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JOSEPH R. RUBIN
FRANKLIN P. HAYS
WM. CARL FUST
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October 16, 1984

TELEPHONE (502) 585-2153

Hon. G. Wix Unthank, Judge
United States District Court
for the Eastern District of Kentucky
Federal Courthouse
Pikeville, Kentucky 41501

Re: Case No. 76-483, Hamberg vs. City of Hindman, et al
United States District Court for the Eastern District of
Kentucky at Pikeville

Dear Judge Unthank:

Today I discussed with Mr. Richard D. Lamier, Cincinnati, Ohio the regular attorney for the Plaintiff, Marjorie A. Hamberg the possibility of dismissing her case without prejudice. Mr. Lamier advised me to prepare and send to him the appropriate Order in order that he might present it to his client for consideration.

I also discussed by telephone this matter with Mr. Randy A. Campbell of Hindman, Kentucky the actual attorney for the Defendant, City of Hindman who is now acting in that capacity for the City of Hindman, since at the present time the previous attorney for the City, C. Graham Martin has now become the Judge of the District Court in Hindman, Kentucky.

Mr. Campbell requested that I send him the appropriate papers in order that he might present same to the City of Hindman for consideration. Since the City Council meets only once a month in regular session, it may be about three weeks before he will have the opportunity of presenting this matter to them, with the result that we will not have a final decision as to what can be done until about the expiration of thirty days.

However, in view of the foregoing we would suggest that this matter be held in abeyance until it can be determined if the case can be dismissed without prejudice.

Hon. G. Wix Unthank, Judge
October 16, 1984
Page Two

We are sending a copy of this letter to all attorneys of record for
the Defendants.

Sincerely yours,

RUBIN & HAYS

By


FRANKLIN P. HAYS

FPH/skw

cc: Mr. Richard D. Lamier
Brumleve, DeCamp, Wood & Barron
1420 Central Trust Tower
Cincinnati, Ohio 45202

Mr. Randy A. Campbell
Attorney at Law
Perkins Building
P. O. Drawer K
Hindman, Kentucky 41822

Hon. Cordell Graham Martin
Judge, District Court
Knott County Courthouse
Hindman, Kentucky 41822

Mr. Clark Pratt
Perkins Building
P. O. Drawer K
Hindman, Kentucky 41822

INVESTMENT BANKERS • 167 WEST MAIN, SIXTH FLOOR

LEXINGTON, KY 40507 TELEPHONE (606) 254-7741

Dupree
&
Company
INC.

May 10, 1984

Hon. Joe Lake, Mayor
City Hall
Hindman, KY 41822

Mr. Graham Martin, City Attorney
Hindman, KY 41822

Mr. Rob Nicholas
Big Sandy ADD
Tourist Information Center
Prestonsburg, KY 41653

Gentlemen:

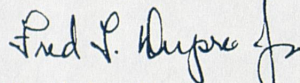
This letter is to request your presence at the status conference regarding the Hindman Water and Sewer System to be held at the United States District Court, Eastern District of Kentucky, Pikeville, Kentucky at 10:30 A.M. on June 1, 1984.

It may be that other interested persons will wish to attend also and they are welcome.

Please let me know if you will be able to attend.

Very truly yours,

DUPREE & COMPANY, INC.



Fred L. Dupree, Jr.

✓cc: G. Wix Unthank, Judge

Judge,
Please note
two orders
for your
consideration.

Judge:

1. There is still the outstanding matter of whether this plaintiff should be allowed to represent a class of people situated as she is, that is, whether to proceed with this action as a class action.
2. Nothing's been done yet about various motions to dismiss. -
 - a. I believe that you could overrule the motion to dismiss for failure to state a claim, since defendants admit that it states a claim for appointment of a receiver.
 - b. That leaves the motion to dismiss for failure to join indispensable parties or necessary parties.

Plaintiff named as defendants the City of Hindman and the present city officials, but did not name any past city officials. David advises that he has researched this recently and that such former officials are not proper parties defendant.

Therefore, I'd say you could overrule the dismissal motion on this ground also.

However, on Sept 16, 1976, Joe Hood signed an agreed order "passing to the merits without a hearing on the motions to dismiss and without prejudice to said motions". I don't know what that means. Did he agree not to rule on the motions, such that they should be treated as withdrawn, perhaps to be made later? Or did he just delay ruling on them, such that they're now pending and in need of resolution? There's no indication of a reason for a delay in ruling on them.

3. As to the merits, (the state of the Hindman water and sewer system):

The system is still in terrible financial (& mechanical) shape.

1. No payments have yet been made on the bond indebtedness, which is the basis of this suit.
2. There is still no sewer service.
3. Water service is "unreliable".
4. Billings are down and they're not even collecting well on the bills which do go out.
5. They're apparently not in a position to raise water rates in an effort to increase revenue, since they're already losing customers because of the current rates. For example, they lost the county high school as a customer, which was paying them \$672/month.

★ The receiver recommends daily control of the system by some person there in the community

Maggie

[Handwritten signature]

File

HINDMAN WATER & SEWER
BOX 496
HINDMAN, KENTUCKY 41822
606/785-5544

February 8, 1982

Reply to: P.O. Box 1149
Lexington, Ky. 40589

Hon. G. Wix Unthank, Judge
U.S. District Court
Pikeville, Ky. 41501

Re: Civil Action #76-483

Dear Judge Unthank:

Please excuse the delay in replying to your request for the 6-month report on the Hindman Water & Sewer System. Apparently I am not on the mailing list for such notices. At any rate, it went to Franklin Hays, who was on vacation, and I didn't know of it until today.

As of January 1, 1982, Ms. Kathy Priess has been working full time for the water and sewer system but in the last five months of 1981 she also acted as City Clerk and during that period the City took most of her time.

She is now completing the income and expense figures for the six months and they should be ready in about two weeks. The figures will not be too good because (a) the deficit-ridden Knott Co School System changed to their own well rather than pay for city water and, (b) a number of people refuse to pay in full because they do not get full service.

I am enclosing copies of two recent letters aimed at trying to solve the latter problem, but there is no way to force people to use city water. We had about ended the system outages until the very cold weather of January. The cold did considerable damage, especially to meters, and caused a number of customers to be without water for several days.

I apologise for the delay, but repeated efforts to get the figures from Hindman have failed until now. The old City Council refused to give Ms. Priess any help and demanded that she do their term-ending work first. It's also partly my fault because I was extremely busy in November and December and somewhat neglected it myself. The work is "back on track" and should be in your hands shortly.

Very truly yours,

F. L. Dupree, Jr. (Lum)

F. L. Dupree, Jr.

File

HINDMAN WATER & SEWER
BOX 496
HINDMAN, KENTUCKY 41822
606/785-5544

February 6, 1982

Reply to:
P.O. Box 1149
Lexington, Ky. 40589

Mr. William C. Babington
Kennoy Engineers
P.O. Box 24215
Lexington, Ky. 40524

Re: Hindman, Kentucky
Highway #80 Water Supply

Dear Bill:

As you are aware, the water supply line from the Beaver Elkhorn Water District has never been used to bring water into Hindman, but has been operated only to serve about 39 customers along its route.

A recent cost analysis of this line indicates that it costs us around \$7000 a year more to operate than the revenue it produces, primarily pumping costs and labor.

I believe that the labor could be largely eliminated and must be. At present our plant operator makes two trips a day to turn on and turn off the pumps, wearing out his truck, himself, and consuming a lot of time.

As designers of the system, I would appreciate it if you could help us get the system onto the automatic equipment that is installed, check out the equipment, and train our operator in its use. Unless we can find a way to operate the line much less expensively we will have to shut it down.

By far the best thing would be to get water on into Hindman and use the line at least for backup if not constantly. What I would really like for you to do is make that happen, in short, finish your job, but only if it can be made to operate automatically. You might even consider telemetering equipment installed in the water office in Hindman if that is needed to allow us to operate reliably without going to Jones Fork. One way or another we have to put an end to those trips.

Very truly yours,

Fred

F. L. Dupree, Jr.

File

HINDMAN WATER & SEWER
BOX 496
HINDMAN, KENTUCKY 41822
606/785-5544

February 6, 1982

Reply to:
P.O. Box 1149
Lexington, Ky. 40589

Mr. Henry Spaulding
Spaulding Engineers
Hazard, Ky. 41701

Re: Hindman Water Plant

Dear Mr. Spaulding:

As the designer of the Hindman water plant, this letter is written to see if you might be able to provide some advice and assistance.

I am told that the plant "has never been capable of pumping water into the storage tanks". I doubt this, but there is no question that it won't now and hasn't for some time. In addition, the plant is operated pretty much by hand without any type of automatic equipment being used. The equipment may exist and be worn out, may not exist, or may just be bypassed.

In any event, the plant operator turns the pumps on manually at 2 A.M. and off at 10 P.M., apparently throttling the pumps to keep from overpressuring the system. He tells me that there are two pressure reducing valves at the plant that are intended to regulate the pressure into the mains while permitting a high enough pressure from the pumps to fill one storage tank, but that these regulators are worn out.

It is possible that we can get some money from the Kentucky River Area Development District (KRADD) to replace worn-out equipment, but without professional advice, including not only what to buy but also supervision of its installation, turn-on and start-up, I'm afraid it might never be properly used.

I believe the future of the system is bleak, even fatal, unless it can be operated automatically without requiring so much human time that maintenance is neglected. People are becoming very reluctant to pay the higher rate imposed last September for intermittent service. With the sewer system shut down and producing no revenue, the bondholder's only hope is a functioning water system. Please let me know if you can be of help.

Very truly yours,

F. L. Dupree, Jr.
F. L. Dupree, Jr.