

COPY

Osage Water Company

P.O. Box 650
Sunrise Beach, MO. 65079
573-374-9019

Exh. 36

November 8, 2002

Mr. Ronald Westenhaver
Summit Investment, LLC
P.O. Box 496
Osage Beach, MO 65065

CERTIFIED MAIL #

Re: Breach of Contract
Notice of Termination

Dear Mr. Westenhaver:

Please be advised that as a result of continued breaches on your part of the Water and Sewer Supply Contract executed by you on behalf of Summit Investments, LLC with Osage Water Company on January 5th, 1999, Osage Water Company considers you to be in material and uncurable default with respect thereto, and therefore is terminating said agreement. Enclosed is a deed returning to the Eagle Woods Homeowner's Association, Inc. the water and sewer systems heretofore conveyed by you to Osage Water Company. A brief summary of the grounds for termination are as follows:

1. Failure to Construct Water Lines in Compliance with Contract and Tariff. The Contract provided in Paragraph 2 that "Developer shall construct all water lines after the date of this Contract in conformance with OWC's Water Tariff Rule 14(A)(7)." That Rule requires that water line extensions be constructed with Company approved pipe. You were advised at the time the contract was executed that gasket seal pipe is required by MDNR regulations and the Company for all water lines. Notwithstanding that requirement, you constructed water lines after the date of the Contract utilizing glued joints and fittings. You also improperly backfilled the water lines with dirt, rather than pea gravel or other MDNR specified fill materials. At the time the Contract was executed, you had Rockne Miller working on plans and specifications for a public water system for Eagle Woods, and were aware of the Company's requirements, and chose to disregard the same in constructing the remaining water lines in Eagle Woods. MDNR has to date refused to approve the use of your glued pipe as part of a public drinking water system.
2. Failure to Obtain and Install Water Meters. OWC's tariff, which is incorporated in the Contract and copies of which were furnished both to you and Richard Ward, your attorney, prior to the execution of the Contract, requires that water meters be installed for each home served by the water system. Notwithstanding this requirement, you failed and/or refused to obtain and install water meters at the time of connection of houses in Eagle Woods to the water system after the date of the Contract. You were aware of this requirement as meters were

installed for at least two houses after the Contract was executed, and you thereafter failed to obtain and install water meters as required by the Tariff.

3. Tampering with Water Meters and Services. OWC has observed that you have by-passed the water meters OWC installed on houses constructed by you since January 1, 2002. Those water meters were locked in the off position by OWC as a result of your non-payment of outstanding bills from OWC to you, and as a result of the lack of arrangements for interim wastewater disposal by you pending approval of connection of said home to the sewer collection system. Tampering with and by-passing of water meters is both a crime and a violation of OWC's tariff. Repeated notices and demands for remedy of this situation have been ignored by you.
4. Failure to Properly Construct Sewer Lines and Lift Stations. You elected to construct the sewer collection system for Eagle Woods on your own behalf, rather than having the Company construct the same. The Contract required that all sewer extensions be made in accordance with OWC's Sewer Tariff, a copy of which was provided to you and your attorney prior to signing the contract, and incorporated in the Contract by reference. Construction of sewers by you is permitted under the terms of Rule 11(a)(2) of the sewer tariff. However, Rule 11(b)(1) requires that you comply with the requirements of all governmental agencies and the Company Rules, and requires that you provide a detailed accounting of the actual cost of construction. You have never provided a cost accounting for the sewer collection system.

Since operation of the Eagle Woods sewer collection system was turned over to OWC, you have advised that you utilized glued pipe rather than gasket seal pipe in constructing the collection sewer system, which does not comply with the requirements of the Missouri Department of Natural Resources, and does not comply with the requirements of the Company. In addition, subsequent investigation has revealed that components of the collection system are buried at an inadequate depth to prevent freezing. It has also been determined that the collection system has been improperly constructed in a manner which allows solids to enter into the effluent pumping stations, which has resulted in abnormal clogging of the effluent pumps and failure of the effluent lift stations.

At the time you turned the collection system over to OWC, you represented in writing that the same had been constructed in compliance with the MDNR approved plans and specifications. That representation was material, and it was false and fraudulently made by you for the purpose of inducing OWC to accept operation of the sewer collection system. Based on recent experience in operating the sewer collection system, OWC considers the same to be materially defective and not repairable, and the collection system must be substantially reconstructed and/or replaced in order for it to be operated properly.

Under applicable MPSC Regulations in 4 CSR 240-60.0 (6) all construction of sewers must be inspected by utility or its agent, and all construction by other than company employees shall be done by a qualified contractor and materials and workmanship be guaranteed by appropriate parties for one year from date of acceptance. Under those regulations, it was your responsibility to insure that OWC had an opportunity to inspection of the sewer collection system, and to warrant the work performed by your contract for one year after acceptance. According to our records, less than one year has elapsed since OWC began receiving payment from customers at Eagle Woods, and pursuant to the warranty required of you by applicable law, the sewer collection system is hereby rejected.

5. Failure to Remedy Defects and Obtain Required Inspections. You were notified in writing of defects in the collection system serving Eagle Woods consisting of infiltration of groundwater into the sewer system, and that you were required to remedy the same by excavating and repairing identified problems areas in the collection system, and that the repairs were to be inspected by a company representative prior to backfill. Notwithstanding this written instruction, you made repairs and re-buried the same without obtaining inspection by a company representative. The Company's understanding is that the problems repaired included a broken pipe which was allowing water from the lake in Eagle Woods to enter into the collection sewers and flood the wastewater treatment plant, missing end caps on un-connected sewer service lines, and other defects of an unknown nature for which excavation has been observed, and no explanation or inspection provided.
6. Damage to the Wastewater Treatment Plant from Excessive Infiltration. As a result of your defective sewer collection system and the leak from your lake into that collection system, the wastewater treatment plant experienced excessive infiltration after January of 2002 when the Phase 3 and 4 collection system was placed in service, and particularly in April and May of 2002, resulting in overflows of the recirculation tank, damage to the recirculation tank and treatment plant plumbing lines, excessive wear and tear on the recirculation pumps, high levels of sedimentation in the recirculation tank, and damage to the sand filter beds. In addition, OWC incurred substantial costs and expenses for emergency labor, equipment usage, special equipment including numerous trash pumps to remove excessive water overflowing from the treatment plant, and delay in the issuance of required permits for the Phase 2 expansion of the WWTP.
7. Unauthorized Sewer Connections. You have connected several houses in Eagle Woods for which no sewer plant permit are available, even though OWC has refused service for those houses. Without OWC's permission or consent, and over OWC's objection, you have connected service sewers to the sewer collection system, and by-passed locked water meters in order to obtain sewer utility service. Further, OWC is informed that you are billing the occupants of those houses for water and sewer utility service, because OWC has refused to recognize them as legitimate customers of the Company. All of these actions violate the requirements of OWC's tariff.
8. Failure to Refund Water and Sewer Utility Charges Wrongfully Collected. After operation and maintenance of the water and sewer utility systems was turned over to OWC, you continued to bill residents of Eagle Woods for water and sewer service provided by OWC, and collected and retained the sums you received from them. You have refused all demands that you refund said sums to OWC. This amounts to stealing money by deceit from OWC.
9. Interfering with the Issuance of MDNR Operating Permits Requested by OWC. OWC has received copies of correspondence written by you, your attorneys, and various politicians on your behalf requesting that MDNR unilaterally modify operating permits requested by OWC for your benefit, without the knowledge or consent of OWC. These actions have harmed OWC's relationships with other developers, with OWC's customers, and have damaged OWC's reputation with MDNR and the PSC. You have no legal right to request that MDNR modify a permit requested by OWC.

For the foregoing reasons, you are in material breach and default of your contractual obligations to OWC. OWC has determined that the water and sewer lines constructed by you within Eagle Woods do not meet the requirements of OWC's tariff, MDNR Regulations, or the Contract, and the same are

therefore rejected. OWC has, concurrent with the mailing of this letter, terminated operation and maintenance of said water and sewer lines, and the effluent lift stations associated therewith. OWC will no longer accept wastewater from Eagle Woods for treatment at the KK Treatment Plant until such time as a sewer collection system constructed in compliance with the requirements of OWC's tariff and applicable MDNR regulations, under the supervision of and inspection by a Registered Professional Engineer designated by OWC is constructed and approved by MDNR and OWC. OWC will not provide water utility service until such time as a water distribution system constructed in compliance with the requirements of OWC's tariff and applicable MDNR regulations, under the supervision of and inspection by a Registered Professional Engineer designated by OWC is constructed and approved by MDNR and OWC.

Should you wish to re-apply for water or sewer utility service from OWC, a new contract will be required. In the mean time, you need to make your own arrangements for the provision of water and sewer utility service to homes within the Eagle Woods development. Your immediate attention to these matters is required.

Osage Water Company


William P. Mitchell, President

cc: Eagle Woods Homeowners
Deborah Neff, Mo. AGO
Keith Forck, MDNR WPCP
Larry Dusenberger, MDNR PDWP
Dale Johansen, MPSC

COPY

SEWER LINE EASEMENT

This indenture is made and entered into this 11th day of November, 2002, by and between Osage Water Company, a Missouri Corporation, of the County of Camden and the State of Missouri, hereinafter designated as Grantor (herein so styled, whether one or more) and Eagle Woods Homeowners Association, Inc., A Missouri Not-for-profit Corporation ("GRANTEE") and that for and in consideration of the sum of \$1.00 and other valuable considerations, paid and delivered by GRANTEE, the receipt of which is hereby acknowledged, hereby remises, releases and quit-claims to GRANTEE the Grantor's easement and right to enter upon the lands situated in the County of Camden, in the State of Missouri, described as follows:

All of the Eagle Woods development which is located in Section 7, Township 39 North, Range 16 West, more specifically described as follows:

Beginning at the intersection of State Route KK and the East Section line of Section 7, Township 39 North, Range 16 West, thence North along said East Section line 1402 feet, more or less, to the Southeast Corner of the Northeast Quarter of the Northeast Quarter of Section 7, Township 39 North, Range 16 West, thence West along the South line of the Northeast Quarter of the Northeast Quarter of Section 7 1,320 feet, more or less, to the Southwest Corner of the Northeast Quarter of the Northeast Quarter of Section 7, thence North along the West line of the Northeast Quarter of the Northeast Quarter of Section 7 1,320 feet, more or less, to the North Section line of Section 7, thence West along said North Section line of Section 7 475 feet, more or less, to the centerline of State Route KK, thence along the centerline of State Route KK south and east 3,390 feet, more or less, to the point of beginning.

and to erect, construct, install, lay, operate, survey, inspect, maintain, repair, rebuild, replace, remove and patrol on or over or under said lands, and in and upon all streets, roads, or highways abutting said lands, pipes, or tiles for the collection and transmission of wastewater, and all appliances necessary in connection therewith, together with the perpetual right to go in and upon said land for said purposes. The Sewer line easement hereby granted shall be ten feet in width, the centerline thereof to be located across said land as now or hereafter installed and shall include all existing sewer lines presently installed across said land.. Grantor does further quit-claim to GRANTEE an easement for the use of all existing sewer lines, tanks, pumps and facilities located on said property, together with title to and ownership of all equipment, fixtures, and appliances presently located on said property and utilized for wastewater collection, transmission, and treatment.

IN WITNESS WHEREOF, we have set our hands the day and year first above written..

written.

Osage Water Company


William P. Mitchell, President

(SEAL)

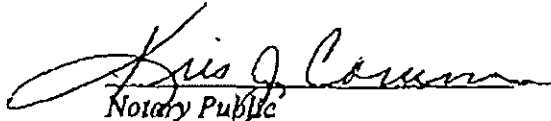


William P. Mitchell, Director

STATE OF MISSOURI

COUNTY OF ~~CAMPDEN~~ ^{Morgan} ss

On this 11 day of November, 2002, before me appeared William P. Mitchell, to me personally known, who, being by me duly sworn, did say that he is the president of Osage Water Company, A Missouri Corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors, and said William P. Mitchell acknowledged said instrument to be the free act and deed of said corporation.


Notary Public

KRIS J. CORUM
Notary Public - State of Missouri
County of Morgan
My Commission Expires Apr. 22, 2006

COPY

WATERLINE EASEMENT

This indenture is made and entered into this 11th day of November, 2002, by and between Osage Water Company, a Missouri Corporation, ("GRANTEE") of the County of Camden, and the State of Missouri, hereinafter designated as Grantor and Eagle Woods Homeowners Association, Inc., A Missouri Not-for-profit Corporation, and that for and in consideration of the sum of \$1.00 and other valuable considerations paid and delivered by Grantee, the receipt of which is hereby acknowledged, Grantor hereby remises, releases, and quit-claims to Grantee the perpetual easement and right owned by Grantor to enter upon the lands situated in the County of Camden, in the State of Missouri, described as follows:

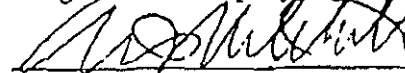
All of the Eagle Woods development which is located in Section 7, Township 39 North, Range 16 West, more specifically described as follows:

Beginning at the intersection of State Route KK and the East Section line of Section 7, Township 39 North, Range 16 West, thence North along said East Section line 1402 feet, more or less, to the Southeast Corner of the Northeast Quarter of the Northeast Quarter of Section 7, Township 39 North, Range 16 West, thence West along the South line of the Northeast Quarter of the Northeast Quarter of Section 7 1,320 feet, more or less, to the Southwest Corner of the Northeast Quarter of the Northeast Quarter of Section 7, thence North along the West line of the Northeast Quarter of the Northeast Quarter of Section 7 1,320 feet, more or less, to the North Section line of Section 7, thence West along said North Section line of Section 7 475 feet, more or less, to the centerline of State Route KK, thence along the centerline of State Route KK south and east 3,390 feet, more or less, to the point of beginning.

and to erect, construct, install, lay, operate, survey, inspect, maintain, repair, rebuild, replace, remove and patrol on or over or under said lands, and in and upon all streets, roads, or highways abutting said lands, pipes, or tiles for the transmission of water, and all appliances necessary in connection therewith, together with the perpetual right to go in and upon said land for said purposes. The water line easement hereby granted shall be ten feet in width, the centerline thereof to be located across said land as waterlines are now or hereafter installed, and shall include all existing waterlines presently installed across said land. Grantor does further hereby quit-claim to GRANTEE all existing waterlines presently located across said property. Grantor does further convey to GRANTEE an easement for the use of the existing water wells located on said property, together with title to and ownership of all equipment, fixtures, and appliances presently located on said property and utilized for the pumping of water from said water well.

IN WITNESS WHEREOF, Grantor has set its hand and seal the day and year first above written.

Osage Water Company:



William P. Mitchell, President

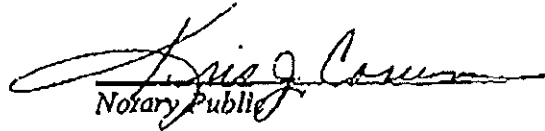
(SEAL)


William P. Mitchell, Director

STATE OF MISSOURI)

COUNTY OF ~~CAMDEN~~ Morgan) ss

On this 11 day of November, 2002, before me appeared William P. Mitchell, to me personally known, who, being by me duly sworn, did say that he is the president of Osage Water Company, A Missouri Corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors, and said William P. Mitchell acknowledged said instrument to be the free act and deed of said corporation.


Notary Public

KRIS J. CORUM
Notary Public - State of Missouri
County of Morgan
My Commission Expires Apr. 22, 2006