

STATE OF INDIANA ) IN THE MORGAN SUPERIOR COURT  
 )SS:  
COUNTY OF MORGAN ) CAUSE NO. 55D01 1212 PL 272

TOWN OF MOORESVILLE, INDIANA, )

Plaintiff, )

v. )

INDIANA-AMERICAN WATER )  
COMPANY, INC., and U.S. BANK )  
NATIONAL ASSOCIATION, )

Defendants. )

**FILED**

DEC 27 2017

*Stephanie Christ*  
CLERK CIRCUIT/SUPERIOR COURTS  
MORGAN COUNTY

**COMPLAINT FOR CONDEMNATION OF UTILITY**

The Plaintiff, the Town of Mooresville, Indiana (“Mooresville”), by counsel, for its Complaint for Condemnation of Utility against the Defendants, Indiana-American Water Company, Inc. (“IAWC”) and U.S. Bank National Association (“U.S. Bank”), alleges as follows:

1. Mooresville is a municipality and political subdivision organized and existing pursuant to the laws of the State of Indiana and located in Morgan County.
2. IAWC is a for-profit corporation organized under the laws of the State of Indiana with its place of business in Greenwood, Indiana.
3. IAWC owns and operates a public water utility in and around Mooresville commonly known as the IAWC Mooresville operation (the “IAWC Mooresville Operation”).
4. Upon information and belief, the IAWC Mooresville Operation includes, but is not limited to, the assembled group of real and personal property assets of the water utility operation serving in and around Mooresville which consists of land, including land rights, land improvements



and buildings, wells and springs, pumping equipment, treatment equipment, distribution reservoirs, tanks, transmission and distribution mains, piping, valves, services, meters and meter installations, hydrants, furniture and equipment, transportation equipment, tools, shop, and garage equipment, laboratory equipment, power operated equipment, and communication equipment.

5. Upon information and belief, IAWC has owned and operated the IAWC Mooresville Operation since about 2002. IAWC is the successor in interest to Hoosier Water Co. Inc. and/or HWC Corporation.

6. Upon information and belief, U.S. Bank is a lienholder or has an interest in some or all of the IAWC Mooresville Operation in its capacity as trustee under an Indenture of Mortgage dated as of May 1, 1968 and as amended and supplemented from time to time.

7. Pursuant to Indiana law, Mooresville is entitled to exercise the power of eminent domain to acquire public water utilities in and around its boundaries, such as the IAWC Mooresville Operation.

8. In order to provide water utility service in Mooresville and Indiana, IAWC was required to consent to the purchase or condemnation of the IAWC Mooresville Operation by Mooresville. Ind. Code § 8-1-2-93 states:

Any public utility accepting or operating under any indeterminate license, permit, or franchise granted after April 30, 1913, shall by acceptance of any such indeterminate license, permit, or franchise be **deemed to have consented to a future purchase or condemnation of its property including property located in contiguous territory within six (6) miles of the corporate limits of such municipality by the municipality in which such utility is located**, at the value and under the terms and conditions as provided in IC 8-1.5-2, IC 36-9-23, or IC 36-9-25, as applicable, and shall thereby be **deemed to have waived the right of requiring the necessity of such taking** to be established by the judgment of a court, **and to have waived all other remedies and rights relative to condemnation, except such rights and remedies as are provided in IC 8-1.5-2, IC 36-9-23, or IC 36-9-25, as applicable**, and shall have been deemed to have consented to the revocation of its license, permit,

or franchise by the commission for cause.

Ind. Code § 8-1-2-93 (emphasis added). See also Ind. Code § 8-1-2-92 and § 8-1.5-2-15.

9. Mooresville needs to acquire or appropriate all of the IAWC Mooresville Operation in order to exercise its rights under Indiana law and provide public water utility service in and around Mooresville.

10. Mooresville procured an independent appraisal of the fair value of the IAWC Mooresville Operation.

11. On November 21, 2012, in accordance with Ind. Code § 32-24-1-5, Mooresville tendered a written offer to IAWC, in the amount of \$6,500,000.00, for the IAWC Mooresville Operation.

12. IAWC did not accept Mooresville's offer.

13. Mooresville has negotiated in good faith regarding the just and proper compensation to be paid for the IAWC Mooresville Operation, and Mooresville and IAWC have been unable to reach an agreement for the purchase of the IAWC Mooresville Operation.

14. Having been unable to acquire voluntarily the IAWC Mooresville Operation, Mooresville seeks to condemn and acquire the IAWC Mooresville Operation by this action.

WHEREFORE, the Plaintiff, the Town of Mooresville, Indiana, by counsel, respectfully requests that this Court:

- a. Issue an order requiring the Defendants to appear at a hearing to show cause, if any, why the IAWC Mooresville Operation sought to be condemned should not be appropriated;

- b. Order the appropriation of the IAWC Mooresville Operation and appoint appraisers as provided by law to appraise and report the fair value of the IAWC Mooresville Operation;
- c. Upon payment by Mooresville to the Clerk of the Court of the amount determined by the Court appointed appraisers, order that Mooresville may take possession of and hold all necessary interest in the IAWC Mooresville Operation;
- d. Take all other steps and hold all proceedings which may be necessary for Mooresville to acquire the IAWC Mooresville Operation; and
- f. Provide all other just and proper relief.

Respectfully submitted,



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