Treatment Plant I or Treatment Plant II. My confusion stems from the fact that
10 the electrical boxes were unlocked at both locations.

11 **Q. DO THE PICTURES OF TREATMENT PLANT I ON PAGE 2 AND PAGE 3 OF**
12 **ATTACHMENT BAM-1 ACCURATELY REPRESENT WHAT YOU OBSERVED ON YOU**
13 **VISIT TO INCLINE VILLAGE?**

14 A. Yes, pictures 5 through 8 on page 2 and picture 9 on page 3 of Attachment BAM-1 are an accurate
15 representation of what I observed at Treatment Plant I. Picture 10 is an accurate representation of an
16 unlocked electrical box at one of the sewer treatment plants.

17 **Q. PLEASE DESCRIBE THE CONCERNS ILLUSTRATED BY THE PICTURES ON**
18 **PAGE 2 OF ATTACHMENT BAM-1.**

19 A. Picture 5 on page 2 of Attachment Bam-1 depicts the area in which Treatment Plant I is located.
20 Pictures 6 and 7 on page 2 of Attachment BAM-1 illustrate that a panel from the fence which surrounds

1 this treatment plant is missing. The space created by the missing panel was large enough for a child to
2 gain access to the facilities. Picture 8 was taken through a smaller gap in the fence and depicts foam in
3 the treatment plant.

4 **Q. PLEASE DESCRIBE THE CONTENT OF THE PICTURES ON PAGE 3 OF**
5 **ATTACHMENT BAM-1, AND TELL US HOW THOSE PICTURES ILLUSTRATE**
6 **CONCERNS PUBLIC COUNSEL HAS ABOUT THE COMPANY?**

7 A. Pictures 9 and 10 on page 3 of Attachment BAM-1 both show electrical boxes which are not closed or
8 locked. The existence of unlocked electrical boxes pose an additional safety concern.

9 **Q. DO THE PICTURES OF TREATMENT PLANT II SHOWN ON PAGE 4 AND PAGE**
10 **5 OF ATTACHMENT BAM-1 ACCURATELY REPRESENT WHAT YOU OBSERVED ON**
11 **YOUR VISIT TO THAT TREATMENT PLANT?**

12 A. Yes, pictures 13 through 16 on page 4 and pictures 17 and 18 on page 5 of Attachment BAM-1 are an
13 accurate representation of what I observed at Treatment Plant II.

14 **Q. PLEASE DESCRIBE THE CONCERNS ILLUSTRATED IN THE PICTURES ON**
15 **PAGE 4 AND PAGE 5 OF ATTACHMENT BAM-1.**

16 A. Pictures 13 through 16 on page 4 of Attachment BAM-1 depict the exterior of the second sewage
17 treatment plant, including the debris surrounding the plant and the condition of the gate. The area
18 around Treatment Plant II was littered with construction and treatment materials. Pictures 13 and 14
19 depict a large pile of plastic tubing, large empty wooden spools and a large bucket near one corner of

1 the fence surrounding the treatment plant. In Picture 15 (and to a lesser degree in Picture 13) you can
2 observe chemical buckets sitting outside the fence.

3 Pictures 13, 15 and 16 all show that the gate to the treatment plant was not secured against entry.
4 Picture 15 illustrates that the only implement which kept the gate closed was a rock placed against the
5 bottom of the gate. Picture 16 shows that the gate could not in fact be locked, because the metal piece
6 which is part of the locking mechanism is missing from the gate. If the mechanism were intact, the gate
7 could be locked with a padlock. (We did not observe a padlock in the vicinity.) Public Counsel does not
8 know how long this gate was left unlocked prior to our visit. Picture 15 illustrates that there was no
9 other way to lock the gate.

10 Pictures 17 and 18 depict the sewage treatment facilities at Treatment Plant II. Following treatment, this
11 plant discharges effluent into Incline Village Lake.

12 **Q. DO YOU HAVE GENERAL OBSERVATIONS REGARDING THE FACILITIES YOU**
13 **OBSERVED?**

14 A. Yes. My impression was that the facilities appeared neglected due to a lack of upkeep and repair. The
15 facilities presented a number of safety concerns due to the lack of effective barriers between the
16 facilities and the public, as discussed in my previous answers.

17 **Q. DO YOU BELIEVE THAT THE COMMISSION SHOULD SCHEDULE A PUBLIC**
18 **HEARING TO FURTHER INVESTIGATE THE COMPANY'S PERFORMANCE IN**
19 **PROVIDING SAFE AND ADEQUATE SERVICE?**

1 A. Yes, I do. Based on Public Counsel's contact with consumers living in Incline Village we believe that
2 there is a history of concern regarding the Company's ability to provide safe and adequate service.
3 Public Counsel has heard concerns that the Company's failure to construct a new water tower may pose
4 a safety risk in the event of a fire in the area. We have received complaints regarding raw sewage
5 which was pumped into a customer's yard. (This is a separate incident from the discharges which were
6 pursued by the EPA in federal criminal court.) We have received information about roads and customer
7 property that remained damaged following construction and repair of the Company's facilities. We
8 have received information about billing disputes and attempts by the Company to impose charges not
9 authorized in its tariffs. Customers have revealed that when they advise the Company of problems they
10 often receive unsatisfactory results. While many individual disputes are eventually resolved, the
11 magnitude and ongoing nature of these complaints remains a significant concern.

12 A. A public hearing would allow the Company's customers the opportunity voice their concerns to the
13 Commission and describe the problems they have had in dealing with this Company, and is likely to
14 provide additional evidence to support Public Counsel's complaint.

15 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

16 A. Yes, it does.

Direct Testimony of
Barbara A. Meisenheimer
WC-2002-155

ATTACHMENT BAM-1