

PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

ROB LEE,)	
)	
Complainant,)	
vs.)	Case No. WC-2009-0277
)	
MISSOURI-AMERICAN WATER CO.,)	
)	
Respondent.)	

ANSWER

COMES NOW, Respondent, Missouri-American Water Company, by and through its counsel, HeplerBroom, LLC, and for its Answer to Rob Lee's Complaint, states as follows:

1. There is water running out of the ground and driveway in front of 11334 Larimore Ave.

RESPONSE: Denies.

2. According to Jack Baker from DNR, this water tested positive for chlorine on two different occasions.

RESPONSE: Respondent is without sufficient information or knowledge to either admit or deny the allegations contained and set forth in this allegation of the Complaint and, therefore, denies same.

3. This is less than 100 ft. west of a [sic] of the storm drain that I have been complaining since March or April of 2008 about water running into it and out of the ground near it.

RESPONSE: Respondent states Complainant's allegation is unintelligible and, therefore, denies same. Respondent further states Complainant fails to identify to whom said complaints have been made and, therefore, no response is possible.

4. This is the fourth time leaks have surfaced near my home since July of 2008 that I know of while [Missouri-American Water Company] assures me there are no water leaks near my home.

RESPONSE: Respondent is without sufficient information or knowledge as to what Plaintiff constitutes as leaks "near" his home, and, therefore, is unable to properly respond to same. As such, Respondent denies each and every allegation set forth in this allegation.

5. The basement continues to leak the and the sump pump runs continually and as of today [January 21, 2009] I don't remember it raining for [sic] all most 2 weeks.

RESPONSE: Respondent is without sufficient information or knowledge to either admit or deny the allegations contained and set forth in this allegation of the Complaint and, therefore, denies same.

6. Please see photos of the ice displays emerging from the ground just feet from the water [sic] meeter.

RESPONSE: Respondent is without sufficient information or knowledge to either admit or deny the allegations contained and set forth in this allegation of the Complaint and, therefore, denies same.

7. I have seen no other yards or driveways in the neighborhood with this ice problem.

RESPONSE: Respondent is without sufficient information or knowledge to either admit or deny the allegations contained and set forth in this allegation of the Complaint and, therefore, denies same.

8. Just days after the water main repair at 11533 Larimore the storm drain that I always thought was a creek [sic] stoped flowing and dried up.

RESPONSE: Respondent is without sufficient information or knowledge to either admit or deny the allegations contained and set forth in this allegation of the Complaint and, therefore, denies same.

9. It then functioned as a storm drain drying up after rains.

RESPONSE: Respondent is without sufficient information or knowledge to either admit or deny the allegations contained and set forth in this allegation of the Complaint and, therefore, denies same.

10. My basement has leaked [sic] all most continually for the last 19 years except for brief periods right after water mains were repaired near my home.

RESPONSE: Respondent is without sufficient information or knowledge to either admit or deny the allegations contained and set forth in this allegation of the Complaint and, therefore, denies same.

AFFIRMATIVE DEFENSES

1. Complainant's claim should be barred in that it involves identical issues, allegations and events that are the subject matter of a civil lawsuit currently pending in St. Louis County Circuit Court styled Robert Lee v. Missouri-American Water Company, bearing Cause No. 08SL-CC01242.

2. Complainant fails to state a claim against Respondent in that the water allegedly "running out of the ground and driveway in front of 11334 Larimore Ave." originated from a source not owned by or under the control of Respondent.

3. Complainant's claim is barred by Missouri's statute of limitations.

4. Complainant's claim is barred by Missouri's doctrine of laches.

WHEREFORE, having fully answered Rob Lee's Complaint, Respondent Missouri-American Water Company prays that said Complaint be dismissed, that its costs be reimbursed and for such other and further relief as this Commission deems just and proper.

HEPLERBROOM, LLC

By: /s/ Matthew H. Noce

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PROOF OF SERVICE

I hereby certify that I electronically filed on this 27th day of February, 2009, the foregoing with the Missouri Public Service Commission using the ESIF system which will send notification of such filing to the following:

- Missouri Public Service Commission General Counsel Office (GenCounsel@psc.mo.gov)
- Office of the Public Counsel Mills Lewis (opcservice@ded.mo.gov)
- Missouri Public Service Commission Ritchie Samuel (Samuel.Ritchie@psc.mo.gov)
- Rob Lee (energyhealingarts@gmail.com)

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