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CITATION

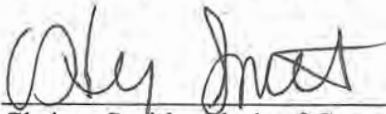
TUNICA-BILOXI TRIBAL COURT
TUNICA-BILOXI NATION

AVOYELLES WATER COMMISSION : SUIT NUMBER: 2023-006
VS. : TUNICA-BILOXI TRIBAL CT.
WATER 3 AVOYELLES : STATE OF LOUISIANA
WATERWORKS DISTRICT : PARISH OF AVOYELLES

To: Ward 3 Avoyelles Waterworks District through its President Joan A. Decuir,
1106 Cocoville Road or 1181 Cocoville Road, Mansura, LA 71350.

You are hereby cited to appear in the office of the Clerk of said Court, on the Tunica-Biloxi Reservation, in the City of Marksville, Parish of aforesaid, and comply with the demand contained in the attached **PETITION FOR INJUNCTION AND ORDER**, by which a copy is hereto annexed and make an appearance in person ON THE **28TH DAY OF AUGUST AT 10:00 A.M.** IN THE CONFERENCE ROOM OF THE TUNICA BILOXI GYMNASIUM.

Witness the Honorable ROBERT JOHNSON of our said Court, this 3RD day of August 2023.


Christy Smith, Clerk of Court

Attorneys:
Jonathan T. Gaspard
Attorney at Law
Post Office Box 546
Marksville, LA 71351
(t) 318-240-7329
(f) 318-240-7522

RETURN OF PROCESS SERVED

PERSONAL SERVICE
Received the above citation, a certified copy thereof, and a certified copy of the petition:
RECEIVED ON: _____
SERVED ON: _____
IN PERSON TO: _____
TRIBAL PATROLMAN: _____

DOMICILARY SERVICE
RECEIVED ON: _____
SERVED ON: _____
SERVED TO: _____

A person apparently above the age of 16 years residing at the said domicile, a family member at the time of said service, of the defendant who was absent.

TRIBAL PATROLMAN: _____
N.B. Petition was forward _____

For service of process, per service instructions by petitions' attorney.

SUIT# 2023-006

AVOYELLES WATER COMMISSION TUNICA-BILOXI TRIBAL COURT
VERSUS PARISH OF AVOYELLES
WARD 3 AVOYELLES WATERWORKS STATE OF LOUISIANA
DISTRICT
FILED: July 11, 2023 BY: C Smith

PETITION FOR INJUNCTION

NOW INTO COURT, through undersigned counsel, comes **The AVOYELLES WATER COMMISSION**, (hereinafter referred to as "Petitioner"), who represent as follows:

Made Defendant Herein:

WARD 3 AVOYELLES WATERWORKS DISTRICT, who may be served through its President, Joan A. Decuir, at 1106 Cocoville Road, or 1181 Cocoville Road, Mansura, Louisiana 71350.

1.

Petitioner herein shows that it owns the twenty-four (24") inch waterline from Wal-Mart in Marksville, Avoyelles Parish, Louisiana, to the water tower on Highway 1. Petitioner shows that it has the legal authority to operate and maintain the twenty-four (24") inch waterline in between these two points referenced hereinabove. Petitioner further shows that the twenty-four (24") inch line feeds the watermain described in paragraph 3.

2.

Petitioner herein shows that the legal authority described in paragraph 1 above is derived via an Intergovernmental Agreement executed by the Avoyelles Parish Police Jury, the Avoyelles Water Commission, the City of Marksville and Ward 3 Avoyelles Waterworks District filed on January 24, 2013 and recorded at COB A-632, page 432. Petitioner specifically shows that page 3 of 8, subsection E provides as follows, to wit:

All parties hereto agree and acknowledge that the AWC will own, operate and maintain the newly constructed 24 inch main from Wal-Mart to the Marksville water tower on Highway 1 after the completion of the abandonment of the 12 inch main and the construction of the aforementioned section of the Water System.

3.

Petitioner further shows that recently, employees and/or representative of the **WARD 3 AVOYELLES WATERWORKS DISTRICT** have entered upon the water main located at the intersection of Slim Lemoine Road and Louisiana Highway 1, directly across from McDonald's and changed the lock to said water main. The employees and/or representatives of the **WARD 3 AVOYELLES WATERWORKS DISTRICT** have refused to allow employees and/or representatives of the **AVOYELLES WATER COMMISSION** to enter into the fenced-in area which contains the water main.

4.

Petitioner further shows that the water main referenced in paragraph 3 is within the territorial jurisdiction of the Tunic-Biloxi Tribe of Louisiana. Additionally, the property in question is also owned by the Tunica-Biloxi Tribe of Louisiana, a federally recognized Native American Tribe.

5.

Petitioner herein shows that the actions of the **WARD 3 AVOYELLES WATERWORKS DISTRICT** are in direct contravention of the law and the previously entered into Intergovernmental Agreement which included petitioner as well as the defendant. Petitioner further shows that the actions of the **WARD 3 AVOYELLES WATERWORKS DISTRICT** is a violation of the sovereignty of the Tunica-Biloxi Tribe of Louisiana as the water main in question is located on tribal property and within the territorial jurisdiction of a sovereign nation.

6.

Petitioner herein shows that irreparable injury, loss or damages may occur if an injunction does not issue and prays that this Honorable Court issue an Injunction against the **WARD 3 AVOYELLES WATERWORKS DISTRICT** prohibiting any employees and/or representatives of the **WARD 3 AVOYELLES WATERWORKS DISTRICT** from hindering, impeding or stopping the employees and/or representatives of the **AVOYELLES WATER COMMISSION** from restricting their access to the fenced in water main referenced hereinabove.

WHEREFORE, PETITIONER PRAYS:

1. That this *Petition for Injunction* be filed and that the defendant be served with said *Petition for Injunction*;
2. That this Honorable Court order that the **WARD 3 AVOYELLES WATERWORKS DISTRICT** show cause on a date and time convenient to this Honorable court as to why an Injunction should not be issued prohibiting any and all employees and/or representatives of the **WARD 3 AVOYELLES WATERWORKS DISTRICT** from restricting, impeding or stopping access to the water main located at the intersection of Slim Lemoine Road and Louisiana Highway 1;
3. For all general and equitable relief to which petitioner is entitled.

RESPECTFULLY SUBMITTED BY:

THE GASPARD LAW FIRM

BY: 

JONATHAN T. GASPARD
ATTORNEY AT LAW
BAR ROLL # 27474
P.O. BOX 546
313 N. MAIN STREET
MARKSVILLE, LA. 71351
PHONE 318-240-7329
FAX 318-253-7522

**ATTORNEY FOR
THE AVOYELLES WATER COMMISSION**

SHERIFF, PLEASE SERVE:

Ward 3 Avoyelles Waterworks District
through its President
Joan A. Decuir
1106 Cocoville Road or
1181 Cocoville Road
Mansura, Louisiana 71350

SUIT# _____

AVOYELLES WATER COMMISSION

TUNICA-BILOXI TRIBAL COURT

VERSUS

PARISH OF AVOYELLES

WARD 3 AVOYELLES WATERWORKS
DISTRICT

STATE OF LOUISIANA

FILED: _____

BY: _____

VERIFICATION

BEFORE ME, undersigned Notary Public, duly commissioned and qualified in and for the Parish of Avoyelles, State of Louisiana, personally came and appeared:

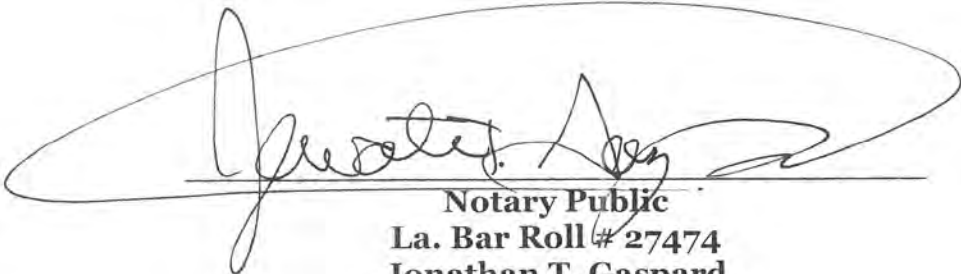
Penn A. Lemoine, President for the Avoyelles Water Commission;

who after being duly sworn, did depose and say that it is the petitioner in the above captioned *Petition For Injunction*, and that all the allegations of fact contained therein are true and correct to the best of its knowledge, information, and belief.

AVOYELLES WATER COMMISSION
Represented herein by its President:

BY: 
PENN A. LEMOINE – PRESIDENT

SWORN TO AND SUBSCRIBED, before me, this 5th day of July, 2023, in Marksville, Louisiana.


Notary Public
La. Bar Roll # 27474
Jonathan T. Gaspard

SUIT# 2023-006

AVOYELLES WATER COMMISSION TUNICA-BILOXI TRIBAL COURT
VERSUS PARISH OF AVOYELLES
WARD 3 AVOYELLES WATERWORKS STATE OF LOUISIANA
DISTRICT

FILED: July 11, 2023 BY: C. Smith

ORDER

Considering the preceding *Petition for Injunction*;

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that the WARD 3 AVOYELLES WATERWORKS DISTRICT show cause on the 28th day of August, 2023 why a Injunction should not be issued prohibiting employees and/or representatives of WARD 3 AVOYELLES WATERWORKS DISTRICT from impeding, restricting or stopping the employees and/or representatives from the AVOYELLES WATER COMMISSION from accessing the water main located at the intersection of Slim Lemoine Road and Louisiana Highway 1; it is further

ORDER signed at Marksville, Louisiana this 3rd day of August, 2023.



JUDGE, TUNICA-BILOXI TRIBAL COURT

SHERIFF, PLEASE SERVE:

Ward 3 Avoyelles Waterworks District
through its President
Joan A. Decuir
1106 Cocoville Road or
1181 Cocoville Road
Mansura, Louisiana 71350

TUNICA – BILOXI TRIBAL COURT

AVOYELLES WATER	*	CASE NO: 2023-006
COMMISSION	*	
	*	
VERSUS	*	HON. JUDGE ROBERT JOHNSON
	*	
WARD 3 AVOYELLES	*	PARISH OF AVOYELLES
WATERWORKS DISTRICT	*	
	*	STATE OF LOUISIANA

**ANSWER TO PETITION FOR INJUNCTION
RECONVENTIONAL DEMAND FOR INJUNCTION**

NOW INTO COURT, through undersigned counsel, comes **Ward 3 Avoyelles Waterworks District** (hereinafter “Defendant” or “Ward 3”), who represent as follows:

First Affirmative Defense

Defendant denies any unnumbered allegations and each and every allegation of the Petition that is not specifically admitted herein.

Second Affirmative Defense

Defendant excepts to the Petitioner’s lack of amicable demand.

Third Affirmative Defense

Defendant pleads the protections against curtailment or limitations of its rights to sell water within Defendant’s service area as provided by 7 U.S.C. § 1926(b).

Fourth Affirmative Defense

Defendant asserts that under the terms of the Right of Way Agreement dated May 22, 2007, Defendant was granted sole and exclusive access to the property and structures referenced in the Petitioner’s pleading, and as such Defendant is entitled to peaceful possession of the same.

Fifth Affirmative Defense

Defendant asserts sole ownership of the 12-inch water line that transverses under La. Hwy 1 onto the property and within the structure described in the Petitioner’s pleadings. Defendant is entitled to peaceful possession of this water line as the sole owner of this water line.

Sixth Affirmative Defense

Defendant asserts that this Honorable Court, on its own motion, should consider whether this Court has subject matter jurisdiction over the questions giving rise to this controversy as presented by the Petitioner. Defendant asserts that the determinative question is which party owns the 12-inch water line that begins at the northwestern intersection of LA-1 at Jen-Re Plastic Road under La. Hwy 1 to an area near the northeastern intersection of LA-1 and Slim Lemoine Road, directly across from McDonalds that is currently fenced in and secured. Since this water line originates outside of the territorial jurisdiction of the Tunica Biloxi Tribe of Louisiana, or lands owned by them, this Court may not have subject matter jurisdiction over this matter.

Now, further answering:

1. With respect to the unnumbered paragraph wherein Petitioner asserts that **Ward 3 Avoyelles Waterworks District** is made Defendant in this matter, Defendant admits that **Ward 3 Avoyelles Waterworks District** can be served through its President, Joan A. Decuir, at 1106 Cocoville Road, or 1181 Cocoville Road, Mansura, Louisiana 71350.
2. Defendant admits that Petitioner owns a twenty-four inch (24-inch) water line that travels from Wal-Mart in Marksville, Avoyelles Parish, Louisiana, to the Marksville Water Tower on La. Highway 1. Defendant further admits that Petitioner has the legal authority to operate and maintain the twenty-four inch (24") waterline referenced herein. Defendant's further admit that Petitioner's twenty-four inch (24") water line feeds a twelve inch (12-inch) water line that belongs, solely, to Ward 3 Avoyelles Waterworks District, Defendant, running from northwestern intersection of LA-1 at Jen-Re Plastic Road under La. Hwy 1 to an area near the northeastern intersection of LA-1 and Slim Lemoine Road, directly across from McDonalds that is currently fenced in and secured. All other allegations of fact, law, conjecture, or other conclusory statements found in Paragraph 1 of the Petitioner's *Petition for Injunction* are denied unless specifically affirmed herein.

3. Defendant denies the allegations set forth in Paragraph 2 of the Petitioner's *Petition for Injunction* due to lack of sufficient information to substantiate a belief therein. Further, under F.R.E. 1002 and L.C.E. 1002, the best evidence of the facts asserted in this paragraph is found in the original document; therefore, to prove the assertions set forth herein, being the content of a writing, the original writing is required.
4. Defendant denies the allegations set forth in Paragraph 3 as they are written and implied. Defendant does admit that the lock on the secure area at the intersection of La. Hwy 1 and Slim Lemoine Road was changed to maintain the safety of the critical infrastructure owned by Ward 3. Access was granted upon request to Ward 3 for all proper purposes. Further, Defendant asserts the affirmative defense, *supra*, for having ownership of the water main within the secured area, having sole ownership of the right-of-way to access the secured area, and the fact that the Petitioner has no legal right, either granted or implied, to have access to this critical infrastructure.
5. Defendant admits the allegations, only as written, set forth in Paragraph 4 of the Petitioner's *Petition for Injunction*. All other allegations of fact, law, conjecture, or other conclusory statements found in Paragraph 4 of the Petitioner's *Petition for Injunction* are denied unless expressly affirmed herein.
6. No answer is required for the allegations set forth in Paragraph 5 of Petitioner's *Petition for Injunction* because the allegations set forth in this Paragraph 5 are conclusions of law or assert the contents of a written document, which in accordance with F.R.E. 1002 and L.C.E. 1002, the best evidence of the facts asserted in this paragraph is found in the original document; therefore, to prove the assertions set forth herein, being the content of a writing, the original writing is required. However, out of an abundance of caution, all allegations of fact, law, conjecture, or other conclusory statements found in Paragraph 5 of the Petitioner's *Petition for Injunction* are denied unless expressly affirmed herein.
7. The allegations of fact, assertions, conclusions of law, or conjecture set forth in Paragraph 5 of the Petitioner's *Petition for Injunction* are denied due to lack of

sufficient information to substantiate a belief therein because the allegations are not supported by fact, and the irreparable injury, loss, or damages that will, or has, allegedly occur involve accessing the property (the 12-inch water line and the immovable property subject to right-of-way) that the Defendant solely owns and Petitioner has not legal right to access.

NOW, FURTHER ANSWERING, Petitioner in Reconvension, **Ward 3 Avoyelles Waterworks District** (hereinafter "Ward 3") asserts the following *Reconvensional Demand for Injunction*:

Jurisdiction

1. According to the Tunica-Biloxi Tribe of Louisiana Tribal Court webpage¹ the Tunica-Biloxi Tribal Court's primary function is to uphold the Constitution of the United States and the Constitution of the Tunica-Biloxi Tribe of Louisiana by applying the code of Civil Procedure. Additionally, Tribal Court is where all civil suits are filed when an incident occurs on Tribal property.
2. Therefore, it is assumed that the Tribal Court has jurisdiction over this matter because **Avoyelles Water Commission** on behalf of the **City of Marksville** has attempted to have this Honorable Court to issue an injunction preventing **Ward 3** from securing critical water infrastructure that it owns and thus preventing the **City of Marksville** from illegally installing a water meter on **Ward 3's** water line and thereby violation the provisions of 7 U.S.C. § 1926.

VENUE

3. It is presumed that Venue is proper in this Honorable Court because the property in question is located on the Tunica-Biloxi Tribe of Louisiana land in Marksville, Louisiana.

PARTY DEFENDANTS

Made Defendants herein are:

4. **Avoyelles Water Commission** (hereinafter "AWC") who may be served through their President, Penn A. Lemoine, at 7510 La. Hwy 1, Mansura, LA 71350.

¹ <https://www.tunicabiloxi.org/tribal-court/>

5. **City of Marksville** (hereinafter “COM”) a duly organized political subdivision of the State of Louisiana, who may be properly served through their duly elected Mayor, John Lemoine, at 427 N. Washington Street, Marksville, LA 71351.

FACTUAL ALLEGATIONS

6. AWC was created to govern and distribute water services to a large geographical area in Avoyelles Parish comprised of the City of Marksville, Ward 3 Avoyelles Waterworks District, and the Village of Moreauville. AWC is governed by three commissioners – the mayors of Marksville and Moreauville, and the president of Ward 3 Avoyelles Waterworks District, or their duly appointed representatives.
7. Ward 3 is a waterworks district and a political subdivision created by the Avoyelles Parish Police Jury pursuant to La. R.S. 33:3811 for the purpose of developing and providing an adequate water supply to serve and meet the needs of water customers located within its territory.
8. Ward 3 is duly empowered as a rural water district to borrow funds from the Federal Government. In order to perform its purpose, Ward 3 has in fact borrowed funds from the Federal Government, and continues to be indebted to the Federal Government pursuant to and in accordance with 7 U.S.C. §1926 for such borrowing.
9. Specifically, Ward 3 issued a \$2,298,000 water Revenue Bond payable to registered owner thereof, the United States government. The Bond is payable over a forty (40) year period beginning on December 5 2017, and ending on December 5, 2057. The payment schedule requires monthly payments of \$8,021.00 until the Bond is paid off in 2057, and Ward 3 continues to make such payments.
10. Pursuant to its creating ordinance, Ward 3 was established to serve a certain geographical area which is hereinafter referenced as the “Ward 3 Service Area.”

The Service Area encompasses the following geographic boundaries:

Ward 3, Avoyelles Parish, less and except the following: (a) the Town of Mansura and (b) the property located within 250 feet on each side of the centerline of the Mansura-Hessmer Highway (State Route 114) from the Ward Line separating Wards 3 and 4 to the corporation limits of the Town of Mansura.

11. Ward 3 asks that this Honorable Court take judicial notice that “Ward 3” as referenced in the above Paragraph 8 encompasses, the entire length of La. Hwy 1 beginning at the southernmost point immediately south of the intersection of La. Hwy 1186 and La. Hwy 1 and thereafter encompassing all of La. Hwy 1, on both sides unless otherwise excluded, to the northernmost point being the center of Coulee des Grus and encompassing all of the Tunica-Biloxi Casino, Hotel, and RV Park. (See Exhibit “A” *in globo* attached hereto – screen picture of Avoyelles Ward Map from Avoyelles Assessor Website).
12. Ward 3 has in place existing water facilities that have and continue to serve all customers in the Ward 3 Service Area. Consequently, Ward 3 provides and has made its water service available to such customers.
13. Ward 3 Service Area is federally protected by 7 U.S.C. §1926(b) because Ward 3 owes an obligation to the United States Department of Agriculture on a loan received for improvements to Ward 3’s water system. 7 U.S.C. §1926(b) states, “The service provided or made available through any such association shall not be curtailed or limited by inclusion of the area served by such association within the boundaries of any municipal corporation or other public body, or by the granting of any private franchise for similar service within such area during the term of such loan; nor shall the happening of any such event be the basis of requiring such association to secure any franchise, license, or permit as a condition to continuing to serve the area served by the association at the time of the occurrence of such event.”
14. Ward 3 enjoys the protection of 7 U.S.C. §1926(b) by reason of its indebtedness to the federal government.
15. Defendant, COM, sells water to residents within its municipal boundaries except to those customers who are situated in both Ward 3 Service Area and the Marksville municipal limits; Ward 3 services those customers. However, as further discussed below, the City of Marksville, through the actions of the Defendant Avoyelles Water Commission is now pursuing efforts to sell water to customers within Ward 3’s federally protected service area.

- 16.7 U.S.C. §1926(b) essentially prohibits municipalities or similar entities from exercising their powers to sell water when the exercise of that power would result in competition with a federally indebted rural water district.²
17. Ward 3 owns a 12-inch water line that taps into the 24-inch water line owned and operated by AWC. This 12-inch water line transverses underneath La. Hwy. 1 and exits the ground near the northern intersection of La. Hwy 1 and Slim Lemoine Road in a “Right of Way” granted to Ward 3 by the Tunica-Biloxi Tribe of Louisiana. (See Exhibit “B” *in globo* attached hereto).
18. Where the 12-inch water line exits the ground there exists a shielded chain link fence with a lock to protect this critical infrastructure.
19. The 12-inch water line is solely owned by Ward 3. (See Exhibit “C” *in globo* attached hereto).
20. Upon information and belief developed from comments made by several COM representatives, it is believed that COM has purchased a water meter that is compatible with Ward 3’s water line and intends to access to the secured area described above to remove Ward 3’s water meter and install their own thereby depriving Ward 3 of settling water through this water line and violating 7 U.S.C. §1926(b).
21. Ward 3 further contends that Defendants, AWC nor COM, does not have any legal or implied right to access to the secure area within the Right of Way described in Exhibit “B” for any purpose much less for the purpose of depriving Ward 3 of the use of their water line. AWC does have a flow meter installed inside of the secured area; however, this equipment may be removed at any time and is only present with the express permission of Ward 3.
22. Further, AWC, at the behest of COM, has attempted to use this Honorable Court to aid and abet COM in violating 7 U.S.C. § 1929(b) by requesting that this Honorable Court issue an injunction against Ward 3 preventing Ward 3 from

² See *City of Madison v. Bear Creek Water Ass’n*, 816 F.2d 1057, 1059 (5th Cir. 1987); *Moore Bayou Water Association v. Town of Jonestown*, 628 F.Supp. 1367 (N.D. Ms. 1986); *Rural Water District No. 3 v. Owasso Utils. Auth.*, 530 F.Supp. 818 (N.D. Ok. 1979); *Pittsburg County Rural Water Dist. No. 7 v. City of McAlester*, 358 F.3d 694 (10th Cir. 2004); *Pinehurst Enterprises, Inc. v. Town of Southern Pines*, 690 F.Supp. 444, 452 (M.D.N.C. 1988).

securing their property, their right of way, and preventing COM from controlling Ward 3's property.

23. Ward 3 shows through the facts pleaded herein, and as will be further shown in a trial on this matter, that the actions of AWC and COM are in direct contravention to the law because they violate the provisions of 7 U.S.C. §1926(b), and violate the Right of Way Agreement between Ward 3 and the Tunica Biloxi Tribe of Louisiana referenced in Exhibit "B" attached hereto.

NOW, THEREFORE, Petitioner in Reconvension, **Ward 3 Avoyelles Waterworks District**, shows that irreparable injury, loss, and damage will occur if an injunction does not issue and prays that this Honorable Court issue an Injunction against **Avoyelles Water Commission and City of Marksville** prohibiting any representative or employee of these Defendants-in-Reconvension from accessing, tampering with, changing, or manipulating the right-of-way granted to **Ward 3 Avoyelles Waterworks District**, and property on or enclosed in any structure on this right-of-way, including, but not limited to the 12-inch water line owned and operated by **Ward 3 Avoyelles Waterworks District**.

WHEREFORE, PETITIONER-IN-RECONVENTION PRAYS:

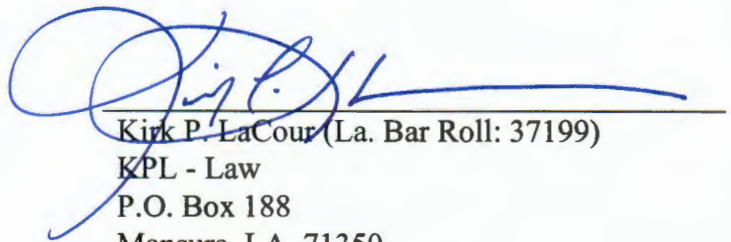
1. That this *Petition for Injunction* be deemed sufficient, be filed, and that Defendants-in-Reconvension, **Avoyelles Water Commission and City of Marksville**, be served with this *Petition for Injunction*.
2. That this Honorable Court order that Defendants-in-Reconvension, **Avoyelles Water Commission and City of Marksville** show cause on a date and time convenient to this Honorable Court as to why an Injunction should not issue prohibiting **Avoyelles Water Commission and City of Marksville** and any representative or employee of these Defendants-in-Reconvension from accessing, tampering with, changing, or manipulating the right-of-way granted to **Ward 3 Avoyelles Waterworks District**, and property on or enclosed in any structure on this right-of-way, including, but not limited to the 12-inch water line owned and operated by **Ward 3 Avoyelles Waterworks District**.

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Remainder of Prayer and signatures to follow

3. For all other general and equitable relief to which Petitioner-in-Reconvention may be entitled.

Respectfully submitted,



Kirk P. LaCour (La. Bar Roll: 37199)

KPL - Law

P.O. Box 188

Mansura, LA 71350

SERVICE ADDRESS

700 SW Main Street

Bunkie, LA 71322

Telephone: (318) 295-1668

Facsimile: (225) 612-6479

Email: kirk.lacour@kpl-law.com

Attorney for Ward 3 Avoyelles Waterworks District

Please Serve:

Avoyelles Water Commission
Through their attorney of Record
The Gaspard Law Firm
Attn: Jonathan T. Gaspard, Esq.
P.O. Box 546
313 N. Main Street
Marksville, LA 71351

City of Marksville
Attn: Honorable John Lemoine, Mayor
427 N. Washington Street
Marksville, LA 71351

TUNICA – BILOXI TRIBAL COURT

AVOYELLES WATER COMMISSION	*	CASE NO: 2023-006
	*	
	*	
VERSUS	*	HON. JUDGE ROBERT JOHNSON
	*	
WARD 3 AVOYELLES WATERWORKS DISTRICT	*	PARISH OF AVOYELLES
	*	
	*	STATE OF LOUISIANA

VERIFICATION

STATE OF LOUISIANA

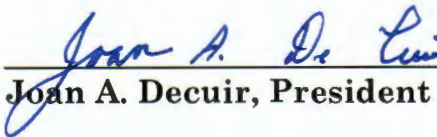
PARISH OF AVOYELLES

Before Me, the undersigned Notary Public, duly commissioned and qualified in and for the Parish of Avoyelles, State of Louisiana, personally came and appeared:

Joan A. Decuir, President
Ward 3 Avoyelles Waterworks District

Who after being duly sworn, did depose and say that I am the duly authorized representative of the Defendant and Petitioner-in-Reconvention in the above captioned pleading titled “*Answer to Petition for Injunction and Reconventional Demand for Injunction*”, and that I read the facts, assertions, allegations, and other statements contained therein and the associated exhibits and they are true and correct to the best of my knowledge, information, and belief.

Ward 3 Avoyelles Waterworks District


Joan A. Decuir, President

Sworn to and subscribed before me on this 20th day of September, 2023.

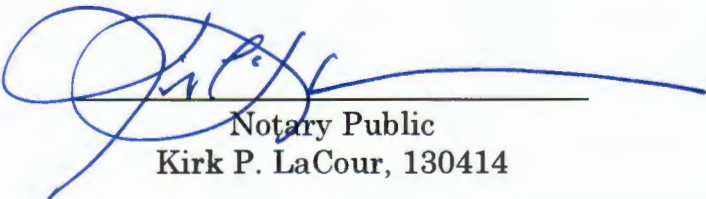

Notary Public
Kirk P. LaCour, 130414

EXHIBIT “A” – Ward 3 Jurisdictional Boundaries – Avoyelles Assessor Website

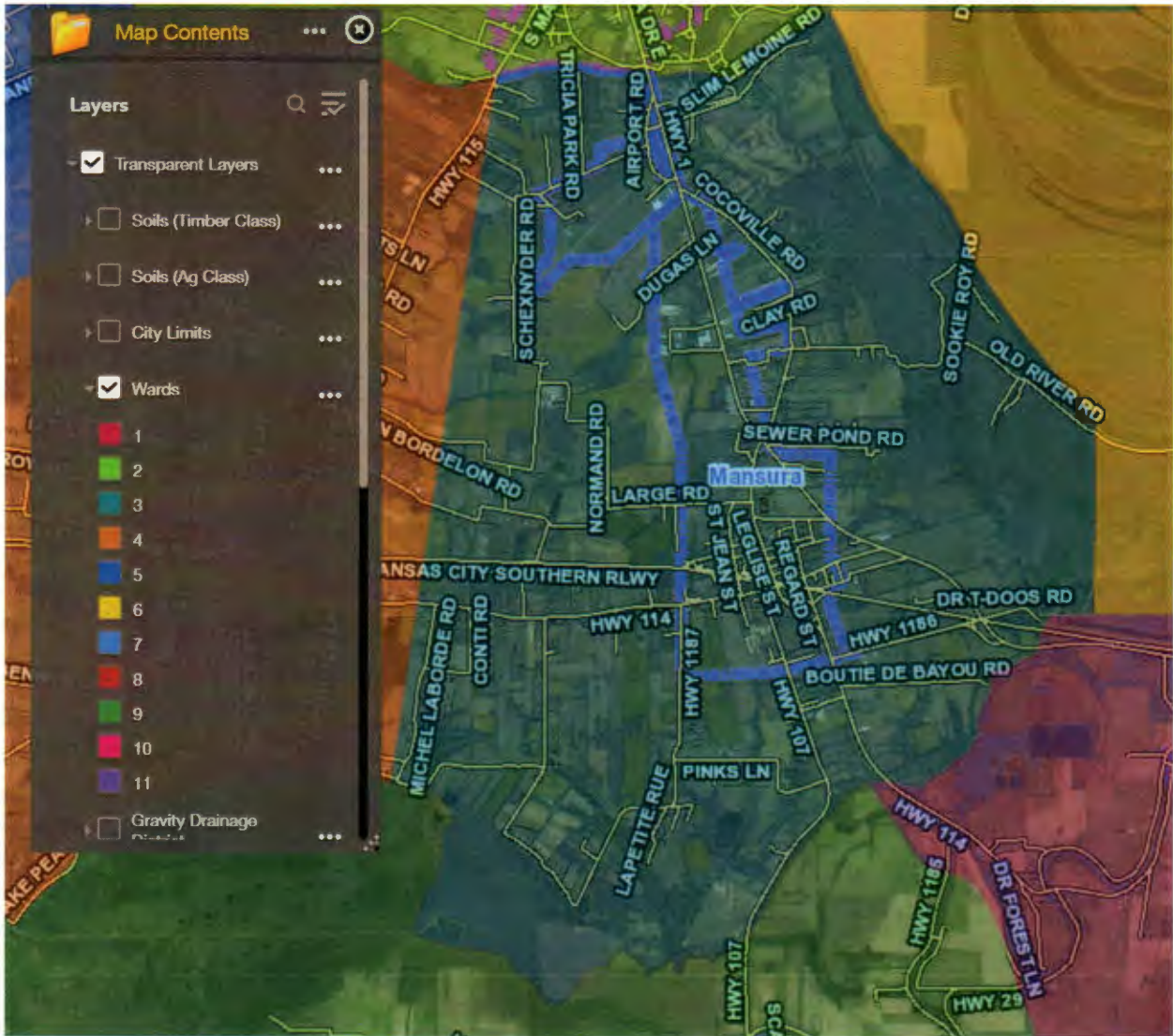


Figure 1: Screen Capture of Ward 3 of Avoyelles Parish from Avoyelles Parish Assessor Website September 18, 2023



Figure 2: Detailed view of Ward 3 Jurisdictional Boundary near the location in dispute.

RIGHT-OF-WAY AGREEMENT

THIS AGREEMENT EXECUTED EFFECTIVE AS OF THE 22nd DAY OF

May 2007, by and between:

TUNICA-BILOXI TRIBE OF LOUISIANA, a federally recognized Indian Tribe which the Congress of the United States of America has recognized the TRIBE as a sovereign Indian nation that possesses powers of self-government, address: P. O. Box 1589, Marksville LA 71351-1589, hereinafter referred to as "**TRIBE**" or "**GRANTOR**"; and

WARD 3 AVOYELLES WATER DISTRICT, a political subdivision of the state of Louisiana created and existing under and by virtue of the laws of the State of Louisiana, address: 1106 Cocoville Rd., Mansura, LA 71350, hereinafter referred to as "**WARD 3**" or "**GRANTEE**";

WHEREAS, **GRANTOR** owns certain lands located in Section 66, Township 2 North, Range 4 East, Southwestern District, Avoyelles Parish, Louisiana, upon which a road way, Slim Lemoine Road (Parish Road #199), ("Roadway") has previously been constructed and **GRANTEE** has constructed and maintained a waterline along the Roadway and has been afforded a right of way or easement, ("Original Right of Way") along such Roadway for the necessary operation, maintenance and repair of said water lines, ("Water System"). The Original Right of Way is attached hereto and incorporated herein as "Exhibit B".

WHEREAS, **GRANTOR** wishes to widen the Roadway and as such certain portions of **GRANTEE**'s Water System must be relocated as a result of the widening. Such relocation will be undertaken by **GRANTOR**. Replacement water line will be 3" PE pipe, by trench, jack and bore method and/or directional boring method.

WHEREAS, **GRANTOR** seeks to dedicate a right of way to **WARD 3** for the necessary operation, maintenance, repair, replace or remove water pipelines, together with the right of ingress and egress over adjacent land for the purpose mentioned above, of the Water System as relocated by **GRANTOR**.

Exhibit "B"
In Globo

WHEREAS, **GRANTEE** is desirous of securing rights to use, repair, maintain, remove or replace water pipelines, together with the right of ingress and egress over adjacent land for the purpose mentioned above, for the Water System under this newly granted right of way. Ward 3 wishes to transfer to **GRANTOR** any and all rights of their current perpetual easement it may have under the Original Right of Way given by previous property owners in 1974.

NOW THEREFORE, GRANTOR, for and in consideration of ONE NO/100 (\$1.00) DOLLAR, the transfer by **GRANTEE** of its Original Right of Way to **GRANTOR** grants to **GRANTEE** a ten foot (10') perpetual right-of-way of the area located Section 66, Township 2 North, Range 4 East, Southwestern District, Avoyelles Parish, Louisiana and as more fully described and identified as Tract C on drawing number 10322, dated December 1, 2005 and prepared by Pan American Engineers, attached hereto and made a part hereof as Exhibit "A", for the sole purposes of operation, maintenance, repair, remove or replace water pipelines, together with the right of ingress and egress over adjacent land for the purpose mentioned above of the Water System.

It is acknowledged between the parties that such relocation plans have been approved by **GRANTEE** and **GRANTOR** shall provide **GRANTEE** notice of the commencement date of such construction so that **GRANTEE** may observe construction and relocation.

GRANTOR further agrees that the existing water line will remain operational until such time as **GRANTEE** has obtained DHH approval for the newly constructed water line to be placed into service.

Upon commencement of operation of the new water line, **GRANTEE** shall transfer to **GRANTOR** any and all rights it may have under the Original Right of Way.

GRANTOR, its successors and assigns agree to protect, indemnify, defend and hold **GRANTEE** harmless from any and all loss, damage, liability, claims, demands, actions or causes of action of any nature whatsoever asserted by employees of **GRANTOR** or by third persons (including employees of **GRANTEE**) for property damage or loss, personal injury or death arising from, in connection with or incidental to the construction of the right-of-way described in Exhibit A. Further, in the event of damage to the water line which is caused by **GRANTOR**, **GRANTOR** shall be responsible for such repairs necessitated by such damage.

GRANTEE, its successors and assigns agree to protect, indemnify, defend and hold **GRANTOR** harmless from any and all loss, damage, liability, claims, demands, actions or causes of action of any nature whatsoever asserted by employees of **GRANTEE** or by third persons (including employees of **GRANTOR**) for property damage or loss, personal injury or death arising from, in connection with or incidental to the operation, maintenance and repairs performed under this Agreement or the use of the right-of-way described in Exhibit A.

GRANTEE shall comply with all Federal, State and Local rules and regulations governing and relating to any operations conducted by **GRANTEE** hereunder. **GRANTEE** agrees to indemnify, defend and hold **GRANTOR** harmless from and against any and all claims, demands, actions or causes of action, penalties or suits (including costs and expenses incident thereto) for or on account of failure of **GRANTEE** to comply with such governmental rules and regulations.

Except for the necessary operation, use and maintenance of the Right of Way by **GRANTEE** and granted hereunder, **GRANTOR** reserves the right to full use and enjoyment of all lands affected by this Right-of-Way Agreement herein granted.

GRANTOR and **GRANTEE** mutually agree, that except as herein expressly provided, nothing contained herein shall be construed to in anywise interfere with the fee simple ownership of the lands and minerals over which this Right-of-Way Agreement applies, said lands and minerals to remain the property of the parties so owning.

The rights herein granted are and shall be subject to any and all existing servitudes, easements, leases and encumbrances of record bearing on the property herein described.

The Tunica-Biloxi Tribe of Louisiana is a federally recognized tribe. The Tribe does not waive, limit or modify its rights including, but not limited to, its rights of sovereign immunity, and the Tribe hereby reserves and asserts its immunity to the full extent provided by law.

This Right-of-Way Agreement may be signed in any number of counterparts each of which shall be binding on the party or parties so signing.


All notices required, permitted or to be sent hereunder shall be sent by registered mail or by certified mail, and shall be binding on the parties hereto, as well as their heirs, successors and assigns, if sent:

- (a) To the GRANTOR: The Tunica-Biloxi Tribe of Louisiana
P. O. Box 1589
Marksville LA 71351-1589
- (b) To the GRANTEE: Ward 3, Avoyelles Water District
1106 Cocoville Rd
Mansura LA 71350

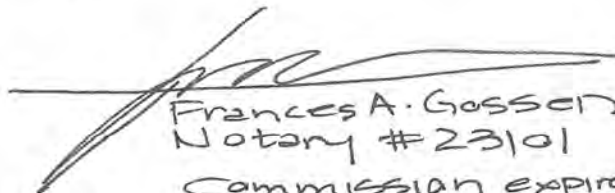
Either party hereto shall have the right by written notice to change the name or address to which such notices shall be directed.

(Signatures on the next page)

IN WITNESS WHEREOF, this Agreement is executed effective as of the date
hereinabove written.

WITNESSES:**GRANTOR:**
**TUNICA-BILOXI TRIBE OF
LOUISIANA, by: Earl J. Barbry, Sr.-
Chairman****GRANTEE:**
**WARD 3 AVOYELLES WATER
DISTRICT**By: Joan A De CairIts: President of Board

Signed before me, the undersigned
Notary, on this 22nd day of May 2007
in Marksville, LA.


Frances A. Gosselin
Notary #23101
Commission expires upon death

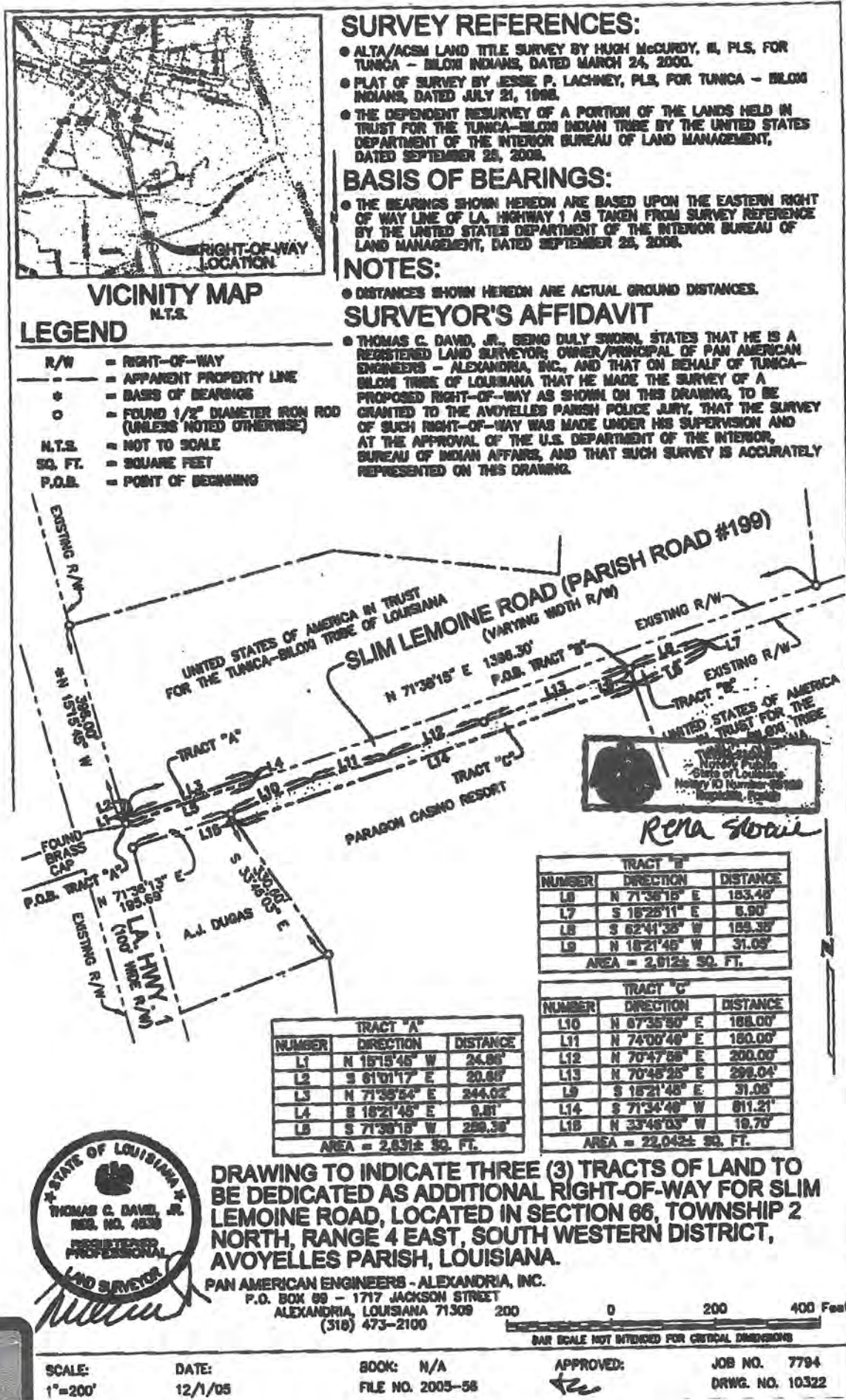


EXHIBIT
A

WARD 3, AVOUELLES WATERWORKS DISTRICT

WATER USERS AGREEMENT

THIS AGREEMENT is entered into by and between WARD 3, AVOUELLES WATERWORKS DISTRICT, a waterworks district, created and existing in accordance with Louisiana Revised Statutes 33:3811 et seq, hereinafter called the District and MR. LAMAR BLOKS, a prospective water user hereinafter called the User:

W I T N E S S E T H

WHEREAS, the User desires to purchase water from the District and to enter into a water users agreement as required by the District:

NOW THEREFORE, in consideration of the mutual covenants, promises, and agreements herein contained, it is hereby understood and agreed:

The District shall furnish, subject to the limitations set out in the rules and regulations of the District and those hereinafter provided for, such quantity of water as the User may desire in connection with his occupancy of the following described property: 1 mile S. OF MARKSVILLE OFF LA 1 ON THE LEMOINE LANE - NEXT TO MRS LESTER LABREDE.

The User hereby grants the District, its successors or assigns, a perpetual easement in, over, under, and upon the above described land with the right to erect, construct, install, and lay, and thereafter use, operate and inspect, repair, maintain, replace and remove water pipelines and appurtenant facilities, together with the right of ingress and egress over adjacent land for the purpose mentioned above. The width of said easement shall be not less than 10' from the road right-of-way.

The User shall install and maintain at his own expense a service line which shall begin at the meter and extend to the dwelling or place of use. The service line shall connect with the distribution system of the District at the nearest place of desired use by the User, provided the District has determined in advance that the system is of sufficient capacity to permit delivery of water at that point.

The District shall have final jurisdiction in any question of location of any service line connection to its distribution system; shall determine the allocation of water to Users in the event of a water shortage; may shut off water to a User who allows a connection or extension to be made to his service line for the purpose of supplying water to another user. In the event the total water supply shall be insufficient to meet all of the needs of the Users, or in the event there is a shortage of water, the District may prorate the water available among the various Users on such basis as is deemed equitable by the Board of Commissioners, and may also prescribe a schedule of hours covering use of water for garden purposes by particular Users and required adherence thereto or prohibit the use of water for garden purposes; provided that, if at any time the total water supply shall be insufficient to meet all of the needs of all of the Users, the District must first satisfy all of

the needs of all Users for domestic purposes before supplying any water for live-
stock purposes and must satisfy all the needs of all Users for both domestic and
livestock purposes before supplying any water for garden purposes.

The User agrees to comply with the requirements of the Louisiana State Board
of Health that no other present or future source of water will be connected to any
waterlines served by the District's waterlines and will disconnect from his present
water supply prior to connecting to and switching to the District's system.

The User shall connect his service lines to the District's distribution
system and shall commence to use water from the system on the date that the water
is made available to the User by the District. Water charges to the User shall
commence on the date that the service is made available.

As part of the consideration for this agreement, User herewith deposits with
the District the sum of \$50.00 as a deposit for the cost of installing water service.
If for any reason the District fails to make water service available to User within
a reasonable time, the deposit will be refunded. In the event the User shall breach
this contract by (1) refusing or failing, without just cause, to connect his service
line to the District's distribution system as set forth above, or (2) refusing or
failing, without just cause, to pay minimum monthly water rate as established by the
District, upon the occurrence of either of said events the User agrees to forfeit
the deposit.

The failure of a customer to pay water charges duly imposed shall result in
the automatic imposition of the following penalties:

- (1) Nonpayment within ten days from the due date will be subject to
a penalty of ten percent of the delinquent account.
- (2) Nonpayment within thirty days from the due date will result in
the water being shut off from the customer's property.
- (3) In the event it becomes necessary for the District to shut off
the water from a customer's property, a fee of \$5.00 will be
charged for a reconnection of the service.

IN WITNESS WHEREOF, we have hereunto executed this agreement this 15
day of Feb, 1974, in duplicate original.

ATTEST:

WARD 3, AVOXELLES WATERWORKS DISTRICT

BY:

Louis E Foster

Mrs. Lamar Hooks
USER
M. M. Durnatrait



December 12, 2013

Mrs. Joan Decuir
Ward 3 Avoyelles Water District
1106 Cocoville Road
Mansura, LA 71350

Re: Relocation of 2", 4", and 6" Water Mains
DMB Job No. P-0088

Dear Joan,

Pursuant to our attempt to complete the proposed 6" bore at the intersection of Hwy. 1 and Slim Lemoine Road, we discovered that the existing water main to which we were to connect was a 12" PVC main in lieu of a 6" PVC water main as shown in the contract documents.

The cost to install this road bore using 12" HDPE DR-11 pipe and associated appurtenances is \$19,390.62 as detailed in the attached cost breakdown.

Please review this information with your Engineer and let us know as soon as possible if you want us to proceed with the work. Should you desire any additional information, or have any questions, please do not hesitate to contact me at your convenience.

Sincerely,

David C. Farrar
Attachments
Copy: Mr. Larry Russell

Exhibit "C"
In Globo

		12" PE Bore @ Hwy. 1 & Slim Lemoine Road			
	Quantity	Unit	Description	Unit Cost	Extension
Materials:					
	140 lf		12" HDPE DR-11	\$26.14	\$3,659.60
	2 ea		12" PE-PVC Adapt.	\$225.33	\$450.66
	2 ea		12" MJ 90 Bend	\$198.86	\$397.72
	4 ea		Megalugs	\$105.00	\$420.00
	3 ea		12" Bell Restrainers	\$135.00	\$405.00
	1 ea		12" MJ Cap	\$95.00	\$95.00
	9.5 %		Sales Tax	\$5,427.98	\$502.09
Labor w/Burden					
	14 mhrs		Foreman	\$30.00	\$420.00
	14 mhrs		Operator	\$27.00	\$378.00
	14 mhrs		Operator/Driver	\$27.00	\$378.00
	14 mhrs		Pipelayer	\$18.75	\$262.50
	14 mhrs		Laborer	\$15.00	\$210.00
					\$1,648.50
Equipment					
	14 hrs		Volvo ECR 88 Exc	\$75.00	\$1,050.00
	14 hrs		Cat 420E Backhoe	\$65.00	\$910.00
	14 hrs		3/4 Ton Crew Truck	\$12.00	\$168.00
	14 hrs		1-Ton Truck/Trailer	\$15	\$210.00
					\$2,338.00
Subcontractor					
	140 lf		12" Bore	\$50.00	\$7,000.00
					\$7,000.00
Mark-up					
Direct	15 %		GC O&P	\$9,916.57	\$1,487.49
Sub	10 %		Sib O&P	\$7,000.00	\$700.00
					\$2,187.49
Bond Premium					
	1.5 %		Bond	\$19,104.06	\$286.56
Grand Total					
					\$19,390.62



October 16, 2013

Mr. Jarrod Tremonte, P.E.
URS Corporation
7389 Florida Boulevard, Suite 300
Baton Rouge, LA 70806

RE: 2", 4" & 6" Water Main Relocation
Wards 3 Avoyelles Water District
Mansura, Louisiana
DMB Job No. P-0088

Dear Jarrod:

Pursuant to the District's request for pricing a 12" polyethylene bore at the intersection of Hwy. 1 and Slim Lemoine Road in Marksville, we offer the following cost breakdown for your review:

Item No. 1 – 12" PE Bore @ 120 LF

Material cost	\$4,092.00
Labor cost	\$1,177.50
Equipment cost	\$1,670.00
Subcontractor cost	\$6,000.00
15% GC Overhead & Profit	\$1,040.92
10% GC O/P on Subcontractor	\$600.00
1.50% Bond Premium	\$218.71
Total Cost	<u>\$14,799.13</u>

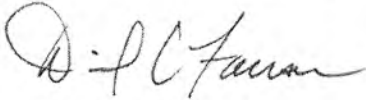
Item No. 2 – 12"x12" Tapping Sleeve & Valve @ 1/EA.

Material cost	\$2,351.00
Labor cost	\$706.50
Equipment cost	\$612.00
Subcontractor cost	\$1,200.00
15% GC Overhead & Profit	\$550.42
10% GC O/P on Subcontractor	\$120.00
1.50% Bond Premium	\$83.10
Total Cost	<u>\$5,623.02</u>

Please find attached the detailed breakdown. If you have any questions, please do not hesitate to contact me at your convenience.

Sincerely,

DON M. BARRON CONTRACTOR, INC.

A handwritten signature in black ink, appearing to read "D. C. Farrar", written in a cursive style.

David C. Farrar
Executive Vice President

Copy: Joan Decuir

COST BREAKDOWN

12" PE Bore

Labor: W/Burden

1 Foreman	10hrs	@ \$30.00/Hr	\$300.00
1 Operator	10hrs	@ \$27.00/Hr	\$270.00
1 Operator/Truck Driver	10hrs	@ \$27.00/Hr	\$270.00
1 Pipelayer	10hrs	@ \$18.75/Hr	\$187.50
1 Laborer	10hrs	@ \$15.00/Hr	\$150.00

Sub Total \$1,177.50

Equipment

88 Excavator	10hrs	@ \$75.00/Hr	\$750.00
420 Backhoe	10hrs	@ \$65.00/Hr	\$650.00
Crew Truck	10hrs	@ \$12.00/Hr	\$120.00
1 Ton Truck	10hrs	@ \$15.00/Hr	\$150.00

Sub Total \$1,670.00

Material

120 lf 12" PE DR 11	@	\$ 25.50	\$3,060.00
2 ea 12" PE/PVC Adapter	@	\$195.00	\$390.00
1 ea 12" 90 Deg. Bend	@	\$225.00	\$225.00
1 ea 12"X6" Reducer	@	\$ 96.00	\$96.00
3 ea 12" PVC Restrainer	@	\$80.00	\$240.00
1 ea 6" PVC Restrainer	@	\$45.00	\$45.00
150 lf 10 ga. Locator Wire	@	.24	\$36.00

Sub Total \$4,092.00

Total Labor Equip & Mat. \$6,939.50

15% O & P \$1,040.92

Total \$7,980.42

Subcontractor

120 lf 12" PE Bore	@	\$50.00	\$6,000.00
10% O & P			\$600.00

Subtotal \$6,600.00

Total Labor, Equipment, Subs, & Material	\$14,580.42
1.5% Bond	\$218.71

Grand Total	\$14,799.13
-------------	-------------

12"X12" Tapping Sleeve & Valve

Labor: W/Burden

1 Foreman	6hrs @ \$30.00/Hr	\$180.00
1 Operator	6hrs @ \$27.00/Hr	\$162.00
1 Operator/Truck Driver	6hrs @ \$27.00/Hr	\$162.00
1 Pipelayer	6hrs @ \$18.75/Hr	\$112.50
1 Laborer	6hrs @ \$15.00/Hr	\$90.00

Sub Total	\$706.50
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Equipment

88 Excavator	6 hrs @ \$75.00/Hr	\$450.00
Crew Truck	6 hrs @ \$12.00/Hr	\$72.00
1 Ton Truck W/Trailer	6 hrs @ \$15.00/Hr	\$90.00

Sub Total	\$612.00
-----------	----------

Material

1 ea 12" X12" TS&V	\$2,351.00
--------------------	------------

Total Labor, Equip & Mat.	\$3,669.50
15% O & P	\$550.42

Total	\$4,219.92
-------	------------

Subcontractor

1 ea 12" Tap	1 Ea. @ \$1,200.00	\$1,200.00
10% O & P		\$120.00

Total	\$1,320.00
-------	------------

Total Labor, Equip, mat & subs	\$5,539.92
1.5% Bond	\$83.10

Grand Total	\$5,623.02
-------------	------------

Subject: Increase of 6" bore to 12" bore across Hwy 1
From: joan decuir (jdecuir@yahoo.com)
To: earlii@tunica.org; tbonnette@tunica.org;
Cc: w3wav@yahoo.com;
Date: Thursday, October 17, 2013 11:09 PM

Dear Terry and Earl,

Below please see the figures for the 6" bore that is now in present contract

Items 11, 16, 28, and 30 make up the cost of the 6" bore for a total of \$6,743.20

Item 22 is the valve and connection that will be used to connect the 6" line to the present active 12" line is \$2,000.00.

I have attached the letter from Don Barron Contractors showing the cost of a 12' bore. As you can see the increased cost will be a increased by \$11,678.95.

As the difference in cost of the 12" bore from the 6" bore is a betterment, the DOTD will not reimburse any of this cost. This cost would be the responsibility of the Tribal Council.

If it is the Councils decision to pursue the 12" bore instead of the 6" bore, please contact me as soon as possible as the bore will be done with the next 10 days.

Description	Unit	Unit Price	Quantity	Contract Amount
11 Bore 6" PE	LF	31.00	120	3,720.00
16 6" PE	LF	19.00	120	2,280.00
22 12 X 6 TS&V	EA	2,000.00	1	2,000.00
28 6" MJ PE TO PVC Transition	EA	250.00		500.00
30 6" 90 degree Bend	TN	7,600.00	.032	243.20
TOTAL				8,743.20

Thank you for your time and attention,

Joan DeCuir
President of Ward 3 Avoyelles Water District

Subject: Fw: Cost of upgrade from a 6" bore to a 12" bore
From: joan decuir (jdecuir@yahoo.com)
To: w3wav@yahoo.com;
Date: Tuesday, October 15, 2013 12:51 PM

Hi,

Can you give this to Mike? Hopefully he can make some sense out of it and we can get an amount for the improvement.

Joan

----- Forwarded Message -----

From: David Farrar <david.farrar@dmbarron.com>
To: joan decuir <jdecuir@yahoo.com>
Sent: Monday, October 14, 2013 3:39 PM
Subject: RE: Cost of upgrade from a 6" bore to a 12" bore

Joan,

Larry gave me the figures on Friday. I'll have them to you on Wednesday after I get my bids out tomorrow.

Figures are as follows:

12" Bore.....\$14,757.10
12"x12" Tapping Sleeve and Valve.....\$5,623.01

Thanks,

David C. Farrar
Don M. Barron Contractor, Inc.
P.O. Drawer 399
Farmerville, LA 71241
318 368 2622 x11
318 368 9615 fax
318 548 2559 cell

From: joan decuir [mailto:jdecuir@yahoo.com]
Sent: Monday, October 14, 2013 3:35 PM
To: David Farrar
Subject: Cost of upgrade from a 6" bore to a 12" bore

Hi,

Since Larry is running around like a chicken with his head cut off, I decided to bug you.

Can you give me a ball park figure for the Hwy 1 bore to the Casino to go from a 6 " to a 12" bore in the same place. I don't need a change order written just a ball park figure of the cost.

Thanks
Joan

AVOYELLES WARD THREE WATER DISTRICT

UR:CP OPERATING ACCOUNT 6692 Ending Balance: \$0.00

Date	Ref No.	Payee	Memo	Payment	Deposit	Stat	Balance
	Type	Account				Auto	
06/16/2014	7943	DON M. BARRON CONTRACTOR, INC.	INVOICE #3006	\$2,090.87		R	n/a
	Check	CIP 2014 Construction in progress (deleted)					
06/16/2014	7942	DON M. BARRON CONTRACTOR, INC.	PAY ESTIMATE 6 / INVOICE# P88/6	\$29,414.31		R	n/a
	Check	CIP 2014 Construction in progress (deleted)					
02/26/2014	7793	DON M. BARRON CONTRACTOR, INC.	PAY ESTIMATE 5 / INVOICE# P88/5	\$19,832.06		R	n/a
	Check	CIP 2014 Construction in progress (deleted)					
01/07/2014	7744	DON M. BARRON CONTRACTOR, INC.	PAY ESTIMATE 4 / INVOICE# P88/4	\$16,772.40		R	n/a
	Check	CIP 2014 Construction in progress (deleted)					
11/14/2013	7670	DON M. BARRON CONTRACTOR, INC.	PAY ESTIMATE 3 / INVOICE# P88/3	\$75,334.05		R	n/a
	Check	CIP 2014 Construction in progress (deleted)					
10/16/2013	7631	DON M. BARRON CONTRACTOR, INC.	PAY ESTIMATE 2 / INVOICE# P88/2	\$101,736.23		R	n/a
	Check	CIP 2014 Construction in progress (deleted)					
09/23/2013	7590	DON M. BARRON CONTRACTOR, INC.	PAY ESTIMATE 1 / INVOICE# P88/1	\$51,054.07		R	n/a
	Check	CIP 2014 Construction in progress (deleted)					

AVOYELLES WARD 3 WATER DISTRICT

REVENUE FUND
1106 COCOVILLE RD - PH: 318-253-8715
MANSURA, LA 71350

84-166/652

9/23/2013

DON M. BARRON CONTRACTOR, INC.

**51,054.07

Fifty-One Thousand Fifty-Four and 07/100*****

DON M. BARRON CONTRACTOR, INC.
ATTN: DAVID C. FARRAR
P. O. BOX 399
FARMERVILLE, LA 71241

John A. De Luis
Alana J. Mayeur
AUTHORIZED SIGNATURE



PAY ESTIMATE 1 / INVOICE# P88/1

⑈007590⑈ ⑆065201666⑆ 40026692⑈

007590

DON M. BARRON CONTRACTOR, INC.
CONTRACTOR

9/23/2013

2", 4" & 6" WATER MAIN RELOCATION / INVOICE#

51,054.07

CP OPERATING ACC PAY ESTIMATE 1 / INVOICE# P88/1

51,054.07

007590

DON M. BARRON CONTRACTOR, INC.
CONTRACTOR

9/23/2013

2", 4" & 6" WATER MAIN RELOCATION / INVOICE#

51,054.07

CP OPERATING ACC PAY ESTIMATE 1 / INVOICE# P88/1

51,054.07

APPLICATION AND CERTIFICATE FOR PAYMENT

INVOICE Page 1

To(OWNER): AVOYELLES WATER COMMISSION
1106 Cocoville Rd.
Mansura, LA 71350

Project: 2", 4" & 6" Water Main Relocat
1106 Cocoville Rd.
Mansura, LA 71350

Application No: 1
Invoice No: P88/1
Period To: 8/31/2013

From: DON M. BARRON CONTRACTOR, INC.
408 CEDAR STREET
P.O. DRAWER 399
FARMERVILLE, LA 71241

Via(Architect): URS Corporation
7389 Florida Boulevard
Suite 300
Baton Rouge, LA 70806

Architect's
Project No: CONTRACT
Invoice Date: 8/31/2013
Contract Date: 8/26/2013

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for Payment, as shown below, in connection with the Contract. Continuation Sheet is attached.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Approved previous months	0.00	0.00
Approved this month	0.00	0.00
TOTALS	0.00	0.00
Net change by change orders	0.00	

1. ORIGINAL CONTRACT SUM..... \$ 256,243.00
2. Net change by Change Orders..... \$ 0.00
3. CONTRACT SUM TO DATE(Line 1 +/- 2)..... \$ 256,243.00
4. TOTAL COMPLETED & STORED TO DATE..... \$ 56,726.75
5. RETAINAGE..... \$ 5,672.68
6. TOTAL EARNED LESS RETAINAGE..... \$ 51,054.07
(Line 4 less Line 5)
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT..... \$ 0.00
(Line 6 from prior Certificate)

8. CURRENT PAYMENT DUE..... \$ 51,054.07
9. BALANCE TO FINISH, PLUS RETAINAGE..... \$ 205,188.93
(Line 3 less Line 6)

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: DON M. BARRON CONTRACTOR, INC.

By: *Don M. Barron* Date: 9-4-13

State of Louisiana Parish of Union
Subscribed and sworn to before me this day of , 20
Notary Public:
My Commission expires at death

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED..... \$ 51,054.07
(Attach explanation if amount certified differs from the amount applied for.)

ARCHITECT: URS Corporation

By: *[Signature]* Date: 9/9/13
This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CONTINUATION SHEET

Page 2

Application Number: 1
 Application Date: 8/31/2013
 Period To: 8/31/2013
 Architect's Project No: CONTRACT

A	B	C	D	E	F	G	H	I	
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED		MATERIALS PRESENTLY STORED (Not in D or E)	TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% G/C	BALANCE TO FINISH (C-G)	RETAINAGE
			FROM PREV. APPLICATION (D+E)	THIS PERIOD					
000	CONTRACT AMOUNT	256,243.00	0.00	56,726.75	0.00	56,726.75	22	199,516.25	5,672.68
	Totals	256,243.00	0.00	56,726.75	0.00	56,726.75	22	199,516.25	5,672.68

RELOCATION OF 2", 4" 6" WATER MAIN
WARD 3 AVOUELLES WATER DISTRICT
MANSURA LA

DON M. BARRON CONTRACTOR, INC
P-0088

9/3/2013.

ESTIMATE 1

ITEM NO.	REF NO.	DESCRIPTION	UNIT	UNIT PRICE	CONTRACT QTY.	CONTRACT AMT.	THIS PERIOD QTY.	THIS PERIOD AMT.	TO DATE QTY.	TO DATE AMT.
1	201-01	CLEARING AND GRUBBING	LS	2,500.00	1	2,500.00		0.00		0.00
2	202-08	REMOVAL OF CONCRETE WALKS AND DRIVES	SY	12.00	61	732.00		0.00		0.00
3	204-06	TEMPORARY SILT FENCING	LF	3.85	500	1,925.00		0.00		0.00
4	401-01	AGGREGATE SURFACE COURSE	CY	88.00	14	1,232.00		0.00		0.00
5	706-02	CONCRETE DRIVE (6" THICK)	SY	82.00	61	5,002.00		0.00		0.00
6	713-01	TEMPORARY SIGNS & BARRICADES	LS	750.00	1	750.00		0.00		0.00
7	717-01	SEEDING	PD	3.00	75	225.00		0.00		0.00
8	718-01	FERTILIZER	PD	0.60	2000	1,200.00		0.00		0.00
9	727-01	MOBILIZATION	LS	9,795.00	1	9,795.00	0.25	2,448.75	0.25	2,448.75
10	728-01	JACKED OR BORED PIPE (6" PVC, C900 DR18)	LF	28.00	662	18,536.00	596	16,688.00	596	16,688.00
11	728-02	JACKED OR BORED PIPE (6" HDPE, C900 DR18)	LF	31.00	300	9,300.00	480	14,880.00	480	14,880.00
12	740-01	CONSTRUCTION LAYOUT	LS	2,000.00	1	2,000.00	0.25	500.00	0.25	500.00
13	S-001-01	WATER MAIN, RESTRAINED JOINT (4" PVC, C900 DR18)	LF	14.00	170	2,380.00		0.00		0.00
14	S-001-02	WATER MAIN (6" PVC, C900 DR18)	LF	16.50	5133	84,694.50	260	4,290.00	260	4,290.00
15	S-001-03	WATER MAIN, RESTRAINED JOINT (6" PVC, C900 DR18)	LF	20.00	422	8,440.00	440	8,800.00	440	8,800.00
16	S-001-04	WATER MAIN (6" HDPE, C900 DR7)	LF	19.00	255	4,845.00	480	9,120.00	480	9,120.00
17	S-001-05	GATE VALVE ASSEMBLY (6" TAPPING SLEEVE AND TAPPING VALVE ASSEMBLY)	EA	750.00	4	3,000.00		0.00		0.00
18	S-001-06	(2'X2") TAPPING SLEEVE AND TAPPING VALVE ASSEMBLY	EA	600.00	3	1,800.00		0.00		0.00
19	S-001-07	(3'X3") TAPPING SLEEVE AND TAPPING VALVE ASSEMBLY	EA	1,500.00	1	1,500.00		0.00		0.00
20	S-001-08	(4'X4") TAPPING SLEEVE AND TAPPING VALVE ASSEMBLY	EA	1,600.00	2	3,200.00		0.00		0.00
21	S-001-09	(6'X6") TAPPING SLEEVE AND TAPPING VALVE ASSEMBLY	EA	1,850.00	6	11,100.00		0.00		0.00

RELOCATION OF 2", 4" 6" WATER MAIN
WARD 3 AVOYELLES WATER DISTRICT
MANSURA LA

DON M. BARRON CONTRACTOR, INC
P-0088

9/3/2013

ESTIMATE 1

ITEM NO.	REF NO.	DESCRIPTION	UNIT	UNIT PRICE	QTY.	CONTRACT AMT.	THIS PERIOD QTY.	THIS PERIOD AMT.	TO DATE QTY.	TO DATE AMT.
22	S-001-10	TAPPING SLEEVE AND TAPPING VALVE ASSEMBLY (12X6")	EA	2,000.00	1	2,000.00		0.00		0.00
23	S-001-11	FIRE HYDRANT ASSEMBLY 3/4" WATER METER	EA	3,500.00	14	49,000.00		0.00		0.00
24	S-001-12	TRANSFER ASSEMBLY 1-1/2" WATER METER	EA	350.00	14	4,900.00		0.00		0.00
25	S-001-13	TRANSFER ASSEMBLY 2" WATER METER	EA	700.00	1	700.00		0.00		0.00
26	S-001-14	TRANSFER ASSEMBLY SAW CUTTING PORTLAND CEMENT CONCRETE	EA	800.00	2	1,600.00		0.00		0.00
27	202-09	PAVEMENT 6" HDPE TO DUCTILE IRON MECHANICAL JOINT TRANSITION	LF	7.50	263	1,972.50		0.00		0.00
28	S-001-15	6" HDPE TO PVC	EA	250.00	6	1,500.00		0.00		0.00
29	S-001-16	TRANSITION	EA	200.00	2	400.00		0.00		0.00
30	S-001-17	WATER MAIN FITTINGS 2" WATER MAIN CUT, CAP AND BLOCK	TN	7,600.00	0.39	2,964.00		0.00		0.00
31	S-001-18	3" WATER MAIN CUT, CAP AND BLOCK	EA	150.00	3	450.00		0.00		0.00
32	S-001-19	4" WATER MAIN CUT, CAP AND BLOCK	EA	200.00	1	200.00		0.00		0.00
33	S-001-20	6" WATER MAIN CUT, CAP AND BLOCK	EA	300.00	3	900.00		0.00		0.00
34	S-001-21	ABANDON EXISTING WATER MAIN	EA	500.00	9	4,500.00		0.00		0.00
35	S-001-22	REMOVE EXISTING 6" WATER MAIN	LS	1,500.00	1	1,500.00		0.00		0.00
36	S-001-23	COMPOSITE UTILITY MARKER WITH DECALS	LF	5.00	1650	8,250.00		0.00		0.00
37	S-001-24	MARKER WITH DECALS	EA	50.00	25	1,250.00		0.00		0.00
		TOTAL AMOUNT				256,243.00		56,726.75		56,726.75

2 of 2

ABC UTILITY COMPANY LETTERHEAD

September 9, 2013

STATE PROJECT NO. 052-30-0014 (CONST.)
STATE PROJECT NO. 052-30-0020 (R/W)
F.A.P. NO. STP-0504(508)
MANSURA - MARKSVILLE
ROUTE: LA 1
AVOYELLES PARISH
AGREEMENT # 14052

SUBJECT: REQUEST FOR PAYMENT INVOICE # 1

Ward 3 Water requests payment on the following attached invoices (4 originals of each) as per our agreement.

Invoice # P88 / 1, Don M. Barron Contractor, Inc. \$51,054.07

TOTAL OF INVOICES = \$51,054.07

DOTD (90.76%) = \$46,336.67

UTILITY (6.90%) = \$3,522.73

BETTERMENT (2.34%) = \$1,194.67

TOTAL REQUESTED FOR REIMBURSEMENT FROM DOTD = **\$46,336.67**

Joan DeCuir
President of Board
Avoyelles Ward 3 Water District

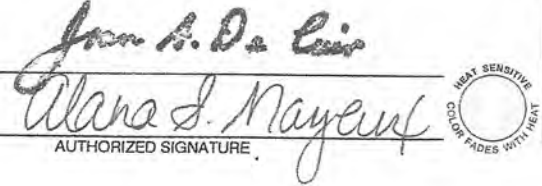
AVOYELLES WARD 3 WATER DISTRICTREVENUE FUND
1106 COCOVILLE RD - PH: 318-253-8715
MANSURA, LA 71350

10/16/2013

DON M. BARRON CONTRACTOR, INC.

**101,736.23

One Hundred One Thousand Seven Hundred Thirty-Six and 23/100*****

DON M. BARRON CONTRACTOR, INC.
ATTN: DAVID C. FARRAR
P. O. BOX 399
FARMERVILLE, LA 71241
AUTHORIZED SIGNATURE

PAY ESTIMATE 2 / INVOICE# P88/2

⑈007631⑈ ⑆065201666⑆ 40026692⑈

007631

DON M. BARRON CONTRACTOR, INC.
6070 · CONTRACTING

10/16/2013

2", 4" & 6" WATER MAIN RELOCATION / INVOICE#

101,736.23

CP OPERATING ACC PAY ESTIMATE 2 / INVOICE# P88/2

101,736.23

007631

DON M. BARRON CONTRACTOR, INC.
6070 · CONTRACTING

10/16/2013

2", 4" & 6" WATER MAIN RELOCATION / INVOICE#

101,736.23

CP OPERATING ACC PAY ESTIMATE 2 / INVOICE# P88/2

101,736.23

AND CERTIFICATE FOR PAYMENT

Ward 3 Avoyelles Water Dist.
1106 Cocoville Road
Mansura, LA 71350

Project: 2", 4" & 6" Water Main Relocat
1106 Cocoville Rd.
Mansura, LA 71350

Application No: 2
Invoice No: P88/2
Period To: 9/30/2013

From: DON M. BARRON CONTRACTOR, INC.
408 CEDAR STREET
P.O. DRAWER 399
FARMERVILLE, LA 71241

Via(Architect): URS Corporation
7389 Florida Boulevard
Suite 300
Baton Rouge, LA 70806

Architect's

Project No: CONTRACT
Invoice Date: 9/30/2013
Contract Date: 8/26/2013

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for Payment, as shown below, in connection with the Contract. Continuation Sheet is attached.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Approved previous months	0.00	0.00
Approved this month	0.00	0.00
TOTALS	0.00	0.00
Net change by change orders	0.00	

1. ORIGINAL CONTRACT SUM.....	\$ 256,243.00
2. Net change by Change Orders.....	\$ 0.00
3. CONTRACT SUM TO DATE(Line 1 +/- 2).....	\$ 256,243.00
4. TOTAL COMPLETED & STORED TO DATE.....	\$ 169,767.00
5. RETAINAGE.....	\$ 16,976.70
6. TOTAL EARNED LESS RETAINAGE..... (Line 4 less Line 5)	\$ 152,790.30
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT..... (Line 6 from prior Certificate)	\$ 51,054.07

8. CURRENT PAYMENT DUE.....	\$ 101,736.23
9. BALANCE TO FINISH, PLUS RETAINAGE..... (Line 3 less Line 6)	\$ 103,452.70

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: DON M. BARRON CONTRACTOR, INC.

By: Don M. Barron Date: 10-2-13

State of Louisiana

Subscribed and sworn to before me this 2nd day of October, 2013

Notary Public:

My Commission expires at death

Parish of Union
Joyce L. Jenkins 15547

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED..... \$
(Attach explanation if amount certified differs from the amount applied for.)

ARCHITECT: URS Corporation

By: [Signature]

Date: 10/2/13

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

WARD 3 AVOYELLES WATER DISTRICT

1106 Cocoville Road

Mansura LA 71350

October 8, 2013

STATE PROJECT NO. 052-30-0014 (CONST.)
STATE PROJECT NO. 052-30-0020 (R/W)
F.A.P. NO. STP-0504(508)
MANSURA - MARKSVILLE
ROUTE: LA 1
AVOYELLES PARISH
AGREEMENT # 14052

SUBJECT: INVOICE # 2

Ward 3 Water requests payment on the following attached invoices (4 originals of each) as per our agreement.

TOTAL PREVIOUSLY INVOICED = \$51,054.07

INVOICES THIS REQUEST

Invoice 2 – Don Barron \$101,736.23

TOTAL OF INVOICES = \$152,736.23

TOTAL INVOICED TO DATE = \$152,790.30

DUE THIS INVOICE = \$101,736.23

DOTD (90.76%) = \$92,335.80

UTILITY (06.90%) = \$7,019.80

BETTERMENT (02.34%) = \$2,380.63

TOTAL REQUESTED FOR REIMBURSEMENT FROM DOTD = \$92,335.80

SIGNATURE AND TITLE

Jean D. Lee President

AVOYELLES WARD 3 WATER DISTRICT

REVENUE FUND
1106 COCOVILLE RD - PH: 318-253-8715
MANSURA, LA 71350

84-166/652

11/14/2013

DON M. BARRON CONTRACTOR, INC.

**75,334.05

Seventy-Five Thousand Three Hundred Thirty-Four and 05/100*****

DON M. BARRON CONTRACTOR, INC.
ATTN: DAVID C. FARRAR
P. O. BOX 399
FARMERVILLE, LA 71241

PAY ESTIMATE 3 / INVOICE# P88/3

Jan A. D. L...
Alana S. Mayeuf
AUTHORIZED SIGNATURE



⑈007670⑈ ⑈065201666⑈ 40026692⑈

007670

DON M. BARRON CONTRACTOR, INC.
6070 · CONTRACTING

11/14/2013

2", 4" & 6" WATER MAIN RELOCATION / INVOICE#

75,334.05

CP OPERATING ACC PAY ESTIMATE 3 / INVOICE# P88/3

75,334.05

APPLICATION AND CERTIFICATE FOR PAYMENT

INVOICE Page 1

To(OWNER): Ward 3 Avoyelles Water Dist.
1106 Cocoville Road
Mansura, LA 71350

Project: 2", 4" & 6" Water Main Relocat
1106 Cocoville Rd.
Mansura, LA 71350

Application No: 3
Invoice No: P88/3
Period To: 10/31/2013

From: DON M. BARRON CONTRACTOR, INC.
408 CEDAR STREET
P.O. DRAWER 399
FARMERVILLE, LA 71241

Via(Architect): URS Corporation
7389 Florida Boulevard
Suite 300
Baton Rouge, LA 70806

Architect's
Project No: CONTRACT
Invoice Date: 11/5/2013
Contract Date: 8/26/2013

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for Payment, as shown below, in connection with the Contract. Continuation Sheet is attached.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Approved previous months	0.00	0.00
Approved this month	0.00	0.00
TOTALS	0.00	0.00
Net change by change orders	0.00	

1. ORIGINAL CONTRACT SUM..... \$ 256,243.00
2. Net change by Change Orders..... \$ 0.00
3. CONTRACT SUM TO DATE(Line 1 +/- 2)..... \$ 256,243.00
4. TOTAL COMPLETED & STORED TO DATE..... \$ 253,471.50
5. RETAINAGE..... \$ 25,347.15
6. TOTAL EARNED LESS RETAINAGE..... \$ 228,124.35
(Line 4 less Line 5)
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT..... \$ 152,790.30
(Line 6 from prior Certificate)

8. CURRENT PAYMENT DUE..... \$ 75,334.05
9. BALANCE TO FINISH, PLUS RETAINAGE..... \$ 28,118.65
(Line 3 less Line 6)

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: DON M. BARRON CONTRACTOR, INC.

By: [Signature] Date: 11-5-13

State of Louisiana Parish of Union
Subscribed and sworn to before me this 5th day of November, 2013
Notary Public: Joyce J Jenkins 15597
My Commission expires at death

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED..... \$ 75,334.05
(Attach explanation if amount certified differs from the amount applied for.)

ARCHITECT: URS Corporation

By: [Signature] Date: 11/12/13
This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

Ward 3 Avoyelles Water District
1106 Cocoville Rd Road Mansura LA 71350

November 30, 2013

State Project No. 052-30-0014 (Const.)
State Project No .052-30-0020 (R-W)
F.A.P. No. STP-0504(508) Mansura-Marksville Route: LA 1
Avoyelles Parish
Agreement #14052

Subject: Invoice #3

Ward 3 Avoyelles Water District requests payment on the following attached invoice (4 originals) as per our agreement.

Total previously invoiced = \$152,790.30

Invoices this request

Invoice 3- Don Barron \$75,334.05

Total of invoices= \$75,334.05

Total invoiced to date= \$228,124.35

Due this invoice= \$75,334.05


DOTD (90.76%) = \$68,373.18

Utility (06.90%) = \$5,198.05

Betterment (02.34%) = \$1,762.82

Total requested for reimbursement from DOTD = \$68,373.18

Thank you,


Joan DeCuir
President of the Board
Ward 3 Avoyelles Water District

CP OPERATING ACC PAY ESTIMATE 4 / INVOICE# P88/4

16,772.40

Project: 2", 4" & 6" Water Main Relocat
1106 Cocoville Rd.
Mansura, LA 71350

Application No: 4
Invoice No: P88/4
Period To: 12/31/2013

From: DON M. BARRON CONTRACTOR, INC.
408 CEDAR STREET
P.O. DRAWER 399
FARMERVILLE, LA 71241

Via(Architect): URS Corporation
7389 Florida Boulevard
Suite 300
Baton Rouge, LA 70806

Architect's
Project No: CONTRACT
Invoice Date: 1/3/2014
Contract Date: 8/26/2013

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for Payment, as shown below, in connection with the Contract. Continuation Sheet is attached.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Approved previous months	0.00	0.00
Approved this month	0.00	0.00
TOTALS	0.00	0.00
Net change by change orders	0.00	

1. ORIGINAL CONTRACT SUM..... \$ 256,243.00
2. Net change by Change Orders..... \$ 0.00
3. CONTRACT SUM TO DATE(Line 1 +/- 2)..... \$ 256,243.00
4. TOTAL COMPLETED & STORED TO DATE..... \$ 272,107.50
5. RETAINAGE..... \$ 27,210.75
6. TOTAL EARNED LESS RETAINAGE..... \$ 244,896.75
(Line 4 less Line 5)
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT..... \$ 228,124.35
(Line 6 from prior Certificate)

8. CURRENT PAYMENT DUE..... \$ 16,772.40
9. BALANCE TO FINISH, PLUS RETAINAGE..... \$ 11,346.25
(Line 3 less Line 6)

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: DON M. BARRON CONTRACTOR, INC.

By: [Signature] Date: 1-3-14

State of Louisiana Parish of Union
Subscribed and sworn to before me this 3rd day of January, 2014
Notary Public: [Signature]
My Commission expires at death

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED..... \$ 16,772.40
(Attach explanation if amount certified differs from the amount applied for.)

ARCHITECT: URS Corporation

By: [Signature] Date: 1/5/14
This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Assurance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

WARD 3 AVOYELLES WATER DISTRICT

1106 COCOVILLE ROAD

MANSURA LA 71350

1/18/2014

STATE PROJECT NO. 052-30-0014 (CONST.)

STATE PROJECT NO. 052-30-0020 (R/W)

F.A.P. NO. STP-0504(508)

MANSURA-MARKSVILLE

ROUTE: LA 1

AVOYELLES PARISH

AGREEMENT # 14052

SUBJECT: INVOICE # 4

Ward 3 requests payment on the following attached invoices (4 originals of each) as per our agreement.

Total Previously Invoiced = \$228,124.35

Invoice This Request

Invoice # 4 Don Barron \$16,772.40

Total of Invoices = \$244,896.75

Due this Invoice = \$16,772.40

DOTD (90.76%) = \$15,222.63

UTILITY (6.90%) = \$1,157.30

BETTERMENT (2.34%) = \$392.47

TOTAL REQUESTED FOR REIMBURSEMENT FROM DOTD = \$15,222.63

Joan DeCuir

President of Ward 3 Avoyelles Water District

AVOYELLES WARD 3 WATER DISTRICT

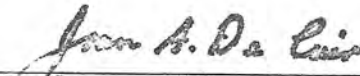


REVENUE FUND
1106 COCOVILLE RD - PH: 318-253-8715
MANSURA, LA 71350

2/26/2014

DON M. BARRON CONTRACTOR, INC.

**19,832.06

Nineteen Thousand Eight Hundred Thirty-Two and 06/100*****

DON M. BARRON CONTRACTOR, INC.
ATTN: DAVID C. FARRAR
P. O. BOX 399
FARMERVILLE, LA 71241


 AUTHORIZED SIGNATURE
 

PAY ESTIMATE 5 / INVOICE# P88/5

⑈007793⑈ ⑈065201666⑈ 40026692⑈

007793

DON M. BARRON CONTRACTOR, INC.
6070 · CONTRACTING2/26/2014
2", 4" & 6" WATER MAIN RELOCATION / INVOICE#

19,832.06

CP OPERATING ACC PAY ESTIMATE 5 / INVOICE# P88/5

19,832.06

APPLICATION AND CERTIFICATE FOR PAYMENT

INVOICE Page 1

To(OWNER): Ward 3 Avoyelles Water Dist.
1106 Cocoville Road
Mansura, LA 71350

Project: 2", 4" & 6" Water Main Relocat
1106 Cocoville Rd.
Mansura, LA 71350

Application No: 5
Invoice No: P88/5
Period To: 1/31/2014

From: DON M. BARRON CONTRACTOR, INC.
408 CEDAR STREET
P.O. DRAWER 399
FARMERVILLE, LA 71241

Via(Architect): URS Corporation
7389 Florida Boulevard
Suite 300
Baton Rouge, LA 70806

Architect's
Project No: CONTRACT
Invoice Date: 1/31/2014
Contract Date: 8/26/2013

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for Payment, as shown below, in connection with the Contract. Continuation Sheet is attached.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Approved previous months	0.00	0.00
Approved this month	37,900.12	0.00
TOTALS	37,900.12	0.00
Net change by change orders	37,900.12	

1. ORIGINAL CONTRACT SUM..... \$ 256,243.00
2. Net change by Change Orders..... \$ 37,900.12
3. CONTRACT SUM TO DATE(Line 1 +/- 2)..... \$ 294,143.12
4. TOTAL COMPLETED & STORED TO DATE..... \$ 294,143.12
5. RETAINAGE..... \$ 29,414.31
6. TOTAL EARNED LESS RETAINAGE..... \$ 264,728.81
(Line 4 less Line 5)
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT..... \$ 244,896.75
(Line 6 from prior Certificate)

8. CURRENT PAYMENT DUE..... \$ 19,832.06
9. BALANCE TO FINISH, PLUS RETAINAGE..... \$ 29,414.31
(Line 3 less Line 6)

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: DON M. BARRON CONTRACTOR, INC.

By: [Signature] Date: 2-5-14

State of Louisiana

Subscribed and sworn to before me this 5th day of February, 2014

Parish of Union

Notary Public:

My Commission expires at death

[Signature]
15547

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED..... \$
(Attach explanation if amount certified differs from the amount applied for.)

ARCHITECT: URS Corporation

By: _____ Date: _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

RELOCATION OF 2", 4" 6" WATER MAIN
WARD 3 AVOUELLES WATER DISTRICT
MANSURA LA

DON M. BARRON CONTRACTOR, INC
P-0088

2/5/2014.

ESTIMATE 5

ITEM NO.	REF NO.	DESCRIPTION	UNIT	PRICE	UNIT	QTY.	CONTRACT AMT.	THIS PERIOD QTY.	THIS PERIOD AMT.	TO DATE QTY.	TO DATE AMT.
22	S-001-10	TAPPING SLEEVE AND TAPPING VALVE ASSEMBLY (12"X6")	EA	2,000.00		0	0.00		0.00		0.00
23	S-001-11	FIRE HYDRANT ASSEMBLY 3/4" WATER METER	EA	3,500.00		14	49,000.00		0.00	14	49,000.00
24	S-001-12	TRANSFER ASSEMBLY 1-1/2" WATER METER	EA	350.00		13	4,550.00		0.00	13	4,550.00
25	S-001-13	TRANSFER ASSEMBLY 2" WATER METER	EA	700.00		0	0.00		0.00		0.00
26	S-001-14	TRANSFER ASSEMBLY SAW CUTTING PORTLAND CEMENT CONCRETE PAVEMENT	EA	800.00		3	2,400.00		0.00	3	2,400.00
27	202-09	6" HDPE TO DUCTILE IRON MECHANICAL JOINT TRANSITION	LF	7.50		0	0.00		0.00		0.00
28	S-001-15	6" HDPE TO PVC TRANSITION	EA	250.00		4	1,000.00		0.00	4	1,000.00
29	S-001-16	WATER MAIN FITTINGS	EA	200.00		8	1,600.00		0.00	8	1,600.00
30	S-001-17	2" WATER MAIN CUT, CAP AND BLOCK	TN	7,600.00		0.44	3,344.00		0.00	0.44	3,344.00
31	S-001-18	3" WATER MAIN CUT, CAP AND BLOCK	EA	150.00		0	0.00		0.00		0.00
32	S-001-19	4" WATER MAIN CUT, CAP AND BLOCK	EA	200.00		0	0.00		0.00		0.00
33	S-001-20	6" WATER MAIN CUT, CAP AND BLOCK	EA	300.00		4	1,200.00		0.00	4	1,200.00
34	S-001-21	ABANDON EXISTING WATER MAIN	EA	500.00		3	1,500.00		0.00	3	1,500.00
35	S-001-22	REMOVE EXISTING 6" WATER MAIN	LS	1,500.00		1	1,500.00		0.00	1	1,500.00
36	S-001-23	COMPOSITE UTILITY MARKER WITH DECALS	LF	5.00		1490	7,450.00		0.00	1490	7,450.00
37	S-001-24	12" HDPE BORE (140LF)	EA	50.00		25	1,250.00	25	1,250.00	25	1,250.00
38	12"		LS	19,390.62		1	19,390.62	1	19,390.62	1	19,390.62

*

62

6/16/2014

DON M. BARRON CONTRACTOR, INC.

6070 · CONTRACTING

2", 4" & 6" WATER MAIN RELOCATION / INVOICE#

29,414.31

CP OPERATING ACC PAY ESTIMATE 6 / INVOICE# P88/6

29,414.31

OWNER: WARD 3 AVOYELLES WATER DIST.
1106 Cocoville Road
Mansura, LA 71350

Project: 2", 4" & 6" Water Main Relocat
1106 Cocoville Rd.
Mansura, LA 71350

Application No: 6
Invoice No: P88/6
Period To: 4/17/2014

From: DON M. BARRON CONTRACTOR, INC.
408 CEDAR STREET
P.O. DRAWER 399
FARMERVILLE, LA 71241

Via(Architect): URS Corporation
7389 Florida Boulevard
Suite 300
Baton Rouge, LA 70806

Architect's
Project No: CONTRACT
Invoice Date: 4/17/2014
Contract Date: 8/26/2013

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for Payment, as shown below, in connection with the Contract. Continuation Sheet is attached.


CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Approved previous months	37,900.12	0.00
Approved this month	0.00	0.00
TOTALS	37,900.12	0.00
Net change by change orders	37,900.12	

1. ORIGINAL CONTRACT SUM..... \$ 256,243.00
2. Net change by Change Orders..... \$ 37,900.12
3. CONTRACT SUM TO DATE(Line 1 +/- 2)..... \$ 294,143.12
4. TOTAL COMPLETED & STORED TO DATE..... \$ 294,143.12
5. RETAINAGE..... \$ 0.00
6. TOTAL EARNED LESS RETAINAGE..... \$ 294,143.12
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT..... \$ 264,728.81
(Line 4 less Line 5)
(Line 6 from prior Certificate)

8. CURRENT PAYMENT DUE..... \$ 29,414.31
9. BALANCE TO FINISH, PLUS RETAINAGE..... \$ 0.00
(Line 3 less Line 6)

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: DON M. BARRON CONTRACTOR, INC.

By:  Date: 4/17/14


State of Louisiana
Subscribed and sworn to before me this 17th day of April, 2014
Notary Public:
My Commission expires at death


ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the above application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED..... \$ 29,414.31
(Attach explanation if amount certified differs from the amount applied for.)

ARCHITECT: URS Corporation

By:  Date: 5/21/14
This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

WARD 3 AVOYELLES WATER DISTRICT

1106 COCOVILLE ROAD

MANSURA LA 71350

PH 318 253 8517 FAX 318 2538542 EMAIL w3wav@yahoo.com

DATE January 27, 2015

STATE PROJECT NO. 052-30-0014 (CONST.)
STATE PROJECT NO. 052-30-0020 (R/W)
F.A.P. NO. STP-0504(508)
MANSURA - MARKSVILLE
ROUTE: LA 1
AVOYELLES PARISH
AGREEMENT # 14052

SUBJECT: INVOICE # 5 6 FINAL

Ward 3 Water requests payment on the following attached invoices as per our agreement. Relocation work begin on _____ and was completed on _____.

TOTAL PREVIOUSLY INVOICED = ~~\$244,896.75~~ \$294,143.12

INVOICES THIS REQUEST

Invoice 5— ~~Don Barron~~ ~~\$19,832.06~~ Basic Engineering \$45,051.71 See Change Order #2 and attached Invoices
Invoice 6— ~~Don Barron~~ ~~\$29,414.31~~ Resident Project Inspection \$4,582.18 See Change Order #2 and attached Invoices

TOTAL OF INVOICES = ~~\$49,246.37~~ \$49,663.89

TOTAL INVOICED TO DATE = ~~\$294,143.12~~ \$343,807.01

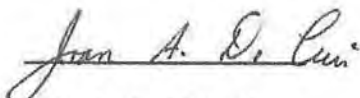
DUE THIS INVOICE = ~~\$49,246.37~~ \$49,633.89

DOTD (90.76%) = ~~\$44,696.01~~ \$45,047.72

UTILITY (06.90%) = ~~\$3,398.00~~ \$3,424.74

BETTERMENT (02.34%) = ~~\$1,152.36~~ \$1,161.43

TOTAL REQUESTED FOR REIMBURSEMENT FROM DOTD = ~~\$44,696.01~~ \$45,047.72


President of Board

UTILITY CONSTRUCTION COMPLETED AND ACCEPTED IN ACCORDANCE
WITH AGREEMENT. MAJOR ITEMS OF CONSTRUCTION COSTS BILLED
CONFORM SUBSTANTIALLY WITH PROJECT DIARY QUANTITIES.

APPROVED


DISTRICT UTILITY REP


DATE

1-29-15



**DON M. BARRON
CONTRACTOR, INC.**

408 Cedar Street
P.O. Drawer 399
Farmerville, LA 71241

Phone (318) 368-2622
FAX (318) 368-9615

3006

JOB PHONE	DATE OF ORDER 6-9-14
JOB NAME/LOCATION Lower 6" Water Service to Valley View Nursing Home Hwy 1 South, Marksville, LA	

TO Ward 3 Avoyelles Water District

1106 Cocoville Road

Mansura, LA 71350

PHONE

ORDER TAKEN BY

Larry Russell

TERMS: Due Upon Receipt

DESCRIPTION

AMOUNT

> Lower 6" water service per instructions
from Mrs. Joan Decuir

Material Cost

\$ 683 95

Labor Cost

\$ 814 20

Equipment Cost

\$ 320 00

Total Cost

\$1,818 15

Contractor Mark-up (15%)

\$ 272.72

LABOR

HOURS

RATE

AMOUNT

TOTAL MATERIAL

TOTAL LABOR

WORK ORDERED BY

DATE COMPLETED

TOTAL
LABOR

TAX

Thank You

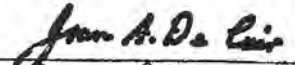

PAY THIS AMOUNT →

\$2,090 87

SIGNATURE (I hereby acknowledge the satisfactory
completion of the above described work.)

SERIAL: 7590 PROCESSDATE: 9/25/2013 AMOUNT:
\$51,054.07 SEQUENCE: 308 TRANCODE: 76

DOCUMENT IS PRINTED ON CHEMICALLY REACTIVE PAPER - THE BACK OF THIS DOCUMENT INCLUDES A TAMPER EVIDENT CHEMICAL WASH WARNING BOX

AVOYELLES WARD 3 WATER DISTRICT REVENUE FUND 1106 COCOVILLE RD - PH: 318-253-8715 MANSURA, LA 71350	COTTONPORT BANK 84-166/652	007590
		9/23/2013
DON M. BARRON CONTRACTOR, INC.		**51,054.07
Fifty-One Thousand Fifty-Four and 07/100*****		
DON M. BARRON CONTRACTOR, INC. ATTN: DAVID C. FARRAR P. O. BOX 399 FARMERVILLE, LA 71241		
PAY ESTIMATE 1 / INVOICE# P88/1		
  AUTHORIZED SIGNATURE		
⑈007590⑈ ⑆065201666⑆ 40026692⑈		

<p>Security Features:</p> <ul style="list-style-type: none">• Intuitive Fibers: Discoloration of fibers when exposed to moisture• Chemical Protection: Resistant to acids, alkalis, and solvents• Heat Sensitive: Discoloration when exposed to heat• Watermark: Visible when held up to light• Security Thread: Embedded in the paper• Color Change: Discoloration when exposed to heat• Chemical Wash: Resistant to acids, alkalis, and solvents• Color Change: Discoloration when exposed to heat	<p>Attention</p> <p>DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE</p> <p>RESERVED FOR FINANCIAL INSTITUTION USE</p> <p>ENDORSE HERE</p> <p>PAY TO THE ORDER OF</p> <p>COMMUNITY TRUST BANK</p> <p>11402758</p> <p>FOR DEPOSIT ONLY</p> <p>DON M. BARRON CONTRACTOR, INC.</p>
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DOCUMENT IS PRINTED ON CHEMICALLY REACTIVE PAPER. THE BACK OF THIS DOCUMENT INCLUDES A TAMPER EVIDENT CHEMICAL WASH WARNING BOX.

007631

10/16/2013

**101,736.23

One Hundred One Thousand Seven Hundred Thirty-Six and 23/100*****

John A. D. Cair

Alana J. Mayers
AUTHORIZED SIGNATURE

PAY ESTIMATE 2 / INVOICE# P88/2

1100763 110 106520166612 4002669211

[illegible]

Attention

- C *LOF *NSID

INDICATE ES.

ENDORSE HERE
X PAY TO THE ORDER OF
COMMUNITY TRUST BANK
11102278
FOR DEPOSIT ONLY
DON M. BARON CONTRACTOR, INC.
DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

SERIAL: 7670 PROCESSDATE: 12/9/2013 AMOUNT:
\$75,334.05 SEQUENCE: 5 TRANCODE: 76

[illegible]

DOCUMENT IS PRINTED ON CHEMICALLY REACTIVE PAPER - THE BACK OF THIS DOCUMENT INCLUDES A TAMPER EVIDENT CHEMICAL WASH WARNING BOX

REVENUE FUND
1108 COCOVILLE RD - PH: 318-253-8715
MANSURA, LA 71350

COTTONPORT BANK
84-166/652

007744

1/7/2014

DON M. BARRON CONTRACTOR, INC.

****16,772.40**

Sixteen Thousand Seven Hundred Seventy-Two and 40/100*****

DON M. BARRON CONTRACTOR, INC.
ATTN: DAVID C. FARRAR
P. O. BOX 399
FARMERVILLE, LA 71241

PAY ESTIMATE 4 / INVOICE# P88/4

John A. D. Lir
Alana J. Mayeuf
AUTHORIZED SIGNATURE

1100774411 10652016661 4002669211

[illegible]

SERIAL: 7793 PROCESSDATE: 3/6/2014 AMOUNT:
\$19,832.06 SEQUENCE: 526 TRANCODE: 76

ENDORSE HERE BY PAY TO THE ORDER OF
COMMUNITY TRUST BANK
111102758

FOR DEPOSIT ONLY
DONN HARRON COMPANY

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
RESERVED FOR FINANCIAL INSTITUTION USE

1 The security features listed below, according to industry guidelines:

Security Features:	Description of Features:
Removable Fibers	• Withdrawal of fibers from documents in the presence of the customer
Chemical Protection	• Fibers are treated with special chemicals to prevent them from being removed
Heat Sensitive Icons	• Icons change color when heated
Watermark	• Watermark is visible when held up to light
Optical Distortion Block	• Block of light is visible when held up to light
Invisible Fluorescent Images	• Images are visible when held up to light
Chemical Watermarking Icons	• Icons are visible when held up to light
Colorful Background	• Background is colorful
Product design is a combination of all of these features	

ENDORSE HERE	
X PAY TO THE ORDER OF COMMUNITY TRUST BANK 111022758	
FOR DEPOSIT ONLY DO NOT WRITE ON THIS LINE *RESERVED FOR BANK USE ONLY* 0002062	

The security features listed below, among others, identify guidelines for the use of the product.	
Security Features: Invisible Fingerprint Chemical Inhibition Heat Sensitive Screen Warning Band Microprint Original Dimensional Feature Invisible Fluorescent Image Chemical Water Warning Spot Opaque Background	Description of features: • Invisible fingerprint area, which is not visible to the naked eye, but can be detected by a special device. • Chemical inhibition, which prevents the ink from being removed by a solvent. • Heat sensitive screen, which changes color when heated. • Warning band, which is visible when the document is heated. • Microprint, which is a series of small characters that form a border around the document. • Original dimensional feature, which is a unique feature of the document. • Invisible fluorescent image, which is visible under ultraviolet light. • Chemical water warning spot, which is a small spot that changes color when the document is wet. • Opaque background, which is a solid color that is not visible through the document.

DON M. BARRON CONTRACTOR, INC.

6/16/2014

2,090.87

Two Thousand Ninety and 87/100*****

John A. D. Cair
Alana J. Moyers
AUTHORIZED SIGNATURE

INVOICE #3006

1100794311 120652016661 4002669211

ENDORSE HERE	
X PAY TO THE ORDER OF COMMUNITY TRUST BANK 111102718	
FOR DEPOSIT ONLY DOMINION BANKING CORPORATION 200000	
DO NOT WRITE IN THESE SPACES RESERVED FOR FINANCIAL INSTITUTION USE	

Security Features: Invisible Fibers Chemical Protection Heat Sensitive Inks Watermark Microprint Optical Dimensional Barcode Tamper Evident Image Chemical Heat Warning Box Camera Background @ Perforated design is a certification mark of DuPont, Inc. and Systems Association	The security features listed below, except industry guidelines Qualification of features: • Visible security markings on both sides that form a continuous pattern • Invisible security markings on both sides that form a continuous pattern • Chemical protection on both sides that form a continuous pattern • Heat sensitive inks on both sides that form a continuous pattern • Watermark on both sides that form a continuous pattern • Microprint on both sides that form a continuous pattern • Optical Dimensional Barcode on both sides that form a continuous pattern • Tamper Evident Image on both sides that form a continuous pattern • Chemical Heat Warning Box on both sides that form a continuous pattern • Camera Background on both sides that form a continuous pattern • @ Perforated design is a certification mark of DuPont, Inc. and Systems Association
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Revised 11/05

URAP Permit Required

3 Originals of Agreement

Record 1 Original Executed Agreement

in Conveyance Records of Parish location of Property

Agreement Number 14052

Permit Number 290-14052

STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
ARTICLES OF AGREEMENT
UTILITY RELOCATION AGREEMENT

STATE PROJECT NO. 052-30-0014 (CONST.)/H.001263

STATE PROJECT NO. 052-30-0020 (R/W)/H.001265

F.A.P. NO. STP-0504(508)

MANSURA - MARKSVILLE

ROUTE: LA 1

AVOYELLES PARISH

THIS AGREEMENT, made and executed in three original copies on the 9th day of May, 2012, by and between the Department of Transportation and Development, an executive department of the State of Louisiana, acting through its duly authorized representative, hereinafter called "DOTD", and Ward 3 Avoyelles Water District, authorized to do business in the State of Louisiana, with its principal domicile at 1106 Cocoville Road Mansura, LA 71350, and acting through its duly authorized undersigned representative, hereinafter called "Utility".

WITNESSETH THAT:

WHEREAS, the DOTD proposes to construct the above named project; and,

WHEREAS, the Utility owns facilities within the limits of the above named project which must be relocated or adjusted in whole or in part to facilitate construction of the above named project or for reasons of proper clearance; and,

WHEREAS, the Utility and DOTD agree to cooperate to effect the required relocation or adjustment of said facilities pursuant to LA R.S. 48:381 et. seq.;

THEREFORE, in consideration of the covenants and agreements herein contained, it is agreed by and between the Parties hereto, as follows:

ARTICLE I. Utility shall prepare a comprehensive statement of work, a detailed and itemized estimate of the cost of the work to be performed by the Utility designated as Exhibit A and necessary drawings and specifications indicating the plan of work designated as Exhibit B both of which Exhibits shall be attached hereto and made a part hereof. Said Exhibits shall provide for relocation of Utility's facilities and shall be prepared in such form and detail as to comply with all Federal and State laws, rules, regulations, orders and approvals applicable to such projects.

ARTICLE II. The applicable provisions of the Federal Highway Administration's 23 CFR 645 shall apply. Utility installations made under this Agreement shall be in accordance with the DOTD's "Standards Manual For Accommodating Utilities, Driveways, and Other Facilities on Highway Rights-of-Way," as well as other applicable provisions contained in Utility Relocation Agreement Permit Form. All provisions and standards set forth herein are incorporated and made a part of this Agreement.

Articles of Agreement – Utility Relocation Agreement
Page -2-

State Project No. 052-30-0014/H.001263

ARTICLE III. Utility does further, by these presents, subordinate in favor of the DOTD any and all right, title or interest which it has or may have by virtue of recorded deed, occupancy, use or prescription in that portion of Utility's property or right-of-way which is absorbed within the right-of-way acquired by DOTD for construction of the above named project, provided, however, that (1) where Utility's facilities are not in conflict with the construction and maintenance of above named project and are allowed to remain in place or (2) where Utility's facilities are in conflict with the construction and maintenance of above named project and Utility's facilities are removed to a location within DOTD right-of-way for the above named project, Utility shall maintain its prior rights to the extent that DOTD shall pay Utility's costs of relocation that may be required by DOTD in the future, including costs necessary for acquiring new right-of-way to accommodate such utility relocations.

ARTICLE IV. Utility agrees to effect timely completion of its work as set forth in Exhibits A and B so as to avoid undue delay to construction of above named project and to bill DOTD not later than one hundred eighty (180) days after completion of Utility's work under this Agreement in accordance with the Guide To Invoicing Procedures For Utility Relocation Projects, which Guide is incorporated herein by reference. DOTD agrees to pay Utility for so relocating or adjusting its facilities the amount for which DOTD is liable. It is understood and agreed that, unless a written extension request is received and approved, failure of Utility to submit its final bill within 180 days shall act as a waiver of payment thereof under this Agreement or in quantum meruit.

ARTICLE V. Delays

- (a) Utility shall perform its work in a timely manner and with due diligence from the effective date of the Notice to Proceed. Should Utility fail to complete its work under this Agreement by the scheduled completion date, due to Utility's failure to perform with due diligence, Utility agrees to pay DOTD liquidated damages in an amount equal to .05 percent per calendar day of Utility's estimated relocation costs, starting the 1st calendar day after Utility's scheduled completion date and continuing through Utility's actual completion date. DOTD's Chief Engineer, or his duly authorized representative, may decline the issuance of a permit to Utility where Utility is unjustifiably delinquent in completing a relocation project and shall continue to so decline until such project is completed.
- (b) Immediately upon becoming aware of any event or difficulties that might delay performance of Utility's work under this Agreement, Utility shall notify DOTD in writing. The notification must identify the event or difficulty, the reason for the event or difficulty, and the estimated period of delay anticipated.
- (c) A Notice to Proceed will be issued to Utility by the DOTD. Unless otherwise provided, the Notice to Proceed will be issued a minimum of 30 days prior to its effective date.

ARTICLE VI. The number of calendar days required to complete the work covered under this Agreement is 210 and represents the scheduled completion date.

ARTICLE VII. The method of developing relocation costs, as set forth in 23 CFR 645:

Actual Cost X Lump Sum _____

ARTICLE VIII. The estimated cost to be borne by the parties hereto is as follows:

State (DOTD) Liability	=	<u>92.54%</u> = \$ <u>439,736.50</u>
Utility Liability	=	<u>5.12%</u> = \$ <u>24,307.00</u>
Betterment (Utility's Liability)	=	<u>2.34%</u> = \$ <u>11,133.50</u>
Total Cost	=	<u>100%</u> = \$ <u>475,177.00</u>

(Appendix A includes the proposed budget for this project)

Articles of Agreement – Utility Relocation Agreement
Page -3-

State Project No. 052-30-0014/H.001263

ARTICLE IX. Utility, at its own cost and expense, shall maintain and operate its facilities and appurtenances which are relocated pursuant to this Agreement. Utility agrees to apply for and secure from DOTD a permit for Utility's facilities which remain in or are relocated within DOTD's right-of-way for above named project.

ARTICLE X. This agreement shall be binding upon the Parties hereto, their successors or assigns.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the date and year first above written.

DOTD WITNESSES:

[Signature]
[Signature]

State of Louisiana,
Department of Transportation & Development
By: [Signature]
JoAnn Kurts, P.E.
Utility Relocation Engineer 9 May 2012

UTILITY COMPANY WITNESSES:

[Signature]
[Signature]

Avoyelles Ward 3 Water
By: [Signature]
Joan Decuir,
President
Date: 12/16/2011

Alternate Procedure Approval Date: 7/27/2011
☒ Federal Aid (Participating)
☐ Federal Aid (Non-Participating)
☐ State Funded

Records and accounts available for audit at:

1106 Cocoville Road
Mansura, LA 71350

Three(3) copies of the drawings must accompany the utility permit application
Four (4) copies of the drawings must accompany the Interstate utility permit application

ENTERED IN COMPUTER FILE

Permit Number 290-14052

CONTROL 052 SECTION 30

STATE PROJECT NUMBER 052-30-0014

INITIAL AND DATE

STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
UTILITY RELOCATION AGREEMENT PERMIT

(Required by State Law)

R.S. 48:381

Rev 02/06

This permit shall be available at the site where and when work is being done.

Whereas Ward 3 Avoyelles Water District,

(Print or type name of applicant)

hereinafter termed applicant, requests a permit for the use and occupancy of the right-of-way of State

Highway No. LA-1 in Avoyelles Parish, located as follows:

from: 0.20 mile South of LA 107 and Hwy 1 in Mansura Lat: 31.0690 Long: -92.0475

to: 0.92 mile South of LA 1189 Acton Rd in Marksville Lat: 31.1042 Long: -92.0619

(in Decimal Degrees, e.g. Lat:-30.459, Long: -91.178)

for the installation, operation and maintenance of the following described project (use additional sheets as necessary):

Relocation of approximately 6,775 feet of 6" & 170 feet of 4" PVC and HPDE water line pipe along LA-1 and with three crossings of LA-1.

Estimated number of times this facility will be accessed each year after construction has been completed, including meter readings: 4

Please read all provisions prior to signing this permit.

Failure to conform to the provisions of this permit shall result in DOTD revoking said permit.

By signing this permit, the applicant acknowledges receiving a copy of all rules and regulations.

Permit is subject to the following conditions (use additional sheets as necessary):

Permit must be signed by the owner or lessee of the property.
Contractor may NOT acquire permit

(Signed)

(Printed or Typed)

Joan DeCuir
(Owner)

(Name of Person Signing Permit)

President

(Title)

1106 Cocoville Rd

(Street or P.O. Box)

Mansura, LA 71350

(City or Town)

(State) (Zip Code)

318 253 8715

(Telephone Number)

(E-mail Address - optional)

Issue Date: _____

Expiration Date: _____

APPROVED:

9 May 2012
Headquarters Utility Relocation Engineer / Date

HEADQUARTERS

DISTRICT

PERMITTEE

FIRST: That, the rights and privileges granted herein shall be nonexclusive and shall not be construed to be any broader than those expressly set out in Acts of the Legislature of the State of Louisiana, regardless of the language used in this permit and that any facilities placed on the highway right-of-way shall be placed in accordance with existing laws and the standards of the Department.

SECOND: That, all facilities thereto, after having been erected, shall at all times be subject to inspection and the right is reserved to require such changes, additions, repairs, relocations and removal as may at anytime be considered necessary to permit the relocation, reconstruction, widening and maintaining of the highway and to provide proper and safe protection to life and property on or adjacent to the highway, or in the interest of safety to traffic on the highway, subject to the terms of any existing or future Utility Agreement(s) with the Department.

THIRD: That, the proposed facilities or their operation or their maintenance shall not unreasonably interfere with the facilities or the operation or maintenance of the facilities of other persons, firms or corporations previously issued permits of use and occupancy, and the proposed facilities shall not be dangerous to persons or property using or occupying the highway or using facilities constructed under previously granted permits of use and occupancy; and that the Department's records of prior permits are available, it being the duty of the applicant to determine the existence and location of all facilities within the highway right of way.

FOURTH: That, installations within the highway right-of-way shall be in accordance with applicable provisions contained in the following: AASHTO Guide for Accommodating Utilities within Highway Right of Way, Code of Federal Regulations 23 (CFR 23), National Electrical Safety Code C2, 1996 Federal Telecommunications Act. Those facilities not included in the above mentioned documents shall be in accordance with accepted practice. Where standards of the Department exceed those of the above cited codes, the standards of the Department shall apply. The Department reserves the right to modify its policies as may be required if conditions warrant.

FIFTH: That, data relative to the proposed location, relocation and design of fixtures or appurtenances as may be required by the Department shall be furnished to the Department by the applicant, and that the applicant shall make any and all changes or additions necessary to make the proposed facilities thereto satisfactory to the Department, subject to the terms of any existing or future Utility Agreement(s) with the Department.

SIXTH: That, cutting and trimming of trees, shrubs, etc., shall be in accordance with the Department's EDSM IV.2.1.6 and Vegetation Manual, as revised.

SEVENTH: When and so long as the facilities involved in this permit are used for interstate commerce, this permit is conditioned on there being in force a certificate of convenience and necessity issued by the Federal Energy Regulatory Commission, or such other Federal Agency as may be so authorized by Congress, to the applicant and upon the applicant's compliance with all terms of such certificate and the orders issued in connection therewith.

EIGHTH: That, the applicant agrees to defend, indemnify, and hold harmless the Department and its duly appointed agents and employees from and against any and all claims, suits, liabilities, losses, damages, costs or expenses, including attorneys' fees sustained by reason of the applicant's negligence, gross negligence, or willful misconduct in the exercise of this permit.

NINTH: That, the applicant is the owner of the facility for which a permit is requested, and is responsible for maintenance of such: and any permit granted by the Department is granted only insofar as the Department had the power and right to grant the same.

TENTH: That, any permit granted by the Department is subject to revocation at any times subject to the terms of any existing or future Utility Agreement(s) with the Department.

ELEVENTH: That, signing for warning and protection of traffic in instances where workmen, equipment or materials are in close proximity to the roadway surfacing, shall be in accordance with requirements contained in the Department's Manual on Uniform Traffic Control Devices. No vehicles, equipment and/or materials shall operate from, or be parked, stored or stock piled on any highway, median, or in an area extending from the outer edge of the shoulder of the highway on one side to the outer edge of the shoulder of the highway on the opposite side or in the median of any divided highway.

TWELFTH: That, all provisions and standards contained herein relative to the installation of utilities shall apply to future operation, service and maintenance of utilities, subject to the terms of any existing or future Utility Agreement(s) with the Department.

THIRTEENTH: That, drainage in highway side and cross ditches must be maintained at all times. The entire highway right of way affected by work under a permit must be restored to as good a condition as existed prior to beginning work to the complete satisfaction of the Department's R/W Permit Engineer.

FOURTEENTH: Any non-metallic or non-conductive underground facility must be installed with a non-corrosive metallic wire or tape placed directly over and on the center of the facility for its entire length within highway right-of-way. Wire or tape must be connected to all facilities.

FIFTEENTH: Prior to performing any excavations, the applicant is required to call Louisiana One Call. If installing any underground facilities such as cable or conduits, the applicant must be a member of Louisiana One Call.

STANDARDS FOR THE INSTALLATION OF PIPELINES ON STATE HIGHWAYS

A. GENERAL

- (1) All materials and workmanship shall conform to the requirements of the applicable industry code and to Department specifications.
- (2) All safety precautions for the protection of the traveling public must be observed. Undue delay to traffic will not be tolerated.
- (3) All excavations within the limits of the right-of-way shall be backfilled and tamped in six inch layers to the density of the adjacent undisturbed soil. Where sod is removed or destroyed, it shall be replaced. Where it is necessary to make excavations in the shoulder, the top six inches of backfill shall be sand-clay gravel or equivalent. Where existing spoil material is, at the discretion of the Department, unsuitable for backfill, select material shall be furnished in lieu thereof and the existing material disposed of by approved methods.
- (4) Protruding valves and other above ground appurtenances shall not be installed at any point within the right of way of the highway except for vents, markers, etc., which may be installed at the right-of-way line, unless specifically approved herein.

B. PARALLEL TO THE HIGHWAY (All provisions of general standards to apply.)

- (1) Pipelines paralleling the highway: (a) shall occupy the last few feet of the right-of-way back of the ditch except where upon showing of actual necessity a permit is issued for another location; (b) shall have a minimum earth cover of twenty-four (24) inches; (c) shall have a minimum clearance of twenty-four (24) inches below existing or proposed drainage structures, where possible.
- (2) Utilities paralleling the highway are limited to distribution facilities.

C. CROSSING THE HIGHWAY (All provisions of general standards apply.)

- (1) Uncased pipelines may be permitted, provided the conditions outlined in E.D.S.M. IV 2.1.9 are met.
- (2) If the permittee elects to use casing, it must extend from right of way to right-of-way, and be properly vented and marked at or beyond the right of way line.
- (3) For cased pipelines, the casing shall have at least four (4) feet of cover below the roadway and two (2) feet of cover below ditches or drainage structures. Uncased pipelines shall have at least five (5) feet and three (3) feet of cover respectively.
- (4) Crossings shall be made at as nearly right angles to the highway as possible. No existing drainage structure under the highway may be used for this purpose.
- (5) Construction methods used shall be in accordance with the following requirements:

A. Cutting the surface or tunneling under it is specifically prohibited.

- B. Installation shall be made either by boring or jacking under and through the highway at least from ditch bottom to ditch bottom. In the absence of ditches, or along sections of highway with curb or gutter, boring or jacking shall extend beyond the outside edge of the traveled way to a point at least equal to three (3) times the vertical difference between the elevation of the roadway surfacing and the elevation of the top of the cable. Where width of right-of-way is insufficient to enable compliance with this requirement or where it is necessary to make a connection to an existing parallel facility which precludes compliance, the distance shall be to the right of way line or to the parallel facility. Any voids or overbreaks resulting from this shall be backfilled with grout consisting of a cement mortar or a slurry of fine sand or clay, as conditions require. Excavating an open ditch to the edge of the pavement and boring and jacking the remainder of the distance is prohibited. Jacking and boring shall be done in accordance with Section 728 of the La. Standard Specifications for Roads and Bridges, latest edition.

D. REMOVAL AND ABANDONMENT OF UTILITY FACILITIES

- (1) All facilities installed within state highway right-of-way shall be removed and disposed of by their owner as soon as they stop serving a useful purpose. Facilities may be abandoned under the following circumstances.
- A. Pipelines and casings crossing highways or other hard surfaces may be abandoned in place, with the recommendation of the district utility and permit specialist and the project engineer, and with the approval of the headquarters utility and permit engineer.
 - B. Pipe lines and casings installed along highways, may be abandoned in place, with the recommendation of the district utility and permit specialist and the project engineer, and with the approval of the headquarters utility and permit engineer, provided that they are less than 6 inches in diameter, or that they are buried with more than 8 feet of cover.
 - C. Electrical and communication facilities installed within a casing, and crossing under highways or other hard surfaces may be abandoned in place with the recommendation of the district utility and permit specialist and the project engineer, and with the approval of the headquarters utility and permit engineer, provided that the cable is removed from the casing.
 - D. Uncased cables crossing under highways or other hard surfaces may be abandoned in place provided that they are removed to a point as near to the edge of the highway as feasible.
 - E. Electrical and communication cables installed along highways may be abandoned in place, with the recommendation of the district utility and permit specialist and the project engineer, and with the approval of the headquarters utility and permit engineer, provided that they are less than 4 inches in diameter, or that they are buried with more than 8 feet of cover.
 - F. All above ground facilities installed along state highways shall be removed and disposed of by their owner as soon as they stop serving a useful purpose.
 - G. Facilities that are located so that their removal would be likely to result in damage to the highway, or to other facilities, may be abandoned in place, with the recommendation of the district utility and permit specialist and the project engineer, and with the approval of the headquarters utility and permit engineer. The procedure for abandoning these facilities will be specified on a case-by-case basis; however, in general, sections shall be removed where possible, and all remaining lines shall be filled with grout.
- (2) Where it is not possible nor feasible to remove pipelines and/or casings under existing highways, such pipelines and/or casings may be abandoned in place provided removals shall be accomplished by the owner, as near to the highway on each side as possible and in all cases, beyond existing ditches to right-of-way lines, and further provided that all pipelines and/or casings abandoned under the highway shall be abandoned in accordance with D.O.T. Title 49 (i.e., pipelines are purged, capped, and filled with grout; note that when highway construction will remove the line in the near future, the DOTD's project engineer may approve the use of water in place of grout).
- (3) Pipelines and cables shall be removed from abandoned casings where possible.
- (4) In all cases the highway right-of-way shall be repaired, at the permittee's expense, to match DOTD standards. An approved backfill material shall be used to fill in any trenches or low areas, and shall be compacted to the same density as the surrounding soil. Any desirable trees or shrubs that are damaged shall be replaced, and any other damages (i.e. to subsurface drainage, traffic signs, etc.) shall be repaired.
- (5) Companies who fail to comply with this by leaving their facilities within highway right-of-way after they are no longer used, or by not repairing the right-of-way after removing their facilities, shall not receive any permits until the situation is rectified.
- (6) In cases where the DOTD decides that it is necessary to remove a facility and/or to repair highway right-of-way damaged by a utility or the utility's facility, the company shall be invoiced for costs to the DOTD for removing abandoned facilities, or for repairing damaged right-of-way. Unpaid invoices shall be referred to DOTD's accounting section for further action.
- (7) Note that a recommendation for abandonment by the project engineer is required only on construction projects. The district construction engineer should be consulted by the district utility and permit specialist when an abandonment may cause a potential problem with future construction. The district maintenance engineer should be consulted by the district utility and permit specialist when an abandonment may cause a potential maintenance problem.
- (8) The owner of the abandoned facilities shall maintain full responsibility for any future problems caused by the facilities, and shall remove the facilities upon receiving a written request from the DOTD. The cost of removing these facilities shall be borne by the owner, and the DOTD shall assume no liability for this cost.

STANDARDS FOR THE INSTALLATION OF SUPPLY AND COMMUNICATION LINES ON STATE HIGHWAYS

- A. All pole lines shall occupy the last few feet of the right-of-way behind the ditch but shall be no further from the right-of-way line than one-half of the width of the cross-arms plus one foot, except where upon a showing of actual necessity a permit is issued for another location.
- B. A minimum vertical clearance of twenty (20) feet shall be maintained between the traveled surface of the highway and any aerial installation. In no case shall the vertical clearance for an overhead utility line be less than the clearance required by the National Electrical Safety Code. A minimum clearance of sixteen (16) feet shall be maintained between existing ground elevation and any aerial installation when such installation is within highway right-of-way but does not cross the traveled surface of a highway.
- C. Where supply and/or communication lines are placed underground, the standards for pipelines shall govern. Underground electric facilities must have at least four (4) feet of cover and must be encased when crossing a highway. These facilities must also be adequately marked by appropriate signs at specified locations.

HEADQUARTERS

DISTRICT

PERMITTEE



Kirk P. LaCour
Attorney at Law



September 25, 2023

By Electronic Mail To:

smith@tunica.org

jsnow@tunica.org

jonathan@jtgaspardlaw.com

rjohnson@tunica.org

robertjohnsonlaw@att.net

Tunica-Biloxi Tribal Court
150 Melacon Road
Marksville, LA 71350


**RE: Avoyelles Water Commission V. Ward 3 Waterworks District
Docket: 2023-006**

To the Honorable Clerk of the Tunica-Biloxi Tribal Court:

Please find attached the *Pre-trial Memorandum* submitted by Ward 3 Avoyelles Waterworks District regarding the above captioned and numbered matter.

Please let me know if you need any additional information to file this matter into this matter and confirm filing of same.

Respectfully,


Kirk P. LaCour
Attorney at Law

KPL/hrs
Enclosures

Mailing: P.O. Box 188, Mansura, Louisiana 71350
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Office Hours by Appointment Only



JONATHAN T. GASPARD
ATTORNEY AT LAW

September 25, 2023

Tunica Biloxi Tribe Clerk
150 Melacon Road
Marksville, Louisiana 71351

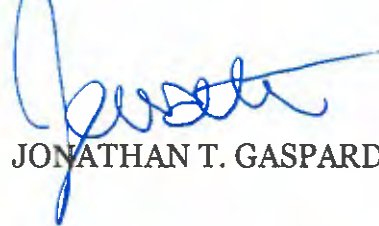
**Re: Avoyelles Water Commission
Versus Ward 2 Waterworks District
Suit# 2023-006
File# 2254**

Dear Clerk:

Enclosed herein please find a *Pre-Trial Memorandum* submitted for filing regarding the above captioned matter.

With best wishes and kindest personal regards, I remain

Very truly yours,



JONATHAN T. GASPARD

JTG/ab
Enclosures

SUIT # 2023-006

AVOYELLES WATER COMMISSION	TUNICA-BILOXI TRIBAL COURT
VERSUS	PARISH OF AVOYELLES
WARD 3 WATERWORKS DISTRICT	STATE OF LOUISIANA
FILED: _____	BY: _____

PRE-TRIAL MEMORANDUM

MAY IT PLEASE THE COURT:

WITNESSES:

I. Penn A. Lemoine

Facts and circumstances of the creation of Avoyelles Water Commission and the ownership of the water line and appurtenances in question.

II. John H. Lemoine

Facts and circumstances of the creation of Avoyelles Water Commission and the ownership of the water line and appurtenances in question.

EXHIBITS:

- I. Intergovernmental Agreement recorded at COB A-632, page 432, records of Avoyelles Parish.
- II. Water Purchase Agreement between City of Marksville and Tunica Biloxi.
- III. Any exhibits introduced by any other party.

FACTS & LAW:

AVOYELLES WATER COMMISSION shows that it owns the twenty-four (24”) inch waterline from Wal-Mart in Marksville, Avoyelles Parish, Louisiana, to the water tower on Highway 1. **AVOYELLES WATER COMMISSION** shows that it has the legal authority to operate and maintain the twenty-four (24”) inch waterline and any and all extensions connected thereto in between these two points. Petitioner further shows that the twenty-four (24”) inch line feeds the watermain in question.

AVOYELLES WATER COMMISSION shows that the legal authority is derived via an Intergovernmental Agreement executed by the Avoyelles Parish Police Jury, the **AVOYELLES WATER COMMISSION**, the City of Marksville and **WARD 3 WATERWORKS DISTRICT** filed on January 24, 2013 and recorded at COB A-632, page 432. Petitioner specifically shows that page 3 of 8, subsection E provides as follows, to wit:

All parties hereto agree and acknowledge that the AWC will own, operate and maintain the newly constructed 24 inch main from Wal-Mart to the Marksville water tower on Highway 1 after the completion of the abandonment of the 12 inch main and the construction of the aforementioned section of the Water System.

Employees and/or representative of the **WARD 3 WATERWORKS DISTRICT** have entered upon the water main located at the intersection of Slim Lemoine Road and Louisiana Highway 1, directly across from McDonald’s and changed the lock to said water main. The employees and/or representatives of the **WARD 3 WATERWORKS DISTRICT** have refused to allow employees and/or representatives of the **AVOYELLES WATER COMMISSION** to enter into the fenced-in area which contains the water main.

The water main in question is within the territorial jurisdiction of the Tunica-Biloxi Tribe of Louisiana. The property in question is also owned by the Tunica-Biloxi Tribe of Louisiana, a federally recognized Native American Tribe.

WARD 3 WATERWORKS DISTRICT is in direct contravention of the law and the previously entered into Intergovernmental Agreement which included **AVOYELLES WATER COMMISSION** petitioner as well as the defendant. The actions of the **WARD 3 WATERWORKS DISTRICT** is a violation of the sovereignty of the Tunica-Biloxi Tribe of Louisiana as the water main is located on tribal property and within the territorial jurisdiction of a sovereign nation.

WARD 3 WATERWORKS DISTRICT has no ownership interest in the water main in question. **Ward 3 WATERWORKS DISTRICT** has no authority to restrict access to the water main in question as the property is owned by the Tunica-Biloxi Tribe of Louisiana.

CONCLUSION:

WARD 3 WATERWORKS DISTRICT should be enjoined from the water main in question and should be enjoined from accessing or restricting access to said water main.

RESPECTFULLY SUBMITTED BY:

THE GASPARD LAW FIRM

BY: 

JONATHAN T. GASPARD
ATTORNEY AT LAW
BAR ROLL # 27474
P.O. BOX 546
MARKSVILLE, LA 71351
PHONE (318) 240-7329

**ATTORNEY FOR THE AVOYELLES
WATER COMMISSION**

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing *Pre-Trial Memorandum* has been forwarded to all counsel of record, via email, on this _____ day of _____, 2023.


Jonathan T. Gaspard

TUNICA – BILOXI TRIBAL COURT

AVOYELLES WATER COMMISSION	*	CASE NO: 2023-006
	*	
VERSUS	*	HON. JUDGE ROBERT JOHNSON
	*	PARISH OF AVOYELLES
	*	
WARD 3 AVOYELLES	*	STATE OF LOUISIANA
WATERWORKS DISTRICT	*	

PRETRIAL MEMORANDUM

NOW INTO COURT, through undersigned counsel, comes the Defendant and Petitioner in Reconvention, Ward 3 Avoyelles Waterworks District, for the purpose of filing this pre-trial memorandum.

The trial is scheduled for October 3, 2023. A pre-trial conference with the judge was held on September 18, 2023, and another pre-trial conference with the judge will likely be held prior to the trial. This pre-trial memorandum is due on September 25, 2023.

The trial is estimated to be a bench trial.

ATTORNEYS:

ATTORNEY FOR THE PLAINTIFF AND DEFENDANT IN RECONVENTION, AVOYELLES WATER COMMISSION

The Gaspard Law Firm
Jonathan T. Gaspard, Esq.
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313 N. Main Street
Marksville, LA 71351
jonathan@jtgaspardlaw.com

ATTORNEY FOR THE DEFENDANT IN RECONVENTION, CITY OF MARKSVILLE

No appearance as of the writing of this Memorandum

ATTORNEY FOR THE DEFENDANT AND PLAINTIFF IN RECONVENTION, WARD 3 AVOYELLES WATERWORKS DISTRICT

KPL-Law
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Mansura, LA 71350
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kirk.lacour@kpl-law.com

PRELIMINARY STATEMENT / INTRODUCTION

This matter is before this Honorable Court through a Petition for Injunction filed by Avoyelles Water Commission (“AWC”) against Ward 3 Avoyelles Waterworks District (“Ward 3”) because AWC asserts that they own a certain 12-inch potable water line (the “Casino Line”) that is connected to the AWC 24-inch main potable water transmission line (the “Main Line”) that lies in a right of way on the south side of Louisiana Highway 1. Ward 3 has been controlling, possessing, operating, and utilizing the Casino Line for more than thirty (30) years to provide potable water to their customers. Now, with no cause or evidence to support their assertions, AWC, on behalf of the City of Marksville (the “City”), seeks to prevent Ward 3 from securing a fenced area located in a right-of-way controlled by Ward 3 where the Casino Line comes out of the ground and a Ward 3 water meter is attached (the “Secure Area”), and AWC, as asserted by their attorney, wishes to

remove Ward 3's water meter located in the Secure Area and allow the City to place their water meter on this line, thus depriving Ward 3 of their right to sell water to their customers.

As such, Ward 3 has asserted a reconventional demand (or a counterclaim) against AWC and the City, seeking that this Honorable Court issue an injunction preventing AWC and the City from accessing the Secure Area and preventing them from changing the water meter located within the Secure Area. As shall be more fully set forth with evidence at a trial on this matter, and as will be more fully explained herein, Ward 3 will prove that Louisiana Water Company ("LAWCO") originally owned the Casino Line because LAWCO installed the Casino Line in or around 1993 to provide the newly built Grand Casino Avoyelles with potable water service. The Casino Line was tapped into LAWCO's 12-inch main transmission line. LAWCO transferred the right to sell potable water to the Casino and donated the Casino Line to Ward 3 on or about September 16, 1994. Ward 3 has maintained possession as the universal successor of LAWCO for almost twenty-nine years. Additionally, in or around August 9, 2013, Ward 3 entered into a contract with Don M. Barron, Contractor, for the replacement and improvement of the Casino Line, and Ward 3 paid for the upgrades to the Casino Line. For these reasons, Ward 3 asserts ownership of the Casino Line and asserts that Ward 3 only has the right to have a water meter on the Casino Line, and as such, neither AWC nor the City has any right to tamper with or access the Casino Line.

STATEMENT OF THE CASE / STATEMENT OF FACTS

On or about August 8, 1967, through Act of Sale with Mortgage Number 220851, Paul J. Dominique purchased 66.95 acres from Robert S. Neitzel located in Ward 3 of Avoyelles Parish.¹ At some point after purchasing this land, Paul J. Dominique built and operated "Dominique's Cow Palace" on a portion of this land located on the east side of Coulee des Grues in Ward 3 of Avoyelles Parish. On September 13, 1967, Paul J. Dominique granted a right of way to the Louisiana Department of Highways for the construction and passage of "Route La 1".

Ward 3 is a rural water district established by the Avoyelles Parish Police Jury under the provisions of La. R.S. 33:3811 to provide potable water to Avoyelles Parish businesses and residents located in Ward 3 of Avoyelles Parish.² On or about May 4, 1974, Paul J. Dominique granted Ward 3 a perpetual right of way and easement "in, over, under, and upon" the property of Dominique's Auction Barn "with the right to erect, construct, install, and lay, and thereafter use, operate, and inspect, repair, maintain, replace, and remove water pipelines and appurtenant facilities, together with the right of ingress and egress over adjacent land for the purpose mentioned". "The width of said easement shall be not less than 10' from the road right-of-way."

On December 29, 1992, Paul J. Dominique sold the Dominique Cow Palace land to Grand Casino, Inc., subject to the rights-of-way and servitudes granted against the land.³ Ward 3 continued to operate a water line running under Slim Lemoine Road in this right of way that terminated at the Eastern Bank of Coulee des Grues. This water line, which initially provided potable water to Dominique's Cow Palace, also was the initial water line providing potable water to Burger King, located on the Grand Casino Property, and to Grand Casino Avoyelles. Grand Casino Louisiana, Inc. donated the land they purchased from Paul J. Dominique to the United States of America through the United States Department of Interior Bureau of Land Management to be held in trust for the Tunica-Biloxi Tribe of Louisiana⁴. This donation was also subject to the servitudes, easements, and rights-of-way burdening the property. After the donation of this land by Grand Casino Louisiana, Inc. to the United States, the Tribe continued to honor this right of way.

¹ See Act of Mortgage Sale between Robert S. Neitzel and Paul J. Dominique, et. ux. dated August 13, 1967 and filed into the records of the Avoyelles Parish Clerk of Court on or about August 8, 1967 at COB A225 Page 861 and now referenced as Instrument Number 1967-00220858.

² Currently, Ward 3's district consists of the entirety of Ward 3 except for the municipality of Mansura and a portion of LAWCO's water customers located in Ward 3's territorial jurisdiction. However, these exceptions are properly authorized and agreed upon exceptions. Specifically, Ward 3's jurisdiction consists of all of Avoyelles Parish Ward 3, less and except the following: (a) the Town of Mansura and (b) the property located within 250 feet on each side of the centerline of the Mansura-Hessmer Highway (State Route 114) from the Ward Line separating Wards 3 and 4 to the corporation limits of the Town of Mansura. (the "Ward 3 Service Area").

³ See Cash Deed between Paul J. Dominique to Grand Casino Louisiana, Inc., filed into the records of the Avoyelles Parish Clerk of Court on or about December 29, 1992 at COB A402 Page 391 and referenced as Instrument Number 1993-00937868.

⁴ See Act of Donation from Grand Casino Louisiana, Inc. to United States filed in the records of the Clerk of Court for Avoyelles Parish dated November 17, 1993, and filed at COB A409 Page 391 and referenced as Instrument Number 1993-00937868.

On June 19, 1989, LAWCO entered into an agreement with the Avoyelles Industrial District, the Avoyelles Parish Police Jury, and Ward 3 to operate a water system in Avoyelles Parish, part of which consisted of a 12-inch water main that was to be run on the south side of La. Hwy 1 from Mansura to Marksville.⁵ Then, on or about September 16, 1994, LAWCO entered into an agreement with Ward 3 and the Avoyelles Parish Police Jury wherein Ward 3 grants LAWCO the right to sell water to customers along La. Hwy 1 and LAWCO grants Ward 3 the right to connect their 12-inch line to the LAWCO water main to sell water to the casino.⁶ The 12-inch line that is referenced in this document is the Casino Line that is in dispute herein.

Ward 3 has possessed and controlled the Casino Line without disruption since the agreement with LAWCO, and before. Ward 3 asserts ownership of the Casino Line either ownership of the Casino Line was vested in Ward 3 from LAWCO or the Avoyelles Parish Police Jury, or through acquisitive prescription. Ward 3, as a universal successor of LAWCO to the Casino Line, has constructively possessed, maintained, and operated the Casino Line for more than 30 years. In these 30 years, neither the Avoyelles Parish Police Jury, AWC, the City, or the Tribe has made any claim to ownership of the Casino Line. Ward 3's possession of the Casino Line has never been disturbed.

In addition to the agreement with LAWCO and the fact that Ward 3 has enjoyed undisturbed possession of the Casino Line as LAWCO's universal successor, on or about August 9, 2013, in conjunction with the installation of AWC's Main Line and the La. DOTD Hwy 1 Widening Project, Ward 3 entered into a contract with Don M. Barron, Contractor, to replace the Casino Line by boring under La. Hwy 1 and installing a new 12-inch pipe as the Casino Line.⁷ As part of the DOTD Project, the Avoyelles Parish Police Jury agreed to pay the engineering costs of this line, but Ward 3 paid for the work to change the Casino Line.⁸

Now, AWC, on behalf of the City of Marksville, according to AWC's representatives, asserts ownership of the Casino Line. However, AWC and the City have not produced any evidence to support this assertion. In fact, the City, knowing they have no right to make any assertions of ownership, did not join as a party plaintiff in this matter. Only after AWC's representatives in status conference calls indicated that the sole purpose of this litigation was to allow the City to access the Casino Line so they could remove Ward 3's water meter and replace it with their water meter did Ward 3 file a reconventional demand naming the City and an interested party in this matter.

Finally, Ward 3's jurisdiction and customers are federally protected under 7 U.S.C. §1926(b) because, on December 5, 2017, Ward 3 issued a \$2,298,000 water Revenue Bond (the "Bond") payable to the United States Department of Agriculture ("USDA"). This Bond is payable over a forty (40) year period and is effective until December 5, 2057. Ward 3 makes regular payments in the amount of \$8,021.00 each month, and Ward 3 is not in default. Therefore, the Ward 3 Service Area is federally protected under applicable federal law.

The Tribe's properties, including Paragon Casino, the Paragon Casino RV Park, and Tamaka Trails Golf Course, are geographically located within the federally protected Ward 3 Service Area. As such, the City nor the Avoyelles Police Jury, as municipalities of the State of Louisiana, have any right to encroach upon the Ward 3 Service Area. The Tribe, as a sovereign nation, certainly has the right to purchase water from any entity that it wishes; however, that right does not give AWC or the City the right to assert ownership of Ward 3's property and infrastructure.

POSSIBLE STIPULATIONS

Based on the information presented and discussed between the Parties to date, Ward 3 agrees to the following stipulations:

⁵ See Agreement and Maps filed into the records of the Avoyelles Parish Clerk of Court on or about June 19, 1989 at COB 370 Page 360 and referenced as instrument number 1989, 0089366.

⁶ See Agreement filed into the records of the Avoyelles Parish Clerk of Court on or about September 16, 1994 at COB 409 Page 371 and referenced as Instrument Number 1994-00946365.

⁷ See Agreement between Don M. Barron and Ward 3 Avoyelles Waterworks District filed into the records of the Avoyelles Parish Clerk of Court on or about August 9, 2013, at COB A731 Page 552 and referenced as Instrument Number 2013-0006862.

⁸ Ward 3 will be submitting invoices and cancelled checks evidencing Ward 3's payment for the installation of the new 12" water line under La. Hwy 1.

- Any and all right-of-way Ward 3 right-of-way agreements over the Tribe's property are considered valid and in full force and effect for the purposes of this litigation.
- 7 U.S.C. §1929(b) is applicable to Ward 3's Service Area.
- AWC is the sole owner of the 24-inch Main Line that runs on the south side of Louisiana Highway 1.
- The agreement referenced in the Petitioner's complaint referenced as an "Intergovernmental Agreement executed by the Avoyelles Parish Police Jury, the Avoyelles Water Commission, the City of Marksville, and Ward 3 Waterworks District filed on January 24, 2013, and recorded at COB A-632, page 432" is true and correct and ownership of the 24-inch Main Line that runs on the south side of Louisiana Highway 1 belongs to AWC.

CONTESTED ISSUES OF FACT AND LAW

AWC asserts that the AWC 24-inch Main Line is located within the Secure Area, this is patently false and, potentially, a deliberate misrepresentation to the Court. The AWC 24-inch main line runs on the south side of La. Hwy 1 only. A 12-inch line, the Casino Line, like other lines for the car wash, the nursing home, and other entities served by Ward 3, taps into the AWC 24-inch Main Line to provide potable water service to Ward 3 customers.

Ward 3 has the right to lock the Secure Area and prevent AWC and the City from accessing the Secure Area. To properly decide this matter, the question of ownership of the water line secured in the Secure Area as well as ownership of any rights-of-way applicable to the Secured Area must be determined to decide who has the right to access the Secure Area.

AWC and the City allege that if Ward 3 locks the Secure Area and prevents their access that they will experience irreparable harm because then the City cannot remove Ward 3's water meter from the Casino Line and replace it with the City's water meter. The City, nor AWC, owns the Casino Line nor do they have any right of access to the Secure Area. Therefore, they cannot experience irreparable harm when they do not have any legal right to access the Secure Area and they do not own the Casino Line.

Ward 3 will experience irreparable harm if this Honorable Court allows AWC and the City to access the Secure Area and the Casino Line. Representatives for the City expressly stated to the Court that they intend to access Secure Area to remove Ward 3's water meter from the Casino Line and replace it with the City's water meter. This would deprive Ward 3 from the use and control of the Casino Line, which is solely owned by Ward 3. This would infringe upon Ward 3's federally protected Service Area. The would prevent Ward 3 from accessing Ward 3's right-of-way. All of which would be caused by parties that have no legal right to access the property and who have no ownership rights in the water line.

PRELIMINARY ARGUMENT AND POTENTIALLY APPLICABLE LAW

- I. **THIS HONORABLE COURT LACKS THE SUBJECT MATTER JURISDICTION REQUIRED TO DECIDE THE KEY ISSUE IN THIS MATTER; SPECIFICALLY, WHO OWNS THE 12-INCH POTABLE WATER LINE THAT TAPS INTO THE 24-INCH WATER MAIN OWNED BY AVOYELLES WATER COMMISSION THEN RUNS UNDER LOUISIANA HIGHWAY 1 AND EXITS THE GROUND NEAR THE NORTHWESTERN AREA OF THE INTERSECTION OF LOUISIANA HIGHWAY 1 AND SLIM LEMOINE ROAD BECAUSE THE 12 INCH POTABLE WATER LINE ORIGINATES OUTSIDE OF THE LANDS OF THE TUNICA-BILOXI TRIBE OF LOUISIANA AND THE MAJORITY OF THIS WATER LINE LIES OUTSIDE OF THE LANDS OF THE TUNICA-BILOXI TRIBE OF LOUISIANA.**

One of the primary questions presented to this Honorable Court is what entity: AWC, the City, or Ward 3 has the right to access the secure area where the Casino Line exits the ground in the northwestern portion of the intersection of La. Hwy 1 and Slim Lemoine Road. To answer this question, the Court must determine who owns the Casino Line and who, if anyone, has been granted the right of access to this property.

Subject matter jurisdiction refers to a court's legal authority to hear and determine a particular class of actions or proceedings based upon the object of the demand, the amount in dispute, or the value of the right asserted.⁹

The Trial Court should first always assess each case for personal and subject matter jurisdiction.¹⁰ A challenge to subject matter jurisdiction can be made at any time.¹¹ Subject matter jurisdiction goes to the heart of the powers of a court to decide a case.¹²

In this matter, Ward 3 urges this Honorable Court to evaluate the subject matter jurisdiction of the Court over the questions presented. This matter arises as a dispute between non-tribal parties over water lines that originate outside of tribal property. The only dispute that may have arisen under Tribal jurisdiction would be if there is a question about the validity of Ward 3's right-of-way from the Tribe; however, neither of the parties nor any third parties presented this question to the Court. For these reasons, the Court must evaluate whether the Court has the requisite subject matter jurisdiction over this matter and take appropriate action if such jurisdiction does not exist.

II. IN THE ALTERNATIVE, ASSUMING THIS HONORABLE COURT HAS THE REQUISITE SUBJECT MATTER JURISDICTION OVER THIS MATTER, WARD 3 WATER IS THE SOLE OWNER OF THE 12-INCH POTABLE WATER LINE THAT CONNECTS TO THE AVOYELLES WATER COMMISSION 24-INCH WATER MAIN, PROCEEDS UNDER LOUISIANA HIGHWAY 1, THEN EXITS THE GROUND IN THE NORTHWESTERN PORTION OF THE INTERSECTION OF LOUISIANA HIGHWAY 1 AND SLIM LEMOINE ROAD.

The subject matter of this lawsuit is the Casino Line (described *supra*). Arguably, this is movable property. The ownership of a movable is voluntarily transferred by a contract between the owner and the transferee that purports to transfer the ownership of the movable.¹³ Additionally, the ownership of an immovable is voluntarily transferred by a contract between the owner and the transferee that purports to transfer the ownership of the immovable.¹⁴ Ownership is the exclusive right and authority over a thing. Ownership of property consists of three (3) real rights: *usus*, *abusus*, and *fructus*.¹⁵ Ownership is the right that confers on a person direct, immediate, and exclusive authority over a thing.¹⁶ The owner of a thing may use, enjoy, and dispose of it within the limits and under the conditions established by law.¹⁷

In this case, Ward 3 owns the Casino Line. Ward 3 obtained the Casino Line from LAWCO in exchange for allowing LAWCO to sell water to certain customers within Ward 3's jurisdiction. Since obtaining the Casino Line from LAWCO, Ward 3 has made significant improvements to the Casino Line. These improvements required Ward 3 to pay contractors, obtain permits from the Louisiana Department of Transportation, and obtain approvals for use from the Louisiana Department of Health. For these reasons, Ward 3 owns the Casino Line, and Ward 3 has exclusive authority over the Casino Line. Neither AWC nor the City have any right to access, use, dispose of, or derive benefit from the Casino Line. Neither AWC nor the City have produced any evidence to suggest that they have any ownership right to the Casino Line.

III. WARD 3 OWNS A PERPETUAL RIGHT-OF-WAY FOR THE LAND WHERE THE SECURE FENCE AREA CONTAINING THE 12-INCH POTABLE WATER LINE IS LOCATED AND WHERE THE WARD 3 METER IS LOCATED – THE AREA TO WHICH PLAINTIFF IS SEEKING ACCESS.

Ward 3 obtained a perpetual right-of-way on the property of Paul J. Dominique. The Secure Area where the Casino Line exits the ground and the area to which the Petitioner seeks access, to the best of Ward 3's knowledge, information, and belief, is located within the perpetual right-of-way granted to Ward 3 by Paul J. Dominique in 1974. Grand Casino Louisiana, Inc. obtained the land and the property subject to the perpetual right-of-way granted to Ward 3 from Paul J. Dominique.

⁹ La. C.C.P. Art. 2.

¹⁰ *Green v. Green*, 10 CCAR 37, 5 CTCR 29 (Colville Confederated Tribes Court of Appeals Feb. 8, 2011).

¹¹ *Id.*

¹² *Id.*, citing *Seymour v. CCT*, 6 CCAR 5, 3 CTAR 40 (2001).

¹³ La. C.C. Art. 518.

¹⁴ La. C.C. Art. 517.

¹⁵ *Usus* – the right to use a thing; *Abusus* is the right to dispose of a thing as long as it is not infringing upon health, safety, and welfare; and *Fructus* is the right to the fruits produced by or derived from a thing diminution of the thing's substance.

¹⁶ La. C.C. Art. 477.

¹⁷ *Id.*

Thereafter, the United States Department of Interior received the same land from Grand Casino Louisiana, Inc. and placed it in trust for the Tribe; again, all subject to Ward 3's perpetual right-of-way. Therefore, Ward 3's right-of-way over the Tribal Land remains in effect, and the Secure Area is located within Ward 3's perpetual right-of-way.

AWC nor the City have permission or any authority to access Tribal lands. AWC nor the City have produced any evidence to indicate that they have any right-of-way on Tribe lands. Therefore, AWC nor the City have any right to access the Secure Area. Additionally, since the Secure Area lies within Ward 3's perpetual right-of-way, Ward 3 is the only party to this matter that has the legal right to access the Secured Area. As such, Ward 3 seeks an injunction from this Honorable Court preventing AWC and the City from accessing the Secured Area.

IV. FEDERAL LAW PROTECTS WARD 3, AS A RURAL WATER DISTRICT, FROM ENCROACHMENT ON ITS JURISDICTION BY A MUNICIPALITY.

The services provided or made available through a rural water district shall not be curtailed or limited by the inclusion of the area served by the water district within the boundaries of any municipal corporation or other public body or by the granting of any private franchise for similar service within such area during the term of a loan secured by the United States Department of Agriculture, nor shall the happening of any such event be the basis of requiring such association to secure any franchise, license, or permit as a condition to continuing to serve the area served by the association at the time of the occurrence of such event.^{18 19}

The Casino Line is located within the Ward 3 Service Area. Ward 3 issued a \$2,298,000 water revenue bond payable to the United States government on December 5, 2017. This bond is payable over a forty (40) year period ending on December 5, 2027. This obligation owed to the United States is a loan secured by the United States Department of Agriculture. Therefore, the Ward 3 Service Area is a federally protected area that cannot be infringed upon by any municipal corporation or other public body. Here, AWC and the City are attempting to infringe upon Ward 3's service area by attempting to confiscate Ward 3's Casino Line and deprive Ward 3 of its use. AWC and the City are attempting to use this Honorable Court to aid and abet them in the violation of federal law by requesting that this Honorable Court issue an injunction preventing Ward 3 from placing a lock on the Secured Area to prevent the City's nefarious actions. For these reasons, if this Honorable Court grants AWC's request for an injunction preventing Ward 3 from securing the Secure Area, this Honorable Court's order will violate 7 U.S.C. §1926(b).

V. UNDER LOUISIANA LAW, AND ASSUMING ALSO UNDER TRIBAL LAW, AN INJUNCTION SHALL ONLY BE ISSUED IN CASES WHERE IRREPARABLE INJURY, LOSS, OR DAMAGE MAY OTHERWISE RESULT TO THE APPLICANT. AWC WILL NOT EXPERIENCE IRREPARABLE INJURY, LOSS, OR DAMAGE BECAUSE AWC HAS NO LEGAL RIGHT TO ACCESS THE PROPERTY WHERE THE SECURE AREA IS LOCATED AND WARD 3 IS THE SOLE OWNER OF THE 12-INCH WATER LINE THAT RUNS UNDER LOUISIANA HIGHWAY 1.

The Louisiana Civil Code instructs that an injunction shall be issued in cases where irreparable injury, loss, or damage may otherwise result to the applicant.²⁰ AWC alleges that they will experience irreparable injury, loss, or damage if they are not granted access to the Secure Area and to the Casino Line. In telephone status conferences with this Court and in the Court's presence, AWC representatives explicitly stated that the sole purpose for AWC's access to the Secure Area was to allow the City to remove Ward 3's water meter from the Casino Line and replace it with their own. Ward 3 has prevented AWC from accessing the water line and the secure area. AWC has not plead or even stated that AWC would experience irreparable injury, loss, or damage from Ward 3's actions. Instead, AWC has tacitly asserted that they are acting as a straw man for the City of Marksville and it is the City of Marksville that will purportedly experience irreparable injury, loss, or damage because the City is not able to remove Ward 3's water meter from the Casino Line and replace it with their own. Said more succinctly, the City is being deprived of

¹⁸ 7 U.S.C. §1926(b).

¹⁹ See Also: *City of Madison v. Bear Creek Water Ass'n*, 816 F.2d 1057, 1059 (5th Cir. 1987); *Moore Bayou Water Association v. Town of Jonestown*, 628 F.Supp. 1367 (N.D. Ms. 1986); *Rural Water District No. 3 v. Owasso Utils. Auth.*, 530 F.Supp. 818 (N.D. Ok. 1979); *Pittsburg County Rural Water Dist. No. 7 v. City of McAlester*, 358 F.3d 694 (10th Cir. 2004); *Pinehurst Enterprises, Inc. v. Town of Southern Pines*, 690 F.Supp. 444, 452 (M.D.N.C. 1988).

²⁰ La. C.C.P. 3601.

stealing Ward 3's property and AWC is acting as a straw man to assert fictional rights to benefit the City.

VI. UNDER LOUISIANA LAW, AND ASSUMING ALSO UNDER TRIBAL LAW, AN INJUNCTION SHALL ONLY BE ISSUED IN CASES WHERE IRREPARABLE INJURY, LOSS, OR DAMAGE MAY OTHERWISE RESULT TO THE APPLICANT. WARD 3 WILL EXPERIENCE IRREPARABLE INJURY, LOSS, OR DAMAGE BECAUSE AWC AND THE CITY OF MARKSVILLE ARE CONSPIRING TO DEPRIVE WARD 3 OF THE 12-INCH WATER LINE THAT RUNS UNDER LOUISIANA HIGHWAY 1, WARD 3'S RIGHT TO METER THE WATER ON THAT WATER LINE, AND WARD 3'S ACCESS TO THEIR LEGAL RIGHT-OF-WAY OVER THE PROPERTY WHERE THE SECURE AREA IS LOCATED.

The Louisiana Civil Code instructs that an injunction should be issued in cases where irreparable injury, loss, or damage may otherwise result to the applicant.²¹ AWC and the City of Marksville are conspiring to deprive Ward 3 of Ward 3's ownership and control of the Casino Line and Ward 3's right-of-way where the Secure Area is located. AWC, acting as a straw man for the City, has stated that the sole reason they are seeking access to the Secure Area is to remove Ward 3's water meter from the Casino Line and replace it with the City's water meter. As stated herein, *supra*, Ward 3 is the sole owner of the Casino Line. AWC nor the City have any ownership interest in the Casino Line. Therefore, AWC nor the City have any right to remove Ward 3's water meter from the Casino Line. Additionally, Ward 3 owns a perpetual right-of-way for the land where the Secure Area is located. After a diligent review of the records of the Avoyelles Parish Clerk of Court, AWC nor the City have any right to access the Secure Area. For these reasons, AWC nor the City have any right to control the Secure Area or to assert that Ward 3 cannot lock the Secure Area.

Ward 3 is the only party that is likely to experience irreparable injury, loss, or damage. AWC, as the straw man for the City, seeks to deprive Ward 3 of their right to secure their property with a physical lock on the Secure Area. AWC has entered a criminal conspiracy with the City to infringe upon Ward 3's federally protected Service Area by seeking to remove Ward 3's water meter from the Casino Line and replace it with the City's water meter. AWC has further conspired with the City, to deprive Ward 3 of Ward 3's solely owned property by trying to adversely possess and control the Casino Line. Essentially, AWC and the City are criminally conspiring to commit theft of the Casino Line. Worst of all, AWC and the City intend to use this Honorable Court to perpetuate these crimes.

POSSIBLE WITNESSES

DIRECT WITNESSES

- Joan Decuir, President, Ward 3 Avoyelles Waterworks District
- Penn Lemoine, President, Avoyelles Water Commission
- Honorable Mayor John Lemoine, Mayor, City of Marksville
- Honorable President Kirby Roy, President, Avoyelles Parish Police Jury
- Honorable Chairman Harold Pierite, Chief and Chairman, Tunica Biloxi Tribe of Louisiana
- Rene Borrel, Borrel Engineering, LLC
- A representative of Louisiana Water Company ("LAWCO")
- A representative of the engineering department of the Tunica Biloxi Tribe, or any entity, department, division, or bureau thereunder.
- A representative of the United States Bureau of Indian Affairs
- A representative of the United States Department of Agriculture
- A representative of the Louisiana Department of Transportation and Development
- A representative of Don M. Barron Contractors
- A representative of URS, an engineering firm for La DOTD
- Thomas C. Davis, Jr., Surveyor, or another representative of Pan American Engineers
- Any other representative of any of the parties who make any allegations in this matter.

Ward 3 specifically requests that this Honorable Court issue appropriate subpoenas for these individuals to appear at a trial on this matter.

²¹ La. C.C.P. 3601.

CROSS-EXAMINATION WITNESSES

- Any party called on direct examination by any other party named or who may intervene in this matter.

EXHIBITS

Ward 3 has not yet determined the Exhibits that may be used at a trial on this matter. However, it is likely that any and all documents referenced in this *Pre-trial Memorandum* or any other pleading or filing may be used as an exhibit at a trial. However, out of an abundance of caution, Ward 3 designates the following documents as potential exhibits to be presented:

Right Of Way Documents:

Date	Instrument #	Book / Page	Description
March 4, 1974			Right of Way Agreement
December 29, 1992	1992-00929253	A402/69	Cash Sale
November 17, 1993	1993-00937868	A409/391	Donation
January 24, 1994	1994-00940494	A410/654	Act of Correction
March 20, 2002	2002-02002266	A481/548	Warranty Deed
May 24, 2007	2007-00003858	551/1	Right of Way
June 15, 2021	2021-00003422	747/495	Agreement
July 17, 2023	2023-00003701	948/921	Contract

12” Water Line

Date	Instrument #	Book / Page	Description
June 19, 1989	1989-00893666	370/360	Agreement & Maps
September 16, 1994	1994-00946365	409/371	Agreement
December 13, 2005	2006-00002997	558/294	Agreement
December 15, 2005	2005-00008984	529/370	Agreement
September 22, 2011	2011-00007341	612/693	Agreement

Miscellaneous Documents

Date	Instrument #	Book / Page	Description
January 24, 2013	2013-0000868	632/432	Agreement
April 13, 2013	2013-00003747	632/432	Amendment – Agmt
April 25, 2013	2013-00003747	636/243	Agreement
August 9, 2013	2013-00006862	731/552	Contract
December 9, 2022	2022-00006854	769/702	Bylaws

Plats

Date	Book / Page	Description
January 7, 2009	30/464	Plat
March 5, 1993	432/1052	Plat
February 1, 2012	30/737	Plat
March 6, 2012	31/92	Plat
March 15, 2004	A402 / 99-107	Plat
March 15, 2004	A410 / 660	Plat
September 25, 2006		BLM Survey

RESERVATION OF RIGHTS

Ward 3, herein, reserves the right to assert any additional affirmative defenses, exceptions, or motions that may become applicable once additional information is obtained in the discovery process of this matter.

The allegations of facts set forth herein are made in good faith based on Ward 3's representatives' knowledge, information, and belief after reasonable inspection of files, records, and documents that may be available and accessible.

CONCLUSION

The City of Marksville desires to sell water to Paragon Casino. This has been made clear by AWC and the City's representatives. According to the Tribe's representative, the Tribe, as a sovereign nation, has the right to purchase water from anyone they desire. Ward 3 agrees with this assertion. However, the Tribe's right to purchase water from anyone they desire does not allow the agency they choose to confiscate Ward 3's property. Ultimately, AWC and the City are attempting to use this Honorable Court to violate the laws of the State of Louisiana and to violate federal laws to deprive Ward 3 of their property.

This Honorable Court should deny AWC's request for an injunction. Additionally, this Honorable Court must grant Ward 3's prayer for an injunction preventing AWC and the City from accessing the Secure Area and Ward 3's Casino Line.

Respectfully submitted,



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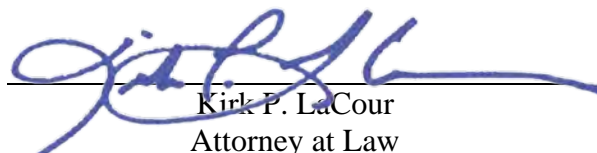
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Attorney for Ward 3 Avoyelles Waterworks District

CERTIFICATE

I hereby certify that a copy of the foregoing pleading has been served upon all counsel of record and all unrepresented parties by either: (i) mailing the same via first class United States Mail, properly addressed and postage prepaid; (ii) facsimile; or (iii) electronic mail in accordance with Article 1313 of the Louisiana Code of Civil Procedure on this 25th day of September 2023.



Kirk P. LaCour
Attorney at Law

TUNICA – BILOXI TRIBAL COURT

AVOYELLES WATER COMMISSION	*	CASE NO: 2023-006
	*	
VERSUS	*	HON. JUDGE ROBERT JOHNSON
	*	PARISH OF AVOYELLES
	*	
WARD 3 AVOYELLES	*	STATE OF LOUISIANA
WATERWORKS DISTRICT	*	

POST TRIAL MEMORANDUM

MAY PLEASE THE COURT:

Comes now Defendant and Petitioner in Reconvention, Ward 3 Avoyelles Waterworks District (“Ward 3”), for the purpose of filing this post-trial memorandum.

The court conducted a bench trial in this matter on December 6, 2023. At the trial, Ms. Joan Decuir, president of Ward 3 Avoyelles water District, testified on behalf of the Defendant. Also appearing at trial was Mr. Penn Lemoine, president of Avoyelles Water Commission (“AWC”), and the Honorable John Lemoine, Mayor of the City of Marksville (“City”). After considerable discussion, each party presented witnesses and evidence to the Court. Unfortunately, AWC and City failed to provide any evidence to substantiate their claims to any right to control, modify, or possess the Casino Line (defined *infra*). The testimony of the witnesses presented by AWC and City confirmed and verified that AWC is acting as a “strawman” for City so that City can, in the words of Mayor Lemoine, “sell water to the Indians.” Mr. Penn Lemoine, President of AWC and witness presented before this Court, confirmed that the intention of this lawsuit was to replace Ward 3’s water meter on the Casino Line with a water meter purchased by City.

Representatives from AWC and City testified that City has other means of honoring their purported contract with the Tunica Biloxi Tribe of Louisiana.¹ AWC and City representatives testified that AWC should own the Casino Line due to custom; however, both of these witnesses testified that no such custom exists because other similarly situated water lines are not owned by AWC.

QUESTION(S) PRESENTED TO THE COURT FOR CONSIDERATION

- Under Louisiana Law, United States Law, and/or the Laws and Constitution of the Tunica-Biloxi Tribe (the “Tribe”), does this honorable court have subject matter jurisdiction to determine the owner of a 12-inch potable water line (the “Casino Line”) that originates outside of the lands owned by the Tunica-Biloxi Tribe and outside of the lands owned by the United States Government through the United States Department of Interior, Bureau of Indian Affairs and held in trust for the Tunica-Biloxi Tribe (“Tribal Land”)?
- Under Louisiana Law, United States Law, and/or the Laws and Constitution of the Tunica-Biloxi Tribe, is Ward 3 Avoyelles Waterworks District (“Ward 3”) the sole owner of the Casino Line?
- Under Louisiana Law, United States Law, and/or the Laws and Constitution of the Tunica-Biloxi Tribe, or predecessor owners of Tribal Land, namely Paul Dominique, and considering the perpetual Right-of-Way Agreement entered into by and between the Paul Dominique dated March 4, 1974 and Ward 3, does Ward 3 have the right to access and control the infrastructure and secure fenced areas (the “Secure Area”) located on the Western side of Slim Lemoine Road and the northern side of La. Hwy 1 at the intersection of these two roadways?
- Under Louisiana Law, United States Law, and/or the Laws and Constitution of the Tunica-Biloxi Tribe, or predecessor owners of Tribal Land, namely Paul Dominique, and considering the perpetual Right-of-Way Agreement entered into by and between the Paul Dominique dated March 4, 1974, and Ward 3 Avoyelles Water District, does the Avoyelles

¹ The validity of this purported contract, which has never been provided to counsel for Ward 3, is contested because, upon information and belief the purported contract has never been approved by the United States Bureau of Indian Affairs; however, the validity and enforceability of the purported contract has not been raised as an issue in this case.

Water Commission (“AWC”) have the right to access and control the infrastructure and secure fenced areas (the “Secure Area”) located on the Western side of Slim Lemoine Road and the northern side of La. Hwy 1 at the intersection of these two roadways?

- Under Louisiana Law, United States Law, and/or the Laws and Constitution of the Tunica-Biloxi Tribe, or predecessor owners of Tribal Land, namely Paul Dominique, and considering the perpetual Right-of-Way Agreement entered into by and between the Paul Dominique dated March 4, 1974 and Ward 3 Avoyelles Water District, does the City of Marksville (“City”) have the right to access and control the infrastructure and secure fenced areas (the “Secure Area”) located on the Western side of Slim Lemoine Road and the northern side of La. Hwy 1 at the intersection of these two roadways?
- Is the Secure Area located at the corner in the northwest portion of the intersection of Slim Lemoine Road and La. Hwy 1 located on United States Government Property held in trust for the Tunica-Biloxi Tribe of Louisiana, or “Tribal Property,” or is it located on the Right-of-Way or property owned by the Avoyelles Parish Police Jury in conjunction with Parish Road #199, better known as “Slim Lemoine Road”?
- Is the Secure Area located within the perpetual right-of-way granted to Ward 3 by Paul Dominique on or about March 4, 1974, said right of way having been accessed, utilized, maintained, and operated since the date of grant by Ward 3?
- Does Ward 3 have the right to lock the secure area and prevent AWC and the City from accessing the Secure Area?
- Does AWC or City have the right to remove Ward 3’s water meter that is currently on the Casino Line inside of the Secure Area and replace it with City’s water meter thus depriving Ward 3 of their ownership, possession, and control of the Casino Line and effectively causing AWC and City to take the private property belonging to Ward 3?

INTRODUCTION / PROCEDURAL HISTORY

This matter is before this Honorable Court through a Petition for Injunction filed by AWC against Ward 3 because AWC asserts that they own a certain 12-inch potable water line that is connected to the Avoyelles Water Commission 24-inch main potable water transmission line (the “Main Line”) that lies in a right of way on the south side of Louisiana Highway 1. Ward 3 has been controlling, possessing, operating, and utilizing the Casino Line for more than thirty (30) years to provide potable water to their customers. Now, with no cause or evidence to support their assertions, AWC, on behalf of the City, seeks to prevent Ward 3 from securing the Secure Area, and AWC, as asserted by their attorney, wishes to remove Ward 3’s water meter located in the Secure Area and allow the City to place their water meter on this line, thus depriving Ward 3 of their right to sell water to their customers.

As such, Ward 3 has asserted a reconventional demand (or a counterclaim) against AWC and the City, seeking that this Honorable Court issue an injunction preventing AWC and the City from accessing the Secure Area and preventing them from changing the water meter located within the Secure Area. As shall be more fully set forth with evidence at a trial on this matter, and as will be more fully explained herein, Ward 3 will prove that Louisiana Water Company (“LAWCO”) originally owned the Casino Line because LAWCO installed the Casino Line in or around 1993 to provide the newly built Grand Casino Avoyelles with potable water service. The Casino Line was tapped into LAWCO’s 12-inch main transmission line. LAWCO transferred the right to sell potable water to the Casino and the Casino Line to Ward 3 on or about September 16, 1994. Ward 3 has maintained possession as the universal successor of LAWCO for almost twenty-nine years. Additionally, in or around August 9, 2013, Ward 3 entered into a contract with Don M. Barron, Contractor, for the replacement and improvement of the Casino Line, and Ward 3 paid for the upgrades to the Casino Line. For these reasons, Ward 3 asserts ownership of the Casino Line and asserts that Ward 3 only has the right to have a water meter on the Casino Line, and as such, neither AWC nor the City has any right to tamper with or access the Casino Line.

A trial on this matter was conducted by the Court on December 6, 2023, wherein Mr. Penn Lemoine, President of Avoyelles Water Commission, and Honorable John Lemoine, Mayor of the City of Marksville, testified on behalf of the Plaintiff and Defendants in Reconvention. Ms. Joan

Decuir, President of Avoyelles Ward 3 Water District, testified on behalf of the Defendant and Plaintiff in Reconvention. At the conclusion of the trial, the Court provided the parties an opportunity to submit post-trial memoranda within thirty (30) days from the date of the trial (due date January 5, 2024). In response to being afforded the opportunity to submit post-trial memoranda, Ward 3 submits this *Post-Trial Memorandum*.

STATEMENT OF THE CASE / STATEMENT OF FACTS

On or about August 8, 1967, through Act of Sale with Mortgage Number 220851, Paul J. Dominique purchased 66.95 acres from Robert S. Neitzel located in Ward 3 of Avoyelles Parish.² At some point after purchasing this land, Paul J. Dominique built and operated “Dominique’s Cow Palace” on a portion of this land located on the east side of Coulee des Grues in Ward 3 of Avoyelles Parish. On September 13, 1967, Paul J. Dominique granted a right of way to the Louisiana Department of Highways for the construction and passage of “Route La 1”.

Ward 3 is a rural water district established by the Avoyelles Parish Police Jury under the provisions of La. R.S. 33:3811 to provide potable water to Avoyelles Parish businesses and residents located in Ward 3 of Avoyelles Parish.³ On or about May 4, 1974, Paul J. Dominique granted Ward 3 a perpetual right of way and easement “in, over, under, and upon” the property of Dominique’s Auction Barn “with the right to erect, construct, install, and lay, and thereafter use, operate, and inspect, repair, maintain, replace, and remove water pipelines and appurtenant facilities, together with the right of ingress and egress over adjacent land for the purpose mentioned”. “The width of said easement shall be not less than 10’ from the road right-of-way.”

On December 29, 1992, Paul J. Dominique sold the Dominique Cow Palace land to Grand Casino, Inc., subject to the rights-of-way and servitudes granted against the land.⁴ Ward 3 continued to operate a water line running under Slim Lemoine Road in this right of way that terminated at the Eastern Bank of Coulee des Grues. This water line, which initially provided potable water to Dominique’s Cow Palace, also was the initial water line providing potable water to Burger King, located on the Grand Casino Property, and to Grand Casino Avoyelles. Grand Casino Louisiana, Inc. donated the land they purchased from Paul J. Dominique to the United States of America through the United States Department of Interior Bureau of Land Management to be held in trust for the Tunica-Biloxi Tribe of Louisiana⁵. This donation was also subject to the servitudes, easements, and rights-of-way burdening the property. After the donation of this land by Grand Casino Louisiana, Inc. to the United States, the Tribe continued to honor this right of way.

On June 19, 1989, LAWCO entered into an agreement with the Avoyelles Industrial District, the Avoyelles Parish Police Jury, and Ward 3 to operate a water system in Avoyelles Parish, part of which consisted of a 12-inch water main that was to be run on the south side of La. Hwy 1 from Mansura to Marksville.⁶ Then, on or about September 16, 1994, LAWCO entered into an agreement with Ward 3 and the Avoyelles Parish Police Jury wherein Ward 3 grants LAWCO the right to sell water to customers along La. Hwy 1 and LAWCO grants Ward 3 the right to connect their 12-inch line to the LAWCO water main to sell water to the casino.⁷ The 12-inch line that is referenced in this document is the Casino Line that is in dispute herein.

² See Act of Mortgage Sale between Robert S. Neitzel and Paul J. Dominique, et. ux. dated August 13, 1967 and filed into the records of the Avoyelles Parish Clerk of Court on or about August 8, 1967 at COB A225 Page 861 and now referenced as Instrument Number 1967-00220858.

³ Currently, Ward 3’s district consists of the entirety of Ward 3 except for the municipality of Mansura and a portion of LAWCO’s water customers located in Ward 3’s territorial jurisdiction. However, these exceptions are properly authorized and agreed upon exceptions. Specifically, Ward 3’s jurisdiction consists of all of Avoyelles Parish Ward 3, less and except the following: (a) the Town of Mansura and (b) the property located within 250 feet on each side of the centerline of the Mansura-Hessmer Highway (State Route 114) from the Ward Line separating Wards 3 and 4 to the corporation limits of the Town of Mansura. (the “Ward 3 Service Area”).

⁴ See Cash Deed between Paul J. Dominique to Grand Casino Louisiana, Inc., filed into the records of the Avoyelles Parish Clerk of Court on or about December 29, 1992 at COB A402 Page 391 and referenced as Instrument Number 1993-00937868.

⁵ See Act of Donation from Grand Casino Louisiana, Inc. to United States filed in the records of the Clerk of Court for Avoyelles Parish dated November 17, 1993, and filed at COB A409 Page 391 and referenced as Instrument Number 1993-00937868.

⁶ See Agreement and Maps filed into the records of the Avoyelles Parish Clerk of Court on or about June 19, 1989 at COB 370 Page 360 and referenced as instrument number 1989, 0089366.

⁷ See Agreement filed into the records of the Avoyelles Parish Clerk of Court on or about September 16, 1994 at COB 409 Page 371 and referenced as Instrument Number 1994-00946365.

Ward 3 has possessed and controlled the Casino Line without disruption since the agreement with LAWCO, and before. Ward 3 asserts ownership of the Casino Line either ownership of the Casino Line was vested in Ward 3 from LAWCO or the Avoyelles Parish Police Jury, or through acquisitive prescription. Ward 3, as a universal successor of LAWCO to the Casino Line, has constructively possessed, maintained, and operated the Casino Line for more than 30 years. In these 30 years, neither the Avoyelles Parish Police Jury, AWC, the City, or the Tribe has made any claim to ownership of the Casino Line. Ward 3's possession of the Casino Line has never been disturbed.

In addition to the agreement with LAWCO and the fact that Ward 3 has enjoyed undisturbed possession of the Casino Line as LAWCO's universal successor, on or about August 9, 2013, in conjunction with the installation of AWC's Main Line and the La. DOTD Hwy 1 Widening Project, Ward 3 entered into a contract with Don M. Barron, Contractor, to replace the Casino Line by boring under La. Hwy 1 and installing a new 12-inch pipe as the Casino Line.⁸ This was done because DOTD determined that Ward 3 owned the Casino Line and as such entered into a separate contract with Ward 3 to replace and upgrade the Casino Line. As part of the DOTD Project, the Avoyelles Parish Police Jury agreed to pay the engineering costs of this line, but Ward 3 paid for the work to change the Casino Line.⁹

Now, AWC, on behalf of the City of Marksville, according to AWC's representatives, asserts ownership of the Casino Line and is attempting to take possession and control of the Casino Line. However, AWC and the City have not produced any evidence to support their claim of ownership, nor support any claimed right of possession or control. In fact, the City, knowing they have no right to make any assertions of ownership, possession, or control, did not join as a party plaintiff in this matter. AWC representative, Penn Lemoine, affirmatively testified that the water meter currently on the Casino Line belongs to Ward 3 and his staff attempted to replace Ward 3's meter with a meter purchased by the City. AWC and City representatives affirmed in their testimony that the sole purpose of this litigation is to facilitate City's desire, as stated by Mayor Lemoine, "to sell water to the Indians."

Finally, Ward 3's jurisdiction and customers are federally protected under 7 U.S.C. §1926(b) because, on December 5, 2017, Ward 3 issued a \$2,298,000 water Revenue Bond (the "Bond") payable to the United States Department of Agriculture ("USDA"). This Bond is payable over a forty (40) year period and is effective until December 5, 2057. Ward 3 makes regular payments in the amount of \$8,021.00 each month, and Ward 3 is not in default. Therefore, the Ward 3 Service Area is federally protected under applicable federal law.

The Tribe's properties, including Paragon Casino, the Paragon Casino RV Park, and Tamaka Trails Golf Course, are geographically located within the federally protected Ward 3 Service Area. As such, the City nor the Avoyelles Police Jury, as municipalities of the State of Louisiana, have any right to encroach upon the Ward 3 Service Area. The Tribe, as a sovereign nation, certainly has the right to purchase water from any entity that it wishes; however, that right does not give AWC or the City the right to assert ownership of Ward 3's property and infrastructure.

ARGUMENT AND APPLICABLE LAW

I. THIS HONORABLE COURT LACKS THE SUBJECT MATTER JURISDICTION REQUIRED TO DECIDE THE KEY ISSUE IN THIS MATTER; SPECIFICALLY, WHO OWNS THE 12-INCH POTABLE WATER LINE THAT TAPS INTO THE 24-INCH WATER MAIN OWNED BY AVOYELLES WATER COMMISSION THEN RUNS UNDER LOUISIANA HIGHWAY 1 AND EXITS THE GROUND NEAR THE NORTHWESTERN AREA OF THE INTERSECTION OF LOUISIANA HIGHWAY 1 AND SLIM LEMOINE ROAD BECAUSE THE 12 INCH POTABLE WATER LINE ORIGINATES OUTSIDE OF THE LANDS OF THE TUNICA-BILOXI TRIBE OF LOUISIANA AND THE MAJORITY OF THIS WATER LINE LIES OUTSIDE OF THE LANDS OF THE TUNICA-BILOXI TRIBE OF LOUISIANA.

⁸ See Agreement between Don M. Barron and Ward 3 Avoyelles Waterworks District filed into the records of the Avoyelles Parish Clerk of Court on or about August 9, 2013, at COB A731 Page 552 and referenced as Instrument Number 2013-0006862.

⁹ Ward 3 will be submitting invoices and cancelled checks evidencing Ward 3's payment for the installation of the new 12" water line under La. Hwy 1.

One of the primary questions presented to this Honorable Court is what entity: AWC, the City, or Ward 3 has the right to access the Secure Area where the Casino Line exits the ground in the northwestern portion of the intersection of La. Hwy 1 and Slim Lemoine Road. To answer this question, the Court must determine who owns the Casino Line and who, if anyone, has been granted the right of access to this property.

Subject matter jurisdiction refers to a court's legal authority to hear and determine a particular class of actions or proceedings based upon the object of the demand, the amount in dispute, or the value of the right asserted.¹⁰

The Trial Court should first always assess each case for personal and subject matter jurisdiction.¹¹ A challenge to subject matter jurisdiction can be made at any time.¹² Subject matter jurisdiction goes to the heart of the powers of a court to decide a case.¹³

In this matter, Ward 3 urges this Honorable Court to evaluate the subject matter jurisdiction of the Court over the questions presented. This matter arises as a dispute between non-tribal parties over water lines that originate and are substantially situated outside of tribal property and outside the physical boundaries of this Court's jurisdiction. Testimony at the trial on this matter clarified that the Casino Line originates at the intersection of Jen-Re Plastic Road and LA-1 and courses under LA-1 before entering Tribal property and jurisdiction. More than two-thirds of the Casino Line is located outside the jurisdiction of this Court.

The only dispute that may have arisen under Tribal jurisdiction would be if there is a question about the validity of Ward 3's right-of-way from the Tribe; however, neither of the parties nor any third parties presented this question to the Court. For these reasons, the Court must evaluate whether the Court has the requisite subject matter jurisdiction over this matter and take appropriate action if such jurisdiction does not exist.

II. IN THE ALTERNATIVE, ASSUMING THIS HONORABLE COURT HAS THE REQUISITE SUBJECT MATTER JURISDICTION OVER THIS MATTER, WARD 3 WATER IS THE SOLE OWNER OF THE 12-INCH POTABLE WATER LINE THAT CONNECTS TO THE AVOYELLES WATER COMMISSION 24-INCH WATER MAIN, PROCEEDS UNDER LOUISIANA HIGHWAY 1, THEN EXITS THE GROUND IN THE NORTHWESTERN PORTION OF THE INTERSECTION OF LOUISIANA HIGHWAY 1 AND SLIM LEMOINE ROAD.

The subject matter of this lawsuit is the Casino Line (described *supra*). Arguably, this is movable property. The ownership of a movable is voluntarily transferred by a contract between the owner and the transferee that purports to transfer the ownership of the movable.¹⁴ Additionally, the ownership of an immovable is voluntarily transferred by a contract between the owner and the transferee that purports to transfer the ownership of the immovable.¹⁵ Ownership is the exclusive right and authority over a thing. Ownership of property consists of three (3) real rights: *usus*, *abusus*, and *fructus*.¹⁶ Ownership is the right that confers on a person direct, immediate, and exclusive authority over a thing.¹⁷ The owner of a thing may use, enjoy, and dispose of it within the limits and under the conditions established by law.¹⁸

In this case, Ward 3 owns the Casino Line. Ward 3 obtained the Casino Line from LAWCO in exchange for allowing LAWCO to sell water to certain customers within Ward 3's jurisdiction. Since obtaining the Casino Line from LAWCO, Ward 3 has made significant improvements to the Casino Line. These improvements required Ward 3 to pay contractors, obtain permits from the Louisiana Department of Transportation, and obtain approvals for use from the Louisiana Department of Health. For these reasons, Ward 3 owns the Casino Line, and Ward 3 has exclusive authority over the Casino Line. Neither AWC nor the City have any right to access, use, dispose

¹⁰ La. C.C.P. Art. 2.

¹¹ *Green v. Green*, 10 CCAR 37, 5 CTCR 29 (Colville Confederated Tribes Court of Appeals Feb. 8, 2011).

¹² *Id.*

¹³ *Id.*, citing *Seymour v. CCT*, 6 CCAR 5, 3 CTAR 40 (2001).

¹⁴ La. C.C. Art. 518.

¹⁵ La. C.C. Art. 517.

¹⁶ *Usus* – the right to use a thing; *Abusus* is the right to dispose of a thing as long as it is not infringing upon health, safety, and welfare; and *Fructus* is the right to the fruits produced by or derived from a thing diminution of the thing's substance.

¹⁷ La. C.C. Art. 477.

¹⁸ *Id.*

of, or derive benefit from the Casino Line. Neither AWC nor the City have produced any evidence to suggest that they have any ownership right to the Casino Line.

At the trial on this matter, AWC nor the City were able to provide any evidence to dispute Ward 3's ownership of the Casino Line. They attempted to argue that it is custom to transfer ownership of similar lines to the "water system"; however, no evidence was presented to support the contention. Additionally, witnesses for both AWC and the City testified that it is not the custom to transfer ownership of the lines to the system because other water lines that are similarly situated to the Casino Line have not been transferred to the water system. The only evidence AWC or the City was able to provide was self-serving conjecture that Ward 3 should hand over their property to the City so the City can fulfill their purported contract with the Tunica Biloxi Tribe. The fact of the matter is that Ward 3 owns the Casino Line and AWC nor the City have any right to control or possess the Casino Line or any appliances attached to the Casino Line.

III. WARD 3 OWNS A PERPETUAL RIGHT-OF-WAY FOR THE LAND WHERE THE SECURE FENCE AREA CONTAINING THE 12-INCH POTABLE WATER LINE IS LOCATED AND WHERE THE WARD 3 METER IS LOCATED – THE AREA TO WHICH PLAINTIFF IS SEEKING ACCESS.

Ward 3 obtained a perpetual right-of-way on the property of Paul J. Dominique. The Secure Area where the Casino Line exits the ground and the area to which the Petitioner seeks access, to the best of Ward 3's knowledge, information, and belief, is located within the perpetual right-of-way granted to Ward 3 by Paul J. Dominique in 1974. Grand Casino Louisiana, Inc. obtained the land and the property subject to the perpetual right-of-way granted to Ward 3 from Paul J. Dominique. Thereafter, the United States Department of Interior received the same land from Grand Casino Louisiana, Inc. and placed it in trust for the Tribe; again, all subject to Ward 3's perpetual right-of-way. Therefore, Ward 3's right-of-way over the Tribal Land remains in effect, and the Secure Area is located within Ward 3's perpetual right-of-way.

AWC nor the City have permission or any authority to access Tribal lands. AWC nor the City have produced any evidence to indicate that they have any right-of-way or authorization to enter upon Tribe lands. Therefore, AWC nor the City have any right to access the Secure Area. Additionally, since the Secure Area lies within Ward 3's perpetual right-of-way, Ward 3 is the only party to this matter that has the legal right to access the Secured Area. As such, Ward 3 seeks an injunction from this Honorable Court preventing AWC and the City from accessing the Secured Area.

IV. FEDERAL LAW PROTECTS WARD 3, AS A RURAL WATER DISTRICT, FROM ENCROACHMENT ON ITS JURISDICTION BY A MUNICIPALITY.

The services provided or made available through a rural water district shall not be curtailed or limited by the inclusion of the area served by the water district within the boundaries of any municipal corporation or other public body or by the granting of any private franchise for similar service within such area during the term of a loan secured by the United States Department of Agriculture, nor shall the happening of any such event be the basis of requiring such association to secure any franchise, license, or permit as a condition to continuing to serve the area served by the association at the time of the occurrence of such event.^{19 20}

The Casino Line is located within the Ward 3 Service Area. Ward 3 issued a \$2,298,000 water revenue bond payable to the United States government on December 5, 2017. This bond is payable over a forty (40) year period ending on December 5, 2027. This obligation owed to the United States is a loan secured by the United States Department of Agriculture. Therefore, the Ward 3 Service Area is a federally protected area that cannot be infringed upon by any municipal corporation or other public body. Here, AWC and the City are attempting to infringe upon Ward 3's service area by attempting to confiscate Ward 3's Casino Line and deprive Ward 3 of its use. AWC and the City are attempting to use this Honorable Court to aid and abet them in the violation of federal law by requesting that this Honorable Court issue an injunction preventing Ward 3 from placing a lock on the Secured Area to prevent the City's nefarious actions. For these reasons, if

¹⁹ 7 U.S.C. §1926(b).

²⁰ See Also: *City of Madison v. Bear Creek Water Ass'n*, 816 F.2d 1057, 1059 (5th Cir. 1987); *Moore Bayou Water Association v. Town of Jonestown*, 628 F.Supp. 1367 (N.D. Ms. 1986); *Rural Water District No. 3 v. Owasso Utils. Auth.*, 530 F.Supp. 818 (N.D. Ok. 1979); *Pittsburg County Rural Water Dist. No. 7 v. City of McAlester*, 358 F.3d 694 (10th Cir. 2004); *Pinehurst Enterprises, Inc. v. Town of Southern Pines*, 690 F.Supp. 444, 452 (M.D.N.C. 1988).

this Honorable Court grants AWC's request for an injunction preventing Ward 3 from securing the Secure Area, this Honorable Court's order will violate 7 U.S.C. §1926(b).

CONCLUSION

The City of Marksville desires to sell water to Paragon Casino. This has been made clear by AWC and the City's representatives. According to the Tribe's representative, the Tribe, as a sovereign nation, has the right to purchase water from anyone they desire. Ward 3 agrees with this assertion. However, the Tribe's right to purchase water from anyone they desire does not allow the agency they choose to confiscate Ward 3's property. Ultimately, AWC and the City are attempting to use this Honorable Court to violate the laws of the State of Louisiana and to violate federal laws to deprive Ward 3 of their property. Both AWC and City representatives testified that City has other avenues to use to sell water to the Tunica Biloxi Tribe of Louisiana without having to take Ward 3's private property.

This Honorable Court should deny AWC's request for an injunction. Additionally, this Honorable Court must grant Ward 3's prayer for an injunction preventing AWC and the City from accessing the Secure Area and Ward 3's Casino Line, and grant Ward 3's prayer for an injunction preventing AWC or City from

Respectfully submitted,



Kirk P. LaCour (La. Bar Roll: 37199)

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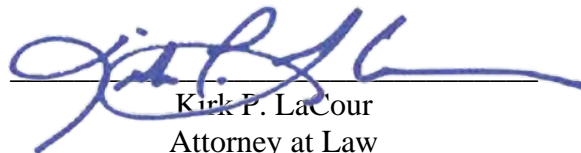
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Email: kirk.lacour@kpl-law.com

Attorney for Ward 3 Avoyelles Waterworks District

CERTIFICATE

I hereby certify that a copy of the foregoing pleading has been served upon all counsel of record and all unrepresented parties by either: (i) mailing the same via first class United States Mail, properly addressed and postage prepaid; (ii) facsimile; or (iii) electronic mail in accordance with Article 1313 of the Louisiana Code of Civil Procedure on this 5th day of January, 2024.



Kirk P. LaCour
Attorney at Law

SUIT NO.: 2023-006

AVOYELLES WATER COMMISSION	{ TUNICA-BILOXI TRIBAL COURT
VERSUS	{
	{ TUNICA-BILOXI RESERVATION
	{
WARD 3 WATERWORKS DISTRICT	{ TUNICA-BILOXI NATION

OPINION

This matter was instituted by a Petition for Injunctive Relief filed by AVOYELLES WATER COMMISSION (hereinafter referred to as “THE COMMISSION”). This Court issued its first Order on August 28, 2023, establishing deadlines that “All new filings be made within ten (10) days of August 28, 2023. Despite said Order, this Court received on September 20, 2023, an Answer, Reconventional Demand, and Third Party Demand with a Request for Injunctive Relief filed by WARD 3 WATER WORKS DISTRICT (hereinafter referred to as “WARD 3”) against THE COMMISSION and THE CITY OF MARKSVILLE (hereinafter referred to as “MARKSVILLE”. Both THE COMMISSION and MARKSVILLE formally objected to said filings as being untimely. It was noted by this Court that WARD 3 has raised the issue of the subject matter jurisdiction of this Court as a defense; however, WARD 3 has not formally filed an Exception. Further it has been noted that the pleadings of WARD 3 also claim that jurisdiction and venue were proper to bring its reconventional demand and third party demands against THE COMMISSION and MARKSVILLE. Regardless, the Court will address the jurisdiction issues hereinbelow.

On December 6, 2023, this Court held hearings on all these matters and after lengthy pretrial discussions, the parties stipulated that testimony and evidence would be taken exclusively on the ownership of the 12 inch waterline running under Louisiana Highway One from the 24 inch supply waterline owned by THE COMMISSION to the Tunica-Biloxi Reservation Property.

The following exhibits were introduced into evidence, to-wit:

1. Joint Exhibit The Entire Suit Record of this Case to included the pleadings with various exhibits which the court will reference and attach only those which it will reference in this opinion.
2. AWC Exhibit 1. Intergovernmental Agreement for THE COMMISSION
3. AWC Exhibit 2. Water Sales Contract
4. AWC Exhibit 3. Intergovernmental Agreement for between Avoyelles Police Jury, THE COMMISSION, WARD 3, MARKSVILLE
5. AWC Exhibit 4. Water Purchase Agreement Tunica-Biloxi Tribe and MARKSVILLE

6. W3 Exhibit 1. Wholesale Water Sale Agreement
7. W3 Exhibit 2. WARD 3 and Police Jury Agreement
8. W3 Exhibit 3. Agreement WARD 3, Industrial Dist., Police Jury, and La. Water Co.
9. W3 Exhibit 4. Intergovernmental Agreement Police Jury, THE COMMISSION, MARKSVILLE, WARD 3
10. W3 Exhibit 5. U.S. Department of Agriculture Annual Statement of Loan Account
11. W3 Exhibit 6. DOTD Correspondence dated May2, 1012

Findings of Fact and Conclusions of Law:

On or about September 20, 2022, Tunica-Biloxi Tribe of Louisiana (hereinafter referred to as “Tunica-Biloxi”), a federally recognized Indian Tribe which the Congress of the United States of America has recognized as a sovereign Indian Nation entered into a water purchase agreement with THE CITY OF MARKSVILLE. (See Exhibit AWC-4). MARKSVILLE and WARD 3 are participants in an agreement to purchase water from THE COMMISSION by virtue of several intergovernmental agreements and water sale contracts. (See AWC Exhibits 1, 2, and 3). Basically, THE COMMISSION is the water wholesaler and WARD 3 and MARKSVILLE are retailers of THE COMMISSION’s water. There is no dispute that prior to the September 20, 2022 agreement between Tunica-Biloxi and MARKSVILLE, Tunica-Biloxi purchased water from WARD 3. There further is no dispute, as shown in WARD 3’s Post Trial Memo, that Tunica-Biloxi, as a sovereign nation, certainly has the right to purchase water from any entity that it wishes.

The dispute in this case exists over the ownership of a 12 inch water pipe that connects THE COMMISSION’s 24 inch water supply to the Tunica-Biloxi Reservation.

The uncontroverted evidence and testimony showed that the 12 inch water pipe in question traverses from a fenced in area of the Tunica-Biloxi Reservation under Louisiana Highway One (a Louisiana State Highway) to a 24 inch water supply line which is owned and maintained by THE COMMISSION.

Joan DeCuir, President of WARD 3, testified that WARD 3 owns the 12 inch water pipe because WARD 3 paid for the relocation and enhancement of this pipe during the Louisiana Highway One Expansion Project. Ms. DeCuir further testified that WARD 3, borrowed funds through the Consolidated Farm and Rural Development Act 7 U.S.C. § 1926 (b) which protects water authorities such as WARD 3 funded with federal loans from encroachment on their

territories where they sell water. WARD 3 claims Tunica-Biloxi's properties including Paragon Casino, Paragon RV Park, and Tamaka Trails Golf Course are all geographically located within WARD 3's federally protected service area and as such, THE COMMISSION and MARKSVILLE cannot sell water to Tunica-Biloxi as such sales contracts would violate the anti-curtailment provisions of 7 U.S.C. § 126 (b) which provides the service provided or made available through such association shall not be curtailed or limited by inclusion or the area served by such association within the boundaries of any municipal corporation or other public body...during the term of such loan...

THE COMMISSION testified that during the formation of THE COMMISSION it became owner of the entire system. It is responsible for maintaining that 12 inch pipe should it break. WARD 3 is a participant in the system and therefore THE COMMISSION owns the 12 inch pipe as it owns all pipes off its main 24 inch water supply line.

The Court finds that there is conflicting testimony in this case regarding the ownership of the 12 inch waterpipe and in weighing the testimony this Court looked closely at the supporting documents introduced into evidence. Specifically, this Court looked at an email listed as Exhibit C in WARD 3's pleadings dated October 17, 2013. This email is about an "Increase of 6 inch bore to 12 inch bore across Highway one and is from Joan Decuir, President of WARD 3 and is addressed to Terry Bonnette and Earl Barbry, Jr. of the Tunica-Biloxi Tribe. The email states that the Louisiana Department of Transportation and Development will "not reimburse" any of the cost of replacing the 6 inch pipe with a 12 inch pipe and "This cost will be the responsibility of the Tribal Council." This email is signed by Joan DeCuir, President of WARD 3. This email shows this Court that Tunica-Biloxi's Tribal Council, not WARD 3, not the federal government, not THE COMMISSION, not DOTD, paid for the 12 inch water pipe that connects the Tunica-Biloxi reservation running under Louisiana Highway One to THE COMMISSION's 24 inch water supply line. This email, produced by WARD 3, controverts WARD 3's very own testimony regarding its ownership of the 12 inch water line! This email shows together with other documentary evidence in the record shows the Court that Tunica-Biloxi has a pattern of paying for the relocation of water lines within its system. (See Right of Way Agreement dated May 22, 2007). The court when considering the demeanor of the witnesses' testimony coupled with the documents introduced, the Court finds this email most credible leaving the court to conclude that Tunica Biloxi funded the

enhancement and relocation of the 12 inch water line running under Highway One and therefore owns it.

Tribal jurisdiction over the conduct of nonmembers exists only in limited circumstances. *Strate v. A-1 Contractors*, 520 U.S. 438, 445, 117 S.Ct. 1404, 1409, 137 L.Ed.2d 661 (1997). Moreover, the inherent sovereign powers of an Indian tribe—those powers that a tribe enjoys apart from and in addition to those powers expressly granted by treaty or statute—generally do not extend to the activities of nonmembers. *Montana v. United States*, 450 U.S. 544, 565, 101 S.Ct. 1245, 1258, 67 L.Ed.2d 493 (1981). Nonetheless, “Indian tribes retain inherent sovereign power to exercise some forms of civil jurisdiction over non-Indians on their reservations.” *Id.* Specifically, a tribe may regulate the activities of (1) nonmembers who enter consensual relationships with the tribe through commercial dealings, contracts, leases or other arrangements, and (2) nonmembers whose conduct within the reservation threatens or has some direct effect on the political integrity, economic security or health or welfare of the tribe. *Id.* at 565–66, 101 S.Ct. at 1258. *Meyer & Assocs., Inc. v. Coushatta Tribe of Louisiana*, 2007-2256 (La. 9/23/08), 992 So. 2d 446, 455

It is undisputed that both WARD 3, MARKSVILLE and THE COMMISSION all have contracts with the Tunica-Biloxi. Furthermore, it is undisputed that the water that is being supplied is going to the Tunica-Biloxi Reservation. Lastly, providing safe, clean drinking water to the facilities and water to protect the potential fire hazards certainly effects the health, safety and welfare of the Tunica-Biloxi people.

While this dispute may be between nontribal entities and portions of this infrastructure (the 12 inch pipe) is on both native and non-native land, commercial contractual conduct involved involves tribal self-governance and directly has a great impact on the health, safety and welfare of the Tunica-Biloxi people in that water is an essential element of a populations’ health, safety and welfare. See *Kiowa Tribe of Oklahoma v. Manufacturing Technologies, Inc.* 523 U.S. 751 (1998)., *Freemanville Water System, Inc. v. Poarch Band of Creek Indians*, 563 F. 3d 1205 (2009).

In addressing not only the jurisdiction issues but also the anti-curtailment provisions of 7 U.S.C. § 1926 apply to Tunica-Biloxi, the case of *Freemanville Water System, Inc. v. Poarch Band of Creek Indians*, 563 F. 3d 1205 (2009) is almost directly analogous to this situation. In *Freemanville*, a water authority brought action under the anti-curtailment provisions of 7 U.S.C. § 1926 to prevent a federally recognized Indian tribe from having its own water distribution system

claiming it would curtail some of *Freemanville*'s already established protected water service area. *Freemanville* brought suit in federal court asserting that part of the Indian tribe's water system would be on non-tribal lands. The *Freemanville Court* ruled that a federally recognized Indian Tribe has sovereign immunity from the anti-curtalement provisions of 7 U.S.C. §126 and federal courts lacked subject matter jurisdiction. Further tribal immunity extended to portions of the planned water systems that would have run through non-tribal land. *Freemanville Water System, Inc. v. Poarch Band of Creek Indians*, 563 F. 3d 1205 (2009).


Just as in *Freemandleville*, WARD 3 cannot argue the provisions of 7 U.S.C. § 1926 because Tunica-Biloxi as federally recognized Indian Tribe is immune from the curtailment provisions and further even though a portion of the 12 inch water line runs through non-tribal land, immunity still applies.

Considering the stipulations, the evidence adduced at trial, and the law this Court weighing the evidence and specifically finding that Tunica-Biloxi funded the enhancement and relocation of the 12 inch water pipe and owns it, judgment as prayed for is hereby rendered in favor of petitioner, AVOYELLES WATER COMMISSION, prohibiting WARD 3 AVOYELLES WATERWORKS DISTRICT and its employees and/or representatives from impeding, restricting, or stopping the employees and/or representatives from the AVOYELLES WATER COMMISSION from accessing the water main located at the intersection of Slim Lemoine Road and Louisiana Highway One;

The Reconventional Demand and Third Party Demand and Injunctive Relief filed herein by WARD 3 AVOYELLES WATERWORKS DISTRICT against AVOYELLES WATER COMMISSION and THE CITY OF MARKSVILLE is hereby dismissed. See *Freemanville Water System, Inc. v. Poarch Band of Creek Indians*, 563 F. 3d 1205 (2009).

Formal Judgment to be prepared by counsel for AVOYELLES WATER COMMISSION and submitted within 10 (ten) days.

OPINION rendered and SIGNED this 22nd day of May, 2024 at Tunica-Biloxi Reservation.



ROBERT JOHNSON
Tribal Judge
Tunica-Biloxi Tribal Court



Kirk LaCour <kirk.lacour@kpl-law.com>

Notice of Intent to Remove - Request to Prepare Certified Copy of the Record

1 message

Kirk LaCour <kirk.lacour@kpl-law.com>

Fri, Jun 7, 2024 at 1:30 PM

To: Christy Smith <Smith@tunica.org>, Robert Johnson <rjohnson@tunica.org>, robertjohnsonlaw@att.net, Jennifer Johnson-Dubea <jeniferdel1@yahoo.com>, Jonathan Gaspard <jonathan@jtgaspardlaw.com>, William Alan Pesnell <wapesnellatty@gmail.com>

Please find my Notice of Intent to Remove notifying the Tunica-Biloxi Tribal Court of Ward 3's intention to remove the matter of Avoyelles Water Commission versus Ward 3 Avoyelles Water Works District (Tribal Docket 2023-006) to the United States District Court for the Western District of Louisiana. As part of the Removal we intend to file with the Federal District Court, it is required that a certified copy of the entire record be provided and filed with the removal. As such, this is Ward 3's formal request for a certified copy of the entire record of Docket 2023-006.

Please let me know the cost of preparing this record and the timeline to provide the certified record. We will then make whatever arrangements may be necessary to facilitate obtaining this certified record.

Thank you in advance,

Kirk P. LaCour, NRP, MBA, JD
Attorney at Law

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IRS CIRCULAR 230 DISCLOSURE: To insure compliance with Treasury Regulations (31 CFR Part 10, Sec. 10.35), we are required to inform you that any tax advice contained in this correspondence, including any attachments, was not intended or written by us to be used, and cannot be used, by you or anyone else for the purpose of avoiding penalties imposed by the Internal Revenue Service or other law or for the purpose of marketing or recommending to any other party any transaction, arrangement or other matter.



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TUNICA – BILOXI TRIBAL COURT

**AVOYELLES WATER
COMMISSION**

*

CASE NO: 2023-006

*

*

VERSUS

*

HON. JUDGE ROBERT JOHNSON

*

**WARD 3 AVOYELLES
WATERWORKS DISTRICT**

*

PARISH OF AVOYELLES

*

*

STATE OF LOUISIANA

**NOTICE OF INTENT TO REMOVE TO
UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
LOUISIANA**

Defendants (and Plaintiffs in Reconvention), Ward 3 Avoyelles Waterworks District (“Ward 3”) hereby give notice of the removal of this action from the Tribal Court for the Tunica Biloxi Tribe to the United States District Court for the Western District of Louisiana. As such, Ward 3 specifically requests a certified copy of the entire record of this proceeding be prepared and provided by this Court such that it may be filed with the Notice of Removal in the U.S. District Court for the Western District of Louisiana.

In support of this Notice of Intent to Remove, Ward 3 specifically asserts:

1. This matter was brought in the Tunica Biloxi Tribal Court by Avoyelles Water Commission against Ward 3 Avoyelles Waterworks District.
2. Ward 3 Avoyelles Waterworks District answered the initial complaint and filed a reconventional demand against Avoyelles Water Commission and a Third-Party Demand against the City of Marksville.
3. The Tunica Biloxi Tribe was not a party to this lawsuit.

4. Ward 3 affirmatively disputed the Tribal Court's subject matter jurisdiction in their answer, pre-trial memorandum, and post-trial memorandum.
5. The Tribal Court failed to address the Affirmative Defense/Exception of lack of subject matter jurisdiction asserted by Ward 3 Avoyelles Waterworks District.
6. Jurisdiction can be challenged at any time." and "Jurisdiction, once challenged, cannot be assumed and must be decided. *Basso v. Utah Power & Light Co.*, 495 F.2d 906, 910 (10th Cir. 1974) and *Maine v. Thiboutot*, 448 U.S. 1, 100 S.Ct. 2502, 65 L.Ed.2d 555 (1980).
7. If a court is without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers. *Elliot v. Piersol*, 26 U.S. 328, 340, 1 Pet. 328, 7 L.Ed. 164 (1828).
8. The Tribal Court does not have jurisdiction over this matter in accordance with *Montana v. United States*, 450 U.S. 544, 101 S.Ct. 1245, 67 L.Ed.2d 493 (1981).
9. Despite having no jurisdiction over this matter, a hearing on this matter was conducted in the Tribal Court on December 6, 2023, wherein ownership rights to a certain 12-inch water pipeline originating outside of the geographical jurisdiction of the tribe is owned by Avoyelles Water Commission or Ward 3.
10. The Court issuing an opinion on May 22, 2024, now asserts that the Tunica Biloxi Tribe owns the 12-inch water line that is the subject of these proceedings.
11. The Court makes the assertion that the Tunica Biloxi Tribe owns this water line with no evidence to support this opinion, only conjecture that the Court questions the demeanor of the witnesses' testimony.

12. The Court having issued this opinion has now inserted the Tunica Biloxi Tribe into the dispute of non-Indian parties over the ownership of property situated outside of tribal fee lands and outside of tribal trust lands.
13. Ward 3 intends to remove this matter to the U.S. District Court for the Western District of Louisiana because the Tribal Court did not have jurisdiction over the subject matter of this dispute, and now the Tribal Court has inserted itself into the dispute to infringe upon the ownership rights of Ward 3 with respect to property located outside of the Tunica Biloxi Tribe's Territorial Jurisdiction.
14. Federal Courts have jurisdiction to determine, as a matter arising under federal law, the limits of a tribal court's jurisdiction, even if the plaintiff's claims are not premised on federal law. *National Farmer's Union Insurance Co. v. Crow Tribe of Indians*, 471 U.S. 845, 105 S.Ct. 2447, 85 L.Ed.2d 818 (1985).
15. 42 U.S.C. §1331 encompasses the federal question whether a triable court has exceeded the lawful limits of its jurisdiction. *National Farmer's Union Insurance Co. v. Crow Tribe of Indians*, 471 U.S. 845, 105 S.Ct. 2447, 85 L.Ed.2d 818 (1985).
16. The question whether an Indian tribe retains the power to compel a non-Indian property owner to submit to the civil jurisdiction of a tribal court is one that must be answered by reference to federal law and is a federal question under §1331. *National Farmer's Union Insurance Co. v. Crow Tribe of Indians*, 471 U.S. 845, 105 S.Ct. 2447, 85 L.Ed.2d 818 (1985).
17. However, exhaustion of tribal court remedies is required before a claim may be entertained by a federal court. *National Farmer's Union Insurance Co. v. Crow Tribe of Indians*, 471 U.S. 845, 105 S.Ct. 2447, 85 L.Ed.2d 818 (1985).

18. However, three exceptions exist where a federal court need not stay its hand: 1) where an assertion of tribal jurisdiction is motivated by a desire to harass or is conducted in bad faith; 2) where the action is patently violative of express jurisdictional prohibitions; or 3) where exhaustion would be futile because of the lack of adequate opportunity to challenge the court's jurisdiction. *National Farmer's Union Insurance Co. v. Crow Tribe of Indians*, 471 U.S. 845, 105 S.Ct. 2447, 85 L.Ed.2d 818 (1985).
19. "Where non-members are concerned, the 'exercise of triable power beyond what is necessary to protect tribal self-government or to control internal relations is inconsistent with the dependent status of the tribes, and so cannot survive without express congressional delegation.'" *Nevada v. Hicks*, 533 U.S. 353, 121 S.Ct. 2304, 150 L.Ed.2d. 398 (2001).
20. The above entitled matter involves "non-members", the Tunica Biloxi Tribe is not a party to this matter, the Tunica Biloxi Tribe has not intervened in this matter, and the Tribal Court attempts to assert Tribal ownership of property that is located outside of the jurisdictional boundaries of the Tunica Biloxi Tribe with no evidence to support such a claim; therefore, this action does not fall within the Tribal Court's Jurisdiction and exhaustion of tribal court remedies would only serve to delay this matter.
21. Additionally, this honorable court, without any evidence or even an allegation, attempts to assert Tunica Biloxi Tribe ownership of the 12-inch water pipe that is the subject of this matter to fashion a remedy favoring a third-party that is not involved in this matter, the Tunica Biloxi Tribe; therefore, it is clear that the Tribal Court's assertion of tribal jurisdiction is motivated by a desire to harass and is conducted in bad faith.

22. This matter involves a 12-inch water line that is located outside of the geographical boundaries of property controlled by, or within the jurisdiction of, the Tunica Biloxi Tribe and involved a dispute between parties that are not members of the Tunica Biloxi Tribe.
23. Indians' sovereign rights as a nation within the United States have necessarily been limited to no longer include the right to determine their external relations and they involve only the relations among members of a tribe which limits the exercise of tribal power to that which is necessary to protect tribal self-government or to control internal relations. *Montana v. United States*, 450 U.S. 544, 101 S.Ct. 1245, 67 L.Ed.493 (1981).
24. The Court expressed two exceptions to the limitation of tribal power: 1) a tribe may regulate activities of non-members on fee lands who enter a consensual relation with the tribe through commercial dealing; and 2) the tribe may civilly regulate where the conduct of non-Indians on fee lands threatens or has some direct effect on the political integrity, economic security, or the health or welfare of the tribe.
25. The assertion by this Honorable Court that it has jurisdiction over this matter due to the *Montana* exception over nonmembers consensual relationships with the tribe does not apply outside of the reservation or the tribal fee lands. 450 U.S. 544, 101 S.Ct. 1245, 67 L.Ed.493 (1981). This exception only applies to conduct inside the reservation and not contests between non-members. *Plains Commerce Bank v. Long Family Land and Cattle Co., Inc.*, 554 U.S. 316, 128 S.Ct. 2709, 171 L.Ed.2d 457 (2008) see also *Strate v. A-1 Contractors*, 520 U.S. 438, 117 S.Ct. 1404, 137 L.Ed.2d 661 (1997).
26. Additionally, the assertion by the Court that it has jurisdiction due to the *Montana* exception over the regulation of non-Indians for actions that threaten or have some direct effect on the political integrity, economic security, or the health or welfare of the tribe is also misplaced

because this exception also requires the action to be on fee lands. 450 U.S. 544, 101 S.Ct. 1245, 67 L.Ed.493 (1981).

27. Here the 12-inch water line that is the subject of the dispute herein is located outside of the Tunica Biloxi fee land geographical boundaries and outside of the geographical boundaries of the Tunica Biloxi trust land; therefore, the Tribal Court's assertion of jurisdiction over this matter is patently violative of express jurisdictional prohibitions.
28. Similar to *Nevada v. Hicks*, none of the *Montana* exceptions are applicable to this case and no federal grant has been issued to provide Tunica-Biloxi Tribal governance over nonmembers conduct on Tunica-Biloxi Trust Lands covered by *Montana's* main rule so the exhaustion requirement would serve no purpose other than delay. 533 U.S. 353, 121 S.Ct. 2304, 150 L.Ed.2d 398 (2001). Therefore, comity extended by Federal Courts to Tribal Courts through the exhaustion of tribal court remedies is not applicable.
29. The Opinion and Judgment of the Tribal Court are both absolutely null because the Tunica-Biloxi Tribal Court does not have jurisdiction over the subject matter of this litigation.
30. The Court cites *Freemanville Water System, Inc. v. Poarch Band of Creek Indians*, 563 F.3d 1205 (11th Cir. 2009) as being instructive in this matter; however, the Court's assertion is again misplaced because in *Freemanville*, the Indian Tribe was expanding their own water system across Freemanville Water System's protected jurisdiction and the Court ruled that the Indian Tribe could connect the Indian water system on noncontiguous fee lands.
31. Conversely, in this matter, the City of Marksville and/or Avoyelles Water Commission attempts to infringe upon Ward 3's federally protected jurisdiction. The only way *Freemanville* is applicable is if the Tribal Court's inappropriate assertion of ownership of the 12-inch water line is upheld, but even still, it does not give the City of Marksville the right to sell water to the

Tunica Biloxi Tribe. Arguably, the Tunica Biloxi Tribe would need to buy water at wholesale from Avoyelles Water Commission and operate their own water system for *Freemantown* to be applicable.

32. The Tunica Biloxi Tribe is not a party to this lawsuit and as such no assertions that the Tunica Biloxi Tribe intends to operate its own water system is in the record of this matter, additionally, only the Court, not the Tunica Biloxi Tribe, has asserted that the Tunica Biloxi Tribe owns the 12-inch pipe that is the subject of this litigation, and the Tunica Biloxi Tribe is not a party to this litigation nor have they asserted any claims to ownership of this 12-inch pipe in this litigation.
33. For the reasons stated herein, removal of this matter to the U.S. District Court for the Western District of Louisiana is proper and necessary.
34. As such, Ward 3 respectfully requests that this Honorable Court provide Ward 3 with a certified copy of the entire record, a certified copy of the opinion of this Honorable Court, and a certified copy of the final judgment of this Honorable Court.

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Prayer and signature to follow

WHEREFORE, Ward 3, Avoyelles Water Works District, prays that this Honorable Court prepare a complete, certified, copy of the entire file in this matter to be presented to the United States District Court for the Western District of Louisiana with a Notice of Removal to be filed by Ward 3.

Respectfully submitted,

S/ Kirk P. LaCour

Kirk P. LaCour (La. Bar Roll: 37199)

KPL - Law

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Mansura, LA 71350

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Attorney for Ward 3 Avoyelles Waterworks District

Copies Provided by Email to:

Avoyelles Water Commission
Through their attorney of Record
The Gaspard Law Firm
Attn: Jonathan T. Gaspard, Esq.
P.O. Box 546
313 N. Main Street
Marksville, LA 71351

City of Marksville
Through their attorney of Record
The Gaspard Law Firm
Attn: Jonathan T. Gaspard, Esq.
P.O. Box 546
313 N. Main Street
Marksville, LA 71351



Kirk LaCour <kirk.lacour@kpl-law.com>

Water Commission vs. Ward 3 - Judgment

Christy Smith <Smith@tunica.org>

Mon, Aug 26, 2024 at 3:49 PM

To: Kirk LaCour <kirk.lacour@kpl-law.com>

See the attachment.

Christy Smith

Tunica Biloxi Police Department & Court

[133 Melacon Road](#)

Marksville, Louisiana 71351

318-240-6422

csmith@tunica.org

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SUIT # 2023-006

AVOYELLES WATER COMMISSION

TUNICA-BILOXI TRIBAL COURT

VERSUS

PARISH OF AVOYELLES

WARD 3 WATERWORKS DISTRICT

STATE OF LOUISIANA

FILED: June 17, 2024

BY: [Signature]

JUDGMENT

This matter having come before the court on December 6, 2023, pursuant to a *Petition for Injunction*;

PRESENT:

JONATHAN T. GASPARD, Attorney At Law, P.O. Box 546, Marksville, Louisiana 71351, Attorney for Avoyelles Water Commission; and

KIRK P. LACOUR, Attorney At Law, P.O. Box 188, Mansura, Louisiana 71350, Attorney for Ward 3 Waterworks District;

The court after having considered the stipulations, the evidence adduced, the law and the *Opinion* of the court issued on May 22, 2024, being in favor of petitioner, the **AVOYELLES WATER COMMISSION**, it is by reason thereof;

ORDERED, ADJUDGED and DECREED that the **WARD 3 WATERWORKS DISTRICT** and its employees and/or representatives are hereby prohibited and enjoined from impeding, restricting, or stopping the employees and/or representatives of the **AVOYELLES WATER COMMISSION** from accessing the water main located at the intersection of Slim Lemoine Road and Louisiana Highway 1; it is further

ORDERED, ADJUDGED and DECREED that the *Reconventional Demand, Third-Party Demand and Injunctive Relief* filed by the **WARD 3 WATERWORKS DISTRICT** against the **AVOYELLES WATER COMMISSION** and the City of Marksville is hereby dismissed.

JUDGMENT RENDERED and SIGNED on this 17th day of June, 2024, at Tunica-Biloxi Reservation.

[Signature]
ROBERT A. JOHNSON
TRIBAL JUDGE
TUNICA-BILOXI TRIBAL COURT

RESPECTFULLY SUBMITTED BY:

THE GASPARD LAW FIRM

BY: [Signature]
JONATHAN T. GASPARD
ATTORNEY AT LAW
BAR ROLL # 27474
P.O. BOX 546
MARKSVILLE, LA 71351
PHONE (318) 240-7329

FILED: June 17, 2024
ORIGINAL
[Signature]
CLERK OF COURT
TUNICA BILOXI TRIBAL COURT

ATTORNEY FOR THE
AVOYELLES WATER COMMISSION

TUNICA-BILOXI TRIBAL COURT
TUNICA-BILOXI RESERVATION

JUDGE
ROBERT JOHNSON

BENJAMIN CLYDE BENNETT, JR.
(1925 - 2013)

CLERK OF COURT
CHRISTY J. SMITH

TUNICA-BILOXI INDIANS OF LOUISIANA



July 17, 2024

Mr. Jonathan Gaspard
Post Office Box 546
Marksville, LA 71351

RE: Avoyelles Water Commission Vs. Ward 3 Waterworks
District; Suit Number: 2023-006

Dear Mr. Gaspard:

Enclosed please find a certified copy of the Judgment, regarding the above captioned suit.

Also enclosed for your convenience is receipt number 4046 in the amount of \$30.00. Please note the fee for filing said documents in Tribal Court is \$60.00 therefore you have a remaining balance of \$30.00. Please make payable to the Tunica Biloxi Tribal Court, 133 Melacon Road, Marksville, LA 71351 at your earliest convenience.

Please feel free to contact me at 318-240-6422 if I can be of further assistance in this matter.

Respectfully,

Christy J. Smith, Clerk of Court
Tunica Biloxi Tribal Court

CS
Enclosure

Cc: Kirk P. Lacour, w/enclosure

TUNICA - BILOXI TRIBAL COURT

AVOYELLES WATER COMMISSION

CASE NO: 2023-006

VERSUS

HON. JUDGE ROBERT JOHNSON

**WARD 3 AVOYELLES
WATERWORKS DISTRICT**

PARISH OF AVOYELLES

STATE OF LOUISIANA

MOTION FOR COURT TO RECONSIDER OPINION

Alternatively

MOTION AND ORDER FOR APPEAL

NOW INTO COURT, comes Ward 3 Avoyelles Waterworks District, who respectfully moves as follows:

1. A bench trial in this matter took place on December 6, 2023.
2. The Court issued an opinion on May 22, 2024.
3. Defendant, Ward 3 Avoyelles Waterworks District was provided a copy of the signed Judgment on August 26, 2024. The notice received indicates that the Judgment was signed on June 17th, 2024 by the Honorable Robert A. Johnson, Tribal Court Judge. However, a letter from the Court dated July 17, 2024 to Jonathan Gaspard, Attorney for the Plaintiffs indicating that there remained a balance due on account was also included with the Judgment.
4. The Court's opinion declared that the Tunica Biloxi Tribe, who is not a party to this matter, is the owner of a 12-inch pipeline that originates, and is primarily located, off tribal property, and for which ownership is asserted by the Parties to this matter.
5. Additionally, the Tribal Court failed to address the Affirmative Defense/Exception of lack of subject matter jurisdiction asserted by Ward 3 Avoyelles Waterworks District.

6. Jurisdiction can be challenged at any time.” and “Jurisdiction, once challenged, cannot be assumed and must be decided. *Basso v. Utah Power & Light Co.*, 495 F.2d 906, 910 (10th Cir. 1974) and *Maine v. Thiboutot*, 448 U.S. 1, 100 S.Ct. 2502, 65 L.Ed.2d 555 (1980).
7. If a court is without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and all persons concerned in executing such judgments or sentences, are considered, in law, as trespassers. *Elliot v. Piersol*, 26 U.S. 328, 340, 1 Pet. 328, 7 L.Ed. 164 (1828).
8. Defendants, and Reconventional Plaintiffs, move this honorable court to reconsider the opinion issued on May 22, 2024, taking into consideration the evidence of payment, in the form of Ward 3 Waterworks District Cancelled Checks issued for payment for the installation of the 12-inch pipeline, which directly contradicts the assertions set forth in the Court’s opinion, and further reconsidering the decision and assertions of ownership made in the May 22, 2024, opinion asserting that the Tunica Biloxi Tribe owns the 12-inch pipeline.
9. This honorable Court does not have jurisdiction to decide this matter as this honorable Court lacks the requisite subject matter jurisdiction to decide this case in accordance with *Montana v. United States*, 450 U.S. 544, 101 S.Ct. 1245, 67 L.Ed.2d 493 (1981) and its progeny.
10. The question whether an Indian tribe retains the power to compel a non-Indian property owner to submit to the civil jurisdiction of a triable court is one that must be answered by reference to federal law and is a federal question under §1331. *National Farmer’s Union Insurance Co. v. Crow Tribe of Indians*, 471 U.S. 845, 105 S.Ct. 2447, 85 L.Ed.2d 818 (1985).
11. However, exhaustion of tribal court remedies is required before a claim may be entertained by a federal court. *National Farmer’s Union Insurance Co. v. Crow Tribe of Indians*, 471 U.S. 845, 105 S.Ct. 2447, 85 L.Ed.2d 818 (1985).

12. Three exceptions exist where a federal court need not stay its hand: 1) where an assertion of tribal jurisdiction is motivated by a desire to harass or is conducted in bad faith; 2) where the action is patently violative of express jurisdictional prohibitions; or 3) where exhaustion would be futile because of the lack of adequate opportunity to challenge the court's jurisdiction. *National Farmer's Union Insurance Co. v. Crow Tribe of Indians*, 471 U.S. 845, 105 S.Ct. 2447, 85 L.Ed.2d 818 (1985).
13. "Where non-members are concerned, the 'exercise of triable power beyond what is necessary to protect tribal self-government or to control internal relations is inconsistent with the dependent status of the tribes, and so cannot survive without express congressional delegation.'" *Nevada v. Hicks*, 533 U.S. 353, 121 S.Ct. 2304, 150 L.Ed.2d. 398 (2001).
14. The above entitled matter involves "non-members", the Tunica Biloxi Tribe is not a party to this matter, the Tunica Biloxi Tribe has not intervened in this matter, and the Tribal Court attempts to assert Tribal ownership of property that is located outside of the jurisdictional boundaries of the Tunica Biloxi Tribe with no evidence to support such a claim; therefore, this action does not fall within the Tribal Court's Jurisdiction and exhaustion of tribal court remedies would only serve to delay this matter.
15. Additionally, the Tunica-Biloxi Tribal Court, without any evidence, or even an allegation, attempts to assert Tunica Biloxi Tribe ownership of the 12-inch water pipe that is the subject of this matter to fashion a remedy favoring a third-party that is not involved in this matter, the Tunica Biloxi Tribe; therefore, it is clear that the Tribal Court's assertion of tribal jurisdiction is motivated by a desire to harass and is conducted in bad faith.

16. This matter involves a 12-inch water line that is located outside of the geographical boundaries of property controlled by, or within the jurisdiction of, the Tunica Biloxi Tribe and involved a dispute between parties that are not members of the Tunica Biloxi Tribe.
17. Indians' sovereign rights as a nation within the United States have necessarily been limited to no longer include the right to determine their external relations and they involve only the relations among members of a tribe which limits the exercise of tribal power to that which is necessary to protect tribal self-government or to control internal relations. *Montana v. United States*, 450 U.S. 544, 101 S.Ct. 1245, 67 L.Ed.493 (1981).
18. The Court expressed two exceptions to the limitation of tribal power: 1) a tribe may regulate activities of non-members on fee lands who enter a consensual relation with the tribe through commercial dealing; and 2) the tribe may civilly regulate where the conduct of non-Indians on fee lands threatens or has some direct effect on the political integrity, economic security, or the health or welfare of the tribe.
19. The assertion by this Honorable Court that it has jurisdiction over this matter due to the *Montana* exception over nonmembers consensual relationships with the tribe does not apply outside of the reservation or the tribal fee lands. 450 U.S. 544, 101 S.Ct. 1245, 67 L.Ed.493 (1981). This exception only applies to conduct inside the reservation and not to contests between non-members. *Plains Commerce Bank v. Long Family Land and Cattle Co., Inc.*, 554 U.S. 316, 128 S.Ct. 2709, 171 L.Ed.2d 457 (2008) see also *Strate v. A-1 Contractors*, 520 U.S. 438, 117 S.Ct. 1404, 137 L.Ed.2d 661 (1997).
20. Additionally, the assertion by the Court that it has jurisdiction due to the *Montana* exception over the regulation of non-Indians for actions that threaten or have some direct effect on the political integrity, economic security, or the health or welfare of the tribe is also misplaced

because this exception also requires the action to be on fee lands. 450 U.S. 544, 101 S.Ct. 1245, 67 L.Ed.493 (1981).

21. Here the 12-inch water line that is the subject of this dispute is located outside of the Tunica Biloxi fee lands geographical boundaries and outside of the geographical boundaries of the Tunica Biloxi trust lands; therefore, the Tribal Court's assertion of jurisdiction over this matter is patently violative of express jurisdictional prohibitions.
22. Similar to *Nevada v. Hicks*, none of the *Montana* exceptions are applicable to this case and no federal grant has been issued to provide Tunica-Biloxi Tribal governance over nonmembers conduct on Tunica-Biloxi Trust Lands covered by *Montana's* main rule so the exhaustion requirement would serve no purpose other than delay. 533 U.S. 353, 121 S.Ct. 2304, 150 L.Ed.2d 398 (2001). Therefore, comity extended by Federal Courts to Tribal Courts through the exhaustion of tribal court remedies is not applicable.
23. The Opinion and Judgment of the Tribal Court are both absolutely null because the Tunica-Biloxi Tribal Court does not have jurisdiction over the subject matter of this litigation.
24. The Court cites *Freemanville Water System, Inc. v. Poarch Band of Creek Indians*, 563 F.3d 1205 (11th Cir. 2009) as being instructive in this matter; however, the Court's assertion is again misplaced because in *Freemanville*, the Indian Tribe was expanding their own water system across Freemanville Water System's protected jurisdiction and the Court ruled that the Indian Tribe could connect the Indian water system through the Freemanville Water Systems protected jurisdiction to connect the noncontiguous fee lands.
25. Conversely, in this matter, the City of Marksville and/or Avoyelles Water Commission attempt to infringe upon Ward 3's federally protected jurisdiction. The only way *Freemanville* is applicable is if the Tribal Court's inappropriate assertion of ownership of the 12-inch water

line is upheld, but even still, it does not give the City of Marksville the right to sell water to the Tunica Biloxi Tribe from within Ward 3's federally protected jurisdiction.

26. For the reasons stated herein, the Tunica-Biloxi Tribal Court committed reversible error by asserting that the Tunica Biloxi Tribe owns the 12-inch line that is the subject of this matter and by failing to sustain the exception of lack of subject matter jurisdiction asserted by Ward 3.

27. Additionally, the Tunica-Biloxi Tribal Court committed reversible error in ruling that Ward 3 is prohibited from stopping Avoyelles Water Commission from accessing the water main at the intersection of Slim Lemoine Road and La-1.

28. In the alternative, Defendants/Plaintiffs in Reconvention, move this honorable court for an order and return date to appeal the final judgment rendered in this honorable Court to the Indian Appeals Court for the Tunica Biloxi Tribe.

WHEREFORE, Defendants/Plaintiffs in Reconvention, Ward 3 Avoyelles Waterworks District pray that they be granted a suspensive appeal in the above cause of action, returnable to the Indian Court of Appeals for the Tunica Biloxi Tribe, within applicable delays fixed by law.

Respectfully submitted,



Kirk P. LaCour (La. Bar Roll: 37199)

KPL - Law

P.O. Box 188

Mansura, LA 71350

SERVICE ADDRESS

700 SW Main Street

Bunkie, LA 71322

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Facsimile: (225) 612-6479

Email: kirk.lacour@kpl-law.com

Attorney for Ward 3 Avoyelles Waterworks District

CERTIFICATE

I do hereby certify that, on this 27th day of August, 2024, a copy of the above and foregoing pleading has been served upon all known counsel of record by hand delivery, electronic mail, facsimile transmission, and/or United States Mail, properly addressed and postage prepaid.



Kirk P. LaCour

TUNICA - BILOXI TRIBAL COURT

AVOYELLES WATER COMMISSION

CASE NO: 2023-006

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VERSUS

HON. JUDGE ROBERT JOHNSON

**WARD 3 AVOYELLES
WATERWORKS DISTRICT**

PARISH OF AVOYELLES

STATE OF LOUISIANA

ORDER

CONSIDERING THE FOREGOING Motion for Appeal:

IT IS ORDERED that the Defendants (and Plaintiff's in Reconvention) are granted a suspensive appeal from the Judgment rendered in the above captioned matter on _____, returnable to the Indian Court of Appeals, _____, on the _____ day of _____, 2024.

SIGNED in Marksville, Louisiana on the Tunica Biloxi Reservation, this _____ day of _____, 2024.

Honorable Robert Johnson
Tribal Judge
Tunica Biloxi Tribal Court

Service Instructions:

Please send a copy of this to all counsel of record.