

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

**FILED<sup>2</sup>**

NOV 04 2002

Missouri Public  
Service Commission

In the matter of the application of Environmental Utilities, )  
LLC, for Permission Approval and Certificate of )  
Convenience and necessity Authorizing it to Construct )  
Install, Own, Operate, Control, Manage and Maintain )  
A Water System for the Public Located in Unincorporated )  
Portions of Camden County, Missouri (Golden Glade )  
Subdivision) )

CASE #: WA-2002-65  
Tariff No. JW-2003-0238

**INITIAL BRIEF ON BEHALF  
OF HANCOCK CONSTRUCTION COMPANY**

**I. INTRODUCTION:**

COMES NOW Hancock Construction Company (Hancock), by and through its attorney, Thomas E. Loraine, and for its Initial Brief offers the following discussion and argument.

On June 27, 2002, the Commission issued a report and order finding that Environmental Utilities, LLC, hereinafter referred to as E.U., would be granted a certificate of convenience and necessity to serve the Golden Glades Subdivision, if it could establish to the Commission's satisfaction that it had entered into a wholesale water supply agreement to provide water to Osage Water Company, hereinafter referred to as OWC, to be delivered through OWC's pipes for use in the Eagle Woods Subdivision.

On September 1<sup>st</sup> E.U. issued a tariff that would establish rules for the provisioning of service in its requested service area.

On September 12<sup>th</sup>, E.U. filed a notice indicating that it has entered into a water supply agreement with OWC.

The Staff of the Commission, the Office of the Public Counsel and Hancock Construction

Company filed responses urging the Commission not to accept the water supply agreement as satisfying the requirements for issuance of a certificate.

On September 24<sup>th</sup> the Commission suspended E.U.'s tariff until January 29, 2003.

Thereafter a briefing schedule was established.

## ***II     POSITION OF HANCOCK:***

E.U. cannot establish arrangements to enter into wholesale water contract (contract) with OWC for the following reasons:

- a. The Construction Permit that should have been attached as Exhibit D to the Application only allows a maximum of 8 connections to a "Community Water System".
- b. Examination of the DNR Golden Glade Construction Permit, if found in the case papers, shows the Golden Glade Water System is a Community Water System serving a maximum of 8 connections.
- c. A DNR Permit to Dispense Water from a "Public Drinking Water System" is required for water systems with 20 or more connections.
- d. A Community Water System cannot provide safe and adequate service to the 24 Eagle Woods and 8 Golden Glades connections..
- e. OWC was administratively dissolved on September 4, 2002 , effective November 4, 2002.
- f. Gregory and Debra Williams have demonstrated that the contract proposed is not an arms length negotiated contract and is not in the public's interest.
- g. The wholesale rate and contract's paragraph 6 which in part reads: Mr. Williams in another case before the Commission has already stated that excessive leaks through faulty pipes will lead to bacteria and biological particulates, which could be harmful to the customers and not

in public interest will hasten the demise of OWC. See Williams letter dated August 27, 2002 to Brent Summerford, attached hereto as Exhibit I, admitted into evidence in WC 2003-0134.

h. In **Case WA-2003-0134** a Circuit Court appointed receiver will require that any contract must be negotiated at "arms length" ensuring that the contract is not detrimental to the public and that any contracted water supply source has a DNR permit to dispense water and is a Public Drinking Water System capable of safe and adequate service to 20 or more connections.

i. E.U. does not own the Golden Glade Community Water System and cannot produce any possessory right to use the well as a source for water supply system.

### **III. RELIEF SOUGHT BY HANCOCK:**

Hancock asks that the Commission find that this wholesale contract is not in "arms length" transaction and should not be allowed pending the outcome of WC 2003-0134 to be appointed to operate OWC.

### **IV. FACTUAL**

The Tartan Criteria from Tartan Energy Company, Case No. 3d 173, 177, (GA-94-127, In the Matter of the Application of Tartan Energy Company, 3 Mo. P.S.C. 1994) hereinafter (Tartan) Standard #4-- **Is the applicant's proposal economically feasible** under the following eight (8) factual issues.

**Factual Issue #1. The Golden Glade Community Water System is capable of providing service to a maximum of 8 connections.**

Although the Application did not have an Exhibit D attached to the Application, the Construction Permit alleged to be contained in this Exhibit D allows a maximum of 8 connections. Any Water System with less than 20 connections is classified by DNR as a

“Community Water System”.

The Eagle Woods and Golden Glades subdivisions have more than 20 connections. Safe and adequate service to 20 or more connections requires service from a DNR classified “Public Drinking Water System”. DNR also requires a Permit to Dispense Water rather than just a Construction Permit before a water system can be classified as a Public Drinking Water System.

The Williams’ rogue attitude, evidenced by the absence of an Exhibit D in E.U.’s Application, is consistent with their illegal operations (Ex 10 Schedule 5) of a similar water system, the Parkview Bay water system. There is no evidence in this case to support Debra Williams’ testimony indicating “all MDNR permits” have been issued and the Golden Glade Water System is a “typical public drinking water system” (Ex 1,15) . Rather, Debra and Gregory Williams, to the detriment of the public, have been using the Golden Glade Community Water System to dispense water to more than 20 connections in the Eagle Woods and Golden Glade subdivisions for the past three years.

It is not possible to establish arrangements to dispense safe and adequate water to Eagle Woods Subdivision from a Community Water System. There have been many references of **Case WA-99-437** in these proceedings. **Case WA-99-437** was the origin of the first “Water Supply Contract” involving the Golden Glade Water System. (Exhibit D-2 in Case WA-99-437) .

DNR confirmation that the Golden Glade Water System is not a Public Drinking Water System is evidenced by DNR Notice of Violation No. 1378 JC referenced in **Case WA-99-437**. (Case WA-99-437 TR 437, 16-25). Notice of Violation No. 1378 JC states OWC did not have a “Permit to Dispense Water”, according to Mr. Mitchell, an officer and Director of OWC., See Exhibit 2.

The only evidence submitted in this case suggests Pat Mitchell, Gregory Williams and

Debra Williams are technically incompetent to install and operate a Public Drinking Water System. (Exhibit 10 page 16 lines 21-24; page 17, 1 -24, page 18, 1 -3; Exhibit 10 Schedules 4, 12, 13 and 14, TR 455, 8-23; TR 456, 8-13).

Ex 10 Schedules 5 & 6 Notices of Violation identifies the nature of Gregory Williams' water systems operation. On January 5, 1998, OWC president Gregory Williams, received a DNR letter and a Notice of Violation. The letter stated that OWC "was illegally operating" the Parkview Bay Water System because OWC was dispensing water to Parkview Bay customers without a Permit to Dispense Water. (Ex 10 Schedule 5). Again, DNR identified the Permit to Dispense Water requirement before a water system could be classified as a Public Drinking Water System. DNR went as far as to classify OWC's dispensing water without a Permit to Dispense Water as an illegal operation.

Approximately 3 weeks after Gregory Williams received the DNR January 5, 1998 letter in Ex 10 Schedule 5 he cannibalized a water storage tank from OWC's Pizza Hut water system in an attempt to satisfy DNR's requirement of a storage tank at Parkview Bay. After this tank was switched from the Pizza Hut water system, DNR issued OWC a Notice of Violation for having modified, without authorization, the Pizza Hut water system (Ex 10, Schedule 6). These two DNR Notices of Violation combined with the Construction Permit for a Community Water System allegedly contained in the Application's "Exhibit D" show these principals' continuing pattern of rogue operations, misrepresentations, incompetence, unsafe and inadequate service.

Paragraph 6 of the contract states E.U. can discontinue service in the event of "excessive water leaks". Before DNR issues a Permit to Dispense Water from a Public Drinking Water System, DNR requires that a Professional Engineer (P.E.) inspect the "as built" water system, compare that installation with DNR's Construction Permit and then use his P.E. stamp on the

construction drawings and specifications to certify that the "as built" water well meets specifications and the distribution water lines are leak free, non hazardous and capable of meeting DNR Public Drinking Water System rigorous construction permit specifications.

This term "excessive water leaks" in the contract's highly subjective paragraph 6 suggests the Williams believe the Golden Glade Community Water System, not being a Public Drinking Water System, does not have safe and adequate distribution lines. Further, attempting to use a Community Water System rather than a Public Drinking Water System to satisfy contract requirements suggests this contract is not an "arms length" transaction. Confusion about who is in charge of OWC and who is responsible for performing its duties such as attempting to insure safe and adequate service from a Community Water System with "excessive water leaks" creates a substantial risk detrimental to the public.

**Factual Issue #2.** There is no officer left at OWC responsible for enforcing the contract on behalf of OWC. (Tr. 143, 21-25). Debra Williams testified that Mr. Mitchell abandoned OWC sometime before July 7, 2001 and declined to further participate in the management and operations of OWC. (Ex 1 page 3; Tr. 223, 1-5, Application page 5). All principals and officers have abandoned OWC resulting in the Secretary of State's administrative dissolution of OWC effective November 4, 2002. On September 3, 2002, Debra and Gregory Williams copied via fax to the Commission, the following co-signed statement to purported President William P. Mitchell.

"Please be advised that Gregory D. Williams does hereby resign as a director and as registered agent for Osage Water Company, and that Debra Williams hereby resigns as a director and as secretary of Osage Water Company".

Debra Williams would have to resume duties as a director, manager and secretary, file proper annual reports for 1999, 2000 and 2001 and use the 2001 Annual report's financial

information to pay the appropriate franchise taxes to stop OWC's November 4<sup>th</sup> dissolution. The Company has not filed required financial data in the form of Annual Reports for 2000 and 2001 to the Public Service Commission. The Annual Report filed for 1999 was found by the Commission in **Case WE-2002-240** to have incomplete and missing data.

**Factual Issue #3.** The total abandonment of OWC by William P. Mitchell, Gregory Williams and Debra Williams shows that OWC cannot enter into any contracts. The drop dead date for administrative dissolution of OWC is November 4, 2002. According to law, OWC will be administratively dissolved by the Secretary of State on said date and it may not carry on any business such as executing a wholesale contract with E.U. RSMo. Section 351.486(2). E.U. As of November 4, 2002, OWC can only liquidate its business and affairs. RSMo. Section 351.486(3).

**Factual Issue #4.** The contract proposed is not "an arms length" negotiated contract and is not in the public's interest. Debra Williams signed this contract as the Manager of E.U. The Construction Permit she claims she caused to be filed as the Application's alleged "Exhibit D" classifies the Golden Glade Water System as a Community Water System.. On September 1, 2002, the purported execution date of this contract, Debra Williams was also the Manager of OWC. On August 23, 2002, Debra Williams, as Manager of E.U., caused to be filed **Case WM-2003-0065** where she stated OWC is insolvent and can't pay its bills. .

Debra. Williams as Manager of OWC allowed OWC to enter into a contract with E.U., to receive water from a Community Water System which she, as Manager of E.U., claims is a "typical drinking water system" (Ex 1, 15). A Community Water System is not a typical drinking water system since it cannot provide safe and adequate service to 20 or more connections. Also, she entered this contract knowing OWC could not pay for the water to be delivered under the

contract's terms by stating OWC "is not in a position... to continue in business" (Ex 1, 6).

Further, the contract's paragraph 6 is an attempt to use OWC tariff generated funds to fix, repair and upgrade Gregory Williams' Golden Glade Community Water System. This contract, using OWC tariff funds to improve and upgrade Gregory Williams' Community Water System is an indication that this is not an "arms length" contract.

**Factual Issue #5.** The wholesale rate in this proposed contract offers inadequate retail tariff generated revenue for OWC to meet this contract's obligations. As a result, this contract will hasten the demise of OWC. OWC's August 20, 2002, Rate Schedule W-1 shows that if an Eagle Woods customer consumes more than 4,000 gallons per month, OWC will pay E.U. more than it collects under its present tariff. Further, Paragraph 6 of the Contract states that OWC will have to pay for all repairs to avoid discontinuance due to "excessive water leaks". DNR does not enforce environmental quality control, such as excessive water leaks, on a water system it classifies as Community Water System. As a result the Golden Glade Community Water System may exhibit "excessive water leaks". A DNR classified Public Drinking Water System cannot receive a Permit to Dispense Water if it exhibits excessive water leaks. Nor will DNR allow it to operate as a Public Drinking Water System if it has "excessive water leaks". The Contract paragraph 6's intent is to use tariff revenues from OWC to upgrade Gregory Williams' Golden Glade Water System from a Community Water System to a Public Drinking Water System. It is detrimental to the public for Debra Williams, as Manager of OWC and EU, to use the contract as a vehicle that relies on OWC tariff funds to benefit Gregory Williams, sole owner of the Golden Glade Water System(Ex 1,15), and benefit Gregory and Debra Williams, sole owners of E.U., while hastening the demise of OWC, which remains the only legitimately certified entity in this transaction.



**Factual Issue # 6.** Commission's Order in **Case WA-2003-0134** calls for a Circuit Court appointed receiver to use judicious application of OWC's tariff generated funds to ensure OWC's survival or, in the alternative, orderly liquidation of OWC . There are numerous claims to OWC's revenue that stand before any wholesale contract that is attempting to rely on a water system that is unsafe and inadequate and has no DNR permission to dispense water to the public, to-wit: the Golden Glade Community water system.

A partial list of the Receiver's judicious disbursement of OWC tariff generated funds are:

a) Amortizing the Hancock Construction Circuit Court Judgment in the amount of \$215,000.00 which was awarded to Hancock Construction Company on September 4, 2002, at 9% interest. The Hancock Debenture, the basis of this Judgment, was identified as an annual "cost of service" expense in **Case WR-2000-557**, to be included in OWC's August 20, 2001, Commission approved tariffs. Despite receiving an interim annual rate increase of approximately \$54,000 and illegally collecting revenue in excess of this interim rate increase, Debra Williams, as manager of OWC chose not to pay Hancock Construction the \$1,000 a month allowed by present tariffs.

b) The administrative fees of the receiver.

c) Tax liens owing IRS and Missouri Department of Revenue.

**Factual Issue #7.** E.U. does not own the Golden Glade well. Debra Williams identified the sole owner to be Gregory Williams (Ex 1, 15). As a result, this Wholesale Contract cannot be executed by E.U.'s manager, Debra Williams. The Williams expressed their intent to transfer the well to E.U. upon granting of the Certificate. This same "promise" was made in **Case WA-99-437**, (Ex D-2 in Case WA-99-437; Tr. 370,12-25; Tr. 371, 1-25, Tr. 380, 11-16 & Tr. 381, 1-12).

Three years ago the Commission relied on the Williams' assurance that they would convey the Golden Glade water system to OWC after the Commission awarded OWC the Eagle Woods Subdivision CCN. Now they claim Gregory Williams will convey it to E.U. after the Commission awards it a CCN.

**Factual Issue #8**. The possible source of water supply to Eagle Woods is not yet ripe. **Case WA-2003-0134** Order resulting in a Circuit Court appointed receiver will require that any subsequent or future contract must be negotiated at "arms length" ensuring that the contract rate is not detrimental to the public and the water system serving Eagle Wood customers is safe and adequate. Further, the receiver may believe the unsafe and inadequate service from the Golden Glade Community Water System is detrimental to the public. A receiver, acting in the best interests of the public, will use "arms length" contract(s) to obtain water supply source(s) from DNR classified Public Drinking Water System(s).

Respectfully submitted,

LORAIN & ASSOCIATES

A handwritten signature in black ink, appearing to read 'Thomas E. Loraine', is written over a horizontal line. The signature is stylized with loops and flourishes.

Thomas E. Loraine, Missouri Bar #: 22206  
4075 Highway 54, Suite 300  
Osage Beach, Missouri 65065  
(573) 348-8909 Telephone  
(573) 348-8920 Facsimile

ATTORNEY FOR HANCOCK CONSTRUCTION  
COMPANY

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

In the matter of the application of Environmental Utilities, )	
LLC, for Permission Approval and Certificate of )	
Convenience and necessity Authorizing it to Construct )	
Install, Own, Operate, Control, Manage and Maintain )	CASE #: WA-2002-65
A Water System for the Public Located in Unincorporated )	Tariff No. JW-2003-0238
Portions of Camden County, Missouri (Golden Glade )	
Subdivision) )	

**CERTIFICATE OF SERVICE**

It is hereby certified that a true and correct copy of **Initial Brief on Behalf of Hancock Construction** was mailed hard copy, postage prepaid, this 4th day of November, 2002, **VIA CERTIFIED/RETURN RECEIPT REQUESTED** to **Gregory D. Williams**, Highway 5 at Lake Road 5-32, P.O. Box 431, Sunrise Beach, MO. 65079, and William P. (Pat Mitchell, President-Osage Water Company, c/o Water Laboratory, P.O. Box 846, Linn Creek, Missouri 65052 and mailed by U.S. mail hard copy, first class, postage pre-paid this 4<sup>th</sup> day of November, 2002 to Office of Public Counsel, P.O. Box 7800, Jefferson City, Missouri 65102 and General Counsel, Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65102, and to the Presiding Commissioner, Camden County Courthouse, 1 Court Circle, P.O. Box 960, Camdenton, Missouri 65020, and Missouri Department of Natural Resources, 205 Jefferson Street, Jefferson City, Missouri 65101.

Respectfully submitted,

LORAINÉ & ASSOCIATES

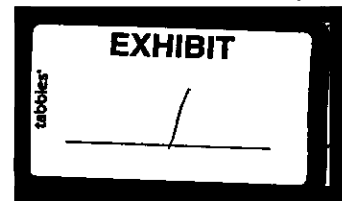


Thomas E. Loraine #22206

4075 Highway 54, Suite 300  
Osage Beach, MO 65065  
(573) 348-8909

ATTORNEY FOR HANCOCK CONSTRUCTION

GREGORY D. WILLIAMS  
ATTORNEY AT LAW  
HIGHWAY 5 AT 5-33  
P. O. BOX 431  
SUNRISE BEACH, MO 65079



copy  
PY

573 / 374-8761

FAX 573 / 374-4432

August 27, 2002

Mr. Larry L. Dusenberg, P.E.  
Environmental Engineer  
MDNR -PDWP  
P.O. Box 176  
Jefferson City, MO 65102

Re: Golden Glade Water System  
Permit No. 3031299  
Review No. 03678-02

Dear Mr. Dusenberg:

In reply to your letter of August 22, 2002, please be advised as follows:

1. The application for a Permit to Dispense for Golden Glade Subdivision is intended to cover Golden Glade Subdivision only. The water system within Golden Glade Subdivision was constructed in accordance with the applicable MDNR PDWP Specifications for Public Water Systems. To my knowledge, there is no reason why a permit to dispense cannot be issued for that water system immediately, and I would therefor request that you do so.
2. The Golden Glade Water System and the Eagle Woods water systems are not owned by the same legal entity at this time, and it is uncertain when a consolidation of ownership will occur, if ever. I have taken some steps toward consolidation, but final approval of consolidation by the Public Service Commission may not occur for quite some time, if at all. Therefore, a separate Permit to Dispense will have to be obtained by Osage Water Company for the Eagle Woods distribution system.
3. With respect to sampling, I believe that Jeff Smith has been sampling both within Golden Glade and Eagle Woods for the monthly monitoring samples that are submitted to MDNR, as that was one of the requirements Steve Jones made as a condition of interconnecting the two systems. Do you need separate written plans for Eagle Woods and Golden Glade since there will be separate Permits?
4. With respect to the Eagle Woods water system, that system was constructed by the subdivision developer, Ronald Westenhaver/Summit Investment, LLC. Although Mr. Westenhaver agreed with Osage Water Company to construct the water system in compliance with applicable MDNR PDWP Specifications, I am informed and believe that he failed to do so in several material respects, as follows:

RECEIVED  
SEP 03 2002  
PUBLIC DRINKING WATER  
PROGRAM

- a. No plans and specifications were submitted in advance to MDNR PDWP for review and approval prior to commencing construction. This action is confusing, as he had retained Rockne Miller, P.E. prior to contracting with OWC and Rockne had prepared plans and specifications for the water system. I am uncertain why those plans and specifications were not submitted to MDNR PDWP.
- b. Improper materials were utilized in the water distribution system. Rather than utilizing gasket seal pvc piping, Mr. Westenhaver chose to install pvc pipe with glued joints. Other than the type of joints utilized, the piping material is identical. Obviously the use of glued pipe will result in a higher incidence of pipe breakage than would otherwise occur. Some of the pipe segments within the subdivision did utilize gasket seal piping.
- c. Improper bedding material was utilized for the water distribution system. Mr. Westenhaver backfilled most of the water distribution system with dirt, rather than pea gravel, sand, or other approved bedding material. The use of improper backfill material will result in a higher incidence of pipe breakage than would otherwise occur.
- d. Poor construction practices were utilized, allowing dirt and other contaminants to enter the distribution piping. Based on observations when flushing lines within Eagle Woods, the distribution system was not protected from rain water and mud during construction, resulting in water quality problems within Eagle Woods.

Digging up the Eagle Woods water distribution system, or even sampling pits will only reveal that the Eagle Woods water distribution system does not meet state standards. I discussed these deficiencies with Ron Moeller and Steve Jones of MDNR PDWP prior to the time the interconnection was made, and was advised that PDWP preferred that the systems be interconnected and supplied from the Golden Glade water well.

If the Eagle Woods water system must be re-constructed as a result of the foregoing deficiencies, please so advise immediately, as Mr. Westenhaver and his development company contractually agreed to provide a lawful water distribution system for the Eagle Woods project, and there is no financially feasible way to reconstruct the distribution system to meet state standards from the operating revenues of the utility company.

5. The multi-family wells which formerly served Eagle Woods have been disconnected. At the time of disconnection it was determined that one of the wells was located on a homeowner's property, and that no easement was retained for that well by Mr. Westenhaver. The homeowner has refused OWC any further access to that water well, and intends to keep that well operational for his non-potable drinking water uses. The other well has been disconnected, and is located on an easement which has been conveyed to OWC by Mr. Westenhaver. Assuming that PDWP approves the use of the existing distribution system, that well can be properly plugged and sealed within 1 year as you have requested.
6. The engineering plans prepared by Ted Forester and submitted last March were intended to be "as-built" plans, as they were prepared from the field drawings provided by Mr. Westenhaver. I don't believe any additional information is available as to pipe locations beyond what is contained in those plans.
7. The relationship between Environmental Utilities and Osage Water Company at the present time is that Environmental Utilities is the holder of a secured note executed by Osage Water Company for some \$500,000 which is in default, and which it is attempting

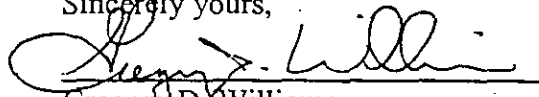
to foreclose, which may result in the transfer of ownership of OWC's assets to Environmental Utilities. Other than this debtor/creditor relationship, there is no legal relationship between the two entities. However, Environmental Utilities has agreed to sell water to OWC for the Eagle Woods distribution system.

8. The Golden Glade Water System is still owned by Gregory D. Williams and Debra J. Williams as developers of the subdivision. It is to be conveyed to Environmental Utilities upon completion of the requirements set out by the Missouri Public Service Commission for a certificate of convenience and necessity, which include receipt of a Permit to Dispense for the Golden Glade water system from MDNR PDWP.
9. The Eagle Woods water system is owned by Osage Water Company, as evidenced by the attached Easements executed by Summit Investments, LLC and Eagle Woods Homeowners Association, Inc. A copy of OWC's contract with Mr. Westenhaver is also attached.

I am not sure if the foregoing meets your expectations for a response or not, but it is the best I can do from the information available. The essence of the matter is whether PDWP wants to approve the Eagle Woods Distribution System "as built" knowing that it was not constructed to state standards for public drinking water systems, or not. This is a separate issue from the issuance of a Permit to Dispense for the Golden Glade Well and Water System, and there should be no reason to delay the Golden Glade permit.

If Eagle Woods has to be rebuilt, someone will have to enforce the contract requirement that Mr. Westenhaver is to provide a proper distribution system for his development project. This is likely to be both expensive and lengthy, and will likely involve litigation. OWC has operated to date under the assumption that reconstruction would not be necessary based on conversations with Ron Moeller and Steve Jones.

Sincerely yours,



Gregory D. Williams

cc: John MacEachen  
Jim Merciel, MPSC

*Urgent*

*147 10 min*

EXHIBIT

tabbies

*2*

1 you. Can you see that document now --

2 A. Yes.

3 Q. -- issued by the Department of Natural  
4 Resources on August 30th?

5 A. Yes.

6 Q. And it references Golden Glade  
7 subdivision, does it not?

8 A. Yes.

9 Q. And then it says Williams well?

10 A. Yes.

11 Q. Now, I assume that's water they are  
12 talking about?

13 A. Yes.

14 Q. And first paragraph, would you read that  
15 aloud?

16 A. Dear Mr. Williams, the enclosed Notice of  
17 Violation No. 1378 JC is being issued to you for  
18 violation of Missouri Safe Drinking Water Law and  
19 regulations for construction of the above  
20 referenced public drinking water system without  
21 first obtaining the appropriate construction permit  
22 from the Missouri Department of Natural Resources.

23 Q. Now, is that referring to the water system  
24 at Golden Glade being constructed without a permit?

25 A. That's what they believe, yes. That's



*Mr. Williams*  
1 what DNR believes.

2 Q. And you have done no construction?

3 A. No. Osage Water Company has not built  
4 anything.

5 Q. How about the other companies that you are  
6 a principal in?

7 A. No. Mr. Williams early last year buried  
8 some two-inch pipe along with the electric line to  
9 serve 13 lots with multi-family wells. That was  
10 not a required permit from DNR for construction.

11 After that period of time, after that  
12 construction was started, a contract was entered  
13 into between Osage Water and Ron Westenhaver. And  
14 we decided that a central water system would be  
15 feasible. We then applied in July for the Williams  
16 well review was late June, early July, and that  
17 tentacle review was completed in August, and we  
18 still haven't received a permit.

19 But DNR believes that because -- at least  
20 it's my understanding, is that because we changed  
21 our mind or that Mr. Williams' changed his mind  
22 that he is not in violation.

23 Q. So you think that the water mains that  
24 were replaced, did not have to be permitted before  
25 they were placed?

1           A.     The code is clear on lots that are -- or  
2 subdivisions of 15 or more lots require permits and  
3 this Golden Glade only has 13.

4           Q.     So how have you communicated with the  
5 Department of Natural Resources to convince them  
6 that they don't understand their own rules and  
7 regulations?

8           A.     There has been several letters that's gone  
9 back and forth.

10          Q.     And do you have any of those available  
11 here for us to look at?

12          A.     I didn't bring any.

13          Q.     And what is the status of that Notice of  
14 Violation at this point? Is that still pending?

15          A.     I guess. I'm not familiar with the  
16 procedures on that.

17          Q.     And when did you make application to  
18 construct a water system in Golden Glade?

19          A.     I believe it was late June, early July.

20          Q.     Okay. On page -- well, the transcript of  
21 the hearing for the Golden Glade subdivision when  
22 you were here to testify before this Commission to  
23 receive a permit or a certificate to supply sewer  
24 service to Golden Glade on July 2nd, 1999, do you  
25 recall being here?

1 A. Yes.

2 Q. The transcript of that proceeding and that  
3 was SA-99-268, on page 171 records the following:  
4 This was a question from myself from the Bench that  
5 day to you. I'm still not clear, who is supplying  
6 water to Golden Glade subdivision? Your answer,  
7 Nobody. There is nobody living there. And I  
8 started a question and no one has applied for it?  
9 You answered, There is no wells drilled. There is  
10 nobody there.

11 Is anybody living in Golden Glade  
12 subdivision today?

13 A. I believe there's one house that's  
14 occupied.

15 Q. Okay. So the certificate of need to  
16 provide sewer service to that area was granted  
17 by --

18 A. Yes.

19 Q. -- three members of this Commission,  
20 correct?

21 A. Yes.

22 Q. And that was granted in October, I  
23 believe, as I recall October 14. Are there any  
24 residents in the Golden Glade subdivision now  
25 receiving sewer treatment supplied by Osage Water

1 Company?

2 A. No.

3 Q. And you say there's one resident there  
4 now?

5 A. I believe, yes.

6 Q. And if that resident is not receiving  
7 service, are there any other homes under  
8 construction in Golden Glade at this time?

9 A. Yes.

10 Q. How many?

11 A. I believe the fourth one is starting up  
12 now.

13 Q. And is there service being proposed or put  
14 into place to serve those four residents with sewer  
15 service?

16 A. The sewer services, yes, when we have the  
17 system completed.

18 Q. Okay. I need to stop and let -- did  
19 Commissioner Drainer want to ask any questions  
20 now?

21 COMMISSIONER DRAINER: I appreciate it.  
22 No. I will at 2:30 as soon as we come back. I'll  
23 do mine then, so please continue.

24 COMMISSIONER MURRAY: All right.

25 COMMISSIONER DRAINER: You may ask my