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DOCUMENT CONTROL

June 1, 2009

**By Hand**

Joel H. Peck, Clerk  
State Corporation Commission  
Tyler Building  
1300 East Main Street  
Richmond, Virginia 23219

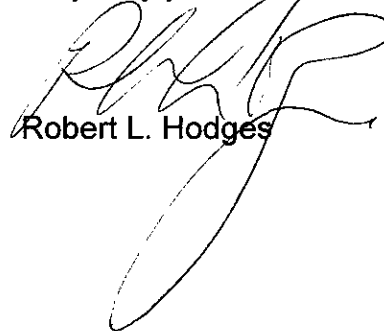
**Re: Johnson v. Fluvanna County Board of Supervisors et al.  
Case No. CLK-2009-00012**

Dear Mr. Peck:

Enclosed for filing please find an original and 15 copies of Responsive Pleading of James River Water Authority and Memorandum in Support of Motion to Dismiss. I have also attached an extra copy of each pleading, which I would appreciate your file stamping and returning via our courier.

With best regards, I am

Very truly yours,



Robert L. Hodges

RLH/afh

Enclosures

cc: Douglas R. Johnson  
Frederick W. Payne, Esq.  
Greg L. Hoffman, Esq.  
Jonathan B. Orne, Esq.

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
At Richmond

DOUGLAS ROBERT JOHNSON,  
Petitioner,

v.

CASE NO. CLK-2009-00012

FLUVANNA COUNTY BOARD OF SUPERVISORS,  
LOUISA COUNTY BOARD OF SUPERVISORS,  
and  
JAMES RIVER WATER AUTHORITY,  
Respondents.

**RESPONSIVE PLEADING OF THE  
JAMES RIVER WATER AUTHORITY**

COMES NOW your respondent James River Water Authority (“the Authority”), by counsel, pursuant to the Commission’s Scheduling Order of May 8, 2009, and for its responsive pleading to the petition and affidavit filed in this matter states the following:

**MOTION TO DISMISS**

The James River Water Authority, by counsel, moves to dismiss the petition filed with the Commission for the reasons stated in the accompanying memorandum of law, which is incorporated by reference.

WHEREFORE, respondent the James River Water Authority moves that the Commission should, in due course, dismiss the petition and related affidavit and grant the Authority such other and further relief as the ends of justice may require.

**ANSWER TO PETITION**

1. The Authority admits the averments of ¶ 1.
2. In response to the averments of ¶ 2, the Authority admits that Fluvanna County is one of the founding counties of the Authority. All other averments of ¶ 2 are denied.

3. In response to the averments of ¶ 3, the Authority admits that Louisa County is one of the founding counties of the Authority. All other averments of ¶ 3 are denied.

4. In response to the averments of ¶ 4, the Authority admits that it is a newly-formed entity that is the subject of the petition. All other averments of ¶ 4 are denied.

5. In response to the averments of ¶ 5, petitioner is merely stating in conclusory terms the relief sought in the petition. To the extent any response is required, the Authority denies the averments of ¶ 5.

6. The averments of ¶ 6 contain legal conclusions to which no response is required.

7. The Authority denies the averments of ¶ 7.

8. The Authority denies the averments of ¶ 8.

9. In response to the averments of ¶ 9, the Authority admits that the Fluvanna County Board of Supervisors voted, at its April 15, 2009 meeting, to reject the referenced petition. All other averments of ¶ 9 are denied.

10. In response to the averments of ¶ 10, the Authority answers that ¶ 10 appears to have missing words and therefore the Authority is unable to admit or deny the averments of ¶ 10.

11. The Authority admits the averments of ¶ 11 except that the certificate was issued on April 21, 2009, not on April 22, 2009, as averred.

12. All averments to the petition not specifically admitted are denied.

#### **Affirmative Defenses**

13. The petitioner lacks standing to challenge the action of the Commission.

14. The petition fails to state a claim on which the relief requested can be granted.

15. The action of the Commission in issuing the Charter to the Authority is conclusive as to petitioner as a matter of law.

16. The petition is an impermissible collateral attack on the action of the Board of Supervisors of Fluvanna County which cannot properly be raised before the Commission.

WHEREFORE, your respondent, James River Water Authority, prays that the Commission, to the extent it has jurisdiction in this matter, will deny the petition and grant the Authority such other and further relief as the ends of justice may require.

**RESPONSE OF JAMES RIVER WATER AUTHORITY  
TO AFFIDAVIT OF DOUGLAS JOHNSON**

1. The Authority admits the averments of ¶ 1.

2. The Authority admits the averments of ¶ 2.

3. In response to the averments of ¶ 3, the Authority states that ¶ 3 sets forth the subjective motivations of the petitioner and the Authority is without sufficient knowledge to admit or deny such matters.

4. In response to the averments of ¶ 4, the Authority admits that petitioner sent a fax annexed to his affidavit as Exhibit B to the Clerk of the SCC on April 17, 2009. The Authority does not make any admission with respect to the legal effect of such action.

5. In response to the averments of ¶ 5, the Authority states that the April 17, 2009 fax speaks for itself and denies any characterization inconsistent with its terms. Insofar as ¶ 5 contains assertions concerning Exhibit C to the petition, the Authority answers that Exhibit C speaks for itself and denies any characterization inconsistent with its terms.

6. The Authority admits the averments of ¶ 6.

7. In response to the averments of ¶ 7, the Authority admits that there was filed in the Circuit Court for the County of Fluvanna a proceeding identified as Case No. 09CL81. The Authority answers that Exhibit E speaks for itself and denies any characterization inconsistent with its terms.

8. In response to the averments of ¶ 8, the Authority admits that the complaint and motion in Case No. 09CL81 were filed with the Circuit Court of Fluvanna County and faxed to the county attorneys respectively on April 20, 2009. The Authority admits that April 20, 2009 was the day before the issuance of a certificate of incorporation by the Commission.

9. In response to the averments of ¶ 9, the Authority admits that the Fluvanna County Board of Supervisors filed a motion to dismiss in Case No. 09CL81 on April 23, 2009 at 11:20 a.m. A true and correct copy is attached to the affidavit as Exhibit F. All other averments of ¶ 9 are denied.

10. In response to the averments of ¶ 10, the Authority admits that petitioner filed his objection to the motion to dismiss on April 23, 2009 and that a copy of that motion is attached to his affidavit as Exhibit G.

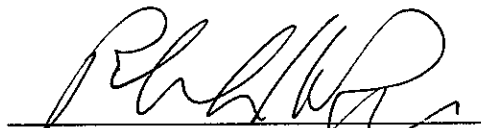
11. All averments of the affidavit not specifically admitted are denied.

WHEREFORE, respondent the James River Water Authority answers that petitioner states no claim to any relief whatsoever and that the Commission should, in due course, dismiss the petition and related affidavit and grant such other and further relief as the ends of justice may require.

The James River Water Authority desires and intends to be heard before the Commission at any hearing scheduled in this case.

Respectfully Submitted,

JAMES RIVER WATER AUTHORITY

  
\_\_\_\_\_  
Of Counsel

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*Counsel for respondent James River Water Authority*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13<sup>th</sup> day of June, 2009, I caused a true and correct copy of the foregoing pleading to be sent via first class U.S. mail, postage prepaid to the following:

Douglas R. Johnson, *pro se*  
571 Long Acre Road  
Palmyra, Virginia 22963

Frederick W. Payne, Esq.  
Fluvanna County Attorney  
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*Counsel for Defendant Louisa County Board of Supervisors*

Jonathan B. Orne, Esq.  
Office of General Counsel  
State Corporation Commission  
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Richmond, Virginia 23219  
*Counsel for State Corporation Commission*

A handwritten signature in black ink, appearing to read "R. L. Hodges", is written over a horizontal line. The signature is cursive and extends below the line.