

Exh. 18

**Krueger, Keith**

**From:** Greg Williams [gregw@laurie.net]  
**Sent:** Saturday, August 24, 2002 1:14 PM  
**To:** Krueger, Keith  
**Cc:** Johansen, Dale; Merciel, James  
**Subject:** RE: Foreclosure of Osage Water Company Assets

*in solvent  
 no cash infusion  
 BB repeat*

Keith –

Thank you for your e-mail and the questions posed therein.

Generally, unless the unlikely occurs and some other qualified utility appears at the foreclosure sale and offers more money for the OWC assets than is owed to me by OWC, the plan is for Environmental Utilities to bid for and acquire OWC's assets at the foreclosure sale. From the customer's perspective, they will continue to receive water and sewer utility service, as they have in the past, with the particular difference that Env. Util. has the ability to borrow money to finance system repairs and improvements, while OWC does not. OWC's inability to obtain financing stems from Pat Mitchell's prior operating practices, which generally included not paying current taxes and creditors during 1999 and 2000, resulting in substantial tax liabilities and general unsecured creditors, and not making installment payments on outstanding debt, including debt to me and debt to Dave Hancock. He did this while I was advancing money to OWC and arranging for financing of capital improvements, and doing all of OWC's legal work without current payment on account. At the same time, he utilized OWC's assets and employees to conduct his contract water and sewer service operation for Water Laboratory Company, resulting in the recent lawsuit by the Missouri Attorney General against OWC for actions in Sedalia on a sewer system in which OWC has no ownership or contractual interest, and for which OWC was never compensated.

I am aware that a certificate cannot simply be transferred, and that the Commission must enter an order to do so. An application to that effect has been filed with the Commission, and should be on your desk Monday or Tuesday. The requirement to obtain Commission approval of the transfer of assets will be announced at the time of the sale.

With respect to Broadwater Bay, Debbie and I did all that we could given that OWC had no cash on hand, and Pat Mitchell remains as the president and owner of a majority of the outstanding stock of OWC.

At the time that the note and deed of trust was executed in February of 2001, it was contemplated that an application would be filed with the Commission to approve the same. However, the books were not current, and the 1999 and 2000 annual reports had not been filed. I kept up constant pressure on Pat Mitchell to complete the books and get the reports filed by calling him on a weekly basis between February and July for an update on status. His answer was consistently that they were working on them, and he would have them done "soon." As you are not doubt aware, he never completed the records, and quit doing anything in July with respect to operation of OWC. I have no idea whether Case No. WF-94-361 covers the note and deed of trust, as I have not looked at that order in several years. The note was payable in 1 year, and falls within the provision of Section 393.200.3 as an obligation for "proper corporate purposes" for which Commission approval is not required.

With respect to OWC's prospects after the foreclosure, I don't believe they are materially different than its prospects in July of 2001. A large portion of my legal work has involved litigation with Mr. Hancock and with the developers at Harbour Bay and Parkview Bay, which even under the most lenient of analysis of rate base would be classified as "expenses" rather than "capital expenditures." Simply put, OWC has been for a number of years incurring expenses in excess of its income, particularly with respect to its legal expenses. Those outstanding expenses now total to more than the equity of OWC's shareholders, and more than its approved and approvable rate base. OWC cannot pay all of the debt it has outstanding from the revenues it is deriving from its remaining systems, and there is no reason to believe it will be able to do so in the future.

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Its only hope of doing so is through some recovery from the City of Osage Beach based upon an unconstitutional taking theory, but it cannot afford the legal expenses required to present such a claim in Court. In my opinion, Mr. Hancock and Mr. Mitchell's claims are worthless, and have been worthless since the City started overbuilding OWC's systems without paying OWC for those systems. Quite a bit of the money I invested in OWC between 1992 and 1999 is also now worthless in the sense that it will never be repaid.

Debbie and I have been propping up OWC since July of 2001 in an effort to keep its operations going so that something could be salvaged therefrom. It has not paid any rent for the use of my office or office equipment during that time, has not paid its legal expenses during that time, and has not paid any payments on the loans I have made to it or any return on the capital I have invested in it. Jim Merciel has suggested to Debbie that OWC file another rate case so that these issues could be addressed, but OWC has yet to pay any of the legal fees incurred in the last rate case, and I do not want to extend any further credit to OWC.

My desire to proceed with foreclosure was prompted by the MDNR suit filed by the Attorney General last month arising from Pat's actions with OWC employees in Sedalia, and I have been working on preparation of the same ever since Pat refused to hire an attorney to defend that case for OWC at his expense. I have no idea what other potential claims and liabilities OWC may have outstanding, but the ones I no about are rather staggering, including some \$40-50,000 in unpaid tax obligations.

The Broadwater Bay situation is symptomatic of the problems faced with continued operation of OWC. Pat Mitchell remains as OWC's president, and owns sufficient stock to continue in that position. He made the decision, without consultation with me, to reject the City's offer for continued temporary service at a higher charge than the original interim agreement. He has consistently refused to execute a personal guarantee for any debt obligations of OWC. The Broadwater Bay scenario is likely to be repeated if another major failure occurs which cannot be repaired by a backhoe or a legal document, if OWC continues to own and operate the utility systems.

I suppose a bankruptcy or a receivership are the other alternatives for resolving OWC's problems. However, both involve extensive and expensive legal proceedings, and, unless I am missing something, are both going to end up in some form of auction of OWC's assets. A foreclosure simply goes directly to the result with a minimum of legal expense involved.

If you have more questions, please let me know.

GDW