

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²

JUN 11 2007

GREATER JEFFERSON CITY CONSTRUCTION)
COMPANY, INC., and EDWARD P. STOREY,)

Missouri Public
Service Commission

Complainants,)

v.)

Case No. WC - 2007-0303

AQUA MISSOURI, INC.)

Respondent.)

FIRST AMENDED COMPLAINT

1. Complainant Greater Jefferson City Construction Company, Inc., is a Missouri corporation with its principal place of business at 2916 Foxdale Drive, Jefferson City, Missouri 65109.

2. Complainant Edward P. Storey is an individual and a principal owner of Greater Jefferson City Construction Company, Inc., and resides at 2916 Foxdale Drive, Jefferson City, Missouri 65109.

3. Respondent, Aqua Missouri, Inc., 5402 Business Highway, Suite 3, Jefferson City, Missouri, 65102, is a public utility providing service to the service area where Greater Jefferson City Construction Company owns property, said property specifically known as Quail Valley Lake Subdivision.

4. As the basis of this Complaint, Complainants state as the following facts:

- a. Complainants corporately and individually are the developers of Quail Valley Lake Subdivision.
- b. Complainants began development of such subdivision in the early 1980s.
- c. The original construction of said subdivision utilized septic tanks to handle the waste generated from the homes. When 40 homes had been built and were occupied, the Complainant installed sewer lines and a waste water treatment plant. Said lines were extended so that they can provide service for all 112 platted lots within Quail Valley Lake Subdivision. In late 1993, the waste water facility plant and the collection system was handed over to Capital Utilities, Inc., the predecessor to respondent herein.

- d. In 2003, Complainant executed a Warranty Deed by Corporation deeding ownership of the sewer system of Quail Valley Lake Subdivision to Respondent. A copy of that deed is attached hereto as Exhibit 1.
- e. The wastewater treatment facility and collection system was designed to accommodate the wastewater loading generated by the complete development of Quail Valley Lake Subdivision. (See letter from Capital Utilities, Inc., marked Exhibit 2 and attached hereto.)
- f. 80 lots have been sold within Quail Valley Lake Subdivision, with homes being built and occupied upon 78 of those lots. All of the homes are connected to the sewer system.
- g. That since 2002 Complainants herein have sought approval from Respondent to attach more homes to the sewer system. Respondent has refused said request. Said refusal has cost Complainant numerous sales of lots as well as significant sums of money.
- h. The permit under which Aqua Missouri, Inc., operates the Quail Valley Lake Subdivision waste water treatment plant has no restrictions as to the number of homes that can be attached, but rather has restrictions for flow, sludge, biochemical oxygen demand, and total suspended solids, among other things. (A copy of said permit is attached hereto as Exhibit 3.)
- i. Complainant herein has met with the Department of Natural Resources, and the Department of Natural Resources has expressed no objection to the hookup of additional homes to the Quail Valley waste water treatment facility. (A copy of a letter reflecting a meeting at the Department of Natural Resources is attached hereto as Exhibit 4.)
- j. Based upon recommendations set forth in the letter from DNR, Complainant effected a bylaw change at Quail Valley Lake Subdivision wherein the Homeowners Association would take responsibility to pump septic tanks to remove solids every three years. (A copy of the Addendum to the Declaration of Covenants and Restrictions is attached hereto as Exhibit 5.)
- k. At the request of Complainants, numerous tests have been performed by engineers at ReSource Institute which show that the waste water treatment facility is operating well below the capacity set forth in the permit. Complainant has presented these studies to Respondent and has requested permission to attach additional homes, and the Respondent has refused to grant such request. (A report from the ReSource Institute is attached hereto as Exhibit 6.)

- l. Complainant herein no longer desires to be in the building business but, rather, wants to sell lots to other builders to build within Quail Valley Lake Subdivision. Complainant is unable to sell any lots because of Respondent's refusal to grant permission to hook up to the existing sewer system.
- m. Complainant has met with representatives of Aqua Missouri on several occasions and has attempted to reach an agreement but Respondent has refused.

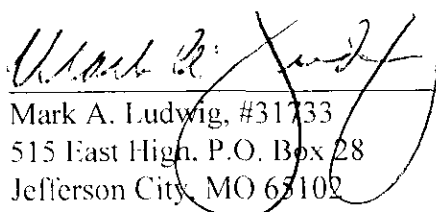
5. The refusal of Respondent to grant the request of Complainant for additional hookups is arbitrary, capricious, and totally unsupported by any objective data.

6. Furthermore, Aqua Missouri, Inc., has refused to expand the existing waste water treatment facility if, in fact, it believes that the existing facility does not have the capacity to handle the additional proposed hookups when it is the Respondent's responsibility to do so.

WHEREFORE, Complainant now requests the following relief: An order from the Missouri Public Service Commission ordering Aqua Missouri, Inc., to allow hookups for an additional 32 lots so that Quail Valley Lake Subdivision can be completely developed or, in the alternative, to expand the waste water treatment facility to handle the additional 32 lots that are platted in the subdivision.

Date

6-11-07


Mark A. Ludwig, #31733
515 East High, P.O. Box 28
Jefferson City, MO 65102

Mark.l@carsoncoil.com

573-636-2177

573-636-7119 (fax)

ATTORNEYS FOR COMPLAINANTS