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November 16, 2023

Badger Meter  
4545 West Brown Deer Road  
PO Box 245036  
Milwaukee, WI 53244-9536

RE: Warren County (KY) Water District  
Simpson County (KY) Water District  
Butler County (KY) Water District  
Case No. 640836

This firm represents Warren County Water District, Simpson County Water District, and Butler County Water System in connection with its warranty, contract, and negligence claim against Badger Meter for meter failure and test results. Notification of this claim was given by Warren Water on April 6, 2023 and acknowledged by Badger's representative, Ron Lilley, on April 11, 2023. On April 26, 2023 Ron Lilley from Badger was on site at the District's meter test facility, met with water test professionals and evaluated the test facilities' equipment, certification, meter testing process, and meter test results. At the request of Badger, on May 1, 2023, six (6) water meters that had failed the accuracy testing were shipped from the District's test facilities to Badger testing facilities.

On May 12, 2023, Badger acknowledged that all six (6) of the submitted meters failed to meet accuracy test specifications.

On June 8, 2023, Badger communicated its evaluation as follows:

"In reviewing the meters, 5/8 x 3/4, M25 with plastic bottom there were a few observations that would drive the poor accuracy performance. One, there was a level of scoring that could be seen that would affect the design tolerances of the disc outer diameter and chamber radial bore. This scoring and rubbing creates additional friction and loss in low flow performance. Secondly, there is a white film (possibly calcium?) that is visible in the measuring surfaces of the positive displacement chamber and disc. This white film will increase surface thickness, reduce internal volume, and cause the meter to over register as seen on the mild flow.

Badger further stated since the calcium film is due to the District's water quality, the meters would not be covered under warranty. (See attached Ref6 Badger Meter Warranty – Lead Free Bron Disc Meters). The District requested that Badger provide water quality thresholds for hardness/calcium, which would negate Badger honoring the warranty for the M25 meters in questions.”

Notwithstanding the June 8, 2023 evaluation results communicated by Badger and quoted above, on June 23, 2023, through its Regional Manager Colin Middaugh, retracted the June 8<sup>th</sup> evaluation and substituted another explanation for the testing failure:

“Mr. Peebles, We apologize for the confusion that our response has caused. The concern impacting the returned meters is tied to water chemistry, not water quality. It is understood that water chemistry is different from location to location and is affected by multiple factors outside of our control. Because of the fluctuating chemistry that may exist at different times within a water system, we are unable to provide a standard for our customers. We apologize for the confusion and will return one of the meters for your evaluation. Regards, Colin Middaugh”

Warren Water rejects each of the alternative test failure theories provided by Badger.

Specifically,:

- a. Meter accuracy typically decreases with age. The accuracy results of the several Badger meters resulted in high accuracy results which negatively affects the customer's cost of water service.
- b. The “scoring” is due to rotation of the chamber as water passes through the meter and reflects the mechanical design of the meter.
- c. The “film” on the meter chamber is not calcium. The “film” is a discoloration of the plastic chamber that occurs from chlorinated water passing through the meter. The discoloration is only visible when the chamber dries, and the District has found no increase in surface thickness from calcium buildup.
- d. The M25 meters that failed accuracy testing were installed in three separate distribution systems: Warren, Butler, and Simpson. Each system has a different source water, BGMU (Barren River), Butler WTP (Green River) and WHUD (Old Hickory Lake).
- e. Sensus SR11 meters pulled from all three-distribution systems continue to test within accuracy standards.

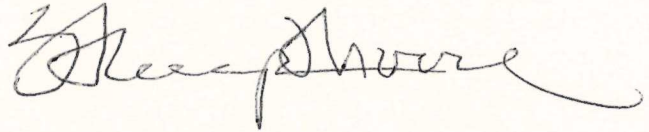
Consequently, I reiterate the warranty claim provided to Badger on April 6, 2023. Additionally, I submit the meter failures described herein constitute a contract breach by Badger Meter in connection with the contract for purchase, sale and delivery of the Badger Meters. Moreover, my client reiterates its belief that the meter testing failures described herein result from negligent design, manufacture and assembly by Badger as described with specificity in this correspondence.

My client would like to resolve this claim without litigation. However, if a method for alternate dispute resolution cannot be agreed upon immediately, Badger will leave my client no choice but to seek its remedy for these meter failures in the courts of the Commonwealth of Kentucky.

Please acknowledge receipt of this correspondence and your proposal for resolution of this dispute.

Very truly yours,

COLE & MOORE, P.S.C.

A handwritten signature in cursive script, appearing to read "Frank Hampton Moore, Jr.", written in black ink.

Frank Hampton Moore, Jr.

FHMJR/jdh

Cc: Jacob Cuarta  
Colin Middaugh