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FEB 7 2013

PUBLIC SERVICE
COMMISSION

D. Berry Baxter

John M. Berry (1900-1991)

Of Counsel: John M. Berry, Jr.

February 5, 2013

Public Service Commission
P.O. Box 615
Frankfort, KY 40602-0615

RE: Ted Dwenger and Santa Cruz Cattle Company, Inc. v.
Henry County Water District #2
Case No. 2013-00019

The following document is enclosed for filing in your office:

Answer

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION
CASE NO. 2013-00019

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FEB 7 2013

PUBLIC SERVICE
COMMISSION

In the matter of:

TED DWENGER AND)
SANTA CRUZ CATTLE COMPANY, INC.)

COMPLAINANT)

VS.)

HENRY COUNTY WATER DISTRICT #2)

DEFENDANT)

** ** * ** * ** * ** * **

ANSWER

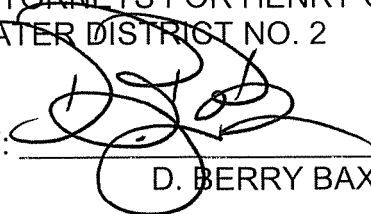
Comes the defendant, Henry County Water District #2, and for its answer to the complaint filed herein states as follows:

1. The complaint fails to state a cause of action upon which relief can be granted.
2. The issues presented herein have been previously adjudicated by the Commission in Case #96-479 to which the plaintiff was a party and the plaintiff's collaterally estopped by the Commission's ruling in that case.
3. The plaintiff has failed to join an indispensable party, namely the complainant in the case referenced above.
4. In the alternative, should the Commission choose to proceed with this complaint, the defendant seeks appropriate orders to allow it to comply with orders of the Henry Circuit Court entered on December 18, 2012, a copy of which is attached hereto, and to further comply with the defendant's tariff of record with the Commission.

Wherefore, the Henry County Water District #2 prays for such orders to allow it to

comply with its legal obligations relative to the Henry Circuit Court Order referenced hereinabove and all other necessary and proper relief to which it is entitled.

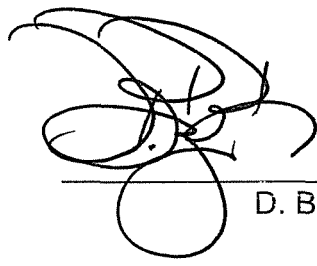
BERRY, FLOYD & BAXTER, PSC
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LaGRANGE, KY 40031
TELE: 502-225-0050
ATTORNEYS FOR HENRY COUNTY
WATER DISTRICT NO. 2

BY: 
D. BERRY BAXTER

CERTIFICATE OF SERVICE

5 The undersigned hereby certifies that a copy of the foregoing was this February 5, 2013, mailed, postage prepaid, to the following:

Mr. James Nicholson
Nicholson Law Office
121 South Seventh Street, Suite 200
Louisville, KY 40202
and
J. Gregory Troutman
1300 Clear Springs Trace, Suite 3
Louisville, KY 40223
Co-Counsel for Complainants


D. BERRY BAXTER

received
12 19 12

COMMONWEALTH OF KENTUCKY
HENRY CIRCUIT COURT
CIVIL ACTION NO. 95-CI-00109

BLACK FOREST RIDING ACADEMY, LTD, ET. AL.

PLAINTIFFS

Vs.

ORDER

SANTA CRUZ CATTLE COMPANY, et. al.

DEFENDANTS

*** **

This matter having come before the Henry Circuit Court seated in Oldham County on December 12, 2012 with the following having appeared: the Plaintiff in person and on behalf of Black Forest (hereinafter "Kallenberger), the Defendants in person and on behalf of Santa Cruz and with counsel(hereinafter "Dwenger"), and the Henry County Water District #2 with its authorized representative, James Simpson and its counsel(hereinafter "HCWD). The purpose of said hearing which was conducted after motion duly made by HCWD was to determine the location and means of installation for a separate and permanent service line that is to be installed across the lands of Kallenberger to the lands of Dwenger which shall be the final matter that needs to be addressed as a result of the jury verdict in this matter finding an easement of necessity. The Public Service Commission has directed HCWD to bear the expense of installing said service line in the event that an easement existed and HCWD asked this Court to direct the method and manner of said installation to resolve any difference between the parties. After discussion with the parties, and having heard argument and with the Court being otherwise sufficiently advised, IT IS HEREBY ORDERED as follows:

1. HCWD shall cause the location of the service line to be surveyed at its expense and to have a legal description prepared for a thirty (30) foot wide temporary construction easement and a fifteen (15) foot wide permanent easement. HCWD has agreed to bear the expense of having the easements prepared. The construction easement shall be granted for the benefit of HCWD and Dwenger and the permanent easement shall be

ENTERED
HENRY CO. CIRCUIT/DISTRICT COURT
DEC 18 2012
GINA LYLE, CLERK
BY: *[Signature]* DC

granted for the benefit of Dwenger. It is anticipated that the service line shall be located in the approximate center of each easement. Kallenberger is directed to execute the easements when same are presented to him.

2. Kallenberger and HCWD agreed without objection from Dwenger^{*} to the approximate location of the new meter to be installed for the benefit of Dwenger which will be approximately 250 feet north of the entrance to Kallenberger's property. From that point the new two inch service line and easements will run west and parallel to an existing fence until it intersects the existing driveway. At this point, the line will pass under the drive and parallel the south side of said drive which accesses the Dwenger property. HCWD will connect said line to Dwenger's existing line.

3. HCWD will remove the minor meter serving Dwenger's property and will cap that service line. The line will otherwise not be disturbed.

4. The new service line shall be the sole property of Dwenger upon installation however HCWD agrees to warrant the new line for a period of one year from the date the service is changed over. *Thereafter Dwenger shall be responsible to maintain*
said line. KAC

This is a final and appealable order and there is no just cause for delay in its entry or execution.

ENTERED this 14th day of December, 2012.

WAC
- following ruling by the Court denying Mr. Dwenger's request that the meter be located on his property and HCWD be responsible to maintain and repair the line.

Wm. L. ...
JUDGE, HENRY CIRCUIT COURT

Copies to:
James Nicholson, counsel for Plaintiff
Hans Kallenberger, Pro Se
D. Berry Baxter, counsel for HCWD#2