

LAW OFFICES
MOYNAHAN, IRVIN & SMITH, P.S.C.
110 NORTH MAIN STREET
NICHOLASVILLE, KENTUCKY 40356
(859) 887-1200
FAX (859) 885-2307

BRUCE E. SMITH
bsmith@mislaw.com

January 24, 2006

RECEIVED

JAN 25 2006

PUBLIC SERVICE
COMMISSION

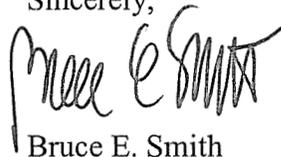
Ms. Beth O'Donnell
Office of the Executive Director
Kentucky Public Service Commission
P.O. Box 615
Frankfort, KY 40502-0615

Re: Donnie E. and Delores A. Lowery
v. Jessamine-South Elkhorn Water District
Case No. 2005-00544

Dear Ms. O'Donnell

Please file and distribute the enclosed original and ten (10) copies of the Answer to the above matter.

Sincerely,


Bruce E. Smith

cc: Board of Commissioners
Mr. Glenn T. Smith
Mr. Stephen Stephenson, Sr.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JAN 25 2006

PUBLIC SERVICE
COMMISSION

In the Matter of:

DONNIE E. AND DELORES A. LOWERY)

COMPLAINANTS)

v.)

JESSAMINE-SOUTH ELKHORN)

WATER DISTRICT)

DEFENDANT)

CASE NO. 2005-00544

ANSWER

The above-named defendant, Jessamine-South Elkhorn Water District (“South Elkhorn”), for its Answer to the Complaint in this proceeding, respectfully states:

FACTS

The Lowery’s occupy a mobile home located on a family farm situated outside the territorial boundary of South Elkhorn. The water main from the City of Nicholasville’s water treatment facility on the Kentucky River crosses the Lowery farm. Under the terms of the easement permitting the City of Nicholasville’s water main to cross the Lowrey farm, occupants of the farm have had water service available and actually supplied to them for over 20 years. The service line from the main to the occupants of the farm has fallen into disrepair over the years and there have been numerous and large losses of water as a result thereof. The City of Nicholasville finally terminated service to the Complainants because they refused to repair this service line, and because they refused to pay a delinquent water bill¹. The City of Nicholasville has confirmed that water service will be re-connected when the Lowerys repair their service line.

¹ A third party eventually paid this bill, but the service line has not been repaired.

Steve Stephenson, referred to by the Complainants as Steve “Stevenson”, performs maintenance work for South Elkhorn on a contract basis. He is not an employee of the District. Mr. Glenn T. “Tom” Smith is South Elkhorn’s superintendent.² Neither Tom Smith nor Steve Stephenson advised the Lowerys that they could obtain water service from South Elkhorn. Any excavation work which Steve Stephenson’s son performed for the Lowerys was strictly a private matter between Stephenson’s company and the Lowerys. When contacted by officials from the City of Nicholasville, Tom Smith advised them that South Elkhorn was not interested in serving the Lowerys.

Under South Elkhorn’s tariff, the Lowerys would have had to at least apply for service to initiate any action on the part of South Elkhorn. The Lowerys have filed no such application.

The Lowerys’ threat of filing a complaint with the Kentucky Public Service Commission was discussed at the December 7, 2005 meeting of the Board of Commissioners of South Elkhorn. By vote of the Board, counsel for South-Elkhorn, Bruce E. Smith, was instructed to contact the City of Nicholasville and propose the following in return for providing service to the Lowerys. The City would have to agree to cede the territory encompassed by the Lowery Farm to South Elkhorn, and the City would have to agree to provide water service to an unserved area on Bethany Road, outside South Elkhorn’s territory, within a reasonable period of time. This proposal was made to the Nicholasville City Commission on December 8, 2005, by South Elkhorn’s counsel, but the Commission took no immediate action. Later, South Elkhorn learned from Tom Calkins, Nicholasville’s Director of Public Utilities, that the City was not interested in South Elkhorn’s proposal.

Contrary to the Lowerys’ assertion that they are “out our monies for the plumber”, Mr. Stephenson has never been paid for his company’s work, as is confirmed in his son’s affidavit.

² The Complainants referred to Mr. Smith as “Tommy” Smith.

The affidavits of Glenn T. Smith, South Elkhorn's Superintendent (Tab A); Stephen Stephenson, the son and employee of Stephen R. Stephenson, who is the Districts maintenance contractor (Tab B); Thomas P. Calkins, the Director of Public Utilities for the City of Nicholasville (Tab C); and Bruce E. Smith, counsel for South Elkhorn (Tab D). These affidavits confirm the factual representations of this Answer.

ARGUMENT

The Lowerys have not applied for service from South Elkhorn. South Elkhorn's Board never authorized anyone on its behalf to represent to the Lowerys that service would be provided. No one on South Elkhorn's behalf has represented to the Lowerys that service would be provided. The Lowerys' home is located outside the District's territory and the District is not obligated to serve their residence.

WHEREFORE, the District prays that the Complaint be dismissed, and that it be granted all other appropriate relief to which it may appear entitled.



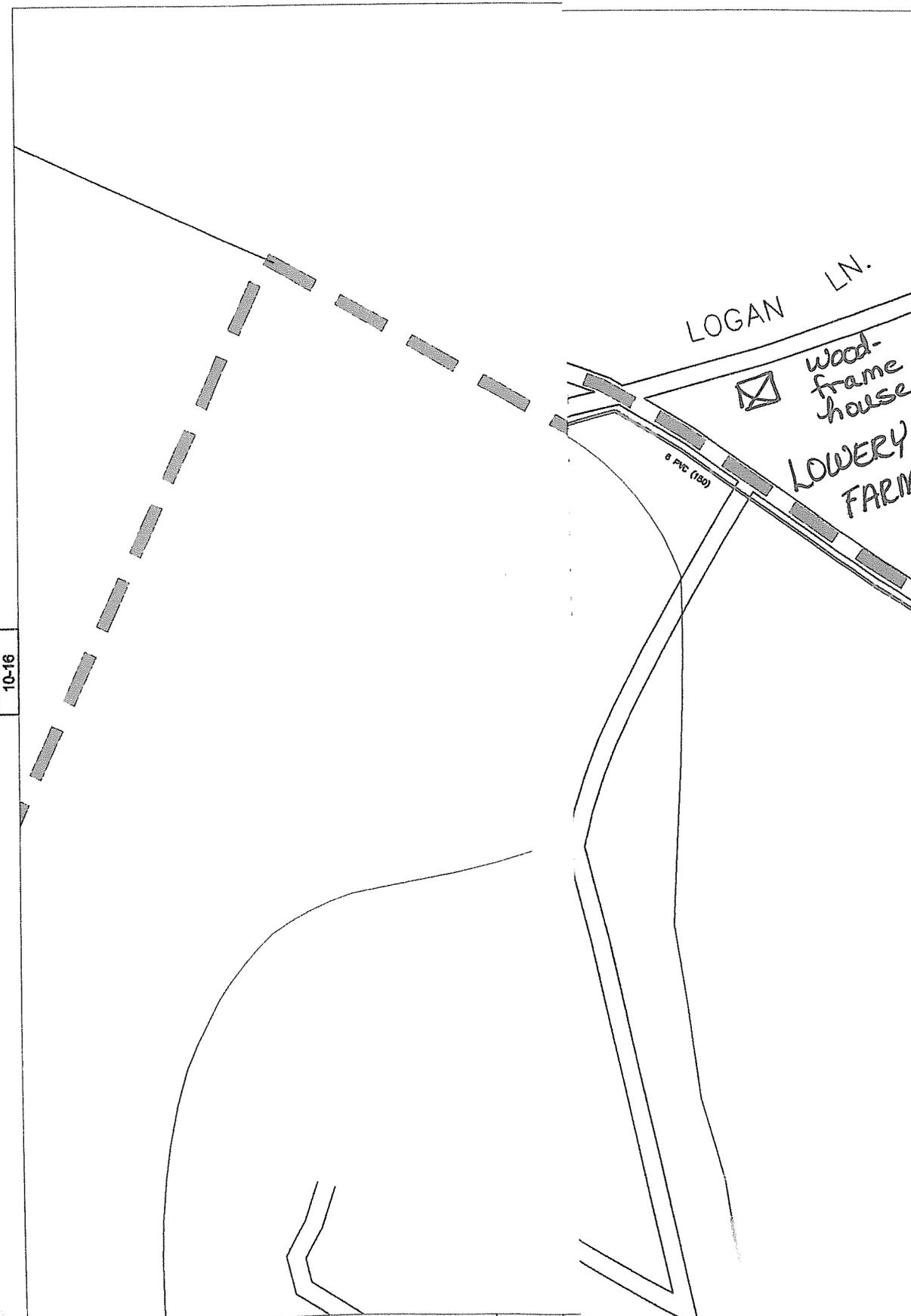
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NICHOLASVILLE, KENTUCKY 40356
(859) 887-1200
**ATTORNEY FOR JESSAMINE- SOUTH
ELKHORN WATER DISTRICT**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Answer was served by mailing same, postage prepaid, to Donnie Easley Lowery and Delores Ann Lowery, 2025 Chrisman Mill Road, Nicholasville, Kentucky 40356, this 24 day of January, 2006.



BRUCE E. SMITH



HORNE ENGINEERING
 ENGINEERS - PLANNERS - LAND SURVEYORS
 216 SOUTH MAIN STREET
 NICHOLASVILLE, KENTUCKY 40356
 (606) 885-9441

WATER DISTRIBUTION SYSTEM
 Jessamine - South Elkhorn Water District
 Jessamine County, Kentucky
 May, 2003

| DATE | BY |
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EXHIBIT
 "A"

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|---------------------------------|---|---------------------|
| DONNIE E. AND DELORES A. LOWERY |) | |
| |) | |
| COMPLAINANTS |) | |
| |) | |
| v. |) | CASE NO. 2005-00544 |
| |) | |
| JESSAMINE-SOUTH ELKHORN |) | |
| WATER DISTRICT |) | |
| |) | |
| DEFENDANT |) | |

AFFIDAVIT

Comes the affiant, Stephen Stephenson, and after first being duly sworn, states as follows:

1. He is the son of Stephen R. Stephenson, who operates a water line construction and maintenance business.
2. Stephen works for his father in the family business which includes work for not only Jessamine-South Elkhorn Water District, but for other customers as well.
3. In the recent past, he was asked by Donnie and Delores Lowery to excavate and install a service line leading from their mobile home to Chrisman Mill Road. This matter was a contractual arrangement between his father's business and the Lowerys and was not authorized by or in any way related to Jessamine-South Elkhorn Water District.
4. This affiant excavated and installed the service line for the Lowerys. However, the Lowerys have never paid the company for his work.
5. This affiant has never advised the Lowerys that Jessamine-South Elkhorn Water District would provide water service to their mobile home. The Lowerys did

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| JESSAMINE-SOUTH ELKHORN) | |
| WATER DISTRICT) | |
|) | |
| DEFENDANT) | |

AFFIDAVIT

Comes the affiant, Thomas P. Calkins, and after first being duly sworn, states as follows:

1. He is the Director of Public Utilities for the City of Nicholasville.
2. He is familiar with the history of the Lowery farm located at the intersection of Logan Lane and Chrisman Mill Road in Jessamine County, Kentucky.
3. The City of Nicholasville's watermain from the Kentucky River crosses this farm on its path into the city limits of the City.
4. Under the terms of the easement for this watermain with the Lowery family, the occupants of the farm may obtain potable water from the City by tapping this main.
5. There is a wood-frame residence located on this farm that has had water service from the City, by virtue of the terms of the easement, for more than 20 years.
6. The mobile home occupied by Donnie and Delores Lowery is a recent addition to the farm and the City formerly provided water service to the mobile home by means of a service line extension from the service line to the wood-frame residence served by the City through an account in the name of Roy Lowery.

COMMONWEALTH OF KENTUCKY
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| WATER DISTRICT) |) | |
| DEFENDANT) |) | |

AFFIDAVIT

Comes the affiant, Bruce E. Smith, and after first being duly sworn, states as follows:

1. He is counsel for the Jessamine-South Elkhorn Water District.
2. He was directed by the Water District's Board to make a proposal to the Nicholasville City Commission as set forth in the Board's minutes of December 7, 2005, attached hereto as Exhibit "A".
3. This affiant made the proposal, as directed, on the afternoon of December 8, 2005, at the City's regularly scheduled meeting.
4. The City Commission did not respond to the District's proposal at the meeting; however, this affiant was advised by Thomas P. Calkins a week later that the City Commission was not interested in the proposal.
5. This affiant does not know Donnie or Delores Lowery and to his best recollection, he has never met them personally This affiant has never talked to either of these individuals by telephone or otherwise.

December 7, 2005

The Board of Commissioners of the Jessamine South Elkhorn **Water** District met on December 7, 2005, with the following Commissioners present: Nick Strong, George Dale Robinson, John Blackford, Kenneth Noland, and Jerry Haws. Bruce Smith, Christopher Horne, John Horne, Tom Smith, and Diana Clark were also present.

Jason Banks and Barry Mangold, **Barker Farm**, addressed the Board with a request for water service. This extension will be two tracts, each developed by separate owners, Mr. Mangold and C.V. Ethington. A motion to approve the extension contingent on the hydraulic analysis was made by Mr. Haws, seconded by Mr. Noland - approved.

Barry Mangold, **Forest Hills**, addressed the Board with a request for the relocation of the new **tank site**. Mr. Mangold agreed to give the District another suitable piece of property and reimburse the District for expenses already incurred on the existing lot. Mr. Horne recommended that the District consider the request and respond back to Mr. Mangold.

Rachel King, **Stonebridge**, addressed the Board with a request for water service. A motion to approve the extension was made by Mr. Blackford, seconded by Mr. Haws - approved. This extension will solve the problem of serving the Bradshaw property and looping to end of Pacer.

Mr. Sawyer and Mr. Elder, addressed the Board with a concern on an invoice issued for repair of an air relief valve in **Legacy Estates**. After a discussion the Board agreed since the valve was within the box and damage was caused by Sawyer and Elder, they will be responsible for the amount invoiced.

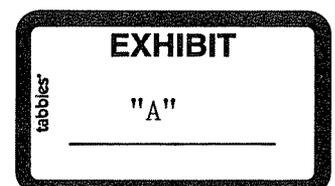
Mr. Smith was instructed to write Sam Sternberg, **Legacy Estates**, a letter giving thirty days to complete the items on the punchlist or the District will make the repairs and bill the developer.

Mr. Strong reported that he was still working on the insurance coverage for the Commissioners.

Mr. Smith reported that the tariff and water user agreements had been worked on by the staff, but drafts would not be completed for at least another month.

Mr. Horne reported that Judge's position was the City should serve Bethany Rd and he would press the City to serve that area.

There was a discussion on the Lowry property on Chrisman Mill and their request for water service. The City currently serves this property. It was suggested that the District serves provided the City releases the entire farm and the City serve Bethany Rd within a reasonable length of time. Mr. Horne suggested before serving that an agreement be signed that one meter serves one house and the Lowry's pay an individual tap fee plus any required extra cost for running a service line to



Mr. Haws stated that Lake Water District in Mercer Co. had approached him with a request to serve River Road. After a discussion it was recommended by Mr. Horne to release the River Rd territory and Mr. Haws was given the authority to notify that district to proceed with a formal request.

There was a discussion on the salary for Commissioners and what had been approved by Fiscal Court.

There was a discussion on **Legacy Estates**. A letter was sent from District #1 stating they were ready to take over this extension. Mr. Smith is going to review the agreement.

There was a question asked if the Commissioners were bonded. Mr. Smith will review this issue.

A motion to re-elect the present officers by acclamation was made by Mr. Haws, seconded by Mr. Robinson - approved - Mr. Blackford voted against the motion.

There was a brief discussion on obtaining an office building for the District.

A motion to pay the Treasurer an extra \$200 for services was made by Mr. Haws, seconded by Mr. Strong - approved.

The Commissioners went into Executive Session to discuss Christmas bonuses for the District's employees.

There being no further business to come before the Board, meeting adjourned.

ATTEST:

Chairman