

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF CHARLOTTESVILLE

STANTON BRAVERMAN)
226 Douglas Ave)
Charlottesville, Virginia 22902)

v.)

CITY OF CHARLOTTESVILLE)
Serve: S. Craig Brown)
City of Charlottesville Attorney)
605 E. Main Street)
Charlottesville, VA 22902)

and)

County of Albemarle)
Serve: Larry W. Davis)
County Attorney)
401 McIntire Road)
Charlottesville, VA 22902)

and)

Albemarle County Service Authority)
Serve: Gary O’Connell)
Executive Director)
168 Spotnap Road)
Charlottesville, VA 22911)

CASE NUMBER _____

and)

Rivanna Water and Sewer Authority)
Serve: Thomas L. Frederick)
Executive Director)
695 Moores Creek Lane)
Charlottesville, VA 22903)

COMPLAINT FOR DECLARATORY JUDGEMENT AND INJUNCTION

1. Pursuant to Virginia Code 8.01-184, Plaintiff Stanton, pro se, respectfully requests that this court declare the approval of the Ragged Mountain Project (herein after referred to as the Project) to abandon the existing dam and construct a new, higher dam that will raise the water

level of the Ragged Mountain Reservoir by 42 feet, construct a pipeline from the South Fork Rivanna Reservoir to fill the new Ragged Mountain Reservoir with fresh water, and related aspects of the Project to be invalid and to issue an injunction against the parties to proceed.

PARTIES

2. Plaintiff Stanton Braverman owns three houses in the City of Charlottesville, one located at 13 Burnett Street, another at 608 Wine Cellar Circle and the third at 226 Douglas Ave. He has a significant investment in the City and pays for water delivered by the City of Charlottesville, and considers the Project to develop Ragged Mountain Reservoir as currently designed will seriously affect the value of these properties and will also affect the cost and availability of fresh water to these properties.

3. Defendant City of Charlottesville (hereinafter City) is an independent city incorporated in the Commonwealth of Virginia that has owned the water works facilities planned and constructed by the City and it has owned the rights to the water supplies created by those water works facilities. It has done so explicitly since 1973 through an agreement with the County of Albemarle, the Albemarle County Service Authority and the Rivanna Water and Sewer Authority, referred to as the Four Party Agreement.

4. Defendant County of Albemarle (hereinafter County) is a local government within the Commonwealth of Virginia that is responsible for designation of those portions of the County that primarily surround the City that receive potable water from the Albemarle County Service Authority, a public body that is organized by the County.

5. Defendant Albemarle County Service Authority (hereinafter ACSA) is a public body authorized by the County to undertake a number of responsibilities related to the Project, in addition to its duties related to water and wastewater, and is a signer of the agreements related to

the Project.

6. Defendant Rivanna Water and Sewer Authority (hereinafter RWSA is a public body created by the City of Charlottesville and the County of Albemarle that is responsible for planning and implementation of most of the Project, in addition to its duties related to water and wastewater, and is a signer of the agreements related to the Project.

NATURE OF COMPLAINT

7. The Defendants have entered into various agreements to sell land and lease water rights that are owned by the City to RWSA as part of the Project.

8. The City Council, the elected body governing on behalf of the City, has not obtained proper legal authorization to participate in the Project. The only alleged authorization they have is a majority vote by the City Council. This is not the procedure for obtaining the authority for their participation. They are required by Section 28 of the City Charter to place the issue for a referendum and by Article VII section 9 of the Virginia State Constitution, which requires that it be approved by a supermajority of the City Council. Neither condition has been met.

9. The City Council improperly leased the facilities and property to the RWSA by not limiting the terms of the lease to 40 years as is required by Article VII section 9 of the Virginia State Constitution.

10. The Project calls for the improper continuation of the Four Party Agreement executed by Defendants in 1973 to, among other elements, use various water facilities for storing, transmitting, withdrawing, and treating the City's water; that Agreement is scheduled to terminate within a few months and that will be beyond the 40 year period that is allowed for such leases.

11. The other Defendants are party to this action by virtue of their participation in the Project

and because they have worked with the City in an attempt to write the supporting agreements to avoid the requirements of the State Constitution and the City Charter.

12. The actions by all Defendants working together produced the convoluted scheme contained in the supporting documents and agreements that are well outside the form and scope of normal contracts and agreements, which demonstrates collaboration to reach beyond their authorization granted to them by the State Constitution and, on the part of Defendant City, beyond the limitations of the City Charter.

DENIAL OF DUE PROCESS OF LAW

13. The Defendant City is denying Plaintiff's constitutional right to due process of law because the City does not have the required authorization to proceed or approve the Project. The Defendant City has effectively sold public property and sold rights in its water works to Defendant ACSA and/or Defendant RWSA. Section 28 of the City Charter requires that the public lands of the City and the rights in the City's water works shall not be sold until and except such sale shall have been subject to a referendum or special election that is approved by a majority of qualified voters in the City. In addition, Article VII, Section 9 of the Virginia State Constitution requires that no rights of a city in and to its various public places and its water works shall be sold except by a recorded affirmative vote of three-fourths of all members elected to the governing body (of the City). Neither of these requirements has been met.

14. The Defendant City has effectively leased certain public property and water rights and rights to its water works to Defendant ACSA and/or Defendant RWSA for a term that appears to be either beyond the 40 year period as required by Article VII, Section 9 of the Virginia State Constitution or for indefinite periods.

15. The Defendants City, ACSA and RWSA have engaged in a complicated set of agreements

that are confusing and impossible to understand: they have redefined the meaning of simple terms that deal with the transfer of property and rights; they have crafted complicated criteria for determining the time period of lease beyond the 40 year limit established in the State Constitution; and they are relying on the improper extension of the 1973 Four Party Agreement that is soon to expire without making any provision to allow for extension of such agreement. All of this has the affect of confusing the Plaintiff as well as some members of the City Council about the legality of the scheme and how it will operate and what effect it will have on property values and the future availability and cost of water.

DENIAL OF EQUAL PROTECTION OF LAW

16. Defendants, through the scheme in the Water Cost Allocation Agreement and agreement for use of land will deny Plaintiff equal rights to the availability of fresh water. Property owners and residents in the Urban Service Area will be getting a greater per capita allocation of water than Plaintiff would be entitled to. All of the Defendants operate under the umbrella of sovereignty that is vested in the Commonwealth of Virginia and equal protection guarantees require that all parties within that umbrella be treated equally. The delineation of the class into different groups is unwarranted, and Plaintiff's property values will suffer, because the potential water shortage and the high cost of water may impede growth in the City.

THE PROJECT IS ABSURD AND SHOULD NOT GO FORWARD

17. The Project as approved will lead to absurd results for the following reasons.

18. There is no need to increase the supply or reserve of fresh water at this time since there is no mandate from any competent authority to do so at this time and there is currently enough water supply capacity to serve the project population in both City and the Urban Service Area for 15 to 20 years .

19. The City gets no benefit from the Project and indeed suffers a significant loss of water allocation.
20. The scheme is an attempt to transfer control of the City's water works facilities and the City's water rights to the ACSA and/or the RWSA without adequate compensation.
21. The project calls for more than \$100 million in new or expanded infrastructure which is not needed and is not affordable to the City and the County water rate payers.
22. There is a strong possibility that the Project's long-term capital investment and debt service on bonds will not be supported, potentially forcing bankruptcy of one or more Defendants and extraordinary expense on Plaintiff and all ratepayers and taxpayers if the forecasted and unreasonable level of development in the City and the County does not occur.
23. The City's long term efforts predating the Project that secured water supply for the future will be destroyed and the Project leaves the City completely under the control of the Defendants for future water needs.
24. The projections for the need and availability of fresh water for the Urban Service Area and the City that have been used to justify the Project are out of date and available and current projections further show that the Project is not needed for many decades.
25. The agreements executed explicitly for the Project assume that a prior agreement between the parties (known as the Four Party Agreement) will be the primary governing document of the Project but do not recognize that the Four Party Agreement will expire in a few months and no provision has been made for its extension.

PRAYER FOR RELIEF

26. WHEREAS A LEGAL REMEDY is inadequate to correct the Project and the Defendants have entered into agreements to violate Plaintiff's constitutional right to due process of law and

equal protection of law, as well as entering into a Project that is absurd and abuses the authority vested in them by the Commonwealth of Virginia, Plaintiff hereby prays that the Court issue a declaratory judgment that the Project and its associated agreements do not meet due process of law requirements and issue an injunction prohibiting them from proceeding with the Project.

27. Plaintiff also prays that the Court rule that the Four Party Agreement will expire as specified in that agreement, which is in a couple of months, and that the Defendants shall renegotiate that agreement to assure future water supplies to the City and the Urban Service Area based on currently available studies, documents, investigations, analyses and reports.

Respectfully Submitted by:

Stanton Braverman, pro se
226 Douglas Ave.
Charlottesville VA. 220902
434-981-6061