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Thomas Surrebuttal
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Issues
Witness: Todd Thomas
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Date: July 21, 2023

Missouri Public Service Commission

Surrebuttal Testimony

of

Todd Thomas

On Behalf of

Confluence Rivers Utility Operating Company, Inc

July 21, 2023

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**SURREBUTTAL TESTIMONY OF
TODD THOMAS
CONFLUENCE RIVERS UTILITY OPERATING COMPANY, INC.**

I. WITNESS INTRODUCTION

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Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Todd Thomas. My business address is 1630 Des Peres Road, Suite 140, St. Louis, Missouri, 63131.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am Senior Vice-President of CSWR, LLC, the affiliated company that provides operational / managerial support for the CSWR operating companies, including Confluence Rivers Utility Operating Company, Inc. (“Confluence Rivers” or “Company”).

Q. ARE YOU THE SAME TODD THOMAS WHO PREVIOUSLY SUBMITTED DIRECT AND REBUTTAL TESTIMONY IN THIS PROCEEDING ON BEHALF OF CONFLUENCE RIVERS?

A. Yes.

II. OVERVIEW

Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY IN THIS PROCEEDING?

A. The purpose of my Surrebuttal Testimony is to respond to the Rebuttal Testimony filed by Missouri Public Service Commission Staff (“Staff”) witnesses Darron Williams and Andrew Harris regarding certain operational issues. Recognizing that Staff (Curt Gateley) previously filed direct testimony on these issues, to which I responded in my

1 Rebuttal Testimony, this surrebuttal testimony is only intended to address new aspects
2 raised in Staff's rebuttal testimony. In addition, I will address certain recommendations
3 made by OPC witness Geoff Marke regarding Customer Experience.

4 **III. REMOTE MONITORING**

5 **Q. PLEASE IDENTIFY THE ISSUES IN MR. HARRIS'S REBUTTAL TESTIMONY**
6 **THAT YOU WILL ADDRESS.**

7 A. In his Rebuttal Testimony, Mr. Harris asserts that, because Confluence Rivers has
8 installed remote monitoring equipment, it is no longer "ensuring that utility systems are
9 well maintained." Mr. Harris then claims that the failure to undertake preventative
10 maintenance tasks led to Confluence Rivers' failure to understand the needs for capital
11 investment. In lieu of such remote monitoring equipment, Mr. Harris asserts that "water
12 and sewer utility systems must be physically visited by operators."

13 **Q. DO YOU AGREE WITH STAFF'S CONCLUSION?**

14 A. No. Remote monitoring should not, and is not, as Mr. Harris appears to believe,
15 considered by Confluence Rivers to be a substitute for physical inspections by operators.
16 Instead, remote monitoring is complimentary to the operator's physical inspections and
17 not a substitute for such physical inspections.

18 **Q. PLEASE DESCRIBE CONFLUENCE RIVERS' UTILIZATION OF REMOTE**
19 **MONITORING.**

20 A. As of July 10, Confluence Rivers has installed High Tide remote monitoring technology
21 at 91.5% of its water and wastewater facilities. High Tide offers a complete SCADA
22 solution utilizing Remote Telemetry Units (RTU's) via satellite or cellular
23 communications as well as the Internet to monitor these systems. For instance, in regard

1 to water operations, High Tide equipment can be used to remotely transmit information
2 such as system flow and pressure, storage tank levels, and pneumatic storage tank
3 pressures. The same equipment can also be used to transmit electrical information for
4 pumps that may indicate a problem before it actually occurs. Finally, as sensors are
5 installed for other metrics, this same equipment can be used to transmit information.

6 As it pertains to wastewater facilities, High Tide equipment can, among other
7 things, remotely transmit information regarding electrical information at wastewater lift
8 stations as well as for treatment plant blowers and aerators. The same equipment can also
9 be used, as sensors are installed, to transmit information regarding effluent quality
10 including dissolved oxygen and chlorine residual as well as other capabilities that are not
11 specifically named here.

12 **Q. HOW DOES CONFLUENCE RIVERS HARVEST THE INFORMATION THAT**
13 **IS TRANSMITTED BY THE HIGH TIDE RTUs?**

14 A. As I described on page 5 of my Rebuttal Testimony, Confluence Rivers has recently
15 started using a scheduling, monitoring, and analysis software tool called SAMS.¹ Among
16 other things, the SAMS software would allow for the information transmitted from the
17 High Tide RTUs to be assembled and used to create summary reports. Thus, as an
18 example, the pneumatic storage tank pressure information from the High Tide RTU at the
19 Missouri Utilities water system could be compiled and a report created over time to show
20 how tank pressure has changed over the course of a month. Evidence of reducing tank
21 pressure could then be used to diagnose developing tank leaks or failing pumps.

¹ [Home - SAMS \(njbsoft.com\)](http://Home-SAMS(njbsoft.com))

1 Therefore, as can be seen, the High Tide RTU would not be a substitute for physical
2 inspections. Instead, the remote monitoring equipment would complement these physical
3 inspections. In effect, Confluence Rivers' remote monitoring equipment allows the
4 Company to keep track of its systems when an operator is not on site, and, in many
5 instances, to detect equipment problems before they adversely affect systems and
6 customers. Again, this is not a complete substitute for operator visits, but it is helpful to
7 the maintenance and operation process.

8 **Q. IN HIS REBUTTAL TESTIMONY, MR. HARRIS DISCUSSES UTILITY**
9 **CLOUD. WOULD YOU DESCRIBE UTILITY CLOUD?**

10 A. Yes. As Mr. Harris indicates, Utility Cloud is a program that tracks work tasks, and
11 establishes preventative maintenance task assignments. Contrary to the implication of his
12 testimony, however, Utility Cloud is not designed solely to harvest, evaluate, or question
13 information. Instead, the primary use of Utility Cloud is a maintenance scheduling and
14 planning tool.

15 **Q. GIVEN ITS UTILIZATION OF REMOTE MONITORING, SAMS, AND**
16 **UTILITY CLOUD, HAS CONFLUENCE RIVERS ABANDONED PHYSICAL**
17 **INSPECTIONS AS MR. HARRIS INDICATES?**

18 A. Absolutely not. As I indicated, Confluence Rivers views these hardware and software
19 products as complimentary to physical inspections. Thus, while an operator may visit a
20 facility and inspect/test for an hour, the remote monitoring hardware will provide
21 information for the other 23 hours in a day. Thus, if a pump begins to show high electric
22 current readings because of an obstruction at the pump suction at a time when the
23 operator is not present, it will provide information to Confluence Rivers and the operator.

1 Or, if a well pump has excessive starts and stops that an operator could not even be aware
2 of through a physical tour of the system, High Tide will alert the operator. In this way,
3 the operator can take steps to resolve these types of problems with the pump before the
4 pump fails. Remote monitoring technology is addressing the shortcomings associated
5 with relying solely on human inspections and is supplementing human operators who
6 cannot be present at all facilities 24 hours a day, 7 days a week, and 365 days a year.

7 **Q. SO, DESPITE THE CONSTANT REMOTE MONITORING, CONFLUENCE**
8 **RIVERS STILL CONDUCTS PHYSICAL INSPECTIONS OF ITS SYSTEMS?**

9 A. Yes. While remote monitoring provides a great deal of information, there are limitations.
10 For instance, despite all of its capabilities remote monitoring cannot see that a tree has
11 fallen across a lagoon berm. Problems such as these necessarily require human
12 inspection. For this reason, while Confluence Rivers has installed remote monitoring, it
13 generally requires, as part of its third-party operations, that an operator inspect, conduct
14 necessary tests, and take necessary readings at least three times weekly. If conditions
15 exist where more frequent human visits are required, our third-party operators are
16 required to make them. Therefore, to the extent remote monitoring indicates a problem
17 or if maintenance needs to be conducted, additional inspections may occur.² Given this,
18 Confluence Rivers disagrees with Mr. Harris' testimony to the extent it implies that
19 Confluence Rivers no longer conducts physical inspections or is overly dependent on
20 remote monitoring.

² I say that Confluence Rivers "generally requires" inspections to occur three times per week. Just as the DNR regulations (10 CSR 20-9.010(5)) recognize varying monitoring frequency based upon the complexity of a wastewater facility, Confluence Rivers requires more frequent in-person inspections for mechanical plants as compared to lagoons.

1 **Q. ARE THERE COST BENEFITS ASSOCIATED WITH THE**
2 **IMPLEMENTATION OF REMOTE MONITORING?**

3 A. Yes, and I believe that those cost benefits have been reflected in this case. For instance,
4 absent remote monitoring, Confluence Rivers would be required by DNR regulations to
5 monitor its mechanical wastewater facilities every day during the week. As indicated,
6 since it now relies on High Tide for some of these monitoring duties, Confluence Rivers
7 has been able to reduce the number of physical inspections to three times per week. This
8 reduction in the number of required physical inspections has been reflected in the third-
9 party operations costs included in this case.³

10 **IV. OPERATOR COMMUNICATIONS / AUBURN LAKES**

11 **Q. ARE YOU FAMILIAR WITH THE AUBURN LAKES ESTATES SYSTEMS?**

12 A. Yes. The Auburn Lakes water and wastewater systems are located northwest of St. Louis
13 in Lincoln County.

14 **Q. DID YOU REVIEW MR. HARRIS'S REBUTTAL TESTIMONY REGARDING**
15 **AUBURN LAKES?**

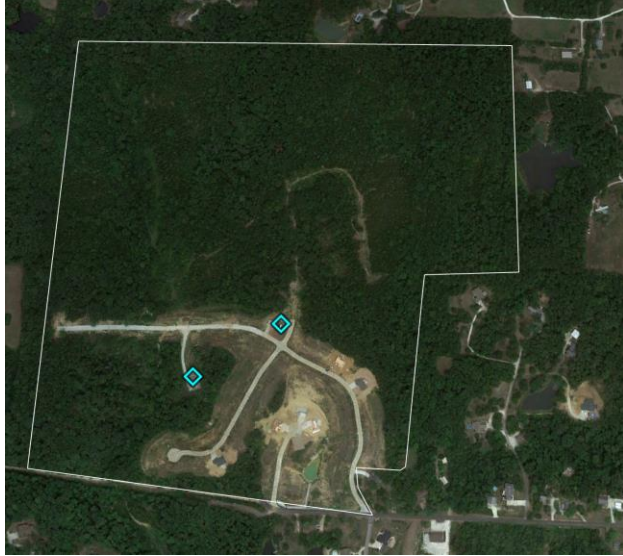
16 A. Yes. In his Rebuttal Testimony, Mr. Harris asserts that Auburn Lakes is "an example of
17 the consequences of Confluence's failure to communicate with its system operators, and
18 failure to understand when investments were needed."

19 **Q. DO YOU AGREE WITH MR. HARRIS' CHARACTERIZATION?**

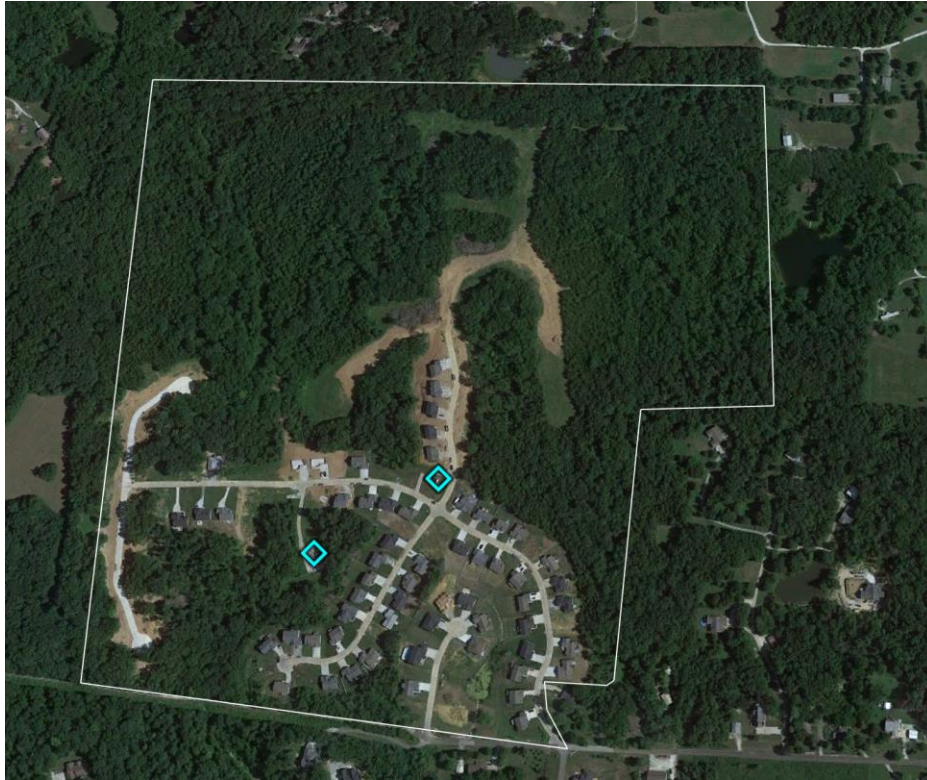
20 A. No. In fact, to a large extent, Auburn Lakes epitomizes the benefits that Confluence
21 Rivers can bring to a community. Specifically, as the following picture depicts, at the

³ Thomas Direct, page 12.

1 time that this distressed system was acquired by Confluence Rivers, the Auburn Lakes
2 system consisted of very few residences.



3
4 Since its acquisition, and since bringing its technical, managerial, and financial resources
5 to Auburn Lakes, the service area has experienced tremendous growth. The following
6 picture depicts the rapid growth that has occurred in the Auburn Lakes service area in just
7 the past three years.



1

2 **Q. IS THIS TYPE OF GROWTH COMMON?**

3 A. No. However, it is not unheard of for Confluence Rivers rehabilitation of water and/or
4 sewer systems to result in development opportunities.

5 **Q. HAS THIS RAPID GROWTH PRESENTED SOME CHALLENGES?**

6 A. It has, but these challenges are not indicative of any failure of Confluence Rivers “to
7 communicate with its system operators.”

8 **Q. HOW DOES CONFLUENCE RIVERS COMMUNICATE WITH ITS**
9 **OPERATORS?**

10 A. As mentioned, despite the implementation of remote monitoring, Confluence Rivers still
11 requires that its operators personally inspect the water and wastewater systems at least
12 three times per week. Through the utilization of the geofencing feature in the Utility
13 Cloud software, Confluence Rivers can ensure that the operator actually conducts these

1 inspections. Moreover, the operators transmit the results of their inspections to
2 Confluence Rivers through the Utility Cloud software. Moreover, these operators
3 verbally communicate any specific concerns to their direct supervisors. These concerns
4 are then communicated directly to either the state regional manager or to me. I routinely
5 have conversations with the third-party operators so that I am aware of any unusual
6 situation that the operators are finding at the Confluence Rivers systems.

7 **Q. IS CONFLUENCE RIVERS TAKING STEPS TO INCREASE THE CAPACITY**
8 **OF THE AUBURN LAKES WATER SYSTEM TO MEET THIS CUSTOMER**
9 **GROWTH?**

10 A. Yes. Confluence Rivers is in the process of converting the existing hydropneumatic tank
11 to a storage tank with booster pumps.

12 **Q. PLEASE EXPLAIN HOW THIS WILL HELP TO INCREASE SYSTEM**
13 **CAPACITY?**

14 A. As Mr. Harris points out, the current water system includes a hydropneumatic tank. Such
15 a tank will typically consist of 40% water storage with the additional capacity consisting
16 of air pressure in contact with the water. In order to conduct longer and more frequent
17 system flushing, additional water is needed. The current plan would convert the current
18 tank from a hydropneumatic tank (with only 40% usable water storage) to a ground
19 storage tank (with nearly 100% usable water storage). As mentioned, this increased
20 water storage would allow for longer and more frequent flushing. Absent any other
21 improvements, however, the loss of the air pressure associated with the conversion of the
22 hydropneumatic tank to ground storage may lead to water system pressure concerns. As
23 such, once permitted to convert the pneumatic tank to ground storage, Confluence Rivers

1 will install booster pumps to the system in conjunction with the tank conversion so that as
2 system water storage is increased, pressure is maintained.

3 **Q. DO YOU AGREE WITH MR. HARRIS'S ASSERTION THAT THIS SITUATION**
4 **IS THE RESULT OF CONFLUENCE RIVERS' FAILURE TO IMPLEMENT A**
5 **FIVE-YEAR CAPITAL EXPENDITURE PLAN?**

6 A. No. While Mr. Harris implies that the implementation of a five-year capital plan would
7 have avoided this problem, this situation is entirely the result of the tremendous growth
8 experienced at Auburn Lakes, which would not have been captured in a five-year capital
9 improvement plan. That is to say, a five-year capital plan would not have alleviated the
10 implications of this service area growth. Specifically, as I demonstrated in the previous
11 photographs, the growth experienced at Auburn Lakes occurred within just the last three
12 years. Given this, the improvements necessary to address this growth could not have
13 been foreseen five years ago. Had Confluence Rivers included capital expenditures in
14 such a plan five years ago, prior to any such growth, Staff would have undoubtedly said
15 that such expenditures were unnecessary.

16 In any event, as Mr. Cox indicates on pages 28-29 of his Rebuttal Testimony,
17 Confluence Rivers is willing to begin preparing and submitting a five-year capital plan
18 commencing in January 2025. As he mentions there, such a plan should not only
19 alleviate Staff's concerns associated with complete system consolidation, it should also
20 address Mr. Harris' stated concerns as to Auburn Lakes. However, as Auburn Lakes
21 illustrates, a capital plan alone is not a panacea if growth exceeds expectations over the
22 time period the plan encompasses.

23

1 **V. SYSTEM MAINTENANCE / FOX RUN**

2 **Q. HAVE YOU REVIEWED STAFF WITNESS WILLIAMS’S REBUTTAL**
3 **TESTIMONY?**

4 A. Yes. In his Rebuttal Testimony, Mr. Williams criticizes Confluence Rivers’ utilization of
5 the Utility Cloud software. Mr. Williams then implies that Confluence Rivers is overly
6 reliant on Utility Cloud and that the Confluence Rivers’ systems are not “well-
7 maintained.”

8 **Q. WOULD YOU DESCRIBE UTILITY CLOUD AGAIN?**

9 A. Yes. As indicated previously, Utility Cloud is an asset management software.⁴ Utility
10 Cloud allows Confluence Rivers to build out a schedule of system inspections and
11 maintenance activities. Thus, Utility Cloud helps Confluence Rivers to ensure that it is
12 meeting all physical inspection regulations enacted by the Department of Natural
13 Resources. Additionally, Utility Cloud allows Confluence Rivers to conduct
14 maintenance activities consistent with manufacturer’s specifications and
15 recommendations. Utility Cloud also provides the communication tool for customer
16 service representatives to schedule work orders. Finally, Utility Cloud maintains all
17 facility records.

18 **Q. DOES CONFLUENCE RIVERS RELY EXCLUSIVELY ON UTILITY CLOUD**
19 **FOR MAINTENANCE ACTIVITIES?**

20 A. No, Utility Cloud is software that allows for convenient scheduling of routine
21 maintenance activities. That said, however, much like a car owner would never rely

⁴ At various places Utility Cloud is called a computerized maintenance management system (“CMMS”).

1 exclusively on routine maintenance activities but would, instead, also visit a mechanic
2 when the owner suspects something unusual, Confluence Rivers also relies on physical
3 inspections to supplement these scheduled maintenance activities. So just as good
4 automobile maintenance requires a visit to a mechanic when strange sounds or conditions
5 arise, Confluence Rivers relies on physical operator testing and inspections to see, hear,
6 and smell conditions that may arise. Therefore, much like the High Tide remote
7 monitoring systems supplement the physical inspections, the Utility Cloud maintenance
8 scheduling software will also supplement the maintenance activities resulting during a
9 routine physical inspection.

10 **Q. DOES MR. WILLIAMS PROVIDE SUPPORT FOR HIS ASSERTIONS THAT**
11 **CONFLUENCE RIVERS IS OVERLY RELIANT ON UTILITY CLOUD**
12 **MAINTENANCE SOFTWARE INSTEAD OF UTILIZING PHYSICAL**
13 **INSPECTIONS?**

14 A. Yes. In his Rebuttal Testimony, Mr. Williams asserts that a recent bypass of partially
15 treated sewage at the Fox Run recirculating sand filter bed is “an example” that
16 Confluence Rivers systems are “not well maintained.”

17 **Q. DO YOU AGREE WITH MR. WILLIAMS’ CHARACTERIZATIONS?**

18 A. Absolutely not. First off, it is important to recognize that, over the course of two weeks,
19 the Commission’s water and sewer department conducted site visits of 51 Confluence
20 River water and wastewater systems.⁵ Despite the extensive nature of these
21 investigations, Mr. Williams has only provided a single example to support his assertion

⁵ See, Roos Direct, pages 2 and 4.

1 that these systems are not well maintained. If Confluence Rivers was overly dependent
2 on the Utility Cloud maintenance software and, if these systems were not well-
3 maintained as he now claims, it would seem that such a condition would be reflected in
4 more than one system. Instead, it seems more likely that the Staff’s water and sewer
5 department is using a solitary incident to make broad-brush assertions regarding
6 Confluence Rivers’ systems generally.

7 Second, it is important to also recognize that, while Mr. Williams claims that the
8 Confluence Rivers’ systems are “not well maintained,” Mr. Roos (also an employee in
9 the Staff’s water and sewer department) concluded that the investments made by
10 Confluence Rivers are prudent. Interestingly, Mr. Roos detailed the extensive prudence
11 review that he undertook in this and previous cases.

12 In general, Staff reviewed the information available to Confluence at the
13 time decisions were made. This information is contained in Staff’s files
14 from previous rate cases, and acquisition and merger cases, and is
15 summarized in Staff’s recommendations in each case. Staff also inspected
16 the physical condition of the selected water or sewer systems, and
17 reviewed system performance and compliance with drinking water and
18 environmental regulations. Staff reviewed information from DNR
19 records, including operating permits, inspections, notices of violation,
20 letters of warning, and Abatement Orders. Staff also reviewed
21 Confluence’s replies to several Staff Data Requests. Three Staff members
22 inspected most of the selected water and sewer systems over a two-week
23 period from February 12 through February 24, 2023, and on April 11,
24 2023. These inspections included an on-site review of the current
25 condition of each system, and a discussion with Confluence Rivers’
26 personnel on operational history, and capital improvements made since
27 acquisition or the last rate case.⁶

28
29 Based upon this extensive prudence audit, Mr. Roos concluded that all of Confluence
30 Rivers’ capital projects were prudent.

⁶ Roos Direct, page 4.

1 From its investigation, Staff has concluded that Confluence's capital
2 projects are consistent with site specific conditions and operational
3 information. Based on its review, Staff found no imprudence in the capital
4 projects included in this rate case.⁷
5

6 One would think that if the Confluence Rivers systems were not well-maintained,
7 as Mr. Williams now asserts, that Mr. Roos would detect some capital investments that
8 were made necessary by the lack of maintenance.

9 **Q. DOES MR. ROOS APPEAR TO TAKE INTO ACCOUNT THE NATURE OF**
10 **THE SYSTEMS CONFLUENCE RIVERS PURCHASES AND MAINTAINS?**

11 A. Yes, Mr. Roos seems to recognize, unlike Mr. Williams, that problems may arise simply
12 as a result of the types of systems acquired by Confluence Rivers. In these instances,
13 therefore, the blame should be laid at the feet of previous owners.

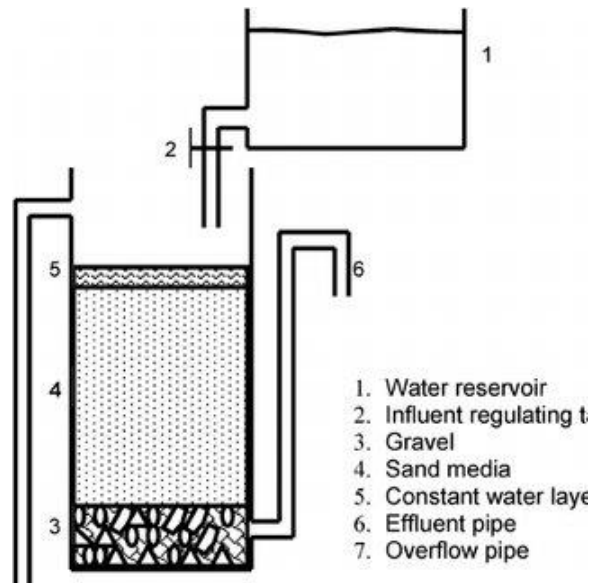
14 In Missouri, Confluence has acquired a number of distressed water and
15 sewer utilities, refurbished them, and operates them. Typically, these
16 distressed systems have significant environmental compliance issues,
17 and are in need of significant investment due to deferred maintenance
18 and neglect by the previous owner.⁸
19

20 **Q. PLEASE DESCRIBE THE FOX RUN SYSTEM.**

21 A. The Fox Run wastewater system consists of a recirculating sand filter. As depicted in the
22 following simplistic diagram, in a recirculating sand filter wastewater collects in a tank
23 that sits below a sand filter. The wastewater is recirculated back through the sand filter.
24 Thus, waste particles are captured in the sand filter with the wastewater then directed for
25 disinfection.

⁷ Roos Direct, pages 4-5.

⁸ Roos Direct, page 4 (emphasis added).



1

2

Over time, however, the sand media in the filter will become fouled. As a result of this fouling, it becomes difficult for wastewater to percolate through the filter media. In such an instance, wastewater can suddenly pool on the filter and overflow the system.

4

5 **Q. WHAT HAPPENED DURING STAFF'S INSPECTION OF THE FOX RUN**
6 **SYSTEM?**

7 A. Upon arrival, Staff noticed that wastewater had bypassed the Fox Run recirculating sand
8 filter.

9 **Q. WHAT CAUSED THIS BYPASS?**

10 A. As I previously indicated, a bypass can occur as a result of fouling in the sand media. As
11 I discussed in my Rebuttal Testimony, it is difficult to assess the condition of a
12 recirculating sand filter because so much of the filter media is not readily viewable. So,
13 while it is easy to notice vegetation or pooling of wastewater on the sand surface at a
14 particular point in time, it is difficult to observe the condition of the sand filter media
15 throughout the facility. Therefore, fouling of the sand media, which hinders the ability of

1 wastewater to drip through the media and can lead to sudden wastewater pooling or even
2 a sudden sanitary sewer overflow (“SSO”), is difficult to identify. In reality, the true
3 condition of the sand media can only be observed by pumping out the septic tanks and
4 evaluating the sand bed for sludge build up. This is important to understand because a
5 bypass, such as that observed by Staff at Fox Run, is not evidence of negligent
6 operational practices, but rather is indicative of the poor condition of the sand media – a
7 condition that could not be detected simply by inspecting the facility. In fact, short of
8 constant observation on the day of the bypass, Confluence Rivers could not have detected
9 the rapid onset of the Fox Run bypass. Frankly, the situation observed by Staff at Fox
10 Run should not be viewed as symptomatic of negligent operations, but a classic example
11 of the condition of the distressed systems that Confluence Rivers routinely purchases and
12 remediates. As Mr. Roos recognizes, “[t]ypically, these distressed systems have
13 significant environmental compliance issues, and are in need of significant investment
14 *due to deferred maintenance and neglect by the previous owner.*”⁹ I believe that this
15 description is reflective of the situation at Fox Run.

16 **Q. IS THERE A COST-EFFECTIVE WAY TO AVOID THIS PROBLEM?**

17 A. No. Short of pumping out the septic tank and inspecting the entirety of the sand media, it
18 is difficult to anticipate the occurrence of such a situation at a recirculating sand filter
19 facility. That approach, however, is not cost-effective for ratepayers. Instead, the more
20 prudent approach is to operate the system for a period of time – as Confluence Rivers

⁹ Roos Direct, page 4 (emphasis added).

1 routinely does – and get a much more informed opinion of the shortcomings of these
2 systems.

3 **Q. IS CONFLUENCE RIVERS TAKING STEPS TO ADDRESS THE CONDITION**
4 **OF THE FOX RUN SYSTEM?**

5 A. Yes, as I indicated in my Rebuttal Testimony, two months prior to the incident at Fox
6 Run, Confluence Rivers had begun a permitting process for operational improvements at
7 Fox Run. The Company will begin to implement these improvements once it is
8 authorized to do so by the Missouri Department of Natural Resources. In the meantime,
9 Confluence Rivers is in the process of boring into the sand media to determine the
10 location of the fouled sand media.

11
12 **VI. CUSTOMER EXPERIENCE**

13 **Q. HAVE YOU REVIEWED THE TESTIMONY OF OPC WITNESS MARKE?**

14 A. Yes. In his Rebuttal Testimony, Dr. Marke accepts the conclusions made by Staff
15 witness Glasgow in his Direct Testimony. Specifically, Dr. Marke asserts that the
16 Company “has failed to maintain customer complaint information as was ordered by the
17 Commission in Case No. WR-2020-0053.”¹⁰ Dr. Marke then claims that the
18 recommendations made by Mr. Glasgow do not “go far enough” in holding “the
19 Company accountable for its failure to comply with an explicit Commission order or take
20 into account the apparent historical negligence in this area to date.”¹¹

21

¹⁰ Marke Rebuttal, page 15.

¹¹ *Id.*

1 **Q. DO YOU AGREE WITH DR. MARKE’S TESTIMONY?**

2 A. No, and I find the tone of his Rebuttal Testimony (“apparent historical negligence”) to be
3 reckless and does nothing to advance the issues in this case.

4 As I indicated in my Rebuttal Testimony, the settlement in Case No. WR-2020-
5 0053 requires the Company to maintain a complaint log that complies with Commission
6 Rule 20 CSR 4240-13.040(5). That rule ultimately relies upon a definition of
7 “complaint” that is limited to “formal and informal complaints with the Commission”
8 under 20 CSR 4240-2.070. As such, the exclusion of Attorney General complaints from
9 the complaint log does not rise to the level of a “failure to comply with an explicit
10 Commission order” or “apparent historical negligence,” as suggested by Dr. Marke.

11 That said, it is my understanding that, while the Company did provide a complaint
12 log that complied with the applicable Commission rule, there were two customer
13 complaints that were missing for some unknown reason. The omission of those two
14 complaints does not constitute “apparent historical negligence.” However, I do recognize
15 that the Company can improve the log that it keeps. It is my expectation that, with the
16 quarterly customer meetings that I have previously agreed to, the complaint log will be
17 improved.

18 **Q. DOES DR. MARKE MAKE ANY OF HIS OWN RECOMMENDATIONS?**

19 A. Yes. Based upon his assertion of “apparent historical negligence,” Dr. Marke seeks to
20 insert himself into the operations of the Company. Specifically, Dr. Marke asserts that
21 the Company should issue an RFP for a third-party customer opinion survey. Dr. Marke
22 further proposes that the selection of the third-party customer surveyor “will be based on

1 a three-way vote from the Staff, OPC, and the Company.” Dr. Marke also asserts that the
2 cost of this survey (\$100,000) should be absorbed entirely by the Company.

3 **Q. DO YOU AGREE WITH DR. MARKE’S RECOMMENDATION?**

4 A. No. As I indicated, it is the Company’s experience that customer surveys, such as that
5 sought by Dr. Marke, “are typically not cost effective.” Such surveys, especially for a
6 relatively small company like Confluence Rivers, generally receive few responses, and
7 oftentimes the customers who do respond are resentful of being limited to a “single
8 monopoly provider,” which causes them to have a negative opinion of their monopoly
9 utility. Consequently, data from such a survey doesn’t provide a balanced or accurate
10 indication about how the majority of customers feel about a utility’s service.

11 Moreover, the Company strongly opposes Dr. Marke’s attempts to insert himself
12 into the operation of the Company by having a vote in selecting the third-party who
13 would conduct the survey. In a recent agenda session, the Chairman pushed back on
14 efforts of Staff to “manage” the company.

15 These companies that come before us we’ve always allowed them to
16 operate and run their companies as they see fit especially when it comes to
17 personnel and normal business operations. . . We’ve always allowed
18 deference to the companies of which, this is your business, you are a
19 private business and you run that, yes we regulate you. I do not remember
20 us getting into the weeds.¹²

21
22 In addition to his attempts to insert OPC into the operations of the utility, Dr.
23 Marke’s proposal that the utility should fund his efforts is also misplaced. In support of
24 his proposal, Dr. Marke suggests that other utilities have agreed to similar proposals. I
25 was able to locate only one instance where a utility agreed to a similar proposal, which

¹² July 12, 2023 agenda session.

1 arose in the context of the recent Missouri American rate case. There, Missouri
2 American agreed, as part of a negotiated settlement, to issue an RFP related to a call
3 center operational audit. In that case, Missouri American agreed to “provide \$100,000,
4 funded below the line, for purposes of funding the independent third-party call center
5 operational audit.”

6 Dr. Marke clearly fails to appreciate the relative difference in the size of Missouri
7 American compared to Confluence Rivers. Whereas Missouri American has annual
8 revenues of \$382,292,545,¹³ Confluence Rivers had 2022 annual revenues of
9 \$4,945,422.¹⁴ Thus, Missouri American is 77 times larger than Confluence Rivers. So,
10 Dr. Marke’s expectation that all utilities should be willing to shoulder a \$100,000
11 expense to conduct a third-party audit is misguided. Just for perspective, if Confluence
12 Rivers were to devote the same relative percentage amount of money to Dr. Marke’s
13 recommended audit as Missouri American, Confluence Rivers’ required expenditure
14 would be \$1,294.¹⁵

15 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

16 **A. Yes.**

¹³ See, 2022 Annual Report, pages W-1 and S-1.

¹⁴ See, 2022 Annual Report, page 1.

¹⁵ Interestingly, while seeking to impose the same requirement on Confluence Rivers, and while expecting Confluence Rivers to shoulder the same \$100,000 expenditure, Dr. Marke noticeably fails to inform the Commission that, in the Missouri American settlement, he committed on behalf of 500,000 Missouri American ratepayers, to cover half of any amounts in excess of \$100,000. One must wonder then whether Dr. Marke would be willing to make a similar commitment to subject 9,000 Confluence Rivers customers to the same costs. If so, one must also wonder whether Dr. Marke heard the rate concerns of these customers expressed at the various local public hearings.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of Confluence Rivers Utility)
Operating Company, Inc.'s Request for Authority)
to Implement a General Rate Increase for Water) **File No. WR-2023-0006**
Service and Sewer Service Provided in Missouri) **File No. SR-2023-0007**
Service Areas.)

AFFIDAVIT OF TODD THOMAS

STATE OF MISSOURI)
) **ss**
COUNTY OF ST. LOUIS)

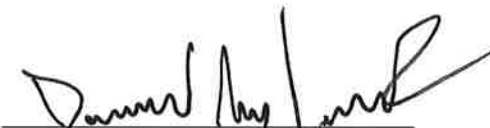
Todd Thomas, of lawful age and being first duly sworn, deposes and states:

1. My name is Todd Thomas. I am the Sr. Vice-President of CSWR, LLC.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.



Todd Thomas

Subscribed and sworn to me this 21st day of July, 2023



Notary Public

My commission expires 5/4/24.

