



4545 W Brown Deer Road
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www.badgermeter.com

December 12, 2023

Cole & Moore, P.S.C.
Attn: Frank Hampton Moore, Jr.
921 College Street – Phoenix Place
P.O. Box 10240
Bowling Green, KY 42102

RE: Warren, Simpson, and Butler County Product Complaints

Mr. Moore,

I am writing in response to your November 16, 2023 letter regarding alleged warranty, contract, and negligence claims from Warren County Water District, Simpson County Water District, and Butler County Water District (hereafter “Client”). Badger Meter denies any claims of negligence related to its product performance, design, manufacture, and assembly. Further, per the communication provided to your client on June 8, 2023, our warranty review confirmed that the alleged issues were not covered under our warranty.

Our records indicate that the six meters provided for warranty analysis were shipped to your Client on:

- May 20, 2013 – 1 meter
- September 12, 2013 – 2 meters
- October 21, 2013 – 2 meters
- December 9, 2013 – 1 meter

These products were identified as not meeting performance expectations by your client in April 2023 and subsequently sent to Badger Meter for warranty inspection.

The sale of these products was governed by Badger Meter’s Sales Terms and Conditions and standard product warranties. Per Badger Meter’s Lead-Free Bronze Disc Meters warranty:

“This warranty shall not apply to Product repaired or altered by any party other than Badger Meter. **The foregoing warranty applies only to the extent that the Product is installed, serviced and operated strictly in accordance with AWWA Standard C700 and AWWA M6 Manual. The warranty shall not apply and shall be void with respect to Product exposed to conditions other than those detailed in Badger Meter Product technical literature and Installation and Operation Manuals (IOMs), or which have been subject to vandalism, negligence, accident, acts of God, improper installation, operation or repair, alteration, or other circumstances which are beyond the reasonable control of Badger Meter.**” (emphasis added)

Additionally, Badger Meter has the sole authority to determine whether a returned product has failed under warranty and the option to repair or replace product covered by the warranty:

“Any Product proved to the satisfaction of Badger Meter to have failed the foregoing warranties will, at the option of Badger Meter, be repaired or replaced without charge to the Customer.”



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Upon receipt of the six meters from your client, Badger Meter conducted its standard warranty review process, which is ISO certified and meets or exceeds the American Water Works Association (AWWA) standards. This process includes, but is not limited to, testing meter accuracy, disassembling the meters, recording any observations, and keeping a complete record of all results. Per our June 8th communication, our warranty review observed damage, also known as “scoring”, on internal components as well as film build up, indicative of exposure after installation in your Client’s system. Any sort of damage to the internal components or build up on the moving parts of the meter can cause a loss in accuracy or meter performance. The type of damage observed and the white film located on the discs of the six returned meters were caused as a result of water chemistry and/or water conditions (dirt, debris, sand, etc. located in the water). As Badger Meter’s warranty states, the warranty shall not apply when products are exposed to conditions outside of Badger Meter’s control, which includes water condition or chemistry in a water utility’s distribution system. As a result of the analysis, the six meters were determined not to be eligible for warranty coverage.

Badger Meter reiterates its stance that it has not violated its warranty or the terms of the contract (Badger Meter’s Sales Terms and Conditions). Badger Meter also denies any allegation of negligent design, manufacture, and assembly of its products. To the extent there are additional meters that are not performing to the standards set forth in our warranty and for which the warranty still applies, Badger Meter would be happy to provide analysis under our warranty process. It is also our hope that we can resolve this issue with your Client without litigation, but Badger Meter is under no obligation to provide warranty replacement or repair for the six meters that we have analyzed. All other meter warranty requests need to be submitted using our warranty process to determine eligibility for any additional issues.

Sincerely,

BADGER METER, INC.
David Miller
Counsel

Encl.