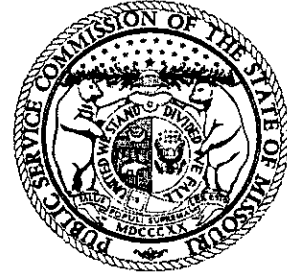


Notice of *Ex Parte* Contact

TO: Records Department:
All Parties in Case No. WC-2003-0134
All Commissioners



FROM: Chairman Kelvin Simmons *KS*
Commissioner Connie Murray *CM*
Commissioner Sheila Lumpe *SL*
Commissioner Steve Gaw *SG*
Commissioner Bryan Forbis *BF*

DATE: October 23, 2002

On October 21, 2002, we received the attached document from Senator John T. Russell. The Commission is currently considering the issues discussed in this document in Case No. WC-2003-0134. WC-2003-0134 is a contested case. The Commission is bound by the same *ex parte* rule as a court of law.

Although communications from members of the public and members of the legislature are always welcome, those communications must be made known to all parties to a contested case so that those parties have the opportunity to respond. According to the Commission's rules (4 CSR 240-4), when a communication (either oral or written) occurs outside the hearing process, any member of the Commission or Regulatory Law Judge who received the communication shall prepare a written report concerning the communication and submit it each member of the Commission and the parties to the case. The report shall identify the person(s) who participated in the *ex parte* communication, the circumstances which resulted in the communication, the substance of the communication, and the relationship of the communication to a particular matter at issue before the Commission.

Therefore, we submit this report pursuant to the rules cited above. This will ensure that any party to this case will have notice of the attached information and a full and fair opportunity to respond to the comments contained therein.

cc: Executive Director
Secretary/Chief Regulatory Law Judge
General Counsel



MISSOURI SENATE
JEFFERSON CITY

October 18, 2002

RECEIVED
OCT 21 2002
Connie Murray

JOHN T. RUSSELL

SENATOR 33RD DISTRICT
ROOM 419
CAPITOL BUILDING
JEFFERSON CITY, MISSOURI 65101
(573) 751-4166
FAX (573) 751-2745

HOME OFFICE:
BOX 93
LEBANON, MO 65536
(417) 532-6050

Mr. Stephen Mahfood, Director
Department of Natural Resources
P. O. Box 176
Jefferson City, MO 65102

REF: MR. RON WESTENHAVER, EAGLE WOODS -
OSAGE WATER COMPANY, CAMDEN COUNTY

Dear Steve:

I am writing to you regarding what has occurred since my letter of August 27, 2002. I understand that on September 4, 2002, you and certain members of your staff met with Ron and Sue Westenhaver, Representative Steve Henderson and Representative Blaine Luetkemeyer. I appreciate you taking the time to meet with these individuals and for you trying to resolve the dispute that exists between the Department of Natural Resources (DNR) and Ron Westenhaver concerning sewer service to the Eagle Woods Subdivision.

I also understand that on September 12 and September 17 Ron Westenhaver wrote to you and provided you with the information you requested regarding his September 4, 2002, assertions that Osage Water Company's (OWC) KK Treatment Plant does, in fact, have the capacity to handle sewage from all existing homes in Eagle Woods Subdivision and that DNR should allocate ten lots of the pending OWC KK Treatment Plant operating permit to the Eagle Woods Subdivision.

I believe that Ron Westenhaver also wrote to you on September 24, 2002, regarding his recent discussions with Dale Johansen of the Public Service Commission about the allocation of ten additional lots to the Eagle Woods Subdivision and Mr. Westenhaver's September 4, 2002, settlement offer. I have been informed that Mr. Johansen is recommending to you that DNR allocate ten additional lots to the Eagle Woods Subdivision and that DNR accept the settlement that Mr. Westenhaver has proposed.

To date, I do not believe that Mr. Westenhaver has received any response from you regarding his recent letters or any response from you regarding the settlement offer he presented on September 4, 2002.

Page Two

Mr. Stephen Mahfood
Jefferson City, MO

As I am sure you are aware, assessing a substantial penalty against Mr. Westenhaver will not solve the ultimate problem before DNR - ensuring that there is adequate sewer service to the Eagle Woods Subdivision. Although OWC has a contractual obligation to provide the needed sewer service to the Eagle Woods Subdivision, OWC apparently has not upheld its obligations under the contract. I understand that the Eagle Woods Subdivision residents have become very concerned about sewer service in the subdivision and are voicing their concerns to other local residents.

I believe that if DNR wants the Lake of the Ozarks community to retain faith in DNR's ability to protect the environment, it is imperative for DNR to find a way to ensure that adequate sewer service is provided to the Eagle Woods Subdivision. As you will recall, in my August 27, 2002 letter it was my understanding that the Westenhaver's had proposed to escrow some \$40,000 or \$50,000 to be used for the sewer system and I think I am correct in saying that this is the approximate amount of the proposed fine.

Because of the local community concern about sewer service in the Eagle Woods Subdivision, I ask that you respond to Mr. Westenhaver's recent letters and that you continue to personally work with Mr. Westenhaver to reach a settlement which resolves the ultimate problem before DNR - how to provide adequate sewer service to the residents of the Eagle Woods Subdivision.

Thank you for your personal assistance in this matter.

Sincerely,


John T. Russell

JTR:aj ✓
cc: PSC Commissioners
Ms. Toni Messina