

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

IN THE MATTER OF:

OCT 01 2007

CARROLL COUNTY WATER DISTRICT NO.1 )  
 )  
COMPLAINANT )

PUBLIC SERVICE  
COMMISSION

VS. )  
 )  
GALLATIN COUNTY WATER DISTRICT )  
 )  
DEFENDANT )

CASE NO. 2007-00202

**CARROLL COUNTY WATER DISTRICT NO. 1'S RESPONSES  
TO COMMISSION STAFF'S FIRST DATA REQUEST**

Comes now the Defendant Carroll County Water District No. 1 (hereinafter "CCWD#1"), and for its Responses to the Commission Staff's First Data Request, states as follows:

1. Provide a copy of all ordinances and resolutions of Carroll County Fiscal Court that address the territory of Carroll District.

RESPONSE: The Order of the Carroll County Fiscal Court establishing the current boundaries of the CCWD#1 is attached hereto as Exhibit 1. Kentucky statutory provisions require the Fiscal Courts of Carroll, Owen and Gallatin Counties to all agree and approve the CCWD#1's boundaries so the Orders of all three (3) counties are attached as Exhibit A to the Petition filed herein.

2. Provide a copy of all ordinances and resolutions of Gallatin County Fiscal Court that address the territory of Carroll District.

RESPONSE: The Order of the Gallatin County Fiscal Court establishing the current boundaries of the CCWD#1 is attached hereto as Exhibit 2. Kentucky statutory provisions require

CRAWFORD & BAXTER, P.S.C.  
ATTORNEYS-AT-LAW  
CARROLLTON, KY

the Fiscal Courts of Carroll, Owen and Gallatin Counties to all agree and approve the CCWD#1's boundaries so the Orders of all three (3) counties are attached as Exhibit A to the Petition filed herein.

3. Provide a copy of all orders of the Carroll County Judge/Executive that address the territory of Carroll District.

RESPONSE: See Answer to Request 1.

4. Provide a copy of all orders of the Gallatin County Judge/Executive that address the territory of Carroll District.

RESPONSE: See Answer to Request 2.

5. a. State whether, prior to October 8, 1998, Gallatin County Water District's ("GCWD") territory included any of the geographical area that the County Judge/Executives of Carroll, Gallatin and Owen counties added to Carroll District's territory by their Order of October 8, 1998.

RESPONSE: No. The Orders of the County Judge/Executives of Carroll, Gallatin and Owen on October 8, 1998, relinquished territory of the CCWD#1 to the Gallatin County Water District (GCWD) at its request. Specifically, in 1993, Gallatin County Judge/Executive asked the CCWD#1 to expand into Gallatin County because the GCWD did not have the capability of serving its citizens along U.S. Highway 42 and the areas adjoining Highways 1130 and 1039. Accordingly, the territorial boundaries of CCWD#1 were expanded in 1993 to include a section of Gallatin County not previous served. CCWD#1 obtained a loan through the United States Department of Agriculture (now USDA Rural Development Authority) to make improvements and to expand water service into this area. In 1998, Gallatin County requested that a portion of the CCWD#1's territory on which the Kentucky Speedway was being built be relinquished back to

GCWD so it could serve the Speedway. In 1998, the Fiscal Courts of Carroll, Gallatin and Owen then realigned the boundaries of the CCWD#1 to relinquish back to GCWD the Speedway area. The land which is the subject of the current controversy has been within the territorial boundaries of CCWD#1 since 1983, and never was requested to be relinquished by GCWD.

b. If the responses to Item 5(a) is yes, provide a copy of the Order of the Gallatin County Judge/Executive striking off the territory from Gallatin District's territory.

RESPONSE: See response to Item 5(a).

6. Refer to the Carroll District's complaint at ¶ 4.

a. Provide a detailed description of the "new commercial development".

This description should include an estimate of the new commercial development's water supply requirements.

RESPONSE: The CCWD#1 was advised by Adam Chaney, a member of Whitehorse Development Group, LLC, that a "Love's Truck Stop" was being built at the site and that it would need 10,000 gallons of water per day when it was operational.

b. Describe the current status of the construction of the new commercial development.

RESPONSE: A physical examination of the site indicates that the site has been graded, and that excavation for underground infrastructure is now ongoing.

c. State the name and mailing address of the owner of the new commercial development.

RESPONSE: The owner of the new commercial development is unknown. The individual that contacted CCWD#1 was Adam Chaney. His e-mail lists him as a member of Whitehorse Development Group, LLC, 495 Erlanger Road, Suite 201A, Erlanger, Kentucky 41018.

His address has also been communicated to the CCWD#1 as Chaney Land Developers, LLC, at the same address.

d. Provide an exact description of the location of the new commercial development. The description set forth in the complaint does not constitute an exact description.

RESPONSE: The new commercial development lies west of Highway 1130 and East of Highway 1039 adjacent to Interstate 71 at Exit 55, immediately adjacent to the exit ramp.

7. Provide a map of the area within a 4-mile radius of the new commercial development. The scale of this map should not be less than 1 inch = 1000 feet. The map should indicate, at a minimum, the new commercial development, all existing roads, all existing Carroll District and Gallatin District water distribution facilities, and the territorial boundaries of each water district and all political subdivisions in the area.

RESPONSE: A map prepared in accordance with this Request is attached as Exhibit 3. The new commercial development is identified on the map as "Love's Truck Stop".

8. a. List and describe all facilities that Carroll District must construct or install to provide water service to the new commercial development.

RESPONSE: CCWD#1 will extend its existing water line approximately 4,700 feet to the location of the new commercial development.

b. State the cost of each facility listed in response to Item 8(a).

RESPONSE: Approximately \$25,000.00.

c. State the length of time necessary to plan and construct each facility listed in response to Item 8(a).

RESPONSE: Approximately two months.

9. Provide all correspondence between Carroll District and Gallatin District regarding water service to the disputed area.

RESPONSE: Letter dated February 15, 2007, from the Attorney for GCWD to CCWD#1 marked as Exhibit 4. Responsive letter mailed by the Attorney for CCWD#1 to the attorney for GCWD dated February 20, 2007, marked as Exhibit 5.

10. List and describe all contacts between representatives of Carroll District and the new commercial development regarding water service to that development.

RESPONSE: CCWD#1 heard in January of 2007, that a development was being planned at the intersection of Highway 1039 and Interstate 71. It learned that Adam Chaney was in charge of the project and James L. Smith, CCWD#1 Manager, located him in Northern Kentucky by telephone. An email dated January 23, 2007, from Adam Chaney to James L. ( Jim) Smith, CCWD#1 marked as Exhibit 6, confirmed their conversation. On February 15, 2007, Mr. Smith was in attendance at a meeting at Carrollton Utilities Company, Carrollton, Kentucky, which operates the sewer system in the area, and Mr. Chaney and another representative for the project were present. On March 23, 2007, Mr. Smith sent Mr. Chaney a letter requesting additional information about the project. The letter dated March 23, 2007, from James L. Smith, Manager CCWD#1, to Adam Chaney is marked as Exhibit 7. No response was received from Mr. Chaney.

After the July 18, 2007, hearing before the Commission, Mr. Smith received a letter from Mr. Chaney on August 1, 2007. A copy of this letter is marked as Exhibit 8. Mr. Smith responded by letter dated August 7, 2007, a copy of which is marked as Exhibit 9. No response has been received to this letter.

As of the date of the filing of this Response, Whitehorse Development, LLC, has

never made application to the CCWD#1 for water service at this new commercial development. The existing 8 inch water line was constructed pursuant to the application of the GCWD to the Environmental and Public Protection Cabinet, Division of Water, permit in case referenced as Gallatin Co. Water District, PWS-33880; DW #0390130-07-002, KY 1039 Extension; Activity ID #APE20070002. A copy of the Cabinet's approval of the GCWD plans and specifications dated April 10, 2007, is attached as Exhibit 10.

11. State whether Carroll District takes the position that a water district has the exclusive right to provide water service within its territory. List the legal authorities upon which Carroll District bases its position.

RESPONSE: Yes, it is the position of the CCWD#1 that it has the exclusive right to provide water service within its territory. A water district can only exercise the powers granted to it by statute. KRS 74.010 granted exclusive jurisdiction to a fiscal court to create a water district in accordance with the provisions of KRS 65.810. The establishment of the water district within the provisions of KRS 74.012, require the Public Service Commission to "... make a finding and determination of fact that the geographical area sought to be served by (the proposed district) cannot be feasibly served by an existing (water district)". KRS 74.012(3). The territorial limits or boundaries of a water district can only be enlarged or diminished in accordance with KRS 74.110. Only upon the written request and the authority of the Fiscal Court may a water district extend into an adjoining county pursuant to KRS 74.115. Thus, when considering the provisions of KRS 74.010 et seq., and construing them together, demonstrate that the legislature intended the water district to be granted an exclusive service area.

Further, Kentucky law requires advance approval for the establishment of a water "district" within a specific area. The existence of a boundary implies that there is a protected service

area. Indeed, there is no statutory authority allowing a water district to operate outside of its established territorial boundaries. Olson vs. Preston St. Water District No. 1, Ky., 163 S.W.2d 307 (1942). See also, OAG 63-666; OAG 84-210.

Moreover, as a water district is a 'utility' for purposes of KRS 278.010, its operations are within the jurisdiction of the Public Service Commission. City of Georgetown vs. Public Service Commission, Ky., 516 S.W.2d 842 (1974). 807 KAR Section 9 requires that a water district apply for a certificate of public convenience and necessity for its operations. When an extension is made in the 'ordinary course of business', no certificate is required unless the proposed project "... conflicts with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general area in which the utility renders service or contiguous thereto...". 807 KAR Section 9 (3). CCWD#1 currently holds the exclusive certificate of convenience and necessity from the Commission to operate within its territorial boundaries. No application for a certificate of convenience and necessity has been made by GCWD to serve the territory in question.

In addition, the Agricultural Act of 1961, also known as the Consolidated Farm and Rural Development Act, Title III, subsection 306(b), codified as United States Code, Title 7 as 1926(b) provides that to protect the integrity of the federal government's outstanding loans a water system's territory cannot be forcibly annexed, nor 'cherry picked' by another system or municipality. The CCWD#1 is entitled to the protection of this provision as: 1.) it is an 'association' within the meaning of the Act; 2.) it has outstanding indebtedness with USDA; 3.) it has the legal right to provide the water service through established territorial boundaries; 4.) it can make service available in the disputed area; and 5.) the disputed area is within the established service district of the CCWD#1. As a condition of its loan with USDA, the CCWD#1 is not permitted to sell or transfer

its territory or to permit others to do so without the prior written consent of the Government. See. Lexington-South Elkhorn Water District vs. City of Wilmore, Ky., 93 F.3d 230 (6<sup>th</sup> Cir. , Ky.).

12. State whether Carroll District takes the position that the same geographical area cannot be in the territorial boundaries of two water districts. List the legal authorities upon which Carroll District bases its position.

RESPONSE: Yes, it is the position of the CCWD#1 that the same geographical area cannot be in the territorial boundaries of two water districts established pursuant to Kentucky statutory authority. First, there is no factual dispute that the area in question is solely within the territorial boundaries of CCWD#1. The GCWD does not deny that the service of this proposed customer would require it to expand and operate within the territorial boundaries of CCWD#1. Second, KRS 74.012 requires the boundaries of the district to be established when the district is formed. The number and manner of appointment of the commissioners is determined by the physical boundaries of the district. The territorial limits of an established water district cannot be enlarged or diminished unless the procedure outlined in KRS 74.110 is followed. If a water district is expanding into an adjoining county, then KRS 74.115 requires the permission of both fiscal courts and county judge-executives. The water district can only serve the territory in which the district has been authorized to serve. KRS 74.115(2). The only provision for operating within each other's territories is provided by KRS 74.420 when two or more water districts form a water commission to jointly operate their respective sources for the supply of water as set out in KRS 74.430.

13. Refer to Gallatin District's answer at ¶ 5. State whether Carroll District consented or acquiesced in the construction of the facilities to which Gallatin District refers. Explain.



RESPONSE: No. CCWD#1 neither consented to nor acquiesced to the construction of these facilities within its territorial boundary. CCWD#1 had no prior knowledge of this construction, nor was it asked by GCWD in advance of construction as to whether it could extend into the territorial boundaries of CCWD#1. Notably, when GCWD asked CCWD#1 to return to it the area where the Speedway Race Track was built it did not request that the area it now seeks to serve be returned to the GCWD territory.

14. List all bonds, notes, and other debt instruments of Carroll District that Rural Development presently holds. For each listed debt instrument, state the date of issuance, the original amount of the instrument, the current outstanding balance, and the expected date that the debt instrument will be retired.

RESPONSE: Rural Development Bonds currently held of CCWD#1 are:

<u>ISSUE DATE</u>	<u>AMOUNT</u>	<u>CURRENT BALANCE</u>	<u>EXPIRATION DATE</u>
1994	\$540,000.00	\$469,000.00	September, 2033
1997(A)	\$1,072,000.00	\$994,500.00	September, 2037
1997(B)	\$1,194,000.00	\$1,104,000.00	September, 2037
1999(A)	\$700,000.00	\$660,000.00	September, 2039
1999(B)	\$810,000.00	\$764,000.00	September, 2039
2005(A)	\$592,000.00	\$592,000.00	September, 2044
2005(B)	\$319,000.00	\$319,000.00	September, 2044

The following projects for Gallatin County were made by the CCWD with expenses as follows:

a. 1984 - Original extension into Gallatin County at a cost of \$1,208,000.00 with debt remaining as of January 1, 2007, of \$736,083.00;

b. 1997 - Construction of Gallatin County treatment plant, pipelines and tank at a cost of \$2,266,000.00, with debt remaining as of January 1, 2007, of \$2,098,500.00; and,

c. 1999 - Extensions of water line in Gallatin County to Highway 184, South and Drury Chappell Roads at a cost of \$150,000.00 with debt remaining as of January 1, 2007, of \$120,000.00.

15. Provide the minutes of each meeting of the Carroll District Board or Commissioners since January 1, 1996, in which water service to the disputed area was discussed including any discussions regarding Carroll District's annexation of the disputed area.

RESPONSE: This Request cannot be responded to because it contains incorrect facts and dates. The area in dispute was annexed into the CCWD#1's territory in 1983. There was no discussion about the District "annexing" the disputed area since January 1, 1996, because it had already been annexed in 1983. If the Commission would clarify this request, this Response will be supplemented.

WITNESSES RESPONSIBLE FOR ANSWERING THESE QUESTIONS: The witnesses responsible for providing the information to these Responses were:

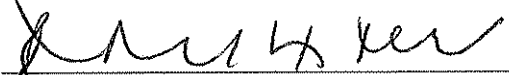
1. James L. Smith, Manager, Carroll County Water District No. 1; 205 Main Cross Street, P.O. Box 350, Ghent, Kentucky 41045; and,

2. Ruth H. Baxter, Attorney for Carroll County Water District No. 1, P.O. Box 353, Carrollton, Kentucky 41008.

CRAWFORD & BAXTER, P.S.C.  
ATTORNEYS AT LAW  
523 Highland Avenue  
P.O. Box 353  
Carrollton, Kentucky 41008  
Phone: (502) 732-6688  
Facsimile: (502) 732-6920

E-mail Address: CBJ523@aol.com

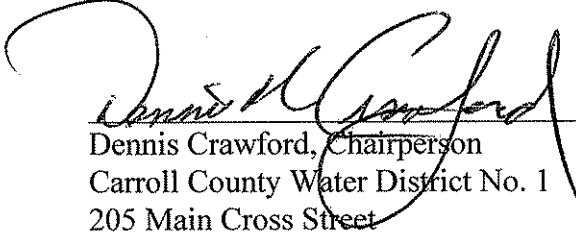
Attorneys for Complainant  
Carroll County Water District No. 1

By:   
Ruth H. Baxter

**VERIFICATION**

I, Dennis Crawford, Chairperson of the Carroll County Water District No. 1, have reviewed the foregoing RESPONSES, and same are true and correct to the best of my knowledge and belief. I am authorized to sign this Verification on behalf of the District.

This the 1<sup>st</sup> day of October, 2007.

  
Dennis Crawford, Chairperson  
Carroll County Water District No. 1  
205 Main Cross Street  
P.O. Box 350  
Ghent, Kentucky 41045

STATE OF KENTUCKY )

COUNTY OF CARROLL )

Subscribed and sworn to before me by Dennis Crawford, Chairperson of the Carroll County Water District No. 1, on this the 1<sup>st</sup> day of October, 2007.

My commission expires: 10-13-2009

  
NOTARY PUBLIC, KY STATE AT LARGE

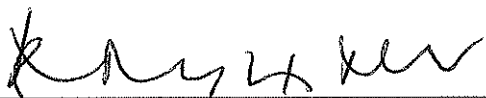
CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Responses was mailed postage prepaid, on this the 1st day of October, 2007, to:

Hon. Stephen P. Huddleston  
P.O. Box 807  
Warsaw, Kentucky 41095  
Attorney for Defendant

and the original (with copies) to:

Commonwealth of Kentucky  
Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, Kentucky 40602-0615

By: 

Ruth H. Baxter  
Attorney for the Complainant  
Carroll County Water District No. #1

ORDER APPROVING BOUNDARIES OF CARROLL COUNTY  
WATER DISTRICT NO. 1

A Petition to enlarge the territorial limits of the Carroll County Water District to clarify its boundaries in Carroll County, and to annex new areas of Gallatin and Owen counties, respectively, having been filed with the County-Judge Executive, notice of the filing of this Petition with the proposed service area of the District once enlarged having been published in the newspaper having the greatest circulation in this county; a public hearing on the District's Petition having been advertised and the hearing having been held, and being otherwise sufficiently advised, IT IS HEREBY ORDERED ADJUDGED AS FOLLOWS:

1. The Petition of the Carroll County Water District to clarify its boundaries in Carroll County, and to annex new areas in Gallatin and Owen counties is hereby approved;
2. The territorial limits of the Carroll County Water District shall be bounded as and more particularly described by the following Proposed Service Area Description as follows:

Beginning at the intersection of Kentucky Highway 320 (Lock Road and U.S. Highway 227); thence northwest with the centerline of said U.S. Highway 227 approximately 1200 feet to a point on the Carrollton City Limits line; thence northeast with said limits line approximately 1,750 feet to the centerline of the Carrollton Railroad tracks; thence northwesterly with the centerline of said tracks, approximately 1,500 feet to a point; thence northeast and perpendicular to said tracks approximately 2,000 feet to a point; thence northwesterly and parallel with M & T Road approximately 3,200 feet to a point which is 900 feet west of said M & T Road; thence north approximately 1200 feet to the Carrollton City Limits and the west right of way of M & T Road; thence northwesterly with said R-O-W line approximately 1,750 feet to the centerline of U.S. Highway No. 42; thence continuing northwesterly with an extension of the aforesaid line approximately 725 feet to the low water mark



(elevation 420) of the Ohio River; thence northeasterly with said river's low water mark to the Gallatin County line; thence continuing with said River's low water mark northeasterly to a point on the west bank of Craig's Creek; thence southerly with the meanderings of the west bank of said creek to a point 1000 feet south and 1000 feet east of the intersection of Winn Road and Kentucky Highway 1130; thence south and parallel with Kentucky Highway 1130 to a point 1,000 feet east and 2,000 feet south of the intersection of Kentucky Highway 1130 and Kentucky Highway 465; thence southwesterly and parallel with Kentucky Highway 465 approximately 8,500 feet to a point on the Carroll County-Gallatin County Line; thence southeasterly along said county line approximately 8,500 feet to the center of Eagle Creek and the Owen County line; thence southeasterly with the meanderings of Eagle Creek and said county line to a point in Eagle Creek 2,500 feet north and west of the Mid Valley Crude Oil Pipe line; thence southwesterly along a parallel line 2,500 feet north of said pipeline to a point 1,000 feet north of the intersection of Bucks Run Road and State Road 227; thence south to a point 1,000 feet south of State Road 227; thence southwesterly along State Road 227 to a point 5000 feet Northeast of the intersection of the Southernmost boundary of Twin Eagle Wildlife area and State Road 355; thence south along a line parallel and 5000 feet east of State Road 355 to a point 1,000 feet north of Fairview Ridge Road; thence east to a point 1,000 feet north of the intersection of Morgan's Lane Road and State Road 22; thence southeast with Morgan's Lane and Morgan's Lane extended approximately 3,500 feet to a point 2,500 feet southeast of the intersection of State Road 22 and Morgan's Lane; thence southwesterly to a point 1,000 feet east of the Gratz city limit line on Highway 355; thence west approximately 4,500 feet to the normal pool water level (elevation 428) of the Kentucky River; thence northeasterly with said water level to Carrollton Lock #1 on the Kentucky River; thence north approximately 1,000 feet to a point on the centerline of Kentucky Highway 320; thence northeasterly with said centerline approximately 2,000 feet to the point of beginning.

Surveyed by James M. West, P.E., Kentucky Reg. No. 12349 dated June 10, 1998. (See also the map of the proposed boundaries filed in the Offices of the Judge-Executives of Carroll, Gallatin and Owen Counties.

This the 8th day of September, 1998.

  
 COUNTY JUDGE-EXECUTIVE

ORDER APPROVING BOUNDARIES OF CARROLL COUNTY  
WATER DISTRICT NO. 1

A Petition to enlarge the territorial limits of the Carroll County Water District to clarify its boundaries in Carroll County, and to annex new areas of Gallatin and Owen counties, respectively, having been filed with the County-Judge Executive, notice of the filing of this Petition with the proposed service area of the District once enlarged having been published in the newspaper having the greatest circulation in this county; a public hearing on the District's Petition having been advertised and the hearing having been held, and being otherwise sufficiently advised, IT IS HEREBY ORDERED ADJUDGED AS FOLLOWS:

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Surveyed by James M. West, P.E., Kentucky Reg. No. 12349 dated June 10, 1998. (See also the map of the proposed boundaries filed in the Offices of the Judge-Executives of Carroll, Gallatin and Owen Counties.

This the 8th day of October, 1998.

  
COUNTY JUDGE-EXECUTIVE



MAP  
on file in  
main case file

# HUDDLESTON LAW OFFICE

"Serving Gallatin County since 1979"

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Ofc: 859.567.2818  
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February 15, 2007

Mr. Jim Smith.  
Carroll County Water District  
P.O. Box 350  
Ghent, KY 41045

Re: Water service  
Ky. 1039 & I-71, Gallatin Co., Kentucky

Dear Jim:

I represent the Gallatin County Water District (GCWD). The GCWD has received two requests (copies attached) from prospective customers that it extend its 8" line, and provided water service, to lands located at the intersection of Ky. Hwy. 1039 and I-71. I am not certain, but I believe there are plans, at some stage, to develop a truck stop at this location.

Since 2002 the GCWD has served the nearby Keeton tract. It has an 8" running approximately 2200 feet through Keeton parallel with Ky. Hwy. 1130 and approximately 1800 feet of 8" line running through Keeton to the state right-of-way line along Ky. 1039. This line is backed up with a 450,000 gallon storage tank. Presently the GCWD is approximately 1200 feet away from the prospective customer site with an 8" line. We believe that the Carroll County Water District is about 3400 feet away with a 4" line.

Accordingly, this is to inform you that the GCWD will proceed to extend its water service into the area at and around the intersection of Ky. Hwy. 1039 and I-71 in Gallatin County. It may be necessary to address further details in the future, but we wanted give you the courtesy of announcing our intentions early on.

Very truly yours,

  
Stephen P. Huddleston

SPH/cf

Enclosure



Cc: Hon. Harold Tomlison  
Carroll County Judge/Executive  
440 Main Street  
Carrollton, KY 41008

Hon. Kenny R. French  
Gallatin County Judge/Executive  
P.O. Box 144  
Warsaw, KY 41095

Morris R. Courtney  
Gallatin County Water District  
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Sparta, KY 41086

Vic Satchwell, Jr.  
770 Hwy. 455  
Sparta, KY 41086

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Nicholas A. Marsh

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1-800-442-8680  
Fax: (502) 732-6920  
Email: CBJ523@AOL.COM

February 20, 2007

Hon. Stephen Huddleston  
Huddleston & Huddleston  
P.O. Box 807  
Warsaw, Kentucky 41095

RE: Carroll County Water District No. 1

Dear Steve:

Your letter to Jim Smith, Manager of the Carroll County Water District No. 1, was referred to me for response as the District's attorney. As you may be aware, the Public Service Commission follows the service area defined by a map on record which was established by the respective fiscal courts when the Gallatin County and Carroll County Districts were initially formed. Those boundaries were changed several years ago at the request of Gallatin County so that its residents could be served with water as your District lacked the ability to serve them. At considerable expense, Carroll County Water District No. 1 obtained a loan from the then-Farmers Home Administration and expanded its lines into Gallatin County with your District's consent and blessing.

Without a doubt, the area in which you have notified Carroll No. 1 that you intend to serve is within the legal service area of our District. If your District intends to establish service at that address, then you leave us no other choice but to file a Complaint with the Public Service Commission which would result in an Order stopping your efforts, and a 'show cause' order for your District's failure to abide by the territorial boundaries previously established. This can result in sanctions from the Commission including a revocation of your District's ability to serve its existing customers.

There are ways of resolving the matter, however, short of litigation, and if your District is interested in discussing a resolution of the issue, then we can set up a meeting and discuss these alternatives. Contrary to your assertion that because your District is already serving adjoining property it can continue to serve outside your territorial boundaries, your continued service of another site within the boundaries of Carroll County Water District No. 1 will subject your District to additional fines and penalties now that we are aware of this illegal service.



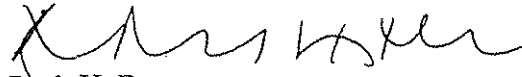
**CRAWFORD & BAXTER, P.S.C.**

Hon. Stephen P. Huddleston  
February 20, 2007  
Page Two

The Carroll County Water District No. 1 has a considerable financial investment in the water lines in Gallatin County, the debt for which has been paid by the residents of Carroll and Owen Counties as well. Before your District decides to proceed blindly with serving a new customer outside of your territorial boundaries, we hope that you will take time to sit down and talk with our District representatives about alternatives to this dispute.

Sincerely,

CRAWFORD & BAXTER, P.S.C.



Ruth H. Baxter

RHB/dmp

cc: Mr. Jim Smith, Manager  
Carroll County Judge Harold "Shorty" Tomlinson  
Owen County Judge Billy O'Banion  
Gallatin County Judge Kenny French

**jim smith**

---

**From:** Adam Chaney [adamcwwb@fuse.net]  
**Sent:** Tuesday, January 23, 2007 11:53 AM  
**To:** carrollcountywat@bellsouth.net  
**Subject:** Water Line on new 1039 connector Rd.

Jim,

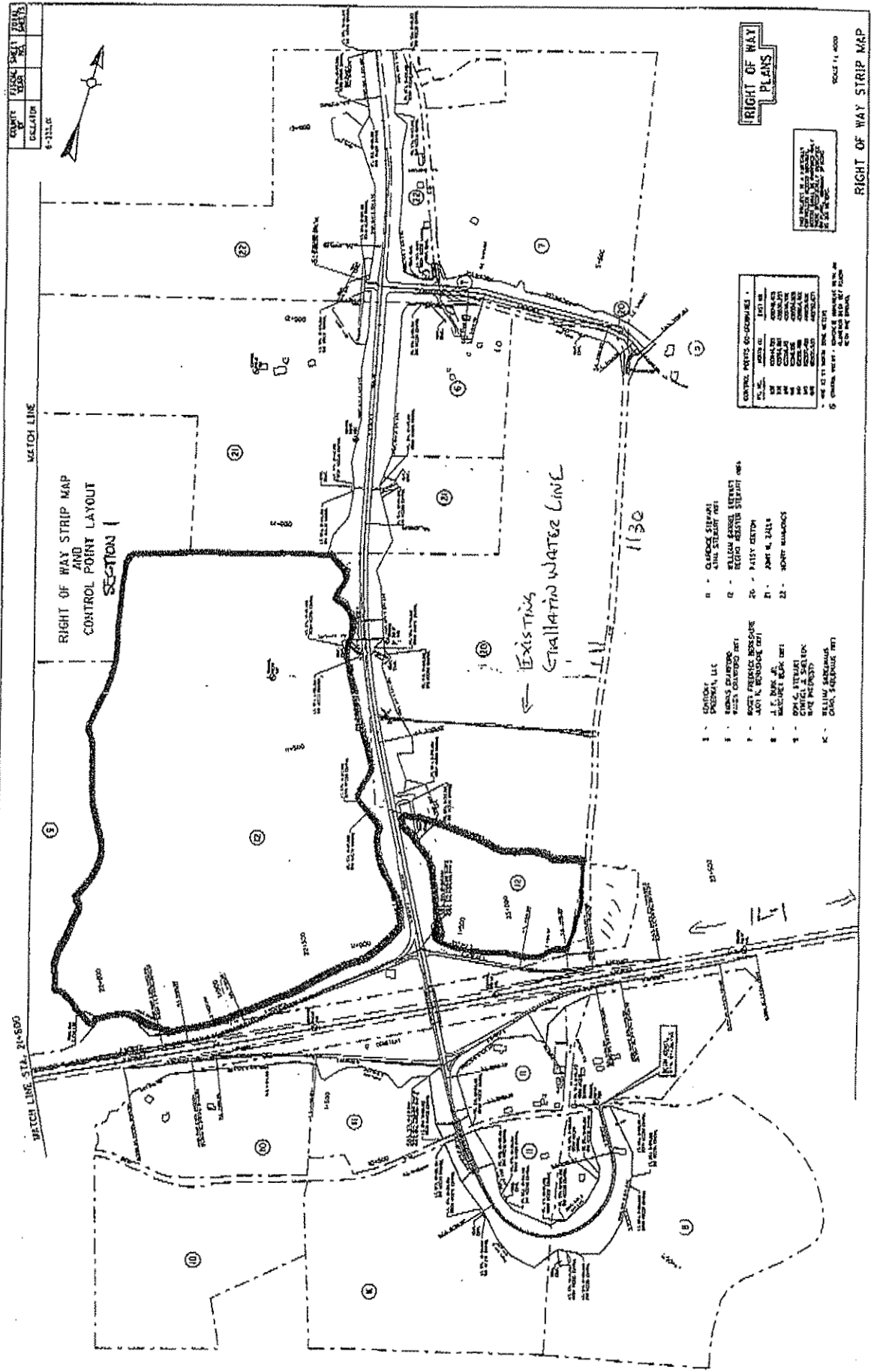
Per our phone conversation yesterday, please see the attached map with our property highlighted in yellow and an approximate location of the water line through Patsy Keeton's property. We have estimated the distance from the stub to the middle of our property at about 2500 feet. Please let me know if you need any additional information.

Thanks

Adam Chaney  
Member  
Whitehorse Development Group, LLC  
495 Erlanger Rd.  
Suite 201A  
Erlanger, KY 41018  
o 859-342-8010  
m 859-802-4802

9/11/2007





COUNTY OF  
DELAWARE  
6-2211.C



MATCH LINE

RIGHT OF WAY STRIP MAP  
AND  
CONTROL POINT LAYOUT  
SECTION 1

EXISTING  
STALLION WATER LINE

1130

RIGHT OF WAY  
PLANS

NO.	DATE	BY	DESCRIPTION
1	10/11/06	J.M.	ISSUED FOR PERMITS
2	10/11/06	J.M.	ISSUED FOR PERMITS
3	10/11/06	J.M.	ISSUED FOR PERMITS
4	10/11/06	J.M.	ISSUED FOR PERMITS
5	10/11/06	J.M.	ISSUED FOR PERMITS
6	10/11/06	J.M.	ISSUED FOR PERMITS
7	10/11/06	J.M.	ISSUED FOR PERMITS
8	10/11/06	J.M.	ISSUED FOR PERMITS
9	10/11/06	J.M.	ISSUED FOR PERMITS
10	10/11/06	J.M.	ISSUED FOR PERMITS
11	10/11/06	J.M.	ISSUED FOR PERMITS
12	10/11/06	J.M.	ISSUED FOR PERMITS
13	10/11/06	J.M.	ISSUED FOR PERMITS
14	10/11/06	J.M.	ISSUED FOR PERMITS
15	10/11/06	J.M.	ISSUED FOR PERMITS
16	10/11/06	J.M.	ISSUED FOR PERMITS
17	10/11/06	J.M.	ISSUED FOR PERMITS
18	10/11/06	J.M.	ISSUED FOR PERMITS
19	10/11/06	J.M.	ISSUED FOR PERMITS
20	10/11/06	J.M.	ISSUED FOR PERMITS
21	10/11/06	J.M.	ISSUED FOR PERMITS
22	10/11/06	J.M.	ISSUED FOR PERMITS

THIS PLAN IS TO BE USED FOR PERMITS ONLY. IT IS NOT TO BE USED FOR CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF ALL DATA AND CONDITIONS ON THE GROUND.

SHEET 11 OF 1000

RIGHT OF WAY STRIP MAP

**CARROLL COUNTY WATER DISTRICT #1**

PO BOX 350  
Ghent KY 41045

Phone (502) 347-9500  
Fax (502) 347-9333

March 23, 2007

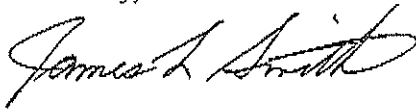
Adam Chaney  
Chaney Land Developers LLC  
495 Erlanger Road  
Suite 201  
Erlanger, KY 41018

Ref: Love Truck Stop  
Hwy 1039, Gallatin Co.

Dear Adam,

From our previous conversation I understand this site will need approximately 10,000 gallons of water per day as an average usage. In order for proper sizing of the meter and pipeline to serve the facility we need to know what we should expect as a maximum daily flow, peak flow possibilities and required flow for any sprinkler systems that may be installed. If a timetable has been established for the construction of the facility this information would be helpful for planning purposes.

Sincerely,



James L. Smith, Manager  
Carroll County Water District #1





Whitehorse Development Group, LLC  
495 Erlanger Rd.  
Suite 201  
Erlanger, KY 41018



Phone: (859) 342-7333  
Fax: (859) 342-6080  
Email: Adamcwwb@fuse.net

August 1, 2007

Jim Smith  
Carroll County Water  
P.O. Box 350  
Ghent, Kentucky 41045

Dear Mr. Smith:

Thank you for taking the time to discuss the water issues relating to our I-71 and KY 1039 property in Gallatin Co. As we discussed, we are ready, willing and able to make application for Carroll County to provide water service to our property. In fact, the purpose of my initial call was to begin that process. However, based on the information you have shared with me, it is my understanding that Carroll Co. only has the ability to extend a 4" water line over 4000 ft. to our site. Our development includes a 21 acre Travel Center, requiring a minimum of 10,000 gallons per day, in addition to a fire suppression system and three hotel / restaurant outs-lots with similar needs. As you stated a 4" line cannot serve these needs. In order for Carroll County to service our site, you have indicated that a tower would have to be built and the line upgraded to a minimum 6" (preferably 8") line. Even if a project of this size were a possibility, by the time it had been designed, engineered and built to handle our current needs we could be waiting years. I cannot over emphasize the importance of immediate service to our site. As we discussed, the only feasible, timely approach for full service is through the existing 8" line that is owned by Gallatin Co.

When consulting with Carroll County and Gallatin County water districts prior to construction, both parties assured us that this issue would not affect our development. We moved forward with our plans based on those conversations. Now we are facing probable long delays. While we understand Carroll County's position on this issue and understand the reluctance to allow us to tap the 8" line, in the best interest of all involved, we would like to ask Carroll County Water District and Gallatin Co Water District to allow us to tap the 8" line that Gallatin Co. has stubbed within 800 ft. of our property. We suggest that any usage fees be escrowed in an interest bearing account until the dispute with Gallatin Co. and Carroll Co. has been resolved through PSC.

Thank you again for your time, and we look forward to a successful resolution of this issue for all involved.

Sincerely,

  
Adam Chaney  
Member  
Whitehorse Development Group, LLC



**CARROLL COUNTY WATER DISTRICT #1**

Phone (502) 347-9300  
Fax (502) 347-9333

PO BOX 350  
Ghent KY 41045

August 7, 2007

Adam Chaney  
Whitehorse Development Group, LLC  
495 Erlanger Road  
Suite 201  
Erlanger, KY 41018

Dear Adam,

In response to your letter of 8/01/07 concerning your development, I offer the following:

Considering everything you have told me about your requirements for the Travel Center, Carroll County Water District #1 can very adequately supply these needs through the 4" pipeline you referenced in your letter.

Whether you extend Gallatin's 8" pipeline or our 4" pipeline to the Travel Center, additional investment will have to be made in road crossing and infrastructure to serve future facilities in the area.

Your request to extend Gallatin's 8" to the Travel Center can not be granted by either District at this time due to the agreed order in place through the P.S.C.

Sincerely,

James L. Smith, Manager  
Carroll County Water District #1





**ENVIRONMENTAL AND PUBLIC PROTECTION CABINET**

**Ernie Fletcher**  
Governor

**DEPARTMENT FOR ENVIRONMENTAL PROTECTION**  
14 KELLY ROAD  
FRANKFORT, KENTUCKY 40601  
PHONE (502) 564-2150  
FAX (502) 564-4245  
www.dep.ky.gov

**Teresa J. Hill**  
Secretary

**Cheryl A. Taylor**  
Commissioner

April 10, 2007

Mr. Morris R. Courtney, Manager  
Gallatin Co Water District  
4500 HWY 455  
Sparta, KY 41086

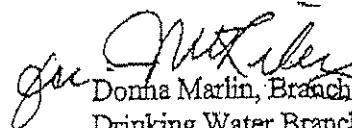
RE: Gallatin Co Water District, PWS--33880  
DW #0390130-07-002  
KY 1039 Extension  
Activity ID # APE20070002  
Gallatin County, KY

Dear Mr. Courtney :

We have reviewed the plans and specifications for the above referenced project. The plans include the construction of approximately 3,970 feet of 8-inch PVC water line. This is to advise that plans and specifications for the above referenced project are APPROVED with respect to sanitary features of design, as of this date with the requirements contained in the enclosed waterline extension construction permit.

If you have any questions regarding this decision, please contact Sarah Tucker at 502/564-2225, extension 482.

Sincerely,

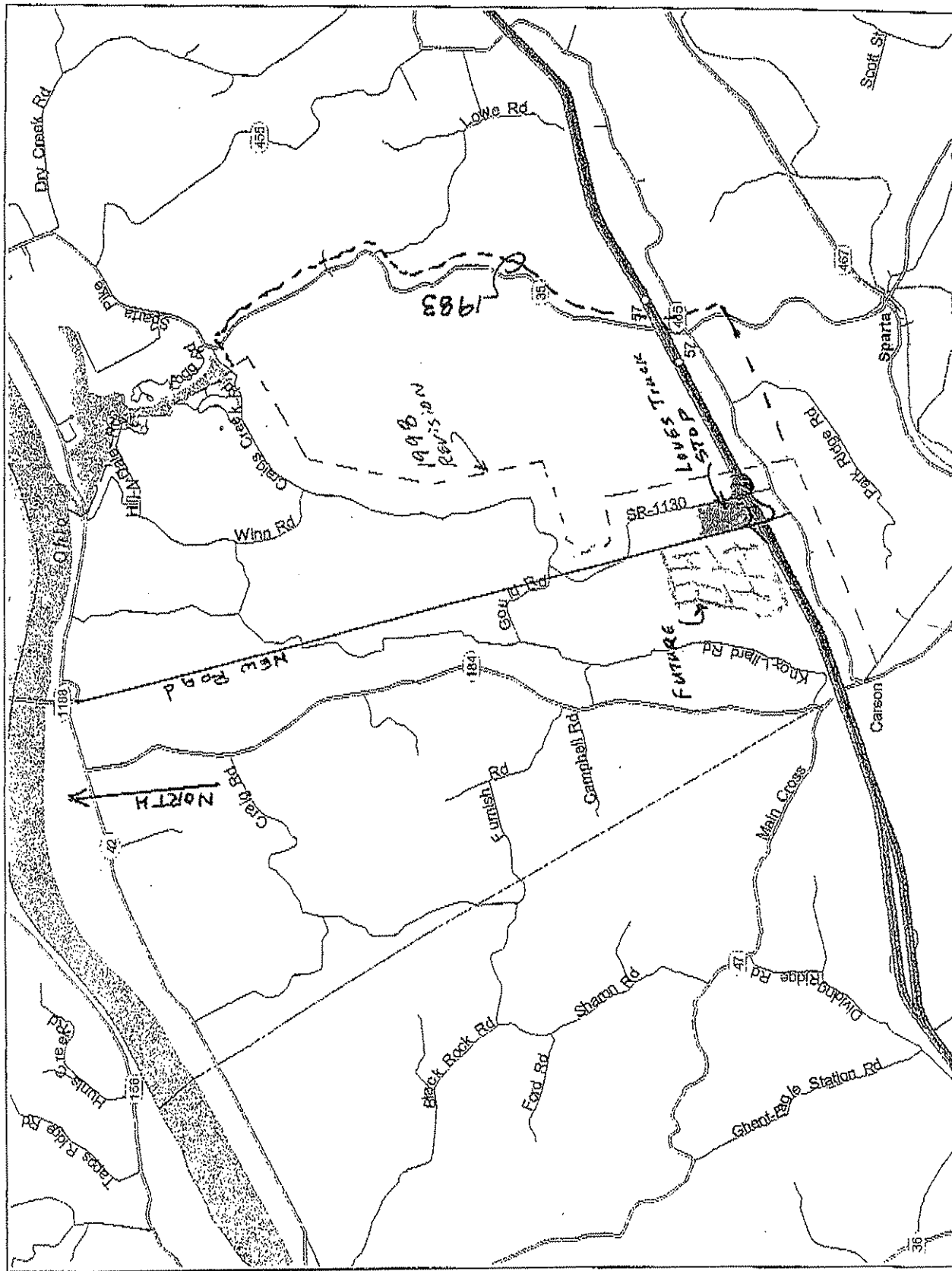
  
Donna Marlin, Branch Manager  
Drinking Water Branch  
Division of Water

DSM: SAT

C: Gastineau and Associates, Inc.  
Gallatin County H.D.  
Public Service Commission



United States, North America



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