



For immediate release

Appeal Challenging Joint Water Authority Filed With Virginia Supreme Court

August 25, 2009 – The citizens’ fight for a referendum on creation of a Fluvanna-Louisa water authority has reached the Virginia Supreme Court. Fluvanna citizen Douglas Johnson filed an appeal with the Supreme Court on August 21, challenging the State Corporation Commission’s April 21 issuance of a charter to the James River Water Authority.

Johnson filed his lawsuit last spring after the Fluvanna County Board of Supervisors refused to call for a referendum despite two sets of voters’ petitions demanding a citizens’ vote on the matter. The Board, asserting their discretion to deny a referendum and claiming technical flaws in the petitions, obtained a charter for the JRWA from the Virginia State Corporation Commission before citizens could test the issues and validity of the petitions in court.

Johnson’s was one of two lawsuits brought by Fluvanna residents last spring to stop the county from forming the authority and to force a referendum on the issue. The second lawsuit, filed with the Fluvanna Circuit Court, currently is inactive due to lack of legal funds. Citizens across Fluvanna County have donated thousands of dollars to cover more than \$32,000 in legal bills and other referendum costs.

The Fluvanna Taxpayers Association launched the referendum effort in February when citizens grasped the taxpayer implications of the water authority and realized the fast-track approval path would shortcut public debate of serious citizen questions. Citizens had only five weeks to learn about the water authority and raise questions between the time the authority’s articles of incorporation became available in early February and the public hearing in mid-March. The two counties clinched their deal on January 26.

A referendum would put the following question on the ballot: “Shall Fluvanna County join Louisa County in the formation of a joint Water Authority?”

“Fluvanna supervisors tried to rush this through without addressing all the critical questions citizens raised,” said Johnson, an FTA director at large who brought the suit as a private citizen. “Citizens deserve straight facts and a say at the ballot box on this important issue. The will of the people of Fluvanna will be vindicated. I’m sure of it.”

The two petition drives led by FTA collected more than 4300 signatures in a county of 16,800 registered voters. Two petition drives were conducted to satisfy conditions of two Virginia code sections governing referenda. During the petition drives, citizens cited sovereignty and eminent domain issues as well as concerns about whether Fluvanna had struck the best deal for taxpayers and whether Louisa should have equal say-so over a utility running through Fluvanna.

Still, on April 15, the Fluvanna Board voted 4-2 to join with Louisa in creating a joint water authority. Since then, citizen legal efforts have included:

- An unsuccessful request by citizens’ lawyers in April that the Fluvanna Circuit Court block the water authority charter being issued by the SCC.

- An April action filed by Johnson with the SCC, challenging its issuance of the joint water authority's charter. On August 13, the SCC hearing examiner recommended dismissal of the case. Johnson filed an objection on August 22.

- May 15 and July 31 Fluvanna Circuit Court hearings on whether Fluvanna County must order a referendum on the joint water authority. On July 31 the Circuit Court ruled that Johnson's lawsuit for a declarative judgment lacked sufficient detail and granted him 21 days to revise his complaint. Johnson filed an amended complaint for declarative judgment on August 21.

The FTA's concerns about the joint water authority include:

- The JRWA gives Louisa as much say-so as Fluvanna over a utility running through Fluvanna territory -- a sovereignty issue.

- The JRWA board -- half of whose voting members are from Louisa -- has eminent domain authority over Fluvanna lands, affecting 200-300 properties.

- With only one elected Fluvanna official on the JRWA board, citizens have diluted influence over pipeline decisions. Also, JRWA decisions cannot be overridden by Fluvanna's Board.

- Louisa will pay only half the cost -- nothing extra for Fluvanna's ease of access to the river, use of its land, or the impact on Fluvanna citizens who will bear the brunt of eminent domain, construction, inconvenience and environmental impact.

- The JRWA will put upward pressure on Fluvanna taxes by generating construction, operations and maintenance costs that Fluvanna will be required to fund, then pass on to taxpayers.

- Louisa could enjoy profit-making advantages not available to Fluvanna. Louisa's existing water authority is not restricted from selling to other wholesale customers, while Fluvanna, with no county water authority, will be subject to JRWA veto or approval if it tries to do the same.

- Fluvanna plans call for citizens to foot the bill for the pipeline rather than issue revenue bonds requiring the pipeline to pay for itself. Estimates range from a 5-to-6 cent tax increase per \$100 valuation (\$150 - \$180 per year on a \$300,000 home). As a result, most citizens would pay double for water -- for the pipeline in addition to their own wells and private systems, as at Lake Monticello.

- Fluvanna apparently will not be reimbursed by the JRWA for Pleasant Grove parkland on which the treatment plant will be built. Cost estimates include no land reimbursement even though the treatment plant will serve both Louisa and Fluvanna counties.

For more information about the Fluvanna Taxpayers Association, go to www.fluvannataxpayers.org.

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