

# No Standing News

Since we have no standing, we stand with those left standing

Volume I

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## The Water Wars Begin

Rolla Van Winkle wakes to find PWSD surrounded city a year ago  
Sues to void "agreement" they forgot to vote on for five years

**Grumpy old men.** The City and the Rolla Municipal Utilities are in court again – no, that's 'courts' plural. This time they're in federal and circuit court at the same time. That makes how many lawsuits, administrative hearings, and miscellaneous legal squabbles they've been in during the last few years? These five grumpy old men who are perpetually reappointed to the utilities board can't get along with anyone. While they were busy snarling and quarreling the Public Water Supply District snuck up and surrounded them but *it took RMU a whole year to realize it*. Three years ago we pointed out that the Public Water Supply District nearly had them encircled. At the time RMU was busy fighting Intercounty and buying diesel generators that don't generate electricity for local use. The city council was busy hustling their recreation center and trying to sell a park. No one was tending to business. (**City unfair to Peevish Old Women?** By the way, why aren't grumpy old women ever appointed to the RMU board? Rolla has plenty of cantankerous citizens of the female persuasion. Couldn't five crabby women get into as many expensive, unnecessary feuds as five grouchy men?)

**Without a blush.** After reading their outraged protests about the lack of due process and lack of public notice for county residents who are in the new PWSD district we were shocked and alarmed. Shocked, that the **Morgan, Butz and Beger** would, without blushing, extol the virtues of due process and the-public-right-to-know when they are currently neck-and-neck with the Rolla School Board for first place in the Due-Process-Trampling and Public-Business-Hiding Sweepstakes. Alarmed, that neither the city attorney nor the city administrator can read a statute well enough to discover that the notice and hearing process their lawsuit claims *should have been followed* doesn't require the PWSD to publish the notices or have the hearing - the whole process is the responsibility of the **25<sup>th</sup> Judicial Circuit Judge and Circuit Clerk**. If what they claim is true, the City is suing the wrong parties.

**It helps to check the facts first.** The story about the taxes the District is going to impose on everybody that **Frank Snelson** is in such a snit about... you remember Frank Snelson, the Mayor's business partner who put in a bid to secretly buy Buehler Park while he and Morgan pretended their collaboration wasn't a flaming conflict of interest...well, that story isn't true either. The District can only levy taxes in the water district to pay off GO bonds if District voters pass GO bonds and they didn't, they passed revenue bonds, which will be paid out of revenues from District water/sewer users. The only other taxing power the Water District has is to establish an Incidental Fund: (247.050) "*To purchase equipment and supplies needed in the operation of the water system of the district; provided, however, that the power to create an incidental fund by the levy of a general property tax shall cease after two annual levies therefor shall have been made, and such levy shall not exceed fifteen cents per annum on each one hundred dollars assessed valuation of taxable property within the district.*" Another "fact" that is being misinterpreted by Beger, Watkins and Snelson is about the failed

1996 referendum for a water district. They say that failure proves district voters don't want a water district. Then what does it say that three years later on April 6, and again on November 2, 1999, water district voters approved a total of \$13 million in sewer and water revenue bonds for District #2 and #4? On January 14, 1999 they again approved a decree of the Circuit Court to establish Public Water Supply District No. 4 in accordance with RSMo Chapter 247—the same law Frank thinks was changed as a part of The Great Water District Conspiracy. It appears that voters *do* want a water district and are willing to pay for it. County voters don't yet have to ask RMU's permission to live, breathe and drink clean water and that seems to be the part that rankles.

**Comedy Central.** As with most city dramas, there is an element of comedy behind the finger pointing. In 1998, the City and the PWSD negotiated an agreement to settle "pending litigation" because *the city had encroached on District territory* in North Brook Subdivision, the Recycling Center, Wellington Place, Frontier Technologies, Inc. and Briarwood. The city agreed to back off and not interfere with PWSD's annexation of territory in the future, which agreement the city is now renegeing on. (We fail to grasp why any governing body would sign away their right to protest anything that might, in the unfathomable future, violate constituents interests, but they did.) The city is now asking a Federal Judge to release them from this agreement, which (here comes the comical part) *the Water District Board voted on but the Council didn't!* If the council didn't vote on it then the "agreement" is worth the same as an empty roll of Charmin. So the city, employing their usual baffling logic, want the Federal Judge to let them set aside - not all of the agreement they *didn't agree to* - just the part of the agreement they *didn't agree to* that promised not to interfere with the PWSD's annexation of territory because now they *do* want to interfere. Butz describes his failure to get the council to vote on this "agreement" and their wobbly logic in going to court to get permission to *undo* something they actually *didn't do* as, "real sticky." It's not just "real sticky" it's real stupid and it gets stupider. Having started a federal action to get permission to go to Circuit Court to do something they forgot to vote to do in 1998, they went ahead and filed suit in Circuit Court and are doing it anyway before the Federal Judge decides if he will undo what they didn't vote to do so they can...you know...do what they already did...file suit in Circuit Court. Makes your head hurt doesn't it?

**"No Comment" is not helpful, neither are lawsuits.** The Public Water Supply District Board is doing no one any favor by letting the city monopolize the newspaper to poison public perception of this issue. As elected officials, part of their job is to communicate with the electorate. The paper has already editorialized on the city's side of course, but the PWSD Board should still try. They must have some reason for creating this mega-district, so despite the stacked publicity deck they should try to tell their side. There are legitimate public issues to be discussed here besides those of the litigious RMU

board, the shortsighted City of Rolla and fuming developer Frank Snelson. County residents outside the city limits are on septic systems, they need water and sewer solutions and have the right to pursue all legal means to get them without first begging permission of the RMU board. In this district enlargement something obviously went wrong, a few residents and the next-day signature of a judge is not due process and not good public policy but it needs to be sorted out without years of litigation. Both the City and the District need to spend OUR time and money doing something constructive about OUR mutual water problems.

**The big holes in both cases.** Probably only because the lawyers told them it was a serious weakness in their case, RMU is belatedly having a water need study done this summer; something they should have done years ago. The City and RMU need a water study to justify their own "land grabbing" but this one is suspiciously late. Judging from both court filings – not from "readings" supplied by one side, it is apparent that a lot of people screwed up who are paid to do a better job than round off procedural corners and ignore the instructions printed on the box. The Water District Board should have checked on what their attorney and administrator were doing, and the City Council should have checked on theirs. It's called "oversight" and there obviously wasn't any by either board. The Circuit Court is not exempt either, they should have checked on the requirements of the law they were executing and sent the district back to correct their paperwork and their process – adhering to the law is the court's job isn't it? The Public, who paid for all this sloppy work by lawyers, "expert" administrators, judges and elected officials should sue all of them for taking money under false pretenses.

**How many boil orders will it take?** Even in the face of the clear warning message of a state boil order in 1999 for the trailer court on Vichy Road the Rolla City Council has persistently ignored the serious health threats impacting their jurisdiction and their water quality. Who came to the rescue of the families in the trailer court? Not the City of Rolla, it was the "land grabbing" PWSO that hooked them up so they could have safe, clean drinking water. People, especially children and elderly, can die from contaminated water. The City has repeatedly turned down appeals from the College Hills Subdivision and other residential clusters on their borders for sewer hook-ups. It was that lack of foresight and planning by Rolla that

necessitated the formation of the districts in the first place. In the '70's the city and RMU could have formed the rural water district themselves, gotten federal and state grants and loans to develop sewer and water districts in unincorporated residential clusters and then would have been able to put in the fire lines and other code requirements that would have made the systems compatible when or if those areas were annexed into the city. That would make it much cheaper now for them to annex the Country Clubbers way out on BB highway because it's the expensive-to-remediate College Hills that presently stands in their way. That's the real reason the city and the utilities have their knickers in a twist, the PWSO is thwarting their own schemes for land development and annexation – they were just out-annexed by the water district. It is not an accident, nor is it a conspiracy, that the state in the '70's and '80's began updating laws for rural water districts and cracking down on septic tanks to alleviate *the statewide water quality crisis presented by septic systems and lagoons in all rural areas*. Rolla's "us and them" attitude and their lawsuits have alienated every entity they might have collaborated with to find solutions to the big problem – our mutual dwindling source of clean water. Some year (and this dispute could take years) after the City and the District have picked up their broken toys from the courtroom floor, will anyone remember that the Rolla aquifer is still shrinking and still being contaminated by everyone inside and outside of Rolla?

**We told them so.** Three years ago NSN published the following account of the city's growing water contamination problems and the shrinking Rolla aquifer in Part 3 of a four part series. Is the water district move just a "land grab" as the city claims or is it the logical response by county residents to solve a problem ignored by Rolla's shortsighted planning and management of growth? Anyone could predict the district would eventually surround Rolla; that is after all where the most septic tanks are. Are the expensive lawsuits Rolla has filed the justifiable protest of a power play by the county water district or the surly reaction of a city that was caught napping because they have been preoccupied with chasing landfill scams, tourism gimmicks and their own TIF 'land grab' instead of investing in basic planning and infrastructure? Judges will eventually decide the turf squabbles but that won't solve our problem. After you read about the karst under our feet and what is soaking into it you'll never again take a drink of water without hesitation.

### BOIL YOUR POOPY WATER

#### Part 3 of: WATER, WATER EVERYWHERE?

(NSN - December 15, 2000) **The boil-your-poop-water order.** Woodcrest Trailer Park on Vichy Road was under a Department of Natural Resources (DNR) boil order for months this summer because there was poop in their water. Officially, DNR said the boil order was due to fecal coliform bacteria - that's the scientific name for "poop." Part of Woodcrest Trailer Park is a half-mile INSIDE the city limits; part of it, we're told, is outside the city limits. Inside or outside, Woodcrest is NOT just somewhere "near Rolla" as reported by the Rolla Daily News. The Rolla City Council didn't ask a single question about the boil order. They didn't want to be distracted with serious problems that would interfere with the glamour shot they are building in Ber Juan Park, so *Public Water Supply District #2 connected Woodcrest to their water district*. That solves the immediate problem of clean water for the trailer park but it doesn't solve the problem of their leaking septic tanks and lagoons. DNR will not tell us (we have asked) what they think caused the contamination. In addition to the trailer park's own sewage lagoon and/or septic system located near poorly cased, shallow wells,

another culprit in the Woodcrest boil order could be the 60 year-old Vichy sewage treatment plant located just a short distance away on Spring Creek. Sixty years is very old for a sewer treatment plant, and until the recent upgrade the Vichy plant had gone 32 years since the last renovation. In 1995, the RDN reported a fish kill in Spring Creek from raw sewage spilled in the creek from the Vichy plant. According to the 1995 RDN interview of residents living near Spring Creek, the creek often reeked of raw sewage and dead fish. At the time, Steve Hargis, Public Works Director, told the Rolla City Council that the Vichy plant needed an upgrade but it would cost about a million dollars. The upgrade was finally done, but that didn't remove decades of ground contamination the chronically malfunctioning sewer plant had already deposited.

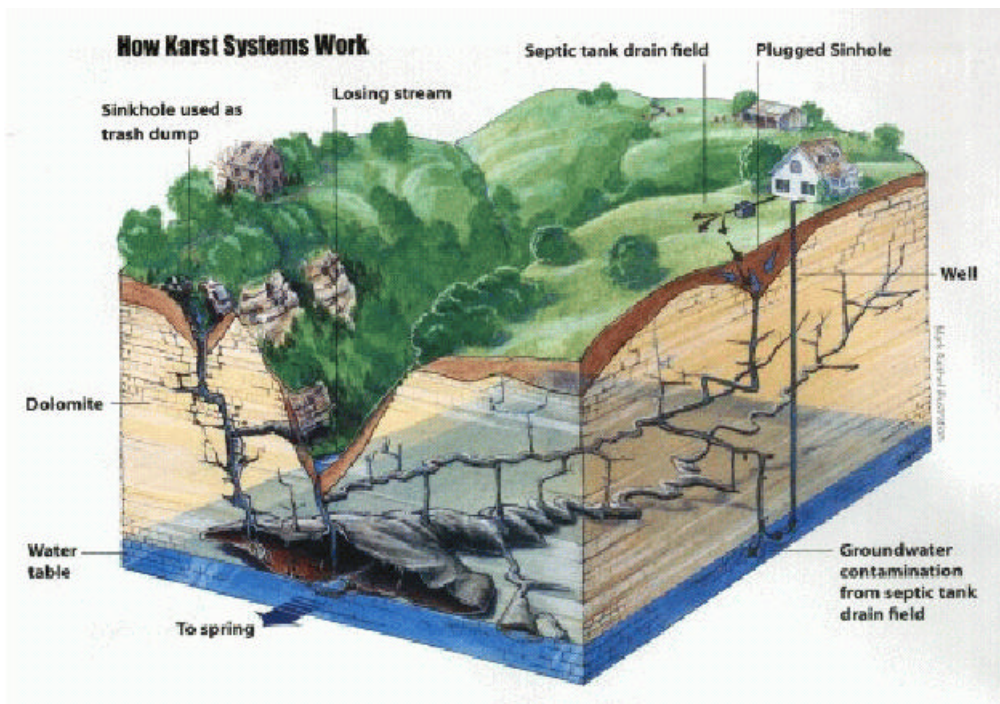
**The Spreading Stain.** College Hills Subdivision, which is also "near Rolla," is a perfect example (there are others) of a boil order waiting to happen. The Stoltz brothers started this septic tank subdivision about 25 years ago before there were state regulations about such things. Residents of College Hills have been trying to get

connected to the city sewage system for years without success, but the city council has provided sewer service since 1994 to the City of Doolittle many miles away. In the mid 70s, due to the increasing density of houses, College Hills joined a public water district because their septic tanks had fouled their private water wells. But finding a source of clean water from a public water district well further from the source of their self-contamination was only a short-term solution. Their poorly functioning septic field systems are still in use and are still dripping into the porous Ozark karst. In years of heavy rainfall the saturated clay soil in that area doesn't absorb and filter all the liquid sewage, it just pools on top of the ground. In addition to the underground migration of some sewage discharge from their field systems, heavy rains can float raw sewage right across man-made city boundary lines. Multiply College Hills x Woodcrest Trailer Park x all the other growing sewage clusters "near Rolla." Add the indifference of the Rolla City Council to basic infrastructure problems and in the future, boil orders may be a regular event in our lives.

**The Karst Under our Feet.** If you don't live near the northeast part of Rolla, should you be concerned about a boil order in a trailer park way over on the northeast side of town? Yes, you should because we are all living on top of the same huge karst formation, the only barrier between ground contamination and our common source of drinking water. Karst is a type of topography caused by solution of carbonate rock or gypsum and characterized by features such as caves, bedrock pinnacles, losing stream segments, sinkholes, and solutionally enlarged joints and bedding planes. Karst looks like microscopic Swiss cheese. Tiny, microscopic holes provide a natural, slow water filter and prevent dangerous little microscopic bacteria from swan diving straight into our underground water supply. But the bad news is that in some

cases - and this is more typical of the Ozarks - the holes are not uniformly microscopic. We have an abundance of cracks, fissures, springs, sinkholes, "losing" streams\* and big cave systems that let contaminated surface runoff and untreated sewage pass through quickly without being filtered much, if at all. When that happens, bacterial and other toxic contaminants can easily reach a pumping zone and be pumped right back up into our drinking water in a very potent state. That's your water, my water, everyone's water, not just the water for someone on the other side of town. Our fractured geology is easy to see, particularly when going south on I-44. The cuts where the roadbed was lowered show the thick and thin rock layers. You can clearly see small to large pockets where they cut through a hollow space or "baby" cave. Concrete patches in the face often indicate a large hole or cave entrance that the highway department had to seal up. Springs or seeping groundwater are visible trickling or sometimes pouring out of the cracks and fissures in the rock layers. In some places a layer or section of "soft," finely fractured rock or gravel pockets will be spilling down the face of the cut. It's a roadside classroom and belies any claim that our underlying limestone is a perfect filter.

**\*What's a "losing" stream?** Many of the streams in *Phelps County* are officially classified as "losing" streams. A losing stream is dry (called a dry creek) except when it is carrying runoff after a rain. Losing streams, or so-called "dry" creeks, after a rain will have less water flow or go dry quicker than the upstream part. This is because there are cracks, sinkholes or caves right under the streambed. Dirty surface water, in that case, drains down instead of draining away. This illustration from the March issue of the *Missouri Conservationist* is the best way to see the relationship between what we dump and pump and how it affects our drinking water.



The illustration above is from an article, "Karst Groundwater" by Tom Aley in the March 2000 issue of the "Missouri Conservationist." Whatever nasties go down in one part of town can come up in any other part of town and land in your next shower, ice cube or cooking water. The article explains that, "Natural cleansing (slow percolation through dense "solid" limestone) can be a misleading term - in many cases the underground openings are

larger than the bacteria or parasites that cause waterborne illnesses in people and animals. Some discrete recharge zones (those are dry creeks, sinkholes and other localized openings) cannot even filter out large materials such as acorns, walnuts, cans and pieces of Styrofoam." The Ozarks are famous for caves and sinkholes. Phelps County has from 100 to 200 caves; no one even tries to count the sinkholes. Caves, springs and sinkholes cause

groundwater to move very fast - and that's not a good thing. The article explains that groundwater travel rates in karst areas of Missouri are often in the range of a mile per day - that's dangerously fast. In non-karst areas, groundwater travel rates are commonly only a few feet per year. One losing stream that was studied **"...made slurping sounds as it transported over a million gallons per day of poorly treated industrial sewage into the regional karst groundwater system. Contaminants sinking through this stream polluted rural wells and springs in a 60 square mile area."** Tom Aley also points out that, **"Suburban and urban developments increase the quantity and decrease the quality of storm runoff water that reaches losing streams. When a storm hits, the vast majority of he contaminants are concentrated in the first quarter to half inch of storm runoff water. This 'first flush' storm water runoff, often similar in quality to raw city sewage,**

**enters our karst groundwater supplies through sinkholes or losing streams."** This is a description of the water that recharges the Ozark aquifer - our only source of drinking water. (End of article.)

You can see there's a lot more to the Water Wars than a PWSO "land grab" that threatens Rolla's own land-grabbing ambitions. Enlarged or not, the sewer and water district will, in the long term do something (not enough, but something) to help protect Rolla's water quality, which up till now has had no attention or protection from Rolla's own government. 'Rollathink' has been short-term and insular so county residents found their own solution and they are willing to pay for it. No matter who "wins" in court we all lose while sewage and other contaminants keep on drip, drip, dripping below us. Time and seeping sewage do not wait for cantankerous, shortsighted public officials.

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All sources below except the last two are published by and available from Missouri Department of Natural Resources, Division of Geology and Land Survey, Fairground Road, P.O. Box 250, Rolla, MO

- **"A Hydrologic Analysis of the Ozark Aquifer in the Rolla Area"** (Report No. 41), by James E. Vandike, 1992. **HIGHLY RECOMMENDED!** Starts with a fascinating history of the first hand dug wells in Rolla and the entertaining shenanigans of the pre-RMU city water departments. A summary of Vandike's findings is contained in NSN **"Water, Water Everywhere"** series, #4 **"Rolla's Shrinking Aquifer."** [http://www.rollanet.org/~rwnash/nsn\\_1\\_76.pdf](http://www.rollanet.org/~rwnash/nsn_1_76.pdf)
- **Groundwater Contamination and Sinkhole Collapse Induced by Leaky Impoundments in Soluble Rock Terrain** by Thomas J. Aley, James H. Williams and James W. Massello, 1972. Mo DNR
- **"Missouri State Water Plan Series Volume 1, Surface Water Resources of Missouri"**, by James E. Vandike, 1995. Mo. DNR
- **"Missouri's Natural Resources, A 1999 progress report on our water, air and land."** Mo DNR
- **"Karst Groundwater"** by Tom Aley, pg.8-11, Missouri Conservationist, March 2000
- **"Below Missouri Karst"** by William R. Elliot, pg. 4-7, Missouri Conservationist, March 2000

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